

SUMMARY OF 2006 PUBLIC ACTS

Connecticut General Assembly

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NOTICE TO USERS

This publication, *Summary of 2006 Public Acts*, summarizes all public acts passed during the 2006 Regular Session and the October and November 2005 Special Sessions of the Connecticut General Assembly. Special acts are not summarized.

Use of this Book

The Office of Legislative Research encourages dissemination of this material by photocopying, reprinting in newspapers (either verbatim or edited), or other means. Please credit the Office of Legislative Research when republishing the summaries.

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.ct.gov>).

Organization of the Book

The summaries are organized in chapters based on the committee that sponsored the bill. Bills sent directly to the floor without committee action (emergency certification) are placed in chapters according to subject matter. The acts from the October and November 2005 Special Sessions appear in a separate chapter for the Special Session. Within each chapter, summaries are arranged in order by public act number.

On the next page you will find a list of the vetoed acts from the 2006 session. A table on penalties, appearing on the page after the veto list, 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.

VETOED PUBLIC ACTS

1. PA 06-01, An Act Concerning Reform of the State Contracting Process (*Emergency Certification*)
2. PA 06-71, An Act Providing Certain Adult Adopted Persons with Access to Information in Their Original Birth Certificates (*Select Committee on Children*)

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 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.

<i>Classification of Crime</i>	<i>Imprisonment</i>	<i>Fine</i>
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 that 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 a \$20 or \$35 surcharge and an additional fee based on the amount of the fine. There may be other added charges depending upon the type of infraction. For example, certain motor vehicle infractions trigger a Transportation Fund surcharge of 50% of the fine. With the various additional charges the total amount due can be over \$300 but often is less than \$100.

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.

<i>Degree of Larceny</i>	<i>Amount of Property Involved</i>	<i>Classification</i>
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

PA 05-1, October 25, 2005 Special Session—SB 2101 (VETOED)
Emergency Certification

AN ACT CONCERNING REFORM OF THE STATE CONTRACTING PROCESS

SUMMARY: This act establishes a State Contracting Standards Board (SCSB) as an independent state agency and the successor agency to the State Properties Review Board (SPRB). It dissolves the SPRB on October 1, 2007 and transfers its duties and responsibilities to the SCSB on that date. The new board is also charged with various other responsibilities in the state contracting process. It must establish uniform procurement standards, audit state contracting agencies, and discipline them for failure to comply with the act or the uniform procurement code. "State contracting agencies" are (1) state agencies, other than the SCSB and the judicial and legislative branches; (2) municipal and quasi-public agencies; and (3) any other agency that receives state funds. The act requires the Judicial Branch to prepare its own procurement code.

The act establishes:

1. grounds for suspending and disqualifying contractors and subcontractors from bidding on or participating in state contracts,
2. standards and conditions for state privatization contracts entered between the act's passage and the date the procurement code drafted by the SCSB becomes law,
3. a procedure for the legislature to exempt construction contracts from the competitive bidding process, and
4. procedures for state agencies to use when entering purchase of service agreements.

It eliminates certain requirements from the contractor prequalification process and generally bans state and municipal agencies from receiving state funds for construction if they accept bids from a contractor without proof of his prequalification.

The act conforms the Department of Public Works' contractor selection law to practice and increases the time it and constituent units of higher education have to award contracts.

The act prohibits the state from contracting with corporations that receive a tax benefit as a result of reincorporating outside of the United States.

It bans, with some exceptions, the use of state funds for outdoor lighting that is not energy efficient or that exceeds the brilliance required to achieve its purpose. It establishes a schedule for floodlight violators to comply with the law.

The act permits documents public agencies receive in response, and related, to a procurement request for proposal (RFP) to be exempt from disclosure under the Freedom of Information Act (FOIA) for a limited time.

The act changes the definition of small contractor under the set-aside program.

Lastly, the act requires state agencies to obtain from certain contractors an affidavit identifying consultants who work with them on that contract.

EFFECTIVE DATE: Upon passage, except for the provisions:

1. requiring the SCSB and the Judicial Branch to each prepare a procurement code; transferring the duties of the SPRB to SCSB; and on personal service agreements, prequalified contractors, reincorporated companies, set-aside, and affidavits in state contracts, which are effective on January 1, 2006;
2. on light pollution, which are effective on July 1, 2006;
3. requiring SCSB to perform other duties, which are effective on July 1, 2007; and
4. on the SCSB's authority to audit state contracting agencies, terminate contracts or procurement agreements, and disqualify contractors; on state contracting agencies power to suspend contractor; on bidders' rights to contest contract solicitations or awards and appeal state contracting agencies' decisions; establishing a contracting standards advisory council; and terminating the SPRB, which are effective October 1, 2007.

STATE CONTRACTING STANDARDS BOARD (SCSB) (§§ 1-7 & 26)

The act establishes the nine-member SCSB as a separate, independent, executive-branch agency. The governor appoints five board members. The appointing authorities for the remaining four members vary depending on the party affiliation of the governor and the majority party in the House and Senate. When the governor is:

1. an independent or of a different political party than that which controls both houses of the General Assembly, the House speaker and the Senate president each appoints two members;
2. of the same political party as one chamber of the General Assembly, the highest ranking leader of the opposing party of the applicable chamber appoints four members; or
3. of the same political party as both chambers of the General Assembly, the minority leader of the House and Senate each appoint two members.

The legislature must confirm each appointment. The members' terms are coterminous with that of their appointing authorities. Each appointing authority fills any vacancy in his appointment. Six members of the board constitute a quorum, which is required to transact business.

The act requires the board to appoint its chairperson and the governor to appoint an executive director who serves as an ex-officio, nonvoting board member. The legislature must confirm both appointments. The board must annually evaluate the executive director's performance and may remove him for cause.

The act authorizes the board to employ any other staff it considers necessary, including property and procurement specialists, real estate examiners, and contract specialists. All board employees are members of classified state service.

Board Member Qualifications

The act requires each member to have (1) a demonstrated interest in government ethics and integrity or (2) education, training, or experience received in five consecutive years of the 10 years immediately preceding his appointment, in several of the following areas:

1. procurement;
2. contract negotiation, selection, and drafting;
3. contract risk assessment;
4. requests for proposals and real estate transactions;
5. business insurance and bonding;
6. the State Code of Ethics;
7. federal and state statutes, policies, and regulations;
8. outsourcing and privatization proposal analysis;
9. small and minority business enterprise development;
10. engineering and information technologies; or
11. personnel and labor relations.

"Contract risk assessment" means (1) the identification and evaluation of loss exposures and risks, including business and legal risks associated with contracting and (2) the identification, evaluation, and implementation of measures available to minimize potential loss exposures and risks.

Board Ethics and Operations

The act prohibits anyone from serving on or working for the board if (1) he holds another position in state or municipal government or (2) he or his spouse, child, stepchild, parent, or sibling is directly or indirectly involved in any enterprise that does business with the state. The act requires the Office of State Ethics to adopt

regulations clarifying the meaning of "directly or indirectly involved in any enterprise."

It requires board members and employees to file with the board and the Office of State Ethics annual financial statements, by April 15, that disclose the sources of any income over \$1,000 for the preceding calendar year and the name of any business with which they are associated. The requirement appears to apply to members and employees beginning with their second year of service or employment, respectively. By law, an associated business is one owned by an official, employee, or member of his immediate family, or where any one of them (1) serves as an officer, director, or compensated agent or (2) owns at least 5% of any class of its stock. The financial statement is a public record and subject to disclosure under FOIA.

Any board employee or member who violates the employment prohibition and any member or employee who fails to file the statement violates the State Ethics Code and may be subject to the code's penalties, including a fine of up to \$10,000.

The act requires the board to adopt any rules it deems necessary to conduct its internal affairs, including appellate rules of procedure and procedural rules to carry out its duties and responsibilities.

Budget and Compensation

The act requires the board's budget, upon approval of its members, to pay its reasonable expenses. It requires the board chairperson to be paid a \$200 per diem up to a maximum of \$30,000 annually. Other members must receive the same per diem up to \$25,000 annually.

Uniform Procurement Code

By January 1, 2007, the act requires the SCSB to prepare a uniform code for use by state contracting agencies when contracting for, buying, renting, leasing, or otherwise acquiring or disposing of supplies or services, including construction services, materials, or supplies. The uniform code does not apply to the expenditure of federal assistance or contract funds if federal law provides procurement procedures that are inconsistent with the uniform procurement code.

The act requires the board to conduct a comprehensive review of existing state contracting and procurement laws, regulations, and practices and use any appropriate, existing procedures and guidelines when preparing the code. It requires each state contracting agency to provide its procurement information if the board asks. The act gives the board access to all such agencies' information, files, and records necessary to complete the code. However, the board cannot disclose documents exempt from

disclosure under FOIA.

The act requires the board to submit the code to the legislature for approval by filing it with the Senate and House clerks by January 15, 2007. Within the next five days, the Senate president pro tempore and House speaker must submit the code to the Government Administration and Elections (GAE) Committee. The committee must hold a hearing on the code and report its recommendations, including any changes, for approval or rejection to the House and Senate. The General Assembly must vote on the code by the end of the 2007 regular session.

Code Requirements. The act requires the code to:

1. establish uniform state contracting agencies' standards and practices;
2. ensure the fair and equitable treatment of all businesses and people involved in the state's procurement system;
3. include a process for maximizing the use of small contractors and minority business enterprises;
4. provide increased economy in state procurement activities and maximize purchasing value to the fullest extent possible;
5. ensure that state contracting agencies procure supplies, materials, equipment, services, real property, and construction in a cost-effective and responsive manner;
6. preserve and maintain state agencies' contracting or procurement procedures that represent best practices, including their discretion and authority to disqualify contractors and terminate contracts;
7. include a process to improve contractor and state contracting agency accountability;
8. establish standards for leases and lease-purchase agreements and for the purchase and sale of real estate;
9. simplify and clarify the state's contracting standards and procurement policies and practices, including procedures for competitive sealed bids or proposals, small purchases, and sole source, special, and emergency procurements (procurements necessary because of a sudden, unexpected occurrence that poses a clear and imminent danger to public safety or that requires immediate action to prevent or reduce loss or impairment of life, health, property, or essential public services);
10. make the renewal, modification, extension, or rebidding of a privatization agreement in effect on, before, or after January 1, 2006 or reentered after this date subject to the procurement code beginning January 1, 2008; and
11. provide a process for competitive sealed bids and proposals, small purchases, sole source, emergency, and special procurements, best-value selection, and qualification-based selection, and the conditions for their use.

"Best-value selection" means a process to award contracts based on quality and costs. "Qualification-based selection" means a process to award contracts based primarily on contractor qualifications and a fair and reasonable price.

Code Privatization Standards. The code must also include standards for state contracting agencies to evaluate proposals to privatize state or quasi-public agency services and privatization contract bid proposals. At a minimum, these standards must require state and quasi-public agencies to:

1. complete an analysis before deciding to privatize services that examines all direct and indirect state costs and the privatization contract's effect on the public health and safety of state residents who may use the services;
2. give their affected employees and, where applicable, employee unions, adequate notice;
3. prepare an employee impact statement, including measures a bidder must take to retain the agency's qualified employees;
4. set fair wages based on objective standards, such as the established wage rate; and
5. provide their employees with adequate information and resources that would encourage and help them to organize and submit a bid to provide the services that are the subject of the privatization contract.

The standards must also require (1) bidders to disclose all relevant information pertaining to their past performance and pending or concluded legal or regulatory proceedings or complaints, including compliance with fair employment practices standards and federal fair employment and discrimination standards and (2) privatization contracts to include provisions for contractors to offer available employment positions to qualified regular employees of the contracting state agency who satisfy the contractor's hiring criteria and whose jobs were terminated because of the contract.

The "established wage rate" is a minimum wage rate for employee positions with duties that are substantially similar to the duties performed by a regular agency, which rate is the lesser of step one of the grade or classification under which the comparable regular agency employee is paid, or the standard private sector wage rate for the position, as determined by the labor commissioner. The rate must include a percentage representing the normal costs of health care and pension benefits for comparable state employees hired at the time of the contract.

Other Board Duties

The act requires the board to:

1. recommend the repeal of repetitive, conflicting, or obsolete state procurement statutes;
2. develop, publish, and maintain the code for all state contracting agencies;
3. help their staffs with code compliance by providing guidance, models, advice, and practical assistance on buying the best service at the best price, properly selecting contractors, and drafting contracts that achieve state goals and protect taxpayers' interest;
4. review and certify that a state contracting agency's procurement processes comply with the code;
5. triennially recertify state contracting agencies' procurement processes, give them notice of any certification deficiency, and tell them how they can rectify it;
6. define the training requirements for state contracting agency procurement professionals;
7. monitor implementation of the state contracting website and make recommendations for improving the Department of Administrative Services (DAS);
8. define the requirements for state agencies to retain information on (a) the number and type of existing state contracts, (b) their dollar value, (c) a list of client agencies and contractor names, (d) a description of contracted services, and (e) an evaluation of contractor performance, and make sure that it is available on the state contracting portal;
9. recommend the procurement code changes to the governor and the GAE Committee;
10. approve an ethics training course for state employees involved in procurement and for prequalified state contractors and subcontractors; and
11. conduct compliance audits.

The ethics training course may be developed and provided by the Office of State Ethics or any other person or firm as long as the SCSB approves it.

Compliance Audits. The act requires the board to audit state contracting agencies every three years and report on their compliance with the uniform procurement code. During the audit, the act gives the board access to all of the agencies' contracting and procurement records and authority to interview people responsible for awarding and negotiating contracts or procurement. The board can make an agreement with the state auditors to conduct the audit.

The board must identify in the compliance report any process or procedure that is inconsistent with the uniform procurement code and corrective measures to

achieve code compliance. It must deliver the report, which is a public record, to the contracting agency within 30 days after the audit is completed.

Disciplinary Actions for Noncompliance and Other Violations. Under the act, the board can restrict an agency's contracting or procurement authority upon a two-thirds vote, after notice and a hearing, because it finds the agency failed to comply with statutory and procurement requirements and showed a reckless disregard for applicable policies and procedures. The restriction stays in effect until the agency implements corrective measures and complies with the code. Any restriction must be in the state's best interest.

The board may review or terminate a contract or procurement agreement for cause after consulting with the attorney general and giving the agency and contractor 15 days notice. "For cause" means (1) engaging in activities prohibited under the State Ethics Code; (2) wanton or reckless disregard of any state contracting and procurement process by anyone substantially involved in the contract or with the state contracting agency; or (3) notification from the attorney general to the state contracting agency that a whistleblower investigation indicates that the contract process was compromised by fraud, collusion, or other serious ethical improprieties.

The decision to terminate a contract must be preceded by notice to the state contracting agency and any other affected party that the board is meeting for that purpose. The board's decision to terminate must be approved by a two-thirds vote of its members present and voting.

CONTRACTOR DISQUALIFICATION OR SUSPENSION (§§ 7 & 8)

Process

The act allows the board to disqualify, and a state contracting agency to suspend, contractors from bidding on, applying for, or participating as subcontractors in, state or agency contracts, respectively. Disqualification can last for up to five years and suspension for up to six months. The board and an agency must provide reasonable notice and a hearing before taking this action. Additionally, the board must consult with the relevant state contracting agency and get a two-thirds vote of board members before acting.

When making its decision, the board or agency, as the case may be, must consider the seriousness of the contractor's acts or omissions, any mitigating factors, and whether at least one of the act's grounds for disqualification or suspension, respectively, is met.

The board or agency must make its decision within 90 days after the hearing; include its reasoning and the disqualification period; and mail it to the contractor by

certified mail, return receipt requested. An aggrieved party may appeal the decision to Superior Court.

The board can reduce the disqualification period or limit its application upon the contractor's written request and supporting documentation showing (1) newly discovered material evidence, (2) a reversal of the conviction that formed the basis for the disqualification, (3) a bona fide change in ownership or management, or (4) the elimination of other causes that formed the basis for the disqualification. A contracting agency can allow a suspended contractor to work on a particular contract upon its commissioner's written determination that good cause exists for the exception and that it is in the state's best interest.

Grounds for Disqualification by the Board

The board may disqualify a contractor for:

1. conviction of, or guilty or no contest plea to, a crime (a) related to getting or attempting to get a public or private contract or subcontract or (b) related to performing the contract or subcontract;
2. conviction of, or guilty or no contest plea to, embezzlement, theft, forgery, bribery, document falsification or destruction, receiving stolen property, or any other offense that indicates a lack of business integrity or honesty related to a contractor's responsibility;
3. conviction of, or guilty or no contest plea to, violating state or federal antitrust, collusion, or conspiracy laws while submitting a public or private contract or subcontract bid or proposal;
4. at least two suspensions in 24 months by a contracting agency;
5. a willful failure to perform the terms of at least one contract;
6. a willful violation of a statute or regulation applicable to a contract;
7. a willful or egregious violation of ethical standards specific to contractors or contractor prequalification and evaluation laws; or
8. any reason that casts serious and compelling doubt on the contractor's responsibility, including (a) for-cause disqualification by another state; (b) fraudulent, criminal, or seriously improper conduct committed by a shareholder or member, including an employee of the contractor's firm in the performance of his duties on behalf of the contractor, if the contractor knew or had reason to know of the conduct; or (c) an informal or formal business relationship with a contractor disqualified from bidding on state contracts.

Grounds for Suspension by a Contracting Agency

The agency may suspend a contractor for:

1. failure, without good cause, to adhere to contract specifications or timeframes;
2. a record of failure to perform or of at least one unsatisfactory performance, other than one caused by acts beyond the contractor's control;
3. any reason, including suspension for cause by another agency, that the contracting agency deems to cast serious and compelling doubt on the contractor's responsibility; or
4. a violation of ethical standards specific to contractors or contractor prequalification and evaluation laws.

CONTESTING STATE CONTRACT SOLICITATIONS OR AWARDS (§ 9)

The act establishes a process for bidders on state contracts to contest the way the contracts were solicited or awarded or to contest an unauthorized or unwarranted, noncompetitive selection process. A bidder can file a complaint with the commissioner or director of the contracting agency within 14 days after he knew or should have known about the facts forming the basis for the complaint.

The act authorizes the commissioner, director, or his designee to resolve or settle the complaint. If the complaint is not resolved, the act requires the agency head (or his designee) to issue a written decision within 30 days after receiving the complaint and to provide a copy to the complaining bidder. The decision must:

1. describe the procedure the agency used to solicit and award the contract,
2. indicate the agency's findings on the merits of the bidder's complaint, and
3. inform the bidder of his right to appeal to the SCSB.

APPEALS FROM AGENCY DECISIONS (§ 10)

The act permits bidders to appeal an agency decision on state contract solicitation and awarding processes to the SCSB within 14 days after receiving it. Each bidder must state the facts supporting his claim in enough detail for the SCSB to determine whether the process for soliciting or awarding the contract failed to comply with the uniform procurement code or involved an unauthorized or unwarranted, noncompetitive selection process. The appeal does not prohibit the award or execution of the contested contract.

The act requires the SCSB to create a subcommittee of three of its members to review these appeals and decide, by a unanimous vote, whether an allegation of noncompliance or an unauthorized or unwarranted,

noncompetitive selection process has been demonstrated. If there is a split vote, the full membership must review the appeal and dispose of it by a vote of two-thirds of its members present and voting. And any three board members may request that the full board review an agency's deliberating or awarding process.

The subcommittee, or the full board in the event of a split vote, must issue a written decision, or take other appropriate action, on each appeal and provide a copy of any decision to the bidder. The subcommittee must act within 90 days after receiving the appeal. The full committee must act within 90 days after receiving the appeal from the subcommittee. If the subcommittee or full board decides in the contractor's favor, the board must direct the state contracting agency to take corrective action within 30 days after the decision date. If the subcommittee finds the appeal to be frivolous, its finding may be grounds for disqualifying the contractor. Anyone aggrieved by a decision can appeal to Superior Court.

CONTRACTING STANDARDS ADVISORY COUNCIL (§ 11)

The act establishes a nine-member Contracting Standards Advisory Council to discuss problems with procurement processes and to recommend improvements to the SCSB. The council can conduct studies, research, and analyses and make reports and recommendations on matters within the SCSB's jurisdiction.

The governor designates the council's members. They must represent state contracting agencies, including at least one representative each from the Administrative Services, Transportation, and Public Works departments. The council must meet at least once a year.

STATE PROPERTIES REVIEW BOARD (§§ 12 & 34)

The act names the SCSB as a successor department to the SPRB and transfers the powers, duties, obligations, and other government functions of the latter to the former beginning October 1, 2007. By the same date, the act requires the SCSB to establish a three-member subcommittee, called the State Properties Review Subcommittee, to perform SPRB's duties in accordance with SCSB's rules and procedures.

FAST-TRACK CONSTRUCTION PROJECTS (§ 13)

The act limits the legislature's ability to exempt construction projects from the competitive bidding process. It requires the legislature to approve fast-track legislation by a two-thirds vote of the members of each

chamber. If this legislation is rejected, the fast-track proposal is not valid and cannot be implemented for the project. The legislation is deemed rejected if the legislature fails to vote to approve it (1) by the end of the regular session during which it is filed, (2) before the end of the next regular session if the legislature is not in regular session when the legislation is filed, or (3) before the end of any special session called to consider the legislation. If the legislation is filed less than 30 days before the end of a regular session, the legislature may vote to approve or reject it within 30 days after the first day of (1) a special session convened for that purpose or (2) the next regular session.

By law, if the legislature approves the legislation, the SPRB must review the contract and approve or disapprove it no later than 30 days after the public works commissioner submits it. Beginning October 1, 2007, the act requires the State Properties Review Subcommittee of the SCSB to conduct the review. Consistent with existing law, the contract is deemed approved if the review does not occur within the 30 days.

PRIVATIZATION CONTRACTS (§ 14)

Between its passage and the date the uniform procurement code becomes law, the act prohibits any state agency from entering a privatization contract unless certain conditions are met. The prohibition does not apply to procurement contracts needed to (1) address a sudden, unexpected occurrence that poses a clear and imminent danger to public safety; (2) prevent or mitigate the loss or impairment of life, health, property, or essential public services; or (3) comply with a court order, settlement agreement, or other similar legal judgment. Until January 1, 2008, the act's privatization provisions do not apply to (1) a privatization contract with a nonprofit contractor that does not result in state employee layoffs, transfers, or reassignments or (2) the renewal, modification, extension, or rebidding of a privatization agreement in effect on or before the act takes effect.

"Privatization contracts" means those valued at \$500,000 or more between a state agency and a person to provide services substantially similar to those provided by state employees. The term does not include an agreement to only provide legal services, litigation support or management, or financial consulting.

The act prohibits any funds a contractor receives concerning a privatization contract from being used for lobbying.

Conditions Precedent to Privatization Contracts

Under the act, an agency can enter a privatization contract if the:

1. contract is cost-effective and fiscally prudent when compared to the state's cost to provide the services, including all direct and indirect costs to the state and the impact of privatization on public health and safety and on state residents who use the privatized services;
2. state agency requires contractors to include the information the act requires in their bid submissions;
3. state agency prepares a cost-benefit analysis; and
4. agency notifies the collective bargaining units representing its employees of the agency's plan to solicit bids for a privatization contract and helps the employees organize and submit a bid to provide the services.

Cost-Benefit Analysis

Before soliciting bids for a privatization contract, the act requires state agencies to analyze the costs and benefits to the agency of (1) privatizing services and (2) continuing to provide the services using its employees. It requires the analysis to examine: (1) direct and indirect costs to the state, including health insurance, pension costs, unemployment compensation costs resulting from the privatization, and gains or losses in state income or sales tax revenue and (2) the effect of the proposed privatization on the quality of services, public health and safety, and state residents who may use them.

When determining the cost of privatizing services, the act requires the agency to calculate employees' labor costs at no less than the mid-range salary for their classification or the average salary of displaced employees, whichever is higher and assume comparable benefit costs. The cost analysis must also show costs or penalties to the state for the contract's premature termination.

Each agency must submit its analysis to the state auditors for review and comments and to the secretary of the state, who must maintain copies of each proposed contract and analysis as public records.

Notice to Union Representatives

At least 60 days before soliciting bids for a privatization contract, the act requires the state agency to notify the unions representing the employees who will be affected by it. After consulting with the unions, the agency must encourage and help the affected employees bid on the contract. It must look at existing or similar collective bargaining agreements to determine how much help to give them. The act requires the agency also to give the employees its cost-benefit analysis and any auditor's report. It must consider bids

from state employees on the same basis as it considers others. It permits employees to bid as a joint venture with others.

Bid Requirements

The act requires state agencies soliciting bids for privatization contracts to direct each bidder to include in his bid:

1. the wage rate or annual salary for each employee or position the contract covers;
2. an agreement to offer available positions to any qualified state employee who will lose his job because of the contract and who satisfies the bidder's hiring criteria;
3. an agreement not to engage in discriminatory employment practices and to take affirmative steps to be an equal opportunity employer;
4. without providing identifying information, a report on how long, by job classification, his current employees have worked for him and their relevant work experience;
5. the minimum requirements for any positions that will be newly created;
6. employees' annual turnover rate;
7. any legal or administrative proceedings pending or concluded adversely against him or any of his principals or key personnel within the past five years that relate to the procurement or performance of any public or private construction contract, employee safety and health, labor relations, or other employment requirements and whether the applicant is aware of any investigation pending against him or any principal or key personnel;
8. for any such proceeding, the date of the complaint, citation, or court or administrative finding, the enforcement agency, rule, law, or regulation involved, and any additional information he elects to submit;
9. any collective bargaining agreements or personnel policies covering the employees who will provide services to the state; and
10. any political contributions he or any of his employees who participated substantially in the bid's preparation made to a statewide elected official or legislator during the four years before the bid was due. "Substantial participation" means participation that is direct, extensive, and substantive, not peripheral, clerical, or ministerial.

Terms Required in Privatization Contracts

The act requires agencies to make privatization contracts acceptable to the bidder and the state agency.

At a minimum, these contracts must:

1. require the bidder to offer available jobs to qualified regular state employees who lost their jobs because of the contract and who satisfy the hiring criteria;
2. prohibit him from engaging in discriminatory employment practices and require him to take affirmative steps to offer all people an equal opportunity;
3. require him to allow the state auditors to conduct periodic performance audits of the contract;
4. require him to pay a wage rate at least equal to the established wage (i.e., a minimum wage rate for employee positions with duties that are substantially similar to the duties performed by a regular state agency, which rate is the lesser of step one of the grade or classification under which the comparable regular agency employee is paid or the standard private sector wage rate for the position as determined by the labor commissioner and includes a percentage of the pension and health care benefits for comparable state employees); and
5. not become effective until the contractor and state agency have complied with the act's provisions on privatization.

State Agency's Duty Once Contract is Signed

Any agency that signs a privatization contract must give the secretary of the state:

1. a copy of the contract to maintain as a public document,
2. certification that the agency complied with all of the act's requirements for privatization;
3. a copy of the agency's cost-benefit analysis and a report explaining any changes in the analysis resulting from the terms of the proposed contract;
4. an analysis of the quality of services the contractor will provide and whether they equal or exceed the quality provided by regular agency employees;
5. the contractor's certification that he and his supervisory employees have no adjudicated record of repeated willful noncompliance with any relevant federal or state regulatory law, including laws concerning labor relations, occupational safety and health, nondiscrimination and affirmative action, environmental protection, and conflicts of interest; and
6. a description of why the contract is in the public interest.

Lawsuits Challenging Contract Compliance

Under the act, an employee adversely affected by a proposed privatization contract or his collective bargaining agent may file a motion for an order to show cause in the Hartford Superior Court claiming that the contract fails to comply with the act's substantive or procedural requirements. The court may (1) deny the motion if it finds that all requirements were met, (2) grant the motion if it finds that the proposed contract would substantively violate the act's provisions, or (3) stay the contract's effective date until any procedural or substantive defect are corrected.

PURCHASE OF SERVICE AGREEMENTS (§ 15)

By law, state agencies may enter into purchase of service agreements with nonprofit agencies. Typically, the parties to these agreements agree on a likely cost of services provided over a specified period. The actual cost of services may be less than that provided under these "prospective pricing" contracts.

The act requires the Office of Policy and Management (OPM) to establish procedures for state agencies to use when entering purchase of service agreements based on an agreed-upon price for such services, a set cost for such services, or a flat grant for an agreed-upon level of services. The procedures must require agencies to pay one-half of any unexpended contract funds to the nonprofit agency, partnership, or corporation at the end of the contract if the services rendered meet the contracted requirements for number, type, and quality of services. The procedures commonly apply to human services contracts that OPM oversees for clients of the departments of Social Services, Children and Families, Mental Retardation, Mental Health and Addiction Services, Public Health, and Correction.

CONTRACTS FOR LEGAL SERVICES (§ 16)

Beginning July 1, 2006, the act requires state agency contracts for legal services that will, or could reasonably be expected to, result in attorney's fees, including contingency fees, of at least \$250,000 to be awarded pursuant to request for proposal or for qualification and negotiation procedures. By May 1, 2006, the attorney general must establish these procedures for his office and other state agencies.

PREQUALIFIED CONTRACTORS (§§ 17-19 & 29)

The act requires subcontractors to prequalify with DAS before they perform work valued above \$500,000 on a state or municipal construction contract. Like

contractors, the prequalification requirement does not apply to substantial subcontractors who work on UConn projects. The prequalification procedures, range of application fees, and possible penalties for violations are generally the same as those under existing law for prequalified contractors. The act eliminates a requirement for applicants to include in their application their experience on private and public construction projects over the immediately preceding five years or their 10 most recently completed projects and the names of any subcontractors they used on them. This effectively gives the DAS commissioner a broader review of the applicants' experiences. The act requires the commissioner to adopt regulations establishing a schedule of applicable fees for subcontractors required to prequalify. The existing application fees for contractors are based on aggregate work capacity ratings and range from \$600 for a rating of \$5 million or less to \$2,500 for a rating over \$40 million. The act eliminates the \$600 floor on the prequalification renewal fee and prohibits the fee from being less than, rather than equal to, one-half of the initial application fee.

The act eliminates a requirement for contractors to include a list of their non-bonded projects in the update statements that they must submit with (1) each bid on a state construction contract and (2) applications to renew or upgrade their prequalification certificate. It leaves unchanged a requirement that they include in these statements (1) a list of bonded projects, (2) the names and qualifications of personnel who will supervise any new contract they are bidding on, (3) any significant change in their financial position or corporate structure since the certificate was issued or renewed, and (4) any other relevant information the DAS commissioner prescribes. By law, the commissioner must establish the form.

The act prohibits a public agency from receiving any state funds for construction if it accepts a bid without the bidder's prequalification certificate or update statement.

The act adds an additional ground for the DAS commissioner to revoke a contractor's or subcontractor's prequalification. She can do so if the SCSB disqualifies the contractor or subcontractor. The revocation period is the same as the disqualification period. The commissioner can already revoke prequalification, generally for two years (five years for fraud), for fraud in obtaining or maintaining prequalification, making materially false statements in application or update statements, or criminal convictions related to contract procurement or performance.

Within 120 days after becoming prequalified, the act requires contractors and subcontractors to participate in an SCSB-approved ethics training course.

By law, public agencies must evaluate the performance of contractors and subcontractors working on public projects. The act allows municipalities to meet this requirement by relying on a contractor's evaluation of his subcontractors.

DPW CONTRACTOR SELECTION PROCESS (§§ 20-21)

The act changes the number, tenure, and mission of the panels that assist the public works commissioner to award state construction projects outside of the competitive bidding process. Instead of a single panel with members who serve for one year to assist in all contracts negotiated that year, the act establishes multiple panels (one per contract) where members serve for deliberations on a single contract only. The number of members and their appointing authorities do not change under the act.

The panels affected are the DPW construction services selection and award and Connecticut Health and Education Facilities Authority (CHEFA) construction services panels. The selection panel screens firms that respond to invitations to bid on design-build, noncompetitively bid projects and submit lists of the three most qualified to the commissioner. The CHEFA panel's work is limited to CHEFA-funded projects. The award panel interviews the screened firms and ranks them for the commissioner, who awards the contract.

The act limits the projects that the award panels work on to those that are not competitively bid. This means the panels work on fast-track and design-build projects only.

CONTRACT AWARDS (§ 22)

The act increases, from 60 to 120, the number of days the DPW commissioner and constituent units of higher education have to award contracts after opening bids.

STATE CONTRACTS WITH REINCORPORATED COMPANIES (§ 23)

The act requires DAS to require each publicly traded corporation seeking to do business with the state to certify in an affidavit that it is not a company that (1) was previously incorporated, and conducted business, in the U. S.; (2) reincorporated outside of the U. S. on or after July 1, 2005; and (3) owed less federal or state taxes because of the reincorporation. The act prohibits the state from contracting with corporations that fail to make the certification, except the attorney general may waive the prohibition if (1) the services the state is seeking are not available from a company incorporated

in the U. S. or (2) the waiver is in the state's best interest.

LIGHT POLLUTION (§§ 24-25)

The act bans, with some exceptions, the use of state bond revenues or appropriated or allocated state funds to install or replace an outdoor light or lighting unit on state building or facility grounds that:

1. fails to maximize energy conservation and minimize light pollution, glare, and light trespass (light that shines beyond the boundaries of the property where it is located);
2. provides light 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 a full cut-off luminaire (a lighting unit that allows no direct light emissions above a horizontal plane through its lowest light-emitting part).

The act allows four exceptions to the full cut-off requirement. It exempts lighting units (1) on the grounds of a Department of Correction institution or facility, (2) required by federal regulations, (3) required for Department of Transportation (DOT) storm operations, and (4) in a plan for DOT facilities where less than 25% of the luminaires will be replaced. It also sets conditions under which the DPW commissioner, or his designee, may waive the full cut-off requirement for other state buildings or facilities when necessary. The act directs the commissioner to 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 OPM secretary finds that a noncomplying system is more cost-effective than one 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.

The act establishes a schedule for violators of laws regulating the use of floodlights on private property to comply with the law. Prior law required all violators to comply by October 1, 2005. Beginning October 1, 2006, the act instead requires approximately 20% to comply and it increases the amount by 20% each year until full compliance is reached by October 1, 2010. The law prohibits (1) 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 and (2) 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.

JUDICIAL BRANCH PROCUREMENT CODE (§ 27)

By January 1, 2007, the act requires the Judicial Branch to prepare a procurement code for its use when contracting for, buying, renting, leasing, or otherwise acquiring or disposing of supplies, equipment, or services, including consultant and construction services. This code must be identical to the SCSB's procurement code, except the Judicial Branch's code does not have to:

1. preserve and maintain contracting or procurement procedures that represent best practices,
2. include a process to improve contractor and state contracting agency accountability,
3. establish standards for leases and lease-purchase agreements and for the purchase and sale of real estate, or
4. include standards for evaluating proposals to privatize services and privatization contract bid proposals.

By February 1, 2007, the act requires the Judicial Branch to submit the code to the Judiciary Committee for approval.

DISCLOSURE OF PROCUREMENT DOCUMENTS (§ 28)

The act allows procurement documents submitted in response to an agency's RFP to be exempted temporarily from disclosure under FOIA if the agency's chief officer certifies that the public's interest in confidentiality outweighs its interest in disclosure. Under the act, RFP responses and records and files provided to the agency during the contracting process can be treated confidentially until the agency awards the contract or contract negotiations end, whichever occurs first. The act does not specify who receives the certification.

SET-ASIDE PROGRAM (§§ 30-32)

By law, state and quasi-public agencies and political subdivisions, other than municipalities, must set aside 25% of the contracts they let for construction, goods, and services each year for small contractors. Set-aside contracts must be awarded based on competitive bids.

The act changes the definition of small contractor as it pertains to the set-aside program. To qualify as a small contractor under prior law, a business must,

among other things, have grossed no more than \$10 million in its most recently completed fiscal year. The act replaces this condition with a size standard that DAS establishes for the business sector in which a contractor, subcontractor, manufacturer, or service company operates.

It requires a state agency that awards a set-aside contract to obtain from that contractor a written description of any subcontract it has with a business that is not eligible under the set-aside program. By law, a contractor that is awarded a set-aside contract, together with set-aside-eligible subcontractors, must perform at least 25% of the work done under such a contract. The act also requires, rather than allows, awarding agencies to notify contractors via certified mail of hearings on their suspected set-aside program violations.

AFFIDAVITS IN STATE CONTRACTS (§ 33)

The act requires state and quasi-public agencies to obtain from goods and service contractors an affidavit identifying consultants who will work with them on the contract if the contract costs, rather than has a total value to the state of, \$50,000 or more in a calendar or fiscal year. It leaves unchanged a mandate that the requirement applies only if the consultant's duties include any communication concerning the business of the agency, whether direct or indirect, with the agency or a state official or employee.

PROHIBITED ACTIVITIES BY CONTRACTORS AND CONSULTANTS (§ 34)

The law prohibits state contractors, prequalified contractors, parties to state consultant services contracts, and people seeking these contracts or prequalification, from (1) seeking an inappropriate competitive advantage on a bid for a state contract, (2) overcharging the state, or (3) purposefully trying to circumvent state competitive bidding or ethics laws.

It also prohibits state consultants and their businesses from consulting with anyone other than the state about a state contract, receiving a state contract, or serving as a subcontractor or consultant on a state contract. State agencies may deem violators nonresponsible bidders.

The act limits the people who may be deemed nonresponsible to those the Office of State Ethics find in violation.

PA 05-2, October 25, 2005 Special Session—SB 2100 *Emergency Certification*

AN ACT CONCERNING EMERGENCY HOME HEATING ASSISTANCE

SUMMARY: This act:

1. increases benefits under the Connecticut Energy Assistance Program (CEAP), which helps low-income households pay their heating bills and provides benefits for moderate-income households under the Contingency Heating Assistance Program (CHAP) component of CEAP;
2. establishes a new HEARTH program to provide subsidies for furnace tune-ups and other energy efficiency services, available to all income groups;
3. exempts energy efficiency products and energy efficient heating equipment from the sales tax from November 25, 2005 to April 1, 2006;
4. lowers the interest rate on certain energy conservation loans;
5. provides supplemental funds for heating costs for state-supported residential facilities that are distressed as a result of rising energy costs,
6. bars energy sellers from charging “unconscionably excessive prices” in connection with abnormal market disruptions and allows the attorney general to seek civil penalties and damages when he receives referrals;
7. requires the Office of Policy and Management (OPM) to take various steps to increase the transparency of the home heating oil market; and
8. requires heating oil dealers to obtain futures contracts or surety bonds in connection with fixed-price contracts.

The act requires the Connecticut Energy Advisory Board, in consultation with OPM and the Department of Social Services (DSS), to evaluate the effectiveness of the programs it establishes or expands in reducing the impact of higher energy costs on low- and middle-income households and on state-supported residential facilities. The board must submit its report, including its recommendations, to the Energy and Technology and Human Services committees by January 1, 2007.

EFFECTIVE DATE: Upon passage, except for the provision on fixed price contracts, which is effective December 1, 2005.

INCREASED CEAP BENEFITS

DSS administers CEAP under an annual plan approved by the legislative committees of cognizance. Under this year's approved plan, the program serves households with incomes up to 200% of federal poverty guidelines (up to \$32,180 for a three-person household) if they have an elderly or disabled member. It serves other households with incomes of up to 150% of federal poverty guidelines (\$24,135 for a three-person household in 2005). The program provides a basic benefit of up to \$475 per heating season. If funds are available, the program provides crisis assistance and safety net benefits for households that use deliverable fuels (primarily oil) and that have exhausted their basic benefits.

The act requires the DSS commissioner to amend the 2005-2006 plan to:

1. increase the basic benefit provided to all eligible households (including renters whose heat is included in their rent) by \$200;
2. fund CHAP to provide a basic benefit of \$300 for other households with incomes up to 60% of state median income (\$43,344 for a three-person household);
3. provide an additional \$200 crisis benefit, once the basic benefit is exhausted, in life-threatening situations under CHAP for such households that use deliverable fuels;
4. increase the number of households provided with weatherization services under the plan; and
5. increase the number of households receiving furnace tune-ups and related services, as described below.

HEARTH PROGRAM

DSS already pays for furnace tune-ups for households under CEAP. The act requires the OPM secretary, in conjunction with the DSS commissioner, to establish a broader Home Energy Assistance and Reimbursements for Tune-ups on Heating Equipment (HEARTH) grant program for FY 06.

The new program provides a reimbursement of up to \$50 per household to eligible contractors who provide home heating equipment tune-ups and install or provide water heater blankets, window film, or programmable thermostats. Eligible contractors are registered oil dealers, electric and gas companies, and municipal utilities. (PA 05-4, November 2 Special Session modifies who can provide the services and requires that the devices be installed.) Contractors may not charge participating customers more for the same goods or services than other customers and must deduct the amount of the reimbursement from any invoice they

provide to the customer for the goods or services. Violation of these provisions is an unfair trade practice under the Connecticut Unfair Trade Practices Act (CUTPA).

DSS must administer the program for households eligible for CEAP as expanded by the act. It must do so in accordance with the existing CEAP procedures for households that heat with deliverable fuels (e.g., heating oil) or gas.

OPM must administer the program for other households. These households can apply to OPM for a prequalification certificate. An eligible contractor cannot apply to OPM for reimbursement under the program unless he submits the certificate and a copy of the invoice with the application. OPM can use agents as well as state employees to administer the new program and can adopt implementing regulations.

The act appropriates \$1 million for FY 06 to OPM for the HEARTH program.

SALES TAX EXEMPTION

The act exempts the following products from the 6% sales and use tax between November 25, 2005 and April 1, 2006: insulation; programmable thermostats; water heater blankets; window film; window and door weather strips; caulking; water heaters, gas furnaces, and windows that meet federal Energy Star standards; and oil furnaces that are at least 85% efficient. PA 05-4, November Special Session expands the types of goods eligible for the exemption.

ENERGY CONSERVATION LOANS

By law, the Department of Economic and Community Development (DECD) can make low-cost loans for various energy efficiency and renewable energy measures in residential structures to households with income up to 120% of the area median income. The act decreases the maximum interest on such loans for households with income between 115% and 150% of the area median income from 1% above the interest rate on the state's most recent general obligation bonds to a flat 3%. The interest rate reduction does not apply to loans for heat pumps, solar systems, passive solar additions, aluminum or vinyl siding, replacement central air conditioning, or replacement roofs.

The Connecticut Housing Investment Fund administers the program on DECD's behalf.

The act authorizes an additional \$5 million in general obligation bonding for the Energy Conservation Loan Fund, which is used to make the loans.

FUNDING FOR STATE-SUPPORTED RESIDENTIAL FACILITIES

The act requires the OPM secretary to implement a program to provide supplemental funding for FY 06 for heating costs for nursing homes and other residential facilities that (1) receive state funds and (2) are distressed as a result of rising energy costs, as the secretary determines.

The secretary must consult with the Social Services, Mental Retardation, Mental Health and Addiction Services, and Children and Families commissioners in implementing the program. He must coordinate payment procedures with the commissioner who has jurisdiction over the funded facility.

The act appropriates \$2 million to OPM for this supplemental funding.

PROFITEERING

The act bars sellers of energy resources from selling or offering to sell them at an “unconscionably excessive” price (1) during an abnormal market disruption or (2) when such a disruption is reasonably anticipated to be imminent.

Under the act, “energy resources” include middle distillate (home heating oil), residual fuel oil, gasoline, propane, aviation fuels, natural gas, electricity, coal and coal products, wood fuels, and any other resource yielding energy. “Sellers” include suppliers, wholesalers, distributors, and retailers. An “abnormal market disruption” is any stress on energy resource markets resulting from extraordinary adverse circumstances, such as weather conditions or other acts of nature, failures or shortages of energy sources, strikes, wars, civil disorders, national or local emergencies, and oil spills.

Under the act, there is prima facie evidence that the price charged is unconscionably excessive if two conditions apply. The first is a gross disparity between the amount the seller is charging and the amount he charged in the usual course of business just before the start of the disruption or just before the period when a disruption is reasonably anticipated. The second is that the seller’s charge was not attributable to additional costs incurred in connection with the sale of the product.

The act does not limit the Department of Consumer Protection (DCP) commissioner’s or the court’s ability to establish certain acts or practices as unfair or unconscionable in the absence of abnormal market disruptions.

The act allows the attorney general, upon the DCP commissioner’s referral, to file suit in the Hartford judicial district against anyone who violates these provisions and to recover a civil penalty of up to \$10,000 per violation and other equitable relief the court

considers appropriate. In the case of a knowing violation, the attorney general can also seek double damages. A violation is also an unfair trade practice.

TRANSPARENCY IN THE HOME HEATING OIL MARKET

The act requires the OPM secretary to collect, monitor, and distribute information that will provide transparency for home heating oil market prices to the public. He must, within 120 days of the act’s passage, provide an opportunity for public comment on how to accomplish this goal.

Specifically, the secretary must collect, or cause to be collected, information on wholesale and retail home heating oil prices. He must develop price indices to provide transparent market prices to the public and transmit them to the public in a cost-effective way that provides the greatest possible access to understandable and current information. The secretary must update the information and post it weekly on OPM’s website between December 1, 2005 and April 30, 2006.

The secretary must monitor and analyze the information for evidence of activities that harm the fair and free operations of the home heating oil market. He must refer any such evidence, together with other information or recommendations, to agencies he determines have jurisdiction to provide remedies, including federal; state; or local administrative, regulatory, or law enforcement agencies.

The evidence and related analyses and work products are not subject to disclosure under the Freedom of Information Act until:

1. 30 days after the secretary decides not to refer it on to other agencies or
2. 60 days after he makes such a referral, unless a law enforcement agency continues to exempt it from disclosure under the law.

Each time the secretary makes a referral, he must notify the Energy and Technology Committee, subject to these disclosure limitations. The notification must also include his recommendations for legislation and other measures to address the conditions the referral identifies.

The secretary, in performing his duties, can summon witnesses and examine them under oath. He may order retail and wholesale home heating oil suppliers to produce books and other papers he considers advisable. He can examine the papers or cause them to be examined.

The secretary must consult with other relevant agencies in implementing these provisions. If an agency incurs a material budgetary impact in providing ongoing assistance to OPM, it and OPM must negotiate a memorandum of understanding covering the provision of the assistance.

The act establishes a Home Heating Oil Planning Council to address issues involving the supply, delivery, and cost of home heating oil and state policies regarding the future of the state's oil supply. The council consists of the OPM secretary, DSS commissioner, and the chairperson of the Public Utilities Control Authority, or their designees, and the chairperson of the Connecticut Energy Advisory Board. The OPM secretary must convene the first meeting.

The council must monitor and analyze OPM's information and other information it considers appropriate for evidence of operational or infrastructure conditions that should be addressed to enhance the home heating oil markets reliable, free, and fair operation. By January 1, 2007 and periodically thereafter, it must report to the Energy and Technology Committee on the status of the home heating oil market. The report must include any negative conditions in the market and recommendations for legislation.

PRICE-CAPPED OIL CONTRACTS

PA 05-229 prohibits home heating oil dealers from entering into prepaid contracts with consumers unless the dealers secure the contracts with either a minimum level of heating oil futures contracts or a surety bond of at least 50% of the certain amount the dealer estimates is committed to such contracts. The act extends these provisions to fixed-price per-gallon contracts. Violation of existing and new provisions is an unfair trade practice.

BACKGROUND

Unfair Trade Practices

The law prohibits businesses from engaging in unfair and deceptive acts or practices. It allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violating a restraining order.

PA 05-3, October 25, 2005 Special Session—SB 2102 *Emergency Certification*

AN ACT STRENGTHENING ENFORCEMENT OF MANDATORY SECURITY REQUIREMENTS FOR MOTOR VEHICLES WITH A COMMERCIAL REGISTRATION

SUMMARY: This act increases the penalty from a civil fine to a class D felony for an owner of a vehicle with a commercial registration to knowingly operate it or permit its operation without the financial security (e.g., insurance) required by law (see Table on Penalties).

The act requires certain owners of vehicles with commercial registrations to file with the Department of Motor Vehicles (DMV) at least once every six months evidence that the required financial security is in effect. At least once every two years, the owner must file a motor carrier identification report with the security evidence. The act requires the DMV commissioner to suspend the registration of each motor vehicle registered in the owner's name if the owner does not make the required filings.

The act requires the DMV commissioner to report to the Insurance and Real Estate and Transportation committees by January 1, 2007 regarding its receipt of the identification reports and security evidence.

The act also makes technical and conforming changes.

EFFECTIVE DATE: January 1, 2006

OPERATING WITHOUT REQUIRED SECURITY

By law, owners of private passenger motor vehicles, motor vehicles with combination registrations, or motor vehicles with commercial registrations are prohibited from operating or permitting the operation of any vehicle without the mandatory security required by law (CGS § 14-213(b)). (Motor vehicles must be covered by financial security of at least (1) bodily injury of \$20,000 per person and \$40,000 per accident; (2) property damage liability of \$10,000 per accident; and (3) uninsured and underinsured motorist coverage of \$20,000 per person and \$40,000 per accident.) Violators are subject to a civil fine of between \$100 and \$1,000. If the vehicle is a private passenger motor vehicle, the violator is also guilty of a class C misdemeanor (see Table on Penalties) (CGS § 38a-371(d)).

By law, certain owners of a motor vehicle with commercial registrations are required to carry higher amounts of financial security (CGS § 14-163c). The act makes it a class D felony for an owner of such a vehicle who knowingly operates it or permits its operation without the financial security required by law (see Table on Penalties).

MANDATORY REPORTING

The act requires certain owners of vehicles with a commercial registration to file with DMV evidence that the legally-required financial security is in effect. They must submit evidence at least once every six months according to a schedule the commissioner establishes. At least once every two years, these owners must file a motor carrier identification report with the security evidence. This report must meet federal regulatory requirements and be in a format the commissioner prescribes.

This reporting requirement applies to an owner of a motor vehicle that is (1) in intrastate commerce with a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) over 18,000 pounds; (2) in interstate commerce with a GVWR or GCWR over 10,000 pounds; (3) designed to transport more than 15 passengers, including the driver; or (4) used to transport hazardous materials and required to be placarded in accordance with federal regulations. "GVWR" is the greater of the vehicle's maximum loaded weight according to the manufacturer or the registered gross weight. "GCWR" is the GVWR of the vehicle's power unit plus the GVWR of towed units.

Failure to File Required Information

If an owner fails to file the identification report or security evidence as required, the act requires the DMV commissioner, after notice and an opportunity for hearing, to suspend the registration of each motor vehicle registered in the owner's name. This registration suspension is in addition to any other penalties allowed by law.

BACKGROUND

Federal Requirements for Financial Responsibility

Federal law prohibits a motor carrier from operating motor vehicles unless the carrier has obtained and has in effect an appropriate level of financial responsibility (e.g., insurance policies, surety bonds, self-insurance) to cover potential liability for bodily injury, property damage, and environmental restoration. The term "motor carrier" includes a carrier's (1) agent, officer, or representative; (2) employee responsible for

hiring, supervising, training, assigning, or dispatching drivers; and (3) employees involved with the installation, inspection, and maintenance of motor vehicle equipment and accessories (49 CFR §§ 387.5 and 387.29).

The financial responsibility requirements apply to the following carriers' motor vehicles that (1) have a GVWR over 10,000 pounds and (2) carry certain hazardous substances requiring placarding under federal regulations, regardless of weight:

1. for-hire and private carriers operating motor vehicles transporting hazardous (a) materials, (b) substances, or (c) wastes;
2. for-hire carriers operating motor vehicles transporting property in interstate or foreign commerce;
3. for-hire carriers transporting passengers in interstate or foreign commerce; and
4. private carriers domiciled in Mexico transporting property in interstate or foreign commerce (49 CFR § 387.3).

The minimum levels of financial responsibility that a motor carrier must maintain under federal regulations range from \$750,000 to \$5 million depending on the (1) type of motor vehicles operated and (2) type and quantity of cargo (property or people transported) (49 CFR §§ 387.9 and 387.33).

State Requirements for Financial Responsibility

State law authorizes the DMV commissioner to adopt the federal financial responsibility requirements as state regulations applicable to any motor vehicle (1) in intrastate commerce with a GVWR or GCWR over 18,000 pounds; (2) in interstate commerce with a GVWR or GCWR over 10,000 pounds; (3) designed to transport more than 15 passengers, including the driver; or (4) used to transport hazardous materials and required to be placarded in accordance with federal regulations (CGS § 14-163c). The commissioner has adopted such regulations (Conn. Agencies Regs. § 14-163c-2).

State law authorizes state and municipal police officers and motor vehicle inspectors to inspect a carrier's motor vehicle in operation to determine compliance with the financial responsibility requirements (CGS § 14-163c(d)). A first violation of the financial responsibility regulations is an infraction. The law authorizes the DMV commissioner to impose a civil penalty for a second or subsequent violation of up to \$10,000 per violation. A person assessed a civil penalty may request a hearing. If he does not comply with the commissioner's final decision and order, the commissioner may suspend any motor vehicle registration issued to him or his privilege to register any motor vehicle in the state until he complies with the order (CGS § 14-163c(e)).

Other State-Mandated Security Requirements

Since the federal financial responsibility requirements for motor carriers, as adopted by the state, do not apply to all vehicles with commercial registrations, the state legislature expanded the applicability of the mandatory security for motor vehicles, effective October 1, 1994 (PA 94-243). A “commercial registration” is the type of registration required for any motor vehicle designed or used to transport merchandise, freight, or people in connection with any business enterprise (CGS § 14-1(14)).

The owner of a vehicle with a commercial registration must continuously maintain throughout the vehicle’s registration period financial security including, at a minimum, (1) bodily injury liability of \$20,000 per person and \$40,000 per accident; (2) property damage liability of \$10,000 per accident; and (3) uninsured and underinsured motorist coverage of \$20,000 per person and \$40,000 per accident.

Motor Carrier Identification Report

The Motor Carrier Identification Report (Form MCS-150) used by the Federal Motor Carrier Safety Administration includes basic information about the motor carrier, including name; address; telephone number; U.S. DOT and federal tax identification numbers; type of company operations; type of cargo; number and type of vehicles operating in the United States; number of drivers; and the names and titles of the company owner, officers, or partners.

PA 05-4, October 25, Special Session—HB 7601 *Emergency Certification*

AN ACT CONCERNING MINOR REVISIONS TO THE EMERGENCY HOME HEATING ASSISTANCE ACT

SUMMARY: This act expands the types of energy efficient products eligible for the temporary sales exemption created by PA 05-2, October 25 Special Session.

It generally expands the types of contractors who can participate in the HEARTH program established by that act for assistance and reimbursements for heating equipment tune-ups. It requires that participating contractors install water heat blankets, window film, or programmable thermostats; prior law allowed the contractors to install or provide these goods.

EFFECTIVE DATE: Upon passage, except that the sales tax exemptions are effective December 15, 2005 and apply to sales on or after that date.

SALES TAX EXEMPTION

PA 05-2, October 25 Special Session, exempts from the sales and use tax various energy efficient products, including windows and natural gas furnaces that meet the federal Energy Star efficiency standards and oil furnaces that are at least 85% efficient. The exemptions run from November 25, 2005 through April 1, 2006.

The act additionally exempts the following products from December 15, 2005 to April 1, 2006: (1) natural gas boilers, propane furnaces and boilers, and doors that meet the respective Energy Star standards; (2) oil boilers that are at least 85% efficient; and (3) ground-based heat pumps that meet the minimum federal efficiency rating. The act also exempts all water heaters, rather than just those that meet the Energy Star standards (there are no Energy Star standards for this product).

HEARTH PROGRAM

PA 05-2, October 25 Special Session, establishes the HEARTH program to provide grants for home heating equipment tune-ups and certain energy efficiency products. The Department of Social Services administers HEARTH for households that are eligible for the Connecticut Energy Assistance Program (CEAP) and the Office of Policy and Management (OPM) administers it for households that are ineligible for CEAP.

This act expands the types of contractors who can participate in the program to include electricians, plumbers, and other contractors licensed by the Department of Consumer Protection (DCP) and technicians employed by gas companies. On the other hand, it excludes large oil dealers who are registered with OPM (although these dealers often employ or contract with individuals who hold the DCP licenses). Under the initial act and unaffected by this act, gas and electric companies can also participate in the program.

PA 05-5, October 25, 2005 Special Session—SB 2103 *Emergency Certification*

AN ACT CONCERNING COMPREHENSIVE CAMPAIGN FINANCE REFORM FOR STATE-WIDE CONSTITUTIONAL AND GENERAL ASSEMBLY OFFICES

SUMMARY: This act establishes a voluntary system of public financing for election campaigns. Beginning in 2008 for legislative offices and in 2010 for statewide elected offices, candidates who receive qualifying contributions, agree to limit their spending, and comply with other requirements are eligible to receive state

grants to fund their campaigns. Legislative candidates running in special elections are eligible to receive grants beginning December 31, 2006, the effective date of the program. By law, statewide office candidates are those running for governor, lieutenant governor, attorney general, state comptroller, secretary of the state, and state treasurer.

The act requires the State Elections Enforcement Commission (SEEC) to administer the program. It expands the SEEC's other duties, including making it the repository for state candidates' campaign finance statements. It also requires the SEEC to establish a pilot program to publicly finance municipal campaigns.

The act changes contribution limits to political campaigns. It bans contributions from certain contractors and lobbyists. Only candidates who do not participate in the public financing program are subject to the new limits. Those who participate are limited to qualifying contributions, personal funds, and state grants as funding sources for their campaigns.

EFFECTIVE DATE: December 31, 2006 and applicable to elections held on and after that date. Definitions applicable to the Citizens' Election Program, the SEEC's duty to study municipal public financing, use of corporation tax revenues to fund the Citizens' Election Fund, provision on public funds, and voluntary contributions to the fund are effective January 1, 2006. State contractor contribution bans and provisions on abandoned property proceeds and severability are effective upon passage.

CITIZENS' ELECTION FUND SOURCES (§§ 2-3, 10, 26, 51-53)

The act establishes a Citizens' Election Fund from which payments to participating candidates are made. The fund receives (1) proceeds from sales of abandoned property in the state's custody; (2) voluntary contributions from individuals, businesses, organizations, party committees, and political committees (known as PACs); (3) contributions of surpluses from campaign committees, exploratory committees, and certain other committees that dissolve; and (4) its own investment earnings. In the case of a shortfall in abandoned property proceeds, it also receives corporation tax revenues. The state treasurer administers the fund, which is a separate, nonlapsing account in the General Fund. Grants paid to participating candidates from the fund are not considered public funds for any other purpose.

Unclaimed Property and Corporation Tax (§§ 51-52)

The act allocates revenue to the Citizens' Election Fund. The initial revenue source is proceeds from sales of abandoned property in the state's custody. If that is

insufficient, any shortfall must come from corporation tax revenues.

By law, the state treasurer assumes custody of unclaimed property after specified periods and may sell or otherwise dispose of it. Under prior law, the treasurer had to deposit unclaimed cash and proceeds from the sale of other types of abandoned property into the General Fund.

The act instead allocates \$17 million of abandoned property proceeds for FY 06 and \$16 million for FY 07 to the Citizens' Election Fund. For FY 08 and each fiscal year thereafter, the act requires the treasurer, within 30 days of the end of the fiscal year, to adjust the previous fiscal year's allocation for inflation in accordance with any change in the Consumer Price Index for All Urban Consumers (CPI-U).

Any abandoned property revenue that exceeds the required allocation to the Citizens' Election Fund must go to the General Fund. However, if for any fiscal year, abandoned property proceeds are less than the required allocation, the act requires corporation tax revenue to be deposited in the fund to make up the shortfall.

Voluntary Contributions (§ 53)

The act allows a person, business, organization, party committee, or PAC to contribute directly to the fund by sending a check or money order to the SEEC. The SEEC immediately transmits all contributions to the state treasurer for deposit.

Donations of Surpluses (§§ 6, 10, 26, 50)

Any candidate committee or political committee, other than an ongoing PAC or exploratory committee, can contribute to the fund some or all of its surplus when it dissolves. The law requires committee treasurers to spend or distribute surplus funds within 90 days after (1) a primary when a candidate loses, (2) an election, or (3) a referendum. The act adds the fund to the following list of recipients eligible to receive surplus funds: party committees, ongoing PACs, charitable organizations, and contributors on a prorated basis.

Under the act, a participating candidate committee must return any surplus to the fund within 90 days after the primary or election. In addition, a participating lieutenant governor candidate's committee that has a surplus when the candidate joins a gubernatorial candidate's campaign must turn it over to the fund at that time.

The act allows the treasurer of an exploratory committee formed by a candidate who intends to participate in the Citizens' Election Program to distribute to the candidate's committee surplus funds that meet the criteria for qualifying contributions. He

must distribute any remaining surplus to the Citizens' Election Fund.

The act makes a campaign treasurer guilty of larceny if he fails to return a surplus grant from the Citizens' Election Fund to the fund within 90 days after the primary or election for which the grant was made. The penalty for larceny depends on the amount of money involved.

INSUFFICIENT FUNDS (§ 17)

No later than June 1, 2007 and annually thereafter, the SEEC must issue a report on the fund's status during the previous calendar year. The report must include (1) the amount deposited into the fund, (2) the sources of money received by category, (3) the number of contributions, (4) the number of contributors, (5) the amount of money spent by category, (6) the recipients of the fund's money, and (7) an accounting of the SEEC's costs to administer the program.

By January 1 in a state election year, the SEEC must determine whether there is enough money in the fund to provide grants to candidates. If the SEEC finds the available funds are insufficient, it has three days to recalculate the amount of money qualified candidates can receive, on a proportionate basis, and notify the candidates. It must also issue a report on this determination. After the candidates receive their shares of money from the fund, they can resume accepting contributions that are not subject to the qualifying contribution limitations and spend up to the highest amount that their nonparticipating opponent spends.

The act requires the SEEC to set aside the first \$25,000 deposited into the fund each year in a reserve account. The SEEC can only use the reserve account during the last week before a primary or general election to make payments to candidates who (1) received partial payments due to insufficient general funds or (2) are the targets of independent expenditures made during that week and therefore are entitled to matching funds.

CITIZENS' ELECTION PROGRAM

The act establishes a Citizens' Election Program under which major party candidates for statewide and legislative office can receive grants to finance their primary and general election campaigns. Eligible minor and petitioning party candidates for statewide and legislative office can receive grants to finance their general election campaigns. The program begins in 2008 for legislative races and 2010 for statewide office races.

An eligible minor party candidate is one who is nominated by a minor party. An eligible petitioning

party candidate is one whose nominating petition has been approved by the secretary of the state.

Eligibility Requirements (§ 3)

A candidate is eligible to receive grants if he files the required certifications with the SEEC and agrees to limit spending to the amount the act permits. His candidate committee must receive the required amount of qualifying contributions and return those that do not meet the qualifying contribution criteria. He must also submit an application that the SEEC approves.

Intent to Participate (§ 4)

Effective December 31, 2006, the act requires every candidate for nomination or election to a statewide or legislative office to file an affidavit with the SEEC when he forms a candidate committee or certifies that the registration is not required. (By law, candidates who finance their campaigns entirely from personal funds or do not receive or spend over \$1,000 from other sources are exempt from the filing requirement and must attest to their eligibility for this exemption in sworn statements.) The affidavit must include a written certification of whether the candidate intends to abide by the spending limits under the Citizens' Election Program. If the candidate intends to abide by the limits, he must also include certifications that (1) the campaign treasurer agrees to the lawful use of state funds; (2) the candidate will repay any amount improperly spent; and (3) he is a major or minor party candidate and the name of the party, or he is a petitioning party candidate. In addition, the candidate and the campaign treasurer must both certify that they are jointly and severally liable for repaying an amount equal to the excess spending if the candidate exceeds the spending limit. The act prohibits a candidate who changes his status or political party during a campaign from receiving grants from the fund for that campaign.

Generally, candidates must file the affidavits by 4 p.m. on the 40th day preceding the election. But in the case of a special election for state senator or state representative, candidates must file by 4 p.m. on the 25th day preceding the special election.

Once a candidate certifies his intent to either abide or not abide by the spending limits, he becomes a "participating candidate" or a "nonparticipating candidate," respectively. The act requires the SEEC to prepare separate lists of participating and nonparticipating candidates and make them public.

A participating candidate may withdraw without penalty from the Citizens' Election Program before applying for an initial grant from the fund, whether for the primary or general election. He does this by filing an affidavit with the SEEC including a written

certification of withdrawal. A candidate who files such an affidavit is deemed a nonparticipating candidate. The act prohibits a participating candidate from withdrawing from the program after applying for an initial grant from the fund.

Qualifying Contributions (§ 5)

Candidates who want to participate in the program must qualify by raising a specified amount from individual donors in contributions of no more than \$100 (“aggregate qualifying contributions”). For statewide office candidates, a minimum amount must come from individuals who are state residents (“in-state qualifying contributions”). For state senators and state representatives, a minimum number of contributions of at least \$5 must come from individuals residing in municipalities included, in whole or in part, in their senate or assembly districts (“in-district qualifying contributions”). Tables 1 and 2 show the qualifying contributions for statewide office and legislative candidates, respectively.

Table 1: Qualifying Contributions for Statewide Office Candidates

<i>Candidates for</i>	<i>Qualifying Total</i>	<i>Including Contributions from State Residents Totaling at Least:</i>	<i>Counting Amount from Separate Contributions Up To:</i>
Governor	\$250,000	\$225,000	\$100
Other statewide offices	75,000	67,500	100

Table 2: Qualifying Contributions for Legislative Candidates

<i>Candidates for</i>	<i>Qualifying Total</i>	<i>Including a Minimum Number of Contributions from District Residents of at Least * +:</i>	<i>Counting Amount from Separate Contributions Up To:</i>
State senator	\$15,000	300	\$100
State representative	5,000	150	100

* Individuals must reside in municipalities included either in whole or in part in candidate’s district.
 + Only contributions of at least \$5 count toward the required number of in-district qualifying contributions.

In the case of a special election, a legislative candidate must raise aggregate qualifying contributions totaling at least 75% of the aggregate contributions required for that office during a regular election. They must similarly raise a number of in-district qualifying contributions equal to at least 75% of the applicable minimum number required during a regular election. Table 3 shows the qualifying contributions for legislative candidates during a special election.

Table 3: Qualifying Contributions for Legislative Candidates in a Special Election

<i>Candidates for</i>	<i>Qualifying Total</i>	<i>Including a Minimum Number of Contributions from District Residents of at Least * +:</i>	<i>Counting Amount from Separate Contributions Up To:</i>
State senator	\$11,250	225	\$100
State representative	3,750	113	100

* Individuals must reside in municipalities included either in whole or in part in candidate’s district.
 + Only contributions of at least \$5 count toward the required number of in-district qualifying contributions.

Candidate committees must return any portion of a contribution from an individual, including the candidate himself, that exceeds \$100 and cannot count any excess portion toward the required qualifying contributions whether aggregate, in-state, or in-district. All contributions to a candidate’s exploratory committee that meet the criteria for aggregate, in-state, or in-district qualifying contributions count toward the applicable threshold that candidate must reach in order to qualify for a grant.

Under the act, a communicator lobbyist and his immediate family are banned from contributing to a participating candidate. The act imposes the same restriction on a principal of a state contractor or prospective state contractor. An individual who makes a contribution of more than \$50 must certify his eligibility in this regard.

A qualifying contribution is not valid when (1) the contributor of \$5 or more does not provide his full name and address or (2) the contributor does not reside in the state and the candidate has reached the threshold for contributions from out-of-state residents. For legislative candidates, donations of less than \$5 count toward the required amount of qualifying contributions, but not toward the required number of in-district contributions.

Contributions to participating candidate committees that exceed the limit for qualifying contributions must be transferred to the fund.

Grants from the Fund (§ 6)

Candidates who agree to limit spending are entitled to receive grants from the Citizens' Election Fund. Only major party candidates are eligible to receive grants for a primary campaign. Candidates for lieutenant governor can receive grants for a primary campaign or for petitioning for ballot access, but not for the general election when they run with a gubernatorial candidate.

An eligible minor party candidate can receive a grant for the general election only if the candidate for the same office representing the same minor party at the last regular election received at least 10% of the votes cast for that office. In that case, the grant is one-third of the general election grant for major party candidates. If the candidate for the same office representing the same minor party at the last regular election received 15% of the number of votes cast, the grant is two-thirds of the grant for major party candidates. If the previous candidate received 20% of the votes, the grant is the same.

An eligible petitioning party candidate can receive a grant for the general election only if his petition is signed by a number of qualified electors equal to 10% of the number of votes cast for the same office at the last regular election. In that case, the grant is one-third of the grant for major party candidates. If the petition is signed by a number of qualified electors equal to 15% of the number of votes cast for the same office at the last regular election, the grant is two-thirds of the grant for major party candidates. If it is signed by a number of qualified electors equal to 20% of the votes cast, the grant is the same.

If a nominated major party candidate is unopposed, the grant he receives for the general election is 30% of the full grant. If he is opposed only by a minor or petitioning party candidate who has not received contributions of any type totaling at least as much as the required qualifying contributions for that office, the grant is 60% of the full grant. Finally, the grant for a legislative candidate in a special election is 75% of the amount authorized for that candidate in the general election, whether major, minor, or petitioning party. Tables 4 through 9 show the grants.

Table 4: Grants for Major Party Statewide Office Candidates*

	<i>Primary For Nomination</i>	<i>General Election, Nominated Candidate**</i>	<i>General Election, Unopposed Nominated Candidate (30%)</i>	<i>General Election, Nominated Candidate Opposed by Minor or Petitioning Party Candidates (60%)***</i>
Governor	\$1,250,000	\$3,000,000	\$900,000	\$1,800,000
Other statewide offices	375,000	750,000	225,000	450,000

* To be adjusted for inflation.

** Applies to a candidate who is opposed by another major party candidate or by a minor or petitioning party candidate who has received the required qualifying contributions.

*** Applies to a candidate when opposed only by a minor or petitioning party candidate who has received contributions less than the qualifying amount.

Table 5: Grants for Eligible Minor Party Statewide Office Candidates*

	<i>Primary For Nomination</i>	<i>General Election, Previous Minor Party Candidate Received at Least 10% of All Votes Cast for Same Office</i>	<i>General Election, Previous Minor Party Candidate Received at Least 15% of All Votes Cast for Same Office</i>	<i>General Election, Previous Minor Party Candidate Received at Least 20% of All Votes Cast for Same Office</i>
Governor	N/A	\$1,000,000	\$2,000,000	\$3,000,000
Other statewide offices	N/A	250,000	500,000	750,000

N/A means not applicable

* To be adjusted for inflation.

Table 6: Grants for Eligible Petitioning Party Statewide Office Candidates*

	<i>Primary For Nomination</i>	<i>General Election, Petition Signed by Qualified Electors Totaling at Least 10% of All Votes Cast for Same Office</i>	<i>General Election, Petition Signed by Qualified Electors Totaling at Least 15% of All Votes Cast for Same Office</i>	<i>General Election, Petition Signed by Qualified Electors Totaling at Least 20% of All Votes Cast for Same Office</i>
Governor	N/A	\$1,000,000	\$2,000,000	\$3,000,000
Other statewide offices	N/A	250,000	500,000	750,000

N/A means not applicable
 * To be adjusted for inflation.

Table 7: Grants for Major Party Legislative Candidates*

	<i>Primary For Nomination</i>	<i>Primary for Nomination in a District with an Advantage of 20% or More Enrolled Electors**</i>	<i>General Election, Nominated Candidate***</i>	<i>General Election, Unopposed Nominated Candidate (30%)</i>	<i>General Election, Nominated Candidate Opposed by Minor or Petitioning Party Candidates (60%)****</i>
State senator	\$35,000	\$75,000	\$85,000	\$25,500	\$51,000
State senator, special election (75% of general election amounts)	N/A	N/A	63,750	19,125	38,250
State representative	10,000	25,000	25,000	7,500	15,000
State representative, special election (75% of general election amounts)	N/A	N/A	18,750	5,625	11,250

N/A means not applicable
 * To be adjusted for inflation.
 ** Applies to a major party candidate whose party has at least 20% more enrolled voters in his district than another major party has, as determined by the latest enrollment and voter registration records in the Office of the Secretary of the State. Electors on the inactive registry list do not count toward the total.

*** Applies to a candidate who is opposed by another major party candidate or by a minor or petitioning party candidate who has received the required qualifying contributions.
 **** Applies to a candidate when opposed only by a minor or petitioning party candidate who has received contributions less than the qualifying amount.

Table 8: Grants for Eligible Minor Party Legislative Candidates*

	<i>Primary For Nomination</i>	<i>General Election, Previous Minor Party Candidate Received at Least 10% of All Votes Cast for Same Office</i>	<i>General Election, Previous Minor Party Candidate Received at Least 15% of All Votes Cast for Same Office</i>	<i>General Election, Previous Minor Party Candidate Received at Least 20% of All Votes Cast for Same Office</i>
State senator	N/A	\$28,333	\$56,667	\$85,000
State senator, special election (75% of general election grant)	N/A	21,250	42,500	63,750
State representative	N/A	8,333	16,667	25,000
State representative, special election (75% of general election grant)	N/A	6,250	12,500	18,750

N/A means not applicable
 * To be adjusted for inflation.

Table 9: Grants for Eligible Petitioning Party Legislative Candidates*

	<i>Primary For Nomination</i>	<i>General Election, Petition Signed by Qualified Electors Totaling at Least 10% of All Votes Cast for Same Office</i>	<i>General Election, Petition Signed by Qualified Electors Totaling at Least 15% of All Votes Cast for Same Office</i>	<i>General Election, Petition Signed by Qualified Electors Totaling at Least 20% of All Votes Cast for Same Office</i>
State senator	N/A	\$28,333	\$56,667	\$85,000
State senator, special election (75% of general election grant)	N/A	21,250	42,500	63,750
State representative	N/A	8,333	16,667	25,000
State senator, special election (75% of general election grant)	N/A	6,250	12,500	18,750

N/A means not applicable

* To be adjusted for inflation.

The initial grant that any candidate receives is reduced by the amount of personal funds that the candidate provides for his campaign. If a candidate who is nominated at a primary does not spend the entire grant or any authorized payments he has received for the primary campaign, the grant for the general election is reduced by the unspent amount. The act prohibits a candidate committee from applying a Citizens' Election Program grant to any deficit it incurs.

For legislative elections held in 2010, the act requires the SEEC, by January 15, 2010, and every two years thereafter, to adjust the grant amounts in accordance with any change during the two preceding calendar years in the CPI-U as published by the U.S. Department of Labor, Bureau of Labor Statistics. For statewide office elections held in 2014, the SEEC must do the same by January 15, 2014, and every four years thereafter, basing the adjustment on the prior four years' CPI-U change.

Spending Limits (§ 3)

Under the act, participating candidates must agree to limit candidate committee spending:

1. before a primary and general election campaign, to the sum of the allowable (a) qualifying contributions and (b) personal funds from the candidate;
2. for a primary campaign, to the sum of (a) the qualifying contributions and personal funds not spent before the primary campaign begins, (b) the grant for the primary campaign, and (c) additional money authorized due to specified circumstances (i.e., because an opponent exceeds the spending limit or an independent expenditure is made to promote the defeat of a participating candidate or the nomination or election of his opponent); and
3. for a general election campaign, to the sum of (a) the qualifying contributions and personal funds not spent before the general election campaign begins, (b) unspent funds from a primary campaign grant, (c) the grant authorized for the general election campaign, (d) the amount of authorized additional money for the primary that was unspent, and (e) authorized additional money for the general election due to specified circumstances.

If a candidate has not spent all of his qualifying contributions before he receives a grant for the primary, the expenditures he makes during the primary campaign are not considered qualifying contributions until he has fully spent the primary grant.

Tables 10 through 17 show the spending limits for statewide office and legislative candidates under the act.

Table 10: Spending Limits for Major Party Gubernatorial Candidates

	<i>Candidates Opposed by Major Party or Other Qualified Candidates</i>	<i>Unopposed Candidates</i>	<i>Candidates Opposed by Minor or Petitioning Party Candidates Who Have Not Qualified</i>
Qualifying contributions	\$250,000	\$250,000	\$250,000
Primary grant	1,250,000	1,250,000	1,250,000
Spending limit total up to primary	1,500,000	1,500,000	1,500,000
General election grant	3,000,000	900,000	1,800,000
Spending limit total for entire election cycle <i>with</i> a primary	\$4,500,000	\$2,400,000	\$3,300,000
Spending limit total for entire election cycle <i>without</i> a primary	\$3,250,000	\$1,150,000	\$2,050,000

Table 11: Spending Limits for Minor and Petitioning Party Gubernatorial Candidates

	<i>Previous Minor Party Candidate Received at Least 10% of All Votes Cast or Petition Signed by Qualified Electors Totaling at Least 10% of All Votes Cast</i>	<i>Previous Minor Party Candidate Received at Least 15% of All Votes Cast or Petition Signed by Qualified Electors Totaling at Least 15% of All Votes Cast</i>	<i>Previous Minor Party Candidate Received at Least 20% of All Votes Cast or Petition Signed by Qualified Electors Totaling at Least 20% of All Votes Cast</i>
Qualifying contributions	\$250,000	\$250,000	\$250,000
Primary grant	N/A	N/A	N/A
Spending limit total up to primary	N/A	N/A	N/A
General election grant*	1,000,000	2,000,000	3,000,000
Spending limit total for entire election cycle	\$1,250,000	\$2,250,000	\$3,250,000

N/A means not applicable

* Minor and petitioning party candidates can apply for a general election grant at any time during the election cycle once they have received the required amount of qualifying contributions.

Table 12: Spending Limits for Other Major Party Statewide Office Candidates

	<i>Candidates Opposed by Major Party or Other Qualified Candidates</i>	<i>Unopposed Candidates</i>	<i>Candidates Opposed by Minor or Petitioning Party Candidates Who Have Not Qualified</i>
Qualifying contributions	\$75,000	\$75,000	\$75,000
Primary grant	375,000	375,000	375,000
Spending limit total up to primary	450,000	450,000	450,000
General election grant	750,000	225,000	450,000
Spending limit total for entire election cycle <i>with</i> a primary	\$1,200,000	\$675,000	\$900,000
Spending limit total for entire election cycle <i>without</i> a primary	\$825,000	\$300,000	\$525,000

Table 13: Spending Limits for Minor and Petitioning Party Other Statewide Office Candidates

	<i>Previous Minor Party Candidate Received at Least 10% of All Votes Cast or Petition Signed by Qualified Electors Totalling at Least 10% of All Votes Cast</i>	<i>Previous Minor Party Candidate Received at Least 15% of All Votes Cast or Petition Signed by Qualified Electors Totalling at Least 15% of All Votes Cast</i>	<i>Previous Minor Party Candidate Received at Least 20% of All Votes Cast or Petition Signed by Qualified Electors Totalling at Least 20% of All Votes Cast</i>
Qualifying contributions	\$75,000	\$75,000	\$75,000
Primary grant	N/A	N/A	N/A
Spending limit total up to primary	N/A	N/A	N/A
General election grant*	250,000	500,000	750,000
Spending limit total for entire election cycle	\$325,000	\$575,000	\$825,000

N/A means not applicable

* Minor and petitioning party candidates can apply for a general election grant at any time during the election cycle once they have received the required amount of qualifying contributions.

Table 14: Spending Limits for Major Party State Senate Candidates

	<i>Candidates Opposed by Major Party or Other Qualified Candidates</i>	<i>Unopposed Candidates</i>	<i>Candidates Opposed by Minor or Petitioning Party Candidates Who Have Not Qualified</i>
<i>General Election</i>			
Qualifying contributions	\$15,000	\$15,000	\$15,000
Primary grant*	35,000	35,000	35,000
Spending limit total up to primary	50,000	50,000	50,000
General election grant	85,000	25,500	51,000
Spending limit total for entire election cycle <i>with</i> a primary	\$135,000	\$75,500	\$101,000
Spending limit total for entire election cycle <i>without</i> a primary	\$100,000	\$40,500	\$66,000
<i>Special Election</i>			
Qualifying contributions	\$11,250	\$11,250	\$11,250
Primary grant	N/A	N/A	N/A
Spending limit total up to primary	N/A	N/A	N/A
General election grant	63,750	19,125	38,250
Spending limit total for entire election cycle <i>with</i> a primary	N/A	N/A	N/A
Spending limit total for entire election cycle <i>without</i> a primary	\$75,000	\$30,375	\$49,500

N/A means not applicable

* A major party candidate whose party has at least 20% more enrolled voters in his district than those enrolled in another major party receives a primary grant for \$75,000, increasing the above spending limits by \$40,000.

Table 15: Spending Limits for Minor and Petitioning Party State Senate Candidates

	<i>Previous Minor Party Candidate Received at Least 10% of All Votes Cast or Petition Signed by Qualified Electors Totalling at Least 10% of All Votes Cast</i>	<i>Previous Minor Party Candidate Received at Least 15% of All Votes Cast or Petition Signed by Qualified Electors Totalling at Least 15% of All Votes Cast</i>	<i>Previous Minor Party Candidate Received at Least 20% of All Votes Cast or Petition Signed by Qualified Electors Totalling at Least 20% of All Votes Cast</i>
<i>General Election</i>			

Qualifying contributions	\$15,000	\$15,000	\$15,000
Primary grant	N/A	N/A	N/A
Spending limit total up to primary	N/A	N/A	N/A
General election grant*	28,333	56,667	85,000
Spending limit total for entire election cycle	\$43,333	\$71,667	\$100,000
<i>Special Election</i>			
Qualifying contributions	\$11,250	\$11,250	\$11,250
Primary grant	N/A	N/A	N/A
Spending limit total up to primary	N/A	N/A	N/A
General election grant*	21,250	42,500	63,750
Spending limit total for entire election cycle	\$32,500	\$53,750	\$75,000

N/A means not applicable

* Minor and petitioning party candidates can apply for a general election grant at any time during the election cycle once they have received the required amount of qualifying contributions.

Table 16: Spending Limits for Major Party State Representative Candidates

	<i>Candidates Opposed by Major Party or Other Qualified Candidates</i>	<i>Unopposed Candidates</i>	<i>Candidates Opposed by Minor or Petitioning Party Candidates Who Have Not Qualified</i>
<i>General Election</i>			
Qualifying contributions	\$5,000	\$5,000	\$5,000
Primary grant*	10,000	10,000	10,000
Spending limit total up to primary	15,000	15,000	15,000
General election grant	25,000	7,500	15,000
Spending limit total for entire election cycle <i>with a primary</i>	\$40,000	\$22,500	\$30,000
Spending limit total for entire election cycle <i>without a primary</i>	\$30,000	\$12,500	\$20,000
<i>Special Election</i>			
Qualifying contributions	\$3,750	\$3,750	\$3,750

Primary grant	N/A	N/A	N/A
Spending limit total up to primary	N/A	N/A	N/A
General election grant	18,750	5,625	11,250
Spending limit total for entire election cycle <i>with a primary</i>	N/A	N/A	N/A
Spending limit total for entire election cycle <i>without a primary</i>	\$22,500	\$9,375	\$15,000

N/A means not applicable

* A major party candidate whose party has at least 20% more enrolled voters in his district than those enrolled in another major party receives a primary grant for \$25,000, increasing the above spending limits by \$15,000.

Table 17: Spending Limits for Minor and Petitioning Party State Representative Candidates

	<i>Previous Minor Party Candidate Received at Least 10% of All Votes Cast or Petition Signed by Qualified Electors Totalling at Least 10% of All Votes Cast</i>	<i>Previous Minor Party Candidate Received at Least 15% of All Votes Cast or Petition Signed by Qualified Electors Totalling at Least 15% of All Votes Cast</i>	<i>Previous Minor Party Candidate Received at Least 20% of All Votes Cast or Petition Signed by Qualified Electors Totalling at Least 20% of All Votes Cast</i>
<i>General Election</i>			
Qualifying contributions	\$5,000	\$5,000	\$5,000
Primary grant	N/A	N/A	N/A
Spending limit total up to primary	N/A	N/A	N/A
General election grant*	8,333	16,667	25,000
Spending limit total for entire election cycle	\$13,333	\$21,667	\$30,000
<i>Special Election</i>			
Qualifying contributions	\$3,750	\$3,750	\$3,750
Primary grant	N/A	N/A	N/A
Spending limit total up to primary	N/A	N/A	N/A
General election grant*	6,250	12,500	18,750
Spending limit total for entire election cycle	\$10,000	\$16,250	\$22,500

N/A means not applicable

* Minor and petitioning party candidates can apply for a general election grant at any time during the election cycle once they have received the required amount of qualifying contributions.

Grant Application (§ 7)

Procedures. Beginning in 2008 for legislative races and 2010 for statewide office races, the act allows participating candidates to apply for a grant under the Citizens' Election Program. For a primary campaign, a candidate applies after the close of his party's nominating convention if he (1) receives his party endorsement; (2) receives at least 15% of the delegate vote on a roll-call at the party convention, if applicable; or (3) qualifies as a petitioning candidate for the party's nomination. Existing law distinguishes legislative candidates seeking election to a district office (i.e., multiple-town district) from those seeking election to a municipal office (i.e., single-town district). A state senator or state representative who represents a single-town district holds a municipal office. Since municipal office candidates are not endorsed at a state or district convention, the act allows candidates for these offices to apply for a primary grant after their party endorsement or qualifying as a petitioning candidate.

For a general election campaign, the candidate applies after the close of his party's nominating convention or municipal caucus, convention, or town committee meeting, whichever is applicable, if he (1) receives his party's endorsement and will not have to run in a primary; (2) receives at least 15% of the delegate vote on a roll-call at the party convention, no other candidate receives the party endorsement or 15% of the delegate vote, and no other candidate files a nominating petition; or (3) qualifies as a petitioning candidate and no candidate receives the party endorsement or 15% of the delegate vote. The candidate applies after a primary if the secretary of the state declares him the party nominee. If he is a minor party candidate, he applies after his nomination is certified and filed with the secretary of the state. A petitioning party candidate applies after the secretary of the state approves his petition. Finally, a legislative candidate in a special election applies after the close of his party's district convention, municipal caucus, convention, or town committee meeting.

The SEEC must review each application and, within three business days of receiving one, determine whether a candidate qualifies for a grant. If the SEEC approves an applicant, it must determine the amount of funds for which the candidate is eligible and inform the comptroller and the candidate of the amount. The comptroller then has two business days to notify the treasurer and issue the check.

Participating candidates are ineligible for grants from the fund if they (1) change their status as a major, minor, or petitioning party candidate or (2) change parties after filing the affidavit indicating their intent to participate in the Citizens' Election Program. The

prohibition does not apply to cross-endorsed candidates who do not otherwise change their status.

Contents. The act requires the candidate and campaign treasurer to sign the application, which must include a written certification that the:

1. candidate committee has received the required qualifying contributions;
2. committee has repaid all loans;
3. committee has returned contributions of \$5 or more from anyone who failed to provide his name and address;
4. committee has returned all contributions or portions thereof that do not meet the criteria for qualifying contributions and sent all excess qualifying contributions to the Citizens' Election Fund;
5. campaign treasurer will comply with all program requirements;
6. committee will deposit public funds, upon receipt, into the committee's bank account;
7. treasurer will spend public funds for lawful committee purposes consistent with existing law and in accordance with regulations that the SEEC adopts; and
8. committee will return unspent grants it received from the fund if the candidate withdraws, becomes ineligible, or dies.

The application must be accompanied by a cumulative itemized accounting, as of three days before the application date, of all funds received, expenditures made, and expenses incurred but not yet paid. The campaign treasurer must swear to the accounting under penalty of false statement.

Replacement Candidate. If a nominated participating candidate dies, withdraws his candidacy, or becomes disqualified to hold office after the SEEC approves his application, the candidate who replaces him as the party's nominee is eligible to receive grants without raising qualifying contributions. The replacement candidate must file an affidavit with the SEEC when he forms a candidate committee or certifies that the registration is not required and must include a written certification that he intends to abide by the spending limits under the Citizens' Election Program.

Remedy for an Aggrieved Candidate (§43)

The act authorizes any statewide candidate who claims that he is aggrieved by a violation of the public financing provisions of the act to bring his complaint to any Superior Court judge. The act imposes the same procedural requirements and remedies for these cases as already apply to complaints about rulings by election officials or mistakes in vote counts. One such remedy is to order a new election.

No Additional Deposits (§ 8)

After an initial deposit of program funds into his campaign account, a candidate cannot deposit any other contribution, loan, personal funds, or other funds into it. He can, however, deposit (1) grants from the fund and (2) money he is entitled to because he is the target of an independent expenditure or an opponent exceeds the spending limit.

Automatic Qualification (§ 9)

A qualified candidate who receives money from the fund for a primary and becomes the party nominee automatically receives a general election grant. The comptroller must pay it within two business days after receiving the SEEC's notification that the secretary declared the results of the primary.

Governor and Lieutenant Governor (§ 10)

The act requires a party's candidates for governor and lieutenant governor to be considered as running jointly for purposes of participating in the gubernatorial public financing program as soon as that determination can be made. That occurs (1) when the results of a primary are known, if there is a primary for either or both offices; (2) the 14th day following the close of the convention, if there is no primary; or (3) when party-endorsed candidates declare that they will campaign as a single ticket, which means they will run together in the general election so that electors can cast a single vote for both candidates. Candidates other than party-endorsed candidates can also declare that they are campaigning jointly.

Under the act, a candidate for the office of lieutenant governor must dissolve his own candidate committee and any exploratory committee if he is running jointly with a gubernatorial candidate. When the candidates' status determination is made, the treasurer of the lieutenant governor candidate's campaign committee must:

1. within 15 days, file a statement with the secretary of the state listing the committee's contributions and expenditures since the previous report and showing the balance or deficit and
2. within 30 days, return any surplus to (a) the fund, if the candidate participated in the program or (b) those eligible to receive a surplus distribution under existing law, including the fund, if the candidate did not participate.

Loans (§ 11)

Qualified candidate committees can borrow up to \$1,000 in the aggregate from financial institutions. Other than the candidate or, for a general election, a state central committee, no person, PAC, or party committee can endorse or guarantee more than a \$500 loan. As long as the loan is outstanding, the endorsement or guarantee is considered to be a contribution and no additional contribution from the person or committee is allowed. Borrowed funds cannot be included as contributions for the purpose of reaching the qualifying threshold. Repayment of all loans and certification of repayment are required before a candidate is eligible to apply for or receive funds.

Candidate's Personal Funds (§ 11 (c))

The act allows a participating candidate to provide personal funds to his campaign for nomination or election that do not count as qualifying contributions. Gubernatorial candidates may contribute up to \$20,000. Other statewide office candidates may contribute up to \$10,000. Candidates for state senator and state representative can contribute up to \$2,000 and \$1,000, respectively.

Disregard of Spending Limits (§§ 12-15)

Penalties (§ 12). The act penalizes a qualified candidate committee that receives money from the fund and makes or incurs an expenditure exceeding the applicable spending limit. Specifically, it:

1. makes the candidate and campaign treasurer jointly and severally liable for paying for the excess expenditure,
2. prohibits the committee from receiving additional program funds for the remainder of the election cycle and makes the candidate a "nonparticipating candidate" for program purposes if the SEEC determines that the candidate or campaign treasurer knew of the excess expenditure, and
3. subjects the campaign treasurer to civil penalties imposed by the SEEC.

But the act allows the SEEC to waive these provisions if it determines that the excess expenditure is minor. The SEEC must adopt regulations establishing standards to determine what amount is considered minor. The standards must include a finding by the commission that either the candidate or the treasurer has personally paid the excess expenditure or reimbursed his committee for the amount of the expenditure.

The act also penalizes an individual other than the participating candidate or treasurer who is associated with a campaign and who, without the consent of the

candidate or the treasurer, makes or incurs an expenditure on behalf of a qualified candidate committee that exceeds the applicable spending limit. It (1) requires the individual to repay the fund the amount of the excess expenditure and (2) subjects him to civil penalties imposed by the SEEC.

Supplemental Statements and Declarations of Excess Expenditures (§ 13). If a candidate in a primary or general election campaign with at least one participating candidate makes or becomes obligated to make an expenditure exceeding 90% of the applicable grant for that campaign, he must file a supplemental campaign finance statement with the SEEC within 48 hours of doing so. After he files the initial supplemental statement, he and his opposing candidate or candidates must file weekly supplemental statements according to the following schedule:

1. during a primary campaign, on the first Thursday following (a) the July filing date required by law or (b) the date when the candidate who exceeded 90% of the grant filed the initial supplemental campaign finance statement, whichever is later, and each Thursday thereafter until the primary and
2. during a general election campaign, on the first Thursday following (a) the October filing date required by law or (b) the date when the candidate who exceeded 90% of the grant filed the initial supplemental campaign finance statement, whichever is later, and each Thursday thereafter until the election.

The act requires supplemental statements to disclose campaign spending made or obligated as of the day before the filing deadline. It also requires the SEEC to establish regulations determining permissible ways for transmitting the statements to the commission, one of which must be electronic mail.

Under the act, "excess expenditure" means an expenditure made or obligated to be made (1) by a nonparticipating candidate who is opposed by a participating candidate or candidates in a primary or general election that exceeds the applicable grant amount for the participating candidate(s) or (2) by a participating candidate who is opposed by a participating candidate or candidates in a primary or general election that exceeds the sum of the required qualifying contributions and applicable grant.

If a candidate makes or becomes obligated to make an excess expenditure more than 20 days before the primary or general election, he must file a declaration of excess expenditures with the SEEC within 48 hours of doing so. If he makes or becomes obligated to make an excess expenditure 20 days or less before the primary or general election, he must file the declaration within 24 hours. The SEEC determines whether a candidate's expenditure is considered an excess expenditure.

A campaign treasurer who fails to file a supplemental statement or a declaration of excess expenditures within the required time is subject to a civil penalty imposed by the SEEC of up to \$1,000 for the first offense and up to \$5,000 for each subsequent failure.

Excess Expenditures (§ 14). A participating candidate who receives program funds is entitled to additional money from the fund if his nonparticipating opponent exceeds the amount of the grant authorized for that office for the primary or general election ("applicable grant"). When the SEEC determines that a nonparticipating candidate has made or become obligated to make an expenditure exceeding 90% of the applicable grant, it must immediately notify the state comptroller. The comptroller has two business days to provide each opposing participating candidate with an amount equal to 25% of the applicable grant, provided the participating candidate has not spent more than the sum of (1) the amount of his required qualifying contributions and (2) 100% of the applicable grant. The campaign treasurer must hold the additional money in escrow until the SEEC notifies him that the nonparticipating candidate has made or become obligated to make an expenditure exceeding 100% of the grant. At that point, the candidate can spend additional money equal to the amount of the opponent's excess spending. The SEEC determines when a nonparticipating candidate makes or becomes obligated to make an excess expenditure either on its own initiative or upon the request of a participating candidate.

A participating candidate may receive additional grants of 25% of the applicable grant, provided he has not spent more than the grant he received plus his allowable qualifying contributions, each time his nonparticipating opponent exceeds certain thresholds. The act limits participating candidates to one payment per threshold and their spending to 100% of the nonparticipating candidate's excess expenditure up to the grant amount. The expenditures that trigger additional grants are 115%, 140%, and 165% of the applicable grant. For example, if a nonparticipating candidate spends 115% of a participating candidate's applicable grant, the participating candidate receives an additional grant of 25% of the applicable grant if he did not spend more than the sum of (1) the amount of his required qualifying contributions and (2) 125% of the applicable grant. When the nonparticipating candidate spends more than 125% of the applicable grant, it triggers permission for the participating candidate's spending up to 125%.

If the SEEC determines that a participating candidate has made or become obligated to make an expenditure exceeding the sum of the required qualifying contributions and the applicable grant, his

participating opponents are entitled to a payment in the amount of the excess expenditure. In that case, the SEEC must immediately notify the state comptroller, directing her to provide the participating candidates who abided by the spending limits with the additional money. The comptroller has two business days to do so. A participating candidate may receive more than one payment per campaign under this provision.

If, during the 96-hour period beginning at 5 p.m. on the Thursday preceding a primary or an election, the SEEC receives a notice from a participating candidate that his opponent has made or become obligated to make an excess expenditure that is not yet reported, it must immediately review the notice. The SEEC must notify the comptroller and direct her to pay the qualified candidate committee, or a person the candidate's treasurer chooses, an amount equal to the estimated or confirmed excess expenditures. The comptroller must immediately wire or electronically transfer the money.

The maximum aggregate amount that a participating candidate can receive to match an opponent's excess spending is (1) an amount equal to the total excess spending or (2) an amount equal to the original grant, whichever is less.

Independent Expenditures (§ 15). When the SEEC (1) receives a report that someone has made or become obligated to make an independent expenditure in an effort to oppose a participating candidate or (2) determines at the request of a participating candidate that such an independent expenditure has been made against him, it must immediately notify the comptroller. The comptroller has two business days to provide the candidate with additional money equal to the amount of the independent expenditure.

If, during the 96-hour period beginning at 5 p.m. on the Thursday preceding the primary or election, the SEEC receives a (1) report that an independent expenditure has been made or obligated against a participating candidate or (2) notice from a participating candidate that such an independent expenditure has been made become or obligated but not yet reported, it must immediately review the report or notice. The SEEC must notify the comptroller, directing her to pay the qualified candidate committee, or a person the candidate chooses, an amount equal to the estimated or confirmed independent expenditures. The comptroller must immediately wire or electronically transfer the money.

The maximum aggregate amount that a participating candidate may receive to match independent expenditures made to oppose him is 100% of the applicable grant for the primary or general election. If a participating candidate is opposed by a nonparticipating candidate, he receives this additional funding only when the nonparticipating candidate's

campaign expenditures combined with the independent expenditures exceed the applicable grant amount.

Voter Registry List (§ 16)

The act requires the secretary of the state to provide participating statewide and legislative office candidate committees with a free electronic copy of the statewide computerized voter registry list or the list for the applicable district.

EXPENDITURES

Coordinated and Organization Expenditures (§§ 18-20, 40)

Under the act, a coordinated expenditure is considered a contribution while an organization expenditure is not. "Coordinated expenditure" means one made by a person:

1. in cooperation, consultation, or concert with, at the request, suggestion, or direction of, or pursuant to a general or particular understanding with (a) a candidate or his committee, a PAC, or a party committee or (b) a consultant or agent acting on behalf of any of these entities;
2. for the production, dissemination, or publication of any broadcast, written, or graphic form of political advertising or campaign communication prepared by (a) a candidate or his committee, a PAC, or a party committee or (b) a consultant or agent acting on behalf of any of these entities;
3. based on information about a candidate's plans, projects, or needs prepared by a candidate or his committee, a PAC, or a party committee, or a consultant or agent acting on behalf of any of these entities;
4. who serves during that election cycle as the campaign chairperson, treasurer, or deputy treasurer of a candidate committee, PAC, or party committee benefiting from the expenditure, or in any other executive or policymaking position as a member, employee, fundraiser, consultant, or other agent of the candidate, his committee, a PAC, or a party committee;
5. for fundraising activities with or for, or for the solicitation or receipt of contributions on behalf of, (a) a candidate or his committee, a PAC, or a party committee or (b) a consultant or other agent acting on behalf of any of these entities;
6. based on information given to him or his agent that is (a) about a candidate's campaign plans,

projects, or needs; (b) directly or indirectly provided by the candidate or his committee, a PAC, a party committee, or a consultant or agent acting on behalf of any of these entities; and (c) provided with an express or implied understanding that he is considering making such an expenditure; or

7. for a communication that clearly identifies a candidate during an election campaign and he or his agent informs the candidate or his committee, a PAC, or a party committee, or a consultant or agent acting on behalf of any of these entities, about the communication's contents, intended audience, timing, location, or method or frequency of dissemination.

A person who makes a coordinated expenditure without the knowledge of the candidate it benefits is guilty of illegal practices and subject to a fine of up to \$5,000, up to five years in prison, or both. The act immunizes a candidate from civil or criminal liability for any such coordinated expenditure.

An organization expenditure is not considered a campaign finance expenditure and thus is not restricted to lawful committee purposes or subject to filing requirements. Under the act, "organization expenditures" are made by party committees, legislative caucus committees, and legislative leadership committees for the benefit of candidates and their committees. They include expenditures for (1) the preparation, display, mailing, or distribution of a party candidate listing; (2) printed or electronic documents including party platforms, issue papers, information on Connecticut election law, voter registration lists, and voter identification information that a party, legislative caucus, or legislative leadership committee creates or maintains for party or caucus building and gives to candidates who are members of the same party; (3) campaign events at which at least one candidate is present; (4) an advisor on campaign organization, financing, accounting, strategy, law, or media; and (5) the use of offices, telephones, computers, and similar equipment if it does not result in an additional cost.

The act defines "party candidate listing" as any communication that (1) lists the names of one or more candidates; (2) is distributed through public advertising including broadcast stations, cable television, newspapers or similar media, direct mail, telephone, electronic mail, public Internet sites, or personal delivery; and (3) treats all candidates in a substantially similar way. The content must be limited to (1) the identification of each candidate, including photographs; (2) the offices sought; (3) the offices the candidates currently hold, if any; (4) the party and a brief statement about the party or the candidates' positions, philosophy, goals, accomplishments, or biographies; (5) an encouragement to vote for the candidates; and (6)

information about voting, such as voting hours and locations.

Independent Expenditures (§ 31)

Beginning January 1, 2008, any person who, during the primary or general election, makes or becomes obligated to make an independent expenditure or expenditures exceeding \$1,000 in the aggregate to promote the success or defeat of a statewide office or legislative candidate must file a report with the SEEC. All other such independent expenditures exceeding \$1,000 are reported to the secretary of the state as they are under existing law. Under the act, if a person makes an independent expenditure more than 20 days before the primary or general election, he must file the report within 48 hours of doing so. If a person makes an independent expenditure 20 days or less before the primary or general election, he must file the report within 24 hours.

The report must include a statement (1) identifying the candidate who the expenditure promotes or opposes and (2) affirming that the expenditure is not a coordinated expenditure. The person files the statement under penalty of false statement, which is a class A misdemeanor (see Table on Penalties). Anyone can file a complaint with the SEEC alleging a false report or statement, or that a report was not filed at all. The SEEC must promptly decide on the complaint.

Under the act, a person who fails to file a report for an independent expenditure made more than 20 days before the primary or general election is subject to a civil penalty of up to \$5,000 imposed by the SEEC. If a person fails to file a report for an independent expenditure made 20 days or less before the primary or general election, he is subject to a civil penalty of up to \$10,000. A knowing and willful failure to file is punishable by an additional fine of up to \$5,000, imprisonment for up to five years, or both.

CAMPAIGN FINANCE STATEMENTS (§§ 6, 22-23, 26, 28)

Effective December 31, 2006, the act makes the SEEC the filing repository for campaign finance statements and certifications of exemption from filing, shifting the responsibility away from the secretary of the state. The SEEC must check for candidate compliance with state election law as well as for compliance with the Citizens' Election Program, in the case of a participating candidate. The requirement applies to (1) candidate committees for statewide and legislative office candidates; (2) party committees; (3) individual lobbyists; and (4) PACs other than those formed to aid or promote the success or defeat of (a) a municipal referendum or (b) municipal office candidates.

By law, PACs established for a municipal referendum and candidate committees formed to promote the success or defeat of a municipal candidate or the position of a town committee member file their statements with their town clerk. Unsalaries town clerks receive 10 cents for each statement they file.

CONTRIBUTOR CERTIFICATION (§ 25)

The act requires individuals who make contributions to a committee that separately or in the aggregate exceed \$100 to certify that they are not a principal of a state or prospective state contractor. If a campaign treasurer receives such a contribution without the certification, he must send the contributor a written request for it via certified mail, return receipt requested, within three business days and he may not deposit the contribution until he obtains the certification. He must return the contribution if he does not receive the certification within 14 days of the request or by the end of the reporting period in which the contribution was received, whichever is later. If a campaign treasurer deposits a contribution based on a false certification and he did not know and should not have known that it was false, his lack of knowledge is a complete defense in any action against him for depositing a contribution in violation of the law.

The act raises from \$30 to \$50 the aggregate contribution that a contributor must give before a campaign treasurer has to identify him on campaign finance statements. Campaign treasurers report the total of all contributions below this threshold.

The act requires each statement a party, legislative caucus, or legislative leadership committee treasurer files to include an itemized accounting of their organization expenditures.

POLITICAL COMMITTEES

Exploratory Committees (§§ 22, 26)

The act requires candidates who establish exploratory committees to designate on their statement of organization whether the office the candidate is considering is a legislative, statewide, or another type of public office. A candidate may certify on the statement that he will not be a candidate for state representative. If a candidate so certifies and subsequently establishes a candidate committee for the office of state representative, the candidate committee's campaign treasurer must pay to the state treasurer an amount equal to the contributions over \$250 that the exploratory committee received. The treasurer must deposit the funds into the General Fund.

The act prohibits a statewide or legislative office candidate with an exploratory committee from forming

a candidate committee before the exploratory committee is scheduled for dissolution. The candidate must form a candidate committee within 15 days after the campaign treasurer is required to file a notice of intent to dissolve the committee.

By law, candidates must file their notice of intent to dissolve an exploratory committee within 15 days after declaring their intent to seek a particular public office. The act requires possible candidates for statewide or legislative offices to file their notice of intent within 15 days after the earlier of (1) declaring to seek public office; (2) being endorsed at a convention, caucus, or town meeting; or (3) filing their candidacy for office.

The act allows candidates to use exploratory committees to aid or promote their candidacies for public office. As under existing law, the act allows candidates to use them to determine if they want to run for public office. Exploratory committees may be established only for a single primary or election.

Statement of Organization and Initial Contribution (§ 23)

By law, the chairperson of a new political committee must file a statement of organization within 10 days of the committee's formation or immediately if it is formed 10 days or less before a primary or an election. The statement must include, among other things, the name and address of the committee and its principal officers, a statement of purpose, and whether a business or organization is establishing the committee.

The act expands the reporting requirement for new political committees by requiring the chairperson to include the name and address of the person making the initial contribution or disbursement to the committee. If no contribution or disbursement has been made at the time of the filing, the campaign treasurer must file a report with the SEEC within 48 hours of receiving one.

Limits on PAC Formation (§ 23)

With the exception of exploratory committees that public officials establish, the act prohibits any individual from establishing or controlling more than one PAC. The indications that an individual established or controls a PAC must include his serving as the committee's chairperson or campaign treasurer and may also include, among other things, making the initial contribution. An individual is not considered to have established or to control a PAC if he (1) communicates with an officer or another individual who established or controls the PAC or (2) monitors contributions that the PAC makes.

An individual who has established or controls more than one PAC as of December 31, 2006, must disavow

all but one of his committees, in writing, to the SEEC by January 30, 2007.

Legislative Caucus Committees (§§ 18, 23-24)

Under the act, “legislative caucus committee” means a single committee designated by a majority of a party’s members from one house of the General Assembly. The chairperson of each legislative caucus committee must certify its designation and file that certification, together with the statement of organization, with the SEEC. Members of the same political party in either the Senate or the House cannot establish more than one legislative caucus committee. The legislative caucus committees are exempt from the act’s prohibition against one person establishing or controlling more than one PAC. Under prior law, there was no specific type of committee for legislative caucuses; they were formed and regulated as ongoing PACs.

Legislative Leadership Committees (§§ 18, 23)

The act also allows the House speaker and majority leader and the Senate president pro tempore and majority leader to establish one legislative leadership committee each. It allows the House and Senate minority leaders to establish two each. The chairperson of each leadership committee must file its certified designation and statement of organization in the same manner as other political committees, and the committee must be identified in its designation by the leader who establishes it. The leadership committees are exempt from the act’s prohibition against one person establishing or controlling more than one PAC.

LOBBYISTS

Disclosure Requirements (§ 28)

By law, every lobbyist must submit an annual fiscal year report on whether he, together with his spouse or dependent children who live with him, purchased advertising space from, or made contributions to, a candidate, party, or political committee. The act requires the report to be filed with the SEEC instead of the secretary of the state and extends the reporting requirement to purchases or contributions the lobbyist made in conjunction with any dependent child regardless of the child’s residence.

Contribution and Solicitation Restrictions (§§ 18, 29)

Under the act, “solicit” means (1) requesting a contribution; (2) participating in any fundraising activity for a candidate or exploratory committee, PAC, or party

committee; (3) serving as chairperson, campaign treasurer or deputy treasurer, or any other officer of such a committee; or (4) establishing a PAC for the sole purpose of soliciting or receiving contributions for any committee. It does not include (1) making a contribution that is otherwise permitted by law; (2) informing any person of a candidate’s or public official’s position; or (3) notifying any person of the activities of, or contact information for, a candidate for public office.

The act bans communicator lobbyists from making contributions to certain political committees. The ban applies to the lobbyist, his spouse and dependent children (including those who do not live with him), and any political committee he, his spouse, or dependent child controls. It prohibits them from making contributions to or for the benefit of (1) an exploratory or candidate committee for statewide or legislative office, (2) a political committee established by a candidate for any of these offices, (3) a legislative caucus or leadership committee, or (4) a party committee.

The act similarly bans communicator lobbyists from soliciting others to make contributions to, or purchase advertising space from, certain political committees. This ban applies to the lobbyist, his spouse and dependent children, his agent, and any political committee these individuals control. It prohibits them from soliciting:

1. contributions on behalf of candidates for statewide or legislative offices, the candidate or exploratory committees they establish or control, legislative caucuses and leadership committees, or party committees and
2. anyone to purchase advertising space in a funding raising program a town committee sponsors.

But the act allows lobbyists and their spouses, dependent children, or agents to solicit contributions for the purchase of advertising space for their own candidacies for public office.

Enforcing the Solicitation Ban (§§ 29, 47)

Anyone who violates the solicitation ban is subject to a civil fine that the SEEC imposes of up to \$5,000 or twice the amount of the solicited contribution, whichever is greater.

The act authorizes the Office of State Ethics to suspend a lobbyist’s registration for up to the remainder of his term and prohibit him from lobbying for up to three years for violating the solicitation ban. It can also revoke his registration if he is convicted of bribery, theft, or moral turpitude committed while lobbying. The office takes these actions by following its existing

procedures for investigating and hearing ethics violations.

STATE CONTRACTORS, PROSPECTIVE STATE CONTRACTORS, AND CONTRACTING AGENCIES (§§ 18, 31-32)

Prohibitions

Under the act, “solicit” has the same meaning for a principal of a state contractor or prospective state contractor as it does for a communicator lobbyist. Beginning December 31, 2006, the act bans a principal of a state contractor or prospective state contractor from making or soliciting a contribution to or on behalf of (1) an exploratory or candidate committee for a statewide or legislative office candidate, (2) a PAC authorized to make contributions to or spend on behalf of a candidate for statewide or legislative office, or (3) a party committee. The ban on contributions to statewide office candidates applies to contractors and prospective contractors with executive state agency or quasi-public agency contracts. The ban on contributions to legislative candidates applies to contractors and prospective contractors with General Assembly contracts. The act also prohibits statewide officers, legislators, their agents, and candidates for statewide and legislative office from soliciting contributions from a principal of a state contractor or prospective state contractor on behalf of any exploratory or candidate committee established by a candidate for public office.

The act specifies that it does not restrict a principal of a state contractor or of a prospective state contractor from establishing an exploratory or candidate committee for his own campaign or soliciting contributions for them from people permitted to contribute.

Penalties

If a principal of a state contractor violates these provisions, the act permits the contracting state or quasi-public agency to void the contract, provided it was executed on or after November 30, 2005, the date of the act’s passage. It further prohibits any state or quasi-public agency from awarding that contractor a state contract, or extending or amending an existing contract, for one year after the election during which the improper contribution was made or solicited. Under the act, “state agency” includes executive, judicial, and legislative branch agencies.

If a principal of a prospective state contractor violates these provisions, the act prohibits any state or quasi-public agency from awarding him the contract described in the bid or request for proposals, or any other contract, for one year after the election during which the improper contribution was made or solicited.

Each state or quasi-public agency must include the applicable prohibition and penalty as conditions of the contract, bid, or request for proposals, whichever is applicable. The Department of Administrative Services (DAS) must also include the provisions in each prequalification it issues.

Notice Requirements

The act requires the chief executive officer of each prospective state contractor to:

1. inform the contractor’s principals of the prohibitions and penalties,
2. certify in a sworn statement that no such individual will make or solicit a prohibited contribution, and
3. give written acknowledgement that the provision or solicitation of a prohibited contribution is a ground for being disqualified for (a) the contract described in the bid or request for proposals or (b) any other contract for one year after the election during which the violation occurred.

Definitions

A “state contract” is an agreement or contract with a state or quasi-public agency valued at \$50,000 or more, or a combination or series of such agreements or contracts valued at \$100,000 or more, in a fiscal year for (1) personal services; (2) material, supplies, or equipment; (3) construction, alteration or repair of any public building or public work; (4) acquisition, sale, or lease of any land or building; (5) a licensing arrangement; or (6) a grant, loan, or loan guarantee. A “state contractor” is a person, business entity, or nonprofit organization that has a state contract, excluding a political subdivision of the state or a state or quasi-public agency employee performing his official duties. A “prospective state contractor” is a person, business entity, or nonprofit organization that (1) submits a bid or proposal in response to a state or quasi-public agency’s bid solicitation or request for proposals until the contract has been entered into or (2) holds a valid prequalification certificate issued by the DAS commissioner. “Prospective state contractor” excludes a political subdivision of the state or a state or quasi-public agency employee performing his official duties.

A state or prospective state contractor’s principal is (1) a member of the board of directors of, or someone with an ownership interest in, a state contractor or prospective state contractor’s business, except for an individual who (a) owns less than 5% of the business’ publicly traded shares or (b) is a member of the board of directors of a tax-exempt nonprofit charitable organization; (2) the president, treasurer, or executive or

senior vice president of the state contractor or prospective state contractor's business; (3) the chief executive officer of a state contractor or prospective state contractor that is not a business; (4) an employee of the business with managerial or discretionary responsibilities regarding a state contract; or (5) the spouse or dependent child of, or political committee established by or on behalf of, such an individual.

List of Contractors and Prospective Contractors

By July 1, 2006, each state and quasi-public agency must submit a form to the SEEC listing the state contracts it is party to and the principals of state or prospective state contractors for (1) those contracts and (2) any bid solicitations, requests for proposals, or prequalification certificates it issued. Agencies must keep their lists current by submitting updates by August 1, 2006, and every month thereafter, indicating any changes to the previous month's list. The SEEC must (1) prescribe the forms; (2) compile a master list of the principals by December 31, 2006 and update it every three months; (3) post the master list on its web site; and (4) provide copies to campaign treasurers upon request. Any treasurer who relies on the list in good faith has a complete defense in any action against him for illegally depositing a campaign contribution.

The act requires the SEEC to study sub-contracts for state subcontractors and, by February 1, 2007, submit proposed legislation to the Government Administration and Elections Committee to extend the contribution prohibitions and penalties to cover them.

CONTRIBUTION LIMITS

The law imposes prohibitions and limitations on contributions individuals and businesses may make to candidates, as well as reporting requirements tied to contributions. The act changes contribution and expenditure limits for the political campaigns of candidates who do not participate in the Citizens' Election Program. It also (1) limits the contribution exception for advertising space purchases; (2) specifies that organization expenditures by party, legislative caucus, and legislative leadership committees are not considered contributions; and (3) specifies that coordinated expenditures are contributions and thus subject to prohibitions, limitations, and reporting requirements.

Ad Books (§ 19)

Under prior law, individuals and corporations could purchase advertising space in a campaign fundraising program without the purchase being counted as a contribution. Individual purchases were limited to an

aggregate of \$50 and corporations to an aggregate of \$250.

The act limits the contribution exemption to ad book purchases for municipal office candidates; thus, ad book purchases from statewide and legislative office candidates are subject to contribution prohibitions, limits, and reporting requirements.

The act prohibits communicator lobbyists, their immediate families, and state or prospective state contractors or their principals from purchasing an ad from a town committee.

Individuals (§§ 30-31)

Beginning December 31, 2006, the act increases the limits on contributions individuals can make to most types of candidates. It leaves unchanged the limits on individual contributions to state representative and municipal candidates. Table 18 shows the limits under the act.

Table 18: Individual Contribution Limits

<i>To Candidates for</i>	<i>Prior Law</i>	<i>The Act</i>
Governor	\$2,500	\$3,500
Other statewide offices	1,500	2,000
State Senator, probate judge	500	1,000
State Representative	250	250
Exploratory Committee for non-State Representative	250	375
Exploratory Committee for unspecified offices	250	250

Under prior law, individuals could not make contributions in excess of \$1,000 during a calendar year to a political committee other than (1) one formed solely to aid or promote the success or defeat of a referendum question, (2) an exploratory committee, (3) a labor PAC, or (4) one formed by a slate of candidates in a primary for the office of justice of the peace of the same town. The act lowers this limit to \$750 and raises the limit for labor PACs from \$500 to \$750. It also establishes a \$1,000 limit on individual contributions during a calendar to year to legislative leadership committees and retains the \$1,000 limit on an individual's contribution to a legislative caucus committee, which was an ongoing PAC under prior law.

State Employees (§ 32)

The act limits to \$100 contributions from (1) heads of executive branch and quasi-public state agencies, their deputies, full-time employees in those agencies who are appointed by the governor, and other full-time employees who are in unclassified service, or members of their immediate families, to any candidate for governor or lieutenant governor; (2) officials and employees who are in unclassified service in the other statewide offices, or members of their immediate families, to any statewide office candidate for the office where they serve; and (3) caucus staff for a major party in either house of the General Assembly, or members of their immediate families, to (a) any candidate for state senator or state representative or (b) a legislative caucus or leadership committee. The limits apply separately to primaries and general elections.

Business and Labor PACs (§§ 33-35)

Effective December 31, 2006, the act raises the limits on business PAC contributions to legislative and municipal candidates, raises the limits on labor PAC contributions to all candidates, and makes them equal. The limits apply separately to primary and general election campaigns as they do under existing law.

The act also imposes limits on contributions from business PACs to party PACs and increases those limits for labor PACs, making them equal. It limits business PAC contributions to another business PAC to \$2,000 in any one calendar year. Table 19 compares the old and new limits.

Table 19: Business and Labor PAC Contribution Limits

To candidates for	Business PAC		Labor PAC	
	Prior Law	The Act	Prior Law	The Act
<i>Limits Apply Separately to a Primary and General Election</i>				
Governor	\$5,000	\$5,000	\$2,500	\$5,000
Other statewide offices	3,000	3,000	1,500	3,000
Chief executive officer of a town, city, or borough	1,000	1,500	1,000	1,500
State senator or probate judge	1,000	1,500	500	1,500
State representative	500	750	250	750
Other municipal offices	250	375	250	375
<i>Aggregate During One Calendar Year</i>				
Other PAC	Unlimited	\$2,000	\$2,000	\$2,000
State central committee	Unlimited	7,500	5,000	7,500
Town committee	Unlimited	1,500	1,000	1,500
Exploratory committee	250	375	250	375

Finally, the act prohibits businesses from establishing more than one PAC, a limitation that already applied to labor organizations. Under the act, a business is considered to have established a PAC if an officer, director, owner, limited or general partner, or stockholder (with at least 5% of the total outstanding stock of any class) makes the initial disbursement or contribution. Under the act, a labor organization is considered to have established a PAC if its treasury or an officer or director makes the initial contribution.

Party Committees (§ 36)

Under prior law, party committees could make unlimited contributions to other party committees, candidate committees, and PACs. The act creates limits for party committee contributions to in-state candidate committees, exploratory committees, legislative caucus committees, and PACs. It increases the limit for contributions to exploratory committees from \$250 to \$375. In most cases, the limits apply separately to a primary and general election. Table 20 shows the party committee limits that the act establishes.

Table 20: Proposed Party Committee Contribution

Recipient (Candidate or Committee)	State Central Committees	Town Committees
Governor	\$50,000	\$7,500
Other statewide offices	35,000	5,000
State senator, probate judge, or chief executive officer of a town, city, or borough	10,000	N/A
State representative	5,000	N/A
State senator	N/A	5,000
State representative, probate judge, or chief executive officer of a town, city, or borough	N/A	3,000
Other municipal offices	5,000	1,500
<i>Aggregate During One Calendar Year</i>		
Legislative caucus or leadership committee	\$10,000	\$2,000
PAC, other than a referendum PAC	2,500	1,500

N/A means not applicable.

Ongoing PACs (§ 37)

Under prior law, ongoing PACs could make unlimited contributions to party committees and candidate committees. The act establishes limits for their contributions to certain party and candidate committees and in most cases, applies them to a primary and general election separately. For ongoing PACs except for legislative leadership and caucus PACs, the act (1) maintains the \$2,000 limit on ongoing PAC

contributions to other political committees and (2) limits contributions as shown in Table 21.

Table 21: Ongoing PAC Contribution Limits

<i>Recipient</i>	<i>Ongoing PAC</i>
Governor	\$5,000
Other statewide offices	3,000
State senator, probate judge, chief executive officer of a town, city or borough	1,500
State representative	750
Other municipal offices	375
<i>Aggregate During One Calendar Year</i>	
State central committee	\$7,500
Town committee	1,500
Other political committee	2,000

PACs Organized for a Single Primary or Election (§ 38)

Under prior law, PACs organized for a single primary or election could make unlimited contributions to party committees and candidate committees. The act establishes limits for their contributions to certain party and candidate committees that are the same as the act’s limits for business and labor PACs. It increases the limit for their contributions to exploratory committees from \$250 to \$375 and maintains the limit on contributions to other political committees at \$2,000. Table 22 shows the new limits.

Table 22: PACs Organized for a Single Primary or Election Contribution Limits

<i>Recipient</i>	<i>PAC Organized for a Single Primary or Election</i>
<i>Limits Apply Separately to a Primary and General Election</i>	
Governor	\$5,000
Other statewide offices	3,000
State senator, probate judge, or chief executive officer of a town, city, or borough	1,500
State representative	750
Other municipal offices	375
<i>Aggregate During One Calendar Year</i>	
State central committee	\$7,500
Town committee	1,500
Other political committee	2,000

Legislative Caucus and Leadership Committees (§§ 37-38)

The act establishes separate, higher limits for legislative caucus and legislative leadership committee contributions to state senator and state representative candidates, instead of subjecting them to the ongoing and single-election or primary PAC limits. It prohibits caucus and leadership PACs from making contributions

(1) to candidates for any offices other than state senator or state representative; (2) in excess of \$10,000 in a calendar year to a state central committee; or (3) to, or for the benefit of, any other committee.

Table 23 shows the act’s state senator and state representative contribution limits for caucus and leadership PACs compared to its contribution limits for those offices for ongoing and single-election or primary PACs.

Table 23: Legislative Committee Contributions to Legislative Candidates

<i>Candidates for</i>	<i>Leadership or Caucus PAC</i>	<i>Ongoing or Single-Election or Primary PAC</i>
<i>Limits Apply Separately to a Primary and General Election</i>		
State senator	\$10,000	\$1,500
State representative	5,000	750

POLITICAL ADVERTISING

Use of “Public Funds” (§ 27)

The law prohibits state and municipal officials and employees from allowing public funds to be spent on TV, radio, newspaper, or magazine promotions or advertisements featuring the name, face, or voice of a candidate for public office. It also bans such expenditures to promote the nomination or election of a candidate. The act expands the prohibition period from five to 12 months preceding an election and specifies that “public funds” do not include grants or payments that participating candidates receive from the Citizens’ Election Fund.

Attribution Requirement (§ 39)

By law, candidate and exploratory committees’ political mailings and advertisements intended to promote or defeat a candidate must contain certain information. The act adds to the mandatory contents of the mailings and advertisements by requiring:

1. mailings to include a picture of the candidate conducting the mailing and his name in the same size font as the mailing’s narrative;
2. television and Internet video advertising to include the candidate’s name, image, and voice before the advertising ends;

3. radio and Internet audio advertising to include the candidate's name and voice before the advertising ends; and
4. automated telephone calls to include the candidate's name and voice before the call ends.

MUNICIPAL ELECTIONS

Pilot Public Financing Program (§ 48)

The act requires the SEEC to establish a pilot program in up to three municipalities for publicly financing campaigns for the following municipal offices: chief executive officer, municipal clerk, and municipal legislative body member. Participating candidates must agree to limit campaign fundraising and expenditures. Candidates choosing not to participate must abide by state campaign financing laws. The act specifies that receiving public financing under the pilot program does not violate state law's prohibition against use of public funds (1) by incumbents, during the three months before the election, to mail or print flyers or other promotional materials to help their reelection or (2) during the five months before the election, for state or municipal promotional campaigns or advertisements that feature a candidate or promote his nomination or election.

The SEEC must establish an application procedure and selection criteria. It may not select a municipality unless its legislative body, or in the case of a municipality whose legislative body is a town meeting, its board of selectmen, consents to the participation. Each selected municipality must submit an implementation plan for the SEEC's approval.

Report on Reforms (§ 49)

The act requires the SEEC to study and prepare a plan to address public financing for municipal election campaigns and campaign finance restrictions, including restrictions on (1) municipal candidate committees' sale of ad space in ad books, (2) contributions to municipal candidates by communicator lobbyists and their immediate family members and political committees, and (3) contributions to municipal candidates by principals of contractors or prospective contractors.

The commission must report its findings and recommendations, including any proposed legislation, to the Government Administration and Elections Committee by January 1, 2007.

PROHIBITION OR LIMITATION OF EXPENDITURE FROM THE CITIZEN'S ELECTION FUND (§ 55)

Under the act, if a court prohibits or limits the expenditure of funds from the Citizen's Election Fund for at least 72 hours, the act becomes inoperative and the law in effect before these provisions became effective becomes the controlling law.

SEEC POWERS AND DUTIES (§§ 2-4, 6-7, 9, 12-15, 17, 21, 29, 31-32, 41-42, 44-46, 48-49, 53-54)

Generally, the act requires the SEEC to (1) assume responsibility for all candidates' campaign finance statements, (2) determine whether there is enough money in the Citizens' Election Fund to issue grants, (3) prescribe the program's forms, (4) process candidates' applications and determine if a candidate is eligible, (5) notify the comptroller of the amount due and payable to each qualified candidate, (6) establish regulations on permissible expenditures for grant money, (7) establish regulations on how supplemental campaign finance statements must be sent to the commission, (8) create a software program for filing electronic campaign finance statements, (9) establish a pilot program for publicly financing municipal elections, (10) compile and maintain a list of current state and prospective state contractors, and (11) enforce the provisions of the Citizens' Election Program.

The act requires the SEEC to transmit contributions individuals and others make to the fund to the state treasurer. It also allows the SEEC to deduct its costs in administering the act's campaign finance provisions from the fund, up to \$2 million in FY 06 and \$1 million in subsequent years. If the commission does not spend these amounts in a given year, it can use the balance to pay its costs in subsequent years.

The act extends the SEEC's enforcement powers to cover the act's public financing provisions, among other things. It allows the SEEC to (1) investigate complaints and alleged violations of the act's provisions and (2) impose a civil penalty of up to \$2,000 per offense or twice the amount of any improper contribution under the act, whichever is greater, for such contributions. It also allows the SEEC to impose a civil penalty of up to \$2,000 against (1) any election official it finds failed to discharge his duty, (2) any person who improperly votes in an election when he was not legally qualified to vote, or (3) anyone who violates the law regarding the dates and hours of referenda. It allows the SEEC to issue orders to candidate committees that receive money from the fund to comply with the act, after being given an opportunity for a hearing.

The act transfers from the Office of the Secretary of the State to the SEEC the responsibility for administering campaign finance reporting and related laws, starting in 2007. It requires the SEEC, instead of the secretary of the state, to prepare, print, and distribute campaign finance forms, including forms used for campaign finance statements. When the functions, powers, or duties of a state agency are assigned or transferred to another state agency, existing law requires the officers and employees whose duties move to the recipient agency to also be transferred. In the case of an officer or employee whose duties pertain to functions that are divided, the agency heads must determine whether he will be transferred. If the agency heads are unable to agree, the governor makes the determination (CGS § 4-38d (e)).

PA 05-1, November 2, 2005 Special Session—HB 7701
Emergency Certification

AN ACT CONCERNING COST-SHARING REQUIREMENTS UNDER THE HUSKY PLAN, PART B

SUMMARY: This act makes several changes in HUSKY B cost sharing requirements. It (1) prohibits the Department of Social Services (DSS) commissioner from imposing premiums on families with incomes below 235% of the federal poverty level (FPL); (2) eliminates a requirement that she increase the premiums for higher income families and codifies the premium amounts for these families; and (3) requires her to pay refunds to any families who paid the new or higher premiums, which went into effect on October 1, 2005.

The act transfers up to \$2.2 million from the DSS FY 06 Medicaid budget to the HUSKY program to pay for its provisions in FY 06.

HUSKY B offers publicly subsidized health insurance to low-income children who do not qualify for HUSKY A (Medicaid). Family income may not exceed 300% of the FPL for subsidized care. The 2005 annual FPL is \$19,350 for a family of four; 235% over this amount is \$45,473, and 300% is \$58,050.

EFFECTIVE DATE: Upon passage

HUSKY COST SHARING

Prohibition on Premium Changes

Prior to July 1, 2005, state law authorized DSS to (1) increase the annual aggregate cost sharing requirements for families with children enrolled in HUSKY B and (2) impose premiums on all families. In practice, DSS imposed premiums only on families with incomes between 235% and 300% of the FPL (Band 2), along with co-payments. The monthly premiums were \$30 for each child, up to \$50 a month per family. Families with incomes between 185% and 235% of the FPL (Band 1) paid no premiums and had a \$650 cost sharing cap, all of which came from co-payments.

PA 05-280 required the commissioner to (1) increase the annual cost sharing caps (which cannot exceed 5% of a family's gross income) for both bands, (2) impose premiums on Band 1 families, and (3) increase the premiums for Band 2 families. Although PA 05-280 took effect on July 1, 2005, DSS did not begin implementing the premiums for Band 1 families and the increases for Band 2 families until October 1, 2005.

The act (1) prohibits the commissioner from imposing premiums on Band 1 families; (2) permits, instead of requires, her to impose premiums on Band 2 families and limits the premiums to \$30 per child per

month with a \$50 monthly family maximum; and (3) permits, instead of requires, her to increase the caps for both bands. The act eliminates the requirement that Band 2 premiums be increased.

Refunds

The act requires the commissioner or her agent (DSS currently contracts with several health plans to serve these children, and families pay premiums directly to the plans) to refund any new or increased premiums paid by Band 1 and Band 2 families, respectively. It permits her to (1) provide the refunds in the form of credits toward future cost sharing obligations or (2) implement other administrative procedures to ensure that the families receive their refunds.

PA 05-2, November 2, 2005 Special Session—HB 7702
Emergency Certification

AN ACT CONCERNING IMPLEMENTATION OF THE MEDICARE PART D PROGRAM

SUMMARY: This act makes several adjustments to PA 05-280 to fill in gaps for Connecticut Pharmaceutical Assistance to the Elderly and Disabled (ConnPACE) and Medicare-Medicaid dually eligible recipients in the state's coordination with the federal Medicare Part D prescription assistance program, which begins on January 1, 2006. Specifically, it:

1. requires the state to pay the federal copays for full benefit Medicare-Medicaid dually eligible people (those eligible for all Medicaid benefits who had previously also received all their prescription benefits through Medicaid but not special groups that receive limited Medicaid assistance only with their monthly Medicare premiums and coinsurance);
2. establishes a "Medicare Part D Supplemental Needs Fund" to help Medicare Part D beneficiaries who are also ConnPACE participants or full benefit Medicare-Medicaid dually eligible and who cannot pay for medically necessary nonformulary drugs, authorizes the Department of Social Services (DSS) to set conditions and procedures for this assistance, and transfers \$5 million to the fund from Medicaid appropriations for FY 06;
3. eliminates DSS's authority to make the ConnPACE client, in certain situations, responsible for paying the difference between what DSS pays for a drug on a plan's formulary and the price of the drug above the usual \$16.25 ConnPACE copay;

4. gives ConnPACE recipients and applicants an opportunity to consult with the commissioner, or her agent, about Medicare Part D plan selection before choosing one and transfers \$1 million from Medicaid appropriations for FY 06 to provide additional resources for these services; and
5. allows the DSS commissioner to establish a mail order option for all drugs under Part D plans.

EFFECTIVE DATE: Upon passage

MEDICARE-MEDICAID DUALY ELIGIBLES (§ 1)

The act requires DSS to pay the federally required copayments for full benefit Medicare-Medicaid dually eligibles' prescriptions under the new Part D plans. The federal copays for this group range from \$1 to \$5 depending on their income and the drug type (generic, brand name, preferred, or other). The act defines a "full benefit dually eligible Medicare Part D beneficiary" as a person who has coverage for Part D drugs and is eligible for full Medicaid benefits under any eligibility category (some eligibility groups receive limited Medicaid assistance only to pay their normal Medicare premiums, deductibles, and coinsurance).

PA 05-280, consistent with federal changes, denies Medicare-Medicaid dually eligibles Medicaid benefits for drugs that could be covered under Medicare Part D ("Part D covered drugs"), even if these covered drugs are not on their chosen plan's formulary ("nonformulary" Part D drugs), but continues Medicaid coverage for drugs that are not Part D covered drugs. PA 05-280 did not address the federally required copays, in effect requiring the dual eligibles to pay them for the Part D formulary drugs. (Previously, there were no prescription copays under Medicaid in Connecticut.)

MEDICARE PART D SUPPLEMENTAL NEEDS FUND (§§ 2, 6)

The act establishes the "Medicare Part D Supplemental Needs Fund" as a DSS General Fund account. It requires the DSS commissioner, within available appropriations, to designate money to the fund. DSS must use available fund money to provide financial assistance to Part D beneficiaries enrolled in ConnPACE or full benefit dual eligibles who lack the financial means to pay for their nonformulary Part D drugs.

The act prescribes the general conditions under which these beneficiaries will be eligible for this help. To qualify, they must first show that the nonformulary drug is medically necessary for them. The act allows DSS, as a condition of granting the assistance, to require the beneficiary to show that he has made good faith

efforts to (1) enroll in a Medicare Part D plan recommended by the commissioner or her agent and (2) use his Part D plan's exception process. DSS must review all requests for assistance and notify the beneficiary of its decision within two hours after receiving the request. The act requires the DSS commissioner to implement policies and procedures to administer the fund and ensure that all requests for, and determinations about, assistance are expeditiously processed.

The act transfers \$5 million to the Medicare Part D Supplemental Needs Account from the Medicaid funds appropriated to DSS for FY 06.

CONNPACE (§ 3)

PA 05-280 generally makes DSS responsible for covering a formulary drug for a ConnPACE participant when it is obtained during the gap in standard coverage. But, to the extent allowed by federal law, PA 05-280 allowed DSS to pay:

1. the lowest price established by the Part D plan for a preferred drug in the same therapeutic class and category that is dispensed by a preferred pharmacy, with the beneficiary responsible for paying the cost differential above DSS's payment;
2. the lower of the price that ConnPACE would pay or the negotiated price established by the plan; or
3. in consultation with the OPM secretary, the price that ConnPACE would pay.

This act eliminates the first option. It thus removes DSS's authority to require the participant to pay anything beyond \$16.25 for a formulary drug.

For prescription drugs that are not Part D covered drugs, PA 05-280 already requires DSS to pay under the ConnPACE program and makes the client responsible only for the usual \$16.25 ConnPACE copay. This act does not change that requirement.

Under PA 05-280 and this act, DSS pays nothing for Part D covered drugs that are not on, or treated as being on, the plan's formulary. If a client appeals to the plan and wins under the federal exception process, drugs not on the formulary could be treated and paid for as though they were on it. The act does not change this provision, but gives participants who have a medical need for a nonformulary drug an opportunity to apply for help from the new fund the act establishes.

PA 05-280 coordinates Medicare Part D benefits with the state's ConnPACE program. It requires ConnPACE participants to (1) enroll in a Medicare Part D plan as a condition of receiving ConnPACE benefits; (2) disclose their income and assets to DSS as a means of determining whether they are eligible for federal low-income subsidies; and (3) appoint the DSS

commissioner as their authorized representative, which allows her to place them in a plan if they do not choose one in a timely manner (PA 05-3, November 2 Special Session, further clarifies the last of these provisions). It requires ConnPACE to cover the costs of ConnPACE recipients' Part D participation, including premiums. If the Part D beneficiary's out-of-pocket copayment, coinsurance, or deductible requirements for a formulary drug exceed the ConnPACE copayment requirements (\$16.25 per prescription and a \$30 annual registration fee), PA 05-280, as amended by this act, requires DSS to pay the pharmacy any costs above the ConnPACE copayment.

CONSULTATION OPPORTUNITY (§§ 4, 7)

Under PA 05-280, the DSS commissioner must give ConnPACE recipients an opportunity to select a Part D plan; notify them of this opportunity; and, if they do not choose a plan within a reasonable time, enroll them in a plan the commissioner designates.

This act requires that the ConnPACE recipient or applicant, before choosing a plan, have an opportunity to consult with the commissioner, or her designated agent, about selecting a plan that best meets the individual's prescription drug needs.

The act transfers \$1 million from Medicaid funds appropriated to DSS for FY 06 to the "Other Expenses Account" and makes it available for DSS to provide resources for current and comprehensive consultative enrollment services to people who are initially selecting a Part D plan, or need to change plans to obtain prescription benefits that better meet their needs.

MAIL ORDER OPTION (§ 5)

The act authorizes the DSS commissioner to provide a voluntary mail order option, regardless of a mail order pharmacy's location, for any prescription drugs covered under the Medicare Part D program. Prior state law allowed mail order only for maintenance drugs in state pharmacy programs.

BACKGROUND

Related Act

PA 05-3, November 2 Special Session, allows DSS to enroll Medicaid-Medicare dually eligible people and all-ConnPACE participants in Part D plans.

Federal Medicare Part D Prescription Plans

The federal Medicare Part D program, which begins January 1, 2006, allows Medicare beneficiaries to enroll voluntarily in Medicare-approved private

prescription plans. The plans must provide at least a specified "standard" package of benefits to all Medicare beneficiaries. The standard benefits (for people who are not on ConnPACE or dually eligible for Medicare and Medicaid) consist of (1) 75% coverage of prescription costs up to \$2,250 per year with a \$250 annual deductible; (2) no coverage beyond the \$2,250 threshold until the beneficiary spends a total of \$3,600 out-of-pocket (\$5,100 in total consumer and Medicare expenditures), known as the "gap in standard coverage" or, informally, "the donut hole"; and (3) "catastrophic coverage" of 95% of all prescription costs above \$5,100 (the beneficiary pays the greater of 5% of the cost per prescription or \$2 for generic or preferred drugs and \$5 for others). The plans may charge a monthly premium that can vary.

Under the federal law, Medicare beneficiaries with low incomes and assets receive varying additional subsidies that involve no or lower deductibles and premiums, lower copays, and coverage for the "donut hole."

Full benefit Medicare-Medicaid dually eligible beneficiaries no longer receive prescription coverage through Medicaid for drugs designated as Part D covered drugs. Under the federal law, they are automatically enrolled in a Medicare Part D plan, but can change plans up to once a month if that plan does not meet their needs. They receive extra federal help consisting of coverage during the deductible period and the "donut hole" and minimal copays ranging from \$1 to \$5 (which this act requires the state to cover). Dual eligibles living in nursing homes have no copays under the federal law.

The program covers only prescription drugs designated as "Medicare Part D covered drugs." In addition, the private plans can choose which Part D-covered drugs they will offer on their formularies. The plans will generally not pay for Medicare Part D covered drugs that are not on the formulary of the plan the beneficiary has chosen ("nonformulary" drugs). But under the federal exception process, people can appeal the plan's decisions and, if they win, the drugs in question can be treated and paid for as though they were on the formulary.

Medicare Part D Covered and Excluded Drugs

The federal law defines "Medicare Part D covered drug" as a prescription drug, biological product, insulin and related medical supplies, or vaccine, if it is used for a medically accepted indication. It excludes drugs available under Medicare Part A (hospital) or Part B (which has very limited outpatient coverage for a few items, such as chemotherapy) and certain drugs such as over-the-counter, weight-loss, fertility, cosmetic, cough and cold relief, prescription vitamins, barbiturates, and

benzodiazepines (42 CFR § 423.100). Medicaid and ConnPACE will continue to cover some of these excluded drugs to the extent they were previously covered.

PA 05-3, November 2, 2005 Special Session—SB 2500
Emergency Certification

**AN ACT CONCERNING ENROLLMENT OF
CERTAIN BENEFICIARIES IN THE MEDICARE
PART D PROGRAM**

SUMMARY: This act permits the Department of Social Services (DSS) commissioner to enroll certain low-income residents in the federal Medicare Part D prescription program. Those for whom she may do this are:

1. to the extent federal law permits, people fully covered by both Medicare and Medicaid (the full benefit “dually eligible”), and
2. all Connecticut Pharmaceutical Assistance to the Elderly and Disabled (ConnPACE) applicants and recipients, if they do not enroll themselves within a reasonable time.

The act also allows the commissioner to apply to the Social Security Administration for federal Part D low-income subsidies on behalf of low-income ConnPACE participants. Prior law (PA 05-280) required her to do so.

EFFECTIVE DATE: Upon passage

BACKGROUND

Related Acts

PA 05-280, as amended by PA 05-2, November 2 Special Session, coordinates the state’s Medicaid and ConnPACE programs with the new federal Medicare Part D prescription benefits program. PA 05-2, November 2 Special Session, among other provisions, requires DSS to pay federal copays for the full benefit Medicare-Medicaid dually eligible and creates a Medicare Part D Supplemental Needs Fund to help Medicare Part D beneficiaries who are ConnPACE participants or dually eligible and cannot pay for medically necessary drugs that are not on their plan’s formulary (“non-formulary drugs”).

ATTORNEY GENERAL

Energy profiteering, penalties and damages authority
05-2 Oct 25 SS 11

BIDS AND BIDDING

See also Government Purchasing
Competitive, legislative fast track exemption procedure
05-1 Oct 25 SS (VETOED)..... 1

BOARDS AND COMMISSIONS

Contracting Standards, established
05-1 Oct 25 SS (VETOED)..... 1
Elections Enforcement, public financing program responsibilities
05-5 Oct 25 SS 16
Energy Advisory, programs evaluation
05-2 Oct 25 SS 11
Home Heating Oil Planning Council, created
05-2 Oct 25 SS 11
Properties Review, dissolved
05-1 Oct 25 SS (VETOED)..... 1

BUSINESS

Foreign reincorporation, state contracting prohibition
05-1 Oct 25 SS (VETOED)..... 1

CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

Campaign finance reform
05-5 Oct 25 SS 16
Contribution/spending limits
05-5 Oct 25 SS 16
Public financing system established
05-5 Oct 25 SS 16

CONFIDENTIALITY

See Freedom of Information

CONTRACTS AND CONTRACTORS

Prequalification process, modified
05-1 Oct 25 SS (VETOED)..... 1
Set-aside program, small contractor definition modified
05-1 Oct 25 SS (VETOED)..... 1
State agency uniform procurement code development
05-1 Oct 25 SS (VETOED)..... 1
State contracting, foreign reincorporated business prohibition
05-1 Oct 25 SS (VETOED)..... 1

State contracts, disqualification/suspension grounds
05-1 Oct 25 SS (VETOED)..... 1
State privatization contracts, standards/conditions
05-1 Oct 25 SS (VETOED)..... 1
State, campaign contribution limitations/prohibitions
05-5 Oct 25 SS 16

CRIMES AND OFFENSES

Uninsured commercial vehicle operation, penalty increased
05-3 Oct 25 SS 14

DRUGS AND MEDICINE

ConnPACE beneficiaries, DSS Medicare Part D enrollment
05-3 Nov 2 SS 42
ConnPACE/Medicare Part D coverage continuation
05-2 Nov 2 SS 39
Medicare Part D, enrollment/subsidy application
05-3 Nov 2 SS 42
Medicare Part D, implementation adjustments
05-2 Nov 2 SS 39

ELDERLY PERSONS

Medicare Part D/ConnPACE, coverage coordination
05-2 Nov 2 SS 39

ELECTIONS

Public financing system, established
05-5 Oct 25 SS 16

ENERGY

Sellers, profiteering prohibition
05-2 Oct 25 SS 11

ENERGY ASSISTANCE

Home heating, HEARTH program contractors expanded
05-4 Oct 25 SS 16
Home heating, state programs created/modified
05-2 Oct 25 SS 11
Program, benefits increased
05-2 Oct 25 SS 11

ENERGY CONSERVATION

Efficiency products, temporary tax exemption established
05-2 Oct 25 SS 11

Efficiency products, temporary tax exemption expanded 05-4 Oct 25 SS	16	MOTOR VEHICLES, DEPARTMENT OF	
Loans, interest rate lowered 05-2 Oct 25 SS	11	Commercial vehicles, proof of financial security filings 05-3 Oct 25 SS	14
FREEDOM OF INFORMATION		MUNICIPALITIES	
RFP documents, disclosure restriction 05-1 Oct 25 SS (VETOED)	1	State construction aid, unprequalified contractor use 05-1 Oct 25 SS (VETOED)	1
GENERAL ASSEMBLY		OIL AND GAS	
Competitive bidding, fast track exemption procedure 05-1 Oct 25 SS (VETOED)	1	Heating oil fixed-price contracts, dealer bond requirements 05-2 Oct 25 SS	11
GOVERNMENT PURCHASING		POLICY AND MANAGEMENT, OFFICE OF	
State contracting process reform 05-1 Oct 25 SS (VETOED)	1	Home heating oil price statistics, collection/accessibility 05-2 Oct 25 SS	11
Uniform procurement standards 05-1 Oct 25 SS (VETOED)	1	POLLUTION	
HEALTH INSURANCE		Light, private property floodlight compliance, deadline extended 05-1 Oct 25 SS (VETOED)	1
HUSKY B, premiums modified 05-1 Nov 2 SS	39	PUBLIC WORKS DEPARTMENT	
Medicare Part D, enrollment/subsidy applications 05-3 Nov 2 SS	42	Non-competitive bid panels, conformance to practice 05-1 Oct 25 SS (VETOED)	1
Medicare Part D, implementation adjustments 05-2 Nov 2 SS	39	SALES AND USE TAXES	
HEATING OIL		Energy efficiency products, temporary exemption established 05-2 Oct 25 SS	11
<i>See Oil and Gas</i>		Energy efficiency products, temporary exemption, products expanded 05-4 Oct 25 SS	16
JUDICIAL BRANCH		SOCIAL SERVICES, DEPARTMENT OF	
Procurement code development 05-1 Oct 25 SS (VETOED)	1	HUSKY B cost sharing premiums, modifications 05-1 Nov 2 SS	39
LEGISLATIVE BRANCH		Medicare Part D, dually eligible/ConnPACE enrollment 05-3 Nov 2 SS	42
<i>See General Assembly</i>		Medicare Part D, low-income participants, subsidy applications allowed 05-3 Nov 2 SS	42
LOBBYISTS AND LOBBYING		STATE AGENCIES	
Contribution limitations 05-5 Oct 25 SS	16	Contracting agencies, audits/uniform procurement code compliance 05-1 Oct 25 SS (VETOED)	1
MEDICARE		Outdoor lighting units, restrictions/exemptions 05-1 Oct 25 SS (VETOED)	1
<i>See Health Insurance</i>			
MOTOR VEHICLES			
Commercial, proof of financial security filings 05-3 Oct 25 SS	14		
Uninsured commercial vehicle operation, penalty increased 05-3 Oct 25 SS	14		

Purchase of service agreements, procedures established 05-1 Oct 25 SS (VETOED).....	1
State contracting prohibition, foreign reincorporated businesses 05-1 Oct 25 SS (VETOED).....	1

STATE BUILDINGS

Outdoor lighting units, restrictions/ exemptions 05-1 Oct 25 SS (VETOED).....	1
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STATE FUNDS

Citizens' election, established 05-5 Oct 25 SS	16
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TAXATION

See Sales Taxes

VOTERS AND VOTING

See Elections

PA 06-176—sHB 5093

Select Committee on Aging

Finance, Revenue and Bonding Committee

AN ACT CONCERNING PROPERTY TAX RELIEF FOR CERTAIN ELDERLY HOMEOWNERS AND THE PHASE IN OF CERTAIN REVALUATIONS

SUMMARY: This act allows towns to freeze property taxes on homes owned by certain elderly people. To be eligible, the homeowner or his spouse must be age 70 or older and have lived in the state at least one year. The freeze continues for a surviving spouse who is at least age 62 when the homeowner dies. Homeowners must meet the same income limits as apply to the existing state-reimbursed “circuit breaker” program, which gives qualified homeowners age 65 or over a tax credit against the property taxes on their homes. Those annual income limits are \$27,700 for individuals and \$33,900 for married couples, adjusted annually for inflation. Under the act, people whose taxes are frozen can still qualify for other property tax relief programs.

The act also allows the town to impose asset limits for eligibility and to put a lien on the property. It establishes application procedures and deadlines and imposes penalties for false statements. It does not provide state reimbursement for lost revenue to a town that chooses to offer this optional tax freeze.

The act repeals property tax provisions that allow towns to phase in the effects of property revaluations over as many as three years. It instead allows towns to adopt a phase-in for up to five years, using one of two implementation options.

Under prior law, the town’s legislative body had to authorize the phase-in and set its term. The act additionally requires the legislative body to select one of two implementation options. It allows the town to phase in part, rather than all, of the assessment increase. It assigns the responsibilities for making these choices to the board of selectmen in town meeting towns. (PA 06-196 eliminates this provisions, requiring the town meeting to make these decisions). The act allows the legislative body or board of selectmen to discontinue the phase-in. The act modifies how property built during the phase-in is assessed. It requires the town’s chief elected official to notify the Office of Policy and Management (OPM) secretary within 30 days after the legislative body decides to implement or discontinue the phase-in. Failure to do so subjects the official to a \$100 fine.

EFFECTIVE DATE: October 1, 2006, and applicable to assessment years beginning on or after October 1, 2006 for the property tax freeze for the elderly, upon passage and applicable to assessment years beginning on or after October 1, 2006 for the revaluation provisions. PA 06-

196 makes the new revaluation provisions effective October 1, 2006 and applicable to assessment years beginning on or after October 1, 2005.

TAX FREEZE FOR CERTAIN ELDERLY HOMEOWNERS

The act allows any town to freeze qualified homeowners’ real estate taxes at the level of the tax due for the assessment year beginning October 1 of the year immediately preceding the date the homeowner applies. For subsequent years, if the town lowers taxes, those lower taxes apply to the homeowner. A town may freeze taxes only if its legislative body approves. The freeze can also apply to a tenant for life or for a term of years who is liable for property taxes. It can continue for the homeowner or tenant’s surviving spouse or anyone who has a joint interest in the property with the owner at the time of the owner’s death, as long as the person continues to qualify under the act.

After the first year the claim is filed and approved, the participant must reapply every two years on a form prepared by the town assessor.

Eligibility

To qualify for the tax freeze, a taxpayer must:

1. as of the prior December 31, (a) be at least age 70 or have a spouse living with him who is at least age 70 or (b) be at least age 62 and the surviving spouse of a taxpayer who was entitled to the tax freeze when he died, provided they were living together at the time of death;
2. occupy the property, including a mobile manufactured home, as his or her home;
3. have lived in Connecticut for at least one year before filing the claim (this applies to either spouse);
4. have qualifying income (both taxable and nontaxable) in the immediately preceding tax year at or below the limits for the “circuit breaker” Elderly/Disabled Tax Relief Program; and
5. submit evidence of his income, in a signed affidavit, to the assessor in the town where he is applying.

The act exempts Medicaid payments made on the owner’s or his spouse’s behalf from counting as income for eligibility purposes. It also exempts the spouse’s income if he resides in a health care or nursing home facility in Connecticut that receives Medicaid payments for the spouse.

The act allows the town to (1) impose asset limits for tax freeze eligibility and (2) place a lien on the property for the total tax relief granted plus interest at a

rate the town determines. It gives such a lien priority in the settlement of the person's estate.

It specifies that obtaining benefits from this tax freeze does not disqualify people from other tax relief programs for which they are eligible (the "circuit breaker," the current elderly tax freeze, and the local option tax relief for seniors over age 65 and disabled people).

Level of Tax Relief

The act requires that the tax on the qualifying property be the lower of the tax due for (1) the assessment year beginning October 1 immediately preceding the year of the initial application or (2) any subsequent assessment year. If the property's title is in the name of the qualifying homeowner or spouse and anyone else, the claimant is entitled to pay his fractional share based on the act's freeze formula, and the other owners must pay their fractional share without regard to the freeze.

Effect of Property Transfers on Benefit

If a homeowner benefiting from a tax freeze transfers his interest in the property to someone else between November 1 and August 1 either voluntarily or involuntarily, the tax relief benefit for that year must be prorated. If the transfer happens in October, the homeowner is disqualified from tax relief for that assessment year. If the transfer happens in August or September, there is no proration and the homeowner receives the full benefit.

The act gives the person to whom the property is transferred 10 days after the conveyance date to notify the assessor. If the assessor receives no notice or learns of the conveyance on his own, he can calculate the amount of tax relief to which the original homeowner is entitled, and notify the tax collector of the reduced benefit amount. When the tax collector receives the assessor's notice after the town's tax due date, he has 10 days to mail or hand a bill to the transferee containing the additional amount of tax due. This additional tax is due, payable, and collectible subject to the same liens and processes as other property taxes, but it must be paid in an initial or single installment within 30 days after the tax collector mails or hands the bill to the new owner and in equal amounts for any remaining, regular installments.

Deadlines and Extensions

Applicants must file their claims with the assessor in the town where the property is located, in whatever form and manner the assessor requires. The claim must be filed between February 1 and May 15 of the year that the claim is for and must include required substantiating

information. The act allows taxpayers to apply for an extension before August 15. The assessor can grant an extension if (1) there are extenuating circumstances due to illness or incapacitation as shown in a physician's certificate or (2) he decides there is good cause for the extension.

The taxpayer must give the assessor a copy of his and his spouse's federal income tax return for the tax year immediately preceding submission of the application. If the taxpayer does not have to file a federal tax return, he must provide whatever proof of income the assessor requires. The assessor must decide whether to approve the application and examine each application and the other information submitted.

After the taxpayer's claim has been approved for the first year, he must file such applications and supporting information biennially. The assessor must notify each taxpayer of the reapplication requirement by February 1 of the year in which it is required and enclose an application form. The taxpayer can submit the application by mail as long as the assessor receives it by March 15. By April 1, the assessor must again notify any taxpayer from whom he did not receive an application by March 15. Then, the taxpayer has until May 15 to submit the application in person or, for reasonable cause, through another person acting on his behalf.

False Statement Penalties

Anyone who knowingly makes a false application to claim tax relief is subject to a fine of up to \$500. Anyone who fails to disclose all relevant matters or makes a false statement with the intent to defraud must refund to the town all improper tax relief.

REVALUATION PHASE-IN

The act creates a new method for phasing in the results of a property revaluation and eliminates several previous methods. Under prior law, the phase-in had to be based on the property's assessment ratio, i.e., the relationship between its assessed and its fair market value. The assessment ratio had to be up to the ratio required by law (70%) in equal increments over the life of the phase-in. The annual increments could be equal in terms of the absolute increase in the assessment ratio or in percentage increase in this ratio. Under the first scenario, the assessment ratio for affected properties could be 50% in the first year of the phase-in, 60% in the second, and 70% in the third. Under the second scenario, the assessment ratio could increase by 10% (as opposed to 10 percentage points) each year.

Another provision allowed a town to phase in all or a portion of an assessment increase over a period of up to three years, with the assessment increased in equal

amounts each year. Under this option, the municipality's legislative body could discontinue the phase-in.

The act repeals these provisions and instead establishes a single option that allows a town to phase in revaluation for up to five years. It allows a town to phase in all or part of the revaluation increase. If it does the latter, the legislative body or board of selectmen must establish a phase-in factor, which cannot be less than 25%, and apply this factor to all parcels in town, regardless of their property classification. The town must multiply this factor by the total assessment increase for the parcel to determine the amount of the increase that will not be subject to the phase-in. Thus, a town could choose to implement 50% of the assessment increase immediately and phase in the remaining 50% over five years.

Implementation Options

The act establishes two phase-in implementation options. Under the first, each parcel's assessment for the assessment year before the one in which revaluation is effective must be subtracted from the parcel's assessment in the revaluation year. The annual amount of the parcel's assessment increase is the result of the subtraction divided by the number of years of the phase-in term. Thus, if the parcel's pre-revaluation value is \$100,000 and its new value is \$150,000, and the town chooses a five year phase-in, the assessment would increase by \$10,000 each year (\$50,000 divided by 5). But, if a town chooses to phase in only part of the assessment increase, the amount of the increase that is not subject to the phase-in is not reflected in this calculation.

Under the second option, the ratio of the total assessed value of all taxable real property for the assessment year before the one in which revaluation is effective to the total fair market value of such property as determined from sales records in that year, must be subtracted from the required 70% assessment rate. The annual incremental rate of assessment increase applicable to all real property is the result of the subtraction divided by the number of years of the phase-in term. Thus, if the total assessed value in the pre-revaluation year was 50% of fair market value, the 20% difference between this number and the 70% rate would be phased in over the number of years set by the legislative body or board of selectmen (e.g., 4% per year over 5 years). Before determining the annual rate of assessment increase, a town that chooses to phase in part of the assessment increase must multiply the result of this subtraction by the proportion of the increase that is not subject to the phase-in, to determine the assessment rate that is not subject to the phase-in.

Assessment of Property Built During the Phase-In

Under prior law, new construction assessed during the phase-in period had to be assessed initially at the rate applicable to the phase-in method the town has chosen (percentage point or percentage increase) at that time. Afterwards, the property was subject to the assessment rate applicable to all real property on the municipality's assessment list.

Under the act, new construction must be assessed in the same way as comparable property, so that the total assessment increases that apply to the comparable properties are reflected in the new construction's assessment, prior to the prorating required by law. By law, a property that gets its certificate of occupancy, or that is first used for its intended purposes six months into an assessment year is subject to half of the tax that would apply to a comparable property on the assessment list on the first day of the assessment year.

Discontinuing the Phase-In

The act allows the legislative body or board of selectmen to discontinue the phase-in. (PA 06-196 eliminates the possibility of boards of selectmen acting in town meeting towns.) They may do so at any time before the phase-in is completed, so long as it is done by the assessment date for the assessment year in which the discontinuance is effective. In the following assessment year, assessments must reflect the values of real property established by the revaluation, subject to (1) additions for new construction and reductions for demolitions occurring after revaluation and by the date of its completion or discontinuance and (2) the rate of assessment applicable in that year.

PA 06-186—HB 5845
Emergency Certification

AN ACT MAKING ADJUSTMENTS TO STATE EXPENDITURES AND REVENUES FOR THE BIENNIUM ENDING JUNE 30, 2007

SUMMARY: This act adjusts FY 07 appropriations for various state agencies and programs originally approved in the 05-07 biennial budget in 2005. The adjustments increase the FY 07 appropriations by \$129.6 million for all funds. The act also revises some revenue estimates originally adopted in the biennial budget. The revisions apply to General Fund revenue estimates for FYs 06 and 07 and revenue estimates for three special funds for FY 07.

From the anticipated FY 06 budget surplus, the act appropriates \$27 million to cover anticipated deficiencies in state accounts and carries forward an estimated \$91 million to FY 07 for various accounts. It allocates \$394.5 million of the FY 06 surplus for several purposes, including \$245.7 million in additional state contributions to the Teachers' Retirement Fund, \$85.5 million to pay off economic recovery notes used to finance the FY 03 General Fund deficit, \$33 million for extra municipal aid, and \$11 million for hardship grants to hospitals. The act also carries forward \$50.9 million in FY 06 appropriations to FY 07.

The act increases the maximum property tax credit against the income tax from \$400 to \$500 starting January 1, 2006 and allows an income tax deduction for contributions to the state's college savings program. It eliminates the corporation tax surcharge for 2007, revises gross earnings taxes on municipal electric companies, expands the housing tax credit program for businesses, and establishes several new business tax credits. It broadens sales tax exemptions for aircraft repair and extends admissions tax exemptions to three additional venues.

The act restructures a tax credit for movie and digital media production expenses adopted in PA 06-83. It also extends property tax exemptions for manufacturing machinery and equipment (MME) to cover recycling equipment. It clarifies several provisions of a new MME exemption enacted in PA 06-83, including covering MME acquired before October 1, 2002.

EFFECTIVE DATES: The FY 06 budget deficiency provisions and the admissions tax exemptions are effective on passage. Other provisions are effective July 1, 2006 but some have special applicability as follows.

1. The income tax changes apply to tax years starting on or after January 1, 2006.
2. The corporation tax surcharge repeal; job creation, displaced workers, historic structures, and movie and digital media tax credits; and

MME property tax exemption administrative changes apply to income years starting on or after January 1, 2006.

3. The admissions tax exemption for Nature's Art applies to admission charges on or after April 1, 2006. The exemptions for Dodd Stadium and the Arena at Harbor Yards apply starting November 1, 2006.
4. The property tax exemption for recycling equipment applies to assessment years starting on or after October 1, 2006.

(PA 06-187 changes the effective date of \$394.5 million in appropriations from the FY 06 surplus from July 1, 2006 to upon passage.)

ADJUSTMENTS TO FY 07 STATE BUDGET (§§ 1-7)

The act adjusts the FY 07 General Fund and special fund appropriations for state agencies and programs originally adopted in 2005, increasing the total for all funds by \$129.6 million. Changes in FY 07 appropriations for each fund are shown in Table 1:

Table 1: FY 07 Appropriation Changes By Fund

\$	Fund	FY 07 Appropriations		
		Prior Law	The Act	Change
1	General Fund	\$14,745,188,974	\$14,837,159,984	\$91,971,010
2	Special Transportation Fund	1,017,989,229	1,056,247,124	38,257,895
3	Soldiers, Sailors, & Marines Fund	3,987,286	3,429,583	(557,703)
4	Banking Fund	16,819,263	16,836,163	16,900
5	Insurance Fund	22,725,499	22,494,859	(230,640)
6	Consumer Counsel & Public Utility Control Fund	21,562,150	21,916,511	354,361
7	Workers' Compensation Fund	20,977,875	20,707,173	(270,702)
	TOTAL	\$15,849,250,276	\$15,978,791,397	\$129,541,121

REVISED REVENUE ESTIMATES (§§ 86-90)

The act revises revenue estimates for four state funds. It increases the General Fund revenue estimate for FY 06 by \$610 million and for FY 07 by \$249.5 million. It increases FY 07 estimates for the Special Transportation Fund by \$79.4 million and the Consumer Counsel and Public Utility Control Fund by \$2.4 million. It reduces the FY 07 estimate for the Soldiers, Sailors and Marines Fund by \$500,000.

FY 06 GENERAL FUND SURPLUS (§§ 8 & 9)

The act appropriates \$394,462,000 of the General Fund surplus for FY 06 for various purposes, including \$245.65 million to the Teachers' Retirement Fund,

\$85.5 million for state debt service, and \$33 million for municipal property tax relief. It specifies the property tax relief grant amount for each town. (PA 06-187 changes the effective date of the appropriation section (§ 8) from July 1, 2006 to upon passage.)

FY 06 FUNDS CARRIED FORWARD

Funds to be Used for the Same Purpose

The act carries forward the FY 06 General Fund appropriations shown in Table 2 to be used for the same purpose in FY 07.

Table 2: FY 06 Funds Carried Forward for the Same Purpose

<i>§</i>	<i>Agency</i>	<i>Amount</i>	<i>For</i>
10 (a)	Office of Policy and Management (OPM)	Up to \$180,000	Other expenses - for a health care consultant contract
10 (b)	OPM	Unspent balance	Licensing and permitting fees
10 (c)	OPM	Unspent balance	Justice Assistance Grants
13	Office of Workforce Competitiveness (OWC)	Up to \$350,000	CETC Workforce
15	Dept. of Information Technology (DOIT)	Unspent balance	Connecticut Education Network
17 (a)	Military Dept.	Unspent balance	Veterans' service bonuses
17 (b)	Military Dept.	Unspent balance	Military assistance
18 (a)	CT Commission on Culture & Tourism (CCCT)	Up to \$600,000	Other expenses - office consolidations and moving expenses
18 (b)	CCCT	Unspent balance	Statewide marketing
20	Dept. of Mental Retardation	Unspent balance	Autism services pilot program
21 (a)	State Education Dept. (SDE)	Unspent balance	Other expenses - moving teacher certification system from Wang system
21 (b)	SDE	Unspent balance	Early Childhood Cabinet
21 (c)	SDE	Up to \$360,000	Magnet schools - grant to Hartford for facility lease costs related to building new Pathways to Technology Magnet School
22	Board of Education & Services for the Blind	Unspent balance	Enhanced Employment Opportunities account
23	Dept. of Children & Families	Up to \$1,000,000	Other expenses - automate Title IV-E eligibility system
25	Various agencies	\$91,025,000	Various purposes
29	OPM	Unspent balance	Plans of conservation and development
30	Comptroller	Unspent balance	Core financial systems
32 (a)	Office of State Ethics	Unspent balance	Equipment
32 (b)	Freedom of	Unspent balance	Equipment

	Information Commission		
33	DOIT	Up to \$940,000	Other Expenses - disaster recovery business continuity planning
34	Public Defender Services funds transferred by the Finance Advisory Committee to the Child Protection Commission account	Up to \$125,000	Child Protection Commission - Other expenses
35	Public Defender Services funds transferred by the Finance Advisory Committee to the Child Protection Commission account	Up to \$30,000	Child Protection Commission - Equipment
38	Judicial Dept.	Up to \$500,000	Other expenses
39	Insurance Dept.	Up to \$200,000	Other expenses - computer upgrades and data migration
40	SDE	FY 06 funds appropriated	Connecticut Mastery Test
41	Comptroller - Fringe Benefit Accounts	Unspent balance	Active health insurance
44	OPM	FY 06 funds appropriated	Neighborhood Youth Centers
47	Dept. of Social Services (DSS)	\$1,800,000	Housing/Homeless Services - Rental Assistance Program
48	DSS	Unspent balance	Phase-down of state contribution under the Medicare Part D drug benefit program
51	Dept. of Public Works	Up to \$1,600,000	Rents and moving - moving current state employees occupying 21 Grand St., Hartford to other state-owned or leased space.

Funds Carried Forward and Transferred

The act carries forward unspent FY 06 General Fund appropriations to FY 07 and transfers them to other purposes as shown in Table 3.

Table 3: FY 06 Funds Carried Forward and Transferred

<i>§</i>	<i>Amount</i>	<i>From</i>		<i>To</i>	
		<i>Agency</i>	<i>Purpose</i>	<i>Agency</i>	<i>Purpose</i>
12	Unspent balance	State Ethics Commission	Lobbyist Electronic Filing Program	Not specified	Information technology initiatives account
14 (a)	Up to \$25,000	Board of Accountancy	Other expenses	Same	Personal services
15 (b)	Up to \$20,000	Board of Accountancy	Information technology	Same	Personal services
19	Up to \$200,000	Dept. of Public Health	Stem Cell Fund	Same	Administrative expenses
26	\$150,000	OPM	Contingency needs	Legislative Management	Results-based accountability activities
37	\$150,000	Corrections	Other	Same	Mental health

		Dept.	expenses		assessments
39	Unspent balance	State Properties Review Board	Other expenses	Same	Personal services
42	Unspent balance	Comptroller – Fringe Benefit Accounts	Social Security	Same	Active health insurance
43	Unspent balance	Comptroller – Fringe Benefit Accounts	Retiree health insurance	Same	Active health insurance
46	Up to \$3,800,000	UConn Health Center	Appropriation	Dept. of Social Services	Disproportionate Share-Medical Emergency Assistance Account to maximize federal revenue

Table 4: FY 07 Tobacco & Health Trust Fund Allocations to DPH

<i>Program/Purpose</i>	<i>Amount</i>
Easy Breathing Program	\$500,000
Adult asthma program within the Easy Breathing Program	150,000
Pilot asthma awareness and prevention education program in Bridgeport	150,000
Cervical and breast cancer	1,000,000
Connecticut Cancer Partnership	5,500,000

OTHER BUDGET PROVISIONS

Special Projects and Private Provider Cost Of Living Increases (§ 11)

The act carries forward an FY 05 contingency appropriation to OPM to FY 06. It requires OPM to distribute specified sums totaling \$8 million to various state agencies and programs for cost of living increases for private providers, and continues to make the funds for that purpose available in FY 07. It also authorizes OPM to spend \$10 million of the contingency funds for special projects during FY 06. But because the provision does not take effect until July 1, 2006 and does not allow the money to be used in FY 07, it appears that OPM cannot spend this \$10 million.

Technical Services Revolving Fund Positions (§ 16)

The act reduces the maximum number of positions that the Department of Information Technology (DOIT) can fill from the Technical Services Revolving Fund from 30 to 19.

Program Accountability Reports (§ 26(b))

The act requires each entity receiving state funds for FY 07 for a new or expanded program to file a preliminary report with the Appropriations Committee through the Office of Fiscal Analysis (OFA) by August 1, 2007 on the program’s purpose or goals and a final report by June 1, 2008 on its results or achievements in light of the purpose or goals. OFA designates the new or expanded programs in its report on the state budget.

Tobacco and Health Trust Fund Allocations (§ 27)

The act transfers \$7.5 million from the Tobacco and Health Trust Fund to the Department of Public Health (DPH) for the programs shown in Table 4. It also transfers \$200,000 from the fund to the UConn Health Center for the Health Professions Partnership Initiative.

Trooper Training Class (§ 28)

The act requires the Department of Public Safety to begin a state trooper training class if the number of sworn personnel falls below 1,200 during FY 07.

Auditors of Public Accounts Authority (§ 31)

The act allows the Auditors of Public Accounts to audit trust accounts maintained by state marshals.

Labor Department Federal Funds Earmarks Eliminated (§ 45)

The act eliminates requirements that the Labor Department use specified amounts from \$18 million in federal funds credited to the state’s account in the Unemployment Trust Fund for federal FY 02 for various specified information technology and electronic data projects.

Hardship Grants to Hospitals (§ 49)

The act allows the DSS commissioner to spend up to \$11 million for hardship grants to hospitals (1) to avoid their substantial financial deterioration expected to adversely affect patient care and (2) for their continued operation. The DSS commissioner determines the grant amounts in consultation with the public health commissioner, the Office of Health Care Access, and the Connecticut Health and Educational Facilities Authority executive director. In awarding grants, the commissioner must consider at least:

1. how much patients eligible for state assistance use the hospital,
2. its licensure and compliance history, and
3. the reasonableness of its actual and projected revenues and expenses.

Hospitals applying for grants must submit plans to the commissioner describing operating savings and increases in nongovernmental revenues. The commissioner can require or accept plan modifications. Hospitals must file quarterly reports on plan implementation. If they fail to do so, the DSS commissioner can stop their grant payments. The act also requires the commissioner to file quarterly reports with the Appropriations and Human Services committees. The commissioner’s reports must identify

each hospital asking for an increase, the increase amount, and the commissioner's action in each case.

Critical Access Hospital Account (§ 50)

The act eliminates a \$1 appropriation for FY 07 to the critical access hospital account. A "critical access" hospital is one that is used intermittently, deployed at the discretion of the governor or her designee, for training or in the event of a public health or other emergency for isolation or triage during a mass casualty event. By law, DSS must use the account to fund a critical access hospital's operation if it is activated.

Medicaid Funds (§ 52)

The act makes federal funds that the state receives from the Centers for Medicare and Medicaid Services in FYs 06 and 07 as reimbursement for DSS expenditures because of Medicare Part D transition issues arising between January 1 and March 31, 2006 available for the Medicaid Program for FY 07. It also allocates funds recouped during FYs 06 and 07 from managed care organizations because of the behavioral health carve-out to the Medicaid Program for FY 07.

REPEALED BUDGET PROVISIONS (§ 91)

Higher Education Reductions

The act eliminates a requirement that the higher education constituent units reduce operating expenses by specified amounts in FY 07 and that the amounts lapse and be credited to the General Fund. The mandatory lapses eliminated are: \$832,500 for UConn, \$312,500 for the UConn Health Center, \$542,500 for the community-technical colleges, and \$592,500 for Connecticut State University.

Transfer From Energy Conservation and Load Management Funds

The act eliminates a requirement that electric companies transfer \$1 million per month from August 1, 2006 through July 31, 2007 from their energy conservation and load management funds to the state General Fund. Revenue for these funds comes from assessments on electric bills.

FY 06 DEFICIENCIES AND CARRYFORWARDS

Appropriations for FY 06 (§ 53)

The act appropriates money in three state funds to cover deficiencies in FY 06 appropriations. Total deficiency appropriations for each fund are shown in Table 5:

Table 5: FY 06 Deficiency Appropriations By Fund

<i>Fund</i>	<i>Total Appropriation</i>
General Fund	\$26,038,000
Special Transportation Fund	920,000
Regional Market Operation Fund	42,000

FY 06 Appropriations Increases

The act increases FY 06 appropriations and carries forward the funds to FY 07 as shown in Table 6.

Table 6: FY 06 Appropriations Increases Carried Forward

<i>\$</i>	<i>Agency</i>	<i>Amount</i>	<i>For</i>
54 (b)	Dept. of Public Health	Unspent balance	Breast and Cervical Cancer Detection and Treatment account
57	OPM	Unspent balance	Energy contingency
58	Public Defender Services Commission	Up to \$256,000	Expert witnesses
59	Legislative Management	404,000	Personal services
60	Legislative Management	1,119,000	Other expenses
61	Legislative Management	400,000	Equipment
62	Legislative Management	Unspent balance	Flag restoration
63	Legislative Management	Unspent balance	Minor Capitol improvements
64	Legislative Management	Up to 180,000	Not specified

FY 06 Fund Transfers

The act transfers funds among various line items and accounts for FY 06 as shown below (Table 7).

Table 7: FY 06 Fund Transfers

<i>\$</i>	<i>Agency</i>	<i>Amount</i>	<i>From</i>	<i>To</i>
54 (a)	Public Health	\$645,000	AIDs Services account	Breast and Cervical Cancer Detection and Treatment account
55 (a)	Mental Health and Addiction Services	450,000	General Assistance managed care	Workers' compensation claims
55 (b)	Mental Health and Addiction Services	150,000	Professional services	Workers' compensation claims
55 (c)	Mental Health and Addiction Services	60,000	Professional services	Nursing home screening
55 (d)	Mental Health and Addiction Services	35,000	Professional services	Jail diversion
56 (a)	Correction	900,000	Workers' compensation claims	Personal services
56 (b)	Correction	600,000	Other expenses	Personal services
56 (c)	Correction	400,000	Parole staffing and operations	Personal services

INCOME TAX

Property Tax Credit (§ 79)

The act increases the maximum property tax credit against the income tax from \$400 to \$500 starting in the 2006 tax year. By law, the credit phases out at the rate of 10% for each \$10,000 (each \$5,000 for married taxpayers filing separately) of additional adjusted gross income (AGI) over specified levels, which vary by filing status. The maximum credits for various income levels under prior law and the act are shown in Table 8 below.

Table 8: Maximum Property Tax Credit Phase-Out Schedules By Filing Status

CT AGI		MAXIMUM CREDIT	
Married Filing Jointly			
<i>Over</i>	<i>But Not Over</i>	<i>Prior Law</i>	<i>The Act</i>
\$0	\$100,500	\$400	\$500
100,500	110,500	360	450
110,500	120,500	320	400
120,500	130,500	280	350
130,500	140,500	240	300
140,500	150,500	200	250
150,500	160,500	160	200
160,500	170,500	120	150
170,500	180,500	80	100
180,500	190,500	40	50
Over \$190,500		0	0
Married Filing Separately			
<i>Over</i>	<i>But Not Over</i>	<i>Prior Law</i>	<i>The Act</i>
\$0	\$50,250	\$400	\$500
50,250	55,250	360	450
55,250	60,250	320	400
60,250	65,250	280	350
65,250	70,250	240	300
70,250	75,250	200	250
75,250	80,250	160	200
80,250	85,250	120	150
85,250	90,250	80	100
95,250	100,250	40	50
Over \$100,250		0	0
Single			
<i>Over</i>	<i>But Not Over</i>	<i>Prior Law</i>	<i>The Act</i>
\$0	\$55,000	\$400	\$500
55,000	65,000	360	450
65,000	75,000	320	400
75,000	85,000	280	350
85,000	95,000	240	300
95,000	105,000	200	250
105,000	115,000	160	200
115,000	125,000	120	150
125,000	135,000	80	100
135,000	145,000	40	50
Over \$145,000		0	0
Head of Household			
<i>Over</i>	<i>But Not Over</i>	<i>Prior Law</i>	<i>The Act</i>
\$0	\$78,500	\$400	\$500
78,500	88,500	360	450
88,500	98,500	320	400
98,500	108,500	280	350
108,500	118,500	240	300
118,500	128,500	200	250
128,500	138,500	160	200
138,500	148,500	120	150
148,500	158,500	80	100
158,500	168,500	40	50
Over \$ 168,500		0	0

Deduction For Contributions To CHET (§§ 76-78)

The act allows taxpayers to deduct contributions to the Connecticut Higher Education Trust (CHET), which is Connecticut’s state-sponsored college savings plan, from their Connecticut AGI for state income tax purposes. It limits annual deductions to \$5,000 for individual taxpayers and \$10,000 for joint filers. It allows taxpayers to carry forward any unused deductions for contributions on or after January 1, 2006 for the five following years as long as each deduction does not exceed the annual maximum.

BUSINESS TAXES

Corporation Tax Surcharge (§§ 66 & 67)

The act eliminates a 15% corporation tax surcharge for the 2007 income year. The surcharge applies to all corporations except those that owe only the \$250 minimum tax. The 20% surcharge for 2006 remains in effect.

Municipal Electric Company Gross Earnings Tax (§§ 68-73)

The act applies the same gross earnings tax rates to municipal electric utilities as to all other electric companies. Instead of paying a 4% tax on gross receipts from their residential customers and 5% on those from nonresidential customers, the act requires municipal electric companies to pay 6.8% on their gross receipts from transmitting power to residential customers and 8.5% on their nonresidential transmission revenues. Under the act, the municipal utilities’ revenues from generating power are not subject to the tax.

BUSINESS TAX CREDITS

Housing Credit (§ 65)

The act doubles the amount of tax credits available under, and expands the scope of, the state Rental Housing Assistance Trust Fund Program, popularly known as the Housing Tax Credit Program. Under this program, the Connecticut Housing Finance Authority (CHFA) allocates tax credits to businesses that contribute funds to nonprofit housing organizations developing low- and moderate-income housing.

The act increases the total amount of tax credits CHFA can annually award from \$5 million to \$10 million. It increases, from \$400,000 to \$500,000, the maximum amount per fiscal year that nonprofit housing organizations may use to develop housing for low- and moderate-income people. It also increases, from \$1 million to \$2 million, the amount of tax credits that

CHFA must set aside for the Supportive Housing Pilots Initiative or the Next Steps Initiative; the act adds the latter. These programs provide housing for people and families affected by psychiatric disabilities and chemical dependency who are homeless or risk homelessness, and for supervised ex-offenders with mental health needs, among others. The Next Steps Initiative was established in 2006 as phase II of the Supportive Housing Pilot.

The act also requires CHFA to set aside \$1 million of the tax credits for workforce housing and to develop written procedures defining workforce housing. CHFA is already required to adopt written procedures to implement the tax credit program.

Insurance companies, hospitals, medical services corporations, air carriers, railroad companies, cable and community antenna companies, utility companies, and any business that pays the corporation tax are eligible for tax credits.

Job Creation Credit (§ 80)

Credit. The act establishes a credit against the insurance premium, corporation, or utility company tax for companies that (1) relocate to Connecticut; (2) create at least 50 new, full-time jobs here; and (3) hire new employees for those jobs and keep them employed for at least 12 months. The credit equals up to 25% of the state income tax withheld from the new employees' wages. For each new employee, the credit applies for five consecutive years. The act limits the annual credits for all companies awarded in any one fiscal year to \$10 million. Credits must be taken in the same income year they are earned. Unused credits expire.

Companies must apply to the Department of Economic and Community Development (DECD) commissioner for the credits. The commissioner may approve full or partial credits only if the proposed company relocation (1) is not economically viable without the credits and (2) provides a net benefit to economic development and employment in the state.

Eligible Companies and Jobs. To be eligible for the credit, a company must not have been conducting business in Connecticut before applying for eligibility. The jobs to which the credit applies must (1) have not existed in Connecticut before the application, (2) require at least 35 hours of work per week and not be temporary or seasonal, and (3) be filled by newly hired employees. An employee who worked in Connecticut for a related party to the applicant within the preceding 12 months is not eligible. (See Displaced Worker Credit, below, for an explanation of "related party.")

Application and Approval Procedure. Taxpayers seeking the credit must apply to the DECD commissioner on the commissioner's form. The application must contain enough information about the

relocation to demonstrate that it is financially viable and will provide net benefits for the economy of the host municipality and the state. Applicants must provide a detailed description of the type of business, number of new jobs to be created, relocation feasibility studies or business plans, projected state and local revenue that could result, and any other information needed to evaluate the credit. The act allows the commissioner to impose an appropriate application fee.

The commissioner can approve the credit in whole or in part if he concludes that the relocation is economically viable only with the credit and that the revenue generated from the employment and economic development in the state exceeds both the act's credit and any other credits to be taken. If the commissioner rejects the application, he must explain his reasons. The commissioner must decide within 90 days of receiving an application. The commissioner can combine the credits with financial and other assistance to the business.

Procedure for Claiming Credits. When he approves an application for a credit, the DECD commissioner must issue an allocation notice. Within 30 days of the end of the taxpayer's income year, the taxpayer must give the commissioner information about the number of new jobs created during the year and the income taxes withheld from the new employees' wages for the year. The commissioner must, within 60 days after the close of the taxpayer's income year or 30 days after the taxpayer provides the required information, whichever comes first, issue an eligibility certificate that includes the taxpayer's name, number of new jobs created, and the amount of the credit for the year. Upon request, the commissioner must give the Department of Revenue Services (DRS) commissioner a copy of the eligibility certificate.

Recapture Provision. If the number of new employees falls below that for which a taxpayer claimed credits and they are not replaced by other new employees (excluding employees transferred from another location or from a related party), the act requires the taxpayer to repay ("recapture") the credit according to the following schedule: 90% of the credit if the company defaults after one year, 65% after two, 50% after three, and 30% after four. The commissioner must give both the taxpayer and the DRS commissioner notice of the repayment amount.

Displaced Worker Credit (§ 81)

Credit Amount. The act gives a \$1,500-per-worker business tax credit to companies that, on or after January 1, 2006, hire workers who (1) were employed in Connecticut and (2) were let go by a previous employer as a direct result of a business restructuring in which at least 10 Connecticut workers were terminated

by the same employer. To receive a credit, the new employer must (1) pay the workers at least 75% of their previous annual wages or salary for the first 12 months of employment; (2) not be, or at the time of termination have been, related to the old employer; and (3) not, for the same worker, claim both the act's credit and an existing credit for hiring a displaced electric utility worker.

The credit applies against the insurance premium, corporation, and utility company taxes. It is allowed for the income year during which the displaced worker completes his first 12 months of employment with the taxpayer. The credit cannot exceed the total tax due. The act allows only one credit per qualifying worker.

“Related Party” and “Related Person.” For purposes of eligibility for the job creation and displaced worker tax credits, the act considers an entity to be a related person or party to a taxpayer if (1) the taxpayer controls it, (2) it is a business or trust controlled by another person or entity that the taxpayer controls, or (3) it is a member of the same controlled group as the taxpayer. A company is considered to be “controlled” by someone if he directly or indirectly owns more than 50% of the combined voting power of all classes of its stock or more than 50% capital or profit interest in it. In the case of a trust, control means owning 50% or more of the beneficial interest of the trust's principal or income. Ownership is defined as in federal income tax law.

Historic Structures Credit (§ 82)

Credit. The act authorizes \$15 million a year in business tax credits for expenses to rehabilitate historic commercial and industrial properties for residential use. Property owners may apply for and claim the credits, which may equal up to 25% of the qualified rehabilitation costs but no more than \$2.7 million. Owners can claim the credits themselves or transfer them to others.

Credit holders may claim a credit in the tax year when the property receives its certificate of occupancy. They may carry forward unused credits for the five succeeding years. For multiphase projects, credit holders may claim a part of the credit in proportion to that part of the project that received a certificate of occupancy. The act's credit is separate from a similar existing credit for rehabilitating owner-occupied historic homes.

Eligibility. Individuals, limited liability companies, nonprofit and for-profit corporations, and other business entities are eligible if they have title to the property and rehabilitate it. The property must be (1) listed individually on the National Register of Historic Places or (2) located in a district listed in the National or State Register of Historic Places. In addition, the Connecticut

Commission on Culture and Tourism (CCCT) must have certified that the property contributes to the district's historic character.

Accessing the Credits. The act establishes a two-step process for accessing the credits. An owner must ask the CCCT to reserve credits on his behalf before he starts rehabilitating the property. He must submit the construction plans and specifications, which must provide enough detail for the CCCT to determine if the work meets its standards. The act requires the CCCT to adopt standards, including those for determining if the work preserves the structure's historic character.

The owner must also provide an estimate of the project's “qualified rehabilitation expenditures,” which include all costs other than the owner's personal labor; new additions not needed to comply with building and fire safety codes; and architectural, legal, and financing fees and other nonconstruction costs. CCCT can reserve credits for an owner who has already started rehabilitation, as long as he did not substantially complete the project before July 1, 2006 and the rehabilitation plan meets its standards. The CCCT may charge owners requesting credit reservations an application fee of up to \$10,000 to cover the cost of administering the credits.

An owner must notify the CCCT when he finishes rehabilitating the structure, show that he actually completed the work, and certify the costs he incurred. The CCCT must review his documents and verify whether the work complies with the rehabilitation plan. If so, the CCCT must issue a credit voucher to the owner or to the taxpayer he named as contributing to the rehabilitation (credit holder).

Using Credits. A credit holder can claim the credit by attaching the voucher to his tax return. He can use the credit against the corporation tax, similar taxes on air carriers and insurers, or the tax on railroad, express, telegraph, cable, cable TV, and utility companies. He can do so in the tax year when the substantially rehabilitated certified structure is placed in service. This happens when the qualified rehabilitation expenditures exceed 25% of the structure's assessed value and the building official issues a certificate of occupancy, which can be for the entire structure or individual dwelling units completed as part of a multiphase project.

Multiple owners of a certified structure must pass credits through to designated partners, members, or owners on either a pro rata basis or according to an agreement among them, regardless of their other tax or economic attributes. The credit holder can carry forward any unused portion of the credit for the next five years or until the full credit is used, whichever happens first.

CCCT must adopt regulations to administer the credits. Regulations must include procedures for applying, criteria for rating projects, and provisions for timely credit approval.

Changes in Movie and Digital Media Production Credit (§ 83)

The act makes several changes in the movie and digital media production tax credit adopted in PA 06-83.

Credits. The act eliminates the 25% production expense credit for companies that incur between \$50,000 and \$1 million of eligible costs in Connecticut. It applies the 30% credit to all such eligible costs that exceed \$50,000, instead of only to such costs over \$1 million. It eliminates the separate 25% wage credit for compensation an eligible production company pays to an employee or independent contractor who is a Connecticut resident and who provides services to a qualified production.

Qualified Production. Under PA 06-83, only qualified productions are eligible for a tax credit. This act excludes initial pilots, demos, prototype presentations, or informational series programming relating to a qualified production. Trailers, pilots, video teasers, and demos for a product or qualified production are still eligible if they are created primarily to stimulate its sale, marketing, or promotion, or the exploitation of future investment in it.

PA 06-83 excludes productions containing obscene material and performances. This act changes the definition for this material from ones for which federal law requires producers to keep certain records to the state law definition. Under state law, material or a performance is obscene if (1) taken as a whole, it appeals predominantly to prurient interest; (2) it shows or describes a sexual act in a patently offensive way; and (3) taken as a whole, it lacks serious literary, artistic, educational, political, or scientific value (CGS § 53a-193).

Eligible Production Expenses. The act makes several changes in the types of production expenses eligible for a tax credit.

It makes intellectual property acquisition expenses eligible if (1) the property was produced primarily in Connecticut instead of if its holder is either a company authorized to do business here or is a Connecticut resident and (2) the cost of acquiring it is less than 35% of the production cost or expenses incurred in Connecticut, instead of less than 35% of the cash expenditures in the Connecticut production budget.

It makes direct payments to companies and individuals for compensation or purchases eligible only if they are incurred in the state rather than if they are paid to individuals or companies authorized to do business here.

It makes costs for distribution equipment eligible only if the content being distributed was created or produced in the state instead of just being distributed from within Connecticut.

Ineligible Production Costs. Instead of excluding compensation paid to Connecticut resident employees and independent contractors from eligible production costs, the act excludes talent fees for extras, principal day players, and atmosphere, as defined by the Screen Actors Guild, that exceed double scale wages under the guild's current collective bargaining agreements.

Credit Administration. The act eliminates the CCCT's express authority to allow credits for production costs not included in the act or in PA 06-83, although both acts still allow credits for any development, preproduction, production, or postproduction costs if they are (1) incurred in Connecticut and (2) not expressly excluded. It requires CCCT to administer a system of tax credit vouchers for eligible production companies producing a state-certified qualified production.

It requires companies to claim the credit against the corporation tax in the income year in which CCCT grants final certification to a qualified production. If a production company sells, assigns, or otherwise transfers a production tax credit to another taxpayer, both must jointly submit a written notification to the CCCT within 30 days after the transfer. The notice must include the credit certification number, transfer date, amount of the credit transferred, credit balance before and after the transfer, transferor's and transferee's tax identification numbers, and any other information the commission requires. If the parties fail to comply with the notice requirement, the tax credit is disallowed.

The act requires CCCT to give the DRS commissioner a copy of the transfer notice if she requests it. It also requires the CCCT, rather than the DRS commissioner, to adopt regulations to implement the credit. And it requires CCCT to consult with DRS in adopting the regulations, rather than vice versa.

The act also makes other clarifying and conforming changes.

TAX EXEMPTIONS

Sales Tax Exemption for Aircraft Repair (§ 74)

The act extends existing sales tax exemptions for aircraft repair or replacement parts and aircraft repair services to all aircraft. The exemptions previously applied to aircraft (1) owned or leased by certificated air carriers or (2) with a maximum certificated takeoff weight of 6,000 pounds or more.

Admissions Tax Exemptions (§ 75)

The act exempts from the admissions tax admissions charges for events at (1) Nature's Art, an interactive earth and science nature center near Waterford, and (2) starting November 1, 2006, the Arena at Harbor Yard in Bridgeport and Dodd Stadium in Norwich.

The tax is 10% of most admission charges of \$1 or more, and 6% of movie tickets costing more than \$5. It applies to admission charges for movies, theaters, sporting events, amusement parks, and similar places and events. Many venues and types of events were already exempt.

Property Tax Exemption for Manufacturing Machinery And Equipment (MME) (§§ 84 & 85)

Recycling Equipment. The act adds equipment used in recycling acquired on or after July 1, 2006 to the types of equipment covered under both the existing five-year MME property tax exemption and the new permanent exemption enacted in PA 06-83. It defines "recycling" as processing solid waste to reclaim material from it.

Exemption for Six-Year-Old and Older MME. The act makes it clear that the percentage tax exemption that applies during the five-year tax-exemption phase-in established in PA 06-83 to MME that is more than five years old applies to all MME that is more than five years old in each phase-in year, instead of only to MME that is six years old in each phase-in year. It also specifies that the exemption and its phase-in covers MME acquired before October 1, 2002.

Administration. For purposes of state payments in lieu of taxes for the MME covered by the permanent exemption, the act requires towns to certify the MME's assessed value, instead of the amount of property tax due. It makes clear that the certification must cover any MME not eligible for the existing five-year exemption program, not just MME that has passed through the five-year program. It requires towns to certify to the OPM secretary annually by March 15th starting in 2007 instead of by November 15th starting in 2006.

It requires the OPM secretary to certify amounts payable to each municipality annually by December 15th starting in 2007, instead of no later than 30 days before the tax is due to the municipality. It requires the comptroller to order the treasurer to pay the amounts within five business days after the certification instead of no later than 14 days before the tax is due. And it requires the treasurer to pay the town by December 31, instead of within five days before the tax is due.

BACKGROUND

Related Acts

PA 06-83, which this act amends, establishes a corporation tax credit for movie and digital media production costs and exempts all MME from property taxes and reimburses towns for the revenue loss after a five-year phase-in.

PA 06-187 amends this act to change the effective date of the provision appropriating \$394.5 million from the FY 06 surplus for various purposes from July 1, 2006 to upon passage.

PA 06-189—sSB 602*Appropriations Committee**Higher Education and Employment Advancement Committee*

AN ACT ALLOWING PROPERTY TAX EXEMPTIONS FOR CERTAIN LATE FILERS, VALIDATING ACTIONS BY CERTAIN TOWNS, THE JOINT EXECUTIVE AND LEGISLATIVE NOMINATIONS COMMITTEE AND THE CONNECTICUT STATE UNIVERSITY SYSTEM, CLARIFYING APPROVAL PROCEDURES FOR THE PURCHASE OF STATE LAND AND THE URBAN AND INDUSTRIAL SITE REINVESTMENT PROGRAM, AND AMENDING A PROGRAM PROVIDING TAX CREDITS FOR BUSINESS EMPLOYMENT EXPANSION PROJECTS

SUMMARY: This act makes changes in the legislative process for approving (1) sales or transfers of state land and (2) urban and industrial site projects that receive state tax credits totaling more than \$20 million. It includes urban and industrial site tax credits when measuring the state economic development assistance threshold that subjects a project to certain statutory accountability requirements. Prior law used only grants or loans to measure whether the project is subject to the requirements.

The act eliminates the employer-assisted housing tax credit against the corporation and other business taxes. A business could claim a credit equal to the amount, up to \$100,000 for any income year, it paid into a revolving loan fund to provide loans for housing to its low- and moderate-income employees or those of a subsidiary. Aggregate credits were limited to \$1 million annually.

The act makes several small changes to the provision of PA 06-187 that allows certain businesses that are not corporations to pass through to their corporate general or limited partners or members any corporation tax credits for which they would qualify if

they were corporations.

The act also allows several people and organizations to receive property tax exemptions for particular assessment or grand list years even though they missed application filing deadlines for the exemptions. It approves otherwise valid actions by state and local institutions and authorities that did not follow certain statutory requirements.

Finally, the act eliminates the UConn Board of Trustees' authority to charge an annual fee of up to \$300 for privately owned vehicles to park in any of up to 640 parking spaces in a parking lot immediately adjacent to the UConn Health Center.

EFFECTIVE DATE: October 1, 2006 for the provisions relating to state land sales and urban industrial site projects; upon passage for the remaining provisions. The changes in the corporation tax credit pass-through provision of PA 06-187 apply to employment enhancement projects with commencement dates on or after September 1, 2005.

LEGISLATIVE APPROVAL FOR SALES OR OTHER TRANSFERS OF STATE LAND (§ 17)

The act extends the time the Government Administration and Elections and the Finance, Revenue and Bonding committees have to act on a request from the public works commissioner to transfer state land from 15 days to 30 days after they receive it. It also requires the commissioner to resubmit the request if it is altered in any way, or withdrawn, after he first submits it, and gives each committee 30 days from the date of the resubmission to act on it.

As under prior law, the request is considered approved if a committee does not act within the deadline. The act extends this default approval to any resubmission on which a committee fails to act in time.

URBAN AND INDUSTRIAL SITES TAX CREDIT APPROVAL (§ 18)

By law, the Department of Economic and Community Development (DECD) commissioner must obtain legislative approval for any single urban or industrial site project that would receive more than \$20 million in tax credits. He must submit the approval request to the Finance, Revenue and Bonding Committee. The act gives the committee 30 days from the date the commissioner submits the project to act on it and expressly requires the committee to recommend whether to approve or disapprove the credits. Prior law was not clear on how long the committee had to act or what it should recommend.

The act requires the commissioner to resubmit the project if it is altered in any way, or withdrawn, after he first submits it, and gives the committee another 30 days

from the resubmission date to act. It specifies that, if the committee fails to act within the required time, it is considered to have approved the investment.

The act eliminates a requirement that a project is considered approved unless the full House or Senate rejects it within 60 days after the commissioner submits it. Instead, it gives the House or Senate 30 days after the Finance Committee makes its recommendation to meet and disapprove the credits. If they do not do so, the DECD commissioner can issue the credit certificate for the project.

The act also eliminates a provision apparently requiring the commissioner to recommend to the House speaker and the Senate president pro tempore whether to approve or reject the project.

ACCOUNTABILITY REQUIREMENTS (§ 19)

By law, "threshold projects" are subject to enhanced accountability requirements when they receive state economic development assistance (see BACKGROUND). A threshold project is one that has (1) 25 or more full-time employees and receives at least \$250,000 in economic development aid or (2) 100 or more full-time employees and receives at least \$1 million in economic aid. Prior law counted only grants and loans to determine whether a project reaches the threshold. The act also counts the industrial or urban sites reinvestment tax credits a project receives.

EMPLOYER-ASSISTED HOUSING TAX CREDIT (§ 23)

The act eliminates the employer-assisted housing tax credit, which allowed employers to claim a credit of up to \$100,000 in any tax year for contributions to a revolving loan fund used for housing loans for their low- and moderate-income employees.

Insurance companies, hospitals, medical services corporations, air carriers, railroad companies, cable and community antenna companies, utility companies, and any business that pays the corporation tax were eligible for tax credits. Companies could not get credits for activities that are part of their normal course of business. The total amount of tax credits granted annually to all businesses participating in the program was limited to \$1 million.

The Connecticut Housing Finance Authority (CHFA) administered the program. CHFA could make loans to pay (1) housing costs for a principal residence that falls within 150% of its program price guidelines and (2) security deposits and advance payments for rental housing. Businesses wishing to participate had to apply to CHFA by November 1 annually. CHFA had to select the participants randomly from qualified businesses. Businesses could carry unused credits either

forward or backward for five calendar or fiscal years until they were used up.

CORPORATION TAX CREDIT PASS-THROUGH CHANGES (§§ 20-22)

The act makes three substantive changes and one technical correction in the provisions of PA 06-187 concerning corporation tax credit pass-through authorizations. PA 06-187 allows a sponsor of an “employment enhancement project” to, for a limited time, pass through to its corporate general or limited partners or members the benefits of any corporation tax credits the sponsor would qualify for if it was a corporation.

Under PA 06-187, a qualifying employment enhancement project must bring at least 400 new jobs to Connecticut. This act defines a “new job” as one that did not exist before the project commencement date established by the DECD commissioner, instead of before the sponsor’s application for a pass-through credit eligibility certificate. It also allows a noncorporate project sponsor to receive pass-through credits for income years starting on or after the commencement date in its eligibility certificate rather than for each of the five income years following the one in which the commencement date falls.

Finally, the act eliminates a 30-day deadline for notifying the DECD commissioner if one of a sponsor’s constituent corporations transfers a pass-through credit to another. Under PA 06-187 and this act, both corporations must jointly notify the commissioner of any such transfer.

PROPERTY TAX EXEMPTION DEADLINE EXTENSIONS (§§ 1-12)

The act allows several people and organizations to receive property tax exemptions for particular assessment or grand list years even though they missed their application filing deadlines.

Manufacturing Machinery and Equipment (MME) & Manufacturing and Service Facilities

The law grants a five-year, state-reimbursed property tax exemption for (1) new and newly acquired MME; (2) manufacturing and service facilities in targeted investment communities or enterprise zones; and (3) and new and newly acquired MME and service facility equipment in distressed municipalities, targeted investment communities, or enterprise zones.

Property owners must apply to local assessors for these exemptions by November 1 annually. The act waives the deadline for property owners in the towns and for the grand lists shown in Table 1, if they apply within 30 days of the act’s passage and pay the statutory late fee.

Table 1: Exemption Application Deadline Waivers

<i>Act §</i>	<i>Town</i>	<i>Grand List(s) or Assessment Year(s)</i>
2	Killingly	2003, 2005
3	Waterbury	2004
4	Watertown	2005
5	New Haven	2004
7	Bloomfield	2005
8, 9	Milford	2002, 2003, 2004
10	Farmington	2003
11, 12	Bridgeport	2004

In each case, the act requires the local assessor to refund any taxes paid on the property and requires the state to reimburse the town for the tax loss under the applicable statutes.

MME Exemption Audit

The act also extends the deadline for a Bloomfield person otherwise eligible for an MME exemption for the 2003 grand list to appeal an Office of Policy and Management secretary’s audit and adjustment relating to the exemption. The person must file a proper appeal within 30 days of the act’s passage. If the secretary approves the exemption, the local assessor must refund any taxes paid on the property and the state must reimburse the town for the revenue loss under the applicable statute.

Nonprofit Organizations

The law exempts real property belonging to, or held in trust for, scientific, educational, literary, historical, or charitable organizations and used exclusively for those purposes from local property taxes. It requires each exempt organization to file an exemption statement with its local assessor every four years by November 1. The act allows specified organizations to keep their exemptions for the 2005 grand list despite missing the deadline, if they file their statements within 30 days after the act passes and pay the \$35 statutory late fee.

VALIDATIONS (§§ 13-16)

The act validates various actions taken by state and local institutions and authorities as shown in Table 2:

Table 2: Validations

§	Agency or Institution	Action Validated
13	Westport assessor and board of assessment appeals	Hearings and determinations regarding taxes to be levied and collected, even though hearings were not held within statutory time limits.
14	General Assembly	Confirmation of legislative and executive nominations during the 2006 session even though the legislature did not act within 10 days of the Executive and Legislative Nominations Committee's report.
16	Connecticut State University (CSU)	Actions taken before January 1, 2006 to perform repairs, alterations, or additions costing more than \$1 million to facilities supported by the CSU Operating Fund without approval of either the General Assembly or the Finance Advisory Committee.

The act also validates East Hampton's designation as a public investment community for FY 06 instead of for FY 07.

BACKGROUND

Related Acts

PA 06-186 requires CHFA to set aside \$1 million for workforce housing within the Housing Tax Credit program. That program provides business tax credits to businesses that contribute to nonprofit organizations developing low- and moderate-income housing.

If it sponsors a qualifying "employment expansion project," PA 06-187 allows a partnership, limited partnership, limited liability company, or other type of pass-through business in which one or more corporations have or had an interest as general or limited partners, members, or otherwise, to pass through to these constituent corporations any corporation tax credits for which the pass-through business would qualify if it were a corporation.

Accountability Requirements for Threshold Projects

The accountability law for threshold projects requires the state entity awarding the assistance to state in writing the public policy objectives of the assistance program. It requires each business asking for funds to explain how its proposal will further that policy and whether and how it has included municipal officials and employee groups in its project planning. Agencies must consider this information in determining whether to

provide assistance.

The agency must include provisions in the project assistance contract limiting the business's use of the funds to the purposes for which it was approved and establishing penalties for violating the contract. The penalties may include liquidated damages. If the business violates the contract by misusing the funds, the agency must enforce the penalties and provide no further aid until the violation is resolved.

Assistance recipients must to report annually on their progress in meeting the policy objectives they agreed to. The law also allows local officials and employee groups to submit comments to the legislative committees that review the awarding agencies' biannual program reports and allows the public to obtain limited information on pending requests for assistance.

PA 06-190—sHB 5723*Appropriations Committee*

AN ACT AUTHORIZING MEMBERS OF THE TEACHERS' RETIREMENT SYSTEM TO CONTRIBUTE TO RETIREMENT INCENTIVE PLANS FOR TEACHERS AND TO PURCHASE RETIREMENT CREDIT FOR CERTAIN SERVICE AS ASSISTANT SOCIAL WORKERS

SUMMARY: This act makes several changes in the Teachers' Retirement System (TRS). It:

1. allows a local school board and its teachers to share the cost of an early retirement incentive program;
2. extends the deadline for the Teachers' Retirement Board (TRB) to start paying monthly benefits after a teacher retires;
3. gives a surviving spouse a choice of benefits if a teacher who has already filed for retirement dies before the retirement takes effect;
4. allows teachers to purchase TRS credit for two types of nonteaching service; and
5. makes retired teachers and their spouses, surviving spouses, or disabled dependents eligible to participate in TRB's health plan only if they are participating in both Medicare Part A hospital insurance and Medicare Part B medical insurance instead of just the former.

EFFECTIVE DATE: July 1, 2006

RETIREMENT INCENTIVE PROGRAMS

By law, school boards may establish retirement incentive programs for their teachers by purchasing up to five years of additional service credit in TRS for teachers who accept the incentive. Under prior law,

school districts had to pay 100% of the cost of purchasing the extra service credit. The act allows participating teachers to pay up to 50% of the cost. It specifies that payments for the additional service credit must be made in a lump sum before the teacher retires, although it does not change an existing law that allows the payments to be made in equal annual installments.

The act also eliminates a requirement that TRB notify a teacher in writing when a school board purchases additional service for her.

DEADLINE FOR STARTING RETIREMENT BENEFIT PAYMENTS

The law requires TRS benefit payments to begin on the last day of the month following the calendar month in which a teacher filed a complete formal retirement application. But the act allows the TRB to pay a new retiree his first monthly benefit payment up to three months after the effective date of his retirement. The payment must be retroactive to the retirement date.

SURVIVING SPOUSE CHOICE OF BENEFITS

If a teacher who has filed for retirement dies before the retirement takes effect, the act allows his spouse to choose to receive either (1) the teacher's pre-retirement benefits, which includes either a lump sum death benefit or return of the teacher's contributions plus interest, or (2) the benefit payment option the deceased teacher chose on his retirement application. The option applies only if the deceased teacher designated his spouse as his sole beneficiary on his retirement application.

NONTEACHING SERVICE PURCHASE AUTHORIZATIONS

The act allows TRS members to purchase up to 10 years of service credit in the system for (1) Connecticut public school service as a social work assistant between January 1, 1969 and December 31, 1986 and (2) service in the Volunteers in Service to America (VISTA) program. The social work service purchase authorization applies only to members who became certified school social workers and remained in public school service as social workers after becoming certified.

PA 06-10—sSB 226

Banks Committee

AN ACT CONCERNING BANK AND CREDIT UNION APPLICATIONS AND PUBLIC DEPOSITS

SUMMARY: This act:

1. eliminates the application fee for the acquisition, alteration, or improvement of real estate associated with establishing an out-of-state branch;
2. reduces the time period for which a bank is required to publish a notice of hearing for incorporation;
3. requires banks to provide the Banking Department with copies of any changes to their certificates of incorporation;
4. increases the maximum amount a bank can spend on real estate without the banking commissioner's approval;
5. specifies the authority for and circumstances under which a public depository may reduce the amount of eligible collateral maintained to secure public deposits; and
6. extends the time for review of certain credit union documents.

EFFECTIVE DATE: Upon passage

APPLICATION FEE FOR THE ACQUISITION OF REAL ESTATE (§ 1)

Under prior law, a Connecticut bank had to pay a \$500 fee when it applied to acquire, alter, or improve real estate for its present or future use. The act eliminates the fee if the application is for establishing a branch or limited branch outside of the state. The fee was already waived for an application filed in connection with an application to establish a branch or limited branch in the state.

NOTICE OF HEARING ON APPLICATION TO ORGANIZE A BANK (§ 2)

The law requires that there be a hearing on an application to organize a Connecticut bank. The banking commissioner issues the order designating the time and place of the hearing after receiving certain documentation. The act requires the organizers to publish a copy of the order for hearing for three business days starting at least 20 days before the hearing, instead of publishing the proposed certificate of incorporation for a week at least 20 days before the hearing as required under prior law.

CORPORATE DOCUMENTS (§ 3)

The act requires a Connecticut bank to promptly file any changes made to its certificate of incorporation with the banking commissioner. The law already requires a bank to file any changes made to its bylaws.

WRITTEN PERMISSION FOR ALTERATION OR IMPROVEMENT OF REAL ESTATE (§ 4)

Under the law, a bank does not need the commissioner's written permission to alter or improve real estate it owns if the bank spends in one calendar year, less than the smaller of 5% of its equity capital and reserves for loan and lease losses or \$500,000. The act extends the provisions to real estate leased by the bank and increases from \$500,000 to \$750,000 the amount a bank may use to acquire, alter, or improve real estate in a year without the commissioner's written approval.

QUALIFIED PUBLIC DEPOSITORIES (§ 5)

Qualified public depositories include credit unions as well as Connecticut and out-of-state banks with branches in Connecticut that receive or hold public deposits and collateral for such deposits. The law permits depositories to substitute eligible collateral at any time without notice. It also provides that a depository must provide written notice to depositors of any reduction in the amount of eligible collateral. The act specifically gives a depository the right to reduce the amount of eligible collateral that it maintains to secure its public deposits and requires the reduction to be determined based on the amount of all public deposits held by the depository and its risk-based capital ratio as determined under the law.

CREDIT UNIONS (§§ 6-8)

The act authorizes the banking commissioner to extend the typical 30-day review period if he determines that additional information or additional time for analysis is needed to review the following Connecticut credit union documents:

1. proposed amendments to bylaws,
 2. notice of intention to invest funds in or make loans to credit union service organizations, and
 3. applications to establish a branch or mobile branch.
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PA 06-35—SB 227*Banks Committee***AN ACT CONCERNING CHECK CASHERS,
MONEY TRANSMITTERS AND OTHER
NONMORTGAGE LICENSEES****SUMMARY:** This act:

1. extends the period for which money transmitter and check casher licenses are valid from one year to two, adjusts application deadlines and fees accordingly, and prohibits them from using any name other than the one on their license;
2. increases the commissioner's authority to impose penalties on check cashers;
3. changes bonding requirements for money transmitters and debt adjusters;
4. explicitly requires a small loan licensee to apply to the banking commissioner before changing his place of business and substitutes the commissioner's approval or denial of the application for entry of an order permitting or denying the change; and
5. requires consumer collection agency license applicants to provide, within 10 business days, written notification to the banking commissioner of any changes in information contained in their initial or most recent renewal application.

EFFECTIVE DATE: October 1, 2006 for the provisions on check casher and money transmitter licensing procedures and consumer collection agencies. Upon passage for the sections on small loan licensees, the check casher license exemption for Connecticut credit unions, violations of check cashing laws, investments in lieu of bonds for money transmitters, and debt adjusters.

CHECK CASHERS*Application Changes Fees (§§ 4 & 5)*

Initial License Fees. The act raises the initial nonrefundable (1) license fee from \$1,000 to \$2,000 and (2) location fees from \$100 to \$200. If the application is filed less than one year before the license expiration date, the initial license fee remains \$1,000 and the location fee \$100 for each location.

License Period and Renewal. Under prior law, check cashing licenses were valid for one year, running from July 1 to June 30. The act (1) increases the license period from one year to two and (2) changes the beginning and end dates of the license period to October 1 and September 30 respectively, of the odd-numbered year following issuance.

The act changes, from each June 20 to September 1 of the license expiration year, the date by which a licensee must pay the license and location renewal fees and doubles those fees from \$750 to \$1,500 and from \$50 to \$100, respectively, to reflect the extended licensing period.

The act provides that any license renewed effective July 1, 2007 will expire on September 30, 2009, unless renewed. For licenses under the expiration period ending June 30, 2007, the act requires the licensee to pay a renewal license fee of \$1,688 and a renewal location fee of \$113 by July 1, 2007. Finally, the act imposes a \$100 application renewal late fee for applications filed after September 1, or July 1, 2007 for licenses expiring June 30, 2007. The act deems applications filed with the late fee to be timely and sufficient.

Liquid Assets. The act requires licensees to file a report with the commissioner, by September 1 of each even-numbered year, specifying liquid assets available for each check cashing location. A licensee must have at least \$10,000 for each general facility location and at least \$2,500 for each limited facility location.

Connecticut Credit Unions (§ 3)

The act exempts Connecticut-chartered credit unions from check casher licensing laws. The law already exempted (1) any institution subject to and under the general supervision of a federal agency and (2) any Connecticut bank.

Violations of Check Cashing Laws (§6)

The act gives the commissioner the authority to impose a civil penalty or issue a cease and desist order whenever it appears to him that a person is violating, has violated, or is about to violate the check cashing laws and any regulations adopted under those laws. Prior law specifically gave him such authority only for actual statutory violations.

MONEY TRANSMITTERS*Licenses (§§ 7 & 8)*

License Period. Under prior law, money transmitter licenses were valid for one year, running from July 1 to June 30. The act (1) increases the license period from one year to two and (2) changes the beginning and end dates of the license period to October 1 and September 30 respectively, of the odd-numbered year following issuance. For licenses renewed effective July 1, 2007, the act sets the expiration date at September 30, 2009.

The act sets the same license renewal dates and late fee provisions as described above for check cashers.

Fees. The act raises the original license fee from \$1,000 to \$2,000. If the application is filed less than one year before the license expiration date, the fee is \$1,000 and the existing nonrefundable \$500 investigation fee remains the same. The act raises the renewal application fee from \$1,000 to \$2,000, except that, for licenses expiring on June 30, 2007, the fee is \$2,250.

Investments in Lieu of Bonds (§ 9)

Generally, money transmitters must file a surety bond with the commissioner as a condition of getting or keeping a license. The law allows money transmitters to invest the bond amount in lieu of all or part of the principal surety bond. The act requires applicants or licensees to keep the investment funds with banks or Connecticut or federal credit unions they designate and the commissioner approves. The act also requires that investments be kept subject to the conditions the commissioner deems necessary to protect consumers and in the public interest. It requires that the investments be held at the designated bank or credit union to cover claims during the license period and for a period of two years after the license has been surrendered, revoked, terminated, or expired.

Finally, it includes dollar deposits within the law's definition of "investments," which already includes interest-bearing bills, notes, bonds, debentures, and certain other obligations.

DEBT ADJUSTERS

Determining the Surety Bond Amount (§ 10)

By law, the principal amount of the surety bond debt adjusters must file is the greater of \$40,000 or twice the amount of the highest total payments received by the applicant in any month from Connecticut debtors in relation to debt-adjustment activity in the preceding 12-month period. The act changes the start of that 12-month period from March 31 to July 31 of each year. "Debt adjustment" means receiving, as agent of a debtor, money or evidences of money for the purpose of distributing it among creditors in full or partial payment of the debtor's obligations.

PA 06-45—sSB 228

Banks Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING MORTGAGE PRACTICES AND LICENSING PROCEDURES

SUMMARY: This act:

1. makes several changes regarding material misstatements in mortgage originators'

- registration applications,
2. changes the originator registration fee schedule,
3. prohibits first mortgage lenders and brokers from imposing a fee on borrowers for failing to close on a loan and prohibits brokers from imposing a fee for the prepayment of a loan, and
4. expands the group of lenders prohibited from imposing excessive prepaid finance charges on borrowers.

EFFECTIVE DATE: Upon passage, except for the provisions on the originator registration fee schedule, which are effective October 1, 2006.

MATERIAL MISREPRESENTATIONS AND OTHER VIOLATIONS (§§ 1, 2, 4, 7, & 9)

An applicant for a first or second (1) mortgage lender, (2) mortgage correspondent lender, or (3) mortgage broker license must submit an application to the banking commissioner for registration for each of his originators or prospective originators. The act specifies that if any of these licensees file an originator registration application knowing that it contains a material misstatement by the originator, it constitutes a violation of the prohibition against making a false or misleading statement to the commissioner. Penalties for violating the banking laws include an injunction, restitution, a civil penalty of up to \$100,000 per violation, and any other remedy authorized by law.

Under the act, an applicant's material misstatement in an originator registration application or the filing of such an application with knowledge that it contains a material misrepresentation by the originator is a basis for denial of these licenses. The act also makes a material misstatement by the originator the basis for denial of an originator's registration application. Prior law only addressed such an action by the applicant. The material misstatements are also grounds for suspension, revocation, or refusal to renew a license or originator registration because the law allows the commissioner to take such actions for any reason that would be sufficient grounds to deny the license or registration.

Finally, the act makes an originator's general violation of any banking laws or any other laws applicable to the conduct of his business the basis for revoking, suspending, or refusing to renew his registration. The commissioner may already take these steps with regard to licensees for such actions.

ORIGINATOR REGISTRATION FEE (§§ 3 & 8)

First or second (1) mortgage lenders, (2) mortgage correspondent lenders, and (3) mortgage brokers are licensed for a two-year period. Under prior law, the

registration fee for originators associated with these licensees was \$50 for a registration period of up to a year and \$100 for a period between one and two years. The act makes the fee \$100 regardless of when the licensee makes the originator registration application.

FEES IMPOSED ON BORROWERS (§§ 5 & 10)

The act prohibits brokers from imposing any fee, commission, or valuable consideration on a borrower because he prepays his loan principal.

It also prohibits first and second mortgage lenders and brokers from requiring, by agreement or otherwise, a borrower to compensate them for any fees, commissions, or other valuable consideration lost because the borrower did not close on a loan, unless it is collected as an advance fee in accordance with the law.

Under the law, an advance fee given to the lender or broker is refundable unless the parties agree in writing that it is not and the writing includes, among other things, (1) an express statement of the total advance fee to be paid and any part that is nonrefundable and (2) a clear and conspicuous statement of any conditions under which the licensee will retain the advance fee.

PREPAID FINANCE CHARGES (§ 6)

The law already generally prohibited the following groups from charging prepaid finance charges that exceed, in the aggregate, the greater of 5% or \$2,000 on a first mortgage loan:

1. first mortgage lenders, correspondent lenders, and brokers;
2. banks, out-of-state banks, Connecticut credit unions, federal credit unions, or out-of-state credit unions;
3. small loan lenders; and
4. secondary mortgage lenders, correspondent lenders, and brokers.

The act expands the restrictions on prepaid finance charges to persons making five or fewer first mortgage loans within any period of 12 consecutive months.

BACKGROUND

Originators

An “originator” is an individual employed or retained by a first or second mortgage lender or broker to negotiate, solicit, arrange, or find a first or second mortgage loan for, or with the expectation of, a fee, commission, or other valuable consideration.

PA 06-75—sSB 231

Banks Committee

Judiciary Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING VIOLATION OF THE CONNECTICUT BUSINESS OPPORTUNITY INVESTMENT ACT

SUMMARY: This act increases, from \$10,000 to \$100,000, the maximum fine that may be imposed for violations of the Connecticut Business Opportunity Investment Act (CBOIA). It also gives the banking commissioner authority to take administrative or court action against persons who have already violated the act. Prior law gave him such specific authority only when it appeared to him that a person was in the process of violating CBOIA or was about to do so.

The act clarifies that the commissioner can take the above actions if a person is violating, has violated, or will violate CBOIA only after he has conducted an investigation. Prior law did not specifically require investigations.

Finally, the act makes CBOIA’s annual \$100 registration renewal fee nonrefundable.

EFFECTIVE DATE: October 1, 2006

BACKGROUND

Connecticut Business Opportunity Investment Act

State law regulates the sale of a business opportunity. A business opportunity exists where someone offers to sell or lease, or actually sells or leases, products, equipment, supplies, or services to enable the buyer to start his own business.

PA 06-127—SB 229

Banks Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING OUTSTANDING MONEY ORDERS

SUMMARY: This act increases, from three to seven years, the escheat period for an outstanding money order issued or sold in Connecticut on which any business association, except a financial organization, is directly liable. Prior abandoned property law did not specifically address money orders held by business associations in general. All property that is not specifically addressed by the law is presumed abandoned after three years.

Financial organizations are included in the definition of a business association. However, under the law and unchanged by the act, money orders issued by banking and financial organizations are generally presumed abandoned within three years. Therefore, the act applies to money orders issued by any type of business association except a financial organization.

EFFECTIVE DATE: July 1, 2007

BACKGROUND

Definitions

Business Association. The law defines a business association as a corporation; joint stock company; partnership; unincorporated association; joint venture; limited liability company; business trust; trust company; safe deposit company; financial organization; insurance company; person engaged in the business of operating or controlling a mutual fund; or utility or other business entity consisting of one or more persons, whether or not it is for profit.

Banking and Financial Organizations. The law defines a financial organization as any savings and loan association, credit union, or investment company. A banking organization means any state bank and trust company, national banking association, or savings bank engaged in business in the state.

PA 06-165—HB 5298

Banks Committee

Judiciary Committee

AN ACT MAKING TECHNICAL REVISIONS TO VARIOUS STATUTES RELATIVE TO THE BANKING AND SECURITIES LAWS OF CONNECTICUT

SUMMARY: This act makes technical changes in the banking and securities statutes.

EFFECTIVE DATE: Upon passage

PA 06-37—sSB 366

*Select Committee on Children
Human Services Committee
Judiciary Committee*

**AN ACT CONCERNING GRANDPARENT
NOTIFICATION WHEN A CHILD IS REMOVED
FROM THE HOME**

SUMMARY: This act requires the Department of Children and Families commissioner to use her best efforts to identify and notify a child's grandparents no later than 15 days after she removes him from a parent's custody. The act exempts this type of notice from the department's confidentiality law.

The act also allows grandparents to give the commissioner their contact information in order to be notified about the removal of a child who (1) is the subject of a department abuse or neglect investigation or (2) is, or has been, under the department's care or supervision.

EFFECTIVE DATE: October 1, 2006

PA 06-44—sSB 204

*Select Committee on Children
Education Committee
Appropriations Committee
Legislative Management Committee*

**AN ACT PROMOTING THE PHYSICAL
HEALTH NEEDS OF STUDENTS**

SUMMARY: This act requires the State Department of Education (SDE) to develop guidelines to comprehensively address and coordinate students' physical health needs before, after, and during the regular school day. It authorizes all boards of education to use them to develop their own comprehensive, coordinated plans. SDE must develop the guidelines by January 1, 2007; schools may implement their plans in the 2007-08 school year and each year thereafter.

EFFECTIVE DATE: Upon passage

SDE GUIDELINES

The act requires SDE to consult with (1) the chairmen and ranking members of the Education and Children's committees, (2) at least one statewide nonprofit with expertise in child wellness or physical exercise, and (3) the Connecticut Recreation and Parks Association.

The guidelines, which the act specifies are not regulations, must include:

1. daily exercise plans for students (a) during the regular school day and (b) before and after school, in conjunction with local park and recreation departments;
2. strategies to coordinate school-based health education, services, and programs;
3. procedures to gauge the need for community based services, including those offered by school-based health clinics, family resource centers, after-school programs, and park and recreation departments; and
4. procedures to maximize government funding and other resources.

PA 06-71—sSB 4 (VETOED)

*Select Committee on Children
Judiciary Committee*

**AN ACT PROVIDING CERTAIN ADULT
ADOPTED PERSONS WITH ACCESS TO
INFORMATION IN THEIR ORIGINAL BIRTH
CERTIFICATES**

SUMMARY: This act requires the Department of Public Health (DPH) to give adopted adults copies of their sealed original birth certificates on request. Prior law barred access without a biological parent's consent or probate court order.

The act also creates a voluntary, non-binding procedure for biological parents to complete a DPH form indicating whether they want to be contacted by their adopted children. DPH must attach completed forms to the sealed birth certificates and make them available to adult adoptees on request.

The act applies to adoptions completed on and after October 1, 2006. Disclosure is not required until these adoptees reach age 21.

The act requires DPH to tell people permitted to get copies of an adopted child's medical history record how to do so and makes minor and conforming changes.

EFFECTIVE DATE: October 1, 2006

**COPIES OF ORIGINAL BIRTH CERTIFICATES (§§
1 & 2)**

The act specifies that requests for original birth certificates may come from either the adult adopted person or, if he is deceased, any of his adult descendants. If DPH is satisfied as to the requestor's identity, it must provide access to and a copy of the sealed original birth certificate.

It must mark the copy with a notation that the birth certificate has been superseded by a replacement. This is the same notation required when a certified copy of a sealed original is issued pursuant to a probate court order.

CONTACT PREFERENCE (§ 2)

DPH must give a contact preference form to any birth parent who requests it. The parent must indicate whether he:

1. would like to be contacted,
2. would like to be contacted only through an intermediary, or
3. does not want to be contacted.

DPH employees authorized to issue birth certificates must attach completed forms to the adopted person's sealed original certificate. The department may provide copies only to (1) adult adoptees or their descendants and (2) the state adoption registry.

HEALTH HISTORY FORMS (§ 2)

By law, the Department of Children and Families and adoption agencies must make reasonable efforts to compile non-identifying information about the biological parents of a child who is placed or free for adoption. This information is disclosable to adult adoptees and birth parents, among others, and may include a health history of the child's parents and blood relatives.

The act requires DPH to tell these people how to get this information from DCF.

BACKGROUND

Sealed Birth Certificates

In most cases, DPH seals the original birth certificate when a probate court notifies it that a child born in Connecticut has been adopted. It prepares a new certificate substituting the adoptive parents' names for those appearing on the original certificate.

PA 06-102—sHB 5011

Select Committee on Children

Human Services Committee

Government Administration and Elections Committee

Labor and Public Employees Committee

AN ACT CONCERNING FAMILY AND MEDICAL LEAVE FOR STATE EMPLOYEES, SERVICES FOR INDIVIDUALS EIGHTEEN YEARS OF AGE AND OLDER IN THE CARE AND SUPERVISION OF THE COMMISSIONER OF CHILDREN AND FAMILIES, PERMANENCY

PLANS FOR CHILDREN, AND EMPLOYMENT ACCOMMODATIONS FOR MEMBERS OF THE GENERAL ASSEMBLY

SUMMARY: This act makes a number of changes to the Department of Children and Families (DCF) laws, most of which could speed up the process of placing foster children in permanent homes. It requires DCF to develop care and treatment plans for young adults who choose to remain under the department's supervision.

The act also:

1. entitles state employees to unpaid leave to care for certain seriously ill non-biological children and
2. alters the law that gives legislators certain job protections.

EFFECTIVE DATE: October 1, 2006, except for the DCF care plan provisions, which are effective upon passage.

DCF STATUTES

Reunification

The act requires DCF to make reasonable efforts to reunify parents and children unless a court has (1) approved a permanency plan with a different goal or (2) found, by clear and convincing evidence, that reunification efforts are not required.

It allows motions for rulings on the necessity of providing further reunification services to be consolidated with termination of parental rights trials, in conformity with current practice.

By law, no reunification efforts are required when the parent has subjected the child to aggravated circumstances. The act makes it a new aggravated circumstance when the parent knowingly permits someone else to (1) sexually molest, exploit, severely abuse, or engage in a pattern of abusing, the child or (2) kill or deliberately cause serious injuries to the child, another child of the parent, or a sibling of the child.

These injuries are already aggravated circumstances when inflicted or attempted by the child's parent or when the parent solicits someone else to inflict them.

The act also makes it an aggravated circumstance if the parent has voluntarily terminated her rights to the child's sibling within the last three years. Prior law considered involuntary terminations only. By law, DCF must make reasonable efforts to reunify the parent and the child for at least 90 days in this situation.

Permanency Plan Options

The act:

1. adds a requirement that permanency plans calling for long-term foster care be limited to placements with licensed or certified relatives,

- and permits other “planned permanent living” arrangements to be permanency plan options;
2. requires DCF to document a compelling reason why it would not be in a child’s best interests to have a permanency plan calling for adoption, long-term relative foster care, or guardianship when it recommends another permanency goal; and
 3. establishes a 60-day deadline for the DCF commissioner to petition for the termination of parental rights when a court approves a permanency plan calling for adoption.

Prior law permitted courts to approve independent living as a permanency goal without finding a compelling reason for doing so.

Permanency Plan Hearings

The act:

1. eliminates a requirement that the court make a finding on whether to seek to reunify a family or maintain or revoke a child’s DCF commitment at each permanency plan hearing, and makes revocation mandatory rather than discretionary when the commissioner, a parent, or a child’s attorney shows that cause for the commitment no longer exists and revocation is in the child’s best interests;
2. requires parties opposing DCF’s permanency plans to include their reasons and a proposed alternative in their opposition motions but retains the agency’s burden of proving that its permanency plan is in the child’s best interests; and
3. requires the court approving a permanency plan of reunification to determine the services DCF must provide to the parent and a timetable for providing them.

Minor Changes

The act:

1. adds a child’s residence with a legal guardian to the definition of “permanent home” in the termination of parental rights statutes; and
2. requires yearly court reviews of permanency plans for as long as a child remains in DCF custody, rather than until the court determines that the adoption plan has been finalized.

Care Plans for Youth Remaining in DCF Care Voluntarily

By law, when a youth in DCF care turns 18 he may choose to remain in DCF’s care and receive services in order to develop skills to live independently. The act

requires DCF to provide such a youth with a written plan of care and treatment and review it every six months. The youth is entitled to an administrative hearing if he objects to the plan’s contents. Prior law did not expressly require this.

FAMILY LEAVE FOR STATE EMPLOYEES

The act allows state employees to take up to 24 weeks of unpaid leave over a two-year period to care for seriously ill:

1. foster, adopted, and step-children;
2. children under their guardianship; and
3. children for whom they stand *in loco parentis* (in place of a parent).

Prior law did not authorize leave for ill non-biological children.

The act also specifies that leave can be taken to care for a child (1) under age 18 or (2) over age 18 if he is incapable of caring for himself because of a mental or physical disability.

GENERAL ASSEMBLY MEMBERS’ WORK SHIFTS

The act revises the law that gives certain job protections to members of the General Assembly who work for employers with at least 25 employees. By law, these employers must give legislators and members-elect whose jobs are performed in shifts a choice of shifts to accommodate their legislative schedule. The act specifies that shift choices must be given at a time that allows both the employer and employee to adjust their respective schedules to accommodate the needs of each.

It specifies that during any regular legislative session, the legislator is not required to choose a shift more than two weeks in advance and, during any special legislative session, the legislator is not required to choose a shift more than one week in advance.

PA 06-164—sHB 5251

Select Committee on Children
Education Committee
Human Services Committee
Appropriations Committee
Public Health Committee
Insurance and Real Estate Committee

AN ACT CONCERNING RECOMMENDATIONS OF THE CHILD POVERTY COUNCIL RELATED TO JOB TRAINING AND CHILD WELLNESS

SUMMARY: This act permits the Office of Workforce Competitiveness (OWC) to establish a pilot program giving parents access to training to develop skills they

need to get and keep jobs. The program is for those with children under age 18 who qualify for, but are not receiving, federal Temporary Assistance to Needy Families (cash welfare) benefits.

It also requires the departments of Social Services (DSS), Public Health (DPH), and Mental Health and Addiction Services (DMHAS) to disseminate information about services provided by the state's Nurturing Family Network.

EFFECTIVE DATE: July 1, 2006

PILOT PROGRAM

If established, the OWC pilot program must operate within available appropriations. The skills and credentials it may offer include:

1. high school diplomas, GEDs, and alternative degrees;
2. English as a second language; and
3. vocational training.

DISSEMINATING INFORMATION ABOUT THE NURTURING FAMILIES NETWORK

The Nurturing Families Network (formerly Healthy Families Connecticut) is a free, voluntary program that, among other things, provides home visiting, guidance, and assistance to first-time parents at risk of abusing or neglecting their children. The act requires the DSS, DPH, and DMHAS commissioners to establish a program to give Healthy Start applicants (low-income, pregnant women seeking medical assistance) information about services provided by the nurturing families program. It also requires DSS to give eligibility and service information to Medicaid applicants.

PA 06-179—sHB 5254

Select Committee on Children

Human Services Committee

Appropriations Committee

Government Administration and Elections Committee

AN ACT CONCERNING STATE INVESTMENT IN PREVENTION AND CHILD POVERTY REDUCTION AND THE MERGER OF THE STATE PREVENTION AND CHILD POVERTY COUNCILS

SUMMARY: This act merges the state's Child Poverty and Prevention councils to create a new Child Poverty and Prevention Council. It imposes new reporting requirements on the governor, executive branch agencies, and the council. It ties the latter council's prevention services to others included in the Child

Poverty Council's plan to reduce child poverty by 50% by June 30, 2014.

The new council terminates on June 30, 2015, as did the Child Poverty Council under prior law.

EFFECTIVE DATE: October 1, 2006

COUNCIL MEMBERS

All prior members of the Prevention and Child Poverty councils are designated under the act as members of the Child Poverty and Prevention Council. These are:

1. the Office of Policy and Management secretary, who serves as chairperson;
2. the Senate president pro tempore, House speaker, and minority leaders of both chambers;
3. the commissioners of the Children and Families, Social Services, Correction, Mental Retardation, Mental Health and Addiction Services, Transportation, Public Health, Education, Economic and Community Development, and Labor departments;
4. the chief court administrator;
5. the chairmen of the Board of Governors for Higher Education and Children's Trust Fund;
6. the child advocate; and
7. the executive directors of the commissions on Children and Human Rights and Opportunities.

Members can designate others to serve in their place.

NEW COUNCIL FUNCTIONS

In addition to the duties of the predecessor councils, the act directs the Child Poverty and Prevention Council to promote the implementation of its 10-year plan to reduce child poverty. In order to promote the health and well-being of children and families, it must, within available appropriations:

1. establish prevention goals and recommendations and
2. measure prevention service outcomes.

PREVENTION SERVICES AND PROGRAMS

Prevention services under the act are the same as those previously recognized by the Prevention Council. These are policies and programs that promote healthy, safe, and productive lives and reduce the likelihood of crime, violence, substance abuse, illness, academic failure, and other socially destructive behaviors. Research-based programs are those vigorously evaluated and found to be effective or represent best practices.

REPORTS

Governor's Budget

The act requires, within appropriations, the governor's budget document for the 2007-2009 biennium, to include a prevention report that:

1. presents in detail, for each fiscal year, the governor's recommended appropriations for prevention services for children, youth, and families, broken down by the agency that provides such services;
2. indicates the state's progress toward meeting the goal that by 2020, at least 10% of total recommended appropriations for those agencies be allocated for prevention services;
3. lists individual agency programs and summarizes agency prevention services, prevention expenditures during the previous biennium, and estimated expenditures for FY 2007; and
4. identifies research-based prevention programs and the total for prevention services included in the budget.

With the exception of progress reports on prevention service allocations, the governor was required to include this information in her 2003-05 biennium budget document.

Agency Reports

By November 1, 2006 and again, by November 1, 2007, the act requires each budgeted agency represented on the council that provides prevention services to children, within appropriations, to submit a report to the council. They must report on at least two prevention services in each report, but cannot exceed the actual number of prevention services they provide.

For each service, the report must include: (1) the number of children and families served and (2) a description of the service's preventive purposes.

It must also include the agency's:

1. long-term goals, strategies, and outcomes to promote the health and well-being of children and families;
2. overall findings on the effectiveness of the agency's prevention programs,
3. statement on whether it uses any methods to reduce disparities in child performance and outcomes by race, income level, and gender; and if so, what they are; and
4. other information the agency head deems relevant to demonstrate the preventive value of its services.

The 2007 report must describe performance-based standards and outcomes in relevant contracts and any performance-based vendor accountability protocols.

Long-term Agency Goals. The act specifies that health goals for prevention services may include increasing the number of (1) healthy pregnant women and newborns, (2) youth who adopt healthy behaviors, and (3) children and families that have access to health care.

Goals for education include increasing the number of children who (1) are ready for school at an appropriate age, (2) learn to read by grade three, (3) succeed in school, and (4) graduate from high school and successfully get and keep jobs as adults.

Safety goals include decreasing (1) the rate of child neglect and abuse, (2) the number of children unsupervised after school; (3) the incidence of child and youth suicide, and (4) the incidence of juvenile crime.

Housing goals may include increasing access to stable and adequate housing.

Council Reports

The act requires the council, by January 1, 2007, to report, within appropriations, to the governor and Appropriations, Education, Human Services, Public Health, and Children's committees. Its report must include:

1. a description of the state's progress in prioritizing agency expenditures to fund prevention services;
2. a summary of measurable gains made toward the child poverty and prevention goals;
3. each agency's report on prevention services;
4. examples of successful interagency collaborations; and
5. after consulting with experts and service providers, recommendations for prevention investments and budget priorities.

It is unclear how the council's January 1, 2007 reports could include each agency's 2007 prevention services report, as the date for filing the latter is November 1, 2007.

PA 06-27—sHB 5439
Commerce Committee
Environment Committee

AN ACT PROMOTING INDUSTRIES USING RECYCLED MATERIALS

SUMMARY: This act makes several changes in the plan for supporting and promoting industries that use recycled materials that the Department of Economic and Community Development (DECD) commissioner must prepare. It:

1. expands the plan’s scope to include (a) industries that process or transport, as well as use, recycled materials and (b) ways to use existing Connecticut Resources Recovery Authority (CRRA), Department of Environmental Protection (DEP), and Connecticut Development Authority programs to promote the industries, in addition to those of DECD and Connecticut Innovations, Inc. as required by prior law;
2. requires the DECD commissioner to consult with CRRA and the DEP commissioner in preparing the plan; and
3. eliminates requirements that the DECD commissioner periodically update the plan and report to the Municipal Solid Waste Recycling Advisory Council every six months on its implementation.

The commissioner must complete the new plan by July 1, 2007. The deadline for preparing the former plan was July 1, 1989.

EFFECTIVE DATE: Upon passage

PA 06-83—SB 702
Emergency Certification

AN ACT CONCERNING JOBS FOR THE TWENTY-FIRST CENTURY

SUMMARY: This act exempts all manufacturing machinery and equipment (MME) from property taxes and reimburses towns for the revenue loss after a five-year phase-in. It does so by simultaneously phasing out the existing, limited exemption and phasing in the new one, under which the state must reimburse towns for the entire revenue loss.

The act establishes corporation tax credits for producing films and digital media in Connecticut. It allows credits for (1) qualified film and digital media production, preproduction, and postproduction expenses incurred in the state (“production credit”) and (2) compensation paid to Connecticut residents for services on qualified productions (“wage credit”). (PA 06-186

later eliminated the separate wage credit.) The production credit can be sold or transferred; the wage credit cannot. The Connecticut Commission on Culture and Tourism (CCCT) administers the credits.

The act establishes several new programs designed to encourage and support innovation, including (1) a faculty recruitment and entrepreneurial center at the University of Connecticut, (2) operational funds for small business incubators, and (3) new programs at Connecticut Innovations, Inc. (CII) to finance early stage ventures and match federal research assistance.

It also establishes a Business Advocate Office to help small businesses identify and access public and private business assistance programs.

The act requires the State Department of Education (SDE) to establish three pilot grant programs related to math and science and creates two grant programs administered by the Department of Higher Education (DHE) to repay student loans for (1) eligible people with doctoral degrees in economically valuable fields and (2) engineers.

Finally, the act requires regional workforce development boards to administer any funds appropriated to the Labor Department for incumbent worker training.

EFFECTIVE DATE: July 1, 2006. The new MME exemption and state payment applies to assessment years starting on or after October 1, 2006. The movie and digital media production tax credits apply to tax years starting on or after January 1, 2006.

UCONN PROGRAMS (§§ 1 & 2)

Eminent Faculty Recruitment Program

The act requires UConn’s trustees to establish a program for recruiting eminent faculty and their research staffs. The program must target faculty who have demonstrated excellence in their research fields, want to work collaboratively with other UConn scientists, and are interested in finding ways to commercialize their research.

The program must facilitate the recruitment process, with the aim of accelerating applied research and development in a way that supports the state’s economic development and promotes core competency areas. It must do so by supplementing faculty’s compensation and related personnel and materials costs. The program may spend funds only if industry or other sources will match those funds.

Center for Entrepreneurship

The act requires UConn to establish a center for training the next generation of entrepreneurs in an experiential manner that would help the state’s businesses. The center must:

1. train faculty and student inventors in commercialization and issues that generate business opportunities,
2. allow faculty and students to help technology-based programs find real-time solutions to their business problems, and
3. establish an intellectual property law clinic.

The center must perform some of these tasks in conjunction with other entities. It must help technology-based companies through the business school's accelerator program and must establish the clinic in conjunction with the law school. The center must leverage other resources by collocating the accelerator program and the clinic with the nonprofit Connecticut Center for Advanced Technology (CCAT).

EARLY STAGE VENTURE CAPITAL (§§ 3 & 4)

The act establishes a program to provide venture capital to newly established or expanding businesses in the early stages of developing new products and processes. CII must administer the program, which must offer the following types of financing:

1. preseed, for researching and formulating a concept;
2. seed, for assessing the viability of a concept and qualifying it for start-up financing;
3. start-up, to help emerging or newly formed companies with recently developed and commercially viable products;
4. early or first-stage, to help companies with fully developed and tested products mass produce and sell them; and
5. expansion, to help companies expand their markets or improve their fiscal position before they sell stock or offer themselves for sale to other companies.

The act requires CII to apportion program funds as follows:

1. at least 5% for preseed financing;
2. at least 10% for seed financing;
3. at least 10% for start-up financing;
4. at least 15% for early or first-stage financing; and
5. at least 40%, but no more than 60%, for expansion financing.

CII must run the program, adopt procedures to implement it, develop a plan to market it, and establish criteria for providing each type of financing it offers. Its board must review and approve each application for financing. CII may use up to 3% of the program's funds to cover administrative and marketing expenses.

SMALL BUSINESS INCUBATOR PROGRAM (§ 5)

The act authorizes the economic and community development (DECD) commissioner to award grants to entities operating incubator facilities. An "incubator facility" provides research and other services to help small technology-based companies. The entities can use the grants to provide operating funds and related services, including preparing business plans, acquiring financing, and providing management counseling. An entity qualifies for a grant if its incubator facility houses small technology-based companies and provides research and other services to them.

An entity may apply for a grant by submitting an application to the DECD commissioner, who must adopt regulations prescribing when and how they may do so. The regulations must also:

1. describe the entities eligible for the grants,
2. describe how they must use the grant funds,
3. define the types of businesses entities can support with the grants,
4. specify the form and content of grant applications,
5. specify the schedule for awarding the grants,
6. specify the standards the commissioner will use to award the grants, and
7. include any other provisions needed to implement the program.

The regulatory standards for awarding grants must include priorities based on the type of services an incubator facility provides. They must also include criteria for judging an applicant's background, experience, and the services the applicant offers. Lastly, the standards may include limits on the grant amount an entity may receive during a funding round.

The act establishes a separate, nonlapsing General Fund account to fund the grants. The account must contain any money the law requires to be deposited in it, and its investment earnings must be credited to it.

MATCHING GRANTS FOR MICRO BUSINESSES (§§ 6 & 7)

The act requires CII to provide matching financial assistance for micro businesses that receive federal funds under the Phase II Small Business Innovation Research or Business Technology Transfer programs. A business qualifies for matching assistance if it, and any of its affiliates, is independently owned and operated and (1) employs fewer than 50 full-time employees or (2) has gross annual sales under \$5 million. The micro business must use the CII matching assistance for the same purposes for which it must use the federal assistance.

A micro business must apply for the matching assistance in the same manner small businesses apply for similar assistance under the Connecticut Technology Partnership, which the act renames the Connecticut Development Research and Economic Assistance Matching Grant Program. Those applications must:

1. indicate the applicant's principal place of business,
2. explain how it intends to use the matching assistance,
3. explain the potential market demand for the technology project's end product and marketing strategy, and
4. provide any other information CII requires.

OFFICE OF BUSINESS ADVOCATE (§ 8)

Purpose

The act establishes this office within the Office of Policy and Management (OPM) for administrative purposes only. The office must serve as an information clearinghouse on public and private business assistance programs. It must identify micro businesses and contact micro and small businesses that could benefit from these programs. In contacting these businesses, the office must identify their needs, provide information about the programs that could address them, and help the businesses access those programs.

Business Advocate

The governor must appoint the advocate, with the legislature's approval. The advocate serves a four-year term, and the governor may reappoint him to additional four-year terms. Otherwise, he serves until his successor is appointed and qualified or until removed by law. The advocate must know about businesses, their needs, and the range of public and private organizations that can address those needs. He must also have the background needed to run the office.

Staffing and Reporting

The advocate can appoint necessary staff within available funds and may delegate his powers and duties to the staff as long as he supervises them. The legislature may annually appropriate funds to cover their salaries and the office's expenses. The advocate must submit annual reports to the governor and the chairmen of the Finance, Revenue and Bonding and Commerce committees. The reports must analyze the office's work and must include a list of the businesses the office served and the services it provided to them.

PROPERTY TAX EXEMPTION FOR MANUFACTURING MACHINERY AND EQUIPMENT (MME) (§§ 9-14)

Exemption and Exemption Phase-In

The act exempts all manufacturing machinery and equipment (MME) from local property taxes after a five-year phase-in, with the full exemption taking effect in the assessment year beginning October 1, 2011. New and newly acquired MME is already exempt from property taxes for the first five years after it is acquired.

The act continues the existing five-year exemption program until the assessment year beginning October 1, 2011. Until then, that program will continue to cover MME acquired between October 1, 2002 and October 1, 2006. At the same time, the act gradually exempts MME that is six years old or older from property tax as well. It phases in the additional exemption over five years. Between assessment years beginning October 1, 2006 and October 1, 2011, the act increases the exemption for this older property by 20% per year. The exemption phase-in applies to MME that (1) is already six years old or older in the October 1, 2006 assessment year or (2) becomes six years old between the October 1, 2006 and the October 1, 2011 assessment years.

State Payments in Lieu of Taxes (PILOT) and New Payment Phase-In

By law, the state is required to reimburse towns for 80% of the revenue loss from the five-year property tax exemption for new and newly acquired MME. But under prior law, the 80% state PILOT grant had to be proportionately reduced in any year when the state appropriation for the grant was not sufficient to pay the full amount to every town. The act eliminates the authorization for the proportionate reductions, thus requiring the state to pay the full 80% PILOT for MME exempted under the five-year program. The full 80% PILOT applies to MME acquired in the October 1, 2000 through October 1, 2009 assessment years.

In addition to the 80% PILOT for MME that is exempt under the existing program, the act requires the state to provide a second payment to towns for the revenue they lose from the phased-in exemptions for older MME not covered by the existing program. The percentage exemptions for older MME increase during the phase-in by 20% per year. As they do, the act requires the state payment for those exemptions to increase correspondingly. The owner of the older MME continues to pay any property tax not covered by the state payment during the phase-in.

Table 1 below shows the act's exemption phase-in for MME of various ages on town grand lists as of October 1, 2006. Shaded areas show the years in which MME is exempt under the existing MME exemption with an 80% state PILOT. White areas show the percentage exemption applicable to older MME in each year until October 1, 2010, and the corresponding state payment for that exemption.

Table 1: Property Tax Exemption Phase-In For Manufacturing Machinery And Equipment (MME)

Exemption for Assessment Year Starting	EXEMPTIONS FOR MME ON GRAND LISTS AS OF 10/1/06 (Note: In shaded years, although MME is 100% exempt, state PILOT is 80% of lost revenue)				
	MME Acquired before 10/1/02	MME acquired during the 10/1/02 assessment year	MME acquired during the 10/1/03 assessment year	MME acquired during the 10/1/04 assessment year	MME acquired during the 10/1/05 assessment year
10/1/06	20%	100%	100%	100%	100%
10/1/07	40%	40%	100%	100%	100%
10/1/08	60%	60%	60%	100%	100%
10/1/09	80%	80%	80%	80%	100%
10/1/10	100%	100%	100%	100%	100%

Exemptions and Payments as of October 1, 2011

The act permanently exempts all MME from property tax and closes out the existing five-year MME exemption program at the beginning of the October 1, 2011 assessment year. Starting with the fiscal year beginning July 1, 2013, the act freezes the state's annual MME payment to each town at 100% of the property taxes the town would have received in the October 1, 2011 assessment year if MME were not tax-exempt. Each town's payment remains fixed at that amount for each fiscal year thereafter, regardless of fluctuations in the value of MME on a town's annual grand list. The OPM secretary must determine the amount of each town's flat payment by January 1, 2013.

MME Depreciation Schedule

The law allows towns to adopt several statutory depreciation schedules for various types of business personal property. In the assessment years beginning October 1, 2006 through October 1, 2011, the act requires local assessors to use the same depreciation methods to determine MME valuations that they used for valuing the same or similar property in the October 1, 2005 assessment year.

For the October 1, 2006 through October 1, 2011 assessment years, the act requires taxpayers to file with town assessors supplements to their annual personal property declarations. In the supplements, taxpayers must provide the following information for MME eligible for the existing PILOT or the additional state grant:

1. the assessment year it was acquired and installed;
2. its original cost, including costs for transportation and installation;
3. its depreciated value according to depreciation schedules the local assessor provides; and
4. the total original acquisition cost and depreciated value for all the taxpayer's MME property eligible for tax exemptions.

It requires each assessor to give a personal property declaration and the supplement to the owner of each manufacturing and biotechnology facility. It bars the supplements for the October 1, 2006 through October 1, 2011 assessment years from reflecting any change in depreciation schedules applicable to the property that would increase its assessment over its previous year's assessment.

Administration

The act requires towns to certify the amount of property tax due on MME no longer eligible for the 80% PILOT payment under the five-year exemption program to the OPM secretary annually by November 15th starting in 2006. The secretary must certify the amount payable to a town to the comptroller within 30 days before the tax is due, the comptroller must order the treasurer to pay the amount within 14 days before that date, and the treasurer must pay the town within five days before. Any needed adjustments to the tax due must be accounted for in the next payment. (PA 06-186 revises this certification and payment schedule.)

The act applies all existing valuation and enforcement procedures to exempt MME and allows taxpayers to appeal assessments of the property to local boards of assessment appeals according to existing laws.

Machinery and Equipment Covered

Under both prior law and the act, the MME exemption covers machinery and equipment used in biotechnology or installed in a manufacturing facility and used predominantly for or in:

1. manufacturing, processing, or fabricating;
2. manufacturing-related research and development, including experimental or laboratory research and development;
3. manufacturing-related design or engineering;
4. significant servicing, overhauling, or rebuilding of machinery and equipment for industrial use;
5. significant overhauling or rebuilding of other products on a factory basis;
6. measuring, testing, or metal finishing; or
7. production of movies or video or sound recordings.

(PA 06-186 adds recycling equipment to the list of exempt MME.)

No one may receive a property tax exemption for the same machinery or equipment under both the act and either of two existing exemptions for (1) machinery and equipment in a manufacturing facility located in a distressed municipality, targeted investment community, or enterprise zone and (2) machinery and equipment acquired as part of a technological upgrading of a manufacturing process.

“ENGINEERING CONNECTICUT” AND “YOU BELONG” STUDENT LOAN REIMBURSEMENT PROGRAMS (§§ 15 & 16)

The act establishes two programs to repay student loans, one for certain engineers and the other for certain people with doctoral degrees. Candidates for the engineers’ program (“Engineering Connecticut”) must have an undergraduate or graduate degree in engineering from any college or university and have started working as an engineer in Connecticut after December 31, 2005. Candidates for the doctoral degrees program (“You Belong”) must (1) hold a doctorate from any college or university, (2) have started working in Connecticut in an “economically valuable field” after December 31, 2005, and (3) be employed by a company or university registered with or qualified by DECD. The DECD commissioner determines the economically valuable fields.

DHE must develop eligibility requirements for reimbursement recipients, consulting with DECD on those for the doctoral degree program. The requirements can include income guidelines. DHE must also prescribe application dates and procedures and determine the annual reimbursements for qualifying student loan payments. A recipient can receive reimbursement grants only for loan payments he or she makes while employed in Connecticut (1) as an engineer or (2) if holding a doctoral degree, in an economically valuable field by a qualifying company or by a college or university in a research capacity in such a field.

The programs must operate within available appropriations. Unspent program appropriations do not lapse and must be carried forward to the next fiscal year. DHE can use up to 2% of the grant appropriations for administration, promotion, and recruitment activities.

SDE PROGRAMS (§§ 17-19)

The act requires SDE to establish, within available appropriations, three pilot grant programs: (1) a high school Math and Science Challenge Pilot Program, (2) a high school “Generation Next” Program, and (3) a Future Scholars Program.

The Math and Science Challenge Program must use results from the math and science portion of the 10th grade mastery test to design and implement math and science curricula for 11th grade public school students. Grantees must use the money to develop and implement a math and science program for students who did not perform at least at the proficient level on the 10th grade test. They must evaluate the program, including analyzing student testing performance before and after participating in the program.

The “Generation Next” pilot program must provide (1) business-sponsored job shadowing for high school students and (2) externship experiences for public school teachers. The act does not define “externship” but such programs are typically experience-based learning opportunities similar to internships but of shorter duration. Grant recipients must use the funds to develop and implement a coordinated high school teacher externship and student job shadowing program in the areas of math or science or with technology-related businesses in the state.

The “Future Scholars” pilot matching grant program is for public schools participating in externally funded programs that provide supplemental math and science instruction to students in grades eight through 10 who scored above the basic but below the proficient level on the mastery test in the previous year. School boards and vo-tech schools awarded grants under the program must use the money to develop and implement an interdisciplinary math, science, and technology curriculum. The curriculum must include the establishment and staffing of math and science labs in middle and high schools that have demonstrated support from math, science, or technology-related businesses in the state.

The education commissioner may award any of the grants to boards of education and the vo-tech schools for demonstration projects. The commissioner prescribes the time and manner of application. For the first two programs, she must select a demographically diverse group of participating schools and vo-tech schools. For the Future Scholars Program, she must select participants based on the quality of proposed programs and evidence of commitment by businesses supporting the project.

TAX CREDITS FOR MOVIE AND DIGITAL MEDIA PRODUCTION (§ 20)

Credits

The act establishes two corporation tax credits for eligible companies that produce qualified films or other types of television, video, or digital media entertainment content in Connecticut. It gives a production credit equal to 25% or 30% of the eligible production costs

such a company incurs in Connecticut. The 25% credit is available to companies that incur between \$50,000 and \$1 million in eligible costs and the 30% credit to companies that incur more than \$1 million in such costs. (PA 06-186 subsequently eliminated the 25% credit and extended the 30% credit to all eligible productions costs over \$50,000.)

The act also gives a wage credit equal to 25% of the compensation a company pays to any employee or independent contractor who is a Connecticut resident and who provides services in connection with the production. It limits to \$1 million the amount of compensation paid to a single employee or independent contractor that is eligible for a wage credit. (PA 06-186 eliminates the wage credit.)

Companies may sell or otherwise transfer the production credit, but not the wage credit. Both credits can be carried forward for up to three years, but cannot be used to reduce a company's tax liability to less than zero.

Eligible Production Companies

A production company eligible for the credit can be a corporation, partnership, limited liability company, or any other type of business entity in the business of making one or more qualified productions (see below). The company must be authorized by the secretary of the state to do business in Connecticut.

Qualified Productions and State-Certified Qualified Productions

Only qualified productions are eligible for tax credits. With specified exceptions, these can be any type of entertainment production or content, including movies; documentaries; long-form, specials, mini-series, series, music videos, or interstitials television programming; interactive television or games; videogames; commercials or infomercials; or any digital media format created primarily for public viewing or distribution. (The act does not define "interstitials," but they are typically brief programs that appear during longer ones or that serve as bridges between longer programs.) Trailers, pilots, video teasers, and demos for a product or qualified production are also eligible if they are created primarily to stimulate its sale, marketing, or promotion, or the exploitation of future investment in it. The trailers, pilots, video teasers, and demos can use any means and be in any digital media format or on film or videotape, as long they meet all the underlying criteria for a qualified production. Initial pilots, demos, prototype presentations, or informational series programming relating to qualified productions are also eligible. (PA 06-186 removes eligibility for initial pilots, demos, prototype presentations, or informational

series programming relating to qualified productions.)

A production is not qualified to receive tax credits if it (1) is an ongoing program created primarily as news, weather, or financial market reports or (2) contains obscene material or performances for which, by federal law, producers must keep certain records. (PA 06-186 changes the definition of obscene material and performances to the state law definition.) Federal law requires producers to keep records on performers in productions made after November 1, 1990 that (1) include visual depictions of actual, as opposed to simulated, sexually explicit conduct and (2) are either themselves shipped or transported in interstate commerce or made with material so shipped or transported (18 USC 2257).

A state-certified qualified production is one produced by a company that (1) the CCCT has approved for a production tax credit under the act, (2) complies with any regulations the Department of Revenue Services (DRS) adopts for the program (PA 06-186 changes this to CCCT's regulations), and (3) is authorized to do business in Connecticut.

Eligible Production Expenses

The act's production credit is based on a percentage of eligible development and production costs for a qualified production. Eligible costs are all cash expenditures clearly and demonstrably incurred in Connecticut for development, pre-production, production, and post-production work on a qualified production. (PA 06-186 eliminates references to "cash" when referring to expenditures.) They include the following types of costs and any others as determined by the CCCT. (PA 06-186 eliminates CCCT's authority to designate other eligible costs.)

Purchase of Intellectual Property Rights. Costs for optioning or buying intellectual property, such as a book, script, music, or trademark related to developing or buying a script, screenplay, or format are eligible if (1) the holder is either a company authorized to do business in Connecticut or a person who is a Connecticut resident (PA 06-186 changes this to make it a condition that the property was produced primarily in Connecticut), (2) 75% of the qualified production based on the intellectual property is produced in Connecticut, and (3) the cost of optioning or buying the intellectual property is less than 35% of the cash expenditure in the budget for production in Connecticut (PA 06-186 changes this to require that the acquisition cost be less than 35% of the production's Connecticut costs and expenses). Eligible intellectual property purchase costs include all expenses generally associated with such transactions, including option money and agents' and attorneys' fees, but not deferrals, deferments, royalties, profit participation, or recourse or nonrecourse loans the

company may negotiate to get the intellectual property rights.

Direct Payments. Eligible costs include direct payments to individuals or to companies authorized to do business in Connecticut for purchasing such things as (1) production and post-production work, equipment, and software; (2) set design and construction; (3) props, lighting, wardrobe, makeup, and makeup accessories; (4) special, visual, and audio effects; (5) film processing; (6) music, sound mixing, and editing; (7) location fees; and (8) soundstages. Eligible costs also include direct compensation to such people or companies for these types of things, excluding compensation to Connecticut employees and independent contractors for providing services on qualified productions (see below). (PA 06-186 makes direct payments eligible only if incurred in Connecticut. It also eliminates this act's exclusion for compensation paid to Connecticut employees and independent contractors for providing services on qualified productions, thus allowing such compensation to be considered for a tax credit unless it exceeds certain amounts.)

Distribution Costs. Eligible costs include expenses for distribution, such as production or pre- or post-production costs for creating trailers, marketing videos, commercials, point-of-purchase videos, and any other content on film or digital media. Distribution expenses include those for (1) duplicating films, videos, DVDs, CDs, or any other digital files that exist or are yet to be created for mass consumption and (2) a Connecticut company's purchase of equipment related to duplication or mass market distribution of content from within Connecticut by any digital media format that exists or is yet to be created. (PA 06-186 makes distribution costs eligible only if the content being distributed was created or produced in Connecticut.)

Ineligible Production Costs

As mentioned above, eligible costs exclude compensation to Connecticut employees or independent contractors for services provided on qualified productions. (PA 06-186 limits excluded payments to talent fees for extras, principal day players, and atmosphere, as defined by the Screen Actors Guild, that exceed double scale wages under the guild's current collective bargaining agreement.) They also exclude (1) costs for media buys, promotional events, gifts, or public relations associated with promoting or marketing a production; (2) deferred, leveraged, or profit participation costs for people associated with a production, such as producer, director, talent, and writer fees; (3) the cost of transferring the act's tax credits; and (4) amounts paid to people or businesses because of their profit participation in the production.

Credit Application and Approval Procedure

Eligible production companies seeking credits must apply to CCCT for an eligibility certificate within 90 days of incurring their first production expenses or costs on the qualified production and provide any information CCCT requires to determine eligibility. Within 90 days of incurring its last production expenses or costs, the company must apply to CCCT for a production or wage credit certificate and provide information CCCT requires about its production costs. If CCCT determines the company is eligible for a production or wage credit, it must enter the expense and credit amounts on the certificate. CCCT must provide a copy of the certificate to the revenue services commissioner on request. (PA 06-186 substantially revises and clarifies these provisions.)

The act allows DRS, in consultation with CCCT, to adopt regulations to administer the credits. (PA 06-186 makes the regulations mandatory and reverses the roles of the two agencies, requiring CCCT to adopt the regulations after consulting with DRS, instead of vice versa. PA 06-187 contains the same change (§ 79)).

INCUMBENT WORKER TRAINING FUNDS (§ 21)

The act requires that any funds appropriated to the Labor Department for incumbent worker training programs be administered by regional workforce development boards. The act does not define "incumbent worker training programs," but such programs typically provide training to a company's existing workers to improve their skills.

BACKGROUND

Related Acts

PA 06-186 substantially revises this act's provisions regarding the movie and digital media production tax credits. That act also adds recycling equipment to the tax-exempt manufacturing machinery and equipment and revises this act's certification and payment schedule for the state PILOTs for exempt MME.

PA 06-172 requires the CCCT to implement the film and digital media tax credits in this act and expands the commission and its role in promoting movie and digital media production and post-production in the state.

PA 06-187 requires the CCCT instead of DRS to adopt regulations to administer the movie and digital media production credits, a provision that duplicates a provision in PA 06-186.

PA 06-196 makes technical corrections to the provisions of this act concerning personal property declarations and supplements required for MME exemptions and PILOTS.

PA 06-101—sHB 5438

Commerce Committee

Planning and Development Committee

Legislative Management Committee

AN ACT CONCERNING ENTERPRISE ZONE REPORTING

SUMMARY: This act revises the system for evaluating the state's 17 enterprise zones, which are areas where businesses receive tax benefits for developing facilities, acquiring machinery and equipment, and creating jobs. It sets deadlines for adopting goals and performance standards, specifies reporting requirements, requires towns and the economic and community development commissioner to evaluate the zones, and authorizes the legislature to remove a zone's designation if the commissioner recommends it.

EFFECTIVE DATE: July 1, 2006

GOALS AND PERFORMANCE STANDARDS

The act requires the commissioner to reestablish goals for each zone, review them every five years, and update them as necessary. He must begin doing this by October 1, 2006. Prior law required him to establish goals by October 1, 1993, but did not require him to update them.

The act also requires the commissioner to reestablish standards for assessing the zones' performance and review and update them as appropriate and necessary. He must begin doing this by October 1, 2006. Prior law required him to establish performance standards by January 1, 1994, but did not require him to review and update them.

ENTERPRISE ZONE REPORTING REQUIREMENTS

The act eliminates the requirement for towns to submit annual reports to the commissioner evaluating the zones based on his performance standards. Instead, it requires each business located in an enterprise zone to report specific data to the town every five years beginning July 1, 2011. The businesses must report data electronically in a format the commissioner specifies.

In preparing the report, a business must provide its name and address and the date the commissioner certified it for enterprise zone benefits. It must also provide data on the number of full- and part-time jobs it had when it applied for enterprise zone benefits and as of June 30 of each year since the commissioner certified it for those benefits. It must also provide data on the square footage of its enterprise zone property for these dates.

The business must also provide data on the following as of June 30 annually:

1. number of full- and part-time jobs held by zone residents,
2. average annual full- and part-time wage paid,
3. number of employees eligible for health benefits and the percent of average employee contribution toward the health plan,
4. amount invested in job training,
5. amount invested in the property,
6. amount invested in manufacturing machinery and equipment and other personal property, and
7. amount of real and personal property tax paid and abated.

EVALUATION REPORTS

The act requires the towns and the commissioner to evaluate the zones' performance. The towns must evaluate their zones' performance based on the commissioner's standards and report the results to him every five years beginning July 1, 2011. In doing so, they must include the data the businesses submitted to them and, to the extent available, a list of all the businesses within the zones that were certified for benefits.

The commissioner must evaluate the zones twice. He must first evaluate them by February 1, 2011 and include his findings and recommendations in the annual report he submits to the legislature. Prior law required him to complete this first evaluation by January 1, 1995.

The commissioner must evaluate the zones again by January 1, 2013 and decide whether to recommend that the legislature remove an area's enterprise zone designation. He may recommend this to the Commerce Committee if the area did not meet his performance standards. The legislature may then decide whether to accept his recommendation.

Prior law required the commissioner to complete the second evaluation by January 1, 1998, and allowed him to remove a designation under his own authority if the area failed to meet his performance standards. (The commissioner did not remove any designations.)

BACKGROUND

Enterprise Zones

The legislature enacted the enterprise zone program in 1981, when it authorized the economic development commissioner (now, the economic and community development commissioner) to designate six zones. Since then, the legislature has increased the number of zones to 17. The zones encompass one or two census tracts meeting demographic and economic criteria. The towns with enterprise zones are: Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford, Meriden, Middletown, New Britain, New Haven, New London, Norwalk, Norwich, Southington, Stamford, Waterbury, and Windham.

PA 06-166—sHB 5493

Commerce Committee

Appropriations Committee

Legislative Management Committee

AN ACT ESTABLISHING A PILOT MICROLOAN PROGRAM FOR MICROENTERPRISES

SUMMARY: This act establishes a pilot program to help new and existing very small businesses (i.e., microenterprises) grow and develop. It does this by requiring the economic and community development commissioner to make a grant to the nonprofit Community Economic Development Fund (CEDF), which must disperse the grant funds to other organizations (i.e., microloan generating organizations). These organizations must help microenterprises prepare business plans, complete loan applications, and obtain financial and technical assistance from public and private sources. The commissioner must report to the Commerce Committee by June 30, 2007 on the program’s status and accomplishments.

EFFECTIVE DATE: July 1, 2006

ELIGIBILITY

Microloan Generating Organizations

Under the act, CEDF must allocate the grant funds to microloan generating organizations. In doing so, CEDF must consider:

1. where an organization receives its operating funds and whether they are sufficient to implement the pilot program,
2. the organization’s ability to provide the services the act requires, and

3. the extent to which the organization has helped businesses secure loans and other economic assistance from programs similar to the pilot program.

Assistance

Microloan generating organizations must help microenterprises obtain business loans (i.e., microloan applicants). In doing so, they must use the grant funds to:

1. identify appropriate microloan applicants throughout the state;
2. evaluate the need for the product or service in the community where the applicant does business or proposes to do business;
3. evaluate the extent to which the community supports that business;
4. work with other public and private organizations, including CEDF, to help the applicant prepare and complete its business plan;
5. help prospective applicants identify and access technical and financial assistance from other organizations;
6. track the services provided to clients and measure the results;
7. promote microenterprises; and
8. coordinate the way other organizations deliver services to microenterprises.

Eligible Businesses

Microloan generating organizations may use the grants to assist only microenterprises, which are new or existing businesses employing 10 or fewer people and grossing less than \$500,000 a year. These enterprises include those based in homes and those operated by the owner.

BACKGROUND

CEDF

Established by law in 1993, CEDF helps economically distressed neighborhoods develop businesses and create jobs. It does this by making and guaranteeing loans to small businesses, including microenterprises.

PA 06-172—sHB 5797

Commerce Committee

Appropriations Committee

Government Administration and Elections Committee

Legislative Management Committee

AN ACT CONCERNING DIGITAL MEDIA AND MOTION PICTURE DEVELOPMENT IN THE STATE

SUMMARY: The act requires the Connecticut Commission on Culture and Tourism (CCCT) to implement new state film and digital media tax credits. It broadens CCCT's charge to include promoting movie and digital media production and post-production in the state, rather than just film locations, and expands the commission's existing film responsibilities to all types of digital media. It requires CCCT to report to the General Assembly every two years on its digital media and movie production promotion activities, the economic impact of all productions, and the impact of each state-assisted production.

The act adds six new CCCT members, all of whom must have digital media or movie production experience. The six new members are appointed by legislative leaders. It also requires one of the governor's appointees to the CCCT, who was formerly required to know about, have experience in, or be interested in film, to instead have direct experience in digital media or movie production.

Finally, the act exempts the CCCT's director of digital media and motion picture activities from the state classified service and requires state agencies and institutions that contract for media productions to send copies of their requests for proposals to CCCT.

EFFECTIVE DATE: October 1, 2006

CCCT ADDITIONAL DUTIES (§§ 1 & 3)

The act requires CCCT to implement the state film and digital media tax credits. It eliminates its responsibility to develop criteria for the Department of Economic and Community Development, the Connecticut Development Authority, Connecticut Innovations, Inc., and other state agencies to use in awarding financial assistance for producing films and other media products in the state.

The act requires CCCT, by January 15, 2008 and every two years thereafter, to report to the General Assembly on its movie and digital media promotion activities and the estimated direct and indirect economic impact of all production activities in the state. The report must also analyze the state impact of each "qualified production," which is a production that qualifies for tax credits.

The act broadens CCCT's charge to include promoting Connecticut as a place for producing movies and digital media instead of just for filming movies. It expands the CCCT's film-related responsibilities to cover digital media and motion pictures and requires it to:

1. promote use of Connecticut structures as well as locations, facilities, and services for post-production, as well as production, of media products;
2. help digital media and movie producers to secure state and local permits for all their activities, not just for location activities;
3. expand its resource library of sites appropriate for filming and taping to cover sites for all types of media production;
4. expand its production manual of available film, video, and media production facilities and services in Connecticut to include digital media;
5. formulate and propose guidelines for state agencies for a one-stop permitting process for using state facilities for production activities, instead of for standardized state agency permits that were "as close as possible" to a one-stop process;
6. recommend model municipal forms as well as ordinances to assist media production activities; and
7. add an explanation of the tax credits for movie and digital media production to its explanatory guide for producers.

ADDITIONAL CCCT MEMBERS (§ 2)

The act adds six commissioners to the CCCT, increasing its total membership from 29 to 35. The six new members must be appointed by the legislative leaders and all must have experience in digital media or movie production. The act increases the number of the House speaker's, Senate president pro tempore's, and House and Senate minority leaders' appointments from three to four each and the House and Senate majority leaders' appointments from two to three each. It also requires one of the governor's eight appointees to have direct experience in movie or digital media production, instead of knowledge of, or experience or an interest in, films.

DIRECTOR FOR DIGITAL MEDIA AND MOTION PICTURE ACTIVITIES (§ 4)

The act exempts the CCCT's director for digital media and motion picture activities from the state classified service, but does not establish any alternative method for employing the person.

STATE AGENCY PRODUCTIONS (§ 5)

The act requires any state agency or institution that issues a request for proposals for film, media, or related production activity to send a copy to the CCCT. The CCCT must notify state agency executive heads of the requirement.

BACKGROUND

Related Acts

PA 06-83 establishes corporation tax credits for producing films and digital media in Connecticut and defines the types of productions and production expenses that qualify for a credit.

PA 06-186 substantially revises the movie and digital media production tax credits, including the credit amounts and definitions of qualified productions and eligible expenses.

Both PA 06-186 and PA 06-187 require the CCCT instead of the Department of Revenue Services to adopt regulations to administer the movie and digital media production credits.

PA 06-184—sHB 5685

Commerce Committee

Judiciary Committee

Environment Committee

AN ACT CONCERNING BROWNFIELDS

SUMMARY: The act establishes an office to help towns identify, clean up, and redevelop environmentally contaminated sites (i.e., brownfields) by implementing the pilot program the act creates. It places the office within the Department of Economic and Community Development (DECD) for administrative purposes. It also creates a task force to develop long-term solutions for cleaning up and redeveloping brownfields.

The act provides various regulatory and financial incentives for parties that clean up contaminated properties. It sets conditions exempting them from the Transfer Act and protects them from liability if they acquire a contaminated site from a town or an economic development agency and clean it up according to Department of Environmental Protection (DEP) standards. The act also sets conditions under which the owners of existing manufacturing facilities qualify for funds to clean up contaminated properties.

DECD and DEP must administer the act's provisions within available funds and may use funds allocated to other programs for the act's purposes. These include the funds allocated to the Urban Act and Special Contaminated Property Remediation programs.

The act also allows the agencies to use Urban and Industrial Sites Reinvestment Program funds, but this program provides only corporate tax credits to businesses that develop property.

The act extends these credits to businesses redeveloping uncontaminated sites in more towns if the project meets the narrow criteria the act establishes.

EFFECTIVE DATE: July 1, 2006, except for the provisions (1) affecting the Transfer Act exemptions and Urban and Industrial Sites Reinvestment Program, which take effect upon passage, and (2) extending clean-up funds to the owners of existing facilities, which take effect October 1, 2006.

BROWNFIELD INITIATIVES

Office of Brownfield Remediation and Development (§§1, 5, 6, 12)

This office must expedite the process for identifying, cleaning up, and redeveloping contaminated properties. It must do this by:

1. developing procedures and policies for streamlining the clean-up process;
2. identifying funding sources and creating new ones for cleaning up brownfields and developing ways to expedite the process through which towns and economic development agencies can obtain these funds;
3. establishing a place where towns and economic development agencies can make it easier to comply with federal and state clean-up standards and qualify for state funds;
4. identifying and ranking opportunities for cleaning up and redeveloping brownfields;
5. analyzing how New Jersey, Pennsylvania, and other states encourage parties to clean up brownfields and address the potential liability for doing so; and
6. educating property owners and developers about state policies and procedures for cleaning up brownfields.

The act allows the office to obtain help from state agencies and other organizations. DEP and the Connecticut Development Authority (CDA) must designate a member of their respective staffs to serve as a liaison to the office. The office can ask other state agencies for reports, information, and technical assistance it needs to carry out its duties, and the act directs the employees of these agencies to cooperate with the office.

The act also requires the office to develop and recruit two volunteers from the private sector to help it carry out its duties. One must be a representative of the Connecticut Chapter of the National Brownfield Association experienced in cleaning up and

redeveloping contaminated properties. The DEP and CDA liaisons and the private-sector volunteers must help the office achieve its goals and serve as its response team.

The act creates a source to fund the office. It entitles the office to 80% of the proceeds from the sale of any property towns or their development agencies cleaned up. (As discussed below, the act protects parties from liability when they acquire property from a town and clean it up according to DEP's standards.) The office must deposit the proceeds in the General Fund account. The towns or the development agencies keep the remaining 20%, which they may use for capital improvements for economic development.

The act establishes a separate, nonlapsing General Fund account in which the office can deposit any funds it receives. Any investment earnings the account generates must be credited to the account and any year-end balances must be carried forward to the next fiscal year. The office can use the fund to clean up and restore contaminated sites under the pilot program.

The office must consider two factors before it can award funds for cleaning up a site: (1) the remediated site's potential for economic development and (2) the extent to which the redeveloped site will contribute to the town's tax base.

Pilot Program (§§ 1, 2, 4, 7)

The office must establish a pilot program to identify opportunities for cleaning up and redeveloping contaminated properties. It must designate four towns where contaminated properties hinder economic development and fund projects that could significantly benefit them. One town must have between 25,000 and 50,000 people, one between 50,000 and 100,000 people, and two must have more than 100,000 people.

DEP must give priority review status to the sites the pilot program identifies. A developer who acquires these sites must investigate and clean them up according to DEP's regulatory standards. DEP must supervise the clean-up or allow the developer to do it himself under a voluntary remediation agreement. In either case, DEP must find that the clean-up was fully implemented if it receives a report from a licensed environmental professional verifying that this action occurred.

DEP must notify the town and its development agency within 90 days after receiving the report about the site's status and whether more clean-up is needed. In doing so, the DEP commissioner may indicate that the clean-up meets all of the regulatory standards and that no further work is necessary except monitoring the site and recording environmental land use restrictions.

The act designates towns and economic development agencies as innocent parties and protects them from liability to DEP for clean-up costs. A town

or agency receives these benefits if it received funds under the pilot program and did not cause, contribute to, or exacerbate the contamination and complies with DEP's reporting requirements for significant environmental hazards. The law protects innocent parties from liability for clean-up costs if the property was already contaminated when they acquired it or it subsequently became contaminated due to an act of God or the activities of certain third parties.

The act bans parties that contaminated any properties from acquiring properties that were cleaned up under the pilot program. This ban applies to anyone who (1) is liable or responsible for contaminating soil and water, (2) is related or affiliated with a party that caused the contamination, (3) owned or leased the land, or (4) operated on it. Parties that seek to acquire a property that was cleaned up under the pilot program must reimburse the state, the town, and its development agency for the clean-up costs plus 18% interest.

The act requires DECD to describe the office's activities in its annual report to the legislature. In doing so, DECD must track the funds that were allocated or passed through the office.

Transfer Act Exemptions (§ 3)

The act exempts towns from the Transfer Act when they acquire a tax delinquent property that they intend to sell for back taxes (i.e., tax warrant sale). The Transfer Act allows a potentially contaminated property to be sold only after the owner indicates its environmental condition and, if the property is contaminated, a party agrees to clean it up. The law already exempted them from the act when they foreclosed on the property's tax lien.

The act also exempts towns from the Transfer Act when they convey property they acquired through a tax warrant sale or foreclosure of tax lien and cleaned up under the pilot program.

Remediation Assistance for Current Owners of Contaminated Properties (§ 9)

The act sets conditions under which owners of manufacturing facilities qualify for state clean-up funds. An owner qualifies if DEP designated his facility as a site where actual or potential hazardous substances, pollutants, or contaminants complicate efforts to expand, redevelop, or reuse it (i.e., the federal definition of brownfield). In addition, the owner must either show that he (1) did not cause hazardous substances or petroleum to be released on the property or (2) did not knowingly cause injury to human health or the environment by disposing of the substances or petroleum and he was never found guilty of knowingly or willfully violating environmental law.

In deciding whether to fund the clean-up, the funding source must consider whether the owner can pay some or all of the clean-up cost. It must give preference to those owners who can cover only some of the costs. The funding source may require the owner to:

1. keep the property for up to 10 years,
2. reimburse the state if the owner gets clean-up funds from another source, and
3. continue to employ state residents for at least 10 years.

Protections from Liability (§ 6)

The act protects parties from liability when they acquire property that a town or its development agency cleaned up according to DEP standards. The protection applies to orders the DEP commissioner may issue regarding sources of water and ground pollution and the cost of investigating and remediating contaminated property. The party enjoys the protection only if DEP approved the clean-up and the party did not contaminate the property or is not related or affiliated with the party that did.

In addition, DEP must provide the party a covenant not to sue without charging the statutory fee, which is equal to 3% of the property's value. The covenant is an agreement between DEP and the party that protects the party from liability to the state for any contamination that occurred before the covenant was signed.

Brownfields Task Force (§ 11)

The act establishes a nine-member task force to develop long-term solutions for cleaning up brownfields. The task force consists of a DEP representative appointed by the commissioner and two members appointed by the governor. Each of the top six legislative leaders also appoints a member. All of the members must have expertise in environmental law, engineering, finance, development, consulting, insurance, or in other relevant areas. Members may include legislators. And at least one member must be an employee of an unspecified entity. All of the members must be appointed by July 31, 2006. Any vacancy must be filled by the appointing authority.

The House speaker and the Senate president pro tempore must select the chairpersons from among the task force members. The task force must hold its first meeting by August 31.

The task force must report its findings and recommendations to the Environment and Commerce committees by January 1, 2007. The task force terminates on the date it submits its report or January 1, 2007, whichever is later.

URBAN AND INDUSTRIAL SITES
REINVESTMENT PROGRAM (§ 10)

The act narrowly expands the conditions under which projects developing clean, uncontaminated sites qualify for urban and industrial sites reinvestment tax credits. By law, any project located in 31 designated towns qualifies for credits regardless of the site's condition. These are the state designated distressed municipalities and targeted investment communities and the five cities with populations of more than 100,000 people. A project located in the other towns qualified for credits under prior law only if it developed or redeveloped a contaminated property.

The act exempts a project from this rule if (1) the DECD commissioner determines that it is connected to an operation relocating from another state or (2) it involves the expansion of an existing facility requiring a minimum \$50 million investment.

This investment threshold is higher than the ones the law sets for other projects. A business that invests directly in a project qualifies for tax credits if it invests at least \$5 million. But that threshold drops to \$2 million if the project seeks to preserve or redevelop a historic property. A business that invests in a project through a state registered fund manager can invest any amount as long as the fund's total asset value is at least \$60 million in the year the business claims the credit.

(PA 06-187 makes the same changes to the Urban and Industrial Site Reinvestment Program).

PA 06-8—sSB 384
Education Committee

AN ACT CONCERNING TESTING START TIMES

SUMMARY: This act eliminates the prohibition against administering before 9:00 a.m., any state mastery examination or test mandated by the federal No Child Left Behind Act for students in grades seven through 12. By law, students in grades seven, eight, and 10 must take an examination that measures their reading, writing, and math skills. Beginning in the 2007-08 school year, these tests will also include science.

EFFECTIVE DATE: July 1, 2006

PA 06-13—sSB 633
Education Committee

AN ACT CONCERNING TECHNICAL REVISIONS TO CERTAIN EDUCATION STATUTES

SUMMARY: This act makes technical changes in the education statutes.

EFFECTIVE DATE: Upon passage

PA 06-18—sSB 380
Education Committee
Appropriations Committee

AN ACT CONCERNING SPECIAL EDUCATION

SUMMARY: This act revises state special education laws to match the recently reauthorized federal Individuals With Disabilities Education Act of 2004 (IDEA), which governs special education programs and procedures in states and local school districts. Among other things, the act:

1. prohibits making a child get a prescription drug before he may go to school, be evaluated to determine eligibility for special education, or receive special education;
2. authorizes State Department of Education (SDE) special education hearing officers to require school districts to reimburse parents of special education children for the cost of unilateral private school placements, if the child previously received special education from the district and the officer finds the district failed to give the child a free and appropriate public education in a timely

- manner;
3. eliminates a 30-day time limit on voluntary state mediation efforts to settle disputes between school districts and parents of special education students;
4. eliminates a requirement that a school district perform a full evaluation of a student who leaves special education because he graduates from high school with a regular diploma or reaches the age at which he is no longer eligible for special education; and
5. requires SDE to appoint surrogate parents for homeless and unaccompanied youth, as defined by federal law.

The act also revises special education hearing and evaluation procedures, expands the Advisory Council for Special Education, updates and revises terminology, and makes technical changes.

EFFECTIVE DATE: July 1, 2006

PRESCRIPTION DRUGS (§ 1)

The act prohibits requiring that a child get a prescription drug as a condition of (1) attending school, (2) being evaluated by a school district to determine if the child is eligible for special education and related services, or (3) receiving special education.

SPECIAL EDUCATION HEARINGS (§ 4)

A special education student’s parent or guardian, or the student himself if he is at least age 18 or an emancipated minor, may request a hearing before a state special education hearing officer when a local school board or one of the state’s unified school districts proposes or refuses to initiate or change a special education student’s identification, evaluation, or educational placement or the services it provides. A school district may request a hearing whenever it proposes or refuses to take such an action and the parent does not consent.

By law, such hearing requests must be in writing. The act requires the parent or guardian to send a copy of the hearing request to SDE when he sends it to the school district, instead of requiring the district to send a copy to SDE within seven days of receiving the request. It also requires a district to provide SDE with a copy of any hearing requests it initiates.

When it received a hearing request, prior law required SDE to appoint an impartial hearing officer or hearing board. The act eliminates the hearing board alternative. It also shifts the start of the 45 days the hearing officer has to issue and mail his decision from the date SDE receives the hearing request to the date the hearing starts. The hearing officer still has the authority to extend the 45-day limit at the request of either party.

REIMBURSEMENT FOR PARENTS' PRIVATE SCHOOL PLACEMENT (§ 4(d)(1))

The act authorizes a hearing officer to order a school district to reimburse a parent or guardian for the cost of enrolling his child in a private school without the district's referral or consent if the hearing officer finds that the district failed to provide the required free and appropriate public education for the child in a timely manner before the private school enrollment. To be eligible for the reimbursement, the child must have previously received special education and related services from the district.

MEDIATION OF SPECIAL EDUCATION DISPUTES (§ 4(f)(1))

The law allows a school district and the parent or guardian of a special education student to agree to mediate their dispute rather than go directly to a hearing. In such a case, the education commissioner appoints a state mediator. The act eliminates the 30-day limit on the mediation period, which under prior law started on the date mediation was requested.

SPECIAL EDUCATION EVALUATIONS (§ 6)

Information Required

The act requires school districts to gather and use academic as well as developmental and functional information in evaluating whether children require special education and related services and in developing their individualized education programs. It updates terminology for evaluations by requiring districts to rely on multiple measures or assessments, rather than procedures and tests, in evaluating children.

Administering Assessments

Instead of requiring evaluations to be administered in the child's native language or other mode of communication, the act requires districts to use the language or form most likely to yield accurate information about the child's academic, developmental, and functional knowledge and abilities. It also requires that all assessments and evaluation materials given to a child be valid and reliable instead of requiring only that any standardized tests used be validated for the specific purpose used. Finally, the act requires assessments of children who change school districts during a school year to be coordinated with their old and new schools to ensure prompt completion of full evaluations.

Eligibility Determination and Ongoing Evaluations

Prior law barred a school district from deciding that a child required special education and related services solely because of (1) a lack of math or reading instruction, (2) limited proficiency in English, (3) behavior that violated school disciplinary policies, or (4) evidence derived from disciplinary records. The act broadens the prohibition to cover cases where any of these characteristics is the "dominant factor" in the eligibility determination. It also requires the district, in determining if reading instruction is lacking, to judge it by whether it includes explicit and systematic instruction in the following essential components, as defined in the federal Elementary and Secondary Education Act: (1) phonemic awareness; (2) phonics; (3) vocabulary development; (4) reading fluency, including oral reading skills; and (5) reading comprehension strategies (20 U.S.C. § 6368 (3)).

The law requires a special education student's planning and placement team (PPT), as part of an initial evaluation and any reevaluation, to review existing data and specify additional information needed to determine certain things about the child, including his performance levels and educational needs. The act specifies that the PPT must determine the child's present performance level and educational needs.

Exiting Special Education

By law, a school district must do a full evaluation of any child identified as requiring special education before determining the child no longer requires special education. The act excludes from this evaluation requirement any student who (1) leaves special education because he graduates from high school with a regular diploma or (2) reaches the age at which his eligibility ceases under state regulations (age 21). In those situations, the act requires the school district to provide the student with a summary of his academic achievement and functional performance, including recommendations to help him meet his postsecondary goals.

SPECIAL EDUCATION ADVISORY COUNCIL (§ 7)

The act expands the 37-member Advisory Council for Special Education to include any additional members required by the IDEA. It requires the education commissioner to appoint these new members. Existing members are appointed by the governor; legislative leaders; and the commissioners of education, mental retardation, children and families, and correction. The council advises the General Assembly, the State Board of Education, and the education commissioner.

SURROGATE PARENTS FOR HOMELESS YOUTH (§ 8)

The law requires the education commissioner or her designee to appoint a surrogate parent to represent a child (1) whose parents cannot be identified or located or who is a ward of the state and (2) who may require special education or who used to require special education but now requires or may require services under Section 504 of the federal Rehabilitation Act of 1973. The act extends the surrogate parent requirement to unaccompanied and homeless youth as defined by federal law.

TECHNICAL CHANGES (§§ 1, 2, 3, & 5)

Throughout the state special education law, the act changes one standard for a special education program from whether it is “suitable” for the child to whether it is “appropriate” for the child. Since these words mean the same thing, these changes are technical.

BACKGROUND

Homeless and Unaccompanied Youth

Federal law defines homeless children and youth as those lacking a fixed, regular, and adequate nighttime residence. It includes those:

1. who because they lost their homes, suffer economic hardship, or for similar reasons, share housing with others, live in hotels, motels, trailer parks or campgrounds, live in emergency or transitional shelters, are abandoned in hospitals, or await foster care placement;
2. whose primary nighttime residence is a public or private place not designed or ordinarily used for sleeping; or
3. who live in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar places.

It also includes migrant children who live in these conditions.

An “unaccompanied youth” includes a youth not in the physical custody of his parent or guardian (42 U.S.C. § 11434a).

PA 06-55—sSB 637
Education Committee
Appropriations Committee

AN ACT CONCERNING CHARTER SCHOOLS

SUMMARY: By law, charter schools may enroll up to 250 students, except schools with a grade range of kindergarten through eight can enroll up to 300 students. Charter schools cannot enroll more than 25% of the school district where the school is located. The act provides an exception to these rules for schools with a demonstrated record of raising academic achievement. It permits the State Board of Education to allow such a school to have up to 85 students per grade if the board finds it is appropriate to do so and if it is within available appropriations.

EFFECTIVE DATE: Upon passage

PA 06-63—sSB 373
Education Committee
Finance, Revenue and Bonding Committee
Appropriations Committee

AN ACT CONCERNING HEALTHY FOOD AND BEVERAGES IN SCHOOLS

SUMMARY: This act (1) restricts the types of beverages that may be sold to students in school; (2) requires the State Department of Education (SDE) to set nutritional standards for food sold to students in schools; and (3) provides a financial incentive for local and regional school boards, charter school, endowed academy, and interdistrict magnet school governing authorities, and the regional vocational-technical school system (V-T system) to certify that their schools meet the SDE standards. The act supersedes a requirement that school boards provide nutritious and low-fat drink options whenever drinks are available for purchase by students. It extends the requirement that boards provide nutritious and low-fat food options to the governing authorities of state charter schools, interdistrict magnet schools, and endowed academies.

EFFECTIVE DATE: July 1, 2006

SCHOOL NUTRITION

Beverages

The act allows only the following beverages to be sold to students from any source, including school stores, vending machines, school cafeterias, and any fund-raising activities on school premises, whether or not school-sponsored:

1. milk, which may be flavored, that contains no artificial sweeteners and no more than 4 grams of sugar per ounce;
2. nondairy milks, which may be flavored but contain no artificial sweeteners, no more than 4 grams of sugar per ounce, no more than 35% of calories from fat per serving, and no more than 10% of calories from saturated fat per serving;
3. 100% fruit or vegetable juice or combination of such juices, containing no added sugars, sweeteners, or artificial sweeteners;
4. beverages that contain only water and fruit or vegetable juice and have no added sugars, sweeteners, or artificial sweeteners; and
5. water, which may be flavored but must contain no added sugars, sweeteners, artificial sweeteners, or caffeine.

Beverages, other than water, cannot be sold in portions that exceed 12 ounces.

The act allows schools to sell other beverages if (1) the sale is in connection with an event occurring after the end of the regular school day or on the weekend, (2) the sale is at the event location, and (3) the beverages are not sold from a vending machine or school store.

Finally, the act eliminates the requirement that local and regional boards make available nutritious and low-fat drinks, including low-fat milk, 100% fruit juice, and water, whenever drinks are available for purchase in schools.

Food

The act requires SDE to publish, by August 1, 2006, and every January 1 thereafter, permissive nutrition standards for food items offered for sale to students at schools. The act requires the V-T system, boards of education, and governing authorities whose schools participate in the National School Lunch Program to certify in their annual application for funding whether the non-exempted food items they serve for that year will meet the standards.

Foods served as part of the National School Lunch or School Breakfast programs are exempted from the SDE standards unless students buy the items separately. Additionally, as with beverages, the act allows school boards and governing authorities to exclude from certification the sale to students of food items that do

not meet the standards, if (1) the sale is in connection with an event occurring after the end of the regular school day or on the weekend, (2) the sale is at the event location, and (3) the food is not sold from a vending machine or school store. Otherwise, the certification must include food offered for sale to students at all times and from all sources.

For each lunch served in the prior year in districts or schools that meet the nutritional standards, the act provides 10 cents in addition to the state match of federal dollars required under the National School Lunch Program. The law allows non-public schools to participate in the school lunch program. However, the act makes these schools, except for endowed academies, ineligible for the 10-cent bonus. The education commissioner must establish compliance monitoring procedures and may adjust grant amounts for failure to comply with certification.

The act requires governing authorities for state charter schools, interdistrict magnet schools, and endowed academies to make available for purchase by students nutritious and low-fat foods, including low-fat dairy products and fresh or dried fruits, at all times when food is available to students for purchase during the regular school day. Prior law applied specifically only to local and regional boards of education. However, charter schools and interdistrict magnet schools were already subject to the law because such schools are subject to the general education statutes.

PA 06-115—sHB 5563

Education Committee

Appropriations Committee

AN ACT CONCERNING BULLYING POLICIES IN SCHOOLS AND NOTICES SENT TO PARENTS OR LEGAL GUARDIANS

SUMMARY: This act broadens the law on bullying behavior in schools by:

1. expanding the definition of bullying,
2. enhancing schools' obligations to tell students how to report bullying, and
3. requiring interventions for students who repeatedly bully or are bullied.

The act also requires schools to simultaneously mail the same school notices they give to the parent or guardian with whom the student primarily resides to the other parent or guardian if he requests it. The mailing requirement remains in effect for as long as the student attends the school to which the request is made.

EFFECTIVE DATE: July 1, 2006

BULLYING

Definition of Bullying

Prior law defined bullying as repeated, overt acts by one or more students on school grounds or at a school-sponsored activity that are intended to ridicule, humiliate, or intimidate another student. The act expands the definition to include overt acts directed at another student with the intent to harass that student and also includes incidents that occur on a school bus.

Bullying Policies

The law requires all school boards to develop policies addressing bullying that enables students to anonymously report acts of bullying to teachers and school administrators. The act requires students to be notified every year about how to make these reports. The act also requires the policy to provide for case-by-case interventions to address (1) repeated bullying incidents against a certain person or (2) recurrent bullying by a certain person. The intervention methods may include counseling and discipline.

Under the law, unchanged by the act, each district's bullying policy must also:

1. enable parents or guardians to report bullying to teachers and school administrators,
2. require school staff who witness or receive reports of bullying to notify school administrators,
3. require school personnel to investigate anonymous reports,
4. include a strategy for school staff to intervene when they witness bullying,
5. include language in student codes of conduct about bullying,
6. provide notice to parents or guardians of bullying, and
7. require each school to keep a list of verified acts of bullying available for public inspection.

The act allows the policies to include provisions addressing bullying outside the school setting if it has a direct and negative impact on a student's academic performance or safety in school.

PA 06-135—HB 5847*Emergency Certification***AN ACT IMPLEMENTING THE PROVISIONS OF THE BUDGET CONCERNING EDUCATION**

SUMMARY: This act implements various appropriations in the revised 2005-07 biennial budget (PA 06-186) for education grants and other State

Department of Education (SDE) programs.

It also:

1. makes several changes to the priority school district reading program, including requiring more intensive remedial assistance for elementary school students deficient in reading skills;
2. eliminates the prohibition against using state funds for No Child Left Behind-related activities;
3. establishes a school breakfast pilot program;
4. requires SDE to consult with the Higher Education Department to create an alternate route to certification program for certain teachers and administrators;
5. makes certain minority students eligible for in-state tuition based on their participation in programs meeting certain criteria;
6. exempts SDE managerial employees from classified service;
7. establishes a farm-to-school program within the Department of Agriculture (DoAg), to be run in consultation with SDE; and
8. requires state-funded school readiness programs to provide information to the state-wide information system.

EFFECTIVE DATE: July 1, 2006, except for the provisions on youth service bureaus, reading programs, and SDE managerial employees, which are effective upon passage.

GRANTS

Education Cost Sharing (ECS) Grants (§ 19)

The act establishes minimum ECS grants for all towns. For FY 07, it requires each town's ECS grant to be at least 60% of its full grant entitlement. For FY 08 and each subsequent fiscal year, it requires each town to receive an ECS grant that is at least (1) equal to the grant it received for the previous fiscal year or (2) 60% of its full ECS entitlement.

Minimum Expenditure Requirement (§ 5)

The act extends the minimum expenditure requirement (MER) for towns receiving the ECS grant through FY 07. The MER requires towns to spend a minimum amount on regular education programs.

Under the act, as for prior years, the FY 07 MER for each town is the sum of (1) its FY 06 MER; (2) any ECS grant increase it receives in FY 07; and (3) if its enrollment dropped between 2004 and 2005, an amount equal to the decrease multiplied by one-half the ECS foundation amount. The ECS foundation amount for FY 07 is \$5,891 per pupil.

Priority School District Grant Allocation (§§ 2 & 27)

The act increases the FY 07 allocation of general priority school district funds for priority school district grants by \$6 million, from \$36,513,547 to \$42,513,547. It requires the State Board of Education to allocate the \$6 million among the priority school districts. The money is in addition to other priority school district grant funds the districts receive. The board must distribute the additional money to each district in proportion to its regular priority school district funding.

School Readiness Grants for Priority School Districts (§§ 1 & 2)

An act increases the FY 07 allocation of priority school district funds for school readiness grants by \$5,983,750, from \$50,355,222 to \$56,338,972. The act requires \$3,483,750 of the school readiness grant appropriation for priority school districts to be used only for school readiness programs in Bridgeport, Hartford, New Britain, New Haven, New London, Waterbury, and Windham.

Use Of School Readiness Grant Funds Not Earmarked For Expenditure (§ 23)

By law, a town must submit a plan to SDE by October 1 for spending all the non-competitive grant funds for which it is eligible. Otherwise, under prior law, SDE could use 70% of the unallocated funds to provide supplemental grants to other eligible towns and 30% of the funds for school readiness professional development. The act, instead, allows SDE to determine the distribution of funds for these purposes and allows it also to use the funds to conduct activities related to preschool and kindergarten student development evaluations or assessments.

School Readiness Program Penalty For Lack Of Accreditation (§ 24)

The law imposes a \$6,925 per-child limit on the cost of the SDE's school readiness program component. The act prohibits SDE from providing funding to school readiness providers that are not accredited by a time certain. If the provider first entered into a service contract with the town on or before January 1, 2004, it must be accredited by January 1, 2007 to retain funding eligibility. If the service contract was entered into after January 1, 2004, the provider has to be accredited within three years of the contract date to retain funding eligibility. The law already limits grant eligibility to accredited programs.

Higher Education Endowment Matching Grants (§§ 7-11)

This act restores the state's 50% match of private donations made to its public colleges and universities between January 1 and June 30, 2005 under the Higher Education Matching Grant Program. PA 05-3, June Special Session, halved the state's match, from 50% to 25%, for donations made after December 31, 2004 and prohibited the legislature from appropriating funds for the grants until the Budget Reserve Fund equalled 10% of the net General Fund appropriation for the current fiscal year. The act exempts appropriations for grants to match donations made between January 1 and June 30, 2005 from this prohibition.

The grants match donations for endowed chairs, scholarships, and program enhancements made to UConn, the state universities and community-technical colleges, and Charter Oak College.

Summer School Programs For Magnet School Students (§ 3)

The act allows the education commissioner, within available appropriations, to make grants to regional educational service centers (RESCs) that provide summer school programs she approves to interdistrict magnet school students. It eliminates a provision allowing the annual supplemental grants for the enhancement of magnet school educational programs to be used for summer school programs.

Magnet School Transportation Grants (§ 12)

The act increases the maximum state grant for transporting students to interdistrict magnet schools outside their home districts by \$100, from \$1,200 to \$1,300 per student. Grants must be provided within available appropriations and are payable to local and regional school boards, RESCs, cooperative arrangements between school districts, and the community-technical colleges on behalf of Manchester Community College.

Charter School Bonus Grants (§ 26)

By law, the state charter school grant for each fiscal year starting in FY 07 is \$8,000 per student. If in any year, the state appropriates more than this per-student amount, the per-student grant must be increased proportionately.

The act limits the proportional increase in the charter school grant to a maximum of \$70 per student. It allocates any excess appropriation to the SDE for supplemental grants to interdistrict magnet schools.

Youth Service Bureaus (§ 18)

The act increases the number of youth service bureaus (YSBs) eligible for SDE grants. It does so by making all YSBs eligible for state grants starting in FY 07 if they (1) were eligible for a grant in FY 06, rather than only in FY 05, or (2) applied by June 30, 2006, rather than only by June 30, 2005, after receiving approval for their town's matching contribution. The grants are \$14,000 each, with any excess funds distributed among YSBs that received grants of more than \$15,000 in FY 95.

Early Reading Success Grant Requirements (§ 17)

The act requires priority school districts seeking funding for early intervention reading programs from state early reading success grants to include in their proposals a provision for on-site teacher training and coaching in how to implement the research-based reading instruction specified by the Early Reading Success panel. It also requires each district that receives early reading success funds to report annually to SDE on its progress in reducing the achievement gap in reading. The report must include data on student progress and information on how the data have been used to guide professional development and teacher coaching.

Early Reading Success Administration (§ 28)

For FY 07, the act increases the maximum amount SDE receives for administering the Early Reading Success program by \$150,000, from \$203,646 to \$353,646.

OTHER PROVISIONS

Reading Programs For Priority School District Students (§§ 14-16)

Personal Reading Plan Enhancements. The act specifies that personal reading plans must include, within available appropriations, additional instruction, rather than just measures to improve a student's reading level as required under prior law. It expands the non-exhaustive list of acceptable measures to include after school, school vacation, or weekend programs, in addition to the already listed tutoring and summer reading programs. However, it removes the option of a transitional class.

The act requires boards of education for priority school districts to give first priority in the provision of additional instruction to elementary and then middle schools with the highest number of substantially deficient students in reading.

The act adds the requirement that all personal reading plans be:

1. reviewed and revised as necessary after each evaluation or state-wide mastery test,
2. discussed with the student's additional instruction providers,
3. given to parents or guardians along with reading strategies that they can use at home.

Prior law required a personal reading plan to be maintained until the student reached a satisfactory proficiency level. The act instead requires that it be maintained until the student achieves a satisfactory grade level as determined by the reading evaluation or a state wide mastery test.

Development of Personal Reading Plans. The law requires schools in priority districts to evaluate the reading level of students in grades one, two, and three in the middle and at the end of the school year. Prior law required schools to notify parents or guardians of any student found to be deficient based on the mid-year evaluation and develop a personal reading plan for the student if found deficient based on the year-end evaluation. Beginning July 1, 2006, the act requires parental notification and the implementation and development of personal reading plans for students found deficient based on either evaluation.

Beginning with the 2006-07 school-year, the act requires boards of education, within available appropriations, to develop a personal reading plan for each student who fails to meet the state wide standard for remedial assistance on the reading component of the 3rd, 4th, and 5th grade mastery test. Previously, they were required to provide additional instruction only for those who did not meet the standard on the 4th grade test. The act allows school principals to determine, based on a teacher's recommendation, that the reading plan need not require additional instruction.

The act eliminates the requirement that schools provide additional instruction to students who do not meet the remedial standard on the 6th grade mastery tests.

Promotion of Students with Personal Reading Plans. The act requires school principals to provide written justification to the superintendent in order to promote 1st, 2nd, or 3rd grade students with personal reading plans who are still substantially deficient in reading. Superintendents must submit this information to the education commissioner, and the State Board of Education must publish a report on it. Prior law required principals and superintendents to report this information only for the promotion of third-graders.

Summer School. Beginning with the 2006-07 school year, the act requires boards for priority school districts, within available appropriations, to require students in grades one through three to attend summer school if they are found to be substantially deficient in reading

based on their year-end evaluation. The act allows a superintendent to exempt an individual student from the requirement on a principal's recommendation, based on the student's progress with his personal reading plan. Any non-exempt student who does not attend summer school cannot be promoted to the next grade. The act specifies that priority school district grant funding may be used to pay for these summer programs.

Prior law required students who failed to meet the remedial standard on the 4th and 6th grade mastery test to attend state-funded summer school programs during the summer following the test unless exempt based on their progress. The act eliminates this provision and instead, beginning in the 2005-06 school-year, allows boards to require, within available appropriations, 4th and 6th grade students who fail to make progress with the additional instruction provided in their personal reading plan to subsequently attend summer school. Beginning in 2006-07, the act extends the provision to 5th graders as well.

The act still allows superintendents to exempt students from summer school upon a principal's recommendation. It eliminates the restriction that the exemption be based on the student's progress with the additional instruction. As under existing law, non-exempt students offered the opportunity to attend summer school and who fail to do so cannot be promoted to the next grade.

As under prior law, priority school district grant funds may be used to pay for these summer programs.

State Expenditures For The No Child Left Behind Act (§ 4)

The act eliminates a requirement that state or local costs for complying with the federal No Child Left Behind Act (NCLB) be paid exclusively from federal funds received under that act. It thus allows state funds to be spent on NCLB-related activities.

School Breakfast Pilot Program (§ 20)

The act establishes a pilot in-classroom school breakfast program and permits SDE, within appropriations, to provide competitive grants to help up to 10 severe need schools establish them.

The act requires schools seeking pilot program grants to apply annually following procedures and deadlines set by the SDE commissioner. In awarding grants, the commissioner must consider, at a minimum:

1. the specific objectives and description of the proposed program,
2. its cost,
3. how many children will be fed, and

4. whether the proposed program is likely to increase the number of students receiving nutritious breakfasts.

Alternate Route To Certification Programs (§ 25)

The act requires the Department of Higher Education (DHE), in consultation with SDE, to develop alternate route to certification (ARC) programs for (1) school administrators and superintendents and (2) early childhood education teachers. DHE must develop criteria for program admission. Programs must include mentored apprenticeships.

DHE already administers an ARC program for teachers. The ARC program prepares highly qualified mid-career adults to become teachers and currently focuses on teacher shortage subjects identified by the education commissioner.

In-State Tuition For Certain Minority Students From Outside The State (§ 6)

The act makes certain minority students from outside Connecticut eligible for in-state tuition at UConn, the Connecticut State Universities, and the community-technical colleges if they attended for three years and graduated from a public high school here while under the sponsorship of a nonprofit organization that meets specified criteria.

Students from other states, the District of Columbia, Puerto Rico, and U.S. territories and possessions, and resident aliens that come from these places, may obtain in-state tuition if they:

1. graduated from a public high school in Connecticut and
2. during high school, were sponsored, supported, and housed by a nonprofit organization that raises funds locally in order to give minority students from single family or impoverished homes the chance to attend school in a different environment, such as the "A Better Chance" program.

The act defines "minority student" as someone whose racial ancestry is other than white according to U.S. Census Bureau definitions.

Classified Service Exemption For Education Department Managers (§ 13)

The act exempts SDE's managerial employees from the state classified service. Previously, only SDE's professional employees and certified teachers employed in teaching positions at state institutions were exempt. The act also makes a technical change to specify that the employees covered by the exemptions are employed by SDE and not the State Board of Education.

Connecticut Grown Food In Connecticut Schools (§ 21)

The act establishes a farm-to-school program within the Department of Agriculture (DOAg). The program must be run in consultation with SDE to promote and facilitate the sale of Connecticut-grown farm products by farms to school districts, schools, and other educational institutions under SDE's jurisdiction. Through the program, DOAg must:

1. encourage and solicit Connecticut farmers to sell their products to individual schools, districts, or other educational institutions;
2. develop and regularly update a database of interested sellers;
3. in consultation with SDE, facilitate purchases from local farmers by interested schools, districts, or institutions; and
4. provide outreach and guidance to farmers on the value of, and procedure for, selling their products to schools.

The act also requires SDE to establish the Connecticut-Grown for Connecticut Kids Week to promote Connecticut agriculture and foods to children through school meal and classroom programs and at farms, farmers' markets, and other community locations. The week-long promotional event must be established in consultation with DOAg, school food service directors, and interested farming organizations and held every year in late September or early October.

It also requires SDE to (1) encourage and solicit districts, schools, and educational institutions to purchase Connecticut-grown farm products; (2) provide outreach, guidance, and training to districts, parent and teacher organizations, schools, and school food service directors on the value of, and procedure for, purchasing these products and incorporating them into their regular menus; (3) in consultation with DOAg, arrange for local, regional, and state-wide events where potential purchasers and farmers can interact; and (4) also in consultation DOAg, arrange for interaction between students and farmers, including field trips and farmer presentations at schools.

Statewide Information System (§ 22)

SDE is required by law to maintain a statewide public school information system. The act requires boards of education and state-funded preschool programs to participate in this information system by reporting on at least the following subjects in a manner prescribed by the education commissioner: (1) student experiences in preschools by program type and number of months in each such program and (2) student readiness for and progress in kindergarten. The reporting must be done annually beginning by October 1, 2007.

PA 06-145—sSB 378*Education Committee**Finance, Revenue and Bonding Committee**Appropriations Committee***AN ACT CONCERNING TAX CREDITS FOR DONATIONS OF COMPUTER EQUIPMENT TO NONPUBLIC SCHOOLS**

SUMMARY: This act extends an existing business tax credit for businesses that donate new or used computers to public schools to cover computer donations to private schools. By law, the maximum credit is 50% of the computer's fair market value when donated. Used computers may be no more than two years old. The credit applies against the corporation tax and the insurance premium, air carrier, railroad company, cable and satellite TV, and utility company taxes.

EFFECTIVE DATE: July 1, 2006 and applicable to income years starting on or after January 1, 2006.

PA 06-158—sSB 636*Education Committee**Finance, Revenue and Bonding Committee***AN ACT CONCERNING AUTHORIZATION OF STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS AND OTHER SCHOOL CONSTRUCTION PROVISIONS**

SUMMARY: This act authorizes \$784 million in state grant commitments for school construction projects, including increased grants for reauthorized projects that have changed in cost or scope by at least 10%. It also:

1. includes several provisions to control school project costs and cost increases,
2. places restrictions on architects and construction managers and administrators working on school projects and imposes standards for architectural services contracts for such projects,
3. imposes a 10% penalty against a project's state reimbursement grant if a school district's architectural services contract fails to comply with the standards,
4. requires the State Department of Education (SDE) to develop standard school construction contracts that districts may use for their own project contracts and provide guidance and information to school districts on school projects, and
5. provides security for bonds and obligations issued by the New London regional educational services center (LEARN) in relation to two magnet school projects.

The act also reserves 2% of state school wiring project funds for the vocational-technical (V-T) schools, exempts code violation and indoor air emergency projects from grant refund requirements if the buildings are put to other uses within specified periods of time, extends SDE's design-build pilot program, and reduces the frequency of SDE's school facilities report. Finally, the act waives certain statutory requirements for school construction projects in various school districts.

EFFECTIVE DATE: Upon passage for the grant commitments, design-build program extension, LEARN security provisions, and the statutory waivers for individual school projects; July 1, 2006 for the remaining provisions.

SCHOOL CONSTRUCTION PROJECTS AUTHORIZED (§ 1)

New School Projects

The act authorizes \$540.6 million in state grant commitments for 59 school construction projects of various types as shown in Table 1.

Table 1: New School Projects Authorized

<i>Number of Projects</i>	<i>Project Type</i>	<i>Estimated Total Cost</i>	<i>Estimated Total State Grants</i>
6	New schools	\$245,581,925	\$207,142,884
18	Combined extensions and alterations	400,402,179	259,903,456
1	Extensions	16,751,938	5,025,581
17	Alterations	49,051,258	28,395,967
7	Energy conservation	2,783,000	1,461,720
5	Facility purchase	20,025,663	13,563,392
4	Vo-ag equipment and code violation	467,225	386,017
1	Charter school	31,523,854	24,768,292
59		\$766,577,042	\$540,647,309

Project Reauthorizations

The act also reauthorizes 46 previously authorized projects that have changed substantially (at least 10%) in cost or scope. The reauthorizations increase estimated state grant commitments for the projects by \$243.27 million as shown in Table 2.

Table 2: Reauthorized Projects

<i>Number of Projects</i>	<i>Previously Authorized</i>	<i>Authorized by the Act</i>	<i>Increase</i>	<i>Estimated Grant Impact</i>
46	\$1,418,245,722	\$1,712,274,893	\$294,029,171	\$243,274,233

LIMIT ON REIMBURSEMENT FOR CHANGE ORDERS (§ 8(c))

Starting July 1, 2006, for school projects costing more than \$10 million, the act limits state reimbursement for construction change orders and other change directives. If change orders total more than 5% of the project's authorized cost, the act reduces the reimbursement for any amount exceeding 5% to half of the otherwise eligible amount.

A change order is an amendment to a school construction project that does not have to be publicly bid but must be approved in advance by SDE. SDE guidelines state that districts should use change orders only for unforeseen or emergency conditions and that such changes should total no more than 10% of the original project price. Changes that exceed 10% require legislative reauthorization.

LIMITS ON LEGISLATIVE REAUTHORIZATIONS FOR CHANGES IN SCOPE OR COST (§ 9(2))

The act explicitly allows state reimbursement for a school construction project that has changed in scope or cost to an extent determined by SDE only if it appears on the SDE's school priority list submitted to the General Assembly each December. In practice, SDE submits for legislative reauthorization any project whose cost or scope has increased by at least 10% since its previous authorization. By law, these reauthorization requests must be listed separately. Starting with the December 2006 list, this act requires SDE to submit two reauthorization lists, with projects submitted for a second reauthorization in a separate table. Starting July 1, 2006, the act prohibits SDE from submitting a project for more than two legislative reauthorizations.

Also starting July 1, 2006, the act bars a school project not previously authorized as an interdistrict magnet school from subsequently receiving a higher reimbursement percentage through a reauthorization.

TURN-KEY PROJECTS (§§ 4 & 8(a) (10))

The act requires SDE to approve the final plans for all construction work on a "turn-key" school project before the project is eligible for state reimbursement. It defines a turn-key project as one where a school district buys a building after another party builds or renovates it according to an agreement with the district. The new requirement applies to turn-key projects for which a school district makes a grant application on or after July 1, 2006.

The act allows these projects to be exempt from standard space rules and allows reimbursement for otherwise ineligible repairs to them, if the school district documents that (1) the work is needed, (2) buying the turn-key facility will cost less than building the project

in a different way, and (3) the facility will have a useful life comparable to a new building.

ARCHITECTS AND CONSTRUCTION MANAGERS AND ADMINISTRATORS FOR VOCATIONAL-TECHNICAL SCHOOL PROJECTS (§ 6)

The act requires the Department of Public Works to make sure that an architect and a construction manager or construction administrator working on a vocational-technical school construction project are not “related persons,” as defined by the corporation tax law.

Under that law, two entities are considered related persons if (1) one controls the other, (2) one of the two is a business or trust controlled by another person or entity that the other controls, or (3) they are members of the same controlled group. A corporation is considered to be “controlled” by an entity if that entity directly or indirectly owns more than 50% of the combined voting power of all classes of its stock. In the case of a trust, control means owning 50% or more of the beneficial interest of the trust’s principal or income. Ownership is defined as it is in federal income tax law.

SCHOOL PROJECT CONTRACTS

Architectural Services Contracts (§ 10)

The act establishes criteria for architectural services contracts on state-reimbursed school construction projects entered into on or after July 1, 2006. It imposes a penalty on school districts that fail to comply with these standards. The penalty is a 10% reduction in the district’s project grant, determined after SDE’s audit of the completed project.

The act expressly authorizes boards of education to give directions, guidance, or instructions to architects they hire for school projects and requires architects to provide whatever labor, supplies, facilities, and other equipment they need for the services. It requires a written agreement between a school district and a school project architect to include the architect’s promise to work as an independent contractor and give good and workmanlike service. An architect must also agree to follow:

1. the school district’s instructions, guidance, and directives;
2. the service agreement’s terms and conditions;
3. the highest applicable professional or industry standards;
4. sound architectural practices; and
5. all applicable laws, regulations, permits, and codes of federal, state, or local agencies and court orders.

The act prohibits agreements from limiting the architect’s liability for errors and omissions in the performance of architectural services.

It requires architects to keep confidential any information they obtain from a school district as a result of their contracts for school projects. It bars them from selling or otherwise publishing the information or using it for their own or another’s benefit without the district’s prior written consent. It makes the district and the SDE the owners of any reports and documents the architect prepares as part of the contract. It bars the architect from using these documents for anything other than what the service agreement allows, unless the district gives prior written consent.

State Standard School Construction Contracts and Technical Assistance (§ 12)

The act requires SDE to develop a series of standard school construction project contracts that comply with the act’s standards and any others SDE establishes. It allows school districts to use them as the basis for their contracts for state-reimbursed school construction projects. Districts may modify the state standard contracts to meet the needs of a particular project, but all contracts must meet the act’s standards.

The act also requires SDE to give school districts guidance on school construction and renovation projects, including by:

1. identifying and publishing exemplary school building and project plans and specifications;
2. publishing materials that describe the school construction process;
3. providing information about economical, safe, and efficient buildings;
4. using technology in building designs to promote student learning; and
5. providing information about proper building maintenance.

SDE may use (1) the State Education Resource Center and (2) up to \$100,000 of school construction bond proceeds to carry out these requirements.

SECURITY FOR LEARN OBLIGATIONS (§ 32)

The act allows LEARN to make arrangements for the state to pay school construction grants due on LEARN projects to an account in the Tax Exempt Proceeds Fund administered by the state treasurer. The payments may be held by a bank or trust company LEARN designates and used to pay project costs and secure LEARN’s bonds, notes, and other obligations relating to school construction projects at the Marine Science Magnet High School for South Eastern Connecticut and the Learn New London Multicultural Magnet School.

The funds must be spent according to an agreement between LEARN and a bank. These state payments depend on LEARN making a written request to the

Office of Policy and Management secretary, the comptroller, treasurer, and education commissioner that identifies the grant by school project number, the bank where the funds are to be sent, and whatever other wiring or payment instructions the state requires. Payments satisfy state grant obligations to LEARN.

The act serves as the state's promise to holders of LEARN's bonds or other obligations that it will not repeal or modify these provisions so as to impair the rights and remedies the act grants. But the act does not require the state to continue to pay state grants or assistance to LEARN, nor does it limit the state's authority to change laws concerning state assistance.

The act exempts the LEARN New London Multicultural Magnet School project from the statutory requirement that SDE withhold 5% of a school construction grant pending an audit after a school project is completed. If the total grant payments for the project exceed the final eligible grant determined by the audit, the act allows the state to deduct the excess from LEARN's General Fund grants.

V-T SCHOOL WIRING PROJECTS (§ 7)

The act reserves up to 2% of the bond funds authorized for school wiring projects for V-T schools. Under prior law, V-T schools were not eligible for the funds, which were reserved for competitive grants to school districts, regional education service centers, cooperative arrangements among boards of education, and state-approved endowed academies.

By law, the funds must be used to upgrade or install wiring, including electrical, cable, or other distribution systems, and for infrastructure improvements to support telecommunications and other information transmission equipment used for education.

EXEMPTION FROM LOCAL GRANT REFUND REQUIREMENT (§ 9 (3))

The act exempts state-reimbursed code violation and emergency indoor air projects from a requirement that a district refund the unamortized portion of any state school construction grant for a project if it sells or redirects the school's use (1) within a 20-year period if the project cost more than \$2 million or (2) within a 10-year period if the project cost less.

DESIGN-BUILD PILOT PROGRAM (§ 11)

The act extends for two years a pilot program under which SDE may authorize up to two design-build school construction projects per year, making it a five-year instead of a three-year program. It also expands the scope of the pilot to include renovation as well as new school projects.

The act delays the required SDE report on the program to the Education and Finance, Revenue and Bonding committees from January 15, 2006 to January 15, 2008. Although not defined in the law, a "design-build" project is one designed as it is built rather than built according to pre-set plans.

SCHOOL FACILITIES REPORT (§ 5)

The act requires school districts to report to SDE on the condition of their school facilities and actions they take to maintain and improve indoor air quality every other year rather than every year. It also makes SDE's school facilities report to the Education Committee biennial rather than annual.

PROJECT WAIVERS AND EXEMPTIONS

The act waives certain statutory requirements for school construction programs in various school districts.

Additions to 2006 Project Priority List

Amistad Academy (§ 13). The act authorizes a school construction project for the Amistad Academy Charter School in New Haven for 2006. For the project, it waives (1) statutory requirements that applications for 2006 school projects must have been submitted to SDE by June 30, 2005 and (2) a law limiting charter school enrollments. It authorizes a total project cost of up to \$31.5 million and sets the state reimbursement rate at 78.57%.

Amistad must submit a complete grant application for the project to SDE by June 30, 2007. SDE must complete its final calculations for the project using a state grant amortized over 25 years, starting on the date the school's governing authority accepts the project as complete. If Amistad Academy stops using the building as a school during the 25-year period, the school's governing authority must refund the grant's unamortized balance to the state.

Regional District 11 and Brooklyn – New High School (§ 24). The act adds a cooperative school project between Region 11 and Brooklyn for a new high school to the 2006 project priority list. It limits the project cost to \$80 million. It waives requirements that the district must have filed an application for the project before June 30, 2005 and that local funding for the project must have been approved prior to application. The waiver depends on the districts' completing an application for the project by June 30, 2007.

The act also makes the project eligible for the 10-percentage-point school construction grant reimbursement bonus for cooperative arrangements if the districts conclude a cooperative arrangement before completing it.

University of Hartford Magnet School – Portable Classrooms (§ 27). The act adds a Hartford project costing up to \$1 million for portable classrooms at the University of Hartford magnet school to the 2006 project priority list. It waives requirements that, to be on the list, the district must have filed an application for the project before June 30, 2005, that local funding for the project must have been approved prior to application, and that reimbursed lease costs be reasonable. The waiver depends on the district completing an application for the project by June 30, 2007.

Square Footage Specifications

The act exempts the following projects from the square footage specifications SDE uses to calculate the projects costs eligible for state reimbursement.

§	District	School	Project
3	West Hartford	Bristow Middle School	Parking garage
15	Mansfield	Mansfield Middle School	Replace electric with fossil-fuel heating system (with additional conditions described below)
25	Fairfield	Fairfield Warde High	Extension and alteration – Up to 296,000 square feet are eligible
29	Oxford	New Oxford High	Science and technical center (with additional conditions described below)

In addition to waiving square footage specifications for the Mansfield Middle School heating system project, the act also waives school construction grant eligibility requirements to make the project eligible to be considered for state reimbursement. The district must file an application by June 30, 2006 and meet all other grant requirements.

The exemption for the new Oxford High School science and technical center limits its cost to \$500,000. The exemption is contingent on the district allowing students from nearby schools and districts to use the center.

Roof Projects

North Canaan (§ 26). The act waives a requirement that a roof replacement project at North Canaan Elementary School include at least a 20-year unlimited manufacturer’s guarantee for water tightness covering workmanship on the entire roofing system. It makes the project eligible for state reimbursement without the guarantee.

Middletown (§ 28). The act allows Middletown to qualify for a reimbursement grant for a roof replacement

project at Moody Elementary School even though the school’s old roof does not meet statutory eligibility conditions. Those conditions are that the old roof be at least 15 years old or (1) a registered architect or engineer determine the old roof was improperly designed or built and (2) the town cannot recover damages or has no legal recourse. The act requires the reimbursement grant for the project to be calculated by multiplying the eligible roof replacement cost at Middletown’s regular reimbursement rate by the ratio of the Moody School roof’s age to 20 years.

Bid and Plan Approval

For districts and projects shown below, the act waives the requirement to obtain SDE approval of project plans and specifications before offering projects for competitive bid. It allows a district to begin the projects and later be eligible for grants, if SDE approves their plans and specifications.

§	District	School	Project
2	West Hartford	Bugbee	Extension and alteration
14	Killingly	Killingly High	Asbestos removal
16	New Hartford	Bakersville Consolidated	Water well code violation
17	Waterbury	Wilson Elementary	Code violation
18	Waterbury	Barnard Elementary	Code violation
19	Waterbury	West Side Middle	Code violation
20	Waterbury	Crosby High/Wallace Middle	Code violation
21	Waterbury	Wilby High/North End Middle	Code Violation
23	East Hampton	Memorial Elementary	Installing water main on school property
31	Ellington	Ellington High	Renovation

Other Waivers and Exemptions

Manchester Head Start/Preschool Center (§ 22). The act allows Manchester to use money from loans for child-care facilities financed through Connecticut Health and Educational Facilities Authority bonds and Department of Social Services grants for debt service on such loans as its required local share of the cost of a school construction project. The authority applies to Manchester’s share of the project costs for building the Manchester Head Start/Preschool Center so it may offer a full-day, town-wide preschool program. Ordinarily, SDE must subtract any other state funds for a school project before calculating the school construction grant reimbursement.

Aviation Satellite Technical Program at Brainard Airport (§ 30). Prior law required the education commissioner to provide up to \$2 million in financing from either school construction bonds or available

appropriations for relocating an Ellis Vocational Technical School project and up to \$8 million for renovating and improving facilities at Brainard Airport for educational purposes. The act, instead, requires the commissioner to provide up to \$10 million to develop educational facilities at Brainard Airport and eliminates the \$2 million authorization for relocating the Ellis Tech project.

PA 06-167—sHB 5513

Education Committee

AN ACT CONCERNING PARENTAL INVOLVEMENT REPORTING IN SCHOOL PROFILES

SUMMARY: This act requires school superintendents to include information on parental involvement in the strategic school profiles they must submit to their respective boards each year. They must include the information in the narrative portion of the report and note whether the district has taken measures to improve parental involvement, including engaging parents in school programs and increasing support to parents at home working with their children on learning activities.

The law already requires superintendents to include information in the strategic school profiles on measures of (1) student needs; (2) school resources; (3) student and school performance; (4) equitable allocation of resources among the schools in the district; (5) reduction of racial, ethnic, and economic isolation; and (6) special education. Boards must submit the reports to the education commissioner.

EFFECTIVE DATE: July 1, 2006

PA 06-192—sHB 5758

Education Committee

Judiciary Committee

Labor and Public Employees Committee

Higher Education and Employment Advancement Committee

AN ACT CONCERNING MINOR REVISIONS TO THE EDUCATION STATUTES

SUMMARY: This act allows regional boards of education to create funds for (1) capital improvements and nonrecurring expenses rather than for a specific purchase or improvement and (2) payment of employee sick leave and severance benefits. It sets requirements for the operation of both funds. It allows for student teaching in foreign countries and allows the state Department of Education (SDE) to issue special durational shortage area permits for qualified graduates of a national teacher corps training program to work in

schools in three municipalities. The act also adds an additional condition for the reemployment of retired teachers.

The act also allows the State Board of Education (SBE) to pay employees of other state agencies the per diem fee and expenses when they act as school accommodation hearing officers and makes other minor changes to the education statutes.

EFFECTIVE DATE: July 1, 2006, except for the provisions concerning regional board of education reserve funds, the SDE website, and school accommodation hearing officers, which are effective on passage.

CREDITS AND RECORDS FROM UNIFIED SCHOOL DISTRICT #1 (§ 1)

This act specifically requires Unified School District #1 to send the records of transfer students to their new school districts. The law already required a sending school district to provide this information within 10 days of receiving the mandated notice of enrollment from the new school district.

The act also requires the new school district to credit students for all instruction received in the unified school district within 30 days of receiving students' education records. Unified School District #1 serves students in the custody of the Department of Correction.

STUDENT TEACHING IN FOREIGN COUNTRIES (§ 2)

The act allows prospective teachers to do their student teaching in foreign countries instead of only under the supervision of a cooperating teacher as part of the SDE's cooperating teacher program. The foreign student teaching must be conducted under a written cooperative agreement between a Connecticut and a foreign higher education institution. The act allows a Connecticut institution to make these agreements only after SBE and the Board of Governors of Higher Education have jointly approved participation in the agreements by its teacher preparation program.

DURATIONAL SHORTAGE AREA PERMITS FOR NATIONAL TEACHER CORPS GRADUATES (§ 3)

The act allows the SDE to issue special durational shortage area permits to allow qualified graduates of a national teacher corps (such as Teach for America) training program to work at the elementary or secondary level in public and charter schools in Bridgeport, Hartford, and New Haven.

A durational shortage area permit (DSAP) is a temporary public school teaching credential issued by the SBE at the request of a local board of education. It allows an uncertified person to teach in a particular

position for which no suitable certified teacher is available. In issuing DSAPs under the act, the SBE must first meet the needs of schools run by the Bridgeport, New Haven, and Hartford boards of education and second, those of charter schools in those cities.

DSAP applicants' qualifications are specified in SBE regulations (Conn. Agencies Reg. §§10-145d-421 and -422). The act modifies some of these qualifications for DSAPs issued to national teacher corps graduates. It requires:

1. the education commissioner to approve the national corps training program from which the applicant graduated;
2. the national corps graduates holding the DSAPs to be enrolled in (a) a teacher preparation program in the subject area they are teaching, (b) an approved alternate route to teacher certification (ARC) program, or (c) a program that meets the requirements for an ARC program and that is awaiting or has state approval; and
3. the graduates to have either completed at least 12 credits of coursework or passed the SBE-approved test in the subject they are teaching.

Like regular DSAPs, the national teacher corps DSAPs are valid for one year. But unlike regular DSAPs, these DSAPs may be renewed only once instead of twice.

REGIONAL BOARD OF EDUCATION RESERVE FUNDS (§§ 4 & 5)

Capital and Nonrecurring Expenses

Under prior law, a regional board of education could, upon the recommendation and the approval of a majority of board members, create a reserve fund to finance a specific (1) capital improvement or (2) equipment purchase. Annual appropriations to this fund could not exceed one percent of the annual district budget and had to be included in the share of net expenses paid by each member town. The board was required to submit a report on the fund to member towns.

The act allows any such fund to be discontinued, upon the board's recommendation and approval. Once the fund is discontinued, fund appropriations are no longer included in each town's share of net expenses and any remaining funds must be transferred to the district's general fund. The act prohibits boards from creating this type of reserve fund after its passage.

After the act's passage, a board may instead create, by a majority vote of its members, a reserve fund for capital and nonrecurring expenditures. The act provides that the aggregate amount of annual and supplemental appropriations to the fund cannot exceed one percent of

the annual district budget for the fiscal year.

Upon the board's recommendation and approval, any or all of such funds may be used for capital and nonrecurring expenditures. However, the act restricts such use to the funding of all or part of the planning, construction, reconstruction, or acquisition of any specific capital improvement or equipment item. If the expenditure is approved, an appropriation must be set up and plainly designated for that particular project. Any unexpended amount of the appropriation may be continued until the project or purchase is completed, with any remaining amount after completion reverting to the fund. The act allows the board, by majority vote, to terminate the appropriation if the project or purchase cannot be completed due to unforeseen circumstances.

Accrued Liabilities for Employee Sick Leave and Severance Benefits

The act also allows a regional board, by a majority vote, to create a reserve fund for accrued liabilities for employee sick leave and severance benefits. The aggregate amount of annual and supplemental appropriations by a district to any such fund in any year cannot exceed the actuarially recommended contribution from the annual district budget for the fiscal year. The act prohibits payments to the fund that will cause the amount to exceed the accrued liability for such employee benefits as determined by the district's financial statements, except for the addition of the fund's interest and investment earnings.

Upon the board's approval by majority vote, the fund may be used to pay employee sick leave and severance benefits without further appropriation.

Both Funds

For both new reserve funds, the act sets the same requirements for the (1) share of net expenses for member towns, (2) fund condition report, and (3) discontinuance of the funds as were required for the fund the act eliminates.

Additionally, the act requires interest and investment earnings on the money held in the funds to be credited to the funds and allows supplemental appropriations to the funds to be made from estimated fiscal year-end surplus operating money.

AT-RISK STUDENTS (§ 6)

The act requires SDE, within available resources, to review programs in other states for their effectiveness in reducing the drop-out and suspension rates for students at risk of either. SDE must report its findings to the Education Committee by January 1, 2007.

SDE WEBSITE (§ 7)

The act allows the SDE to develop and maintain a website without the Department of Information Technology's help.

STATEWIDE UNIVERSAL SERVICE FUND APPLICATION (§ 8)

The Commission on Educational Technology oversees periodic statewide applications for funds from the federal Universal Service Fund to enhance the Connecticut Education Network (CEN). The act considers any local or regional board of education the commission designates for connection to CEN as having consented to the commission submitting an application on its behalf, without the commission having to obtain the consent of each board individually. The act also allows the commission to appoint a designee to submit the application.

Finally, the act deletes obsolete language requiring a feasibility report, which has already been completed, on statewide Universal Service Fund applications.

CEN provides schools, libraries, and higher education institutions with high-speed Internet access, among other things. The federal Universal Service Fund subsidizes the cost. The money comes from required contributions by telecommunications companies.

SCHOOL ACCOMMODATION HEARING OFFICERS (§ 9)

The SBE employs hearing officers to hear and decide appeals of local school board decisions on student residency for the purpose of school accommodations. Hearing officers can be SDE employees or qualified people from outside SDE. Hearing officers are paid reasonable fees and expenses established by SBE. Prior law barred SBE from paying these fees and expenses to any hearing officer who is a state employee. The act narrows this prohibition to cover only SDE employees, thus allowing SBE to pay employees of other state agencies the per diem fee and expenses when they act as school accommodation hearing officers.

NATIONAL AND INTERNATIONAL MEASURES OF STUDENT PROGRESS (§ 10)

This act allows the education commissioner to require boards of education she designates to participate in any national or international measure of student progress or the U.S. Department of Education sponsored National Assessment of Educational Progress. Prior law only allowed the latter.

REGIONAL EDUCATION SERVICE CENTERS (RESCs) (§ 11)

The act requires the SDE to encourage the use of RESCs to provide goods and services to school boards. It allows SDE to give special consideration to grant applications that indicate (1) such use or (2) joint purchasing agreements among boards to purchase supplies, testing materials, food or food services.

AFTER SCHOOL GRANT (§ 12)

The law allows SDE, in consultation with the after school committee, to administer an after school grant program for boards of education, municipalities, and tax-exempt non-profit organizations. The act requires the SDE and the committee to develop and apply evaluation procedures to measure the effectiveness of the grant program.

REEMPLOYMENT OF RETIRED TEACHERS (§ 13)

Under certain conditions, the law allows local boards of education to reemploy retired teachers for a full school year and to extend the reemployment for an additional school year while the teacher continues to receive benefits from the Teachers' Retirement System. This act adds an additional condition for this reemployment.

By law, the retired teacher must be reemployed in a subject shortage area identified by the education commissioner, the reemploying local school board must apply in writing to the Teachers' Retirement Board (TRB) for permission, and the TRB must approve. The act also requires a local board, as part of its request for approval, to certify that no qualified candidate other than the retired teacher is available.

PA 06-74—sSB 212

*Energy and Technology Committee
Environment Committee*

AN ACT CONCERNING BIOMASS

SUMMARY: Under current law, electric utilities and competitive electric suppliers must buy part of their power from renewable resources under the state's renewable portfolio standard (RPS) or participate in a renewable energy credit trading program. This act (1) eliminates the option of purchasing power to meet this requirement, (2) sunsets the current trading program, and (3) establishes criteria for meeting the requirement under a new credit trading program.

The act modifies the type of wood and other biomass products that count as class I resources under the RPS. It broadens where construction and demolition wood can be disposed.

EFFECTIVE DATE: October 1, 2006

RENEWABLE PORTFOLIO STANDARD

Under the RPS, utilities and competitive suppliers must get some of their power from class I renewable resources such as wind power or fuel cells. They must obtain another part of their power either from these resources or class II resources, such as resources recovery facilities.

Under prior law, utilities and suppliers could buy the power from renewable generators in New England, or starting January 1, 2010, from generators in New York and the mid-Atlantic states (Delaware, Maryland, New Jersey, and Pennsylvania) if the Department of Public Utility Control (DPUC) determines that these states have portfolio standards comparable to Connecticut's RPS. Alternatively, utilities and suppliers could meet the RPS by participating in a DPUC-approved renewable energy trading program. Under trading programs, renewable generators get certificates for the power they produce. The certificates are associated with the power, but can be sold separately to utilities and suppliers who are subject to RPS requirements in Connecticut or other states. For example, a person who generates 1,000 kilowatt hours of power from a wind farm may sell the power to one utility and the renewable energy credits associated with the power to another utility.

The act eliminates the first option and limits the second option to renewable energy certificates under contract to serve end-use customers in the state on or before October 1, 2006.

Instead, it requires utilities and suppliers to meet the RPS requirements by buying certificates issued by the New England Power Pool generation information system (GIS). These certificates must be for (1) energy

produced from class I or class II resources at generating plants in the jurisdiction of the entity that administers the regional wholesale market (all of New England except the northern tip of Maine) or (2) energy imported into this area under GIS rule 2.7(c), as of January 1 2006. Among other things, this rule ensures that the power is actually imported into the region and that the renewable energy credits are not double counted.

CLASS I BIOMASS RESOURCES

The act modifies the types of biomass that count as class I renewable resources. The law includes in class I the power from two types of facilities that use biomass resources. The first type is power produced from a biomass facility that emits no more than .075 pounds of nitrogen oxides per million British thermal units (BTUs) of heat input for the previous calendar quarter. (A cord of wood has about 21 million BTUs.) Such facilities include plants that turn the biomass into a gas. These plants can use land-clearing debris, tree stumps, or biomass that regenerates or whose use will not deplete resources. In the case of biomass that is cultivated and harvested (e.g., trees), it must be done in a sustainable manner. The second type of biomass resource that currently counts as class I is the power produced at a biomass facility that began construction before July 1, 2003, and has a capacity of less than 500 kilowatts. This type of facility is not subject to the emission limit, but it must use biomass that is cultivated and harvested in a sustainable manner.

The act generally excludes from the resources that count as class I under these provisions: construction and demolition waste; finished biomass products from sawmills, paper mills, and stud mills; organic refuse derived from municipal solid waste; and biomass from old growth timber stands. However, these resources can be used:

1. for a biomass gasification plant that received funding from the state's Clean Energy Fund before May 1, 2006;
2. if the energy derived from this biomass is subject to a long-term power purchase contract under "Project 100" (by law, electric companies must enter into such contracts with renewable resources facilities that have a capacity of at least one megawatt (1,000 kilowatts)); or
3. if before July 1, 2007, the biomass is used in a renewable energy facility that DPUC approved before October 1, 2005.

CONSTRUCTION AND DEMOLITION WOOD

The act allows the following to be disposed of at a biomass gasification plant that qualifies as a class I

renewable energy resource (1) processed construction and demolition (C&D) wood, (2) C&D wood generated at a residence that has not been pressure-treated or contaminated with arsenic or certain other substances, and (3) processed wood (recycled or treated wood processed at a volume reduction plant).

The act expands the definition of “regulated wood fuel users” to include such gasification plants. As a result, it allows such plants to burn processed C&D wood that has been sorted to remove certain contaminants.

PA 06-144—sSB 232

*Energy and Technology Committee
Planning and Development Committee
Appropriations Committee*

**AN ACT CONCERNING
TELECOMMUNICATIONS COMPETITION AND
PROMOTING BROADBAND INTERNET
COMPETITION**

SUMMARY: This act deems certain services offered by telephone companies to be competitive and therefore subject to less extensive regulation. However, it continues to subject the companies to a statutory pricing standard with regard to these services until January 1, 2010.

By law, the Department of Public Utility Control (DPUC) can change how a service is classified after considering various factors. The act eliminates three of the factors and modifies another.

The act requires Southern New England Telephone (SNET) or its successor (i.e., AT&T) to offer part of its hybrid fiber coaxial system for sale under certain circumstances.

By law, DPUC can investigate telecommunications tariffs. The act specifically allows the investigation to address whether the tariff is predatory, deceptive, or anticompetitive, or violates the pricing standard.

Under prior law, DPUC had to report to the legislature annually on the status of telecommunications competition and regulation. The act instead requires that the report go to the Energy and Technology Committee, and that it describe the act’s implementation. It also requires telephone companies to provide certain information to DPUC for the report.

EFFECTIVE DATE: July 1, 2006

SERVICES DEEMED COMPETITIVE

By law, telecommunications services are classified as competitive, emerging competitive, or noncompetitive, with the classification affecting how a service is regulated. Certain services, such as 800

service are statutorily deemed competitive. The act deems the following to be competitive: (1) business and home office services offered by a telephone company (such as Verizon in parts of Greenwich, AT&T elsewhere) and (2) services offered by these companies to residential area customers who subscribe to two or more telephone company services, including basic local exchange services, vertical features (e.g., caller identification), and interstate toll service provided by a telephone company affiliate. Previously, these services were classified as noncompetitive. The reclassification means that these services will be subject to less extensive regulation. Among other things, it will reduce the notice a telephone company must provide before changing the tariff for such services, which includes the rate charged for the service.

PRICING STANDARD

Telephone companies provide wholesale services, among other things, to their retail competitors. For example, while a competitor may have its own long distance network, it may rely on the telephone company’s local network to transport a call from a central office to a home or business.

The law sets a floor on the rates that telephone companies can charge for their services that are determined to be competitive or emerging competitive. The floor is equal to (1) the rate the telephone company charges a competitor for the local network services that are noncompetitive or emerging competitive plus (2) the telephone company’s incremental costs. For example, if a telephone company charges its competitors one cent per minute for providing local network services for business customers, the telephone company’s total rate for a business customer cannot be less than this network charge plus the telephone company’s added (incremental) cost in serving the customer. The act affects the first component of the floor by deeming certain services to be competitive.

The law allows DPUC to modify or remove this standard under certain circumstances (CGS § 16-247b(c)). The act bars telephone companies from obtaining a waiver from the pricing standard until January 1, 2010, with regard to the services the act reclassifies.

RECLASSIFICATION

The law establishes a process by which DPUC can reclassify a service provided by a telephone company or a certified telecommunications provider. Prior law required DPUC to consider eight criteria in determining whether to reclassify a service. The act modifies one of the criteria and eliminates three others.

By law, DPUC must consider the availability of functionally equivalent services in the relevant geographic area at competitive rates, terms, and conditions. The act specifies that these services can include those offered by certified telecommunications providers, cell companies and other commercial mobile radio services providers, voice-over Internet protocol providers (e.g., Vonage), and other providers using alternative technologies.

The act eliminates requirements that DPUC consider:

1. the financial viability of each of these providers,
2. the existence of market power that DPUC considers relevant (other than barriers to firms entering and leaving the market, which by law and under the act it must consider), and
3. the extent to which other telecommunications companies must rely on the service to provide their own services.

4. the number of wholesale service requests and the time it takes for the company to respond to them;
 5. the number of competitive local exchange carriers;
 6. the impact of competition on the company's workforce; and
 7. the state of the industry, industry trends, and competitive alternatives available in the market, and technological changes affecting the market.
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HYBRID FIBER COAXIAL SYSTEM

By law, DPUC must order a telephone company to unbundle its network, under certain circumstances, to make its components available to the company's competitors. (Federal law has a similar provision.) DPUC ordered SNET to unbundle its hybrid fiber coaxial facilities, which were originally used to provide both video and telecommunications services. SNET appealed the order in several venues, including the Federal Communications Commission (FCC).

Under the act, if FCC rules in favor of the company, SNET or its successor must entertain offers of \$1 or more for the purchase of the currently unused part of its coaxial facilities that were previously part of the hybrid fiber coaxial network that the company's affiliate used to provide video services.

DPUC REPORT ON TELECOMMUNICATIONS COMPETITION

Under the act, when DPUC compiles its annual telecommunications report, it must require each telephone company to provide information on:

1. its aggregate number of access lines, other than resold lines or other wholesale lines;
2. the annual change in its number of access lines over the previous five years;
3. the number of active wholesale customers the company serves and the nature of the wholesale services;

PA 06-4—SB 190
Environment Committee

AN ACT CONCERNING WILDLIFE KILLED OR WOUNDED BY MOTOR VEHICLES

SUMMARY: The law allows a person who, while driving, strikes and kills or seriously wounds a deer to keep it, after (1) a local or state police or conservation officer inspects it and (2) the officer issues a copy of a deer kill incident report. Anyone may take possession of the deer if the driver declines to do so.

The act specifies that a driver also may keep a moose or black bear he kills or seriously wounds in this situation after it is inspected and a wildlife kill incident report is issued. It allows anyone to take possession of a moose or black bear if the driver declines to do so.

EFFECTIVE DATE: October 1, 2006

PA 06-14—SB 664
Environment Committee

AN ACT CONCERNING TECHNICAL REVISIONS TO THE ENVIRONMENT STATUTES

SUMMARY: This act makes technical changes to environmental laws concerning (1) pesticides and (2) dry cleaning establishment remediation grants.

EFFECTIVE DATE: October 1, 2006

PA 06-19—SB 413
Environment Committee
Judiciary Committee

AN ACT CONCERNING MINOR REVISIONS TO THE DEPARTMENT OF AGRICULTURE STATUTES

SUMMARY: This act requires each intrastate retail raw milk dealer with 10 or fewer milking-aged animals to (1) keep records about drugs used on the animals and (2) have them available for inspection by the Department of Agriculture (DOAg) commissioner. The act requires intrastate retail raw milk dealers with 10 or more milking-aged animals and retail raw milk producers to test each tank truck load of milk or milk products for drug residue. It also eliminates the requirement that hard cheese be clearly marked with a last sale date.

The act adds the camel family (llamas and camels) to the definition of livestock under the laws concerning domestic or commercial use and domestic animal diseases.

It allows the commissioner to determine alternate ways to identify livestock other than by branding. It adds livestock identification to the list of things about which the DOAg commissioner may make orders and regulations to prevent the spread of contagious and infectious disease among livestock. It also (1) makes discretionary, instead of mandatory, the \$100 fine for violating the commissioner's or his assistants' orders or regulations or obstructing or attempting to obstruct his orders and (2) adds an administrative civil penalty in lieu of imprisonment for such violations.

The act also makes several minor and technical changes.

EFFECTIVE DATE: Upon passage, except for the provisions concerning the camel family, livestock sales, and alternate animal identification methods, which are effective October 1, 2006.

PA 06-41—sHB 5567
Environment Committee

AN ACT CONCERNING THE SEIZURE OF MILK PRODUCTS

SUMMARY: This act makes several changes to laws regulating milk and milk product safety.

It eliminates a mandatory hearing for owners or custodians of milk or milk products that the agriculture commissioner or his agent seized for being unsafe, but it allows the product owner or custodian to request one within five days of the seizure order. By law, anyone aggrieved by the commissioner's hearing determination may appeal to Superior Court.

The act also (1) specifies what the commissioner must review when determining whether seized milk or milk products, including cheese, are safe for consumption and (2) establishes a process to follow when he determines that such products are safe.

By law, the commissioner must prohibit the sale or distribution of milk or other milk products that (1) are not sanitary or are detrimental to health and (2) has or have not been produced, cared for, or handled as the law requires. The act (1) extends these prohibitions to cheese and (2) prohibits offering these products for sale in such a condition. The act specifies that the laws under which milk, milk products, and cheese must be produced, processed, cared for, or handled include those concerning the milk industry. It also adds compliance with milk industry laws to those with which milk, milk products, and cheese owners or custodians must comply or face (1) seizure of their product as unfit or unsafe for food use or as a threat to public health or (2) a civil penalty. It allows the commissioner's duly authorized agent instead of his deputy to prohibit the sale or distribution of such milk or other milk products.

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2006

SEIZURE OF MILK, MILK PRODUCTS, AND CHEESE

Tagging or Marking

Prior law allowed the agriculture commissioner to seize, destroy, dispose of, or quarantine any milk or milk product that did not comply with certain state laws and regulations and was considered unfit or unsafe for consumption or a threat to public health. The act (1) extends to cheese the agriculture commissioner's existing authority to seize, destroy, or dispose of any milk or milk product that does not comply with certain state laws and regulations and is considered unfit or unsafe for consumption or a threat to public health and authorizes an embargo of such milk, milk product, or cheese instead of a quarantine; (2) specifies that the commissioner's agent may take the same actions under the same conditions; and (3) adds laws concerning the milk industry to those with which such products must comply.

The act also extends to cheese the commissioner's authority to tag or otherwise mark any milk or milk products with a warning that the milk or product is, or is suspected of being, adulterated or misbranded. It allows the commissioner's agent to also do the marking.

By law, the commissioner is not liable for any damages caused by marking or tagging the milk and milk product unless a court finds there was no probable cause to do so. The act expands the exemption to cover any damages caused by the seizure, embargo, or destruction of milk, milk products, or cheese or the tagging or marking of cheese, unless a court finds there was no probable cause for tagging and marking. The probable cause court finding does not appear to extend to seizure, embargo, or destruction (only to tagging and marking); that is, there does not seem to be liability for these three actions, if undertaken without probable cause.

Hearing

Prior law required the commissioner to conduct a hearing for the owner or custodian of seized milk or milk products to show why they should not be destroyed. Hearing notice had to be served in writing no later than 48 hours before the hearing. The commissioner had to hold the hearing within 10 days after tagging or marking the milk product but no later than three days for perishable fluid milk.

The act removes this mandatory hearing. It instead requires the commissioner or his agent, no later than 24 hours after tagging or marking the product, to notify the

product's owner or custodian of his findings, any violations or proposed disposition, and the right to a hearing. It allows anyone aggrieved by the commissioner's order to request a hearing not later than five days after he issues it. The act increases the time the commissioner has to hold the hearing to not later than (1) 20 days from tagging milk products and (2) 10 days for perishable fluid milk. It extends this entire process to cover cheese.

By law and under the act, the owner or custodian must pay the costs of storage, handling, and other incidental expenses.

Analysis Certificate

The act specifies that a certificate of analysis from one of several entities is evidence that on its face shows the ingredients and constituents of a milk, milk product, or cheese sample. Those entities include the Department of Public Health, the Agriculture Experiment Station, the U.S. Food and Drug Administration, the University of Connecticut Veterinary Medical Diagnostic Laboratory, or other certified laboratories that the commissioner accepts.

Determination

By law, if the commissioner determines the milk, milk product, or under the act, cheese, in question is not useable as food, he may order the owner to destroy or dispose of it and must supervise its destruction. The act allows the commissioner's agent to supervise the destruction.

Previously, following a hearing, the commissioner had to determine whether the milk or milk product in question was unsafe for consumption as food or detrimental to public health. Under the act, the commissioner must determine if the milk, milk product, or cheese is safe for use as food and complies with statutory and regulatory requirements.

The act also specifies what the commissioner must do if he finds the milk, milk product, or cheese is safe. If he finds it is safe for food use and not detrimental to public health, or that it can be properly packaged, marked, or otherwise brought into compliance with the law, he may order it to be packaged, marked, or otherwise brought into compliance and may then authorize its release.

COMPLIANCE

The law prohibits anyone from selling or exchanging, offering for sale or exchange, or possessing with intent to do either, milk that is misbranded, diluted with water, or adulterated by any foreign substance. The act adds milk products and cheese to this prohibition. It also specifies that knowingly selling,

distributing, exchanging, or offering for sale any of these products that are not produced in compliance with state law, including those for the milk industry, is prohibited.

It also prohibits licensed dealers from accepting milk, milk products, or cheese from anyone whose license or permit to produce, distribute, or process these products is suspended or revoked.

The act allows, instead of requires, the assessment of a civil penalty for violators.

PA 06-52—SB 294

Environment Committee

Public Health Committee

AN ACT CONCERNING FARMER'S MARKETS

SUMMARY: This act expands the types of products that can be sold at farmers' markets that participate in the Women, Infants, and Children (WIC) program. By law, WIC voucher holders can exchange the vouchers for Connecticut-grown fresh produce at participating farmers' markets. The act broadens the definition of such produce by eliminating the exclusion of nuts, popcorn, vegetable plants or seedlings, dried beans or peas, seed or grains, flowers, cider, and eggs.

Under prior law, such markets principally served as markets for farmers who sell Connecticut-grown fresh produce. The act adds "farm products," which include honey, maple syrup, flowers, meat, milk, and cheese, to the goods that can be sold at these markets. It also requires that at least two of the farmers participating in such markets sell Connecticut-grown fresh produce.

The act establishes requirements for "certified farmers' markets," which it defines as one the agriculture commissioner authorizes to operate (but not necessarily participate in the WIC program). The act requires farmers who sell products at a kiosk at a certified farmers' market to get and maintain any required license to sell the products and comply with state regulations on the sale of farm products on a farm (i.e., sales at such a market are an extension of sales on the farm).

The act specifies that existing law concerning WIC program farmers' markets and the act's certified farmers' markets provisions do not supersede state and local health and safety laws, regulations, or ordinances.

EFFECTIVE DATE: Upon passage

DEFINITIONS

Under the act, for both certified farmers' markets and WIC program farmers' markets:

1. "farm products" are (a) any fresh fruits, vegetables, mushrooms, nuts, shell eggs, honey

or other bee products, maple syrup or maple sugar, flowers, nursery stock, and other horticultural commodities; (b) livestock food products, including meat, milk, cheese, and other dairy products; (c) "aquaculture" products, as defined by law, including fish, oysters, clams, mussels, and other molluscan shellfish taken from state waters or wetlands; (d) products from any tree, vine, or plant and their flowers; or (e) any of the products listed above that the participating farmer processed, which include baked goods made with farm products and

2. "fresh produce" means fruits and vegetables that have not been processed in any manner. (The act eliminates prior law's exclusion of nuts, popcorn, dried beans, flowers, etc. from the definition of "fresh produce" for the WIC program farmers' markets.)

The act defines the following for certified farmers' markets.

1. "Farmer's kiosk" means a structure or area located within a certified farmers' market used by a farm business to sell.
2. "Connecticut-grown" means produce and other farm products that have a traceable point of origin in Connecticut.
3. "Farmers' market" means a cooperative or nonprofit enterprise or association that consistently occupies the same site throughout the season and operates principally as a common marketplace for a group of farmers, at least two of whom are selling Connecticut-grown fresh produce, (a) to sell Connecticut-grown farm products directly to consumers and (b) where the farm products sold are produced by the participating farmers with the sole purpose of generating a portion of household income.

CERTIFIED MARKET REQUIREMENTS

The act specifies that sales at certified farmers' market kiosks are an extension of sales on the farm. By law, farmers must obtain U.S. Department of Agriculture licenses to sell eggs and meat, for example.

Under the act, a certified farmers' market is one that the commissioner authorizes to operate, but not necessarily participate in the WIC program. (The law defines an "authorized farmers' market" as one that operates within the WIC service area and is a site authorized by the Agriculture Department for the exchange of vouchers for Connecticut-grown fresh produce.)

PA 06-61—sSB 287

*Environment Committee
Commerce Committee*

**AN ACT CONCERNING REVISIONS TO THE
DRY CLEANING REMEDIATION ACCOUNT
PROVISIONS**

SUMMARY: This act makes several changes to the Dry Cleaning Remediation Fund program.

By law, program applicants may apply to the Department of Economic and Community Development (DECD) for grants from the dry cleaning establishment remediation account to mitigate pollution from dry cleaning chemicals. The act allows, instead of requires, the DECD commissioner to provide grants and specifies that applicants must be “eligible.”

Under prior law, to receive a grant, an applicant had to provide DECD with documentation that the remediation services for which he was seeking payment had been completed. Under the act, an eligible applicant must show the services have been or will be completed.

The act allows applicants to receive grants of up to \$300,000 per eligible dry cleaning establishment, instead of capping at \$300,000 the total amount an applicant may receive per year.

It also makes minor, conforming, and technical changes.

EFFECTIVE DATE: Upon passage

GRANT APPLICANTS

For the purposes of the remediation program, the law defines an “eligible dry cleaning establishment” as any business that (1) cleans clothes or other fabrics using tetrachlorethylene, Stoddard solvent, or other chemicals or (2) accepts clothing or other fabrics to be cleaned by another establishment using such chemicals. The act defines an “eligible applicant” as a (1) business owner or operator of an eligible dry cleaning establishment or (2) property owner that owns property an eligible dry cleaning establishment occupies.

Under prior law, to qualify for a grant an applicant had to demonstrate to the DECD commissioner’s satisfaction that:

1. the dry cleaning establishment was using, or had previously used, tetrachlorethylene, Stoddard solvent, or other chemicals for cleaning clothes or other fabrics;
2. he had been doing business and had maintained the business’ principal office and place of business at the site for at least one year before the application submission or approval date; and

3. he was up to date on all state and local taxes.

The act eliminates the requirement that the applicant maintained his principal office and place of business at the site. The act specifies that eligible dry cleaning establishments, in addition to eligible applicants, must be up to date on all required tax payments to qualify, including the dry cleaning tax imposed to fund the program. Under prior law, a dry cleaning establishment and the applicant had to have been in business at the site for at least one year to be eligible. The act eliminates the requirement for the applicant.

Prior law allowed DECD to use funds from the dry cleaning establishment remediation account, which funds the remediation program, for owners or operators of dry cleaning establishments or owners of property where such facilities exist when (1) the facility was in operation for at least a year before application approval and (2) a facility existed on the site at the time funds were released. The act eliminates this latter requirement.

ANNUAL REPORT

By law, the DECD commissioner must report annually on the account and grant program to the Environment Committee. The act requires him to do so on or after February 1, 2007, as part of DECD’s consolidated report established under PA 05-191, instead of as a separate report.

BACKGROUND

Dry Cleaning Establishment Remediation Account

The legislature created the account (PA 94-4, May Special Session) to provide grants to owners and operators of dry cleaning businesses for the containment and clean-up of pollution resulting from the discharge of chemicals or hazardous waste from their sites. The account is funded through a 1% surcharge on dry cleaning gross receipts.

PA 06-70—sHB 5750

*Environment Committee
Public Safety and Security Committee
Transportation Committee*

**AN ACT CONCERNING THE APPOINTMENT
OF SPECIAL CONSERVATION OFFICERS**

SUMMARY: By law, the Department of Environmental Protection (DEP) commissioner may supplement the state’s regular conservation officer force by appointing DEP employees as special conservation officers. This act allows the commissioner to additionally supplement the force with any sworn

federal law enforcement officer of the U.S. Fish and Wildlife Service or National Marine Fisheries Service. But it specifies that these federal officers are not considered state employees and may only exercise the authority granted to conservation officers by state law when working with a full-time conservation officer. The act also allows the commissioner to appoint any lake patrolman as a special conservation officer, solely to enforce boating laws within the patrolman's jurisdiction, with the stipulation that they are not considered state employees when appointed.

By law, DEP employees appointed as special conservation officers are entitled to the same benefits and reimbursement as regular conservation officers; the act specifies that only special conservation officers who are DEP employees are entitled to these benefits.

Under prior law, each conservation officer, special conservation officer, or patrolman had to complete a police training course at the state police training school or an equivalent course approved by the public safety commissioner. The act instead specifies this requirement refers to conservation officers, special conservation officers, and lake patrolmen and eliminates references to patrolmen, which DEP no longer uses.

The provisions of PA 06-76 are identical to this act's, except it contains a provision concerning fire arms. Under PA 06-76, lake patrolmen acting as special conservation officers may only carry firearms with the approval of the board of selectmen of the town or towns in which the lake on which the lake patrolmen are serving is located. In the case of a town having no board of selectmen, the lake patrolman must obtain this approval from the legislative body of the town or towns where the lake is located.

EFFECTIVE DATE: Upon passage

BACKGROUND

Lake Patrolmen

By law (1) the DEP commissioner must formulate training courses for lake patrolmen she appoints, (2) such lake patrolmen are not construed to be state employees, and (3) the municipality or lake authority responsible for the lake must therefore compensate them (CGS § 7-151b).

PA 06-76—sSB 285

Environment Committee

Judiciary Committee

Appropriations Committee

AN ACT CONCERNING PERSONAL WATERCRAFT AND CHILDREN, REVISIONS TO ENVIRONMENTAL PROTECTION

STATUTES, LAKE PATROLMEN AND THE APPOINTMENT OF SPECIAL CONSERVATION OFFICERS

SUMMARY: This act makes a number of changes in the Hazardous Waste Transfer Act and other environmental laws, including laws affecting solid waste facility permitting; the sale, labeling, and collection of mercury and mercury-containing products; and toxics in packaging.

Specifically, it:

1. exempts from the Transfer Act, which regulates conveyances of businesses that handle hazardous waste, (a) certain properties or businesses that deal solely with universal waste (e.g., batteries and pesticides) and (b) transfers of condominiums and similar residential communities that meet certain conditions;
2. in certain instances, allows sale or transfer of a remediated portion of land subject to the Transfer Act before the entire site is cleaned up, if notice of the sale or transfer is provided to the Department of Environmental Protection (DEP) commissioner within 30 days;
3. revises the permitting process for solid waste facilities, requires non-permitted solid waste disposal area owners to either submit closure plans to DEP or remediate the area, and changes other solid waste laws;
4. imposes criminal penalties for certain violations of laws governing the sale, labeling, and collection of mercury and products containing mercury;
5. reestablishes exemptions for certain packaging containing toxic materials and makes other changes affecting toxics in packaging;
6. authorizes the DEP to issue general permits for certain industrial wastewater discharges;
7. eliminates the Connecticut Hazardous Waste Management Service (CHWMS) and laws relating to low-level radioactive waste facilities, the Low-Level Radioactive Waste Facility Trust Fund, Low-Level Radioactive Waste Advisory Committee, and Low-Level Radioactive Waste Management Fund;
8. removes the siting of low-level radioactive waste facilities and consultation on the preparation of a hazardous waste management plan from the duties of the Connecticut Siting Council;
9. modifies filing requirements for certain DEP air pollution orders; and
10. prohibits personal watercraft (jet ski) passengers from riding (a) in front of a jet ski operator and (b) behind the operator unless

they meet certain physical requirements, and subjects violators to a fine of between \$60 and \$250.

By law, the DEP commissioner may license terminals that load or unload petroleum, chemicals, and hazardous waste for up to three years, beginning annually on July 1. The act extends the maximum license period to 10 years from the date the license is issued. The act also modifies the law concerning special conservation officers.

EFFECTIVE DATE: October 1, 2006, except for the (1) penalties for violating the mercury reduction laws, which take effect October 1, 2007, and (2) provisions concerning special conservation officers, which take effect upon passage.

THE HAZARDOUS WASTE TRANSFER ACT (§§ 11-15)

Universal Waste Exemption (§§ 11 & 14)

The Transfer Act governs the sale or other conveyance of certain property where hazardous waste was generated, used or stored. It requires such property to be investigated and pollution properly remediated. It also regulates “establishments,” which include certain businesses, and property where (1) more than 100 kilograms (220 pounds) of hazardous waste was generated in a calendar month or (2) hazardous waste was recycled, reclaimed, reused, stored, handled, treated, transported, or disposed of.

This act exempts from the Transfer Act, under certain conditions, real property or business operations that (1) generate more than 100 kilograms of universal waste in a calendar month; (2) store, handle, or transport universal waste generated elsewhere; or (3) undertake activities at a universal waste transfer facility. Under the act, universal waste includes batteries, pesticides, thermostats, lamps, and used electronics as defined by state regulation and federal law. Universal waste transfer facilities are any facilities related to transportation, including loading docks, and parking and storage areas where universal waste shipments are held in the normal course of transport for up to 10 days.

To be exempt, (1) this property or business must not generate, store, handle, or transport any hazardous waste other than universal waste or otherwise be subject to the Transfer Act; (2) there must not have been a discharge or spill of universal waste or a hazardous substance; and (3) the business or property must not recycle, treat, or dispose of universal waste, except as federal law allows for batteries and thermostats.

Condominium Exemption (§§ 11 & 12)

The act exempts from the Transfer Act the conveyance of units in condominiums, cooperatives, and other planned communities (“residential common interest communities”) that meet certain conditions. To be exempt, the declarant for the community of which the unit is a part must (1) be a certifying party for the purposes of remediating an establishment within the community and (2) provide the commissioner a surety bond or other form of financial assurance she finds acceptable. (A declarant, typically a project developer, creates and records the documents for a common interest community.)

The surety bond or other form of financial assurance must (1) identify both the DEP and unit owners association as beneficiaries, (2) be in an amount and form the commissioner approves, and (3) be sufficient, at all times when the property comprising the common interest community is an establishment, to remediate the subject property. The amount of the bond or other form of financial assurance may be reduced as remediation work progresses. It may exclude costs of (1) improvement not related to remediation, and (2) remediation (a) already completed and (b) on parcels that may be added to the community through the exercise of development rights.

To be exempt from the act, the seller of a unit in a residential common interest community that qualifies as an establishment also must provide the buyer with notice that summarizes (1) the community’s environmental condition, (2) investigation or remediation activities, and (3) environmental land use restrictions. The notice requirement applies to all conveyances, including those exempt from public offering statement or resale certificate requirements.

TRANSFER ACT FORMS AND REMEDIATING AND TRANSFERRING A PORTION OF AN ESTABLISHMENT (§§ 13 & 15)

The law requires anyone transferring an establishment to complete one or more of four different forms, depending on the presence of hazardous waste or hazardous substances, and the status of investigations and remediation.

Generally speaking, a transferor files a Form I if: (1) there has not been a release of a hazardous waste or a hazardous substance or (2) a hazardous substance spill has been properly cleaned up, and the remediation is (a) approved in writing by the DEP commissioner, or (b) verified by a licensed environmental professional (LEP).

A transferor files a Form II when, among other things, a hazardous waste or hazardous substance spill has taken place, cleanup has been completed, and either the DEP commissioner has approved the cleanup in writing or an LEP has verified in writing that it has been properly performed.

By law, a certifying party files a Form III when (1) a hazardous waste or hazardous substance leak has occurred, but has not been fully remediated, or (2) he does not know the environmental conditions at the establishment. The certifying party agrees to properly investigate and remediate the parcel. A certifying party files a Form IV when there has been a leak, and all remediation actions have been completed except for post-remediation monitoring or the recording of an environmental land use restriction.

Changes in Forms I and II (§ 13)

The act requires, for a Form I, that an LEP's verification be in writing. It requires, for both a Form I and a Form II, that the transferor certify that there has not been a leak of a hazardous waste or hazardous substance at any portion of the establishment since the commissioner's determination or the LEP's verification that the establishment, or any portion of it, was properly remediated.

Certifying Parties and Forms III and IV (§ 15)

By law, a certifying party is, in the case of a Form III or Form IV, a person associated with the transfer of an establishment who agrees to investigate a parcel (a tract of land that is an establishment or where there is a business that is an establishment) according to prevailing standards, and to properly remediate pollution. The commissioner may (1) review and approve the remediation or (2) accept an LEP's verification that the remediation has been properly performed.

Under prior law, if the commissioner informed a certifying party that an LEP had to verify the remediation, the certifying party had to submit a schedule for investigating and remediating the establishment. The act instead specifies that this schedule is for investigating the parcel and remediating the establishment and requires the certifying party to investigate and remediate the parcel according to the proposed schedule or a schedule the commissioner specifies.

Under prior law, the certifying party submitted to the commissioner an LEP's independent verification that the establishment has been properly remediated, and as applicable, a Form IV verification. The act instead requires the certifying party to submit to the commissioner a final LEP verification when the entire

site has been remediated. Such a final verification may include and rely on an LEP's verification that a portion of the establishment had been previously remediated.

Remediating and Transferring a Portion of an Establishment (§ 15)

The act allows the sale or transfer of a portion of an establishment before the entire establishment is remediated if certain conditions are met.

Under the act, a certifying party may satisfy his Form III or Form IV requirements by submitting an LEP verification for any portion of an establishment for which the certifying party has completed remediation. If (1) a certifying party submits such a verification; (2) the balance of the establishment is not otherwise subject to the transfer act; and (3) the verified portion is transferred, conveyed, or changes ownership before the entire establishment is remediated, the certifying party must notify the commissioner of the transfer, conveyance, or change in ownership within 30 days of its occurrence.

In cases where the commissioner must review and approve a site investigation and remediation, the act allows a certifying party to ask the commissioner to find that the certifying party has properly cleaned up a portion of the establishment according to plans and schedules the commissioner has approved. It authorizes the commissioner, when determining whether the entire site has been properly remediated, to rely on her prior finding. As with LEP verification, above, a remediated portion of an establishment can be sold or transferred before the entire establishment is remediated if the establishment is not otherwise subject to the Transfer Act and the certifying party notifies the commissioner within 30 days of the sale or transfer of the remediated portion.

SOLID WASTE FACILITY PERMITTING (§§ 24 & 25)

Under prior law, the commissioner issued separate permits to construct and operate solid waste facilities. The commissioner could issue a permit to construct after approving the facility's plan, design, and method of operation. She could issue a permit to operate after the facility completed performance tests and she made certain findings. By law, a solid waste facility includes solid waste disposal areas, volume reduction plants, transfer stations, wood-burning facilities, and biomedical waste treatment facilities.

The act combines these two permits into one, and specifies that people and municipalities must obtain one when establishing, building, or operating a facility. It requires applicants to submit a closure plan with their permit application. It requires owners of non-permitted

solid waste disposal areas, upon written notice from DEP, to (1) submit closure plans with which they must comply, or (2) remediate the area. It eliminates provisions authorizing the commissioner to permit or site certain waste facilities, and makes conforming changes.

Construction/Operating Permit

The act prohibits any person or municipality from establishing, building, or operating a solid waste facility without a permit. It requires applicants to apply for a permit on a form the commissioner prescribes, and to include (1) the information she requires, (2) a closure plan, and (3) a fee set by regulation. It requires the applicant, rather than the commissioner, to notify the chief elected official of the town where the proposed facility will be located. Under the act, all references in regulation to permits to construct and to operate refer to the new permit the act creates.

Modified Permits

Under prior law, a solid waste facility holding a permit to construct that sought to alter its plan, design, or method of operation had to obtain a modified permit from the commissioner. The act places the responsibility on a person or municipality that holds the permit the act creates, rather than the facility. It eliminates the requirement with regard to plan alterations. Under the act, "altering" means making a substantive change to the facility's design, capacity, volume, process, or operation, including changes in the approved capacity or composition of solid waste disposed of, processed, reduced, stored, or recycled. Existing law, unchanged by the act, exempts changes made to mitigate, correct, or abate odors from certain Connecticut Resources Recovery Authority-owned or operated solid waste facilities from the modified permit requirement.

Closure Plan Definition

Under the act, a closure plan is a comprehensive written plan, including maps, prepared by a professional licensed engineer, that details the closure of a solid waste disposal area, and that addresses (1) final cover design; (2) stormwater, leachate, and landfill gas controls; (3) water quality monitoring; (4) post-closure maintenance and monitoring; (5) financial assurance for closure and post-closure activities, (6) post-closure use; and (7) any other information that the commissioner determines is needed to protect human health and the environment.

Sites Without Permits

Closure Plans/Remediation. Upon written notice from the commissioner and according to a schedule she specifies, a person or town that owns a non-permitted solid waste disposal area must either (1) (a) submit a closure plan for her review and written approval, (b) notify the public of the closure plan, and (c) close and maintain the solid waste disposal area according to the plan or (2) remediate the area according to the plan the commissioner approved or an LEP verified.

A \$3,000 fee must accompany a closure plan, and the commissioner may also require the owner to post a performance bond. By law, a solid waste disposal area is a landfill or other location used for the disposal of more than 10 cubic yards of solid waste.

Closure Plan Modification. The commissioner may approve a modification to a solid waste disposal area closure plan. Such a request must be accompanied by a \$500 fee, which the commissioner may reduce or waive in case of financial hardship. She also may modify the fee by regulation. The commissioner may require that an owner seeking to modify a closure plan notify the public if the proposed modification would disrupt the solid waste or change the solid waste disposal area's use.

The commissioner may approve, in writing, a closure plan modification for a closed, permitted disposal area without requiring the applicant to obtain a modified permit. The applicant must submit a \$500 fee with a request for such modification. As above, the commissioner may require the person or town seeking to modify the closure plan to notify the public of the proposed change if it would disrupt the solid waste or change the use of the solid waste disposal area. The commissioner may reduce or waive the fee in cases of financial hardship, and may modify the fee as provided by regulation.

Removal/Remediation. Under the act, the commissioner also may order a person or town that establishes or builds a solid waste disposal area without a permit to (1) remove the solid waste from the area, (2) remediate any pollution, and (3) properly dispose of the waste at a lawfully operated facility.

Other Changes

By law, the commissioner, in deciding whether to grant a permit for a solid waste facility, must consider the character of the neighborhood and may impose traffic, security, and fencing requirements and measures to ensure sanitary operation. In deciding whether to grant or deny a permit to build or operate a transfer station, she must consider whether the transfer station will result in disproportionately high adverse human health or environmental effects. The act specifically

eliminates laws that:

1. bar her from authorizing construction of a volume reduction plant or transfer station within one-quarter mile of a child day care center in cities of more than 100,000 people, if the day care center was operating on July 8, 1997; and
2. authorize her to modify or renew a permit for an existing volume reduction plan or transfer station regardless of its location.

The act also makes conforming changes.

PENALTIES FOR VIOLATING THE MERCURY REDUCTION AND EDUCATION ACT (§§ 27-29)

The act establishes penalties for violations of the laws governing the sale, distribution, labeling, and collection of mercury and products containing mercury. It authorizes the commissioner to issue, modify, or revoke orders to correct or abate the violations, including violations of any regulations she adopts. The orders may include any necessary remedial measures. The act specifies that she may issue the orders to anyone who violates any provisions of the solid waste management laws or any regulation she adopts regarding the laws concerning mercury sale, distribution, labeling and collection. The commissioner already has broad authority to initiate and receive complaints about violations of any law she administers, and to enter orders and institute legal proceedings to enforce those laws.

Orders and Hearings

The act requires that orders the commissioner issues concerning the mercury reduction laws be delivered by certified mail, return receipt requested, or by a state marshal or indifferent person. If a state marshal or indifferent person serves the order, he must serve a true copy, and file the original, with a return of service endorsed on it, with the commissioner. The order is deemed issued upon service or deposit in the mail. Any order issued under the solid waste management laws must state the reason it is issued.

An order is considered final unless a person aggrieved by the order asks the commissioner for a hearing within 30 days of the date the order is issued. The request must be in writing. The commissioner must hold a hearing as soon as practicable after such a request. An aggrieved party cannot appeal an order unless he has requested such a hearing.

After a hearing, or after she issues an order, the commissioner may agree to modify an order or extend the time schedule if she believes it advisable or necessary. Such a modification or extension is a revision of the existing order from which there can be

no hearing or appeal. Following a hearing, the commissioner must consider all the evidence and affirm, modify, or revoke her order. She must notify the recipient of the order of her decision by certified mail, return receipt requested. A final order is subject to appeal, which must be filed in New Britain Superior Court.

Enforcement by Attorney General

Whenever the commissioner believes anyone is engaged in, or about to engage in, any act, practice, or omission that violates or would violate the laws or regulations concerning mercury, she may ask the attorney general to file an action in New Britain Superior Court asking the court to (1) enjoin such acts, (2) order remedial measures, or (3) direct compliance. The court may issue a permanent or temporary injunction, or a restraining or other order upon the commissioner's showing that the person is engaged in such acts, practices or omissions.

Penalties

The act subjects anyone who violates any law, regulation, or order governing mercury to a fine of up to \$25,000 a day for each offense. Each violation is a separate offense, and each day of a continuing violation is also a separate offense. If two or more people are responsible for violations of the laws, regulations, or orders concerning mercury, they must be held jointly and severally liable. The act requires the attorney general, at the commissioner's request, to file a civil action in New Britain Superior Court to recover the penalty. It requires any such action to take precedence over other actions in the order of trial.

It subjects anyone who, with criminal negligence, violates those laws, orders, or regulations, or who makes any false statement, representation, or certification in any application, notification, request for exemption, record, plan, report, or other document filed or required to be maintained, to a fine of up to \$25,000 a day, up to one year in prison, or both. A subsequent conviction is punishable by up to \$50,000 a day for each day of the violation, up to two years in prison, or both.

By law, anyone who intentionally makes a false written statement under oath or on a form that states false statements are punishable is guilty of a class A misdemeanor (see Table on Penalties). The act subjects anyone who knowingly violates the laws, orders or regulations concerning mercury reduction, or who makes any false statement, representation, or certification in any application, notification, request for exemption, record, plan, report or other document filed or required to be maintained, to a fine of up to \$50,000 a day for each day of the violation, up to three years in

prison, or both. A subsequent conviction is punishable by a fine of up to \$50,000 a day for each day of violation, up to 10 years in prison, or both.

TOXICS IN PACKAGING (§§ 17-21)

The law bars manufacturers and distributors from selling or using for promotional purposes most packages that intentionally contain lead, cadmium, mercury, or hexavalent chromium. Packages and products containing more than specified levels of these metals are also banned even if the material was not introduced intentionally. The law exempts certain packages.

Exemptions for Certain Packages And Packaging Components (§ 20)

The act reestablishes exemptions for certain packages and packaging components that expired January 1, 2000. The exemptions, which expire on January 1, 2010, are for a package or packaging that:

1. exceeds maximum concentration levels of lead, cadmium, mercury, or hexavalent chromium only because of the addition or use of recycled materials;
2. is reusable and has a controlled distribution and reuse but which exceeds the incidental concentration levels of lead, cadmium, mercury, or hexavalent chromium, if the manufacturer or distributor petitions the commissioner for an exemption and the commissioner grants it; or
3. exceeds incidental contaminant levels for lead, cadmium, mercury, or hexavalent chromium, if (a) the product, its transportation, or disposal is regulated by specific state or federal regulations and (b) the commissioner grants an exemption upon the packaging manufacturer showing it is warranted.

Glass or Ceramic Packaging (§§ 17 & 20)

The act also permanently exempts a glass or ceramic package or packaging component that has a vitrified label, that does not exceed one part per million (ppm) for cadmium, five ppm for hexavalent chromium, and five ppm for lead, when prepared according to the American Society for Testing and Materials specification C1606-04 and tested according to the U.S. Environmental Protection Agency's (EPA) *Toxicity Characteristic Leaching Procedures Test Method and Publication SW 846, third edition, "Test Methods for Evaluating Solid Waste."* On the other hand, it applies the law to reusable or refillable glass, and ceramic or metal receptacles.

By law, packages or packaging components in which lead, cadmium, mercury, or hexavalent

chromium have been added in the manufacturing or distribution process are exempt if (1) there is no feasible alternative, (2) the manufacturer has demonstrated to the commissioner that an exemption is necessary, and (3) the commissioner grants an exemption. The exemption is good for two years and may be extended for another two years. The act extends this exemption to the addition of these materials in the forming and printing process. It specifies that, by feasible alternative, it means in most cases, that technical constraints preclude the substitution of other materials, rather than that no substitute exists. The act does not exempt any lead, cadmium, mercury, or hexavalent chromium used for marketing purposes.

Minor Changes

The act authorizes the DEP commissioner, in consultation with other member states of the Toxics in Packaging Clearing House, to review the law's effectiveness and report to the governor and legislature. Under prior law, she had to consult with the Source Reduction Council of the Council of Northeastern Governors.

By law, electrolytic galvanized steel and hot-dipped coated galvanized steel are each considered a single packaging component when they meet certain specifications. The act replaces electrolytic galvanized steel with electro-galvanized coated steel, and modifies the specifications that it and hot-dipped coated galvanized steel must meet to be considered a single packaging component.

The act also:

1. specifies that it includes packages produced in a foreign country and defines them according to the American Society of Testing and Materials specification D966;
2. specifies that the laws affect packages and packaging components; and
3. makes technical changes.

TOXIC RELEASE FORM (§ 23)

Under prior law, the owner or operator of a facility required to complete a toxic release form under the Emergency Planning and Community Right-to-Know Act had to submit it to the state Emergency Response Commission annually by July 1. The act instead requires him to submit the form annually by July 1 or a date established by the EPA, whichever comes later.

LICENSED ENVIRONMENTAL PROFESSIONALS (§ 16)

The act authorizes the State Board of Examiners of Environmental Professionals, in evaluating whether the

degree held by a license applicant meets the position's educational requirements, to consider undergraduate, graduate, postgraduate, and other courses he completed. It authorizes the commissioner, with the advice and assistance of the board, to adopt regulations governing the LEP license issuance and renewal process, including procedures that allow for renewal of a license within six months after it expires without requiring the applicant to retake the required test.

FILING REQUIREMENTS (§ 2)

Under prior law, recipients of DEP orders to correct certain air pollution violations had to file a certified copy or notice of the final order in the land records of the town where the violation occurred. The act instead requires the commissioner to cause a copy or notice to be filed. It requires the commissioner to issue a notice, rather than a certificate, showing that an order has been complied with or revoked. She must cause notice of compliance or revocation to be recorded in the land records in the town where the order was previously recorded.

GENERAL PERMIT EXEMPTIONS FOR CERTAIN WASTEWATER DISCHARGES (§ 26)

The act authorizes the commissioner to issue general permits for wastewater discharges from the following industrial categories: timber products processing; electroplating; iron and steel manufacturing; inorganic chemicals manufacturing (I and II); textile mills; petroleum refining; pulp, paper and paperboard; steam electric power plants; leather tanning and finishing; porcelain enameling; coil coating I; coil coating (can making); electrical and electronic components (I and II); metal finishing; copper forming; aluminum forming; pharmaceuticals and manufacturing; nonferrous metals manufacturing (I and II); battery manufacturing; plastics molding and forming; nonferrous metals forming; pesticides; metal molding and casting; and organic chemicals, plastics and synthetic fibers manufacturing.

CONNECTICUT HAZARDOUS WASTE MANAGEMENT SERVICE (§§ 3 – 10, 31)

The act repeals laws:

1. creating the Connecticut Hazardous Waste Management Service (CHWMS) and an Office of Environmental Business Assistance within it,

2. concerning CHWMS's duties with regard to promoting the appropriate management of hazardous waste and the siting of low-level radioactive waste disposal facilities, and
3. creating a low-level radioactive waste account and low-level radioactive waste management fund.

It removes the (1) siting of low-level radioactive waste facilities and consultation on a hazardous waste management plan from the duties of the Connecticut Siting Council, and (2) Connecticut Hazardous Waste Management Plan from the list of major state plans to be considered under the Multiple Use River and Protected Rivers acts.

The act repeals one statutory definition of low-level radioactive waste, but does not change another law defining low-level radioactive waste for purposes of the Northeast Interstate Low-Level Radioactive Waste Compact, of which Connecticut is a member. For the purposes of the compact, low-level radioactive waste is defined by federal law, and excludes waste generated by atomic energy defense activities or federal research and development activities.

PERSONAL WATERCRAFT (JET SKI) PASSENGERS (§ 1)

This act prohibits anyone from riding in front of a jet ski operator and prohibits any passenger from riding behind the operator unless he is able to (1) securely hold on to the person in front of him or to the watercraft's handholds and (2) keep both feet on the craft's deck to maintain balance while it operates. Violators are subject to a fine of between \$60 and \$250 for each violation.

SPECIAL CONSERVATION OFFICERS (§ 30)

By law, the DEP commissioner may supplement the state's regular conservation officer force by appointing DEP employees as special conservation officers or patrolmen. The act specifies that the commissioner may additionally supplement the force with any sworn federal law enforcement officer of the U. S. Fish and Wildlife Service or National Marine Fisheries Service. But it also specifies that these federal officers are not considered state employees and may only exercise the authority state law grants to conservation officers when working with a full-time conservation officer. By law, special conservation officers are entitled to the same benefits and reimbursement as regular conservation officers. The act specifies that only special conservation officers who are DEP employees are entitled to these benefits.

The act allows the commissioner to appoint any lake patrolman as a special conservation officer, solely to enforce boating laws within the patrolman's jurisdiction, provided he (1) is not considered a state employee and (2) has completed a police training course at the state police training school or an equivalent course approved by the public safety commissioner. The act eliminates references to patrolmen other than lake patrolmen. Lake patrolmen acting as special conservation officers may only carry firearms with the approval of the board of selectmen of the town or towns in which the lake on which the lake patrolman are serving is located. In the case of a town having no board of selectmen, the lake patrolman must obtain this approval from the legislative body of the town or towns where the lake is located. The provisions of this section, except for those concerning the carrying of firearms, are identical to those of PA 06-70.

BACKGROUND

Universal Wastes

Universal wastes are a type of hazardous waste (1) generated in a wide variety of settings, (2) from a large number of sources, and (3) present in great volume. When disposed of, they are subject to less stringent requirements than other types of hazardous waste.

Emergency Planning and Community Right to Know Act

This 1986 federal act establishes requirements for federal, state, and local governments and industry regarding emergency planning and reporting on hazardous and toxic chemicals.

The Connecticut Hazardous Waste Management Service (CHWMS) and Low-Level Radioactive Waste

The General Assembly created CHWMS in 1983 to promote the safe management of hazardous waste. According to DEP, it has not met or been staffed for about 10 years. In 1987 the General Assembly assigned it the task of managing low-level radioactive waste disposal and developing criteria for siting a waste disposal facility in Connecticut. The state does not have such a facility. It instead ships its low-level radioactive waste to facilities in Barnwell, South Carolina and Clive, Utah. According to officials of the Atlantic Interstate Low-Level Radioactive Waste Management Compact, of which Connecticut is a member (and into which the Northeast Interstate Compact has been incorporated), Connecticut is assured of enough storage space at the South Carolina facility to handle its projected long-term disposal needs.

PA 06-81—sHB 5440

Environment Committee
General Law Committee
Public Health Committee

AN ACT CONCERNING THE PRESENCE OF VOLATILE ORGANIC COMPOUNDS AND NOTICE OF POLLUTING EVENTS

SUMMARY: This act tightens drinking water pollution notice requirements by requiring (1) sellers of homes that are or will be served by well water to notify prospective buyers of the results of any water test for volatile organic compounds and (2) the Department of Environmental Protection (DEP) commissioner to notify state, federal, and employee representatives about contaminated sites.

It sets various deadlines by which the recipient of the commissioner's order to test any private drinking well must notify the property owner, local health director, and others of findings of excessive contaminant levels.

EFFECTIVE DATE: October 1, 2006

NOTICE TO PROSPECTIVE HOME BUYER

By law, home sellers must disclose to prospective purchasers information concerning certain environmental matters, such as the presence of lead and radon. This act requires sellers of homes that are or will be served by well water to also disclose the results of any water test for volatile organic compounds (organic solvents, dry cleaning products, fuels, and the like).

NOTICE TO STATE, FEDERAL, AND UNION OFFICIALS

By law, the commissioner must, within 10 days of receiving written notice that land in a municipality is polluted, send a copy of the notice to the municipality's chief elected official and its legislators. The act requires that she also forward a copy to (1) the state labor commissioner, where the Labor Department's division of occupational safety and health has jurisdiction over employers, workers, and work places on the polluted property; (2) the federal Occupational Safety and Health Administration; and (3) any employee representative who requests such reports.

TESTS OF PRIVATE DRINKING WELLS ORDERED BY THE DEP COMMISSIONER

The act requires the DEP commissioner to take certain steps if (1) she orders the testing of a private drinking well and (2) the test finds a contaminant level that exceeds the maximum contaminant level for public water supply systems for any contaminant listed in the

(a) public health code or (b) state drinking water action level list.

The commissioner must direct the recipient of the well testing order to provide the test results, in writing, to (1) the owner of record of the property where the well is located, (2) the local health director, (3) anyone who asked the local health director for results of such well tests, and (4) anyone else the commissioner specifically identifies. The recipient of the commissioner's order must provide this notice no later than 24 hours after receiving the test results.

It requires the property owner, no later than 24 hours after receiving this notice, to send a copy to at least one tenant of each unit of any leased or rented dwelling unit on the property, and to each lessee on the property. The local health director, no later than three days after receiving his notice, must take reasonable steps to verify that the property owner has sent this notice.

PA 06-82—sHB 5570
Environment Committee

AN ACT CONCERNING ECONOMIC INCENTIVES FOR ACHIEVING NITROGEN EFFLUENT REDUCTIONS TO LONG ISLAND SOUND

SUMMARY: Under the Nitrogen Credit Exchange Program, the environmental protection commissioner must issue a general permit specifying the amount of nitrogen state or municipal sewage treatment plants can discharge. This act authorizes her to also issue general permits for private-sector entities that discharge nitrogen into state waters. The permit must establish nitrogen effluent limits and an annual compliance schedule for each entity, and may include marketable permit, effluent reduction credit, or other economic incentive programs.

It authorizes the commissioner, in consultation with the state treasurer, to adopt regulations providing for the programs. Under prior law, she did not have to consult before adopting regulations. The regulations may allow municipalities to take part in the programs.

EFFECTIVE DATE: October 1, 2006

BACKGROUND

Excess Nitrogen and Long Island Sound

Too much nitrogen in Long Island Sound is a primary cause of hypoxia, a condition in which there is too little dissolved oxygen in the water to sustain aquatic life. Hypoxia, which occurs primarily in the western half of the Sound, reduces the habitat available

to important fish and shellfish species.

Total Maximum Daily Load (TMDL)

The TMDL is the maximum amount of a pollutant (in this case, nitrogen) that a water body can receive and still meet water quality standards. The U.S. Environmental Protection Agency approved the TMDL for Long Island Sound in 2001 in accordance with the federal Clean Water Act. The TMDL is allocated among contributing pollution sources.

Nitrogen Credit Exchange Program

The Nitrogen Credit Exchange Program (PA 01-180) allows municipal sewage treatment plants to trade nitrogen credits to achieve the TMDL. Under the program, treatment plants receive credits when they discharge less nitrogen into the Sound than their discharge permit allows. DEP buys these credits and sells them to plants that discharge more nitrogen than their permits allow so that these plants can achieve compliance.

PA 06-89—sHB 5447
Environment Committee
Judiciary Committee
Planning and Development Committee

AN ACT CONCERNING ENCROACHMENT ON OPEN SPACE LANDS

SUMMARY: This act prohibits people, without the owner's permission or other legal authorization, from encroaching or causing anyone to encroach on (1) open space land, or (2) any land in which the state, its political subdivisions, or a nonprofit land conservation organization holds a conservation easement interest. It authorizes anyone with a property interest in such open space land, or the attorney general, to bring an action against the violator in Superior Court for the judicial district where the land is located. It specifies the orders, awards, fines, costs, and fees the court may impose on people who encroach on open space land and imposes the same orders, awards, fines, costs, and fees on people who remove, prune, injure, or deface a shrub or ornamental or shade tree within the limits of public grounds or a public way without the appropriate legal permission.

EFFECTIVE DATE: October 1, 2006

OPEN SPACE LAND

Under the act, open space land includes any park, forest, wildlife management area, refuge, preserve, sanctuary, green, or wildlife area owned by the state, its political subdivisions, or a nonprofit land conservation organization.

ENCROACHMENT

Under the act, encroaching means to conduct an activity that damages or alters the land, vegetation, or other features, including erecting buildings or other structures; building roads, driveways, or trails; destroying or moving stone walls; cutting trees or other vegetation; removing boundary markers; installing lawns or utilities; or using, storing, or depositing vehicles, material, or debris.

ORDERS, AWARDS, AND PENALTIES FOR ILLEGAL ENCROACHMENT

If the court finds there has been illegal encroachment, it must (1) order the violator to restore the land to the condition it was in before the encroachment or (2) award the landowner the costs of such restoration, including reasonable management costs. The court may also award reasonable attorneys' fees and injunctive or equitable relief it finds appropriate.

The act also authorizes the court to award damages of up to (1) five times the cost of restoration or (2) \$5,000. In determining the award amount, the court must consider (1) the willfulness of the violation; (2) the extent of damage to natural resources; (3) the appraised value of any trees or shrubs cut, damaged, or carried away; (4) the violator's economic gain, if any; and (5) any other relevant factors. In determining the appraised value of trees or shrubs, the court must refer to the latest revision of *The Guide for Plant Appraisal*, published by the International Society of Arboriculture, Urbana, Illinois, or a succeeding publisher.

REMOVING, PRUNING, INJURING, OR DEFACING SHRUBS OR TREES IN PUBLIC WAYS AND GROUNDS

Under prior law, the penalty for anyone (except a tree warden or deputy tree warden) who removed, pruned, injured, or defaced any shrub or ornamental or shade tree within the limits of public grounds or a public way, without the appropriate legal permission, was a fine of up to the appraised value of the tree or shrub. The violator also was liable for civil damages. The act eliminates these penalties. It authorizes a court, in an action brought by the property owner or authority having jurisdiction, to order the land restored to its

previous condition. Alternatively, the court must award the landowner the costs of restoring the land, including reasonable management costs and attorney's fees, and any appropriate injunctive or equitable relief. As above, a court may also award damages of up to (1) five times the cost of restoration or (2) \$5,000. The court must consider the same factors as above in determining the amount of the award, except that, by law, the authority with jurisdiction over the trees or shrubs must determine the appraised value of the trees or shrubs according to Department of Environmental Protection regulations.

The penalties the act imposes do not apply to the illegal cutting of trees, timber, or shrubbery on (1) private property or (2) public land not considered open space land.

PA 06-105—sSB 411

Environment Committee

Planning and Development Committee

AN ACT CONCERNING EXEMPTION FROM RABIES VACCINATION REQUIREMENTS

SUMMARY: This act allows the agriculture commissioner, his designee, or the state veterinarian to grant an exemption from the rabies vaccine requirement, when a licensed veterinarian determines that a cat or dog may be harmed by the vaccination due to disease or other medical considerations. The exemption is valid for one year, after which it must be renewed or the animal must receive the vaccination. The act specifies the process for granting the exemption.

The act requires the agriculture commissioner to adopt regulations instituting measures necessary to prevent animals from transmitting rabies in public settings (e.g., petting zoos and educational exhibits).

The act also makes minor and technical changes.

EFFECTIVE DATE: October 1, 2006

RABIES VACCINE EXEMPTION

Vaccination Requirement

The act authorizes an exemption from the state requirement that cats and dogs age three months or older receive a rabies vaccination.

Exemption Process

The commissioner or his designee or the state veterinarian may exempt a cat or dog from the rabies vaccination requirement only after (1) a licensed veterinarian has consulted with one of them and (2) submitted to the Agriculture Department a completed application for exemption. The application must be on a form approved by the Agriculture Department. After

approval, the department must issue a rabies vaccination exemption certificate and provide copies to the veterinarian, the owner of the animal, and the animal control officer of the town where the owner resides. By law, violations of rabies vaccination requirements are an infraction. The act extends this to violations of the vaccination exemption provisions (see Table on Penalties).

Appealing a Request Denial

Under the act, any veterinarian aggrieved by an exemption request denial may appeal under the Uniform Administrative Procedure Act.

Submission to Town Clerk

By law, a dog owner must annually (1) have his animal licensed by the town clerk where he lives and (2) provide the town clerk with a copy of a rabies vaccination certificate signed by a veterinarian. The act requires an owner whose animal received a rabies vaccination exemption certificate to file a copy of it with the town clerk, when he applies for a dog license.

RABIES PREVENTION IN PUBLIC SETTINGS

The act requires the commissioner to adopt regulations for instituting measures he deems necessary to prevent rabies transmission from animals in public settings, including fairs, shows, exhibitions, petting zoos, riding stables, farm tours, pet shops, and educational exhibits.

The regulations may include requirements for:

1. vaccinating animals against rabies,
2. identifying animals and their owners or keepers,
3. animal enclosures,
4. posting of public advisories,
5. rabies exposure incident reports,
6. records deemed necessary and proper on animal vaccination, and
7. any other methods the commissioner determines to prevent the rabies transmission.

The regulations may consider the animal species, the characteristics of the public settings, and the nature and type of contact the public may have with animals.

BACKGROUND

Vaccination Requirements

Existing law, for animals without an exemption under the act, requires all cats and dogs age three months or older to receive a rabies vaccination, which is valid for one year. The animal must receive a booster one year after the initial vaccination and be vaccinated

at least every three years. Animals revaccinated after age one or initially vaccinated at any age must receive a booster at least every three years.

PA 06-116—HB 5571

Environment Committee

AN ACT CONCERNING THE INTERSTATE SHIPMENT OF SHELLFISH AND SHELLFISH HARVESTING AND RELAY

SUMMARY: This act requires the Agriculture Department (DOAg) to allow shellfishermen to relay (transplant) shellfish from shellfish grounds classified as “restricted” (i.e., polluted) to other grounds, in accordance with the National Shellfish Sanitation Program (NSSP) Model Ordinance, on the same day they harvest shellfish for market. Under the act, the harvester cannot harvest approved market shellfish for the remainder of the day after beginning such a relay.

The act requires all tag identification information about shellfish harvest locations to be confidential, if the harvester marks the tag with a unique code corresponding to the shellfish harvest location. Under existing law, a non-confidential numbering system has been established for tag identification of shellfish harvest locations from state and local shellfish beds.

The act makes the U.S. Food and Drug Administration’s NSSP Model Ordinance, rather than DOAg regulations, the standard for determining violations of the requirement to identify shellfish shipments and deliveries.

EFFECTIVE DATE: Upon passage

SHELLFISH RELAY AND CONFIDENTIAL TAG INFORMATION

Same Day Relay and Harvest for Market

Under the act, the department must allow shellfishermen to harvest shellfish grounds classified as “approved” for market on the same day that they transplant shellfish from contaminated grounds using the same vessel (placing contaminated shellfish in clean water allows them to expunge impurities), provided the harvester first harvests the approved market product and brings it to shore.

Specifically, a harvester cannot begin the shellfish relay from shellfish grounds classified as restricted until (1) he has first removed from the vessel all shellfish harvested from approved market grounds in market quantities and (2) he notifies the Department of Environmental Protection (DEP) of the action. The harvester must provide all information DOAg requires regarding shellfish relays to DEP when he provides

notice. The harvester cannot harvest approved market shellfish for the rest of the day after beginning a relay.

By law, no one may take or harvest shellfish from areas (1) classified as conditional-closed, restricted, conditionally restricted, or prohibited; (2) closed because of a health emergency; or (3) or parts of areas where shellfish have been transplanted or relayed, except in accordance with the terms and conditions of DOAg licenses.

Tag Identification

The act requires all tag identification information about shellfish harvest locations to be confidential, if the harvester marks the tag with a unique code corresponding to the shellfish harvest location. The harvester must provide DOAg and DEP with a written code key detailing the harvest location and corresponding code that he used. Under existing law, state shellfish maps identify private and leased shellfish beds on DOAg Bureau of Aquaculture and local shellfish commission maps. The state shellfish maps show state- and town-designated beds identified by a numbering system that prevents duplication.

By law, all shellfish operations involving relay, aquaculture, scientific studies, market harvesting, shucking, repacking, or sale of shellfish to markets or restaurants must obtain a license from DOAg.

BACKGROUND

Classification

By law, DOAg may prohibit taking or harvesting shellfish from designated areas in tidal flats, shores, and coastal waters if it finds that (1) those areas are so contaminated or polluted that the waters do not meet its standards of purity or (2) shellfish obtained from such areas may be unfit for food or dangerous to the public health.

DOAg must classify the coastal waters, shores, and tidal flats for shellfish taking. The classifications are: approved, conditional (conditional-open and -closed), restricted, conditionally restricted, and prohibited. An area may be classified as prohibited for taking or harvesting shellfish if it fails to conform to the department's standards for classifications other than prohibited. DOAg may specify the activities that may occur within each classified area. The activities must be listed on the department issued shellfish license.

Relay from Restricted Areas

By law, commercial harvesters may take shellfish from conditional-closed, restricted, or conditionally restricted areas when they are removed for transplanting, including seed oyster harvesting,

deputation (removal of impurities) or depletion from prohibited areas, under a DOAg license and the supervision of DOAg and local health agencies. But, in order to do so, the licensee (1) must notify the designated local enforcement agency of the start, probable duration, and termination of harvesting within that jurisdiction and (2) is limited to quantities that may be established by a shellfish management plan. A DOAg license does not nullify any state law or prohibit any municipality from control of harvesting operations in approved, conditionally, or temporarily closed areas on the basis of residence, quantity or size of shellfish harvested from specific areas, or harvesting time.

NSSP

PA 04-223 required DOAg to promulgate health standards for shellfish testing based on the NSSP Model Ordinance. The law specifies that the department (1) must enforce compliance with the NSSP Model Ordinance and (2) may adopt regulations, after consultation with the Department of Public Health, for the sanitary growth, production, purification, and preparation of shellfish that incorporate by reference the provisions of the NSSP Model Ordinance.

NSSP is designed to prevent human illness associated with the consumption of fresh and frozen shellfish by establishing sanitary controls over growing, harvesting, shucking, packing, and distributing them.

Penalties

By law, the agriculture commissioner may revoke any license he issues for up to 60 days for a second shellfish violation within six months of the first and for up to 90 days for a third violation within nine months of the first. Criminal penalties also apply to violations. By law, the department may revoke any shellfish license for cause after notification and hearing.

PA 06-143—sSB 193

Environment Committee

Finance, Revenue and Bonding Committee

Energy and Technology Committee

AN ACT CONCERNING THE SULFUR CONTENT OF HOME HEATING OIL AND OFF-ROAD DIESEL FUEL AND EXEMPTING COMMERCIAL HEATING OIL CONTAINING CERTAIN ALTERNATIVE FUELS FROM THE PETROLEUM GROSS EARNINGS TAX

SUMMARY: This act requires Connecticut to reduce the maximum sulfur content in number two heating oil and number two off-road diesel fuel if and when

neighboring states do so. It exempts from the petroleum products gross earnings tax the first sale in the state of a commercial heating oil blend containing not less than 10% of alternative fuels made from agricultural produce, food waste, waste vegetable oil, or municipal solid waste, including biodiesel and low sulfur dyed diesel fuel.

EFFECTIVE DATE: Upon passage, except for the tax exemption, which takes effect July 1, 2006 and is applicable to income years beginning on or after January 1, 2006.

REDUCTIONS IN SULFUR CONTENT

Number Two Heating Oil

This act requires Connecticut to ban the sale, offering for sale, distribution, or use of number two heating oil with a sulfur content of more than 1,500 parts per million (ppm) if and when New York, Massachusetts, and Rhode Island do, and to further reduce it to 1,250 ppm and 500 ppm if and when those states do the same. The Connecticut limit takes effect on the latest effective date of the other states' laws.

Number Two Off-Road Diesel Fuel

The act similarly requires Connecticut to ban the sale, offering for sale, distribution, or use of number two off-road diesel fuel with a sulfur content higher than 500 ppm if and when New York, Massachusetts, and Rhode Island do so. Federal law requires off-road diesel fuel to have a sulfur content no higher than 500 ppm starting June 1, 2007.

Other Changes

Under prior law, no one could use number two heating oil or number two off-road diesel fuel with a sulfur percentage of more than 0.3% by weight (3,000 ppm). The act also bars anyone from selling, offering for sale, or distributing such fuels.

The law allows the environmental protection commissioner to suspend the sulfur content limits if she finds there is not enough fuel available to meet the needs of residential, commercial, or industrial users. The act specifies that she may suspend these limits if she finds there is not enough fuel physically available. By law, she also must find that such a shortage constitutes an emergency and specify the length of the suspension in writing.

BACKGROUND

Off-Road Diesel Fuel

Off-road fuel is used by bulldozers, tractors, generators, forklifts, airport service equipment, and other machinery and vehicles used in construction, agriculture, and industry.

Sulfur Content of Diesel Fuel

U. S. Environmental Protection Agency (EPA) regulations call for reducing the sulfur content of diesel fuel for off-road vehicles to 500 ppm beginning in June 2007, and to 15 ppm in June 2010 (69 FR 38958, June 29, 2004). EPA has not set sulfur limits for home heating oil.

PA 06-161—sSB 660

Environment Committee

Transportation Committee

Finance, Revenue and Bonding Committee

Appropriations Committee

AN ACT CONCERNING CLEAN CARS

SUMMARY: This act requires the Department of Environmental Protection (DEP) commissioner, in consultation with the Department of Motor Vehicles (DMV) commissioner, to (1) establish a greenhouse gas (GHG) labeling program for new motor vehicles sold or leased in Connecticut beginning with the 2009 model year and (2) educate the public about the labeling program and GHGs. It funds these programs through a \$5 fee the DMV must impose on new car registrations, starting January 1, 2007, and bars the sale or lease of a 2009 or later model year motor vehicle without the required GHG label. The act applies to vehicles with a gross vehicle weight rating of 10,000 pounds or less.

It requires the DEP, in consultation with the Governor's Steering Committee on Climate Change, to determine by October 1, 2006, (the date on which this provision takes effect) the amount of motor vehicle GHG emission reductions needed to meet the state's GHG goals. The DEP must submit its findings, together with any recommended legislation, in its 2007 annual climate change report to the Environment Committee.

Finally, the act defines "hybrid passenger car" for the purposes of a sales tax exemption for new vehicles purchased between October 1, 2004 and September 30, 2008.

EFFECTIVE DATE: October 1, 2006

GHG LABELING PROGRAM

Labeling Requirement

By October 1, 2007, the DEP commissioner, after consulting with the DMV commissioner, must create a GHG labeling program for 2009 model year and later motor vehicles. The label must be affixed to the vehicle in a clearly visible location, as the commissioners determine, and include:

1. the vehicle's GHG score, comparing its GHG emissions with those of all vehicle models of the same model year for which a label is required;
2. the average GHG score for vehicles within the same vehicle class; and
3. any other information the DEP commissioner deems relevant.

The label must present the vehicle's comparative GHG score in both a continuous bar format and a single qualitative score, or an alternative graphical representation that the DEP commissioner determines will more effectively convey the information to consumers.

Public Education Program

It requires the DEP commissioner, after consulting with the DMV commissioner, to establish or contract for a program to educate the public about the vehicle labeling program. The education program also must include information about (1) the environmental impact of motor vehicle GHG emissions and (2) the impact of vehicle choice on such emissions.

GHG REDUCTION FEE

The act requires DMV to charge a \$5 GHG reduction fee, starting January 1, 2007, when new motor vehicles are registered. This fee is in addition to any other required fees. The fee may be identified on the registration form as the GHG reduction fee or be combined with the existing emissions inspection waiver fee (CGS § 14-164c (k) (3)). The act requires DMV to deposit the GHG reduction fee into the federal Clean Air Act account, and authorizes the use of the account for the GHG labeling and public education programs. It authorizes the DEP and DMV commissioners to use up to 60% and 40%, respectively, of the GHG reduction fee receipts to implement the labeling and public education programs.

SALES TAX EXEMPTION

By law, passenger cars purchased between October 1, 2004 and September 30, 2008 are exempt from the sales tax if they (1) use hybrid technology and (2) obtain

a U.S. Environmental Protection Agency (EPA) estimated highway gasoline mileage rating of at least 40 miles per gallon. For purposes of this exemption, the act defines a hybrid passenger car as a passenger car that draws acceleration energy from two onboard sources of stored energy, which are both (1) an internal combustion or heat engine using combustible fuel and (2) a rechargeable energy storage system. Model year 2004 and later passenger cars and light trucks also must be certified to meet or exceed EPA's tier II bin 5 low emission vehicle classification. This classification is roughly equivalent to that of a "LEV II" vehicle.

BACKGROUND

The LEV II Program

Under the federal Clean Air Act, all new cars sold in the U. S. must comply with emission standards set either by the EPA or California (42 USC § 7507). Connecticut has adopted California's LEV II regulations to reduce both toxic emissions and GHGs (CGS § 22a-174g).

Greenhouse Gas Score

EPA rates cars on a scale of 0 to 10, where 10 represents the lowest amount of GHG emitted. The score is determined by the vehicle's estimated fuel economy and its fuel type.

Emissions Inspection Waiver Fee

New motor vehicles are exempt from emissions inspections for four model years. They must pay a one-time fee of \$40 upon registration.

PA 06-181—sHB 5446

Environment Committee

Judiciary Committee

Transportation Committee

Planning and Development Committee

AN ACT CONCERNING THE PREVENTION OF PAVING OF ABANDONED ROADS IN PRESERVED LANDS AND REVISIONS TO THE MERCURY REDUCTION PROVISIONS

SUMMARY: This act makes several changes to laws concerning mercury-containing products and changes the law concerning the siting of asphalt batching plants.

Specifically, it:

1. bans the sale and distribution of button cell batteries containing mercury and products containing these batteries starting July 1, 2011,

- but exempts manufacturers from laws requiring their collection;
2. exempts, until July 1, 2013, certain high intensity discharge lamps containing mercury from a ban on their sale or distribution;
 3. modifies labeling requirements for fluorescent and high intensity discharge lamps and luminaires; and
 4. requires disposal of waste from mercury-containing equipment according to federal hazardous waste regulations until the Department of Environmental Protection (DEP) commissioner adopts regulations treating it as a universal waste.

The law bars the siting of an asphalt batching plant within one-third of a mile from a hospital, nursing home, school, area of critical environmental concern, watercourse, or residential area. The act exempts from this prohibition portable asphalt batching plants that do not require a DEP air pollution control permit.

EFFECTIVE DATE: July 1, 2006, except for the asphalt plant and mercury waste disposal provisions, which are effective on passage.

BAN ON BUTTON CELL BATTERIES CONTAINING MERCURY

The act bans, starting July 1, 2011, the sale or distribution for promotional purposes of button cell batteries containing mercury or any product containing these batteries. A manufacturer that makes or sells these batteries or products must tell retailers about the ban and how to dispose of their remaining inventory according to law.

Collection of Button Cell Batteries Containing Mercury

The law requires that manufacturers of certain mercury-added products prepare plans for collecting them. The collection system must include, among other things, an educational component, a targeted capture rate, an implementation and financing plan, and a recycling or disposal plan. The act exempts button cell batteries from the collection requirements.

SALE OR DISTRIBUTION OF HIGH INTENSITY DISCHARGE LAMPS

The law bans, starting July 1, 2006, the sale or distribution of products containing more than 100 milligrams of mercury. The act exempts, until July 1, 2013, high intensity discharge lamps containing between 100 milligrams and one gram of mercury, including metal halide, mercury vapor, mercury capillary, mercury-xenon short-arc, and mercury short-arc lamps. But the law, unchanged by the act, permanently exempts from the ban metal halide lights

and other specialized lighting used in the entertainment industry.

LABELING FLUORESCENT AND HIGH INTENSITY DISCHARGE LAMPS AND LUMINAIRES

The law specifies various labeling requirements for certain products that contain mercury. It requires manufacturers of fluorescent and high intensity discharge lamps to label the packaging that contains their products. The act also requires them to place the symbol "Hg," the chemical symbol for mercury, on each lamp. It requires manufacturers of luminaires (light fixtures) to comply with the labeling requirements for products not sold at retail by providing information on their websites and catalogs.

DISPOSAL OF WASTE FROM MERCURY-CONTAINING EQUIPMENT

The act requires people to dispose of and handle waste from mercury-containing equipment according to federal hazardous waste regulations until the commissioner adopts superseding regulations treating this waste as a universal waste. It specifically requires people disposing of this waste to comply with any other federal or state regulations or requirements that apply to mercury-containing equipment.

BACKGROUND

Mercury Education and Reduction Act

PA 02-90 established a comprehensive scheme governing the sale, use, distribution, disposal, and notification requirements for mercury and many products containing mercury. Besides banning the sale and distribution of certain products containing mercury, it required that products to which mercury had intentionally been added be labeled as to their mercury content.

Universal Waste and Mercury-Containing Equipment

Universal wastes are a type of hazardous waste (1) generated in a wide variety of settings, (2) from a large number of sources, and (3) present in great volume. When disposed of, they are subject to less stringent requirements than other types of hazardous waste. In 2005 the U.S. Environmental Protection Agency (EPA) ruled that mercury-containing equipment may be treated as a universal waste. Mercury-containing equipment includes devices, items, or articles that contain elemental mercury, including thermostats, barometers, manometers, temperature and pressure gauges, and mercury switches. Other items currently classified as

universal waste include batteries, thermostats, pesticides, and lamps.

PA 06-191—HB 5747

Environment Committee

AN ACT CONCERNING THE DESIGNATION OF BANTAM LAKE AS A HERITAGE LAKE AND A SCHEDULE FOR THE ANNUAL WATER LEVEL OF LAKE BESECK

SUMMARY: This act adds Bantam Lake in Morris and Litchfield to the pilot heritage lake program that the legislature enacted in 1999. The original pilot program directed the Department of Environmental Protection (DEP) to designate a lake located in at least two municipalities and establish a program for preserving and enhancing the historic, cultural, recreational, economic, scenic, public health, and environmental value of state lakes. DEP chose Lake Waramaug in the towns of Kent, Warren, and Washington.

The act also requires the DEP commissioner to enter into an agreement with the town of Middlefield and the Lake Beseck Association, by November 1, 2006, regarding a schedule for annual water level draw-downs of Lake Beseck. It specifies the depth and timing of the draw-downs.

EFFECTIVE DATE: Upon passage

LAKE BESECK WATER DRAW-DOWN

Under the act, Lake Beseck water level draw-downs must be three feet during even-numbered years, completed by December 1 of the same year and maintained until March 1 of the following year.

Water level draw-downs must be six feet during odd-numbered years, completed by November 1 of the same year and maintained until December 31 of that year. Subsequently, a three-foot water level draw-down must be maintained until March 1 of the following year.

The act specifies that water level draw-downs are designed to balance the various concerns of the lake community, including recreational needs, preservation of lakefront infrastructure, fisheries habitat, and other natural resource concerns.

PA 06-47—sSB 437

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

AN ACT INCREASING THE CONNECTICUT HOUSING FINANCE AUTHORITY'S UNINSURED PERMANENT MORTGAGE CAP

SUMMARY: This act increases, from \$750 million to \$1 billion, the maximum amount of uninsured mortgages and mortgage interests that the Connecticut Housing Finance Authority (CHFA) may, at any one time, use as security for direct loans or buy, sell, or service.

CHFA is a quasi-public agency that provides financing for developers of low- and moderate-income housing projects and low- and moderate-income first-time home buyers. Uninsured mortgages are those not directly or indirectly guaranteed or insured by any public agency or by any mortgage insurance company licensed to do business in Connecticut.

EFFECTIVE DATE: October 1, 2006

PA 06-148—sSB 668

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

AN ACT CONCERNING PROPERTY REVALUATIONS

SUMMARY: This act reorganizes the statutes governing the way towns must revalue property. In doing so, it makes many substantive and technical changes, some of which reflect current practice and terminology.

The act retains the five-year revaluation requirement, but modifies how assessors gather or verify property data when conducting a revaluation. It authorizes the Office of Policy and Management (OPM) to adopt regulations for gathering, recording, and maintaining data collected during that process. It establishes a working group to recommend how revaluation can be improved. The act changes the penalty for failing to implement a scheduled revaluation and the procedures under which it can be waived.

The act changes some of the procedures and requirements for implementing, deferring, or postponing a revaluation. These include notifying taxpayers about assessment increases, the time period for the public to inspect revaluation documents, and deadlines for notifying OPM about decisions to implement or phase in a revaluation.

Lastly, the act consolidates the statutes under which towns can phase in a revaluation. In doing so, it authorizes a new phase-in method, extends the

maximum phase-in period to five years, and requires local legislative bodies to approve the phase-in method. The act also makes related procedural changes.

EFFECTIVE DATE: Upon passage except for the revaluation, phase-in, and postponement provisions, which take effect October 1, 2006 and apply to assessment years beginning on or after that date.

REVALUATION CYCLES AND METHODS

Prior Methods (§ 1 (Repealed Provisions))

By law, assessors must revalue all property at least once every five years (except in towns that have deferred their next scheduled revaluation). Prior law allowed them to do so by:

1. physically inspecting the exterior and interior of all properties,
2. physically inspecting some properties in this manner and using statistics to determine the value of others, and
3. using only statistics to determine values.

But the law suggested that assessors had to revalue property either by comparing sales statistics or physically inspecting each property. The act eliminates the notion that assessors revalue property by using one method or the other.

Whether an assessor must physically inspect a property depends on when he last inspected it. By law, he must inspect each property at least once every 10 years. This rule gives him the option of physically inspecting properties on different 10-year cycles. In other words, it allows him to physically inspect a different group of properties each year between revaluations and use the information he gathered to determine their value for the next scheduled revaluation.

But prior law required assessors to physically inspect all properties for the next revaluation if they used statistics for the previous one. The act eliminates this requirement and the term “statistical means.” It keeps the 10-year cycle for physical inspections, which it renames as “full inspections,” but changes the conditions when towns must conduct them.

New Revaluation Rules and Methods (§ 1 (New Provision))

The act still requires assessors to revalue property at least once every five years, but changes the rules under which they must use certain assessment methods. An assessor must use generally accepted mass appraisal methods, which include the traditional market sales, cost, and income approaches to valuing property.

When conducting the revaluation, the act also requires the assessor to update or correct the information he already has about each property by viewing it in its neighborhood setting (i.e., field review).

He must compare that information with the property's observable attributes, make the necessary corrections, and verify that the valuation includes those attributes.

The act still requires the assessor to inspect each property at least once every 10 years and use the data for the next scheduled revaluation. During any year when inspections are due, the assessor can update and verify the data he already has on the properties without inspecting them. He may do this by sending questionnaires to each owner requesting information about the property's acquisition and asking him to verify the accuracy of the information the assessor already has.

The assessor must then evaluate the quality of the responses by subjecting them to a quality assurance program. If he is satisfied with the overall results, the assessor may inspect only those properties for which he received no responses or unsatisfactory ones. In conducting a full inspection, the assessor must verify the property's exterior dimensions and enter and examine the property's interior. The assessor may enter and inspect the property only with the owner's or an adult occupant's permission.

Satisfying Revaluation Requirements (§ 1 (b) (3))

Although the law requires assessors to fully inspect each property at least once every 10 years, prior law provided a window during which the requirement did not apply. The act alters that window.

Under prior law, a town satisfied the requirement if the assessor physically inspected property any time from June 27, 1997 to October 1, 2009. But it also required the town to conduct the next physical inspection within 10 years of the date of the last physical inspection. Under the act, if the last time a town fully inspected property was before October 1, 1996, it must do so again by October 1, 2009. The town must thereafter comply with the act's inspection requirements.

By law, assessors must approve the valuations determined for a revaluation. In towns with boards of assessors, the act specifies that the board must approve them by majority vote. The act eliminates the requirement that at least two assessors in these towns act together when revaluing property.

Revaluation Company (§ 1 (e))

Prior law generally authorized assessors to designate state-certified revaluation companies to conduct revaluations. The act specifies the tasks a company may perform while conducting a revaluation. These are collecting and analyzing property data, using mass appraisal methods, viewing property in its neighborhood setting, and notifying owners about their

new assessments as the law requires. The company must perform these tasks according to a method the assessor approves.

The assessor must still comply with any other local or state revaluation requirements, including the regulations the OPM secretary must adopt under the act. The act specifies that the assessor must comply only with those local requirements that are consistent with the statutes.

PENALTY

Amount (§ 1 (d) (1))

The law imposes a penalty on towns for each year they fail to implement a scheduled revaluation. The act changes the penalty. Under prior law, the penalty equaled 10% of the total annual grants a town receives under statutory formulas. Under the act, it equals 50% of the town's Mashantucket Pequot and Mohegan Fund grant and 100% of its Local Capital Improvement Program grant. The penalty is imposed at the start of the July 1 fiscal year following the revaluation's October 1 deadline and continues each fiscal year until the town implements the revaluation.

Under the act, the OPM secretary must notify the town's chief executive officer about the amount of funds the town must forfeit each year for failing to implement the revaluation. He must also reflect that amount in his certification to the comptroller regarding the town's grant payments.

The act specifies that the secretary cannot impose the penalty in situations where the town's chief executive officer extended the deadlines for completing the grand list and hearing assessment appeals. The law allows the officer to do this for cause.

Waiver Procedure (§ 1 (d) (1))

The act alters the process the secretary must follow when a town asks him to waive the penalty. Prior law did not impose a deadline by which the town had to request the waiver, but required the secretary to respond within 15 business days after receiving the request. By law, he must grant the waiver if reasonable causes prevented the town from revaluing property. These include:

1. an extraordinary circumstance or an act of God,
2. a revaluation company's failure to complete its contractual duties to the town's satisfaction,
3. a delay in completing the revaluation caused by the assessor's death or incapacitation, or
4. a Superior Court order affecting the revaluation.

The act still allows the secretary to waive the penalty for these causes, but tightens the one regarding the revaluation company. He can waive the penalty only if the town imposed sanctions on the company for failing to complete its contractual duties to the town's satisfaction. The sanctions must be stipulated in the town's contact with the company.

If the town seeks a waiver, the act requires its chief executive officer to request one no sooner than 30 business days after the assessor signed the grand list reflecting the outdated values, and no later than 30 days after the start of the fiscal year in which the penalty applies. The chief executive officer must explain why the town failed to implement the revaluation and provide any additional information the secretary requires.

The secretary must respond within 60 days after receiving the request and any additional information he requested. He may delay his decision pending a possible court order affecting the revaluation. Otherwise, he must grant the waiver for the same reasonable causes mentioned above.

The act bans the secretary from granting a town waivers for consecutive years without the legislature's approval.

POST-REVALUATION REQUIREMENTS

Notifying Taxpayers (§ 1 (f))

The act changes the requirements for notifying taxpayers about a revaluation. By law, an assessor must notify taxpayers in writing about the revaluation no sooner than the revaluation's effective date (October 1) and no later than 10 calendar days immediately following the date when the assessor signs the grand list. The act specifies that he must send the revaluation notice to each owner's last known address.

Under the act, the notice must indicate the property's value before and after the revaluation, state that the owner has a legal right to appeal the new assessment, and explain the process for doing so.

Inspecting Documents (§ 1 (c))

The act narrows the time period during which the public may inspect the criteria, guidelines, and similar materials the town used to revalue property. Under prior law, an assessor had to allow the public to inspect this material in his office from the time he began revaluing property to at least 12 months after the revaluation took effect. It also allowed the public to continue inspecting the materials up until the next revaluation, but did not specify where they could inspect them.

The act narrows the time for public inspection to the period between the date when the assessor notified

people about their properties' new values and at least 12 months after the revaluation's effective date. The act also drops the requirement that the town allow the public to continue inspecting the revaluation material after that date.

The act specifically allows the public to inspect the list of property sales by the neighborhood the assessor used to determine fair market value.

OPM Notification (§ 1 (d))

The act requires towns to notify the OPM secretary about certain decisions regarding a revaluation. A town must notify him within 30 days after the assessor signs and files the revalued grand list. Under prior law, the town had to notify the secretary within five days after it fixed the tax rate based on that grand list.

DEFERRING OR POSTPONING REVALUATIONS

Deferrals (§ 1 (k) (Repealed))

The act eliminates towns' authority to defer a revaluation if statistics show little or no change in property values since the last revaluation. This authorization would have expired October 1, 2007. The act also eliminates a committee that advises OPM about these deferrals.

Postponement (§§ 1 & 3)

The law allows towns to give assessors and boards of assessment appeals more time to complete their duties. Prior law allowed a town's chief executive officer to grant a one- and two-month extension to the assessor and the board, respectively, for cause. The act requires him to grant these extensions.

By law, the town cannot postpone the revaluation for a longer period without the secretary's approval. The town must request that approval, which the secretary may grant if the board cannot meet the deadline for hearing appeals. The act limits the postponement period to one year and prohibits the secretary from granting postponements for consecutive years. It also specifies that the penalty for failing to implement a revaluation does not apply in these situations.

In situations where the secretary grants the one-year postponement, the act shortens the deadline by which the assessor must complete the grand list, from 60 days to 30 days after the secretary's approval. The assessor must still notify people about increases in their properties' assessments within 10 days after completing the grand list, and they can still appeal the increases within 30 days of the notice. But, under the act, an increase takes effect in the next assessment year if the assessor failed to notify a property's owner.

The act eliminates the secretary's authority to postpone a revaluation the town cannot complete. Prior law allowed him to do so under an agreement with a town specifying how it would complete the revaluation. The agreement had to specify the conditions the town had to meet in order to avoid a penalty for failing to implement a revaluation.

REVALUATION PHASE-INS (§ 2)

Methods

The act consolidates the statutes specifying two methods towns must use if they want to phase in increases in assessed values after a revaluation, and changes some of their provisions. It also authorizes a new, third method and standardizes the procedures for adopting any of the methods.

Under prior law, one of the methods allowed towns to phase in all or part of the increase in a property's value after revaluation over four years. The act requires them to phase in all of the increase for up to five years.

The other existing method is based on the ratio between a property's assessed value and its fair market value. The assessed value is that portion of the fair market value subject to taxation. By law, properties are assessed at 70% of their fair market value, which changes over time. Under the act, the second method phases in the difference between ratios before and after revaluation over five years. The phase-in period under prior law was up to four years.

(PA 06-176 allows towns to phase in a portion of the increase in assessed values after a revaluation and specifies how they may do so.)

The third method divides properties into classes and phases in the rate at which the assessment increased for each class. In other words, instead of phasing in the rate at which each property's assessment increased, the third method phases in the rate at which the assessment increased for all properties within the class. As with the other methods, the maximum phase-in period is five years, including the year when the revaluation took effect.

Under this method, the property classes are residential, commercial, and vacant land. The commercial class includes apartments containing at least five units, industrial property, and public utility property. The third method works if there are sales records for a class or enough sales within each class to extrapolate a rate of increase for the entire class. For this reason, the act requires the assessor to use the second method when these conditions cannot be met.

The act specifies how the assessor must treat newly constructed property that becomes subject to taxation during a phase-in. The assessor must treat this property the same way he treats other comparable property

during that phase-in year. He must do this before he prorates the property based on the month when it became subject to taxation. Prior law stated only that the assessor had to assess the new construction at the same rate that applied to other property during that phase-in year.

The act requires OPM to reflect phase-in values when calculating payments in lieu of taxes for state-owned properties and private colleges and hospitals and elderly property tax relief grants. It must do this with respect to phase-ins that took effect on or before October 1, 2005 and were based on the difference between the properties' pre- and post-revaluation value. It must also do this with respect to phase-ins that took effect on or after October 1, 2006 and were based on the rate of increase in pre- and post-revaluation value.

In these cases, the town must notify any special taxing district within its borders about the phased-in values.

Procedure

Under prior law, a town could not implement a phase-in without the legislative body's approval. Under the act, the legislative body must also approve the phase-in method and the term, which cannot extend into the town's next five-year revaluation cycle. In towns where the legislative body is the town meeting, the board of selectmen must make these decisions.

The act also requires the legislative body or the board of selectmen to approve any proposal to discontinue a phase-in before it is scheduled to end. These bodies must decide this before the October 1 of the assessment year when the proposal would end the phase-in. The town must assess the properties based on the revaluation if the legislative body discontinues the phase-in or the phase-in period ends. Under prior law, the legislative body could discontinue a phase-in started only under the first method.

The act requires the town's chief elected officer to notify the OPM secretary when the legislative body votes to start or discontinue a phase-in. The officer must notify the secretary in writing within 30 days of the legislative body's decision or the town must pay a \$100 penalty.

REGULATIONS (§ 1 (g))

Standards

The act broadens the secretary's authority to adopt regulations governing revaluations. Prior law authorized him to adopt regulatory standards for testing whether a revaluation accurately measured changes in property values. It required towns to meet all of these standards and subjected them to a penalty if they did not.

The act requires the regulations to address how assessors must manage the revaluation process, including the method for compiling and maintaining property records, documenting property inspections, and determining property sales data used for mass appraisals. The regulations also must establish criteria for measuring the extent to which the assessments are level and uniform. These criteria must apply to different property classes where enough sales occurred to accurately determine the change in value.

Certification

The act requires assessors to certify in writing to the town's chief executive officer and the OPM secretary that the revaluation meets at least one of the regulatory criteria. An assessor must do this no later than the date he signs the grand list. If he designated a company to conduct the revaluation, then the employee who conducted the field reviews or performed the mass appraisals must also sign the certification. If the assessor cannot sign the certification, then the town must pay the same penalty the act imposes for failing to implement a revaluation.

The assessor must keep a copy of the certification and any supporting data in his office and make it available to the public under the same conditions that apply to other revaluation materials.

REVALUATION WORKING GROUP

Purpose

The act establishes a 13-member working group to study the revaluation process and recommend how it can be improved. At a minimum, the study must include:

1. the development of a master contract municipalities can use to hire revaluation companies,
2. the development of a region-wide schedule for conducting revaluations and recommendations on how to implement it, and
3. consideration of the rules for implementing revaluations.

In considering these rules, the group must ensure that all:

1. revaluation terms and procedures are clearly defined,
2. requirements for when towns must inspect properties are clarified,
3. allowable elements of a quality assurance program are listed, and
4. phase-in provisions are clear and workable.

Membership

As Table 1 below shows, the working group consists of statutory members and municipal and business representatives appointed by legislative leaders.

Table 1: Property Revaluation Working Group

<i>Member</i>	<i>Appointing Authority</i>
Municipal Government (two members)	House Speaker
State-wide Realtors Group (two members)	Senate President Pro Tempore
Business Group	House Majority Leader
Business Group	Senate Majority Leader
Connecticut Association of Assessing Officers	House Minority Leader
Connecticut Association of Assessing Officers	Senate Minority Leader
Chairmen and ranking members of the Finance, Revenue and Bonding Committee or their designees	Statutory
Office of Policy and Management Secretary or his designee	Statutory

The appointing authorities can appoint legislators who are also members of the groups from which they must make their respective appointments, which they must make within 30 days after the act takes effect. The OPM secretary must chair the group and call its first meeting by November 30, 2006. OPM must provide staff support.

Report

The group must report its findings and recommendations to the Finance, Revenue and Bonding Committee by January 1, 2007. It terminates on that date or the date it submits the report, whichever is later.

PA 06-159—sSB 638*Finance, Revenue and Bonding Committee***AN ACT ENABLING THE DEPARTMENT OF REVENUE SERVICES TO PROCESS RETURNS MORE EFFICIENTLY****SUMMARY:** This act:

1. allows the Department of Revenue Services (DRS) commissioner to disclose tax returns and return information to the Office of Fiscal Analysis (OFA);
2. eliminates optional group income tax returns for Connecticut partnerships, S corporations, and other pass-through entities with nonresident partners, shareholders, or members, and instead requires all such businesses to pay the income taxes their nonresident members owe on their income from the business;
3. eliminates requirements that companies claiming various tax credits attach copies of the authorizing documents to their tax returns and instead, when an agency other than the DRS authorizes the credit, requires that agency to supply the DRS commissioner with a copy of the documents if she asks for it; and
4. eliminates requirements that liquor distributors automatically file duplicate invoices with DRS when they ship alcoholic beverages to a military reservation in Connecticut and requires distributors to file monthly alcoholic beverages tax returns under penalty of false statement instead of under oath.

The act also makes minor and technical changes and eliminates obsolete language.

EFFECTIVE DATE: Various, see below.

REPORTING CERTAIN DATA TO OFA (§§ 3 & 4)

The law already requires DRS to annually report certain tax data for the preceding fiscal year to OFA. OFA is barred from disclosing any personally identifiable taxpayer information except to other state officers and employees in the course of duty, and those state officers and employees are barred from disclosing the information. This act allows DRS to disclose tax returns or return information to OFA, subject to the same restrictions.

By law, “return information” is (1) a taxpayer’s identity; (2) the nature, source or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax collected or withheld, under or over reportings, or tax payments; (3) whether his return is, was, or will be examined or investigated; or (4) any other data received, recorded,

prepared, or collected by or furnished to the DRS commissioner regarding a return or regarding any determination of liability for a tax, penalty, interest, fine, forfeiture or other imposition or an offense.

The act also makes technical changes and removes obsolete language.

EFFECTIVE DATE: July 1, 2006

INCOME TAX RETURNS FOR NONRESIDENT MEMBERS OF PASS-THROUGH BUSINESSES (§§ 5 & 6)

The act eliminates optional group income tax returns that Connecticut partnerships, S corporations, trusts or estates, or other pass-through entities may file on behalf of their nonresident partners, members, beneficiaries, or shareholders (“members”) who meet certain criteria. The act instead requires all such businesses to pay income taxes at the highest marginal rate (currently 5%) on each nonresident member’s share of income from the business, if the income is at least \$1,000. Under prior law, the tax payment was required only if the business did not file a group return.

By law, each pass-through business that has income derived from or connected to Connecticut sources must file an annual return containing information about its finances and its resident and nonresident members. Under the act, if the business (1) is the only source of Connecticut income for a nonresident member or a member and his spouse and (2) files the required annual return and pays the tax on their behalf as required, then the member does not have to file a separate Connecticut nonresident income tax return. If the business is not the member’s only source of Connecticut income, then he must file his own nonresident return, but is entitled to a credit for any taxes the business paid on his behalf.

By law, a pass-through business does not have to pay income taxes for any nonresident member whose Connecticut-related income from the business is less than \$1,000 for the year. The act also exempts a nonresident pass-through business member from filing an individual tax return for any year in which (1) his or (2) his own and his spouse’s income derived from Connecticut sources through one or more pass-through entities totals less than \$1,000.

The act allows the DRS commissioner, at her sole discretion, to make tax deficiency tax assessments against either the business or the individual nonresident member. It limits any such assessment against an individual to his share of the deficiency. Likewise, the commissioner can refund any tax overpayment either to the business or the individual member. The commissioner must assess the deficiency or refund the overpayment, in the former case, within three years of the date the return was filed and, in the latter, within three years of the return due date or, if that date was

extended, of the extended due date or the payment date, whichever is earlier. As with individual returns, the three-year time limit does not apply to deficiencies arising from false or fraudulent returns, failure to file a required return, or failure to report an abusive tax shelter on a return. Likewise, it does not apply to overpayments stemming from changes or corrections to a return by, or as a result of negotiations with, the IRS or another competent tax authority.

The act also (1) eliminates requirements for pass-through entities to file quarterly returns and pay estimated tax and (2) extends the deadline for them to inform each nonresident member of the amount of taxes paid on the member's behalf from the 15th of the third month to the 15th of the fourth month following the close of its tax year.

EFFECTIVE DATE: Upon passage and applicable to tax years starting on or after January 1, 2006.

ATTACHMENTS TO TAX RETURNS OF BUSINESSES CLAIMING TAX CREDITS (§§ 1 & 2, 7-11, & 19-21)

The act eliminates requirements that companies claiming certain tax credits attach eligibility documents to, or file them with, their tax returns. Unless DRS authorizes the credit, the act instead requires the agency or person determining eligibility to give DRS the eligibility documentation if DRS asks for it. Table 1 shows the tax credits and eligibility documents the act covers.

Table 1: Tax Credits and Eligibility Documents

§	Tax Credit for	Attachment Eliminated
1	Donating computers to public schools	DRS decision approving the credit application
2	Rehabilitating or contributing to cost of rehabilitating an historic home	Commission on Culture and Tourism tax credit voucher
7	<ul style="list-style-type: none"> Locating a manufacturing facility (1) in an enterprise zone or (2) in a municipality with an entertainment zone and meeting employment criteria Locating a service facility in a targeted investment community and hiring 	Department of Economic and Community Development (DECD) eligibility certificate

	new employees	
8	Rolling research and development (R&D) tax credit	DECD eligibility certificate and, for an aerospace company, memorandum of understanding with DECD
9	Employer-assisted housing	Connecticut Housing Finance Authority (CHFA) documentation
10	Property taxes on leased electronic data processing equipment	Document in which equipment lessee and lessor agree that lessor will claim the credit
11	Financial institution building a new facility and creating at least 1,200 jobs	DECD eligibility certificate
19	Neighborhood Assistance Act contributions	DRS decision approving the credit application
20	Investing in eligible urban or industrial site reinvestment projects	DECD eligibility certificate
21	Investing in eligible insurance reinvestment fund	DECD eligibility certificate and certification

EFFECTIVE DATE: Upon passage. Sections 1 and 2 and 7-11 apply to tax years starting on or after January 1, 2006.

TAX ON RAILROAD EXPRESS, TELEGRAPH, AND CABLE COMPANIES (§§ 11 & 13)

The act eliminates gross earnings taxes of 2% on railroad express companies and 4.5% on telegraph and undersea cable companies, along with interstate apportionment requirements and requirements for filing annual tax returns. It also deletes obsolete language relating to filing requirements for cable TV and satellite TV company gross earnings tax returns for 2003 and makes other technical and conforming changes.

EFFECTIVE DATE: October 1, 2006. The cable TV and satellite TV company changes apply to quarters starting on or after that date.

BUSINESS ENTITY TAX DEFINITIONS (§ 14)

The act specifies that S corporations, limited liability companies, limited liability partnerships, and limited partnerships are subject to the \$250 business entity tax whether they are formed under the laws of Connecticut ("domestic") or another jurisdiction ("foreign"). It requires such businesses to pay the tax if they are (1) domestic entities or (2) foreign entities required to register with the secretary of the state to do business here, whether or not they have actually done so. Under prior law, entities had to pay the tax if they

were required to file annual reports with the secretary of the state. Since both domestic and foreign business entities must both register and file annual reports, this change makes no substantive difference.

The act also (1) specifies that such companies are liable for the tax for each year or part of a year that they meet the act's definitions, (2) repeals obsolete references to a 20% surcharge on the business entity tax for 2003, and (3) makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

ALCOHOLIC BEVERAGES DISTRIBUTOR TAX REQUIREMENTS (§§ 17 & 18)

The act eliminates the requirement that a distributor who ships alcoholic beverages to a military reservation in Connecticut automatically file a duplicate invoice with DRS showing the amount shipped and its classification under the alcoholic beverages tax law. Instead, the act requires the distributor to give DRS a copy of the invoice only if it asks for one.

It also eliminates a requirement that distributors file monthly alcoholic beverages tax returns under oath and instead requires the distributor's treasurer or other authorized agent to sign the return under penalty of false statement.

EFFECTIVE DATES: Upon passage for the provision on duplicate invoices. The provision concerning sworn returns takes effect October 1, 2006 and applies to returns for calendar months starting on or after that date.

ESTATE TAX AFFIDAVITS (§§ 15 & 16)

The act eliminates references to sworn affidavits in the estate tax law. This change corresponds to the elimination of affidavit requirements for most other state taxes enacted in 2000 (PA 00-170).

EFFECTIVE DATE: Upon passage

BACKGROUND

Related Act

PA 06-194 (1) allows OFA to disclose information it receives from DRS under this act to a contractor providing it with revenue estimating and forecasting services, to the extent disclosure is needed for the estimating and forecasting; (2) extends the existing confidentiality requirement to cover the contractor and the monthly sales and use tax data DRS is required to submit to OFA; (3) requires DRS to report available tax return information to OFA for each state tax, when OFA requests it and for OFA's revenue estimating and forecasting only; and (4) requires DRS to first delete names, addresses, account and registration numbers, and all but four digits of Standard Industrial Classification

Manual and North American Industrial Classification System codes.

PA 06-163—sSB 700

*Finance, Revenue and Bonding Committee
Commerce Committee*

AN ACT CONCERNING LAND RECORD FEES PAID BY A MUNICIPALITY, THE PROPERTY DESCRIPTION OF A DISTRICT IN REDDING AND THE FILING DEADLINE FOR CERTAIN TAX EXEMPTIONS

SUMMARY: This act:

1. exempts the Metropolitan District Commission and other municipal corporations created by General Assembly special acts from the \$30 fee for filing documents on land records;
2. changes the legal description of property included in a special taxing district in Redding, if the district's voters approve; and
3. waives the deadline for a Wallingford person to ask the Office of Policy and Management (OPM) secretary to reconsider the secretary's denial or modification of a property tax exemption for new manufacturing machinery and equipment for the October 1, 2000 assessment year.

EFFECTIVE DATE: Upon passage

EXEMPTION FROM DOCUMENT RECORDING FEE (§ 1)

The act exempts employees of municipal corporations created by special acts of the legislature, and their departments, from having to pay the \$30 fee for each document filed on the municipal land records, if the employees are filing the documents as part of their official duties. The exemption includes the Metropolitan District Commission and the Pomperaug Valley Water Authority. Most other municipalities and municipal entities were already exempt. The recording fee funds farmland preservation, affordable housing, open space acquisition, and historic preservation programs, among other things.

REDDING SPECIAL TAXING DISTRICT (§ 2)

The act changes the legal description of the property included in a special taxing district within the town of Redding, once the voters, as defined in PA 05-214 that created the district, approve enlarging it. These voters are those who: (1) are electors in the district; (2) hold real property interests in it; or (3) are over age 18, U.S. citizens, and either liable for at least \$1,000 in

property taxes to the district on the previous year's grand list or would be liable if they did not qualify for state property tax exemptions for veterans and blind people.

TAX EXEMPTION RECONSIDERATION FILING WAIVER (§ 3)

The act allows an eligible person in Wallingford to file a written request with the OPM secretary to reconsider his modification or denial of a property tax exemption for new manufacturing machinery and equipment for the October 1, 2000 assessment year, despite the person's failure to meet the 30-day deadline for filing such a request. The person must file the request within 30 days after the act's passage, along with all the supporting documentation the secretary requested in a letter dated October 1, 2002.

The secretary must reconsider his decision within 30 days after receiving the request and documentation. If the person is aggrieved by the result, the act allows him to ask for a hearing before the secretary. If the secretary grants the exemption, he must notify both the requestor and the Wallingford assessor of his approval and include reimbursement for the exemption in the next payment in lieu of taxes to the town. If the person has already paid the taxes on the exempt property, the town must reimburse him.

PA 06-183—sHB 5605

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

AN ACT CONCERNING UNIFORM TREATMENT OF TELECOMMUNICATIONS COMPANIES WITH RESPECT TO PROPERTY TAX DELINQUENCIES AND CONCERNING ASSESSMENT OF APARTMENT AND RESIDENTIAL PROPERTY AFTER REVALUATION

SUMMARY: This act allows town tax collectors to impose the same interest penalty on delinquent telecommunications property tax payments as on all other delinquent property taxes. That penalty is 1.5% of the delinquent tax for each month or part of a month from when the tax was due until it is paid. The act applies to telecommunications companies that pay personal property taxes on the property they use to provide telecommunications services at the statewide rate of 47 mills. Prior law imposed no penalty on companies that failed to pay these taxes on time.

The act also allows a municipality that meets certain conditions to implement a special property tax

relief program limiting annual tax increases for residential and apartment property resulting from a revaluation to 3.5% per year for five years. It applies to any municipality that, in the October 1, 2005 assessment year, was implementing the state "tax cap" law that allows towns to provide a property tax credit for one-to-three family owner-occupied houses funded by a surcharge on other property of up to 15%. Hartford is the only municipality that used the tax cap law and is thus the only municipality that can implement the act's property tax relief program.

As a condition of using the program, Hartford must reduce the nonresidential property tax surcharge to no more than 7.5% as of the October 1, 2010 assessment year. The act repeals the statute that authorizes the tax cap program as of the same assessment year.

EFFECTIVE DATE: The delinquent telecommunications property tax provision is effective on passage and applies to municipal assessment years starting on or after October 1, 2006. The Hartford tax relief program and tax cap program repeal are effective July 1, 2006, but the tax relief provisions apply to municipal assessment years starting on or after October 1, 2006 while the tax cap program repeal applies to municipal assessment years starting on or after October 1, 2010.

HARTFORD PROPERTY TAX RELIEF PROGRAM

The act allows Hartford to implement the special property tax relief program if the city adopts an ordinance to do so and the city assessor determines that, without the program, the share of the city's total grand list attributable to residential and apartment property will increase by 20% in the October 1, 2006 assessment year as a result of revaluation. The act defines residential property as any building, land, and accessory buildings and improvements having one to four dwelling units and apartment property as having five or more dwelling units.

To implement the program, the act exempts Hartford from the statutory requirement that all property be assessed for property tax purposes at 70% of its fair market value. Instead, it requires the Hartford assessor to calculate two annual assessment ratios, one for the residential and apartment property classes and one for all other classes. The two ratios must produce, in the revaluation year and each of the four following years, an average annual property tax increase attributable to the revaluation of 3.5% for the residential and apartment classes.

The act requires the city to use the revenue from these tax increases on residential and apartment property to proportionately reduce the 15% tax surcharge on the city's other property classes. It requires that the surcharge be no more than 7.5% in the

October 1, 2010 assessment year.

BACKGROUND

Related Acts

PA 06-148 consolidates the statutes for phasing in a revaluation, authorizes a new phase-in method, limits the maximum phase-in period to five years, and requires local legislative bodies to approve the phase-in method.

PA 06-176 allows municipalities to phase in the effects of their property revaluations over up to five years, using one of two implementation options; requires the municipality's legislative body to select the implementation option; and allows the municipality to phase in part, rather than all, of the assessment increase.

PA 06-194—sHB 5814

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE BONDING PROCESS, CONFIDENTIALITY OF TAX RETURN INFORMATION, LOANS FOR MOBILE MANUFACTURED HOMES, VARIOUS TAXES ADMINISTERED BY THE DEPARTMENT OF REVENUE SERVICES, CREATION OF A SPECIAL DISTRICT IN DERBY, TAXATION OF LAND PURCHASED FROM THE STATE BY A TOWN AND CONSTRUCTION OF A HIGHWAY RAILROAD CROSSING

SUMMARY: This act makes several unrelated changes in laws concerning (1) the State Bond Commission's process for approving the sale of state bonds for various projects and purposes, (2) the Department of Revenue Services' (DRS) ability to share tax data with the Office of Fiscal Analysis (OFA), (3) DRS procedures for administering various tax laws, and (4) a special taxing district in East Lyme.

It also:

1. requires the Connecticut Housing Finance Authority (CHFA) to provide loans for buying mobile homes,
2. allows the City of Derby to establish a special taxing district to finance infrastructure improvements,
3. gives municipalities the authority to make agreements concerning property taxes on property they buy from the state, and
4. approves construction of an at-grade pedestrian railroad crossing in Shelton.

EFFECTIVE DATE: Various, see below.

BOND COMMISSION PROCEDURES (§§ 1-6)

The act requires the Office of Policy and Management (OPM) secretary to issue the agenda for State Bond Commission meetings sooner; adds to statements that must be filed with the commission before it approves bond allocations; requires the OPM secretary to provide annual cost updates to the Finance, Revenue and Bonding Committee on outstanding bond allocations; and makes technical changes.

Agendas

The act requires meeting agendas to be available to commission members at least five, rather than at least four, business days before a meeting.

Information Required Before Bond Allocations

The act adds to the statements that must be filed with the commission before it may approve a bond allocation for a particular project or purpose. In addition to the required statements concerning human service facility colocation and farmland and capital development impacts, the act requires the commission to receive a statement of the (1) full completed cost of the project or purpose receiving the allocation and (2) estimated operating cost of any structure, facility, or equipment being built or acquired.

Annual Cost Update

Starting January 1, 2007, the act requires the OPM secretary to file an annual report with the Finance, Revenue and Bonding Committee that updates, for all outstanding bond allocations, (1) the full completed cost of the project or purpose that received the allocation and (2) the estimated operating costs of any structure, facility, or equipment being built or acquired.

EFFECTIVE DATE: Upon passage

DISCLOSURE OF CERTAIN TAX DATA TO OFA (§ 7)

By law, DRS must, by December 31 annually, report certain state tax data for the preceding fiscal year to OFA. OFA is barred from disclosing any personally identifiable taxpayer information discernable from these data reports except to other state officers and employees in the course of duty. These state officers and employees are also barred from disclosing the information.

The act allows OFA to disclose information to a contractor providing it with revenue estimating and forecasting services, to the extent disclosure is needed for the estimating and forecasting. It extends the existing confidentiality requirement to cover the

contractor. It also explicitly extends it to cover the monthly sales and use tax data DRS is required to submit to OFA.

The act also requires DRS to report available tax return information to OFA for each state tax, when OFA requests it and for OFA's revenue estimating and forecasting only. But it requires DRS to first delete names, addresses, account and registration numbers, and all but four digits of Standard Industrial Classification Manual and North American Industrial Classification System codes. The act subjects this return information to the disclosure restrictions described above.

EFFECTIVE DATE: July 1, 2006

CHFA LOANS FOR PURCHASING MOBILE HOMES (§ 8)

The act requires CHFA to set aside at least \$2 million for direct loans to help Connecticut residents buy mobile manufactured homes to be located in a manufactured housing community. It bars the loans from requiring that borrowers buy private mortgage insurance and requires them to accept an annual renewable lease for the lot on which the home is located.

EFFECTIVE DATE: July 1, 2006

DRS TAX ADMINISTRATION PROCEDURES (§§ 9-21)

Use of Electronic Signature on Tax Lien Certificates (§ 9)

The act allows the DRS commissioner to use an electronic signature on certificates filing or discharging tax liens on real property and requires town clerks to accept the signatures and record the certificates. It validates, as of the date originally filed, otherwise valid certificates with the commissioner's electronic signature that were filed with town clerks before the act's effective date. The law already bars anyone from denying the legality of an electronic signature solely because it is electronic.

The act also makes technical changes to update and remove redundant references in the list of taxes to which property lien definitions apply.

EFFECTIVE DATE: Upon passage

Tobacco Products Retailer Licenses (§§ 10-16)

The act eliminates the requirement that a retailer who sells taxed tobacco products, which includes all types of chewing and smoking tobacco other than cigarettes, have a tobacco products distributor license. Instead, it requires such retailers to have a cigarette dealer's license. Thus, retailers who sell both cigarettes and tobacco products will no longer be legally required

to have two licenses, a requirement DRS did not enforce. Under the act, those dealing with untaxed tobacco products still have to have a tobacco products distributor or unclassified importer license.

Under prior law, a person had to have a tobacco products distributor license if he (1) manufactured tobacco products as a business; (2) bought them at wholesale from a manufacturer or distributor for sale; or (3) imported them into the state, intending to sell at least 75% of them. Cigarette dealer licenses were previously required only for cigarette retailers, including those operating fewer than 25 cigarette vending machines. The annual fee for a cigarette dealer license is \$25. The fee for a tobacco products distributor license is \$100 per year.

The act makes various changes to conform to the licensure change, including eliminating a requirement that tobacco products retailers file reports with DRS by July 25th annually. It still requires retailers to keep records of the people from whom they acquire tobacco products, including quantities and acquisition dates and any other information DRS considers necessary. It eliminates a requirement that retailers keep records of the people to whom they sell tobacco products, including quantities and sale dates.

The act applies tobacco products license display requirements only to distributor licenses and requires the display to be "conspicuous" rather than "proper." It restricts the unclassified importer license to those who acquire untaxed products outside the state and bring them here for their personal use. It requires DRS to publish a list of licensed distributors on its website.

EFFECTIVE DATE: July 1, 2006

Estate Tax Penalty (§ 17)

The act imposes a minimum penalty of \$50 for failure to pay estate tax by the due date. The law already imposed a penalty of 10% of the unpaid tax but did not specify any minimum amount. Estate taxes are due and payable nine months after the death date. Unpaid taxes are also subject to interest of 1% per month from the due date to the payment date.

EFFECTIVE DATE: Upon passage and applicable to taxes payable on or after that date.

Estate Tax Appeals (§ 18)

The act extends the admissions, cabaret, and dues tax appeals process to most DRS estate and gift tax orders, decisions, determinations, and disallowances, other than those concerning a decedent's domicile. It thus requires an aggrieved party to appeal these decisions to Superior Court instead of to the probate court where the deceased lived or, if the person was a not a Connecticut resident, to the district where the

taxable property is located. Under the act, probate courts continue to handle appeals of DRS domicile determinations.

EFFECTIVE DATE: Upon passage

Time Limit for Assessing Tax on Undisclosed Gifts (§ 19)

When a taxpayer fails to file a required gift tax return, the law allows the DRS commissioner to file the return based on the best information available. Except when a taxpayer has filed a fraudulent or willfully false return in an attempt to evade the tax, the time limit for the commissioner to assess an additional gift tax is three years from the due date of the original return or the date the return is actually filed, whichever is later. The act makes an exception to the three-year time limit to allow the commissioner to impose additional tax at any time, if a gift is inadequately disclosed or not disclosed.

By law, gift tax returns must show:

1. each gift made during the calendar year that is included in determining taxable gifts;
2. allowable deductions claimed;
3. a description of each gift with the recipient's name, address, and social security number;
4. the fair market value of each nonmonetary gift; and
5. any other information DRS needs to administer the tax.

EFFECTIVE DATE: Upon passage and applicable to gifts made during calendar years starting on or after January 1, 2006.

Gift Tax Return and Payment Due Date (§ 20 & 21)

In general, gift tax returns and payments are due by April 15th of the year after the calendar year in which the donor made the gift. But when the donor dies in the calendar year when he makes the gift, the act makes the due date the same as the due date for estate tax returns and payments, i.e., nine months after the death date.

Under prior law, in such a situation, the state gift tax return and payment was due on the same date as the person's federal gift tax return and payment, which is the earlier of April 15 or nine months after the death date.

EFFECTIVE DATE: Upon passage. The provision regarding tax return due dates applies to gifts made on or after January 1, 2006. The provision regarding tax payment due dates applies to taxes due for calendar years starting on or after January 1, 2005.

Interest on Gift Tax Overpayments (§ 21)

The act requires DRS to pay interest on gift tax overpayments at the rate of 0.66% for each month or part of a month beginning on the payment date or gift

tax return due date, whichever is later. The law already requires DRS to pay interest at this rate on estate tax overpayments (CGS § 12-392 (a) (3)).

EFFECTIVE DATE: Upon passage and applicable to taxes due for calendar years starting on or after January 1, 2005.

SPECIAL TAXING DISTRICTS (§§ 22 & 23)

East Lyme (§ 22)

PA 05-289 authorized establishment of a special taxing district within East Lyme and allowed the district to issue up to \$30 million in bonds to finance development. Before issuing any bonds, the district had to make an interlocal agreement with the town. The act requires the interlocal agreement to be ratified at a town meeting called for the purpose instead of by the town's legislative body.

EFFECTIVE DATE: July 1, 2006

Derby (§ 23)

The law allows voters in any town to create a special taxing district to provide various services. The act establishes a procedure, which largely mirrors the statutory procedure, for Derby to form such a district. It allows the Derby special district to provide such services as fire protection; financing and maintaining roads, trees, and infrastructure improvements; building and managing flood or erosion control systems; and establishing and operating a community water system. It gives the district the power to levy assessments and taxes on land and buildings benefiting from these improvements.

The act allows the district to issue up to \$45 million in bonds to finance the improvements and to secure them by the district's full faith and credit; district fees, revenues, or benefit assessments; or a combination of the two. While the bonds are outstanding, the district's powers may not be impaired in any way that would adversely affect the bondholders' interests. Bonds are not considered debts of the state or of the City of Derby and can be issued without their consent.

The act delineates the district's geographic boundaries and establishes procedures for forming, operating, and terminating it, with approval of district voters, who it defines as people who live in the district; who are liable for at least \$1,000 in property assessments to it; or who own or have an interest in real property located in it, such as banks holding mortgages.

The district must enter into an interlocal agreement with Derby and submit quarterly project activity reports to the OPM secretary and the chairmen of the Finance, Revenue and Bonding Committee. The reports must provide information and updates on the district's projects.

The act exempts district revenues and real and personal property from state and municipal taxes. District bond principal and interest are exempt from state taxes other than state estate and gift, franchise, and excise taxes. But the state and Derby can still levy taxes on the incomes and properties of the people and businesses living or operating in the district.

After being established, the district must hold an organizational meeting, at which district voters must fix its annual meeting date and elect a president, vice-president, five directors, a clerk, and a treasurer. The Derby mayor may appoint one director. At least three directors must be Connecticut residents. Fifteen district voters or a majority of those owning interests in real property in the district are a quorum for transacting business, as long as the property owners present represent at least 50% of the total property assessments in the district.

If the City of Derby chooses, it may, by vote of its board of aldermen, merge the district into the city if the district does not issue any bonds within four years of its creation or after all its bonds are paid off. In that case, district property must be distributed to the City of Derby.

The act requires the Derby special district provision to be liberally construed to effect its purposes.

EFFECTIVE DATE: Upon passage

MUNICIPAL TAX AGREEMENTS FOR LAND BOUGHT FROM THE STATE (§ 24)

The act allows a municipality that buys state land to enter into an agreement that exempts the land or any part of it from municipal property taxes entirely or makes the land fully or partially taxable. It also allows the municipality to agree to payments in lieu of taxes (PILOTs) or to a fixed tax on the land. Towns may set the amounts, duration, and terms of these agreements, which must be approved by their legislative bodies. PILOT payments or fixed taxes, together with interest as specified in the agreement, are a lien on the property and take precedence over all other liens and encumbrances. The town may foreclose these liens in the same way as property tax liens.

EFFECTIVE DATE: July 1, 2006

SHELTON AT-GRADE RAIL CROSSING (§ 25)

The act authorizes Shelton or its authority or agent to build an at-grade pedestrian crossing on the Housatonic Railroad's Maybrook Line between Canal and Bridge streets. By law, building an at-grade public railroad crossing is prohibited after October 1, 1989 unless authorized by a special act of the legislature.

The Shelton project must first be approved by Shelton's legislative body and the Housatonic Railroad Company. It must be built according to the Department of Transportation's recommendations.

EFFECTIVE DATE: Upon passage

BACKGROUND

Related Act

PA 06-159 allows DRS to disclose tax returns or return information to OFA, subject to the same confidentiality restrictions as apply to its annual tax data reports to OFA.

State Bond Commission

The State Bond Commission is a 10-member executive-legislative committee consisting of the governor, treasurer, comptroller, attorney general, the OPM secretary, public works commissioner, and the co-chairmen and ranking members of the Finance, Revenue and Bonding Committee. The commission meets periodically (usually monthly) to allocate bonds the General Assembly has authorized to particular projects. The governor chairs the commission and controls its agenda. The OPM secretary acts as the commission's secretary and keeps its records and minutes.

PA 06-25—sHB 5182
General Law Committee
Judiciary Committee

AN ACT CONCERNING FAKE AIR BAGS FOR MOTOR VEHICLES

SUMMARY: This act prohibits selling or offering to sell any device intended to replace a motor vehicle air bag if the seller knows or reasonably should know that it does not meet federal safety standards. A violator commits an unfair trade practice. Each sale or offer for sale constitutes a separate violation. A violator is also guilty of a class A misdemeanor (see Table on Penalties).

EFFECTIVE DATE: July 1, 2006

BACKGROUND

Federal Safety Standards

Federal regulations set performance standards to protect occupants in motor vehicle crashes. Among the standards are requirements that certain motor vehicles have air bags (49 CFR § 571.208). Federal law also prohibits a motor vehicle manufacturer, distributor, dealer, or repairer from making inoperative any device required by a federal motor vehicle safety standard (49 USC § 30122).

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. The act also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

PA 06-26—HB 5183
General Law Committee

AN ACT CONCERNING ALCOHOLIC LIQUOR PRICE POSTING

SUMMARY: This act repeals the June 30, 2006 sunset date on the law that (1) requires manufacturers and wholesalers of alcoholic beverages to register their

brands with the Department of Consumer Protection (DCP) and post their prices for the following month with it and (2) prohibits them from discriminating in price between one liquor permittee and another.
 EFFECTIVE DATE: Upon passage

BACKGROUND

Brand Registration

The law prohibits selling an alcoholic beverage unless the brand and its trade name or other distinctive characteristic has been registered with and approved by DCP. The fee is \$100 for out-of-state shippers and \$3 for Connecticut manufacturers for a three-year brand registration.

Price Posting

The law requires manufacturers and wholesalers of all types of alcoholic beverages to post their bottle, can, case, keg, barrel, or fractional unit prices (e.g., quarter kegs) for the following month with DCP. The price, once posted, is the controlling price for the entire next month. The law also allows beer manufacturers and wholesalers to post additional prices for specified parts of the month and makes them the controlling prices for the specified parts of the month. It requires wholesalers to provide their price postings for the following month to retailers by the 12th of the month “prior to such posting.”

Price Discrimination

The law prohibits manufacturers, wholesalers, and out-of-state shippers from discriminating in price discounts between one permittee and another on sales of like age, size, and quality and from making any discount, rebate, or other inducement to make a sale.

PA 06-29—HB 5558
General Law Committee
Judiciary Committee

AN ACT CONCERNING THE POSTING OF GAS PRICES

SUMMARY: This act makes it an unfair trade practice for gasoline retailers to fail to comply with the law requiring them to display and maintain, in the same manner, size, and print, the prices for (1) the public and (2) members of a club, retail membership organization, or people who qualify for a special discount, on each public gasoline price sign.

EFFECTIVE DATE: Upon passage

BACKGROUND*Requirements for Price Signs for the General Public*

Department of Consumer Protection (DCP) regulations require that, among other things, gasoline price signs on the pumps state the price for full-serve, mini-serve, and self-serve; be clearly visible from both sides of the pump; and be 7 ¼" high and 9 ½" wide (Conn. Agencies Reg. §§ 16a-15-9 and 16a-15a-1).

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. The act also allows individuals to sue. Courts may (1) issue restraining orders; (2) award actual and punitive damages, costs, and reasonable attorneys fees; and (3) impose civil penalties up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

PA 06-30—HB 5667*General Law Committee***AN ACT CONCERNING THE REGISTRATION OF ALCOHOLIC LIQUOR BRANDS AND FEES AND PRICE POSTING AND NOTICE**

SUMMARY: This act postpones, from the 12th to the 27th of the month, the date by which all wholesalers of alcoholic beverages must give retailers their prices for the following month.

Existing law requires all alcoholic beverage manufacturers and wholesalers to post their bottle, can, case, keg, barrel, or fractional unit (e.g., quarter keg) prices for the following month with the Department of Consumer Protection. It allows beer suppliers to post additional prices for specified parts of the following month. They must also give purchasers notice of their prices by direct mail or advertising in a trade publication. The act also allows notice to be given using the Internet.

EFFECTIVE DATE: October 1, 2006

PA 06-31—HB 5682*General Law Committee***AN ACT CONCERNING PUBLIC ACCOUNTANTS**

SUMMARY: This act requires the State Board of Accountancy to adopt regulations to allow licensed "public accountants" to convert their licenses to "certified public accountant" licenses without requiring any testing. Existing law allows public accountants to renew their annual licenses if they meet the same continuing education requirements met by certified public accountants.

EFFECTIVE DATE: October 1, 2006

BACKGROUND*Public Accountants and Certified Public Accountants*

Prior law required the board to issue without charge credentials called "authorities" to practice public accounting to returning Korean War and World War II veterans who (1) practiced accounting as their principal profession before entering the service or (2) were in the service on June 29, 1955 and had been employed by an accounting firm as a staff accountant before entering the service. Applicants were required to apply within one year of their discharge. The law sets more rigorous standards for certified public accountants, requiring them to meet character, education, examination, and experience requirements (CGS § 20-281c).

PA 06-49—sSB 565*General Law Committee***AN ACT CONCERNING CONTINUING EDUCATION FOR PLUMBERS**

SUMMARY: This act limits the hours of continuing education that Department of Consumer Protection (DCP) regulations may require of plumbers to seven every two years. If there are significant changes to the building code that relate to plumbing, the act allows the DCP commissioner to increase the requirement. By law, the DCP commissioner may adopt regulations to establish requirements for accredited continuing professional education for plumbers and qualifying criteria for accredited continuing professional education programs.

The act exempts holders of P-6, P-7, W-8, and W-9 plumbing and piping work licenses from the continuing education requirements. It eliminates an exemption for plumbers who have served an apprenticeship that included at least 700 hours of related classroom instruction.

EFFECTIVE DATE: Upon passage

BACKGROUND

Continuing Education Requirements

DCP regulations addressed by this act require unlimited plumbing contractors to take six hours of continuing education every year and limited contractors and unlimited journeymen to take three hours every year. They identify the following areas of study as “acceptable”: licensing or business law related to plumbing, the current State Building Code related to plumbing, and any area recommended by the Plumbing and Piping Work Board (Conn. Agencies Reg. § 20-344d-1).

P-6 and P-7 Licenses for Sewer, Storm, and Water Pipes

These licenses permit the installation, repair, replacement, alteration, or maintenance of water, sewer, and storm lines from the utility to a point immediately inside a structure (Conn. Agencies Reg. §§ 20-332-4 (g) and (h)). Journeypersons (P-6) may only work for contractors (P-7).

W-8 and W-9 Drain Layer Licenses

These licenses permit the installation, repair, replacement, alteration, or maintenance of sewer and storm lines from the utility to a point immediately inside a structure. DCP no longer issues initial licenses, but it renews the licenses of current holders. Journeypersons (W-8) may only work for contractors (W-9).

PA 06-50—sSB 566

*General Law Committee
Judiciary Committee*

AN ACT CONCERNING ELECTRONIC MAIL MESSAGE PHISHING

SUMMARY: This act prohibits using the Internet or an e-mail message to solicit or induce anyone to provide identifying information by pretending to be an on-line Internet business without the business’s authorization.

It authorizes the attorney general or anyone aggrieved by a violation to sue to enforce it and restrain further violations. The court may award actual damages

or \$25,000, whichever is greater, for each violation. It may triple the damage award if it determines that the defendant has engaged in a pattern and practice of violations.

A violation is also a class D felony (see Table on Penalties). Multiple violations committed in the course of a single act constitute a single violation for purposes of the criminal penalty.

Under the act, an Internet service provider is not liable for identifying, removing, or disabling access to a web page or other on-line location that it believes in good faith is being used to violate the prohibition.

EFFECTIVE DATE: October 1, 2006

DEFINITIONS

E-Mail Messages

The act defines “e-mail message” as a message sent to a unique destination consisting of a unique user name or mailbox and a reference to an Internet domain, whether or not displayed, to which the message can be sent.

Identifying Information

The act defines “identifying information” as specific details that can be used to access a person’s financial accounts or to obtain goods or services. It can include a Social Security, driver’s license, bank account, credit or debit card, or personal identification number; automated or electronic signature; unique biometric data; or account password.

PA 06-59—HB 5677

*General Law Committee
Judiciary Committee*

AN ACT CONCERNING SURETY BONDS AND CONSTRUCTION CONTRACTS

SUMMARY: The law requires public works contracts for which a payment bond is required to include certain provisions establishing a payment schedule. This act requires a general contractor or subcontractor, regardless of whether a surety bond is in place, to deposit funds in an interest-bearing escrow account on the written demand of its subcontractor if (1) a payment is not made according to the contract schedule, (2) 10 days have passed since the payment date, and (3) the subcontractor has sent a payment demand by registered or certified mail. Under prior law, the general contractor or subcontractor had to escrow funds under these conditions only if a surety bond was not in place. By law, unchanged by the act, the escrowed amount must be for the amount that the general contractor or

subcontractor is liable, which is the amount of the claim plus 1% per month interest. The contractor or subcontractor may refuse to escrow funds if he contends that his subcontractor has not substantially completed the work according to the terms of the contract.

EFFECTIVE DATE: October 1, 2006

PA 06-60—sHB 5694
General Law Committee
Judiciary Committee

AN ACT CONCERNING THE UNLAWFUL USE OR POSSESSION OF SCANNING DEVICES AND REENCODERS

SUMMARY: This act prohibits using, without permission and with the intent to defraud, a (1) scanner to read the information on a computer chip or a payment card and (2) reencoder to take information from a computer chip or a payment card and encode it on a computer chip or a different card.

The act authorizes the attorney general to sue to enforce its provisions and sets criminal penalties for violators.

EFFECTIVE DATE: October 1, 2006

SCANNERS AND REENCODERS

The act prohibits using a scanning device to access, read, obtain, memorize, or temporarily or permanently store information encoded on a computer chip or a payment card's magnetic strip without the authorized user's permission and with the intent to defraud the authorized user, issuer, or a merchant. It also prohibits using a reencoder to take information encoded on a computer chip or a magnetic strip and putting it onto a computer chip or the strip of a different card without the authorized user's permission and with the intent to defraud the authorized user, the card issuer, or a merchant.

Under the act, a "scanning device" is a scanner, reader, or any other electronic device used to access, read, scan, obtain, memorize, or store information on a computer chip or a magnetic strip of a payment card. A "reencoder" is an electronic device that places encoded information from a computer chip or magnetic strip of a payment card onto a computer chip or magnetic strip of another card or any electronic medium that allows an authorized transaction to occur. A "payment card" is a credit, charge, debit, or any other card issued to an authorized user allowing him to obtain goods, services, money, or anything else of value from a merchant. A "merchant" is a person who receives a payment card from its authorized user or someone he believes to be its authorized user in return for goods or services from the

merchant.

Enforcement

The act authorizes the attorney general to sue to enforce its scanner and reencoder provisions. A violator is subject to one to 10 years imprisonment, a fine of up to \$10,000, or both.

The act prohibits possessing a scanning device or reencoder under circumstances showing intent to violate its prohibitions. An offender commits a class A misdemeanor (see Table on Penalties).

PA 06-65—sSB 391
General Law Committee
Judiciary Committee
Energy and Technology Committee

AN ACT CONCERNING THE SALE OF HOME HEATING OIL AND PROPANE FUEL

SUMMARY: This act requires propane dealers to register with the Department of Consumer Protection (DCP) to sell to residential customers. Such dealers must both register and sell under the same terms as home heating oil dealers. Under the act, a dealer who sells both propane and home heating oil needs to register only once to engage in the sale of both products.

It prohibits both home heating oil dealers and propane dealers from selling their products for residential heating unless all of a purchaser's costs, including unit price and delivery surcharges, have been disclosed in writing when the customer (1) enters or renews the purchase contract or (2) places the order if there is no purchase contract.

The act subjects fuel dealers to additional penalties.

EFFECTIVE DATE: October 1, 2006

PROPANE DEALER REGISTRATION

The act's requirements for propane dealer registration are the same as the existing law's requirements for home heating oil dealers. Applicants must apply annually and pay a \$100 registration fee. Registrants must show that they have general liability coverage and insurance of at least \$1 million to cover environmental damage due to propane gas leaks. They must notify DCP of insurance renewal or coverage changes; insurance companies are required to notify DCP if they cancel a dealer's insurance coverage. Dealers must display their registration numbers in all advertisements.

Registered dealers that offer plumbing or heating work service must show that they subcontract with or employ properly licensed individuals and attest that all

such work will be performed by these individuals.

The act requires the DCP commissioner to keep a list of registered propane gas dealers as he does now for registered home heating oil dealers. The lists must be made available to wholesalers, who may sell their products only to registered dealers.

PROPANE DEALER SALES REQUIREMENTS

The act prohibits propane gas dealers from entering into prepaid or capped price-per-unit contracts with consumers unless the dealers secure the contracts with either (1) propane gas futures contracts or similar commitments that allow them to purchase at a fixed price at least 75% of the gas they commit to providing under all of their prepaid contracts or (2) a surety bond for at least 50% of the total amount they received from consumers under prepaid contracts. The futures contracts or bonds must be maintained for as long as the prepaid contracts are in force, but the amount may be reduced to reflect deliveries. A dealer who advertises a price must offer it for at least 24 hours or until the next price is publicized, whichever occurs first.

The act requires a retail propane gas contract to be written, and state in plain language (1) the amount the consumer must pay, (2) the maximum number of gallons the dealer is committed to deliver, and (3) that the dealer's ability to fulfill the contract is secured by either futures contracts or a surety bond. Terms and conditions must be stated immediately after the price or service. It prohibits prepaid propane gas contracts from committing consumers to purchase gas for longer than 18 months. It requires contracts to provide that the contract price of undelivered propane gas owed on its end date must be reimbursed to the consumer within 30 days of that date, unless the dealer and consumer agree otherwise.

ADDITIONAL PENALTIES

By law, the penalties for violating the fuel delivery law are the same as those for violating the weights and measures law. Violators are subject to a criminal penalty of imprisonment up to three months, a fine between \$50 and \$300, or both, for a first offense and imprisonment up to one year, a fine between \$100 and \$1,000, or both, for subsequent offenses. Violators are also subject to a civil penalty imposed by the DCP commissioner of up to \$100 for a first violation and up to \$500 for subsequent violations.

The act also subjects violators to the penalties for violating the law on the operation of a fuel supply business, if appropriate. Possible penalties include subjecting someone who sells residential fuel oil or propane without conspicuously placing the unit price, total number of units sold, and delivery surcharge on the

delivery ticket to a criminal penalty of a fine of up to \$100 for a first offense and up to \$500 for subsequent offenses (CGS § 16a-21).

PA 06-66—sSB 496

General Law Committee

Appropriations Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING ITEM PRICING OF CONSUMER COMMODITIES

SUMMARY: This act (1) creates an exemption from the law that requires retailers to mark each item with its price if they use Universal Product Coding (UPC) to scan and total a consumer's purchases ("item pricing"), (2) expands the applicability of the law that requires retailers to give a free item if a consumer is charged more for an item than its posted price, and (3) makes technical changes in the law exempting goods offered for sale on an end cap of a store's aisle from item pricing.

EFFECTIVE DATE: October 1, 2006

ITEM PRICING EXEMPTION

The act exempts a retailer using UPC to scan and total a customer's purchases from the item pricing requirement if it (1) demonstrates to the Department of Consumer Protection (DCP) commissioner's satisfaction that its scanner accuracy is at least 98%; (2) pays an application fee of \$250 if the retailer has less than 20,000 square feet of retail space or \$500 if it has more retail space; (3) makes at least one DCP-approved consumer test scanner available for every 12,000 square feet of retail space, or fraction thereof, in easily accessible prominent locations; (4) is approved for the exemption by DCP; and (5) maintains 98% accuracy when re-inspected and pays the \$200 re-inspection fee. The act requires scanner accuracy to be determined according to the rules in the National Institute of Standards and Technology Handbook 130, "Examination Procedures for Price Verification, as adopted by the National Conference on Weights and Measures." It provides that the application fees, but not the re-inspection fees, must be used to offset inspection costs.

ONE FREE ITEM

The act requires a retailer to give an item free to a consumer, up to a value of \$20, if a "consumer commodity" is offered for sale and it scans at a higher price than its posted price. Existing law defines "consumer commodity" as a food, drug, device,

cosmetic, or other article that is customarily produced for retail sale and for consumption by individuals for purposes of personal care or to perform household chores and that is usually consumed or spent in the course of use (CGS § 21a-73). Under prior law, a retailer was only required to give the free item if (1) the item was advertised in a public circular, (2) the sale lasted at least seven days, (3) the item was exempt from item pricing because it was marked with its pre-sale price and the sale price was posted on an adjacent sign, and (4) it scanned at a higher price than the reduced price.

PA 06-67—sSB 501

General Law Committee

AN ACT CONCERNING FARM WINERIES

SUMMARY: This act makes it easier to meet one of the standards for operating a Connecticut farm winery. Prior law required a farm winery, as a condition for obtaining and holding its permit, to produce on its permitted premises an average crop of fruit equal to at least 25% of the fruit used to make its wine. The act allows the fruit to be also grown on property adjacent to and under the same ownership and control as the farm winery's permitted premises.

EFFECTIVE DATE: Upon passage

PA 06-73—sSB 172

General Law Committee

AN ACT CONCERNING HOMEOWNERS, HOME IMPROVEMENT CONTRACTORS AND NEW HOME CONSTRUCTION CONTRACTORS

SUMMARY: This act revises the disclosures that a new home contractor must make to prospective customers. Among other things, existing law requires a contractor to advise customers to ask for a list of the consumers of the last 12 new homes the contractor built to completion during the previous 24 months or, if the contractor has not completed 12 new homes during this period, a list of all consumers for whom he has built a new home to completion during the previous 24 months. The act instead simply requires the contractor to advise customers to request a list of the consumers of the new homes built to completion by the contractor during the previous 24 months.

In addition, the act requires home improvement contractors to include their registration numbers in their contracts with homeowners. Existing law requires home improvement contracts to include certain elements for it to be enforceable against a homeowner in court.

Finally, the act makes numerous technical changes to the new home construction contractor law.

EFFECTIVE DATE: Upon passage

BACKGROUND

Home Improvement Contracts

For a home improvement contract to be valid and enforceable against a homeowner, a court must determine that it would be inequitable to deny recovery and the contract must (1) be written, (2) be signed by both the contractor and homeowner, (3) include a notice of a consumer's three-day right to rescind the contract after signing it, (4) include a start and completion date, and (5) be between a registered contractor or salesman and a homeowner. The law also requires all change orders to be written and signed by both parties (CGS § 20-429).

PA 06-78—SB 493

General Law Committee

Judiciary Committee

AN ACT CONCERNING SUBCONTRACTOR CLAIMS

SUMMARY: This act revises a subcontractor's or supplier's deadlines for filing payment claims against a general contractor's surety company under certain public works contracts and for suing a surety company to compel payment.

The law requires public works contracts valued at more than \$50,000 to require the general contractor to (1) pay the amount due subcontractors or suppliers within 30 days after being paid by the state or municipality if the work performed or material supplied was included in a requisition or estimate and (2) include in its subcontracts a requirement that a subcontractor pay its subcontractors within 30 days after being paid by the general contractor. These contracts must also require the contractor to furnish a payment bond from a surety company. A general contractor or subcontractor who has not been fully paid after 60 days has the right to file a payment claim with the surety company.

Under prior law, the deadline for filing these claims was 180 days after the requisition for work or materials was submitted or, if the work or materials was not included in a requisition or estimate, 180 days after the work was performed or the materials supplied. The act instead makes the deadline for filing claims, other than for retainage, 180 days after the last date the claimant performed work or supplied materials. For retainage, the act sets 180 days after the payment due date as the deadline.

“Retainage” is the amount withheld from progress payments conditioned on substantial or final completion of all work in accordance with a construction contract, but it does not include amounts withheld for failure to comply with construction plans or specifications.

The act changes the deadline for filing a suit to enforce a claim in the same way that it changes the deadline for making a claim against the surety. Prior law required a suit to be filed within one year after the requisition was submitted or, if the work or material was not included in a requisition, within one year after the work was performed or the material was supplied. The act instead makes the deadlines one year after the last date that the claimant performed work or supplied materials or, if the suit is being filed solely for payment of retainage, one year after the payment due date.

EFFECTIVE DATE: Upon passage

PA 06-85—SB 173

*General Law Committee
Judiciary Committee*

AN ACT CONCERNING ARCHITECTS

SUMMARY: This act authorizes the Architectural Licensing Board to impose a civil penalty of up to \$1,000 on a licensed architect who (1) obtained a license through fraud or misrepresentation, (2) has been convicted of a felony, (3) the board found has violated any statute or regulation relating to the licensing of architects, or (4) has been found guilty by (a) the board or a court of fraud or deceit in professional practice or (b) the board of gross incompetence or negligence in building planning or construction. Existing law gives the board the authority to suspend or revoke a license, censure a licensee, or issue compliance orders for the same offenses.

EFFECTIVE DATE: October 1, 2006

PA 06-87—sHB 5181

*General Law Committee
Human Services Committee*

AN ACT CONCERNING PREPAID FUNERAL CONTRACTS

SUMMARY: This act requires pre-need funeral service contracts to be written and include certain provisions that, among others, describe the parties, identify the goods and services to be provided, state the amount paid or to be paid, and designate an escrow agent who will hold the prepaid funeral service funds. It requires a funeral home to (1) keep copies of the

contracts and (2) inform contract purchasers whenever the home changes majority ownership or closes.

Existing law requires a funeral home to deposit money provided under pre-need funeral service contracts into an escrow account and sets a deadline for making the deposit. The act sets a deadline for the escrow agent to notify the purchaser that he has received the initial deposit. It also requires the agent to notify the purchaser when transferring funds in the account. It prohibits transfers to an insurance contract except under specified conditions. It also revises the restriction on investing escrow accounts in insurance contracts.

Finally, the act requires Medicaid beneficiaries to notify the social services commissioner when revoking certain pre-need funeral service contracts.

EFFECTIVE DATE: October 1, 2006

PRE-NEED CONTRACTS

The act requires pre-need funeral service contracts to include:

1. the beneficiary's and purchaser's names, addresses, and telephone and Social Security numbers;
2. the funeral director's name, address, and telephone and license numbers;
3. a list of the selected goods and services, if any;
4. the amount paid or to be paid by the purchaser, the payment method, and descriptions of how the funds will be invested and how the law limits investment options;
5. a description of any price guarantees the funeral home makes or, if there are no guarantees, a specific statement that there are none;
6. the escrow agent's name and address;
7. a written statement, in clear and conspicuous type, that the purchaser should receive a notice from the escrow agent acknowledging receipt of the initial deposit by the 25th day after the funeral director receives the deposit;
8. a description of fees to be paid from the escrow account to the escrow agent or a third party provider;
9. a description of the purchaser's or beneficiary's ability to cancel a revocable pre-need funeral service contract and the effect of cancelling it;
10. for an irrevocable contract, a description of the beneficiary's ability to transfer it to another funeral home; and
11. the signatures of the funeral director and the purchaser or his authorized representative.

The act requires a funeral home to keep a copy of each service contract it enters into or has assigned to it

and a list of each escrow account established according to its contracts. The list must include the escrow agent's name and address, the amount deposited with the escrow agent, and the purchaser's name and address. A home must keep a contract for six years after the completion of the contracted services. The act requires a funeral home to disclose this information to the public health and consumer protection commissioners and the attorney general on request.

The act requires a funeral home to notify each pre-need contract purchaser of a transfer of more than 50% of the home's ownership or of its closure within 10 days after the event.

ESCROW AGENT NOTIFICATION

The law requires funeral homes to deposit money received under a funeral service contract into an escrow account within 15 days after receiving it. The act requires the escrow agent to notify the purchaser in writing, by the 10th day after the initial deposit, of the agent's receipt of it and its amount. The act requires the agent to notify the purchaser whenever transferring the funds or securities, other than transfers made to pay for services required by the funeral services contract.

TRANSFERS TO AN INSURANCE CONTRACT

The act prohibits transfers of contract deposits to an insurance contract unless (1) the funeral director describes the fees, costs, or commissions associated with the insurance contract to the purchaser and (2) the purchaser gives his written consent.

ESCROW ACCOUNT INVESTMENT

Existing law limits how escrow accounts established under a funeral services account may be invested. It prohibits investing in anything other than (1) deposit accounts insured by the Federal Deposit Insurance Corporation; (2) accounts insured against loss of principal by a United States government agency or instrumentality; (3) bonds in which state savings banks may invest; (4) bonds issued by the United States or one of its agencies and the State of Connecticut or one of its municipalities; or (5) any other deposit account, or security of comparable quality, safety, and cost. Prior law also allowed investing in an insurance contract. The act, instead of allowing investments in any insurance contract, restricts investments in insurance contracts to those offered by an insurance company (1) licensed by Connecticut to offer them and (2) that keeps at least a B plus rating for financial security by A.M. Best.

REVOCABLE AND IRREVOCABLE PRE-NEED CONTRACTS

Exiting law limits the value of an irrevocable pre-need contract to \$5,400 and explicitly provides that purchasing an irrevocable contract does not preclude the purchase of other revocable contracts. The act allows a Medicaid beneficiary to revoke such a revocable contract only on written notice to the social services commissioner.

PA 06-94—sHB 5555

*General Law Committee
Judiciary Committee*

AN ACT CONCERNING LIQUOR PERMITS AND INVESTIGATIONS REGARDING INDUCING MINORS TO PROCURE LIQUOR

SUMMARY: This act removes the prohibitions against the Department of Consumer Protection (DCP) (1) suspending or revoking a liquor permit, or taking any disciplinary action thereafter, for any violation of the Liquor Control Act for which a permittee or his employee was found not guilty or received a dismissal in court and (2) beginning hearings based on an arrest that did not result in a conviction.

Additionally, the act excludes landlords and franchisors from being considered as proprietors or backers under the Liquor Control Act and creates a procedure to cancel a remonstrance hearing.

EFFECTIVE DATE: October 1, 2006

PROPRIETORS AND BACKERS

Under the Liquor Control Act, a "backer" is the proprietor of a liquor establishment if the permittee himself is not the owner. By law, "proprietor" includes all owners of liquor establishments whether they are individuals, partners, or businesses. Prior law excluded "creditors" who are note holders, bond holders, or otherwise from being considered as proprietors. The act instead excludes creditors who are note holders, bond holders, landlords, or franchisors. The Liquor Control Act requires liquor permit applications to identify any backer and indicate whether the backer has been convicted of a crime (CGS § 30-39). An application may be denied because the backer is unsuitable (CGS § 30-40). In certain cases, DCP has the discretion to suspend, revoke, deny, or refuse to renew a permit because the applicant, permittee, or backer has, among other things, been financially irresponsible, willfully made a false statement to DCP, or been convicted of violating the liquor laws (CGS § 30-47).

CANCELLING A REMONSTRANCE HEARING

The law allows a group of 10 or more residents to file a “remonstrance” with DCP stating any objection they may have about the suitability of an applicant for an initial liquor permit or the proposed place of business. It requires remonstrants to appoint at least one agent to receive DCP’s notices. The act (1) requires that the residents be at least 18 years old, (2) allows them or their agents to withdraw the remonstrance at any time before DCP decides whether to issue or renew the permit, and (3) allows DCP to cancel the hearing if the remonstrance is withdrawn.

PA 06-95—HB 5668

*General Law Committee
Judiciary Committee*

AN ACT BANNING ALCOHOL WITHOUT LIQUID MACHINES

SUMMARY: This act prohibits selling, purchasing, or possessing an alcohol vaporization device, which it defines as a device, machine, or process that mixes spirits, alcoholic liquor, or any product containing alcoholic liquor with oxygen or another gas to produce a vaporized product for human inhalation. It also prohibits allowing an alcohol vaporization device to be on the premises of an establishment legally selling liquor.

The act subjects violators to imprisonment for up to six months, a fine of up to \$1,000, or both.

EFFECTIVE DATE: October 1, 2006

PA 06-96—sHB 5669

*General Law Committee
Judiciary Committee
Energy and Technology Committee*

AN ACT CONCERNING THE CONFIDENTIALITY OF TELEPHONE RECORDS

SUMMARY: This act prohibits (1) knowingly procuring, attempting to procure, soliciting, or conspiring with another to procure a customer’s telephone record without the customer’s authorization; (2) knowingly selling or attempting to sell a customer’s telephone record without the customer’s authorization; and (3) receiving a customer’s telephone record knowing that it has been obtained without the customer’s authorization or by fraudulent, deceptive, or false means. The act defines “procure” as obtaining by any means, whether electronically, in writing, or orally, and with or without consideration, and applies to

customers who it defines as state residents who are telephone service subscribers.

It requires a telephone company that keeps customers’ telephone records to establish reasonable procedures to protect against unauthorized or fraudulent disclosure that could result in substantial harm or inconvenience to the customer. It deems procedures reasonable if they comply with requirements of § 222 of the federal Communications Act.

It establishes penalties, explicitly authorizes certain business practices such as allowing companies to allow access to records for billing purposes, and provides that it does not apply to a telephone company or its agents or representatives who act reasonably and in good faith in accordance with the act.

EFFECTIVE DATE: October 1, 2006

TELEPHONE RECORDS

The act applies to “telephone records,” which it defines as information kept by a telephone company that relates to (1) a telephone number dialed by a customer or with a customer’s permission; (2) a number of an incoming call directed to a customer or to someone using the telephone with the customer’s permission; or (3) other information related to such calls, typically included in a customer’s bill, such as the call’s start and end times, duration, and charges. “Telephone records” do not include information collected and kept by or for a customer using caller identification or similar technology. A “telephone company” is any person providing commercial telephone services, regardless of the technology used, including land line, cable, telephone, cellular, broadband, other wireless, microwave, satellite, other terrestrial, and voice-over Internet service.

LAW ENFORCEMENT

The act provides that it does not apply to a person acting under a valid court order, warrant, or subpoena and must not be construed to prevent law enforcement agencies, officers, or employees from obtaining telephone records in connection with their official duties.

TELEPHONE COMPANY BUSINESS PRACTICES

The act provides that it must not be construed to prohibit a telephone company from obtaining, using, disclosing, or permitting access to a telephone record (1) as otherwise authorized by law; (2) with a customer’s lawful consent; (3) necessarily required to provide telephone service, such as by initiating, rendering, billing, and collecting customer charges, or to protect the telephone company’s rights or property, or to protect a customer from fraudulent, abusive, or unlawful

use of, or subscription to, telephone services; (4) to a government entity, if the company reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person justifies the disclosure; or (5) to the National Center for Missing and Exploited Children in connection with a report submitted under the federal Victims of Child Abuse Act.

The act states that it must not be construed to expand a telephone company's duties to protect telephone records beyond those otherwise established by federal or state laws, including provisions concerning customer proprietary network information in § 222 of the federal Communications Act, as amended.

PENALTIES

The act makes a violation involving a single telephone record a class C misdemeanor; a violation involving two to 10 telephone records a class B misdemeanor; and a violation involving more than 10 telephone records a class A misdemeanor (see Table on Penalties).

It also makes a violation an unfair trade practice under state law.

BACKGROUND

Victims of Child Abuse Act (§ 227)

This law requires electronic communication services and remote computing services to report facts or circumstances related to child pornography to the Cyber Tip Line at the National Center for Missing or Exploited Children (42 USC § 13032).

Communications Act (§ 222)

This law obligates every telecommunications carrier to protect the confidentiality of proprietary information of other carriers and customers. It defines "customer proprietary information" as information (1) that relates to the quantity, technical configuration, type, destination, location, and amount of use of a telecommunications service subscribed to by a customer and (2) in bills (47 USC § 222).

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary

statements of compliance. The act also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

PA 06-126—sSB 178

General Law Committee

AN ACT CONCERNING THE HEATING, PIPING, COOLING AND SHEET METAL WORK BOARD

SUMMARY: This act restricts who on the 12-member Heating, Piping, Cooling, and Sheet Metal Work Board may consider and act on sheet metal work issues. Under the act, the limited sheet metal contractor; the sheet metal journeyman who must be a member of a trade union; one unlimited heating, piping, and cooling work contractor; and the four public members may act on sheet metal issues. Under prior law, all 12 members acted on these issues. The other members are two unlimited heating, piping, and cooling work contractors who are not affiliated with a trade union and three unlimited heating, piping, and cooling work journeymen who are members of a trade union. By law, the sheet metal work members may only consider matters affecting sheet metal work.

EFFECTIVE DATE: October 1, 2006

PA 06-155—sSB 505

General Law Committee

Judiciary Committee

Public Safety and Security Committee

Public Health Committee

AN ACT CONCERNING THE ESTABLISHMENT OF AN ELECTRONIC PRESCRIPTION DRUG MONITORING PROGRAM AND WORK GROUP AND THE RELEASE OF CONTROLLED SUBSTANCES BY PHARMACISTS

SUMMARY: This act requires the commissioner of the Department Consumer Protection (DCP), within available appropriations, to establish an electronic prescription drug monitoring program to collect prescription information from pharmacies about Schedules II, III, IV, and V controlled substances. It requires the program to be designed to provide information about the prescription of these substances to prevent their improper or illegal use. It prohibits the program from infringing on legitimate prescriptions of controlled substances made in good faith and in the course of professional practice.

The act (1) sets requirements for information reporting, (2) makes the information confidential and establishes a mechanism allowing it to be reported, and (3) establishes a prescription drug monitoring working group and sets its duties.

The act requires the commissioner to adopt regulations about reporting, evaluating, managing, and storing electronic controlled substance prescription information.

In addition, the act requires a pharmacist or his agent to require the presentation of valid photographic identification before releasing a controlled substance to anyone he does not know. It exempts from this requirement transactions taking place in an institutional or long-term care setting, including an assisted living facility or hospital.

EFFECTIVE DATE: October 1, 2006

REPORTING

The act requires each pharmacy and outpatient pharmacy in a hospital or institution to report electronically at least twice monthly the following information for each dispensed controlled substance prescription:

1. dispenser identification number;
2. dispensing date;
3. prescription number;
4. whether it was a new or refilled prescription;
5. the national drug code number of the dispensed drug;
6. the amount dispensed and number of days' supply;
7. patient identification number;
8. patient's name, address, and date of birth;
9. date the prescription was issued and prescriber's Drug Enforcement Agency's identification number; and
10. type of payment.

The act allows pharmacies that do not keep records electronically to submit the reports in a format approved by the DCP commissioner.

CONFIDENTIALITY AND RELEASE OF REPORTED INFORMATION

The act allows the commissioner to contract with a vendor to collect the information. It requires the commissioner and vendor to keep the information in accordance with the state's Pharmacy Practice Act. The act prohibits the disclosure of collected information, except as specifically authorized. It makes a violator guilty of a class D felony (see Table on Penalties).

The act requires the commissioner to release the information, on request, to the following:

1. a prescribing practitioner who is treating, or has treated, a specific patient, if the information is to be used in relation to the patient's treatment, including the monitoring of these drugs;
2. a prescribing practitioner contacted by a prospective patient seeking medical treatment, if the request is accompanied by the patient's signed, written consent; and
3. a pharmacist dispensing controlled substances for a patient, if the information is being sought for purposes related to the pharmacist's scope of practice and management of the patient's drug therapy, including monitoring of the drugs obtained by the patient.

The act requires prescribing practitioners and pharmacists to request the information in writing and to sign their requests. They may not disclose the request except as authorized by the law on dependency-producing drugs and the Pharmacy Practice Act.

WORKING GROUP

The act requires the DCP commissioner to appoint a prescription drug monitoring working group. The group must advise the commissioner on (1) program implementation, including adoption of regulations and (2) how to effectively use the data to detect fraud while protecting legitimate use of controlled substances.

The group must include at least:

1. an internal medicine specialist,
2. a board-certified oncologist,
3. an advanced practice registered nurse,
4. a representative from an acute care hospital,
5. a state police officer,
6. a local police chief,
7. a representative from the Division of Criminal Justice,
8. a representative from a hospice,
9. a pain management specialist,
10. a pharmacist, and
11. a representative from the Department of Mental Health and Addiction Services.

BACKGROUND

Controlled Substances

Controlled substances are grouped in Schedules I through V, according to their decreasing tendency to promote abuse or dependency. Schedule I substances are the most strictly controlled because of their high potential for abuse. State and federal laws authorize prescribing drugs in Schedules II through V; most Schedule I drugs do not have any approved medical use.

PA 06-157—sSB 562
General Law Committee

**AN ACT ESTABLISHING LIMITED
 CONTRACTOR AND JOURNEYMAN GAS
 HEARTH INSTALLER LICENSES AND
 DEFINING GAS HEARTH PRODUCT WORK**

SUMMARY: This act requires the Department of Consumer Protection (DCP) commissioner, with the advice and assistance of the appropriate boards, to adopt regulations by July 1, 2007 to establish limited contractor and journeyman gas hearth installer licenses and requisite training requirements for gas hearth product work. It defines “gas hearth product work” as the installation, service, or repair of a propane or natural gas fireplace, fireplace insert, stove, or log set that simulates the flame of a solid fuel fire and its associated venting and piping. It does not include (1) fuel piping work; (2) servicing fuel piping; or (3) work associated with pressure regulating devices, except for appliance gas valves.

It explicitly allows licensed tradesmen (such as holders of limited heating, piping, and cooling work contractor (B-1) licenses) whose licenses allow them to perform gas piping work, gas burner work, or gas hearth product work to continue to perform gas hearth installer work and exempts them from the requirement that they obtain a gas hearth installer license.

The act specifically prohibits home improvement contractors from performing gas hearth product work on or after July 1, 2008 unless they hold limited contractor or journeyman gas hearth installer licenses.

EFFECTIVE DATE: Upon passage

BACKGROUND

Occupational Licensing System

State law establishes a licensing system for several trades overseen by different licensing boards, including the Examining Board for Plumbing and Piping Work and the Examining Board for Heating, Piping, Cooling, and Sheet Metal Work, and prohibits anyone from working in a trade unless he holds the appropriate license or apprentice permit. The licensing boards have the power to determine who qualifies for a license and to 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. Workers must meet education, training, and experience requirements to qualify for each level. The boards establish less extensive requirements for workers attempting to qualify for limited licenses. DCP's duties to the boards include receiving complaints;

carrying out investigations; and performing administrative tasks, such as physically issuing licenses and renewals.

PA 06-1—HB 5684 (VETOED)
Emergency Certification

AN ACT CONCERNING REFORM OF THE STATE CONTRACTING PROCESS

SUMMARY: This act establishes a State Contracting Standards Board (SCSB) as an independent state agency and the successor agency to the State Properties Review Board (SPRB). It dissolves the SPRB on October 1, 2008 and transfers its duties and responsibilities to the SCSB on that date. The new board is also charged with various other responsibilities in the state contracting processes. It must establish a uniform procurement code, audit state contracting agencies, and discipline them for failure to comply with the act or the uniform procurement code. "State contracting agencies" are (1) state agencies other than the SCSB and the Judicial and Legislative branches; (2) municipal and quasi-public agencies; and (3) any other agency that receives state funds. The act requires the Judicial Branch to prepare its own procurement code. It establishes grounds for suspending and disqualifying contractors and subcontractors from bidding on or participating in state contracts and a procedure for the legislature to exempt construction contracts from the competitive bidding process.

It eliminates certain requirements from the contractor prequalification process and generally bans state and municipal agencies from receiving state funds for construction if they accept bids from a contractor without proof of his prequalification.

The act prohibits the state from contracting with corporations that receive a tax benefit as a result of reincorporating outside of the United States.

It bans, with some exceptions, the use of state funds for outdoor lighting that is not energy efficient or that exceeds the brilliance required to achieve its purpose. It establishes a schedule for floodlight violators to comply with the law.

EFFECTIVE DATE: Various, see below

SCSB (§§ 1-6 & 15)

The act establishes the 13-member SCSB as a separate, independent, Executive Branch agency. The governor appoints seven board members. The appointing authorities for the remaining six members vary depending on the party affiliation of the governor and the majority party in the House and Senate. When the governor is:

1. an independent or of a different political party than the one that controls both houses of the General Assembly, the House speaker and the Senate president pro tempore each appoints two members and the majority leaders of the

House and the Senate each appoint one member;

2. of the same political party as controls one chamber of the General Assembly, the highest ranking leader of the opposing party of the applicable chamber appoints four members and the majority leaders each appoint one member; or
3. of the same political party as controls both chambers of the General Assembly, the minority leader of the House and Senate each appoint two members and the majority leaders each appoint one member.

The legislature must confirm each appointment. Each member's term is coterminous with that of his appointing authority. Each appointing authority fills any vacancy in his appointment. Seven members of the board constitute a quorum, which is required to transact business.

The act requires the board to appoint its chairperson. The governor appoints and the legislature confirms an executive director who serves as an ex-officio, nonvoting board member. The board must annually evaluate the executive director's performance and may remove him for cause.

The act authorizes the board to employ any other staff it considers necessary, including property and procurement specialists, real estate examiners, and contract specialists. All board employees are members of classified state service.

Board Member Qualifications

Board members may have a demonstrated interest in government ethics and integrity. They must have education, training, or experience received in five consecutive years of the 10 years immediately preceding their appointment, in several of the following areas:

1. procurement;
2. contract negotiation, selection, and drafting;
3. contract risk assessment;
4. requests for proposals and real estate transactions;
5. business insurance and bonding;
6. the State Code of Ethics;
7. federal and state statutes, policies, and regulations;
8. outsourcing and privatization proposal analysis;
9. small and minority business enterprise development;
10. engineering and information technologies; or
11. personnel and labor relations.

"Contract risk assessment" means (1) the identification and evaluation of loss exposures and risks,

including business and legal risks associated with contracting and (2) the identification, evaluation, and implementation of measures available to minimize potential loss exposures and risks.

Board Ethics and Operations

The act prohibits anyone from serving on or working for the board if (1) he holds another position in state or municipal government or (2) he or his spouse, child, stepchild, parent, or sibling is directly or indirectly involved in any enterprise that does business with the state. The act requires the Office of State Ethics to adopt regulations clarifying the meaning of “directly or indirectly involved in any enterprise.”

It requires board members and employees to file with the board and the Office of State Ethics annual financial statements, by April 15, that disclose the sources of any income over \$1,000 for the preceding calendar year and the name of any business with which they are associated. By law, an associated business is one owned by an official, employee, or member of his immediate family, or where any one of them (1) serves as an officer, director, or compensated agent or (2) owns at least 5% of the stock in any class. The financial statement is a public record and subject to disclosure under the Freedom of Information Act (FOIA).

Any board employee or member who violates the employment prohibition or fails to file the statement violates the State Ethics Code and may be subject to the code’s penalties, including a fine of up to \$10,000.

The act requires the board to adopt any rules it deems necessary to conduct its internal affairs, including appellate rules of procedure and procedural rules to carry out its duties and responsibilities.

Budget and Compensation

The act requires the board’s budget, upon approval of its members, to pay its reasonable expenses. It requires the board chairperson to be paid a \$200 per diem up to a maximum of \$30,000 annually. Other members must receive the same per diem up to \$25,000 annually.

Uniform Procurement Code

By January 1, 2008, the act requires the SCSB to prepare a uniform code for use by state contracting agencies when contracting for, buying, renting, leasing, or otherwise acquiring or disposing of real property, supplies, or services, including construction services, materials, or supplies. The uniform code does not apply to the expenditure of federal assistance or contract funds if federal law provides procurement procedures that are inconsistent with the uniform procurement code.

The act requires the board to conduct a comprehensive review of existing state contracting and procurement laws, regulations, and practices and use any appropriate, existing procedures and guidelines when preparing the code. It requires each state contracting agency to provide its procurement information if the board asks. The act gives the board access to all such agencies’ information, files, and records necessary to complete the code. However, the board cannot disclose documents exempt from disclosure under FOIA.

The act requires the board to submit the code to the legislature for approval by filing it with the Senate and House clerks by January 15, 2008. Within the next five days, the Senate president and House speaker must submit the code to the Government Administration and Elections (GAE) Committee. The committee must hold a hearing on the code and report its recommendations, including any changes, for approval or rejection to the House and Senate. The General Assembly must vote on the code by the end of the 2008 regular session.

Code Requirements. The act requires the code to:

1. establish uniform state contracting agencies’ standards and practices;
2. ensure the fair and equitable treatment of all businesses and people involved in the state’s procurement system;
3. include a process for maximizing the use of small contractors and minority business enterprises;
4. provide increased economy in state procurement activities and maximize purchasing value to the fullest extent possible;
5. ensure that state contracting agencies procure supplies, materials, equipment, services, real property, and construction in a cost-effective and responsive manner;
6. preserve and maintain state agencies’ contracting or procurement procedures that represent best practices, including their discretion and authority to disqualify contractors and terminate contracts;
7. include a process to improve contractor and state contracting agency accountability;
8. establish standards for leases and lease-purchase agreements and for the purchase and sale of real estate;
9. simplify and clarify the state’s contracting standards and procurement policies and practices, including procedures for competitive sealed bids or proposals, small purchases, and sole source, special, and emergency procurements (procurements necessary because of a sudden, unexpected occurrence that poses a clear and imminent danger to public safety or that requires immediate action to prevent or

reduce loss or impairment of life, health, property, or essential public services, or needed in response to a court order or settlement agreement);

10. subject the renewal, modification, extension, or rebidding of a privatization agreement in effect on, before, or after January 1, 2007 or reentered after this date to the procurement code beginning January 1, 2009; and
11. provide a process for competitive sealed bids and proposals, small purchases, sole source, emergency, and special procurements, best-value selection, and qualification-based selection, and the conditions for their use.

“Best-value selection” means a process to award contracts based on quality and costs. “Qualification-based selection” means a process to award contracts based primarily on contractor qualifications and a fair and reasonable price.

Code Privatization Standards. The code must also include standards for state contracting agencies to evaluate (1) proposals to privatize state or quasi-public agency services and (2) privatization contract bid proposals. At a minimum these standards must require state and quasi-public agencies to:

1. complete an analysis before deciding to privatize services that examines all direct and indirect state costs and the privatization contract’s effect on the public health and safety of state residents who may use the services;
2. give their affected employees and, where applicable, employee unions, adequate notice;
3. prepare an employee impact statement, including measures a bidder must take to retain the agency’s qualified employees;
4. set fair wages based on objective standards, such as the established wage rate; and
5. provide their employees with adequate information and resources that would encourage and help them to organize and submit a bid to provide the services that are the subject of the privatization contract.

The standards must also require (1) bidders to disclose all relevant information pertaining to their past performance and pending or concluded legal or regulatory proceedings or complaints, including compliance with state fair employment practices standards and federal fair employment and discrimination standards and (2) privatization contracts to include provisions for contractors to offer available employment positions to qualified regular employees of the contracting state agency who satisfy the contractor’s hiring criteria and whose jobs were terminated because of the contract.

The “established wage rate” means a minimum wage rate for employee positions with duties that are

substantially similar to those performed by a regular agency, which rate is the lesser of step one of the grade or classification under which the comparable regular agency employee is paid, or the standard private sector wage rate for the position, as determined by the labor commissioner. It must include a percentage representing the normal costs of health care and pension benefits for comparable state employees hired at the time of the contract.

Other Board Duties

The act requires the board to:

1. recommend the repeal of repetitive, conflicting, or obsolete state procurement statutes;
2. develop, publish, and maintain the code for all state contracting agencies;
3. help their staffs with code compliance by providing guidance, models, advice, and practical assistance on buying the best service at the best price, properly selecting contractors, and drafting contracts that achieve state goals and protect taxpayers’ interest;
4. review and certify that a state contracting agency’s procurement processes comply with the code;
5. triennially recertify state contracting agencies’ procurement processes, give them notice of any certification deficiency, and tell them how they can rectify it;
6. define the training requirements for state contracting agency procurement professionals;
7. monitor implementation of the state contracting website and make recommendations for improving it to the Department of Administrative Services (DAS);
8. define the requirements for state agencies to retain information on (a) the number and type of existing state contracts, (b) their dollar value, (c) a list of client agencies and contractor names, (d) a description of contracted services, and (e) contractor performance evaluations, and make sure that all of the information is available on the state contracting portal;
9. recommend procurement code changes to the governor and the GAE Committee;
10. approve an ethics training course for state employees involved in procurement and for prequalified state contractors and subcontractors; and
11. conduct compliance audits.

The ethics training course may be developed and provided by the Office of State Ethics or any other person or firm as long as the SCSB approves it.

Compliance Audits. The act requires the board to audit state contracting agencies every three years and report on their compliance with the uniform procurement code. During the audit, the act gives the board access to all of the agencies' contracting and procurement records and authority to interview people responsible for awarding and negotiating contracts or procurement. The board can contract with the state auditors to conduct the audit.

The board must identify in the compliance report any process or procedure that is inconsistent with the uniform procurement code and corrective measures to achieve code compliance. It must deliver the report, which is a public record, to the contracting agency within 30 days after the audit is completed.

Disciplinary Actions for Noncompliance and Other Violations. Under the act, the board can restrict a state contracting agency's contracting or procurement authority upon a two-thirds vote, after notice and a hearing, because it finds the agency failed to comply with statutory and procurement requirements and showed a reckless disregard for applicable policies and procedures. The restriction stays in effect until the agency implements corrective measures and complies with the code. Any restriction must be in the state's best interest.

The board may review or terminate a contract or procurement agreement for cause after consulting with the attorney general and giving the agency and contractor 15 days notice. "For cause" means (1) engaging in activities prohibited under the State Ethics Code; (2) wanton or reckless disregard of any state contracting and procurement process by anyone substantially involved in the contract or with the state contracting agency; or (3) notification from the attorney general to the state contracting agency that a whistleblower investigation indicates that the contract process was compromised by fraud, collusion, or other serious ethical improprieties.

The decision to terminate a contract must be preceded by notice to the state contracting agency and any other affected party that the board is meeting for that purpose. The board's decision to terminate must be approved by a two-thirds vote of its members present and voting.

EFFECTIVE DATE: Upon passage, except for the board's authority to review and terminate contracts, which is effective October 1, 2008.

CONTRACTOR DISQUALIFICATION OR SUSPENSION (§§ 7 & 8)

Process

The act allows the board to disqualify, and a state contracting agency to suspend, contractors from bidding

on, applying for, or participating as a subcontractor in, state or agency contracts, respectively. Disqualification can last for up to five years and suspension for up to six months. The board and an agency must provide reasonable notice and a hearing before taking this action. Additionally, the board must consult with the relevant state contracting agency and the attorney general, and get a two-thirds vote of board members present.

When making its decision, the board or agency, as the case may be, must consider the seriousness of the contractor's acts or omissions, any mitigating factors, and whether at least one of the act's grounds for disqualification or suspension, respectively, is met.

The board or agency must make its decision within 90 days after the hearing; include its reasoning and the disqualification period; and mail it to the contractor by certified mail, return receipt requested. An aggrieved party may appeal the decision to Superior Court.

The board can reduce the disqualification period or limit its application upon the contractor's written request and supporting documentation showing (1) newly discovered material evidence, (2) a reversal of the conviction that formed the basis for the disqualification, (3) a bona fide change in ownership or management, or (4) the elimination of other causes that formed the basis for the disqualification. A contracting agency can allow a suspended contractor to work on a particular contract upon its commissioner's written determination that good cause exists for the exception and that it is in the state's best interest.

Grounds for Disqualification

The board may disqualify a contractor for:

1. conviction of, or guilty or no contest plea to, a crime (a) related to getting or attempting to get a public or private contract or subcontract or (b) related to performing the contract or subcontract;
2. conviction of, or guilty or no contest plea to, embezzlement, theft, forgery, bribery, document falsification or destruction, receiving stolen property, or any other offense under state or federal law that indicates a lack of business integrity or honesty related to a contractor's responsibility;
3. conviction of, or guilty or no contest plea to, violating state or federal antitrust, collusion, or conspiracy laws while submitting a public or private contract or subcontract bid or proposal;
4. at least two suspensions in 24 months by a contracting agency;
5. a willful failure to perform the terms of at least one contract;

6. a willful violation of a statute or regulation applicable to a contract;
7. a willful or egregious violation of state ethical standards specific to contractors or contractor prequalification and evaluation laws; or
8. any reason that casts serious and compelling doubt on the contractor's responsibility, including (a) for-cause disqualification by another state; (b) fraudulent, criminal, or seriously improper conduct committed by a shareholder or member, including an employee of the contractor's firm in the performance of his duties on behalf of the contractor, if the contractor knew or had reason to know of the conduct; or (c) an informal or formal business relationship with a contractor disqualified from bidding on state contracts.

Grounds for Suspension

The agency may suspend a contractor for:

1. failure to adhere to contract specifications or timeframes without good cause;
2. a record of failure to perform or of at least one unsatisfactory performance, other than failures caused by acts beyond the contractor's control;
3. any reason, including suspension for cause by another agency, that the contracting agency finds cast serious and compelling doubt on the contractor's responsibility; or
4. a violation of state ethical standards specific to contractors or contractor prequalification and evaluation laws.

EFFECTIVE DATE: October 1, 2008

CONTESTING STATE CONTRACT SOLICITATIONS OR AWARDS (§ 9)

The act establishes a process for bidders on state contracts to contest the way the contracts were solicited or awarded or to contest an unauthorized or unwarranted, noncompetitive selection process. A bidder can file a complaint with the commissioner or director of the contracting agency within 14 days after he knew or should have known about the facts forming the basis for the complaint.

The act authorizes the commissioner, director, or his designee to resolve or settle the complaint. If the complaint is not resolved, the act requires the agency head (or his designee) to issue a written decision within 30 days after receiving the complaint and provide a copy to the complaining bidder. The decision must:

1. describe the procedure the agency used to solicit and award the contract,
2. indicate the agency's findings on the merits of the bidder's complaint, and

3. inform the bidder of his right to appeal to the SCSB.

EFFECTIVE DATE: October 1, 2008

APPEALS FROM AGENCY DECISIONS (§ 10)

The act permits bidders to appeal an agency decision on its contract solicitation and awarding processes to the SCSB within 14 days after receiving it. Each bidder must state the facts supporting his claim in enough detail for the SCSB to determine whether the process for soliciting or awarding the contract failed to comply with the uniform procurement code or involved an unauthorized or unwarranted, noncompetitive selection process. The appeal does not prohibit the award or execution of the contested contract.

The act requires the SCSB to create a subcommittee of three of its members to review these appeals and decide whether a bidder's allegation has been demonstrated. Their vote must be unanimous. If it is a split vote, the full membership must review the appeal and dispose of it by a vote of two-thirds of its members present and voting. And any three board members may request that the full board review an agency's deliberating or awarding process.

The subcommittee, or the full board in the event of a split vote, must issue a written decision, or take other appropriate action, on each appeal and provide a copy of any decision to the bidder. The subcommittee must act within 90 days after receiving the appeal. The full committee must act within 90 days after receiving the appeal from the subcommittee. If the subcommittee or full board decides in the contractor's favor, the board must direct the state contracting agency to take corrective action within 30 days after the decision date. If the subcommittee finds the appeal to be frivolous, its filing may be grounds for disqualifying the contractor. Anyone aggrieved by a decision can appeal to Superior Court.

EFFECTIVE DATE: October 1, 2008

CONTRACTING STANDARDS ADVISORY COUNCIL (§ 11)

The act establishes a nine-member Contracting Standards Advisory Council to discuss problems with procurement processes and recommend improvements to the SCSB. The council can conduct studies, research, and analyses and issue reports and recommendations on matters within the SCSB's jurisdiction.

The governor designates the council's members. They must represent state contracting agencies, including at least one representative each from the Administrative Services, Transportation, and Public Works departments. The council must meet at least once a year.

EFFECTIVE DATE: October 1, 2008

STATE PROPERTIES REVIEW BOARD (§§ 12 & 24)

The act names the SCSB as a successor department to the SPRB and transfers the powers, duties, obligations, and other government functions of the latter to the former beginning October 1, 2008. By the same date, the act requires the SCSB to establish a three-member subcommittee, called the State Properties Review Subcommittee, to perform SPRB's duties in accordance with SCSB's rules and procedures.

EFFECTIVE DATE: January 1, 2007, except the transfer of SPRB's duties to SCSB is effective on October 1, 2008.

FAST-TRACK CONSTRUCTION PROJECTS (§ 13)

The act limits the legislature's ability to exempt construction projects from the competitive bidding process. It requires the legislature to approve "fast-track" legislation by a two-thirds vote of the members of each chamber. If this legislation is rejected, the fast-track proposal is not valid and cannot be implemented for the project. The legislation is deemed rejected if the legislature fails to vote to approve it (1) by the end of the regular session during which it is filed, (2) before the end of the next regular session if the legislature is not in regular session when the legislation is filed, or (3) before the end of any special session called to consider the legislation. If the legislation is filed less than 30 days before the end of a regular session, the legislature may vote to approve or reject it within 30 days after the first day of (1) a special session convened for that purpose or (2) the next regular session.

By law, if the legislature approves the legislation, the SPRB must review the contract and approve or disapprove it no later than 30 days after the public works commissioner submits it. Beginning October 1, 2008, the act requires the State Properties Review Subcommittee of the SCSB to conduct the review. Consistent with existing law, the contract is deemed approved if the review does not occur within the 30 days.

EFFECTIVE DATE: Upon passage

PRIVATIZATION CONTRACTS (§ 14)

Between its passage and the date the uniform procurement code becomes law, the act prohibits the Judicial Department, any executive branch state agency, quasi-public agency, or constituent unit of higher education from entering a privatization contract unless certain conditions are met. The prohibition does not apply to procurement contracts needed to (1) address a sudden, unexpected occurrence that poses a clear and imminent danger to public safety; (2) prevent or

mitigate the loss or impairment of life, health, property, or essential public services; or (3) comply with a court order, settlement agreement, or other similar legal judgment. The act specifically does not prohibit privatization contracts with a nonprofit agency or, until January 1, 2009, the renewal, modification, extension, or rebidding of a privatization agreement in effect on or before the act's passage.

"Privatization contracts" means those (1) between a state contracting agency and a person, other than a nonprofit agency, to provide services substantially similar to those provided by state employees and (2) that cost the state \$500,000 or more. The term does not include (1) an agreement to provide only legal services, litigation support or management, or financial consulting or (2) a consultant services agreement with the Department of Public Works to provide professional architectural design services on a project-by-project basis for a specified period of time. A "nonprofit agency" is any not for profit business or state-assisted private institution of higher education that provides services pursuant to a contract with a state or nonstate entity.

The act prohibits any funds a contractor receives from a privatization contract from being used for lobbying.

Conditions Precedent to Privatization Contracts

Under the act, any covered agency or constituent unit can enter a privatization contract if the:

1. contract is cost effective and fiscally prudent when compared to the costs of the state providing the services, including all direct and indirect costs to the state and the impact of privatization on the public health and safety of state residents who use the privatized services;
2. contracting entity requires contractors to include the information the act requires in their bid submissions;
3. contracting entity prepares a cost-benefit analysis; and
4. contracting entity notifies the collective bargaining units representing its employees of the plan to solicit bids for a privatization contract and helps the employees organize and submit a bid to provide the services.

Cost-Benefit Analysis

Before soliciting bids for a privatization contract, the act requires the soliciting entity to analyze the costs and benefits to it of (1) privatizing services and (2) continuing to provide the services using its employees. The analysis must examine (1) direct and indirect costs to the state, including health insurance, pension costs,

unemployment compensation costs resulting from the privatization, and gains or losses in state income or sales tax revenue and (2) the effect of the proposed privatization on the quality of services, the public health and safety, and the state residents who may use them.

When determining the cost of privatizing services, the act requires the contracting entity to calculate employees' labor costs at no less than the mid-range salary for their classification or the average salary of displaced employees, whichever is higher, and assume comparable benefit costs. The cost analysis must also show costs or penalties to the state if it prematurely terminates the contract.

Each contracting entity must submit its analysis to the state auditors for review and comments and to the secretary of the state, who must maintain copies of each proposed contract and analysis as public records.

Notice to Union Representatives

At least 60 days before soliciting bids for a privatization contract, the act requires the contracting entity to notify the unions representing the employees who will be affected by it. After consulting with them, the entity must encourage and help the affected employees bid on the contract. It must look at existing or similar collective bargaining agreements to determine how much help to give them. The act requires contracting entities to also give the employees its cost-benefit analysis and the auditor's report. It must consider bids from its employees on the same basis as it considers others. It permits employees to bid as a joint venture with others.

Bid Requirements

The act requires entities soliciting bids for privatization contracts to direct each bidder to include in his bid:

1. the wage rate or annual salary for each employee or position the contract covers;
2. his agreement to offer available employee positions to any qualified state employee who will lose his job because of the contract and who satisfies the bidder's hiring criteria;
3. his agreement to refrain from engaging in discriminatory employment practices and to take affirmative steps to be an equal opportunity employer;
4. without providing identifying information, a report on how long, by job classification, his current employees have worked for him and their relevant work experience;
5. the minimum requirements for any positions that will be newly created;
6. employees' annual turnover rate;

7. any legal or administrative proceedings pending or concluded adversely against him or any of his principals or key personnel within the past five years that relate to the procurement or performance of any public or private construction contract, employee safety and health, labor relations, or other employment requirements, and whether the applicant is aware of any investigation pending against him or any principal or key personnel;
8. for any such proceeding, the date of the complaint, citation, or court or administrative finding; the enforcement agency, rule, law, or regulation involved; and any additional information he elects to submit;
9. any collective bargaining agreements or personnel policies covering the employees who will provide services to the state; and
10. any political contributions he or any of his employees who participated substantially in the bid's preparation made to a statewide elected official or legislator during the four years before the bid was due. "Substantial participation" means participation that is direct, extensive, and substantive, not peripheral, clerical, or ministerial.

The act requires all privatization contracts to be acceptable to the bidder and the contracting entity. At a minimum, these contracts must:

1. require the bidder to offer available jobs to qualified regular state employees who lost their job because of the contract and who satisfy the hiring criteria;
2. prohibit him from engaging in discriminatory employment practices and require him to take affirmative steps to offer all people an equal opportunity;
3. require him to allow the state auditors to conduct periodic performance audits of the contract;
4. require him to pay a minimum wage rate equal to the established wage (i.e., a minimum wage rate for employee positions with duties that are substantially similar to the duties performed by a regular agency, which rate is the lesser of step one of the grade or classification under which the comparable regular agency employee is paid, or the standard private sector wage rate for the position as determined by the labor commissioner); and
5. not become effective until the contractor and contracting entity have complied with the act's provisions on privatization.

Duty Once a Privatization Contract is Signed

If the contracting entity signs a privatization contract, it must give the secretary of the state:

1. a copy of the contract to maintain as a public document,
2. a certification that the entity complied with all of the act's requirements for privatization;
3. a copy of the cost-benefit analysis and report explaining any changes in the analysis resulting from the terms of the proposed contract;
4. an analysis of the quality of services the contractor will provide and whether they are equal to or exceed the quality provided by the entity's regular employees;
5. a certification by the contractor that he and his supervisory employees have no adjudicated record of repeated willful noncompliance with any relevant federal or state regulatory laws, including laws concerning labor relations, occupational safety and health, nondiscrimination and affirmative action, environmental protection, and conflicts of interest; and
6. a description of why the proposed contract is in the public interest.

Lawsuits Challenging Contract Compliance

Under the act, an employee adversely affected by a proposed privatization contract or his collective bargaining agent may file a motion for an order to show cause in Hartford Superior Court claiming that the contract fails to comply with the act's substantive or procedural requirements. The court may (1) deny the motion if it finds that all requirements were met, (2) grant the motion if it finds that the proposed contract would substantively violate the act's provisions; or (3) stay the contract's effective date until any procedural or substantive defects are corrected.

EFFECTIVE DATE: Upon passage

JUDICIAL BRANCH PROCUREMENT CODE (§ 16)

By January 1, 2008, the act requires the Judicial Branch to prepare a procurement code for its use when contracting for, buying, renting, leasing, or otherwise acquiring or disposing of supplies, equipment, or services, including consultant and construction services. This code must be identical to the SCSB's procurement code, except the Judicial Branch's code does not have to:

1. preserve and maintain contracting or procurement procedures that represent best practices,

2. establish standards for leases and lease-purchase agreements and for the purchase and sale of real estate, or
3. include standards for evaluating proposals to privatize services and privatization contract bid proposals.

By February 1, 2008, the act requires the Judicial Branch to submit the code to the Judiciary Committee for approval.

EFFECTIVE DATE: January 1, 2007

PREQUALIFIED CONTRACTORS (§§ 17-19 & 23)

Beginning January 1, 2007, the act requires subcontractors to prequalify with DAS before they perform work valued above \$500,000 on a state or municipal construction contract. The prequalification procedures, range of application fees, and possible penalties for violations are generally the same as those under existing law for prequalified contractors. The act eliminates a requirement for applicants to include in their application their experience on private and public construction projects over the immediately preceding five years or their 10 most recently completed projects and the names of any subcontractors they used on them. This effectively gives the DAS commissioner a broader review of the applicants' experiences. The act requires the commissioner to adopt regulations establishing a schedule of applicable fees for subcontractors required to prequalify. The existing application fees for contractors are based on aggregate work capacity ratings and range from \$600 for a rating of \$5 million or less to \$2,500 for a rating over \$40 million. The act eliminates the \$600 floor on the prequalification renewal fee and prohibits the fee from being less than, rather than equal to, one-half of the initial application fee.

The act eliminates a requirement for contractors to include a list of their non-bonded projects in the update statements that they must submit with (1) each bid on a state construction contract and (2) applications to renew or upgrade their prequalification certificate. It leaves unchanged a requirement that they include in these statements (1) a list of bonded projects, (2) the names and qualifications of personnel who will supervise any new contract on which they are bidding, (3) any significant change in their financial position or corporate structure since the certificate was issued or renewed, and (4) any other relevant information the DAS commissioner prescribes. By law, the commissioner must establish the form.

The act prohibits a public agency from receiving any state funds for construction if it accepts a bid without the bidder's prequalification certificate or update statement.

The act adds additional grounds for the DAS commissioner to revoke a contractor's or subcontractor's prequalification. She may do so if the SCSB suspends the contractor or subcontractor. She must do so if the board disqualifies him. The revocation period is the same as the disqualification period. The commissioner can already revoke prequalification, generally for two years for fraud in obtaining or maintaining prequalification, making materially false statements in application or update statements, or criminal convictions related to contract procurement or performance.

Within 120 days after becoming prequalified, the act requires contractors and subcontractors to participate in an SCSB-approved ethics training course.

By law, public agencies must evaluate the performance of contractors and subcontractors working on public projects. The act allows municipalities to meet this requirement by relying on a contractor's evaluation of his subcontractors.

EFFECTIVE DATE: January 1, 2007, except for the provisions on non-bonded projects and eligibility for state funds, which are effective upon passage.

STATE CONTRACTS WITH REINCORPORATED COMPANIES (§ 20)

The act requires DAS to require each publicly traded corporation seeking to do business with the state to certify in an affidavit that it is not a company that (1) was previously incorporated, and conducted business, in the U. S.; (2) reincorporated outside of the U. S. on or after July 1, 2005; and (3) realized a federal or state tax benefit as a result of the reincorporation. The act prohibits the state from contracting with corporations that fail to make the certification, except the attorney general may waive the prohibition if (1) the services the state is seeking are not available from a company incorporated in the U. S. or (2) the waiver is in the state's best interest.

EFFECTIVE DATE: January 1, 2007

LIGHT POLLUTION (§§ 21-22)

The act bans, with some exceptions, the use of state bond revenues or appropriated or allocated state funds to install or replace an outdoor light or lighting unit on state building or facility grounds that:

1. fails to maximize energy conservation and minimize light pollution, glare, and light trespass (light that shines beyond the boundaries of the property where the light source is located);
2. provides light at a level that exceeds what is minimally adequate for its intended purpose; and

3. has an output of more than 1,800 lumens (the unit for measuring the brilliance of a light source), unless it is a full cut-off luminaire (a lighting unit that allows no direct light emissions above a horizontal plane through its lowest light-emitting part).

The act allows four exceptions to the full cut-off requirement. It exempts lighting units (1) on the grounds of a Department of Correction institution or facility, (2) required by federal regulations, (3) required for Department of Transportation (DOT) storm operations, and (4) in a plan for DOT facilities where less than 25% of the luminaires will be replaced. It also sets conditions under which the DPW commissioner, or his designee, may waive the full cut-off requirement for other state buildings or facilities when necessary. The act directs the commissioner to 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 OPM secretary finds that a noncomplying system is more cost-effective than one 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.

The act establishes a schedule for violators of laws regulating the use of floodlights on private property to comply with the law. Prior law required all violators to comply by October 1, 2005. Beginning October 1, 2006, the act instead requires approximately 20% to comply and it increases the amount by 20% each year until full compliance is reached by October 1, 2010. The law prohibits (1) 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 and (2) 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.

EFFECTIVE DATE: July 1, 2006

PA 06-51—sHB 5632

*Government Administration and Elections Committee
Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING DIVESTMENT OF
STATE FUNDS INVESTED IN COMPANIES
DOING BUSINESS IN SUDAN**

SUMMARY: While federal Executive Order 13067 is in effect, this act (1) allows the state treasurer to divest, or decide against further or future investments of, state funds in any company doing business in Sudan and (2) requires her to divest and halt further investments in any security or instrument issued by Sudan. A “company” is any corporation, utility, partnership, joint venture, franchisor, franchisee, trust, entity investment vehicle, financial institution, or its wholly-owned subsidiary. It is doing business when it maintains equipment, facilities, personnel, or other business apparatus in Sudan.

In addition, the act extends, from October 15 to December 31, the deadline for the treasurer to submit her annual report to the governor, thereby making the date consistent with that of the state comptroller’s report. It requires the treasurer to include in her report a list of the companies from which the state has divested its funds or in which the state cannot invest because of the company’s business in Sudan.

EFFECTIVE DATE: Upon passage

STATE INVESTMENTS IN SUDAN

The act requires the state treasurer to (1) determine the extent of the state’s investment in companies doing business in the Republic of Sudan, including its government, agencies, instrumentalities, or political subdivisions and (2) encourage such companies to refrain from any actions that promote or otherwise enable human rights violations in Sudan. The treasurer must offer the encouragement whenever feasible and in a manner consistent with her fiduciary duties. The treasurer may determine the companies doing business in Sudan from the U.S. Treasury’s Office of Foreign Assets Controls or from her own review.

The treasurer (1) must divest and stop further investments in any security or investment Sudan issues and (2) may divest or decide against future investments of state funds in any company doing business in Sudan after various considerations. She must consider, among other things:

1. revenue the company paid directly to the Sudanese government;
2. whether the company supplies the government with the infrastructure or resources it uses to implement its policies of genocide in Darfur or other regions of Sudan;

3. whether the company knowingly obstructs lawful inquiries into its operations and investments in Sudan;
4. whether the company attempts to circumvent any applicable U.S. sanctions;
5. the extent of the company’s humanitarian activities in Sudan;
6. whether the company is engaged solely (a) in journalism, (b) to provide goods and services intended to relieve human suffering, or (c) to promote welfare, health, education, or religious or spiritual activities;
7. whether the federal government authorizes the company to do business in Sudan;
8. evidence that the company has engaged the Sudanese government to stop its abuses in Darfur or other regions of Sudan; and
9. any other factor the treasurer deems prudent.

If the treasurer decides to divest state funds from any company, she must give the company notice. At least once per fiscal year, she must report to the Investment Advisory Council on her actions regarding companies doing business in Sudan.

BACKGROUND

Executive Order 13067

President William Clinton issued executive order 13067 on November 3, 1997 (1) declaring a national emergency with respect to the Sudanese government’s policies and actions, (2) banning any U.S. company from doing business in Sudan, and (3) imposing trade sanctions.

PA 06-58—sHB 5584

*Government Administration and Elections Committee
Transportation Committee
Legislative Management Committee*

**AN ACT CONCERNING THE ROUTE 11
GREENWAY AUTHORITY COMMISSION**

SUMMARY: This act eliminates an absolute ban on the Route 11 Greenway Authority Commission using state funds to acquire land and instead permits it to use state funds to acquire land located within 2,000 feet of the Department of Transportation’s right of way if the General Assembly specifically authorizes it.

By law, the commission can ask the transportation commissioner to acquire an interest in real property for use as part of the Route 11 Greenway. The act (1) specifies that the commission may ask the commissioner to acquire land only on the commission’s behalf, (2) eliminates the necessity for legislative action

to transfer to the commission land the commissioner acquires for it, and (3) removes all references to the Route 11 Greenway trail system and instead refers only to the Route 11 Greenway.

EFFECTIVE DATE: October 1, 2006

BACKGROUND

Route 11 Greenway Authority Commission

The towns of East Lyme, Montville, Salem, and Waterford established the Route 11 Greenway Authority Commission, which consists of one member and one alternate member from each town, and the Southeastern Connecticut Council of Governments. The transportation and environmental protection commissioners also are members. The commission must hold public hearings to develop standards for (1) defining the initial boundaries of the Route 11 Greenway; (2) planning its design, construction, maintenance, and management; (3) identifying and prioritizing land that should be added to the greenway; (4) recommending land use within the greenway; and (5) acquiring land and securing conservation easements for the greenway.

PA 06-86—sHB 5051

*Government Administration and Elections Committee
Appropriations Committee
Energy and Technology Committee
Finance, Revenue and Bonding Committee*

AN ACT CONCERNING LUMINAIRES AT STATE AGENCIES

SUMMARY: The act bans, with some exceptions, the use of state funds to install or replace certain outdoor lights or lighting units on state building or facility grounds. It also extends the deadline by which violators must comply with laws regulating the use of floodlights on private property.

EFFECTIVE DATE: July 1, 2006

BAN ON THE USE OF STATE FUNDS FOR CERTAIN LIGHTING

The act bans the use of state bond revenues or appropriated or allocated state funds to install or replace outdoor lights or lighting units on state building or facility grounds that:

1. fail to maximize energy conservation and minimize light pollution, glare, and light trespass (light that shines beyond the boundaries of the property where the light source is located);

2. provide light that exceeds what is minimally adequate for its intended purpose; or
3. have an output of more than 1,800 lumens (the unit for measuring the brilliance of a light source), unless it is a full cut-off luminaire (a lighting unit that allows no direct light emissions above a horizontal plane through its lowest light-emitting part).

EXCEPTIONS TO THE BAN

The act allows five exceptions to the full cut-off requirement. It exempts lighting units (1) on the grounds of a Department of Correction institution or facility, (2) required by federal regulations, (3) required for Department of Transportation (DOT) storm operations, (4) required to illuminate the U.S. or state flag, and (5) in a plan for DOT facilities where less than 25% of the luminaires will be replaced.

The act also exempts a new or replacement lighting system from its requirements if the Office of Policy and Management secretary finds that a noncomplying system is more cost-effective than one 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.

The act permits the Department of Public Works commissioner or his designee to waive the full 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.

COMPLIANCE WITH FLOODLIGHT REQUIREMENTS

The law prohibits (1) 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 and (2) 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.

Prior law required all violators operating before October 1, 2003 to comply with the law by October 1, 2005. The act instead requires approximately 20% of violators operating before October 1, 2004 to comply by October 1, 2006 and it increases the compliance by 20% each year until full compliance is reached by October 1,

2010.

PA 06-129—sSB 623

*Government Administration and Elections Committee
Human Services Committee
Appropriations Committee
Labor and Public Employees Committee
Judiciary Committee
Legislative Management Committee*

**AN ACT CONCERNING THE
RECOMMENDATIONS OF THE DISABLED AND
DISADVANTAGED EMPLOYMENT SECURITY
POLICY GROUP**

SUMMARY: This act requires the commissioner of the Department of Administrative Services (DAS) to establish a four-year pilot program to create and expand janitorial jobs for people with disabilities (except blindness) or a disadvantage who meet specific criteria. The pilot program must award contracts to create four projects for janitorial work needed by state agencies.

The act requires DAS to award the contracts to “qualified partnerships,” which it defines as those between commercial janitorial contractors and community rehabilitation programs that meet specified criteria, and exempts the contracts from the state’s (1) normal competitive bidding process and (2) set-aside program. However, it requires the DAS commissioner to authorize certified small and minority businesses to participate in the pilot.

The act requires the Government Administration and Elections (GAE) Committee to study the pilot program and determine if it should be made permanent.

Finally, the act provides job protection to individuals currently working in janitorial jobs as well as those involved in the pilot.

EFFECTIVE DATE: October 1, 2006

PILOT PROGRAM

Purpose

The pilot program must consist of four janitorial work projects, which together must (1) create at least 60 full-time jobs or the equivalent at standard wages for the two target groups and (2) have a total market value of at least \$3 million. The DAS commissioner may consult with the commissioners of the departments of Social Services (DSS) and Labor (DOL) in establishing the pilot.

“Qualified Partnerships”

The DAS commissioner must implement the pilot program by awarding contracts to qualified

partnerships. The act directs Connecticut Community Providers Association (CCPA) to designate a commercial janitorial contractor and community rehabilitation program as a qualified partnership if they meet certain criteria. A community rehabilitation program is any entity or individual that provides or has others provide vocational rehabilitation services to, or provides services in connection with, recruiting, hiring, or managing people with disabilities based on an individualized plan and budget. In order for a rehabilitation program and commercial janitorial contractor to be a designated partnership, the contractor must:

1. (a) enter into a binding agreement with a community rehabilitation program to fill at least one-third of the jobs resulting from a pilot contract it receives with people with disabilities and another third with people with a disadvantage or (b) employ the requisite number of people in either group, excluding employees with disabilities who predate the pilot;
2. employ at least 200 in-state janitors; and
3. certify in writing that it will pay janitors, including those with disabilities, the standard wage as determined by law.

The act permits partnerships that CCPA does not designate as “qualified” to appeal the denial to the DAS commissioner, in writing. The commissioner can approve the designation after reviewing the appeal.

The act requires the contractor to hire target employees within six months after the contract work starts and to fill vacancies (only those arising during this time) with individuals from the target groups (i.e., target employees).

The act requires CCPA to develop an application process and submit a list of employees who have applied to participate in the partnership to DSS’s Bureau of Rehabilitation Services (BRS) for certification. BRS is the state’s main vocational rehabilitation program for individuals with physical and mental disabilities. DSS can adopt regulations to carry out the certification process. CCPA must maintain a list of those employees BRS certifies (although the act does not direct BRS to give CCPA the list). BRS may not delegate its responsibilities under the act to an outside vendor.

Target Employees. Under the act, target employees include people with disabilities, except blindness, and those with a disadvantage. To qualify for the latter category, an individual must either (1) have income up to 200% of the federal poverty level for a family of four, which is \$40,000 in 2006 or (2) be eligible for employment services under the federal Workforce Investment Act as DOL determines.

Contract Awards

The DAS commissioner must award each contract individually according to procedures the act establishes. When a state agency or department asks DAS for janitorial services, the commissioner must notify qualified partnerships of the request and invite those in good standing to submit bid proposals. If only one partnership bids, the commissioner must award it the contract unless she determines that its bid is higher than the contract's fair market value. If more than one partnership bids, she must award the contract to the lowest responsible qualified bidder.

If no partnership bids, or receives the contract, she must award the contract in accordance with the state's general contracting and preference purchasing laws.

The commissioner may not delegate any of her obligations under the act to an outside vendor. She can adopt regulations to implement the pilot program.

List of Employees

Qualified partnerships awarded pilot contracts must provide CCPA with a list of their target employees no later than six months after the contract starts. The list must include the hire date and employment location for each target employee. CCPA must certify to DAS, in a manner and form the commissioner prescribes, that the contractor continues to employ the required number of people with disabilities in positions equivalent to those created under the contract and has integrated them into the contractor's general workforce.

Legislative Oversight

The act requires the GAE Committee to study the pilot program's effectiveness during the four-year pilot period. It must specifically look at its success in creating integrated work settings for people with disabilities. The committee also must study the need to make the pilot permanent and ways to provide incentives to municipalities and businesses to use the pilot if it is found to be effective.

Preference Purchasing Law

The act specifies that during the pilot's term, any new contract that DAS awards under the state's preference purchasing law for people with disabilities, including those for janitorial services, remain in effect with no change in the formula for fair market value. And any new janitorial contracts DAS awards under this law after October 1, 2006 is limited to four full-time employees per contract.

By law, agencies, departments, and institutions supported in whole or in part by the state must give preference in their purchases to items made or provided

by people with disabilities through community rehabilitation programs or workshops that provide training and employment opportunities, provided they meet the purchaser's requirements for quantity, quality, and price. These preferences rank third behind purchases for articles produced by blind people under the Board of Education and Services to the Blind's direction or supervision and the Department of Correction. (Emergency purchases are also exempt.) The act makes the preferred purchase program's ranking fourth by making janitorial services provided by the act's qualified partnerships the third priority. It also makes a technical correction to reflect that CCPA keeps the list of goods and services for this program.

Protections for People Already Employed as Janitors and Pilot Employees

Under the act, any janitor working under (1) a state (including judicial and legislative agencies) or higher education contract on or before October 1, 2006 and successor contracts to these or (2) the pilot program, has the same rights as displaced service contract workers at Bradley Airport for the pilot program's duration. But these protections do not apply to any new janitorial contract with fewer than five full-time employees per contract awarded under the preferred purchasing law.

The act permits collective bargaining representatives of employees who are displaced or terminated in violation of this particular displaced worker law, as well as the employees themselves, to sue the awarding authority, the terminated contractor, or the successor contractor for damages.

BACKGROUND

Preferred Purchasing Law

Since 1977, state law has required the preferred purchase of goods and services as a way to ensure employment opportunities for people with disabilities. Under the program, certain contracts for state services are not subject to the bidding process. Rather, DAS sets a fair market rate for the goods or services which are considered comparable to what would be offered in a competitive environment. Historically, DAS has used a formula that estimates the price at which the state would secure the products or services.

DAS contracts with CCPA, which in turn acts as a broker for the services and maintains subcontracts with about 60 community rehabilitation organizations that offer employment opportunities to people with disabilities. CCPA certifies these organizations and monitors their compliance with federal vocational rehabilitation requirements (e.g., certain percentage of employees must have disabilities).

Displaced Bradley Service Workers Protection Law

This law provides protections to certain service workers who were affected by changes that occurred at Bradley International Airport (BIA). Specifically, it requires entities that took over contracts to provide food and beverage services at BIA to retain their predecessors' employees for at least 90 days (unless the employee had a poor attendance or performance record).

It imposes responsibilities on the authority that initially awarded the contract, the original contractor, and successor contractors who have 10 or more employees. For example, it bars the successor contractor from firing the retained employees except for good cause during the 90-day period and gives the employee the ability to sue for damages. And it requires successor contractors to offer continued employment to those employees who, in the 90-day period, perform satisfactorily. It establishes fines for violations.

The law applies to contracts entered on or after July 1, 2002 with (1) entities that agree to provide the covered services and (2) their subcontractors at any tier who employ 10 or more people.

PA 06-137—sSB 66

*Government Administration and Elections Committee
Judiciary Committee
Appropriations Committee*

**AN ACT CONCERNING THE CAMPAIGN
FINANCE REFORM LEGISLATION AND
CERTAIN ELECTION LAW AND ETHICS
PROVISIONS**

SUMMARY: This act changes state election laws addressing campaign finance, lobbyists, and voting. It also makes changes to the Code of Ethics for Public Officials.

With respect to campaign finance reform, the act revises certain provisions in PA 05-5, October 25 Special Session, which, among other things, established the Citizens' Election Program to publicly finance election campaigns for candidates for statewide and legislative office. The act restricts the circumstances under which PA 05-5 would become unenforceable.

It changes the Citizens' Election Program affecting minor and petitioning party candidates by (1) providing supplemental grants to minor and petitioning party candidates who qualify and (2) allowing those who receive a grant of less than the amount authorized for a major party candidate running for the same office in the general election to collect contributions in addition to qualifying contributions.

The act prohibits legislative caucus, legislative leadership, and party committees from making certain types of organization expenditures to benefit the primary campaigns of legislative candidates. For general elections, it places limits on organization expenditures made to benefit the same candidates.

The act tightens the revolving door law applicable to former governors. For the governor's spouse, it bans honoraria in exchange for participation at an event when the spouse is acting in his official capacity.

For lobbyists, the act expands the exception to the ban on contributions and solicitations and repeals the provision requiring them to file annual statements with the secretary of the state.

The act limits the recipients who are eligible to receive surplus funds from a nonparticipating candidate when his committee dissolves, and changes how payments to participating candidates resulting from excess expenditures are processed.

It gives the State Elections Enforcement Commission (SEEC) two additional years to complete two studies and submit proposed legislation to the Government Administration and Elections Committee.

The act eliminates a requirement for (1) felons to prove that they have been released from prison and completed any parole before their voting rights can be restored and (2) town clerks to train election officials. It also requires registrars to either certify that polling places are accessible to people with disabilities or apply for a waiver from accessibility requirements.

The act changes the process for filling Congressional and multi-town probate judge vacancies and makes minor changes to laws regarding candidates for state and district office, permissible campaign expenditures, and justices of the peace.

Finally, the act makes minor and technical changes. **EFFECTIVE DATE:** Upon passage except changes affecting (1) the governor's post-employment are effective July 1, 2006; (2) polling place accessibility, petitions, and endorsed candidates are effective January 1, 2007; (3) lobbyists are effective October 1, 2007; and (4) most Citizens' Election Program provisions are effective December 31, 2006. The provisions changing the Citizen's Election Program's severability and method for processing excess expenditures are effective upon passage.

CITIZENS' ELECTION PROGRAM (§§ 16 – 23, 29)*Severability (§ 17)*

The act restricts the circumstances under which PA 05-5, October 25 Special Session, becomes unenforceable. PA 05-5 established the Citizens' Election Program to publicly finance election campaigns, changed contribution limits, and banned

contributions from certain contractors and lobbyists, among other things.

Under prior law, the entire act became inoperative if a court prohibited or limited the expenditure of funds from the Citizens' Election Fund (CEF) for 72 hours or more.

Under the act, if a court prohibits or limits expenditures from the fund for 168 hours (one week) or more on or after April 15th of a general election year, or on or after the 45th day before a special election scheduled to fill a vacancy in the General Assembly, (1) the Citizens' Election Program becomes inoperative with respect to any race subject to the court order until December 31st of that year and (2) the remainder of PA 05-5 becomes inoperative until December 31st of that year. In that case, the laws in effect prior to PA 05-5 become effective until December 31st of that year.

If the court order is still in effect on April 15th of the second year following the prohibition or limitation, PA 05-5 becomes permanently inoperative and the laws in effect prior to its passage become effective.

If a court prohibits or limits expenditures, candidates who receive money from the fund prior to the order may continue to spend that money under the rules of the Citizens' Election Program, unless the court prohibits them from doing so.

Minor and Petitioning Party Candidates (§§ 19 & 20)

The act (1) establishes supplemental grants for minor and petitioning party candidates who qualify, and (2) allows them to collect additional contributions under certain circumstances.

Supplemental Grants. Under the act, the qualified candidate committee of an eligible minor or petitioning party candidate for statewide or legislative office may receive a supplemental grant if (1) he receives less than a "full grant" (the amount authorized for a major party candidate running for the same office) for the general election, (2) his treasurer reports a deficit in the first campaign finance statement he files after the election, and (3) he receives a greater percentage of the votes cast for all candidates for that office than the percentage of votes or signatures he used to qualify for the grant.

When an eligible minor or petitioning party candidate receives more than 10% but not more than 15% of the votes cast for all candidates, the grant amount is the product of:

1. a fraction in which (a) the numerator is the difference between (1) the percentage of the number of votes the candidate receives and (2) 10%, and (b) the denominator is 10; and
2. two-thirds the amount of the general election grant for major party candidates running for the same office.

When an eligible minor or petitioning party candidate receives more than 15% but less than 20% of the votes cast for all candidates, the grant amount is the product of:

1. a fraction in which (a) the numerator is the difference between (i) the percentage of the number of votes the candidate receives and (ii) 15%, and (b) the denominator is five; and
2. one-third the amount of the general election grant for major party candidates running for the same office.

The act prohibits the sum of a candidate's general election grant and supplemental grant from exceeding the amount of the general election grant for a major party candidate running for the same office.

Additional Contributions. The act allows a minor or petitioning party candidate who receives a grant from the CEF equal to one-third or two-thirds of the full grant (i.e., one-third grant or two-thirds grant) to continue to raise contributions in addition to the qualifying contributions, subject to the same limitations and restrictions that exist for participating candidates running for the same office. The minor or petitioning party candidate may use the additional contributions to make up the difference between the full grant and the partial grant he received.

For example, a minor or petitioning party candidate for state senator who receives a one-third grant of \$28,333 may collect additional contributions up to \$56,667, the difference between the full grant of \$85,000 and the grant he received. If he receives a two-thirds grant of \$56,667, he may collect additional contributions up to \$28,333.

The act specifies that minor and petitioning party candidates must limit their expenditures to the sum of their (1) qualifying contributions; (2) allowable personal funds, if any; (3) general election grant; and (4) permissible additional contributions.

Organization Expenditures (§§ 16 & 18)

Under prior law, an organization expenditure was not considered a campaign finance expenditure or contribution, and its use was not restricted to lawful committee purposes or subject to filing requirements. Thus, committees could make unlimited organization expenditures.

Limits for Legislative Candidates. For general election campaigns, the act places limits on organization expenditures made to benefit legislative candidates who participate in the program ("participating candidates"), thus subjecting them to campaign finance reporting requirements. For primary campaigns, it (1) bans organization expenditures for the preparation, display, mailing, or other distribution of a party candidate listing made to benefit participating legislative candidates but

(2) continues to allow unlimited organization expenditures for other permissible purposes. By law, organization expenditures are expenditures made by legislative caucus, legislative leadership, or party committees for the benefit of candidates or their committees.

Under the act, the maximum amount that a committee can spend on organization expenditures made to benefit the general election campaign of a participating candidate for state senator is \$10,000. For a participating candidate for state representative, the maximum amount is \$3,500.

A “party candidate listing” is any communication that (1) lists the names of one or more candidates; (2) is distributed through public advertising including broadcast stations, cable television, newspapers or similar media, direct mail, telephone, electronic mail, public Internet sites, or personal delivery; and (3) treats all candidates in a substantially similar way. The content must be limited to (1) the identification of each candidate, including photographs; (2) the offices sought; (3) the offices the candidates currently hold, if any; (4) the party and a brief statement about the party or the candidates’ positions, philosophy, goals, accomplishments, or biographies; (5) an encouragement to vote for the candidates; and (6) information about voting, such as voting hours and locations.

Reporting. The act requires the campaign treasurer of a legislative caucus, legislative leadership, or party committee that makes an organization expenditure to benefit a participating legislative candidate to notify that candidate’s committee of the expenditure when he files a campaign finance statement containing an itemized accounting of the committee’s organization expenditures, if any.

The act requires the campaign treasurer for a participating legislative candidate who benefits from such an expenditure to file a statement with the SEEC listing (1) the committee that made the expenditure, (2) the amount, and (3) its purpose. He must file the statement on or before the day the candidate committee dissolves. The provision applies only to organization expenditures about which the candidate committee is aware.

Affidavit Certifying Intent to Participate (§ 21)

For candidates in a primary, the act establishes a deadline of 4 p.m. on the 25th day preceding the primary to file an affidavit certifying whether they will participate in the Citizens’ Election Program. For candidates who do not run in a primary, the deadline remains 4 p.m. on the 40th day preceding the general election.

Primary Grant Applications (§ 22)

When a candidate applied for a primary grant from the CEF under prior law, the SEEC was required to determine whether, among other things, the candidate was opposed by at least one (1) participating candidate in the primary from the same party who received the required qualifying contributions, or (2) nonparticipating candidate in the primary from the same party who received contributions equal to the amount of the required qualifying contributions.

The act eliminates the requirement that the SEEC make this determination, thus allowing a candidate to apply for a primary grant regardless of whether either condition is met.

The law, unchanged by the act, allows a participating major party candidate to apply for a primary grant only if a primary election is required. Minor party candidates are not eligible for a primary grant from the CEF.

Excess Expenditures (§§ 23 & 29)

Threshold. By law, participating candidates are entitled to additional money from the CEF if their opponents exceed certain spending limits. Under prior law, that happened when a (1) nonparticipating opponent exceeded the amount of the major party grant authorized for that office for the primary or general election (“applicable grant”) or (2) participating opponent exceeded the sum of the required qualifying contributions and applicable grant. For example, a nonparticipating candidate for state representative made an excess expenditure during a general election if he spent or obligated to spend an amount exceeding \$25,000, or the applicable grant. A participating candidate for state representative made an excess expenditure if he spent or obligated to spend an amount exceeding \$30,000, or the applicable grant plus qualifying contributions.

The act increases the threshold nonparticipating and participating candidates may reach before they are considered to have made an excess expenditure, and makes them equal. Under the act, “excess expenditure” means an expenditure made or obligated to be made by a nonparticipating or participating candidate who is opposed by at least one participating candidate in a primary or general election that exceeds the applicable spending limit for the participating candidate. For example, both nonparticipating and participating candidates for state representative make an excess expenditure during a general election if they spend or obligate to spend an amount exceeding \$40,000, or the applicable spending limit.

Campaign Treasurers. The act makes campaign treasurers, rather than candidates, responsible for filing supplemental campaign finance reports with the SEEC for purposes of the Citizens' Election Program, as they are for other filing requirements.

Processing Payments. The act changes the administrative procedure for processing payments to candidates whose opponents make excess expenditures.

For nonparticipating candidates, prior law required the SEEC to notify the state comptroller when it determined that such a candidate made or became obligated to make an expenditure exceeding 90% of the applicable grant. The comptroller had two business days to provide each opposing participating candidate with an amount equal to 25% of the applicable grant, provided the participating candidate had not spent more than the sum of (1) the amount of his qualifying contributions and (2) 100% of the applicable grant. The campaign treasurer held the additional money in escrow until the SEEC notified him that the nonparticipating candidate made or became obligated to make an expenditure exceeding 100% of the grant. At that point, the candidate could spend additional money equal to the amount of the opponent's excess spending. The SEEC determined when a nonparticipating candidate made or became obligated to make an excess expenditure either on its own or at the request of a participating candidate. The same process occurred when the SEEC notified the comptroller that a nonparticipating candidate made or became obligated to make an expenditure exceeding 115%, 140%, and 165% of the applicable grant.

Under the act, the SEEC must notify each participating candidate, in addition to the state comptroller, when it determines that a nonparticipating candidate has made or become obligated to make an expenditure exceeding 90% of the applicable grant. Rather than directing the comptroller to provide additional money to each eligible opposing participating candidate, the SEEC must direct her to hold the funds in escrow until it determines that the nonparticipating candidate has made or become obligated to make an expenditure exceeding 100% of the grant. Within two business days of making that determination, the SEEC must process a voucher payment using the comptroller's accounting system. The act requires the comptroller, within three business days of receiving the authorized voucher, to draw an order on the state treasurer to electronically transfer the payment into each participating candidate's account. The same process occurs when a nonparticipating candidate makes or becomes obligated to make an expenditure exceeding 115%, 140%, and 165% of the applicable grant.

If, within the seven days prior to a primary or election, the SEEC notifies the comptroller that a nonparticipating candidate has made or become obligated to make an expenditure exceeding 90% of the

spending limit, or if additional money is being held in escrow, the comptroller must immediately pay each participating candidate the additional money. If a nonparticipating candidate makes or becomes obligated to make an expenditure exceeding 115%, 140%, and 165% of the applicable grant, the same process occurs.

By law, if the SEEC determines that a participating candidate has made or become obligated to make an expenditure exceeding the sum of the required qualifying contributions and the applicable grant, his participating opponents are entitled to a payment in the amount of the excess expenditure. The act makes the same changes to the way payments are processed when this occurs as it does to the way payments are processed when a nonparticipating candidate makes or becomes obligated to make an excess expenditure. The act limits a participating candidate to one such payment per campaign.

STATE ETHICS (§§ 31 & 32)

Revolving Door

The act prohibits a former governor from accepting employment as a lobbyist, for one year after leaving state service, with a business that received a contract with any state department or agency during his term. The act also prohibits such a business from employing a former governor. For a first offense, the act subjects a violator to the penalties for a class A misdemeanor, unless he derives a financial benefit of \$1,000 or more, in which case it subjects him to the penalties for a class D felony (see Table on Penalties). For a subsequent offense, the act subjects him to the penalties for a class D felony.

Ban on Honoraria for the Governor's Spouse

The act prohibits the governor's spouse from accepting a fee or honorarium for an article, appearance, speech, or participation at an event when acting in the spouse's official role. Under prior law, the ban applied only to public officials and state employees.

The act allows the governor's spouse to receive payment or reimbursement for necessary expenses related to an activity in which he is acting in his official capacity. In that case, he must file a report with the SEEC within 30 days of the activity (unless the federal government or another state government provides the payment or reimbursement). If he neglects to do so, he must return the payment or reimbursement.

Like public officials and state employees, the governor's spouse is not required to file a report for admission to, or food or beverage at, an event where he is acting in his official capacity and is the principal speaker.

LOBBYISTS' POLITICAL CONTRIBUTIONS (§§ 24 & 25)

By law, communicator lobbyists cannot make contributions to, solicit others to make contributions to, or purchase advertising space from certain political committees. The law does not apply to lobbyists and their spouses, dependent children, or agents who solicit contributions or the purchase of advertising space for their own candidacies for public office.

The act:

1. expands the exception to the ban on contributions and solicitations by allowing an elected public official's immediate family members who are lobbyists to contribute to his campaign and solicit contributions on his behalf;
2. allows the SEEC to impose penalties of up to \$5,000 or twice the amount of the contribution, whichever is greater, on violators of the contribution ban, thus making the penalty for illegal contributions the same as that for illegal solicitations; and
3. eliminates a requirement for lobbyists to file annual campaign contribution reports with SEEC since, by law, they and their families cannot contribute to campaigns.

CANDIDATE AND POLITICAL COMMITTEES (§§ 15 & 30)

Gifts

The act increases, from \$50 to \$100, the maximum amount of campaign funds that a campaign treasurer may spend per person during a calendar year or during a campaign on gifts for campaign or committee workers, flowers, or other commemorative items for political purposes.

Donations of Surplus

By law, candidate committees and political committees, other than ongoing PACs or exploratory committees, must spend or distribute surplus funds within 90 days of (1) a primary when a candidate loses, (2) an election, or (3) a referendum.

For candidate committees of candidates who do not participate in the Citizens' Election Program, the act limits the recipients who are eligible to receive surplus funds to (1) the Citizen's Election Fund and (2) charitable organizations. Under prior law they could distribute surplus funds to any of the following recipients: the fund, party committees, ongoing PACs, charitable organizations, and contributors on a prorated basis.

The law, unchanged by the act, requires a participating candidate committee to distribute any surplus to the Citizen's Election Fund.

SEEC STUDIES (§§ 26 & 27)

The act gives the SEEC two additional years to complete two studies and submit proposed legislation to the Government Administration and Elections Committee. Its proposal on extending the ban on state contractor campaign contributions and solicitations to subcontractors is due February 1, 2009 instead of February 1, 2007. Its proposal on municipal public financing is due January 1, 2009 instead of January 1, 2007.

LIST OF CONTRACTORS AND PROSPECTIVE CONTRACTORS (§ 28)

The act allows any state agency to designate the SEEC, with its consent, as the entity in charge of obtaining information necessary to maintain its list of contractors and prospective contractors.

By law, each state and quasi-public agency must submit a form to the SEEC by July 1, 2006, listing the state contracts it is party to and the principals of state or prospective state contractors for (1) those contracts and (2) any bid solicitations, requests for proposals, or prequalification certificates it issued. Agencies must keep their lists current by submitting monthly updates.

VOTING RIGHTS, PLACES, AND OFFICIALS (§§ 1, 8, & 11)

Accessibility

By law, each polling place must be accessible to people with disabilities. If none is available within a voting district, a town can apply for a waiver, which the secretary of the state forwards to the Office of Protection and Advocacy for Persons with Disabilities for approval. The act requires registrars of voters to also certify to the secretary of the state that each polling place in their town complies with the law and it specifies that the registrars of voters are responsible for applying for a waiver from accessibility requirements.

Restoration of Felons' Voting Rights

The act eliminates a requirement for felons, other than those convicted of election-related crimes, to give a registrar of voters satisfactory proof that they have been released from prison and completed any parole before their voting rights can be restored. It also eliminates a requirement for felons released from a federal or out-of-state correctional institution to submit proof that they have paid all fines related to their conviction.

The law continues to require the correction commissioner to give each inmate a certificate of release and send the secretary of the state a monthly list of all felons released from his custody during the preceding calendar month. The secretary must send the list to the appropriate registrars.

Election Officials Training

The act eliminates a requirement that town clerks train election officials. Registrars of voters, moderators, and certified voting machine mechanics must continue to train them.

VACANCIES IN CONGRESS (§§ 9-10 & 12-13)

The law establishes processes for filling vacancies in elected offices, including those of U.S. Senator and Representative. The act changes deadlines in the processes for both.

Vacancies in the U.S. Senate

If the office of U.S. Senator becomes vacant, the governor must appoint a replacement. If there is sufficient time before the scheduled end of the term, an election is held to elect a successor to fill the office until the end of the term. Under prior law, if a vacancy occurred at least 60 days before a regularly scheduled state election (held in November of even-numbered years) and the term was not scheduled to end in the following January, an election to fill the balance of the term was held at the time of the regular election. The act moves the deadline forward from 60 to 150 days before the election. If the term was scheduled to end the following January, the appointed replacement completed the term. The act moves the deadline for holding an election for a successor from 60 to 150 days before the regular election.

The act similarly revises the deadlines for making party nominations and holding primaries. If the vacancy occurs at least 150, rather than 70, days before a state election, the act requires the parties to hold a convention to endorse their candidates. A candidate who qualifies to run in a primary must file to do so by 4 p.m. on the 21st, rather than 14th, day after the close of the convention. If the convention is closed when the vacancy occurs, the party must reconvene it and choose their candidate to fill the vacancy. A candidate challenging the endorsed candidate must file for a primary by 4 p.m. on the 21st, rather than 5th, day after the close of the reconvened convention.

Prior law prohibited a primary to fill the vacancy from being held less than 28 days after the close of a reconvened convention and later than 21 days before a state election. The act changes the earliest day for the primary from 28 to 49 days after the reconvened

convention.

Vacancies in the U.S. House of Representatives

If a vacancy occurs in the office of U.S. Representative, the law requires the governor to order an election by issuing writs of election. The act establishes a timeframe for issuing the writs and holding the election.

Under the act, if the vacancy occurs 125 days or more before the next regular state election, the governor must issue the writs within 10 days after the vacancy occurs and the election must be held 60 days after the writs are issued, but not on a weekend. If the vacancy occurs more than 63 but less than 125 days before the next regular state election, the act requires the writs to be issued 60 days before the next regular election and the election to be held simultaneously with the next regular election. If the vacancy occurs 63 days or less before the next regular state election, there is no election to fill the vacancy, unless the vacated position is that of a member-elect.

Electors included on the last registry list completed for the last regular election in the town or political subdivision holding the special election or on any supplementary or updated list are eligible to vote in the election.

Candidate Selection for Vacancies in the U.S. House of Representatives or Multi-Town Probate Court District

Under the act, delegates to a nominating convention for U.S. Representative or a multi-town probate judge are the same ones who served at the convention held for the previous state election. The town committee in the town where the delegate lived fills any vacancy in the delegation.

Parties may hold a convention to endorse candidates between the time when the vacancy occurs and 50 days before the election to fill the vacancy. The endorsements are not effective until the presiding officer and secretary of the convention certify them to the secretary of the state.

If a vacancy occurs between the 125th day and 63rd day before a regular November state or municipal election, the act prohibits a primary from being held; instead the party-endorsed candidate is deemed the party's nominee. A primary may be held to fill a vacancy that occurs before the 125th day if a person challenges the endorsed candidate within 14 days after the endorsement. In this case, the primary takes place on the day designated in the original writs of election, and the governor must issue writs for a general election 60 days later. The governor must announce the primary within 10 days after a candidate qualified to run in a primary files a nominating petition. The secretary of the

state must make petition forms available on the day after the governor announces the election.

PETITIONS (§§ 4, 6, & 7)

The act requires the secretary of the state to make primary petition forms available to probate judge and legislative candidates on the 77th day before a primary. Under prior law, she was required to make them available on the day after each party's district convention. District conventions can be held between the 98th and 77th day before the primary.

The act changes the deadline for a petitioning candidate for state or legislative office to file a petition with the registrar of voters from 14 days after a convention to 63 days before the primary.

ENDORSED CANDIDATES (§§ 2-3, & 5)

The act invalidates a candidate's party endorsement, endorsement to run in a primary, or selection as a delegate to a convention if the certificate of endorsement or selection is not filed with the secretary of the state or town clerk, as applicable, by the statutory deadline. Such endorsements or selections were already deemed not to have been made or certified.

The act eliminates a requirement for both the chairman or presiding officer of a caucus or convention and the secretary of a town committee, caucus, or convention to certify a candidate's endorsement to run in a municipal primary. Instead, either may certify the endorsement, just as is the case for endorsements to state or district office.

The act requires candidates and delegates who mail their certificates to do so by certified mail, return receipt requested. It requires the secretary of the state or town clerk, as appropriate, to stamp the date and time on hand-delivered certificates.

JUSTICES OF THE PEACE (§ 14)

The act increases, from 15 to 30, the number of justices of the peace in Trumbull. The law sets a rule for determining the number of justices of the peace in each town, but it specifies the number in Waterbury, Meriden, Litchfield, and Trumbull. It continues to allow any town to pass an ordinance to reduce its number of justices of the peace; however, each town must permit at least 15.

BACKGROUND

Additional Grants for Participating Candidates

The law, unchanged by the act, allows a participating candidate to receive additional grants of 25% of the applicable grant, provided he has not spent

more than the grant he receives plus his allowable qualifying contributions, each time his nonparticipating opponent exceeds certain thresholds. The law limits participating candidates to one payment per threshold and their spending to 100% of the nonparticipating candidate's excess expenditure up to the grant amount. The expenditures that trigger additional grants are 115%, 140%, and 165% of the applicable grant. For example, if a nonparticipating candidate spends 115% of a participating candidate's applicable grant, the participating candidate receives an additional grant of 25% of the applicable grant if he did not spend more than the sum of (1) the amount of his required qualifying contributions and (2) 125% of the applicable grant. When the nonparticipating candidate spends more than 125% of the applicable grant, it triggers permission for the participating candidate's spending up to 125%.

HIGHER EDUCATION AND EMPLOYMENT ADVANCEMENT COMMITTEE

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PA 06-34—SB 14

*Higher Education and Employment Advancement Committee
Government Administration and Elections Committee*

AN ACT CONCERNING THE BOARD OF TRUSTEES FOR THE COMMUNITY- TECHNICAL COLLEGES

SUMMARY: This act requires, beginning July 1, 2010, that at least two members of the Community-Technical College Board of Trustees be people whose education or experience gives them an understanding of relevant accounting principles and practices and financial statements.

EFFECTIVE DATE: July 1, 2006

PA 06-103—sHB 5527

Higher Education and Employment Advancement Committee

AN ACT CONCERNING TEXTBOOK AFFORDABILITY

SUMMARY: This act requires textbook publishers to make certain information about their products available to faculty at all colleges and universities in the state. And it requires state public colleges and universities to adopt a policy that either permits students to use their financial aid to purchase textbooks at campus bookstores before they receive the aid or provides for disbursement of their aid when the term begins.

The act requires a textbook publisher to make available to college faculty the price at which it would make its products available to the college bookstore and the history of the products' revisions. Under the act, "products" means all versions of a textbook or set of textbooks in a subject area in which the faculty member teaches, including supplemental items (such as compact discs and workbooks) that may be packaged with a textbook or sold separately. The term does not include custom or special edition textbooks.

The act requires the UConn, Connecticut State University, and Community-Technical College boards of trustees to adopt one of two policies governing student financial aid. The policy must (1) allow students to purchase textbooks at campus bookstores during the first week of an academic term using financial aid that the students may not yet have received or (2) provide for disbursement of financial aid to students who meet all federal, state, and institutional requirements for the aid before the first day of an academic term.

EFFECTIVE DATE: July 1, 2006

PA 06-134—sHB 5695

*Higher Education and Employment Advancement Committee
Appropriations Committee
Public Safety and Security Committee
Government Administration and Elections Committee*

AN ACT CONCERNING CONSTRUCTION OVERSIGHT AT THE UNIVERSITY OF CONNECTICUT AND THE PREQUALIFICATION OF SUBSTANTIAL CONTRACTORS

SUMMARY: This act establishes two mechanisms to provide independent oversight of UConn 2000 projects: board of trustee audits and an independent committee to review university policies and procedures and compliance with them during the construction process. The act also (1) requires public bidding on UConn 2000 projects costing over \$500,000, (2) revises the process for UConn to prequalify contractors to bid on UConn 2000 projects, (3) subjects UConn 2000 projects to department of Public Works (DPW) and Administrative Services (DAS) building construction and contractor prequalification statutes, (4) requires UConn and the Department of Public Safety (DPS) to arrange for UConn staff to ensure code compliance on UConn 2000 projects, and (5) requires UConn to spend all deferred maintenance allocations for that purpose and identify future deferred maintenance needs and costs.

The act requires substantial subcontractors to prequalify with DAS before they perform work on a state or municipal construction contract and makes minor changes to the contractor prequalification laws.

EFFECTIVE DATE: July 1, 2006, except for the provisions concerning reports on deferred maintenance spending and code violations, which are effective on passage; the provisions subjecting UConn to DAS prequalification requirements, which are effective January 1, 2007; and the changes concerning substantial subcontractor prequalification, which are effective October 1, 2007.

FINANCIAL AUDITS (§§ 1, 2, & 5)

The act requires UConn's Board of Trustees to select and appoint independent auditors to annually audit UConn 2000 projects. The auditors must review all invoices, expenditures, cost allocations, and other appropriate documents and reconcile project costs and verify their conformance to budgets, cost allocation agreements, and applicable contracts. The board must annually review the auditors' reports. No university staff may be present during the board's initial review.

The auditors may serve for five consecutive years, cannot perform any nonaudit services for the university during that period, and may not be reappointed. The

board must assure the auditors unfettered access to any documents they need. By law, independent auditors are licensed public accountants who meet the independence standards of the U.S. comptroller general's generally accepted government auditing standards.

CONSTRUCTION MANAGEMENT OVERSIGHT (§§ 3, 4, & 5)

The act establishes a committee to (1) oversee UConn's construction policies and procedures and (2) review projects for compliance with them. It also requires the UConn trustees to create an office to review construction performance.

Oversight Committee Composition

The act establishes a seven-member Construction Management Oversight Committee. The board of trustees appoints three board members to the committee; the governor and the top six legislative leaders jointly appoint the other four committee members who must have expertise in construction management, construction project management, or architectural design. The board designates the chairman.

All initial appointments must be made by July 20, 2006. Members serve four-year terms. The jointly appointed members' terms are staggered; two initially serve three-year terms. The board must replace any of its members serving on the committee when his board term expires or otherwise ends.

Four members constitute a quorum and at least four members must vote to approve committee actions. The committee must keep a record of its proceedings, which must indicate attendance and all votes each member casts. Otherwise, the committee can decide the form these records take.

Construction Assurance Office

The act requires the UConn trustees to establish a Construction Assurance Office by August 1, 2006. The office is to have paid staff and a full-time director responsible for reviewing UConn 2000 construction performance and reporting at least quarterly to the oversight committee and UConn's president.

Oversight Committee Responsibilities

The act requires the committee to review and approve UConn 2000 policies and procedures and review construction performance under the program. It must approve policies and procedures governing (1) selection of design professionals and contractors, (2) contract compliance, (3) building and fire code compliance, (4) deferred maintenance and annual deferred maintenance budgets, (5) project and program

budgets and schedules, and (6) authorization and review of contract changes.

Every two years, the committee must prepare a summary of UConn 2000 construction performance based on reports it receives from the Construction Assurance Office. It must review the university's management of each completed project for conformance with the university's construction policies and procedures. This review must incorporate, at a minimum, information from Construction Assurance Office reports.

The committee must submit all of its summaries, assessments, and reviews to the board of trustees, whose initial review of them must be without university personnel present.

CONTRACTING (§§ 6-8, 17-20)

Public Bidding Requirements

The act specifically requires public bidding for any UConn 2000 project whose estimated cost is over \$500,000. Prior law did not explicitly require public bidding on any UConn 2000 project. And, beginning January 1, 2007, the act subjects UConn 2000 projects to DPW public bidding requirements and procedures for projects costing over \$500,000. It accomplishes this by removing the projects' current exemption from these laws.

Generally, the law governing DPW bidding procedures permits UConn to determine how and when bids are to be submitted and the conditions and requirements for them. But these laws also define lowest responsible and qualified bidder, limit officials communicating with bidders before bid opening, require submission of bid bonds, require contract awards within 60 days of bid opening, provide for negotiating with bidders in certain circumstances, and specify subcontractor forms and procedures.

The act permits the board of trustees to approve a no-bid contract over \$500,000 if it determines that the contract addresses an emergency. DPW public bidding law requires any agency that seeks an exception to public bidding requirements to certify the emergency nature of the project to the legislature's Government Administration and Elections Committee. If the committee approves an exception, the State Properties Review Board must approve the contract.

The act also extends the UConn 2000 laws governing public bids to construction proposals. These laws include sealing proposals until the public opening, awarding contracts to the contractor submitting the lowest responsible qualified proposal, and rebidding or negotiating with contractors if UConn rejects all initial proposals.

Contractor Prequalification and Evaluation

The act requires DAS to prequalify contractors before UConn can apply its own prequalification requirements and process, which the act modifies. And, beginning January 1, 2007, the act subjects UConn 2000 projects to DAS contractor prequalification requirements and procedures. It also requires, beginning October 1, 2007, that DAS prequalify subcontractors on UConn 2000 projects whose work is estimated to cost more than \$500,000.

Prior law required UConn to identify potential responsible qualified bidders for a particular contract and invite them to prequalify by giving them information it deemed appropriate and telling them where and when to respond. The act requires the university to provide notice to contractors by advertising at least once in one or more statewide general circulation newspapers and posting the advertisement on the university website. The advertisements must invite contractors to submit a project proposal or bid, inform them that they must be prequalified by DAS, and provide other information UConn deems appropriate.

As under prior law, the university must prequalify contractors based on their financial, technical, and managerial ability; ability to post surety; integrity; experience in similar projects; and whether the contractor, and its subcontractors, has in the past five years complied with state wage and hour laws and those relating to state contracts.

The act also subjects UConn to the law's contractor evaluation requirements. These require a "public agency" to submit to the DAS commissioner information on the contractor's performance in areas such as timeliness, quality, cost containment, communication, safety, and adherence to labor laws. An agency cannot receive state building funds until it complies.

Construction Management Contracts

The act explicitly permits UConn to enter into "total cost basis contracts," which it defines as "construction manager at-risk" project delivery contracts through which multiple elements of a project are accomplished. These elements include site acquisition, architectural design, preconstruction activities, project management, and construction. Existing law already allowed UConn 2000 contracts that permit the professional who designed a project, or an architect, professional engineer, or construction manager retained specifically for supervision, to supervise work on the project until it is completed to ensure that it is done according to specifications and contract requirements.

The act prohibits university officials from entering into a construction manager at-risk contract that does not require a guaranteed maximum price (GMP) for construction to be determined no later than the time they receive and approve trade contractor (i.e., subcontractor) bids. The act prohibits construction from starting until the GMP is set, except for site preparation and demolition work for which contracts have previously been bid and awarded.

Under the act, subcontractor bids on construction manager at-risk projects must be publicly bid. The construction manager must solicit bids by advertising at least once in one or more newspapers with general circulation in the state. Bids must be kept sealed until opened publicly at an announced time and place. After consulting with and getting the university's approval, the construction manager must award contracts to the responsible, qualified subcontractors with the lowest bids. Subcontractors must be prequalified by DAS. The act prohibits the construction manager from bidding on subcontracts.

CODE COMPLIANCE (§§ 10-12, 15)

The act requires UConn's president and the public safety commissioner to enter and maintain a memorandum of understanding (MOU) that temporarily assigns university public safety staff to DPS to ensure fire safety and building code compliance on certain UConn 2000 projects. The MOU is to cover buildings and projects (1) begun while it is in effect and (2) that are below the state's threshold building limits.

The act permits the commissioner to delegate all or part of his authority to enforce building code compliance to UConn through an MOU. He can already delegate his fire safety code compliance powers to UConn's Storrs Division of Public Safety; the act specifies that this must be done through an MOU.

The act requires the university to report any fire safety or state building code violations found in nonthreshold UConn 2000 projects completed before the act takes effect. The report must include an initial schedule to address the violations, the approximate cost to do this, and proposed funding sources. It must be submitted to the Higher Education Committee by December 1, 2006.

DEFERRED MAINTENANCE (§§ 6, 9, 13, 14)

The act requires the university to:

1. spend all money allocated to UConn 2000 for deferred maintenance for that purpose,
2. review its deferred maintenance needs and annually submit a deferred maintenance budget to the Construction Management Oversight Committee,

3. account for all deferred maintenance funds spent on UConn 2000 projects before the act's effective date, and
4. inspect all university structures and inventory their deferred maintenance needs and their estimated cost.

The act defines deferred maintenance as repair of structures and infrastructure that was not maintained, repaired, or replaced in the usual course of maintenance and repair. The term excludes repairs performed solely to correct violations of code that were applicable to nonthreshold UConn 2000 projects named in statute that were completed before July 1, 2006.

The university must report its previous deferred maintenance spending and future needs and costs to the board of trustees and the Higher Education Committee by December 1, 2006.

DPW CONSTRUCTION MANAGEMENT CONTRACTS (§ 21)

The act permits DPW to enter construction management at-risk contracts for construction, renovation, and alteration projects on state buildings and facilities. It establishes the same GMP and public bidding restrictions on these contracts as it does for UConn 2000 projects.

SUBCONTRACTOR PREQUALIFICATION (§§16, 22-24)

Beginning October 1, 2007, the act requires substantial subcontractors to prequalify with DAS before they perform work estimated to cost more than \$500,000 on a state or municipal construction contract valued over \$500,000 that is paid wholly or partially with state funds. The prequalification procedures, range of application fees, and possible penalties for violations are generally the same as those under existing law for prequalified contractors.

The act eliminates a requirement for all applicants, contractors and substantial subcontractors, to include in their application their experience on private and public construction projects over the immediately preceding five years or their 10 most recently completed projects and the names of any subcontractors they used on them. The act reduces, from five years to at least the immediately preceding three years, the period for which the DAS commissioner must review evaluations of applicants' performance on public and private projects.

Application Fee

The act requires the commissioner to adopt regulations establishing a schedule of application fees for subcontractors required to prequalify. Existing law establishes application fees for anyone applying for

prequalification. These are based on aggregate work capacity ratings and range from \$600 for a rating of \$5 million or less to \$2,500 for a rating over \$40 million. The law also requires an annual prequalification renewal fee, which under prior law had to be the greater of \$600 or one-half the initial application fee. The act instead requires it to be at least one-half of the initial application fee, and it eliminates the \$600 minimum renewal fee.

Performance Evaluation

By law, public agencies must evaluate the performance of contractors and subcontractors working on public projects. The act allows municipalities to meet this requirement by relying on a contractor's evaluation of his subcontractors.

Bridge and Highway Projects

The act extends the prequalification requirement and process for public buildings to all state public works, except highway and bridge projects.

BACKGROUND

Construction Manager at-Risk

In a construction manager (CM) at-risk project, the owner hires a firm with construction experience, usually during a project's design phase, to manage the entire construction process. The CM provides pre-construction services such as estimating costs, budgeting, reviewing constructability and suggesting construction alternatives ("value engineering"), and scheduling. Once the design is finalized, the CM seeks competitive bids from subcontractors for each project element (e.g. electrical, mechanical, carpentry, roofing). Once the subcontractors' bids are received and verified for compliance with project requirements, scope, and specifications, the CM and the project owner negotiate and set a GMP for construction. The CM assumes the risk to complete the project within the GMP.

The GMP includes the CM's fee, the cost of the work, and contingency funds for the project. The CM is responsible for costs that exceed the GMP, excluding any work not included in the final GMP that the owner authorizes through a change order process.

Threshold Limits

The law requires new construction and additions to most state buildings over a statutorily set "threshold" size to receive a building permit and certificate of occupancy (CO) from the state building inspector. The threshold limits are (1) four stories, (2) 60-feet high, (3) a clear span 150 feet wide, (4) 150,000 square feet of

floor space, or (5) occupancy by 1,000 or more people.

A newly constructed or altered state building that falls below these threshold limits needs neither a building permit or a CO. Before such a building can be used, the agency responsible for the project must certify to the state building inspector that it complies with the State Building and Fire Safety codes.

UConn-DPS MOU

The UConn president and the public safety commissioner entered into an MOU on December 1, 2005 through which UConn has assigned six employees to perform building and fire code inspections for nonthreshold buildings that are part of UConn 2000 projects. These personnel report directly to the state building inspector and state fire marshal. The MOU expires on October 31, 2006 and may be extended by mutual agreement for one-year terms.

PA 06-150—sSB 335

*Higher Education and Employment Advancement Committee
Government Administration and Elections Committee
Judiciary Committee*

AN ACT CONCERNING PRIVATE OCCUPATIONAL SCHOOLS

SUMMARY: This act changes how an individual or business can apply for authorization to operate a private occupational school, revise its authorization, and establish branches and additional classroom sites. It also modifies the procedures and the conditions under which the Department of Higher Education (DHE) commissioner evaluates, issues, or denies applications for schools and branches; revises or revokes their authorizations; and places them on probation.

It raises application and other fees related to occupational school operations and directs their payment to the Private Occupational School Student Protection Account rather than the General Fund.

The act establishes procedures schools must follow if they close. It imposes record retention requirements on them. And it increases the commissioner's ability to investigate schools, impose penalties, and enforce them.

EFFECTIVE DATE: October 1, 2006

DEFINITIONS (§1)

The act expands the definition of private occupational schools explicitly to include instruction in professional occupations. The definition already covered instruction in trade, industrial, commercial, service, and other occupations.

Prior law permitted occupational schools to establish branches but did not define what a branch was. The act defines a branch as a subdivision located at a different geographic site and facility that (1) offers one or more complete programs leading to a diploma or certificate, (2) operates under the school's certificate of operation, (3) meets the same conditions of authorization as the parent school, (4) is responsible for its own academic affairs, and (5) exercises administrative control.

Prior law permitted schools to establish extensions. The act eliminates this term and, instead, permits schools to establish additional classroom sites. It defines such sites as facilities (1) geographically located near the school or branch that oversees it, (2) whose students must use services provided at the school or branch, and (3) that offer courses or full programs of study and conduct permanent or temporary educational activities.

APPLICATION AND EVALUATION PROCESS (§ 2)

Applications

The act raises the application fee for a new private occupational school to \$2,000 from \$500. It requires that the fee be deposited in the General Fund's Private Occupational School Student Protection Account (Student Protection Account).

The act adds several elements to the information schools must provide in their application and permits the DHE commissioner to designate someone to prescribe the application procedure. It requires them to submit the names and addresses of the members of the entity operating the school. They already had to list the principals, officers, and directors. (Individuals, boards, associations, partnerships, corporations, and limited liability companies can operate these schools.) The act requires that the certified public accountant or public accountant who reviews or audits the school's financial statements be independent. And it requires the application to list an agent for service of process.

Evaluations

By law, once she receives a completed application the higher education commissioner must appoint a team to evaluate the school. The team is composed of two people representing the Board of Governors of Higher Education (BGHE) and one expert for each occupational area that the school seeks to offer. The act allows the commissioner's designee to make the appointments.

The act revises the team's evaluation and reporting process. It specifies that its inspection must be on site. It creates an interim reporting step in which the team identifies evidence of noncompliance and gives the

school 60 days to provide evidence that it does comply. The act requires the team to give the commissioner its written report recommending or not recommending authorization within 120 days of its on-site inspection. And it extends, from 90 to 120 days after the team is appointed, the date by which the commissioner must notify the applicant of her decision.

The act changes two of the evaluative criteria schools must meet. It specifies that evaluators must consider residential, on-line, home study, and correspondence programs in determining whether the quality and content of a school's programs achieve their stated objective. And it requires a school's catalog to describe, among other items, the school's termination and withdrawal policies, rather than its cancellation policy.

CERTIFICATE OF AUTHORIZATION AND LETTER OF CREDIT (§ 3)

Certificate of Authorization

The act requires the commissioner to notify the applicant within 60 days of receiving the evaluation team's report of her decision to grant or deny authorization. Notice must be by certified mail, return receipt requested.

The act adds two conditions that prohibit the commissioner from authorizing a school to operate and permits her to deny authorization under other conditions. She cannot issue a certificate of operation to a school that (1) fails to meet satisfactorily the eight criteria the evaluation team must consider and (2) previously closed and failed to follow the act's procedures for closure. The act also prohibits her designee from authorizing a school's operation under these and existing conditions.

The act allows the commissioner, but not her designee, to deny a school authorization to operate if the person who owns or intends to operate it has been convicted in any state of 1st- or 2nd-degree larceny, identity theft, or forgery. It also allows a denial if the person has a criminal record the commissioner believes makes him unsuitable to own and operate a school.

The act requires any refusal for criminal reasons be made according to the laws governing denial of employment based on prior conviction. These laws, which supersede all other laws governing occupational licensing, make it state policy to encourage favorable consideration of people with criminal records. They require consideration of the (1) nature of the crime, (2) time since conviction or release, and (3) person's rehabilitation and require any denial solely because of the conviction be in writing.

Letter of Credit

Before they can begin operating, new schools must file with DHE a \$20,000 letter of credit running to the Student Protection Account. Schools are annually assessed a portion of their revenue to fund this account. Under prior law, the letter was excused after eight years or a school paid \$20,000 into the account, whichever occurred first. The act removes the \$20,000 payment trigger, thus requiring schools to maintain the letter of credit for eight years. And it requires their fiscal soundness to be verified before the letter is released.

REAUTHORIZATION AND PROBATION (§ 4)

The act extends the period in which a school must annually seek reauthorization, raises the renewal fee, and revises the procedure for placing a school on probation. Under prior law, the certificate had to be reauthorized annually for the school's first three years; the act requires annual reauthorization for four years. It doubles the renewal fee, from \$100 to \$200, and specifically applies that fee to each of the school's branches.

Prior law prohibited the commissioner from reauthorizing a school that failed to meet all conditions of its authorization and permitted her to place such a school on probation for up to one year. The act allows the commissioner or her designee to place a school on probation at any time for failure to comply with its current conditions of authorization; provisions on closure, recordkeeping, and access for DHE officials the act establishes; or any applicable state regulations. It requires the school to post publicly its probationary certificate and allows DHE to publish the school's status. The act allows the commissioner to revoke the school's certificate if it remains out of compliance after the probationary year.

CERTIFICATE OF AUTHORIZATION REVISIONS (§5)

The act revises the process through which a school can change the conditions of its authorization. Prior law required a school to notify DHE 30 days before it made a change. The act requires it to ask DHE to revise its authorization 60 days before it implements the proposed change using forms the commissioner prescribes. The act adds changes in any branch location or additional classroom site to the list of items that require a revised authorization.

The act requires the commissioner to act within 30 days of receiving an authorization revision request and deems a request approved if she does not act within 30 days of the date the revision is proposed to be implemented. It also permits the commissioner's designee to act on authorization revisions.

By law, the commissioner can deny a change that constitutes a material or substantial deviation from a school's current conditions of authorization. The act eliminates a school's ability to appeal her denial to the BGHE.

CERTIFICATE REVOCATION (§ 6)

The act revises the process and reduces the timeline for the commissioner to revoke a school's authorization. It adds failure to comply with the act's provisions governing school closure, record keeping, and access for DHE officials as grounds for revocation.

Prior law required the commissioner to notify a school in writing that she was considering revocation and why. The school could, within seven days of receiving notice, ask for an administrative review. The commissioner had to begin the review within 21 days of this request and complete it within 21 days after it started. She had to notify the school of her conclusions within the next 21 days. The school had 14 days to ask the BGHE for a hearing. The revocation process could take up to 84 days before the appeal request.

The act requires the commissioner to notify a school by certified mail, return receipt requested that she is considering revocation and allows her designee to do this, too. It requires her, or her designee, to hold a compliance review within 45 days of sending the notice. If the commissioner determines revocation is appropriate, she must notify the school of the revocation date by certified mail, return receipt requested. The school has 15 days from the mailing date to ask for a BGHE hearing.

ESTABLISHING BRANCHES AND ADDITIONAL CLASSROOM SITES (§ 7)

The act revises the process for schools to establish branches, includes additional classroom sites in this process, and raises the annual fee for each branch from \$100 to \$200. Under the act, the fee goes to the Student Protection Account; previously, it went to DHE.

Under prior law, a school established a branch or extension by notifying DHE 30 days in advance of its intent and the courses it planned to offer and by complying with relevant evaluation criteria and zoning and fire codes. The act requires a school, 30 days before it intends to open a branch or classroom site, to ask DHE to authorize this action. It must do this on forms the commissioner prescribes.

The act gives the commissioner, or her designee, 30 days after the proposed date of a branch's establishment to deny the request and deems it approved if either fails to take action within this time. It eliminates the ability for a school whose request is denied to ask the BGHE for a hearing.

It adds to the reasons for denying a request (1) the school's, not just the branch's, failure to comply with the law's evaluation criteria for authorizing a school; (2) the branch's or additional site's failure to meet fire and zoning codes; and (3) the school's failure to give proper notice or pay the fee. Under prior law, the only criterion for denial was that establishing a branch constituted a material or substantial deviation from the school's conditions for authorization.

SCHOOL REPRESENTATIVES (§ 8)

By law, anyone who represents an unauthorized school must obtain a permit from the commissioner before visiting or making representations to students or soliciting enrollments. The act limits the permit application process (but not the prohibition on acting without a permit) to representatives of unauthorized out-of-state schools. It raises the annual permit fee, from \$50 to \$500, and requires it be deposited in the Student Protection Account.

PENALTIES (§ 9)

The law permits the commissioner to assess a \$500 per day administrative penalty against a school that violates any provision of the occupational school law. The act changes the process for assessing this penalty and extends it to the act's provisions governing school closure, record keeping, and access for DHE officials.

The changes to the penalty process mirror the act's changes in the authorization revocation process described above. Under prior law, a school had seven days after being notified by DHE that it was considering a penalty to ask for an administrative review. If it asked for a review, DHE had 45 days to complete it and notify the school of its determination. The school then had 14 days from receiving the notice to appeal to the BGHE which had 20 days to hold a hearing.

The act, instead, requires the DHE commissioner or her designee to hold a compliance conference within 45 days after notifying the school that she is considering a penalty. If, after the conference, the commissioner decides a penalty is warranted, the act requires her to order it via certified mail, return receipt requested. The school has 15 days after the order is mailed to ask the BGHE for a hearing. The act eliminates the 20-day deadline for the board to hold the hearing. But it requires the hearing to be held according to the Uniform Administrative Procedure Act, which requires the board to decide the issue within 60 days.

ENFORCEMENT (§ 10)

The act transfers, from the BGHE to the DHE commissioner acting through the attorney general, authority to prevent violations of the occupational

school law and the act's provisions. It potentially expands the types of orders the court could issue by eliminating the requirement that only an injunction can be sought.

REGULATIONS (§ 11)

The act expands the scope of the board's private occupational school regulations to include the act's provisions governing school closure, record keeping, and access for DHE officials.

OPERATING WITHOUT A CERTIFICATE (§12)

The act imposes a \$500 per day fine on a school that operates without a certificate of authorization or that operates a branch or additional classroom site without authorization. The fine goes to the Student Protection Account.

The act authorizes the commissioner or her designee to investigate such schools and, through the attorney general, seek a court order to restrain or prevent the unauthorized operation.

OTHER ENFORCEMENT (§ 13)

The act allows the BGHE or the commissioner, through the attorney general, to ask the Hartford Superior Court to enforce any order the board or commissioner issues and for other appropriate relief. It permits the court to issue such orders.

SCHOOL CLOSURES (§14)

The act requires a school to give the commissioner 60 days written notice before closing. Before closing, or if the commissioner revokes its authorization, a school must provide evidence that current students have or will complete all coursework at the school and it:

1. does not owe refunds to any students,
2. will maintain student records as the act prescribes,
3. has made its final payment to the Student Protection Account,
4. has filed a designation of service form with the commissioner, and
5. has returned its certificate of authorization.

A school that fails to comply with these requirements (1) must be fined up to \$500 for each day the failure continues and (2) is ineligible for another authorization certificate. The fine goes to the Student Protection Account. The commissioner can impose additional penalties on a school that fails to comply when its authorization is revoked.

STUDENT RECORDS (§15)

The act requires schools to maintain school records in the way the commissioner or her designee approves. These records include (1) student or academic transcripts, attendance records, or other indicators of student progress; (2) copies of individual enrollment agreements or contracts; (3) evidence of tuition payments; and (4) any other documents the commissioner prescribes. A school that ceases operations must (1) advise and notify the commissioner in writing as to where the records are located or (2) file them with her.

The act authorizes the commissioner or her designee to visit a school during regular business or school hours, with or without notice. They can ask a school official to produce any records or information they need to verify that the school is complying with its conditions of authorization. The school must give them immediate access to these.

DHE INVESTIGATORY POWERS (§ 16)

The act authorizes the commissioner or her designee to review, inspect, or investigate, as needed, applications for certificates of authorization or possible violations of occupational school law and other state regulations. It allows them to issue subpoenas, place people under oath, compel testimony, and order records and documents to be produced. The commissioner can ask the attorney general to seek a court order if anyone refuses to appear, testify, or produce documents.

PA 06-154—sSB 455

*Higher Education and Employment Advancement Committee
Education Committee
Appropriations Committee*

AN ACT CONCERNING THE EARLY CHILDHOOD EDUCATION WORKFORCE

SUMMARY: This act requires the higher education commissioner, within available appropriations, to develop programs for an accelerated, alternate route to initial teacher certification with an early childhood education endorsement. It also requires her to define preservice and minimum training requirements and competencies for people involved in early childhood education from birth to age five. These must include requirements for individual levels of credentialing and licensing.

In defining training requirements and competencies, the commissioner must consult with the Office of Workforce Competitiveness, the Education and Social Services departments, Charter Oak College, early

childhood education professional organizations, early childhood faculty at public and private colleges and universities, early childhood educators and advocates, and people knowledgeable in early childhood care and education career development and programs.

EFFECTIVE DATE: July 1, 2006

PA 06-174—sHB 5023

*Higher Education and Employment Advancement Committee
Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING ELIGIBILITY FOR THE
APPRENTICESHIP TRAINING TAX CREDIT**

SUMMARY: This act extends to nonunion businesses the corporation tax credit for hiring construction trade apprentices that was previously available only to businesses that sponsored a four-year apprenticeship program jointly with a union. It postpones awarding the credit until an apprentice completes a program that lasts at least four years.

Previously, tax credits were awarded annually; under the act, they are awarded in the year an apprentice completes the program. The act bases the credit amount on the number of hours each apprentice in the program completes, rather than the number of hours all of the employer's apprentices in the program work each year. By law, the credit is capped at 50% of apprentices' wages or a fixed amount and a business's total annual credit cannot exceed its tax liability for the year. Under the act, that credit limit is \$4,000 over the first four years of the apprenticeship; under prior law, it was \$1,000 per year.

The act requires apprenticeship programs to run at least four years to qualify for a credit and eliminates a requirement that they be administered according to a federal labor-relations law. By law, they must (1) provide between 4,000 and 8,000 hours of training, (2) be certified by the labor commissioner, and (3) be registered with the State Apprenticeship Council.

EFFECTIVE DATE: July 1, 2006

PA 06-93—sHB 5529

*Select Committee on Housing
Planning and Development Committee
Finance, Revenue and Bonding Committee
Human Services Committee*

**AN ACT CONCERNING TECHNICAL
AMENDMENTS TO CERTAIN HOUSING
STATUTES AND THE REPEAL OF OBSOLETE
HOUSING STATUTES**

SUMMARY: The act eliminates (1) two Department of Economic and Community Development (DECD) housing programs and (2) requirements that the DECD commissioner adopt regulations for two other programs.

Specifically, the act eliminates the Single Room Occupancy (SRO) Pilot Program and the Consolidated Housing Program. It also eliminates the requirements for the DECD commissioner to adopt regulations for (1) a demonstration program to repair and replace wooden windows in eligible two- to six-family buildings built before 1950 and (2) administrative oversight charges payable to the department.

The act adds affordable housing projects to the purposes for which DECD may use general obligation (GO) bonds. It also adds bond repayments for these housing projects to the funds that should be deposited in the Housing Repayment and Revolving Loan Fund, which conforms with DECD practice.

For a pilot program in Norwich's congregate housing facility, the act defines "frail elderly" as people who have temporary or periodic difficulties with one or more daily living essential activity, as determined by the DECD commissioner. Prior law referenced the same definition under the Consolidated Housing Program's provisions, which the act eliminates.

It makes minor, conforming, and technical changes.
EFFECTIVE DATE: October 1, 2006, except for the elimination of the requirement for window repair and replacement regulations, which is effective upon passage.

SRO PILOT

The act repeals the law (CGS § 8-361) that requires the DECD commissioner to develop a pilot program to help nonprofit corporations acquire and rehabilitate abandoned property in municipalities with enterprise zones (i.e., targeted investment communities in 17 towns). Under prior law, the assistance had to be used to convert properties into SRO housing for homeless people. The assistance could take the form of grants, loans, or deferred loans to nonprofit housing corporations. A corporation had to begin paying all or part of the interest on a deferred loan immediately, but could delay principal repayment.

Prior law required the commissioner to adopt regulations to implement the program, including a method to calculate the minimum standard area rent. DECD never implemented the program or adopted regulations.

CONSOLIDATED HOUSING PROGRAM

The act repeals the statutory consolidated construction, acquisition, and rehabilitation program in DECD. Prior law specified who could participate in the program, the types of housing eligible for assistance, eligible costs, the types of assistance DECD could provide, funding procedures, the elimination of applications under certain programs once regulations were adopted for the consolidated program (the regulations were never implemented), and the terms and conditions DECD could impose on its funding (CGS §§ 8-430 *et seq.*).

The program covered housing authority rehabilitation and social services, moderate rental housing, elderly housing, low-income housing, limited equity cooperatives, homelessness, and transitional housing programs. (The consolidation program, proposed by the former Department of Housing and enacted in 1993, was never implemented and has been superseded by the FLEX program.)

BACKGROUND

FLEX Program (PA 01-7, June 30 Special Session)

The FLEX program (CGS § 8-37pp) is DECD's primary housing production program, which is funded from sale proceeds of the state's GO bonds. Its affordable housing goals are to (1) provide quality, affordable housing for Connecticut residents; (2) preserve existing affordable housing; (3) promote and support homeownership and mixed income developments; and (4) revitalize inner cities. Eligible applicants for the program include municipalities, nonprofit organizations, local housing authorities, and for-profit developers.

Eligible uses for the affordable housing funds are:

1. acquisition,
2. rehabilitation,
3. new construction,
4. demolition,
5. homeownership,
6. multi-family rental housing,
7. adaptive re-use of historic structures,
8. special needs housing,
9. redevelopment of vacant properties,
10. infrastructure improvements, and
11. housing for individuals or families with incomes up to 100% of area median income.

PA 06-7—SB 336

Human Services Committee

AN ACT CONCERNING RENTAL ASSISTANCE FOR SUPPORTIVE HOUSING DEVELOPMENTS

SUMMARY: This act allows the Department of Social Services (DSS) commissioner to designate a portion of DSS's Rental Assistance Program (RAP) rental assistance, rather than rental assistance certificates, for tenant- and project-based supportive housing units. Eliminating references to "certificates" from the RAP supportive housing component makes it clear that DSS does not have to use certificates for project-based supportive housing rental assistance under RAP. Tenant-based rental assistance takes the form of certificates that go to individuals who secure private housing; but project-based assistance goes to property owners participating in government-sponsored housing development programs.

EFFECTIVE DATE: Upon passage

BACKGROUND

DSS RAP Program

The state-funded RAP program helps families with incomes up to 50% of the area median income afford private rental housing. People apply through their local public housing authority. Families pay 40% of their monthly income for rent and utilities, but elderly and disabled families pay 30%.

Supportive Housing Projects

PA 05-280 (§§ 32-34) requires the Department of Mental Health and Addiction Services commissioner to provide for up to 500 units of affordable, supportive housing for people with mental illness. These units are the second phase of the Supportive Housing Initiative. The first phase was instituted in 2001 to create 650 units. The initiative is funded through mortgages, tax credits, and grants from the Connecticut Housing Finance Authority and the Department of Economic and Community Development; DSS RAP rent subsidies; and various state grants for support services.

PA 06-56—HB 5194

Human Services Committee

Government Administration and Elections Committee

AN ACT CONCERNING THE ESTABLISHMENT OF AN ACCESSIBILITY ADVISORY BOARD

SUMMARY: This act allows the director of the Office of Protection and Advocacy for Persons with

Disabilities to establish an accessibility advisory board. It requires the advisory board to be comprised of design professionals, people with disabilities, people whose family members have disabilities, and anyone else the director believes would provide valuable insight and input on matters relating to accessibility. The board must meet periodically, at times and places the director designates, to advise him on accessibility matters relating to housing, transportation, government programs and services, and any other matters the director or the board deems advisable.

EFFECTIVE DATE: October 1, 2006

PA 06-114—HB 5534

Human Services Committee

AN ACT CONCERNING THE ISSUANCE OF PHOTO IDENTIFICATION CARDS BY THE DEPARTMENT OF SOCIAL SERVICES

SUMMARY: This act allows, rather than requires, the Department of Social Services (DSS) to issue photo ID cards to people on two welfare programs: the Temporary Family Assistance (TFA) program and the Food Stamp program. Since implementation of electronic benefit transfers in these programs, recipients receive cash benefits through a magnetic swipe debit card at ATMs or use it at grocery stores to buy food. Neither transaction requires a photo ID card.

EFFECTIVE DATE: July 1, 2006

BACKGROUND

TFA

The TFA program is Connecticut's cash assistance component of the federally authorized TANF (Temporary Assistance to Needy Families) program. It is available to low-income families with children who meet certain income and asset limits. TFA generally provides 21 months of cash assistance, with up to two six-month extensions and a maximum 60-month limit on benefits.

Food Stamp Program

The federally funded Food Stamp Program, which the state administers, provides supplemental food assistance to people on welfare and low-income families. To obtain food stamps, people must document their income, assets, expenses, and family situation. The amount they receive depends on their situation.

PA 06-124—sSB 143*Human Services Committee**Government Administration and Elections Committee***AN ACT CONCERNING THE BOARD OF EDUCATION AND SERVICES FOR THE BLIND**

SUMMARY: Beginning January 4, 2007, this act increases the membership of the governing board of the Board of Education and Services for the Blind (BESB) from seven to 13. It specifies that the board serves as the state's central policy-making authority in providing services to the blind and visually impaired and enumerates specific monitoring responsibilities. The terms of all members serving on the board on the date the act passes expire on January 3, 2007.

Previously, the governor appointed six of the board members. (The Department of Social Services (DSS) commissioner served as an ex-officio member.) Under the act, the governor continues to appoint six members, and the top six legislative leaders each appoint one member. The DSS commissioner remains an ex-officio member. (BESB is in DSS for administrative purposes only.)

The act sets board members' terms, which are staggered. Prior law was silent on member terms. The act continues the law's provisions concerning who chairs the board, whom the members must represent, when it should meet, and grounds for member removal. It requires the appointing authority to fill any vacancy for the unexpired portion of the previous member's term.

EFFECTIVE DATE: Upon passage

BESB BOARD*Responsibilities*

The act requires appointed board members to monitor BESB's activities in carrying out its mission to provide educational and rehabilitative services to state residents who are legally blind or visually impaired. They must also monitor BESB's compliance with the benchmarks established by the BESB monitoring council, which had a legislative sunset of January 1, 2006, and recommend adjustments to them, when deemed necessary.

The act requires the members to report to the governor, the Office of Policy and Management, and the Human Services and Education committees by January 1, 2008 and annually thereafter, on the agency's compliance with the benchmarks and how it is fulfilling its mission.

Terms

Under the act and starting in 2007, three of the governor's appointees serve four-year terms, and the other three, two-year terms. The Senate appointees serve four-year terms, and the House appointees serve for two years. After these initial appointments, all members are appointed for four-year terms, which begin on January 4 of the appointment year.

BACKGROUND*BESB Monitoring Council*

PA 03-217 established the BESB monitoring council. The 16-member council consisted of legislators, state agency personnel, and public members, including adults with blindness. The law required the council to establish benchmarks concerning BESB's management, operations, and services and report on the agency's progress meeting those benchmarks. The council had to recommend changes in BESB's organizational structure. PA 04-90 added two members to the council and extended its sunset date to July 1, 2005. PA 05-5 extended the sunset to January 1, 2006, when it issued its final report.

Benchmarks

The monitoring council's final report included 21 benchmarks. Some of these are listed below and require BESB to:

1. continually comply with the Program Review and Investigation Committee's report on vending operations;
2. starting in FY 07, apply at least 35% of the Business Enterprise (BEP)/vending program income to the direct benefit of BEP ventures, facility improvements, maintenance, expansion, and better incomes for operators;.
3. reduce the average point value of children's services caseloads by at least 10% a year until achieving and maintaining 25 points;
4. offer at least two parent-education events annually;
5. increase the number of "Eye Opener" programs from one to three by 2005; and
6. authorize low vision aides within two weeks of a request.

PA 06-170—HB 5639

Human Services Committee

General Law Committee

Public Health Committee

Government Administration and Elections Committee

Legislative Management Committee

AN ACT CONCERNING THE ESTABLISHMENT OF A COUNCIL TO ADVISE THE COMMISSIONER OF SOCIAL SERVICES ON MATTERS RELATING TO THE IMPLEMENTATION AND OPERATION OF THE MEDICARE PART D PROGRAM

SUMMARY: This act creates a 22-member council to advise the Department of Social Services (DSS) commissioner on matters relating to the administration and implementation of the federal Medicare Part D program, which began January 1, 2006 and helps Medicare beneficiaries pay for their prescription drugs. The council (1) must make legislative recommendations to the General Assembly about Medicare Part D administration by DSS; (2) may make federal legislative recommendations about Part D to members of the state's congressional delegation; and (3) must report annually to the Human Services, Public Health, and Aging committees, beginning January 15, 2007.

EFFECTIVE DATE: Upon passage

MEDICARE PART D COUNCIL DUTIES

The council must advise the commissioner on matters such as Part D's effect on the state's Connecticut Pharmaceutical Assistance Contract to the Elderly and Disabled (ConnPACE) and Medicaid programs' administration and operation; Medicare-Medicaid full-benefit dually eligible beneficiaries; state pharmacies and pharmacists; physicians and other authorized drug prescribers; and prescription drug coverage, benefits, and costs for program beneficiaries.

The council must also advise on administration of the state's Medicare Part D Supplemental Needs Fund. By law, DSS must use available fund money to provide financial assistance to Part D beneficiaries enrolled in ConnPACE or full-benefit dual eligibles who cannot pay for their "nonformulary" drugs (Part D covered drugs that are not on their particular plan's formulary).

COUNCIL MEMBERSHIP, MEETINGS, AND REPORTING DUTIES

The act requires the council to consist of:

1. two licensed pharmacists employed at pharmacies in urban areas of the state, appointed by the House speaker;

2. two licensed pharmacists employed at pharmacies in rural areas of the state, appointed by the Senate president pro tempore;
3. one licensed physician, appointed by the House majority leader;
4. one licensed psychiatrist, appointed by the Senate majority leader;
5. one consumer representative, appointed by the House minority leader;
6. one attorney with expertise in Medicare advocacy, appointed by the Senate minority leader;
7. the DSS and Department of Public Health commissioners, or their designees; and
8. the chairmen and ranking members of the Human Services, Public Health, and Aging committees.

All council appointments must be made within 30 days after the act's effective date. The appointing authority must fill any subsequent vacancies. The House speaker and Senate president pro tempore must choose the council chairmen from among its members. The chairmen must schedule the council's first meeting for no later than 60 days after the act's effective date. After that, the council must meet quarterly, or more often at the call of the chairmen or a majority of its members.

The act requires the Legislative Management Committee to provide administrative support to the council.

BACKGROUND

Related Act

PA 06-188 § 13 requires DSS to pay certain claims for "nonformulary" prescription drugs for Medicare Part D beneficiaries if (1) they are also Medicaid or ConnPACE recipients and (2) their Part D plan denies coverage because the drug is not on its formulary. DSS's initial payment must be for a 30-day supply, subject to any applicable copayment. Pending an appeals process outcome, DSS must continue to pay claims for the denied drug until the earlier of when the plan approves the drug or the end of the calendar year. If DSS finds it is not cost-effective to pursue further appeals, it must pay for the denied drug for the rest of the calendar year if the beneficiary remains enrolled in the same plan. Payments are to be made out of the Medicare Part D Supplemental Needs Fund.

The act also requires (1) ConnPACE and Medicaid beneficiaries to appoint the DSS commissioner as their representative for appealing Part D denials and for certain other purposes and (2) the commissioner to contract with an entity specializing in Medicare appeals and reconsiderations so it can exhaust remedies for

pursuing payment from Part D plans for denied nonformulary drugs. Reimbursement the entity secures from a Part D plan must be returned to DSS.

2005 Related State Law

2005 Connecticut legislation required ConnPACE participants and Medicare-Medicaid dually eligible people to enroll in a Medicare Part D plan, gave them an opportunity to consult with the DSS commissioner's representatives as to which plan is best for them, and required automatic enrollment for those who did not enroll themselves. It filled in some of the federal gaps for these two groups and coordinated their benefits with the Part D program (PA 05-280; PA 05-2, November 2 Special Session, and PA 05-3, November 2 Special Session).

PA 06-182—sHB 5532

Human Services Committee

Appropriations Committee

Legislative Management Committee

Government Administration and Elections Committee

AN ACT CONCERNING YOUTH POLICY AND THE KINSHIP NAVIGATOR PROGRAM

SUMMARY: This act requires the director of the Office of Workforce Competitiveness (OWC), in consultation with the Connecticut Employment and Training Commission, to convene a 17-member youth futures committee by July 1, 2006. The committee must develop service delivery guidelines, improve communication among agencies, assess existing resources to maximize community youth services, and collaborate with partnerships to facilitate positive youth outcomes. By January 1, 2008, the OWC director must issue a progress report.

The act also requires the Department of Children and Families (DCF), in consultation with the departments of Social Services (DSS), Mental Health and Addiction Services (DMHAS), and Mental Retardation (DMR) to establish, within available appropriations, a kinship navigator program to help relative caregivers find services and become foster parents. By January 1, 2008 and annually thereafter, the act requires the DCF commissioner to report to the Human Services Committee on the new program.

EFFECTIVE DATE: Upon passage for the youth futures committee and October 1, 2006 for the kinship navigator program.

YOUTH FUTURES COMMITTEE

Composition

The youth futures committee consists of six legislators, one each appointed by the top House and Senate leaders. It also includes the following state officials or their designees:

1. the commissioners of education, DCF, public health, DSS, DMHAS, and labor;
2. the secretary of the Office of Policy and Management (OPM);
3. the OWC director;
4. the executive director of the Commission on Children; and
5. the executive director of the Court Support Services Division.

The committee also includes a representative of the Connecticut Youth Services Association chosen by its president.

Committee Duties

The act directs the committee to (1) develop guidelines for delivering services to youth that incorporate best practices based on positive outcomes that the act enumerates; (2) improve communication among state agencies that administer youth programs; (3) assess existing resources, networks, and returns on investments to maximize the development of community-level services that help achieve the state's youth policy goals and objectives; and (4) collaborate with public and private partnerships to facilitate positive outcomes.

The outcomes must include, at a minimum:

1. improved school attendance, academic and technical proficiencies, and high school diploma and equivalency completion rates;
2. increases in the percentage of youth enrolling in and completing postsecondary education and training programs;
3. skill-building employment programs;
4. full employment for youth not enrolled in school;
5. stable and safe housing;
6. access to quality mental and physical health providers; and
7. opportunities to be engaged in public service and to develop leadership and mentoring skills.

Reporting Requirements

By January 1, 2008, the OWC director must report to the legislature on the progress made in achieving the outcomes, including the progress each municipality has made in achieving them, total state expenditures

dedicated to achieving them, and state programs that serve youth who are not in school.

KINSHIP NAVIGATOR PROGRAM

Under prior law, DCF had to establish a kinship foster care program to inform relative caregivers how they could become foster parents if DCF believed it was in a child's best interest. Under the act, the new navigator program must ensure that DCF informs the caregivers. And it must ensure that grandparents and other relative caregivers get information on the array of state services and benefits for which they may qualify, including the subsidized guardianship program. The DCF commissioner must ensure, within available appropriations, that the information is available through the 2-1-1 Infoline.

PA 06-188—SB 703

Emergency Certification

AN ACT CONCERNING SOCIAL SERVICES AND PUBLIC HEALTH BUDGET IMPLEMENTATION PROVISIONS

SUMMARY: This act provides statutory language to implement the human services and public health provisions in the FY 07 budget. These provisions affect the departments of Social Services (DSS), Public Health (DPH), Children and Families (DCF), Mental Health and Addiction Services (DMHAS), and Mental Retardation (DMR). Some of its major provisions include (1) removing the upper age limit in the Personal Care Assistance (PCA) Medicaid waiver and Medicaid for Employed Disabled programs, (2) requiring DSS to pay for nonformulary prescription drugs provided to Connecticut Pharmaceutical Assistance Contract to the Elderly and Disabled (ConnPACE) recipients and individuals who are "dually eligible" for Medicare and Medicaid when their Medicare Part D plans deny payment, (3) increasing the maximum amount of money DSS pays for burials of public assistance recipients and other indigent people, (4) permitting DSS to establish a medical home pilot program for children enrolled in HUSKY A and requiring the department to pay for home health care provided to children outside their homes, and (5) requiring DMR to establish a pilot program to provide services for up to 50 people with autism spectrum disorder.

EFFECTIVE DATE: July 1, 2006, unless otherwise noted below.

LONG-TERM CARE INSTITUTION REIMBURSEMENT RATES (NURSING HOMES, ICF-MR, AND RESIDENTIAL CARE HOMES (§§ 1- 5)

For FY 07, the act (1) increases reimbursement rates for nursing homes by 3% over FY 06, (2) leaves existing reimbursement rates in effect through September 30, 2006 for intermediate care facilities for the mentally retarded (ICF-MRs) and then caps the increase at 3% for the rest of FY 07, and (3) leaves existing reimbursement rates in effect through September 30, 2006 for residential care homes and then caps the increase at 4% for the rest of FY 07. For all three types of facilities, the act makes an exception to the increases for facilities that have interim rates. If they would have received a lower rate on the increase's effective date because of their interim rate status, they will receive that lower rate.

The act requires the DSS commissioner, when considering an interim rate increase request from a nursing home, to consider the facility's ability to meet wage and benefit costs, in addition to existing mandatory factors. It eliminates the prohibition against considering the facility's immediate profitability. It also eliminates an existing prohibition on the commissioner's granting an interim rate increase on or after July 1, 2005.

In cases where a nursing home is in receivership and the reimbursement rate in effect for the facility at the time the receivership is imposed is greater than the median rate for the facility's peer grouping, the act allows the Office of Policy and Management (OPM) secretary, after review of area nursing home bed availability and other pertinent factors, to authorize the DSS commissioner to set an increased interim rate. The law contains two geographic peer groupings of nursing homes for each level of care (chronic and convalescent care homes, which provide skilled nursing care, and rest homes with nursing supervision, which provide intermediate care) for the purpose of determining rates and allowable costs. One peer grouping is for Fairfield County and the other is for the rest of Connecticut.

NURSING HOME PROVIDER USER FEE (§§ 6-7)

The act requires DSS to set the nursing home provider user fee by July 1 every other year instead of annually. The initial assessment, which was approximately \$16 per bed, per day, was set in 2005. Under the act, the fees will be set again by July 1, 2007. Most nursing homes must pay the assessment, which is collected quarterly and is roughly 6% of their gross revenues.

The act requires the DSS commissioner, by July 1, 2007, to report to the Appropriations and Human Services committees on the detrimental effect, if any, a biennial fee adjustment has on nursing home residents who are “private payors.”

EXPANSION OF UNDER-65 MEDICAID PCA WAIVER FOR THE DISABLED (§ 8)

The act removes the upper age limit on the state’s Medicaid personal care assistance (PCA) waiver, which previously covered eligible disabled people age 18 through 64. Under the act, with federal approval, the waiver covers disabled people age 18 or older. Previously, people who “aged out” of the Medicaid PCA waiver when they turned 65 had no way to continue their PCA services except to apply for the purely state-funded pilot elderly PCA program for people age 65 and older.

PCA services are a “consumer-directed” alternative to nursing homes or home care through an agency in which the client chooses his own assistant to help him with personal care and activities of daily living. The client employs, trains, supervises, and may fire the attendant, but a financial intermediary takes care of the paperwork.

The age change also applies to working disabled people receiving PCA services because they are participating in the Medicaid for Employed Disabled (MED) “buy in” program (see § 27 below).

EXPANSION OF STATE-FUNDED ELDERLY PCA PILOT (§ 9)

The act increases from 150 to 250 the maximum number of participants in a state-funded “consumer-directed” PCA pilot program that allows seniors to hire their own PCA attendant instead of going through a home health care agency. To be eligible, people must be age 65 or over and meet the same functional and financial qualifications as are required under the Connecticut Home Care Program for Elders, which provides home health care and homemaker-companion services through home health care agencies.

STATE EXCESS COST GRANTS FOR SPECIAL EDUCATION (§ 10)

Starting on July 1, 2006, the act prohibits the state from deducting the Medicaid reimbursement school districts receive from DSS when determining the amount of excess cost grants it provides LEAs for children (1) receiving special education and (2) living in foster homes, group homes, hospitals, state institutions, receiving homes, custodial institutions, or other residential or day treatment facilities or residing on state-owned or leased property or in permanent family

residences. Previously, the state had to deduct these payments from these grants.

Under the School Based Child Health (SBCH) program, towns bill DSS for any Medicaid-covered services that, by law, they must provide to children requiring special education. DSS bills the federal government for 100% of what the towns spend, keeps one half of the federal reimbursement (which is 50%), and passes the other half to the towns.

ERECTILE DYSFUNCTION DRUGS UNDER CONNPACE (§ 11)

The act prohibits the ConnPACE program from paying for drugs for erectile dysfunction (ED) treatment unless the drug is prescribed to treat a condition other than sexual or erectile dysfunction, for which the Food and Drug Administration has approved it. The law already prohibits ConnPACE from paying for drugs to treat ED for people convicted of a sexual offense who are required to register with the Department of Public Safety’s sexual offender registry.

REIMBURSEMENT TO PHARMACIES SERVING LONG-TERM CARE FACILITIES FOR UNIT DOSE PACKAGING (§ 12)

The act allows the DSS commissioner to reimburse pharmacies and pharmacists for prescription drug costs in unit dose packaging, including blister packs and other special packaging, for clients residing in nursing facilities, chronic disease hospitals, and ICF-MRs.

DSS PAYMENT FOR DENIED MEDICARE PART D PLAN NONFORMULARY DRUGS AND CONTRACT WITH ENTITY TO UNDERTAKE APPEALS (§ 13)

The federal Medicare Part D program, which began January 1, 2006, helps Medicare beneficiaries pay for certain prescription drugs. State law coordinates benefits under ConnPACE and for full benefit Medicare-Medicaid dually eligible people with the federal benefits. A state Medicare Part D Supplemental Needs Fund helps ConnPACE and dually eligible beneficiaries pay for medically necessary “nonformulary” drugs (those that a Medicare Part D plan will generally not pay for because they are not on a particular plan’s formulary).

The act requires DSS to pay claims out of the fund for prescription drugs for Part D beneficiaries if (1) they are also Medicare-Medicaid dually eligible or ConnPACE recipients and (2) the Part D plan they are enrolled in denies them coverage for a nonformulary drug. It requires DSS to initially pay for a 30-day supply, subject to any applicable copayment (up to \$16.25 for ConnPACE recipients and nothing for the

dually eligible) and to continue the payments while a federal appeal is pending, in some situations, until the plan approves the drug or the end of the calendar year. These beneficiaries must appoint the DSS commissioner as their representative for appealing Part D denials and for any other purposes (1) allowed by the federal law and (2) the commissioner deems necessary.

The act also requires the DSS commissioner, by July 1, 2006 and regardless of any other statutory provision, to contract with an entity specializing in Medicare appeals and reconsideration so it can exhaust remedies for pursuing payment from Part D plans for denied nonformulary drugs. The entity must seek remedies available through reconsideration by an Independent Review Entity, review by an administrative law judge, the Medicare Appeals Council, or federal district court. Reimbursement the entity secures from a Part D plan must be returned to DSS.

The act requires the entity contracting with DSS to submit appeals beyond the Independent Review Entity only on authorization from DSS. If DSS determines that it is not cost-effective to pursue further appeals, the act requires it to pay for the denied nonformulary drug for the remainder of the calendar year if the beneficiary remains enrolled in the plan that denied coverage. Pending the appeal outcome, DSS must continue to pay claims for the denied nonformulary drug until the earlier of when the plan approves the drug or the remainder of the calendar year.

State laws enacted in 2005 coordinated benefits for full-benefit Medicare-Medicaid dually eligible people and ConnPACE participants with the federal Medicare Part D program. It required them to enroll in a Medicare Part D plan, gave them an opportunity to consult with the DSS commissioner's representatives as to the best plan for them, required automatic enrollment for those who did not enroll themselves, and filled in some of the federal gaps for these two groups. It (1) required DSS to pay the federal copays for the full benefit Medicare-Medicaid dually eligible, (2) ensured that ConnPACE participants would not pay more than the usual \$16.25 copay per prescription, and (3) established the Medicare Part D Supplemental Needs Fund to help Part D beneficiaries who are also ConnPACE participants or dually eligible and cannot pay for medically necessary nonformulary drugs. It prescribed the general conditions under which these beneficiaries are eligible for this help and authorized DSS to set conditions and procedures for this assistance. (PA 05-280; PA 05-2, November 2 Special Session, and PA 05-3, November 2 Special Session).

A related act, PA 06-170, creates a council to advise the DSS commissioner on matters relating to administration of Medicare Part D, including such things as its effect on the ConnPACE and Medicaid programs' administration and operation.

DRUG ASSISTANCE FOR PEOPLE WITH HIV OR AIDS; REPEAL OF INSURANCE ASSISTANCE (§§ 14 & 55)

Under prior law, DSS, within available appropriations, could help people purchase drugs that prevent or treat HIV or AIDS. The DSS commissioner determined the drugs to be covered and could implement a pharmacy lock-in for participants. The act (1) requires her to do these things in consultation with the DPH commissioner and (2) eliminates the requirement that the drugs prevent HIV or AIDS.

Previously, the DSS commissioner, within available federal resources, had to purchase new, or maintain existing, insurance policies for participants that covered treatments, related services, and access to comprehensive primary care services. Under the act, she is permitted only to maintain policies and only if she receives federal approval to do so.

The act repeals DSS' Insurance Assistance Program for People with AIDS (CGS § 17b-255). Under this program, DSS paid the insurance premiums for people with AIDS-related disease who, without the assistance, would be unable to obtain health insurance through an employer. The income limit for this program was 200% of the federal poverty level (FPL) and assets could be no higher than \$10,000. The participant had to have insurance that could be continued even when his, his spouse's, or his parent's employment ceased. But people who previously received assistance under the insurance assistance program continue to receive assistance under the act until that coverage expires, provided they continue to be eligible for it. By March 1, 2007 and each year thereafter, the DSS commissioner must report to the Human Services, Public Health, and Appropriations committees on the availability of funds for the drug assistance and remaining insurance programs.

The act requires program applicants and recipients, if eligible, to enroll in the Medicare Part D program. The DSS commissioner can be the authorized representative of these individuals for purposes of Medicare Part D enrollment or submitting an application to the Social Security Administration to obtain the low-income subsidy the Part D law provides.

Program applicants and recipients must have the opportunity to select a Part D plan and the DSS commissioner must notify them of this. Before choosing a plan, they must have the opportunity to consult with the commissioner or her agent so they can choose the plan that best meets their needs. If they do not choose a plan within a time the commissioner determines is reasonable, the commissioner must enroll them.

The applicants and recipients must appoint the commissioner as their representative for appealing Part D denials and for any other purpose (1) allowed under

the federal Part D law and (2) the commissioner deems necessary.

The act permits the DSS commissioner to pay any Part D premiums and coinsurance for these individuals.

EFFECTIVE DATE: Upon passage

PRIOR AUTHORIZATION FOR HOME HEALTH CARE (§ 15)

By law, the DSS commissioner must establish prior authorization (PA) procedures in the Medicaid program for home health care. Prior law specified that (1) PA was required for more than two skilled nursing visits per week and (2) providers could not be required to submit PA requests more than once a month unless the PA was revised during that month.

The act adds PA for home health aide visits that exceed 14 hours per week. (DSS regulations allow up to 20 hours of home health aide services per week without PA.) And it allows providers to submit PA requests no more than once a month, but only if they are for the same client.

RESTORATION OF SELF DECLARATION IN HUSKY A AND B (§ 16)

The act requires DSS, or its “servicer,” to the extent permitted by federal law, to rely on information that HUSKY A and B applicants put on their applications about their family income unless they have reason to believe that the information is inaccurate or incomplete. DSS must annually review a random sample of cases to confirm that it is not giving HUSKY benefits to people who are ineligible. (DSS currently maintains a contract with ACS, Inc. to process HUSKY applications and help applicants choose managed care organizations.)

DSS INDIGENT FUNERAL AND BURIAL ALLOWANCE (§§ 17-19)

The act increases, from \$1,200 to \$1,800, the maximum amount DSS will pay toward funeral and burial expenses for people who are indigent or on welfare and do not have enough money to pay for their burial. The act specifically adds the State-Administered General Assistance (SAGA) program to the list of welfare programs covered. The others are the State Supplement and the Temporary Family Assistance (TFA) program.

When people who are on welfare or otherwise indigent die without enough money in their estates to pay for burial, DSS previously paid up to \$1,200 to cover burial expenses. Under the law, this maximum amount is reduced by the amount the individual has in any revocable or irrevocable funeral fund, a prepaid funeral contract, or the face value of the person’s life insurance. For welfare recipients who have some money

in their estates, the law allows an amount out of the estate of up to the maximum DSS would pay to be used for burial expenses before the state claims remaining assets owed it. The law also allows other people to make voluntary contributions to the funeral and burial costs up to \$2,800 without diminishing the state’s obligation to pay. If people are only enrolled in Medicaid and not cash assistance, but do not have enough money for a funeral, the state pays up to the maximum using SAGA program funds.

FUNDING FOR NEWBORN SCREENING (§ 20)

The act increases, from \$345,000 to \$500,000, the amount earmarked for the Newborn Screening Account in the General Fund. By law, DPH can use funds from this account to pay for its testing expenses. DPH sets a fee that it charges institutions for comprehensive testing, parent counseling, and treatment, which can be no less than \$28.

STATE PAYMENTS TO HOSPITALS (§ 21)

Starting July 1, 2006, the act requires the DSS commissioner, within available appropriations, to increase the Medicaid fees it pays for hospital outpatient services, which can include clinics, emergency room, magnetic resonance imaging, and computerized axial tomography.

The act also changes the minimum amount DSS pays hospitals for inpatient services they provide to Medicaid recipients. Under prior law, any hospital with a target amount per discharge of less than \$4,000 would have had its target amount set at \$4,000, beginning October 1, 2006. This floor would have risen to \$4,250 on October 1, 2007. Under the act, and subject to available appropriations, the DSS commissioner instead (1) must establish a target amount of at least \$4,000 for hospitals with lower target amounts for the rate period ending September 30, 2006 and (2) can adjust the target amounts for those hospitals whose target rates do not increase as a result of the floor. As a corollary, the act moves up the expiration date of a moratorium on annual adjustments for inpatient services from March 31, 2008 to September 30, 2006.

By October 1, 2006, the DSS commissioner must submit a report to the Public Health, Human Services, and Appropriations committees identifying increased outpatient fees and target amounts and their impact on DSS’ budget.

IMPACT OF USING AVERAGE MANUFACTURER PRICE (AMP) ON MEDICAID DRUG COSTS (§ 22)

The act requires DSS, in consultation with the Connecticut Pharmacists Association, to review the impact of implementing the AMP reimbursement

methodology, which it must do by January 1, 2007, as required by the federal Deficit Reduction Act (DRA) of 2005 (PL 109-171). The review must include, at a minimum, (1) the financial impact of the required change on pharmacy reimbursement for the Medicaid fee-for-service program and (2) recommendations for potential changes in the dispensing fee for generic and brand name drugs. (PA 06-196 requires DSS to also consult with the Connecticut Association of Community Pharmacies.)

Based on the study's outcome, starting April 1, 2007, but only for FY 07, DSS may, after OPM gives its approval, adjust the dispensing fee it pays pharmacists under all of its drug assistance programs (i.e., Medicaid, ConnPACE, and AIDS drug assistance).

The act authorizes DSS, with OPM approval, to increase the dispensing fee to pharmacies participating in these drug assistance programs and SAGA to indemnify and hold harmless those pharmacies that experience financial hardship as a result of the AMP changes.

The DRA requires the federal Medicaid agency to use the AMP as the basis for calculating the federal upper limit for generic drugs under Medicaid. Typically, most states, including Connecticut, reimburse pharmacies at a discount off the drug's average wholesale price. This change is expected to reduce Medicaid revenues to pharmacies by reducing their payments for ingredient costs.

For each prescription filled under the Medicaid program, DSS pays the average wholesale price, minus 14% plus a \$3.15 dispensing fee.

CHILDREN'S TRUST FUND COUNCIL (§ 23)

The act requires the Children's Trust Fund Council and DCF to enter into an agreement whereby DCF transfers \$614,110 to the council from its FY 07 budget.

USE OF MEDICAID FUNDS TO PAY DENTAL LAWSUIT SETTLEMENT (§ 24)

The act authorizes DSS, with General Assembly approval, to use part of its Medicaid FY 07 appropriation to pay for any settlement agreement in the *Mary Carr et al. v. Patricia Wilson-Coker* lawsuit. DSS must report to the Appropriations, Human Services, and Public Health committees within six months of the settlement date on a plan to achieve compliance. By law, any lawsuit settlement resulting in more than \$2.5 million in General Fund expenditures must receive General Assembly approval.

In 2000, legal aid lawyers sued DSS, alleging that its failure to comply with the Medicaid law resulted in a critical shortage of dental providers willing or able to serve children and adults receiving Medicaid. In January

2006, the court granted DSS summary judgment on some of the counts on limited legal and technical grounds. It denied other counts concerning the Medicaid law's Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program.

EXTENDED DEADLINE FOR EMPLOYEES LOANED TO COURT MONITOR (§ 25)

The act extends, from December 31, 2006 until December 31, 2007, the time during which executive branch employees may be loaned to the Office of the Court Monitor to help DCF meet the requirements of the *Juan F.* exit plan. The exit plan establishes performance and outcome measures concerning the department's handling of abuse and neglect cases. If these measures are met, the plan terminates in November 2006. The act permits the loaned employees to continue to work towards achieving the exit plan's requirements for another year.

SCHOOL-BASED CHILD HEALTH (SBCH) PROGRAM (§ 26)

The act makes a few changes to the SBCH program. It specifies that durable medical equipment (DME) is one of the "services" that can be recommended for a child enrolled in the program and that this equipment is eligible for Medicaid reimbursement, as are the other services, such as physical therapy. The act also allows the DSS commissioner to require prior authorization (PA) for some of this equipment.

The act permits both its changes and the existing law to be implemented regardless of any other contrary provision of law. Under DSS regulations, the SBCH program pays for DME, but the types of equipment and the PA for it are different from what is done under the regular Medicaid program. For example, regular Medicaid requires that the DME belong to the recipient and be used in the home. In the SBCH program, this equipment is used in schools and can be re-used by other children.

The act also removes the requirement that diagnostic and evaluation services that children receive under the program be specified on their individualized education program (IEP). These two services typically are used to determine whether a child needs an IEP.

MEDICAID FOR EMPLOYED DISABLED (§ 27)

The act permits DSS to expand who is eligible for the Medicaid for Employed Disabled (MED) "buy-in" program. Previously, the law required the MED program to operate under rules set in a 1999 federal law, commonly referred to as "Ticket to Work." This law limits eligibility for the buy-in to adults under age 65.

The act authorizes the MED program to operate under another federal law that created an earlier Medicaid buy-in option for states, which does not have an age limit, but whose income limit is 250% of the FPL, well below the \$75,000 annual income limit for the MED program. A second federal law permits states to have less restrictive eligibility criteria in their Medicaid programs. Thus, the two federal laws allow the state to open MED enrollment to older working individuals, using the same, more liberal financial eligibility criteria.

The MED program is designed to provide affordable health care coverage to working people with severe disabilities.

BEHAVIORAL HEALTH PARTNERSHIP (BHP) OVERSIGHT COUNCIL (§§ 28-29)

The act adds four or more nonvoting, ex-officio members to this council. They are one representative each from the State Department of Education and the Comptroller's Office, appointed by the heads of those agencies; a representative from the Office of Health Care Access; and one or more consumers appointed by the council chairmen.

EFFECTIVE DATE: October 1, 2006

BHP APPEAL PROCEDURES (§ 30)

The act requires DCF and DSS to develop procedures for behavioral health providers to appeal decisions the BHP or the administrative services organization with which it contracts makes. It likewise renames the existing procedures they must develop for consumers as appeals, rather than grievances. It requires these procedures to include those for a consumer or a provider acting on his behalf to appeal a denial or a determination. By law, the procedures must be submitted to the oversight council for review and comment.

EFFECTIVE DATE: October 1, 2006

MENTAL HEALTH PILOT PROGRAMS (§§ 31 & 52)

The act requires the DMHAS commissioner to implement two pilot programs in consultation with the Community Mental Health Strategy Board. One is to improve the ability of pediatric, geriatric, and family medicine general practitioners to identify, diagnose, treat, and refer people with mental illness. The other is a State Police peer counseling program. The commissioner must evaluate these programs and report his recommendations to the Public Health Committee by January 1, 2009.

The act requires \$275,000 of the FY 07 DMHAS appropriation for the Community Mental Health Strategy Board be spent on these programs.

HOME- AND COMMUNITY-BASED MENTAL HEALTH SERVICES (§§ 32 & 53)

The act allows DSS to seek approval of a state Medicaid plan amendment or a Medicaid waiver, whichever is most expeditious, to offer home- and community-based services to adults with severe and persistent psychiatric disabilities who are diverted or discharged from nursing homes. The services can include housing assistance, if needed. DSS must do this in consultation with DMHAS and the Community Mental Health Strategy Board.

The DSS commissioner, in consultation with the DMHAS commissioner, must annually report to the Public Health Committee on the status of the waiver or plan amendment and the program's implementation. The first report is due by January 1, 2007.

The act requires spending up to \$1,725,000 of DMHAS' FY 07 appropriation for the Community Mental Health Strategy Board to implement this program.

EFFECTIVE DATE: Upon passage, except the funding provision is effective July 1, 2006.

UTILIZATION REVIEW INFORMATION (§ 33)

Health insurers use utilization review companies to determine the medical necessity for treatments physicians order and the appropriate level of care needed. The act adds mental health-related information to the information these companies must file annually with the insurance commissioner. It requires them to report (1) the reason for utilization review requests, including, at a minimum, inpatient admissions, services, procedures, and extensions of inpatient or outpatient treatment; (2) the number of requests denied by type; and (3) whether a request was fully or partially denied. They must report this information separately and by category for enrollees in fully insured health benefit plans and self-insured or self-funded employee health benefit plans.

EFFECTIVE DATE: October 1, 2006

MANAGED CARE MENTAL HEALTH REPORT CARDS (§ 34)

The law requires the insurance commissioner, in consultation with the public health commissioner, to develop and annually distribute a report card on managed care organizations for consumers. The act requires the report card to contain information or measures about the percentage of enrollees who receive mental health services, the use of mental health and

chemical dependency services, inpatient and outpatient admissions, discharge rates, and average lengths of stay. The data collection must be consistent with Health Plan Employer Data and Information Set measures.

EFFECTIVE DATE: October 1, 2006

NOTICE OF BENEFITS (§ 35)

The act requires the insurance commissioner to notify each insurance company, HMO, and other entity that provides individual or group health insurance plans of any benefits the law requires them to provide or any modifications in those benefits that occur on or after October 1, 2006. She must notify them in writing at least 30 days before the benefit or modification takes effect. She must also notify them in writing, before any benefit or modification takes effect or a plan is renewed, of necessary policy forms reflecting those benefits or modifications.

EFFECTIVE DATE: October 1, 2006

USES FOR COMMUNITY MENTAL HEALTH STRATEGY BOARD FUNDS (§ 36)

The act permits DMHAS to use its FY 07 appropriations for the Community Mental Health Strategy Board to reach certain goals if the board recommends this and the OPM secretary approves. It can use the money for programs and services that both maximize federal Medicaid reimbursement for community-based care and reduce inappropriate emergency hospitalization, inpatient psychiatric care, nursing home admissions, incarceration or referral to juvenile justice, and other institutionalization of adults and children with serious mental illness. These services and programs can include (1) housing services for people receiving home- and community-based services through the Medicaid-funded program the act directs DSS to establish (see § 32) and (2) day care and providers' and educators' consultations with mental health professionals.

AUTISM SPECTRUM DISORDER PILOT PROGRAM (§ 37)

The act requires the DMR commissioner to establish a pilot program to provide coordinated support and services, including case management, to people with autism spectrum disorders who do not also have mental retardation. The program must serve up to 50 people who are not eligible for DMR services (i.e., people whose IQs are above 70).

The pilot program must begin by October 1, 2006 and end by October 1, 2008. When establishing the program, the DMR commissioner must consult with the DSS and DMHAS commissioners and any other commissioner he believes appropriate. He must

establish eligibility requirements for program participation, identify appropriate services and supports for each participant and his or her family, and coordinate the provision of those services and supports. He may designate someone to perform the identification and coordination components.

The commissioner must report to the Public Health Committee on the pilot program's results by January 1, 2009. The report must contain recommendations about a system to address this population's needs, including (1) creating an independent council to advise DMR on system design, implementation, and quality enhancement; (2) establishing procedural safeguards; and (3) designing and implementing a quality enhancement and improvement process and an interagency data and information management system.

LONG-TERM CARE COMPREHENSIVE NEEDS ASSESSMENT (§ 38)

The act transfers the existing duty to conduct a comprehensive needs assessment of unmet long-term care (LTC) needs and project future demand for such services from OPM to the General Assembly. It requires the General Assembly to contract for the assessment, rather than conduct it, and to do so after consulting with the Commission on Aging, the Long-Term Care Advisory Council, and the Long-Term Care Planning Committee.

The act requires the comprehensive needs assessment to include:

1. the number of people presently at risk for having unmet LTC needs and potentially at risk over the next 30 years;
2. projected costs and public and private resources available to meet the LTC needs, including adequacy of current resources and projected resources needed to address these needs over the next 30 years;
3. services now available to people with LTC needs;
4. existing and potential future models of public and private LTC service delivery systems;
5. state government's programmatic structure to meet people's LTC needs;
6. strategies that may help families provide for their own LTC needs at reasonable cost;
7. the service needs of the state's elderly population with LTC needs with emphasis on health care, housing, transportation, nutrition, employment, prevention, and recreation services; and
8. recommendations on qualitative and quantitative changes that should be made to existing programs or service delivery systems, including recommendations on new programs

or service delivery systems to better serve persons with LTC needs.

The act removes a requirement that the assessment specifically include a review of the DMR's waiting list.

CONNECTICUT LOTTERY CORPORATION FUND TRANSFERS (§ 39)

Beginning in FY 07, the act increases the amount that the Connecticut Lottery Corporation must transfer annually to the Chronic Gamblers Treatment and Rehabilitation Account by \$300,000 per year, from \$1.2 million to \$1.5 million. The account partially funds the DMHAS' compulsive gambling treatment program. The balance of the funding comes from a fee imposed on dog racing, jai alai, and teletheater licensees. The program provides prevention, treatment, and rehabilitation services for chronic gamblers.

GRANTS FOR COMMUNITY-BASED REGIONAL TRANSPORTATION SYSTEMS FOR THE ELDERLY (§§ 40-41)

The act increases the maximum grant amount for the four towns DSS selects to provide community-based regional transportation for the elderly from a one-time \$25,000 each in FY 06 to \$50,000 each during the two-year period covering FY 06 and FY 07. It also carries forward to FY 07 the unspent balance of DSS' FY 06 appropriation for these grants.

The grants must be used to develop and plan financially self-sustaining, community-based regional transportation systems that, through a combination of private donations and user fees, provide transportation to elderly people. Before receiving the grant, a selected municipality must demonstrate to the DSS commissioner's satisfaction that it has secured at least \$25,000 in matching private funds. The recipient town must work cooperatively with the regional planning agency of which it is a member to develop the system.

A grantee must, to the extent practicable, model its system on the "ITNAmerica" model. ITNAmerica is a national nonprofit organization planning to replicate a model first developed by the Independent Transportation Network (ITN) in Portland, Maine. ITN obtains its operating funds through memberships in the organization; riders' fares; and support from individuals, community businesses, and private foundations. It uses a combination of volunteers and paid drivers to provide unrestricted, on-demand transportation to seniors in passenger automobiles.

EFFECTIVE DATE: Upon passage

FAMILY WITH SERVICE NEEDS ADVISORY BOARD (§ 42)

The act creates the Family with Service Needs (FWSN) Advisory Board. The board is charged with monitoring and advising DCF and the Judicial Department in developing and providing services, including those less restrictive than detention or residential placement, to girls age 15 and under who have committed status offenses (e.g., truants and runaways) and other troubled girls. It must make written recommendations to the legislature and Judicial Department on the status of program development and implementation as of October 1, 2007. The report is due by December 31, 2007, the date on which the board is dissolved.

The members are:

1. the chief court administrator, child advocate, chief child protection attorney, chief state's attorney, top four members of the Judiciary and Human Services committees, and OPM secretary, or their designees;
2. two DCF employees, one each from the juvenile justice and girl's services units, appointed by the commissioner;
3. a juvenile court judge, appointed by the chief justice;
4. a public defender specializing in FWSN cases, appointed by the chief public defender;
5. one member appointed by the governor; and
6. two chairmen, one each appointed by the House speaker and Senate president pro tempore.

All appointments must be made no later than 30 days after the act's passage, and the board chairmen must schedule the first meeting within 60 days of passage. Appointing authorities fill vacancies.

EFFECTIVE DATE: Upon passage

LIABILITY OF ADULTS TO REPAY AID RECEIVED AS A CHILD (§ 43)

Regardless of any law to the contrary, the act exempts any person who as a child or youth received state payments for his care and maintenance, from liability to repay the state for the costs of this care and maintenance if, between June 25, 2005 and May 26, 2006 he becomes entitled to proceeds from a lawsuit or insurance payments based on a minor child's death.

By law, the DCF commissioner may bill and collect from the estate of a child or youth who received DCF services, or the payee of the child's income, the total amount spent on the child's care or the portion that the estate or payee is able to reimburse. The law makes the parents of minor children for whom DCF has provided care and support liable to reimburse the state for the

care to the same extent as are parents of public assistance recipients.

EFFECTIVE DATE: Upon passage

“MONEY FOLLOWS THE PERSON PILOT” (§ 44)

The act allows the DSS commissioner to submit an application to the secretary of the federal Department of Health and Human Services to establish a “Money Follows the Person” demonstration project, as authorized in the federal Deficit Reduction Act of 2005. If the state is selected to participate in the demonstration and DSS elects to participate, the act restricts the project to no more than 100 participants and requires it to be designed to achieve the federal law’s objectives. The act requires the demonstration project’s services to include personal care assistance (PCA) services. It allows the commissioner to apply for a Medicaid Section 1115 research and demonstration waiver or to modify any existing Medicaid home-or community-based waiver, if that is needed to implement the demonstration.

“Money follows the person” is a concept that allows money that would have been spent on people’s long-term care in nursing homes or other institutions to be spent on the services they need to live in the community. The newly authorized “Money Follows the Person Rebalancing Demonstration” allows states to apply for competitive federal grants for demonstrations that have the objectives of (1) increasing the use of home- and community-based, rather than institutional long-term care services; (2) eliminating barriers or mechanisms that prevent or restrict the flexible use of Medicaid funds to enable people to receive the services they need in the setting they choose; (3) providing continuity of services for people moving from an institution to the community; and (4) ensuring and improving service quality.

STATUS REPORTS ON STATE COMPLIANCE WITH TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) CHANGES IN FEDERAL DEFICIT REDUCTION ACT (DRA) OF 2005 (§ 45)

Beginning July 1, 2006, and quarterly thereafter, the act requires the DSS commissioner, in consultation with the commissioner of labor and the OPM secretary, to provide the Human Services and Appropriations committees and the TANF advisory council quarterly status reports on their implementation of programs budgeted for FY 07 that are intended to bring the state into compliance with the TANF provisions in the DRA.

These reports must contain a description of mechanisms in place or being considered by the departments to measure the outcome and effect of program changes needed to comply with the DRA. Any program changes the agencies implement must

emphasize vocational and educational training programs, work experience, and the expansion of employment services and child care. They must be designed to promote participants’ employment in order for the state to meet federal TANF work participation rate requirements.

The TANF provisions in the new federal law require the state to place more people in the Employment Services portion of the state’s welfare-to-work program.

ADDED RESPONSIBILITY AND NEW MEMBERS FOR MEDICAID MANAGED CARE COUNCIL (§ 46)

The act expands the Medicaid Managed Care Council’s scope to include recommendations on the managed care portion of SAGA’s medical assistance. It also adds the Appropriations Committee’s chairmen and ranking members to the council.

The Medicaid Managed Care Council, first established in 1994 to help develop Medicaid managed care, continuously monitors the implementation of the program and advises DSS on its further development. Its members include legislators, Medicaid consumers, advocates, health care providers, insurers, and state agencies.

MEDICAL HOME PILOT PROGRAM (§§ 47-48)

The act permits the DPH commissioner, in consultation with the managed care organizations administering the HUSKY A program, to establish a medical home pilot program in one Connecticut region beginning January 1, 2007 and within any available federal or private funds it permits the commissioner to solicit and accept. The program is to enhance health outcomes for children, including those with special needs, by ensuring that each child has a primary care physician to provide continuous comprehensive health care services.

The DPH commissioner, no later than one year after the pilot program starts, must evaluate it for improved health outcomes and any cost efficiencies. Within 30 days of the evaluation the DPH commissioner must report to the Public Health and Appropriations committees on the evaluation.

EFFECTIVE DATE: Upon passage for establishing the pilot program; October 1, 2006 for the evaluation

EARLY & PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT (§ 49)

The act requires the DSS commissioner to provide people under age 21 and eligible for Medicaid’s EPSDT services, including medical, vision, dental, and hearing services, required under federal law. (PA 06-196

requires the services to include those defined in federal law as of December 31, 2005.)

Under federal EPSDT requirements, state Medicaid programs (HUSKY A in Connecticut) must provide comprehensive health and developmental assessments and vision, dental, and hearing services to children and youth up to age 21.

The medical screen must include a comprehensive physical and mental health and development assessment and history; a comprehensive unclothed medical examination; appropriate immunizations; laboratory tests, including lead blood testing; and health guidance.

Other EPSDT services include eye examinations and eye glasses; teeth restoration and maintenance of dental health; and diagnosis and treatment of hearing problems, including hearing aids.

MEDICAID PAYMENTS FOR HOME HEALTH AIDES IN NON-HOME SETTINGS (§ 50)

The act requires the DSS commissioner to provide Medicaid reimbursement for children's home health care services provided in the child's home or a "substantially equivalent environment." The act specifies that the latter can include, at a minimum, licensed child day care facilities and after-school programs.

COMMUNITY HEALTH SERVICES TRANSFER (§ 51)

The act transfers \$50,000 of DPH's FY 07 budget for community health services to its other expenses account.

DEPARTMENT ON AGING (§ 54)

The act postpones the effective date of the establishment of a Department on Aging by six months, from January 1, 2007 to July 1, 2007.

EFFECTIVE DATE: Upon passage

PA 06-5—sSB 259

Insurance and Real Estate Committee

AN ACT PROHIBITING DISCRIMINATION IN LIFE INSURANCE BASED ON LAWFUL TRAVEL DESTINATIONS

SUMMARY: This act limits a life insurer's ability to underwrite a policy based on a person's past or future travel to a lawful destination. Under the act, an insurer cannot, on the basis of an applicant's or insured's past or future lawful travel destination, (1) deny or refuse to accept a life insurance application; (2) charge different premiums or rates for a life insurance policy; or (3) cancel, restrict, terminate, or not renew a policy. However, the act allows an insurer to deny an application or charge a different premium or rate based on a person's specific lawful travel destination if the action is (1) based on sound actuarial principles or (2) related to actual or reasonably anticipated experience (e.g., the insurer can demonstrate that travel to the specific location poses an increased risk of death).

EFFECTIVE DATE: Upon passage

PA 06-12—SB 616

Insurance and Real Estate Committee

AN ACT REQUIRING THE RETENTION OF CERTAIN RECORDS BY REAL ESTATE BROKERS

SUMMARY: This act requires licensed real estate brokers who engage in the real estate business to retain certain records for at least seven years after the latest of the following: (1) the real estate transaction closes; (2) all funds held in escrow for the transaction are disbursed; or (3) the listing agreement or buyer or tenant representation agreement expires.

The act applies to the following records:

1. all purchase contracts, leases, options, written offers, or counteroffers drafted by or on behalf of the broker;
2. the listing agreement or buyer or tenant representation agreement, any extensions of or amendments to the agreements, and any disclosures, agreements, letters, memorandum, or other writings that satisfy statutory requirements for the broker bringing a lawsuit for acts done or services rendered; and
3. all canceled checks, unused checks, checkbooks, and bank statements for any escrow or trust account the broker maintains in the course of his real estate business.

The broker must retain these records in any format, including electronic, capable of producing an accurate paper copy of the original document.

EFFECTIVE DATE: October 1, 2006

PA 06-38—SB 422

*Insurance and Real Estate Committee
Planning and Development Committee*

AN ACT CONCERNING HEALTH INSURANCE COVERAGE FOR BREAST CANCER SCREENING

SUMMARY: This act changes when health insurance policies must provide coverage for a comprehensive ultrasound screening of a woman's entire breast or breasts. Under prior law, a policy had to provide coverage if a physician recommended the screening for a woman classified as category 2, 3, 4, or 5 on the American College of Radiology's Breast Imaging Reporting and Database System (BI-RADS) mammogram reading scale. The act instead requires coverage if (1) a mammogram shows heterogeneous or dense breast tissue based on BI-RADS or (2) a woman is considered at an increased breast cancer risk because of family history, her own prior breast cancer history, positive genetic testing, or other indications determined by her physician or advanced-practice registered nurse. By law, unchanged by the act, coverage for breast ultrasound screening is subject to any policy provisions applicable to other covered services and is in addition to coverage required for mammograms.

The act applies to individual and group health insurance policies that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; and (4) hospital or medical services, including those provided by HMOs. The act also applies to individual policies that cover (1) accidents only and (2) limited benefits.

EFFECTIVE DATE: October 1, 2006

BACKGROUND

BI-RADS Categories

The American College of Radiology collaborated with the National Cancer Institute, the Centers for Disease Control and Prevention, the American Medical Association, and others to develop BI-RADS, which is used to standardize mammography reporting. There are two BI-RADS scales: (1) one characterizes breast density and (2) the other characterizes a radiologist's reading of what he sees on a mammogram.

Density. The BI-RADs scale shown in Table 1 categorizes breast density.

Table 1

<i>Category</i>	<i>Breast Density</i>
1	Having no areas of tissue that could obscure cancer
2	Having at least one area of tissue that could obscure cancer
3	Having tissue that can obscure cancer in 50% to 75% of the breast
4	Having tissue that can obscure cancer in greater than 75% of the breast

Mammogram Reading. The BI-RADS scale shown in Table 2 categorizes specific findings and recommendations based on what a radiologist sees on a mammogram.

Table 2

<i>Category</i>	<i>Finding and Recommendation</i>
0	Need additional imaging evaluation
1	Negative – continue annual mammogram screening
2	Benign (non-cancerous) – continue with annual mammogram screening
3	Probably benign – six-month follow-up mammogram
4	Suspicious abnormality – biopsy should be considered
5	Highly suggestive of malignancy – appropriate action should be taken (e.g., biopsy)

Mammogram Coverage

By law, health insurance policies must provide coverage for mammograms at least equal to the following: one initial examination for women ages 35 to 39 and one examination every year for women age 40 and older. Coverage is subject to any policy provisions applicable to other covered services.

PA 06-39—sSB 425

*Insurance and Real Estate Committee
Planning and Development Committee*

AN ACT ENSURING PAYMENT FOR HEALTH CARE SERVICES RENDERED TO CONNECTICUT RESIDENTS WITH AN ELEVATED BLOOD ALCOHOL CONTENT

SUMMARY: This act prohibits health insurance policies from denying coverage for health care services rendered to an injured insured person if the injury is

alleged to have occurred or occurs when the person has an elevated blood alcohol content (BAC) level or is under the influence of intoxicating liquor, any drug, or both. The act defines an “elevated BAC” as 0.08% or more. (The act does not define “under the influence” or specify who makes that determination.)

The act applies to individual and group health insurance policies delivered, issued, amended, renewed, or continued on or after October 1, 2006 that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; and (4) hospital or medical services, including HMOs.

EFFECTIVE DATE: October 1, 2006

BACKGROUND

Related Case

“Driving under the influence” means a person’s ability to drive is affected to an appreciable degree (*Infield v. Sullivan*, 151 Conn. 506 (1964)).

PA 06-54—sSB 554

*Insurance and Real Estate Committee
Public Health Committee*

AN ACT MAKING REVISIONS TO THE INSURANCE STATUTES

SUMMARY: This act makes a number of substantive and technical revisions to the insurance statutes. It (1) increases the time the insurance commissioner has to hear and decide contested cases related to denied licenses, rates, or forms; (2) allows an insurer to invest in its affiliates, subject to the same limitations and requirements that apply to investments in subsidiaries; (3) requires a managed care organization (MCO) or health insurer to provide information regarding a self-insured governmental health plan under which an appeal is made within five business days of receiving a request and to notify the plan sponsor that it must send a copy of the policy or contract; and (4) requires a licensed practitioner of the healing arts, instead of the medical arts, to certify a utilization review company’s decision, following an appeal, to not authorize an admission, service, procedure, or extended hospital stay.

EFFECTIVE DATE: October 1, 2006, except for the self-insured governmental health plan provisions which are effective upon passage.

CONTESTED CASE HEARING TIMEFRAMES

Under prior law, the commissioner had to (1) hold a hearing within 20 days of receiving a request from a person or insurer aggrieved by her order or decision and (2) render a decision within 15 days of the hearing. The act increases the timeframes to 30 days in which to hold a hearing and 45 days to issue a decision.

INVESTMENTS IN AFFILIATES

By law, and unchanged by the act, an insurer may invest in one or more of its subsidiaries, subject to certain limitations and requirements. The act allows an insurer to invest in its affiliates, subject to the same limitations and requirements that apply to investments in subsidiaries.

The act allows an insurer to invest in the common stock, preferred stock, debt obligations, or other securities of one or more of its affiliates in an amount up to the lesser of 10% of the insurer's assets or 50% of its surplus if, after the investment, the insurer's surplus is reasonable in relation to its outstanding liabilities and adequate for its financial needs.

Investments in domestic and out-of-state insurance company affiliates are not included when calculating the amount of the investments, but the following items must be:

1. the total amount spent and obligations assumed in the acquisition or formation of an affiliate, including organization expenses and contributions to capital and surplus and
2. all amounts spent in acquiring additional common or preferred stock, debt obligations, and other securities and contributions to the capital and surplus of an affiliate after its acquisition or formation.

Insurers may invest any amount in the common or preferred stock, debt obligations, and other securities of one or more affiliates engaged or exclusively organized to engage in the ownership and management of the insurer's investment, if the affiliate agrees to limit its investments so that they will not cause the insurer's total investments to exceed the specified investment limitations. "Total investment of the insurer" includes (1) any direct investments made by the insurer in assets and (2) the insurer's proportionate share of an investment by an affiliate, which must be calculated by multiplying the amount of the affiliate's investment by the parent insurer's percentage ownership of it.

With the insurance commissioner's approval, an insurer may invest a greater amount in the common or preferred stock, debt obligations, or other securities of one or more affiliates if, after such investment, the insurer's surplus is reasonable in relation to its outstanding liabilities and adequate for its financial

needs.

In determining an insurer's financial condition, its investments in affiliates must be valued using a method (1) approved by the commissioner and (2) consistent with procedures established by the National Association of Insurance Commissioners.

REQUEST FOR INFORMATION FOR APPEAL

By law, and unchanged by the act, an insurer or MCO must provide the insurance commissioner, an enrollee, or a provider with certain appeal-related information within five business days of receiving a request. Failure to do so subjects the insurer or MCO to a fine of \$100 for each day of violation. The information includes written verification that the plan is fully insured, self-insured, or otherwise funded.

If the plan is fully insured, existing law requires the insurer or MCO to also send: (1) written certification to the commissioner or designated review entity that the benefit or service appealed is covered; (2) written certification that the policy or contract is accessible electronically, along with clear and simple instructions on how to access it; or (3) a copy of the entire policy or contract between the enrollee and the MCO. Under the act, the insurer or MCO must also send this information if the plan is a self-insured governmental health plan. With respect to forwarding a copy of the contract, an insurer or MCO must notify the plan sponsor, who must send, or direct the insurer or MCO to send, the copy.

Under the act, the insurer's or MCO's failure to notify the plan sponsor within the five-business-day period or before the 30-day appeal period ends, whichever is later as determined by the commissioner, (1) creates a presumption that the benefit or service is a covered benefit for purposes of accepting the appeal for full review and (2) entitles the commissioner to require the insurer or MCO to reimburse the Insurance Department for appeal-related expenses. The presumption does not create or authorize benefits or services exceeding those in the enrollee's policy or contract. By law, and unchanged by the act, an insurer's or MCO's failure to provide the above information within the specified timeframes also creates the presumption and permits the commissioner to require the insurer or MCO to reimburse the department for appeal-related expenses.

UTILIZATION REVIEW APPEAL DECISION

Prior law required a utilization review company to have a licensed practitioner of the medical arts certify appeal determinations to disapprove an admission, service, procedure, or extended hospital stay. The act instead requires a licensed practitioner of the healing arts to certify the determination. Connecticut statutes

define the practice of “healing arts” as the practice of medicine, chiropractic, podiatry, natureopathy, and optometry.

PA 06-90—HB 5461

*Insurance and Real Estate Committee
Public Health Committee*

AN ACT CONCERNING PREFERRED PROVIDER NETWORKS

SUMMARY: This act excludes from the Connecticut insurance code’s definition of a “preferred provider network” (PPN) private clinical laboratories licensed by the Department of Public Health whose primary payments for contracted or referred services are made to other licensed laboratories or for associated pathology services. By law, the insurance commissioner licenses and regulates PPNs. Consequently, the act excludes such laboratories from PPN requirements. Public Act 06-196 eliminates “private” from the exclusion, thus applying it to all clinical laboratories that meet the criteria specified.)

Existing law also excludes from the PPN definition: (1) managed care organizations, (2) workers’ compensation preferred provider organizations, and (3) independent practice associations and physician hospital associations whose primary function is to contract with insurers and provide services to providers.

EFFECTIVE DATE: Upon passage

BACKGROUND

Preferred Provider Network

A PPN enters into contracts with health care providers who agree to deliver health care services to covered individuals in exchange for payment. The PPN pays health care claims, taking on the financial risk for the delivery of services.

PA 06-104—SB 410

Insurance and Real Estate Committee

AN ACT CONCERNING CLAIMS FOR UNINSURED OR UNDERINSURED MOTORIST BENEFITS AND INSURANCE RATE FILING REQUIREMENTS

SUMMARY: This act:

1. permits insurers, under certain conditions, to file and use new rates for personal lines (e.g., home, auto, marine, umbrella) without the insurance department’s prior approval if the

2. rates increase or decrease by no more than 6%; requires a claimant for uninsured or underinsured motorist benefits (e.g., following a car accident involving an uninsured or insufficiently insured vehicle) to make reasonable efforts to determine what liability coverage exists for the owner and operator of the alleged uninsured or underinsured vehicle; and
3. prohibits an automobile insurer from requiring a claimant, in order to be eligible for a benefit payment, to provide affidavits or written statements from the owner or operator regarding his uninsured or underinsured status at the time of the accident.

EFFECTIVE DATE: October 1, 2006, except the property and casualty insurance rate provisions are effective from July 1, 2006 until July 1, 2009.

FILE AND USE 6% RATE BAND

The act permits, from July 1, 2006 to July 1, 2009, property and casualty insurers to file new premium rates for personal lines with the Insurance Department and use them immediately without receiving prior approval if they result in a statewide rate increase or decrease of no more than 6% for all products included in the filing. The new rate cannot apply on an individual basis. The provisions do not apply to rates for the residual market.

The act provides that an insurer may submit more than one rate filing using the 6% band to the department in any 12-month period if all rate filings submitted within the 12 months, in combination, do not result in a statewide rate change of plus or minus 6% for all products included in the filing.

Under the act, an insurer can apply a rate increase within the 6% band only on or after a policy renewal and after notifying the insured. (The notification specifies the effective date of the increase.) Rate filings requesting to increase or decrease rates by more than 6% must follow existing rate filing requirements (i.e., insurers must receive approval from the Insurance Department before using such new rates).

The act specifies that any filings made pursuant to the 6% band requirements are deemed to comply with the existing rating laws, except that the commissioner is authorized to determine whether they are inadequate or unfairly discriminatory.

The act requires the commissioner to order the insurer to stop using a rate change within the 6% band on a specified future date if she determines it is inadequate or unfairly discriminatory. The order must be in writing and detail why the rate is inadequate or unfairly discriminatory. If the order is issued more than 30 days after the filing is submitted to the department, it applies prospectively only and does not affect any

contract issued before the order's effective date.

UNINSURED AND UNDERINSURED MOTORIST BENEFITS

The act requires a person, when making a claim to his automobile insurance company for uninsured or underinsured motorist benefits, to make reasonable efforts to determine what liability coverage exists for both the owner and operator of the alleged uninsured or underinsured vehicle. For a motor vehicle accident occurring after September 30, 2006, it prohibits an insurance company from requiring a claimant, in order to be eligible for a benefit payment, to provide affidavits or written statements from the owner or operator regarding their uninsured or underinsured status at the time of the accident.

The act specifies that it does not "relieve any person seeking to secure any coverage under an automobile insurance policy of any duty or obligation imposed by contract or law." (It is unclear what this provision means. It could mean that a person looking to purchase automobile insurance still must meet any contractual or legal duty. However, if he has not yet purchased coverage, it is not clear what contract or law he looks to for any duty or obligation owed. Alternatively, the provision could mean that a person seeking to use the coverage he has under an existing policy must look to the applicable contract and law for any imposed duty or obligation, in which case the contractual terms would supersede the bill; thus, an insurer could require, as a matter of contract, that an insured obtain written statements or affidavits from the owner and the operator of an alleged uninsured or underinsured vehicle regarding their insurance policies, if any.)

PA 06-108—HB 5371

Insurance and Real Estate Committee

AN ACT CONCERNING EXTENDED REPORTING PERIOD COVERAGE UNDER MEDICAL MALPRACTICE INSURANCE POLICIES

SUMMARY: This act limits the circumstances under which insurers must provide certain medical malpractice insurance coverage at no cost to physicians, surgeons, advanced practice registered nurses, physician assistants, and hospitals. It does this by (1) eliminating the requirement that policies issued on a claims-made basis provide prior acts coverage under certain circumstances and (2) changing the conditions under which policies must provide unlimited extended reporting period coverage. A claims-made policy

covers a claim filed during the policy period as long as the incident on which the claim is based occurred after the retroactive coverage date specified in the policy. If no retroactive date is identified, the policy covers injury or damage occurring prior to the policy effective date.

The act applies to policies renewed, delivered, or issued for delivery in Connecticut on or after October 1, 2006.

EFFECTIVE DATE: October 1, 2006

PRIOR ACTS COVERAGE

The act removes the requirement that professional liability insurance policies issued on a claims-made basis provide prior acts coverage without additional charge to insureds under certain circumstances. Prior acts coverage insures against claims arising from acts that occurred before the beginning of a claims-made policy's coverage period.

Prior law required insurers to provide, at no additional cost, prior acts coverage if (1) the insurer stopped offering the policy in Connecticut for any reason and the insured was over age 55 and had been insured by the insurer for the seven consecutive years immediately preceding the discontinuance or (2) the insured died, became permanently disabled and unable to carry out his practice, or retired permanently from practice.

UNLIMITED EXTENDED REPORTING PERIOD COVERAGE

The act requires professional liability insurance policies issued on a claims-made basis to provide extended reporting period coverage at no additional charge if, while an insured is covered under the policy, (1) the insurer stops offering policies in Connecticut because of a voluntary withdrawal from the state and (2) the insured is over age 60 or has been insured by the insurer for the five consecutive years immediately preceding the discontinuance. It requires the insurer to provide such coverage with equivalent terms and conditions and with an aggregate liability limit at least equal to the one specified in the policy. Extended reporting period coverage allows the insured to file claims after the claims-made policy otherwise terminates.

Under prior law, the coverage had to be provided when (1) the insurer stopped offering the policy in Connecticut for any reason and the insured was over age 55 and had been insured by the insurer for the seven consecutive years immediately preceding the discontinuance or (2) the insured died, became permanently disabled and unable to carry out his practice, or retired permanently from practice. By eliminating the requirement concerning disability and

retirement, the act conforms to an existing Insurance Department regulation. The coverage had to be provided in the same manner as if the insurer continued offering the policy in Connecticut.

BACKGROUND

Related Laws

Connecticut law requires that every professional liability insurance policy issued on a claims-made basis contain (1) a provision for the purchase of coverage for prior acts and (2) a contractual right of the insured to purchase at any time during the policy period or within 30 days after it, equivalent coverage for all claims occurring during an insured policy period regardless of when the claims were made (CGS § 38a-394).

Anyone required by law to have a medical malpractice insurance policy who has a claims-made policy does not lose the right to unlimited additional extended reporting period coverage after permanently retiring from practice if he only provides free professional services at a tax-exempt clinic (CGS § 20-11b).

Related Regulation

Under an Insurance Department regulation that applies to all claims-made policies for professional liability, unlimited additional extended reporting period coverage must be provided without additional cost to the insured if, while covered by a claims-made professional liability policy, the insured dies or becomes permanently disabled and unable to carry out his practice. It also applies if the insured retires permanently from practice:

1. at or over age 65 having been insured with the same insurer on a claims-made basis for at least the five consecutive years immediately preceding retirement or
2. at or over age 62 having and has been insured with the same insurer on a claims-made basis for at least the 10 consecutive years immediately preceding retirement (Conn. Agencies Reg. § 38a-327-3(e)).

If a policy has no aggregate liability limit, the insurer must offer additional extended reporting period coverage without an aggregate liability limit. If a policy contains an aggregate liability limit, the insurer must offer additional extended reporting period coverage with a limit at least equal to that specified in the policy (Conn. Agencies Reg. § 38a-327-3(f)).

PA 06-109—sHB 5462

Insurance and Real Estate Committee

AN ACT CONCERNING TRANSFER OF INSURANCE POLICIES TO AFFILIATE INSURERS

SUMMARY: This act states that a property and casualty insurer, including a private passenger motor vehicle insurer, that transfers a policy to an affiliate insurer because of a merger or acquisition, does not require a policy cancellation or a cancellation notice to a policyholder if (1) there is no interruption of coverage and (2) the affiliate's policy contains the same terms, conditions, and provisions, including policy limits, as the transferred policy. By law, a property and casualty insurer must notify policyholders of the impending policy transfer to the affiliate at least 60 days before the transfer effective date.

Under the act, the affiliate (1) may apply its rates and rating plans when the policy renews and (2) must include in the policy renewal premium bill a notice that the policy was transferred from the other insurer. By law, the premium bill must be mailed or delivered to the insured at least 30 days before the policy renewal, except a bill does not have to be sent for (1) a commercial risk policy if the rate for the next policy year increases by less than 10% or (2) any policy that had an annual premium of less than \$50,000 for the prior policy period.

EFFECTIVE DATE: October 1, 2006

PA 06-113—HB 5495

Insurance and Real Estate Committee

Public Health Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING ASSESSMENTS FOR IMMUNIZATIONS

SUMMARY: This act removes the cap on the amount each Connecticut insurance company and HMO must pay for immunization services that the Department of Public Health provides. Prior law capped the amount paid by any one company at 25% of the expenditures of the Insurance Department and the Office of the Healthcare Advocate. Under the act, each company pays a proportionate share of the total due from all insurers and HMOs. That proportion is based on the company's share of total premium taxes and other charges the state imposes on all insurers and HMOs for business conducted in Connecticut during the previous calendar year. The fee is deposited in the General Fund. EFFECTIVE DATE: July 1, 2006

PA 06-117—HB 5593*Insurance and Real Estate Committee**Judiciary Committee**Government Administration and Elections Committee***AN ACT CONCERNING REQUIREMENTS FOR THE FILING OF ANNUAL REPORTS AND FINANCIAL STATEMENTS BY INSURERS**

SUMMARY: This act requires the insurance commissioner to keep an actuary's or reserve specialist's workpapers, actuarial reports, and actuarial opinion summaries confidential. It states that such documents are not subject to subpoena or disclosure under the Freedom of Information Act. By law, insurers and HMOs must file financial reports and an actuary's or reserve specialist's certification of reserve requirements with the commissioner. Regulations specify the contents and scope of the certification and require that workpapers be available to the commissioner.

EFFECTIVE DATE: October 1, 2006

PA 06-178—HB 5189*Insurance and Real Estate Committee**Judiciary Committee**Public Health Committee**Legislative Management Committee***AN ACT REQUIRING THE DISCLOSURE OF FEE INFORMATION BY HEALTH INSURERS**

SUMMARY: This act requires each contracting health organization (managed care organization (MCO) or preferred provider network) to implement a procedure by October 1, 2007 under which a contracted physician, physician group, or physician organization may view the fee schedule that determines the payment amount for the most commonly performed and billed services. It also requires the chairpersons and ranking members of the Insurance Committee to meet at least twice a year with physicians and MCOs to discuss issues regarding their contracts, including any national settlement agreements arising from recent lawsuits by physicians against MCOs, to the extent permitted by the agreements.

EFFECTIVE DATE: October 1, 2006

FEE INFORMATION

The act requires each contracting health organization (CHO), by October 1, 2007, to establish and implement a procedure that allows a contracted physician, physician group, or physician organization to confidentially view the fee schedule the CHO pays for

the 50 current procedural terminology (CPT) codes the physician or his group most commonly performs. The procedure must also permit a contracted physician, physician group, or physician organization to request to view the CPT codes he actually bills or intends to bill, as long as they are within the physician's specialty or subspecialty. The procedure requirement applies only to a physician, physician group, or physician organization whose services the CHO reimburses based on CPT codes.

Under the act, the CHO must present the fee information in a digital format or by electronic means. The act makes the information proprietary and confidential and permits the CHO's procedure to include penalties, including terminating a physician, physician group, or physician organization from its provider network, for unauthorized disclosure of the fee information.

"Physician" includes a physician, surgeon, chiropractor, podiatrist, psychologist, and optometrist.

PA 06-180—sHB 5372*Insurance and Real Estate Committee***AN ACT CONCERNING ACCESS TO IMAGING SERVICES**

SUMMARY: This act limits the copayments that can be imposed on a person for all magnetic resonance imaging (MRI), computed axial tomography (CAT) scan, and positron emission tomography (PET) scan services performed in-network. It limits the copayments for MRIs and CAT scans to no more than (1) \$375 for all such services annually and (2) \$75 for each one. It limits the copayments for PET scans to no more than (1) \$400 for all such scans annually and (2) \$100 for each one.

These copayment limits do not apply (1) if the physician ordering the imaging service performs it or is in the same practice group as the physician who performs it and (2) to high deductible health plans designed to be compatible with federally qualified health savings accounts.

The act applies to health insurers, HMOs, hospital service corporations, medical service corporations, and fraternal benefit societies providing group or individual coverage for such imaging services.

EFFECTIVE DATE: October 1, 2006

PA 06-2—SB 152
Judiciary Committee

AN ACT CONCERNING THE ESTABLISHMENT OF THE SUFFIELD-EAST GRANBY PROBATE DISTRICT, THE CONSOLIDATION OF THE NORFOLK PROBATE DISTRICT INTO THE NORTHWEST CORNER PROBATE DISTRICT AND THE CONSOLIDATION OF THE KENT PROBATE DISTRICT INTO THE LITCHFIELD PROBATE DISTRICT

SUMMARY: This act eliminates (1) the probate district of East Granby, consisting of the town of East Granby, and (2) the probate district of Suffield, consisting of the town of Suffield. It establishes a new probate district of Suffield-East Granby, consisting of Suffield and East Granby.

It eliminates the probate district of Kent, consisting of Kent. It adds Kent to the Litchfield Probate District, which already consists of Litchfield, Morris, and Warren.

It also eliminates the probate district of Norfolk, consisting of Norfolk. It adds Norfolk to the Northwest Corner Probate District, which already consisted of Canaan, Cornwell, North Canaan, Salisbury, and Sharon. (PA 04-19 creates this district effective January 3, 2007.)

The act requires a judge to be elected for the newly created probate districts in 2006 and every four years thereafter. Beginning January 3, 2007, the act gives the probate court for the newly created districts jurisdiction over all probate business arising in the affected towns.

EFFECTIVE DATE: Upon passage, except for the provision eliminating the districts and creating the new districts, which takes effect January 3, 2007.

PA 06-9—SB 441
Judiciary Committee

AN ACT CONCERNING THE ANNUAL REPORT OF THE CHIEF PUBLIC DEFENDER

SUMMARY: This act changes the annual date by which the (1) chief public defender must submit a report to the Public Defender Services Commission from between August 15 and September 15 to before December 31 and (2) commission must submit a report to the chief justice, governor, and Judiciary Committee from before October 15 to before February 1 following submittal of the chief public defender’s report.

By law, the chief public defender’s report includes data on the Division of Public Defender Services’ operation, costs, and projected needs and recommended changes to statutes and court rules. The commission’s report includes the chief public defender’s report and other recommendations, comments, and information.

EFFECTIVE DATE: July 1, 2006

PA 06-11—SB 439
Judiciary Committee

AN ACT CONCERNING SEXUAL ASSAULT

SUMMARY: This act expands the activities that constitute third- and fourth-degree sexual assault. It accomplishes this by making someone guilty of these crimes if all other elements of the crimes are met and the actor engages in or causes or forces another to submit to sexual contact by emitting any substance from his genital area or anus.

By law, third-degree sexual assault is a class D felony or, if the victim is under age 16, a class C felony. Fourth-degree sexual assault is a class A misdemeanor or, if the victim is under age 16, a class D felony (see Table on Penalties).

EFFECTIVE DATE: October 1, 2006

BACKGROUND

Third-Degree Sexual Assault

A person commits third-degree sexual assault when he compels another person to submit to sexual contact by force or threat of force against the victim or a third person. The threat must reasonably cause the victim to fear physical injury to himself or the third person. The sexual contact must have been intended for the actor’s sexual gratification or the victim’s humiliation or degradation.

Fourth-Degree Sexual Assault

This crime generally involves sexual contact without a victim’s permission or sexual contact with a victim who is (1) unable to give consent because of age or physical or mental circumstances, (2) helpless, or (3) vulnerable because the actor holds a special position of trust or power over him.

PA 06-16—HB 5801

Judiciary Committee

**AN ACT CONCERNING TRUTH IN MUSIC
ADVERTISING**

SUMMARY: This act prohibits someone from advertising or conducting a live musical performance or production in Connecticut using a false, deceptive, or misleading association between a performing group and a recording group. The prohibition does not apply when:

1. the performing group owns the federal service mark registered with the U.S. Patent and Trademark Office,
2. at least one member of the performing group was a member of the recording group and has a legal right by use or operation under the group name without having abandoned it or affiliation with the group,
3. the live musical performance or production is identified in all advertising and promotion as a salute or tribute,
4. the advertising is not for a live musical performance or production in Connecticut, or
5. the recording group expressly authorizes the performance or production.

The act authorizes the attorney general to seek a temporary or permanent injunction to stop advertisements, performances, or productions if he believes (1) a person is or is about to advertise or conduct a live musical performance or production that violates the act's provisions and (2) it is in the public interest. If the court issues a permanent injunction against someone, it can direct him, under terms and conditions it sets, to restore money or property acquired by violating the act's provisions to any interested person.

In addition, the act also subjects violators to a civil penalty of between \$5,000 and \$15,000 per violation, and each performance or production is a separate violation.

EFFECTIVE DATE: July 1, 2006

DEFINITIONS

The act defines a "performing group" as a vocal or instrumental group seeking to use the name of another group that previously released a commercial sound recording under that name.

A "recording group" is a vocal or instrumental group with at least one member that previously released a commercial sound recording under the group's name and in which the member or members have a legal right from using or operating under the group name without abandoning the group name or affiliation.

A "sound recording" is a work resulting from fixing a series of musical, spoken, or other sounds on a material object, regardless of the nature of the material object in which the sounds are embodied (such as a disk, tape, phonograph record, or other media).

PA 06-23—HB 5537

Judiciary Committee

**AN ACT CONCERNING TRAINING FOR
MEMBERS OF ASSOCIATIONS OF COMMON
INTEREST COMMUNITIES**

SUMMARY: This act requires each common interest community association's executive board, or an officer the board designates, to encourage association and board members and managing agents or people providing association management services, to attend, when available, a basic education program concerning (1) the purpose and operation of common interest communities and associations and (2) the rights and responsibilities of unit owners, associations, and executive board officers and members.

The act authorizes the executive board, or an officer it designates, to arrange to have the program conducted by a private entity at a time and place convenient to a majority of association members. It allows all or part of any program fee to be designated as an association common expense and paid from association funds in whatever manner the executive board determines and the association approves as long as the bylaws and the Common Interest Ownership Act do not prohibit it.

EFFECTIVE DATE: October 1, 2006

BACKGROUND

Common Interest Community

Common interest communities include condominiums, cooperatives, and other property described in a declaration under which a person, by virtue of owning a unit, must pay (1) real property taxes on, (2) insurance premiums on, (3) for maintaining, or (4) for improving, any other real property other than that unit described in the declaration (CGS § 47-202).

PA 06-32—HB 5738

Judiciary Committee

**AN ACT CONCERNING RECONSIDERED
AGENCY DECISIONS AND APPEALS UNDER
THE UNIFORM ADMINISTRATIVE
PROCEDURE ACT**

SUMMARY: This act caps, at 90 days, the maximum time a state agency has to issue a new decision in a contested case it decides to reconsider. By law, agencies can decide to reconsider a final decision in a contested case on their own or pursuant to a petition from a party to the case.

With one exception, the act provides that a decision an agency issues in a contested case on reconsideration replaces its original decision as the final decision from which an appeal may be taken. The exception applies if an agency fails to render a decision on reconsideration within the 90-day period the act establishes. In this case, the original decision is the final decision for purpose of an appeal. By law, an appeal may be based on a number of issues, including issues the agency (1) decided in its original final decision that were not the subject of the reconsideration; (2) was requested, but declined, to address on reconsideration; and (3) reconsidered but did not modify.

Lastly, the act establishes a deadline for filing an appeal after a petition for reconsideration is filed. The deadline is 45 days after (1) the petition is denied, (2) a decision made after reconsideration is mailed or personally delivered, or (3) the 90-day deadline for the decision.

EFFECTIVE DATE: October 1, 2006

PA 06-36—sSB 359

Judiciary Committee

Public Health Committee

**AN ACT CONCERNING COMPETENCY TO
STAND TRIAL**

SUMMARY: This act gives courts more time to determine whether mentally ill defendants may qualify for civil commitment and treatment instead of criminal prosecution. The court previously made this determination only at the first competency hearing, generally held one month after the defendant's ability to understand the court proceedings and assist in his defense was questioned. The act gives courts up to 120 more days to divert defendants to the civil commitment program. By law, defendants who complete their treatment under civil commitment are entitled to dismissal of the criminal charges or an order of *nolle prosequi* (no further action).

The act also requires courts considering a request to involuntarily medicate a defendant who refuses to take recommended medication to appoint a psychiatrist to represent the patient's health care interests ("health care guardian"). If the refusing patient is voluntarily participating in treatment, the act requires that the treatment facility make reasonable efforts to encourage voluntary compliance before asking the court to involuntarily commit him and authorize forced medication. Previously, health care guardian appointments were required only when the patient was too ill to consent to taking the medication.

EFFECTIVE DATE: October 1, 2006

CIVIL COMMITMENT PROGRAM

By law, courts must order competency examinations when there is a question about a criminal defendant's ability to understand the court proceedings or assist in his defense. A clinical team examines the defendant and submits a court report.

Among other things, reports must indicate the team's opinion on whether there is a substantial probability that, if treated, an incompetent defendant will regain competency to stand trial (i.e., is "restorable") within the time he can be held (the lesser of 18 months or the maximum jail sentence for the crimes charged). The act requires any report indicating that a defendant appears to be restorable to also include whether, in the team's opinion, he appears to meet the clinical criteria for civil commitment.

Courts must hold a hearing within 10 days of receiving the clinical team's report. If the defendant appears restorable, the judge may place him either in Connecticut Valley Hospital's Restoration Unit for treatment directed at restoring his ability to understand and participate in his trial or to Department of Mental Health and Addiction Services' custody pending civil commitment and treatment for his underlying illness.

Prior law did not give courts the authority to transfer defendants to the civil commitment track once restoration treatment was ordered. The act allows courts to take a second look within 120 days of the restoration order. The director of the treatment facility initiates this by filing a court report indicating that the individual appears to meet the civil commitment standards.

Disqualifying Crimes

As under existing law, civil commitment is not an option for those charged with the most serious felonies (Class A and B) or certain sex or motor vehicle offenses.

BACKGROUND

Civil Commitment Criteria

Probate courts may order that persons with psychiatric illnesses be civilly committed to a mental health facility for care and treatment. They must base this on clear and convincing evidence that the person has psychiatric disabilities and is either (1) dangerous to himself or others or (2) gravely disabled. A person is gravely disabled if, as a result of his mental illness, he is in danger of serious harm due to his inability or failure to provide for his basic needs and is incapable of determining whether to accept necessary hospital treatment because his judgment is impaired by his psychiatric disabilities.

Involuntary Medication of Restorable Defendants

The purpose of restoration treatment is to enable an incompetent defendant to regain the ability to stand trial. Courts may order that a defendant be given psychiatric medication, over his objection, to regain his ability to understand the criminal proceedings and assist in his defense. To issue such an order, the court must find, by clear and convincing evidence, that:

1. to a reasonable degree of medical certainty, involuntary medication will render the defendant competent to stand trial;
2. an adjudication of guilt or innocence cannot be had using less intrusive means;
3. the treatment plan minimizes intrusion on the defendant's liberty and privacy interests;
4. the proposed drug regime will not cause an unnecessary health risk; and
5. the seriousness of the criminal charges is such that the state's interest in enforcing its criminal laws overrides the defendant's interest in making his own medical decisions.

PA 06-40—sSB 593

Judiciary Committee

AN ACT CONCERNING THE APPLICABILITY OF OFFERS OF JUDGMENT AND THE INADMISSIBILITY OF APOLOGIES MADE BY HEALTH CARE PROVIDERS

SUMMARY: This act specifies that the offer of judgment law that was in effect on September 30, 2005 applies to any cause of action accruing before October 1, 2005. The offer of compromise law, which replaced the offer of judgment law on October 1, 2005, applies to any cause of action that accrues on or after October 1, 2005. In general, a cause of action accrues when the

right to file a law suit on a claim is complete.

PA 05-275, which became effective October 1, 2005, changed the “offer of judgment” law in several ways, including changing the terminology to “offer of compromise” and ending the process when a lawsuit is withdrawn after payment, instead of after a judgment against the defendant. PA 05-275 also reduced the interest rate the court may award with respect to an offer of compromise for cases that accrue after September 30, 2005, from 12% to 8%, and established some additional requirements for such cases.

Existing law makes expressions of sympathy by employees of health care providers and institutions inadmissible in medical malpractice lawsuits or related arbitration proceedings by victims of unanticipated outcomes of medical care. The act specifies that this applies to employees of state-operated health care institutions or facilities.

EFFECTIVE DATE: Upon passage

EXPRESSIONS OF SYMPATHY

By law, certain statements or other conduct are inadmissible as evidence of an admission of liability or an admission against interest in any medical malpractice lawsuit or any arbitration proceeding related to it. This rule applies to statements, affirmations, gestures, or conduct expressing apology, fault, sympathy, condolence, compassion, or a general sense of benevolence that a health care provider, or institution, or its employee makes to the alleged victim, his relative, or representative regarding the victim's discomfort, pain, suffering, injury, or death from a medical treatment or procedure that differs from an expected result.

The act specifies that this law includes expressions of sympathy by employees of state-operated health care institutions or facilities.

BACKGROUND

Contract Cases or Cases Seeking Money Judgments

By law, in any contract case or a case seeking money damages, plaintiffs and defendants can use a statutory procedure to offer to settle the case for a specified amount. This was called an “offer of judgment.” The 2005 act changed the term to “offer of compromise.”

Both allow the plaintiff to file an offer with the court clerk up to 30 days before trial. After trial, the court must examine the record to determine whether the plaintiff made an offer that the defendant failed to accept. Under the prior offer of judgment law, if it determined that the plaintiff recovered an amount equal to or greater than the sum stated in his offer of judgment, the court had to add 12% annual interest. A defendant had 60 days to file an acceptance of the offer

with the court clerk. If he notified the clerk that he accepted the offer, the clerk had to enter judgment.

The 2005 act reduces the interest the court must add from 12% to 8% for claims that accrue after September 30, 2005. It prohibits the plaintiff from making the offer for at least 180 days after service of process on the defendant. It gives the defendant 30, instead of 60, days to accept.

Under the 2005 act, if the defendant accepts the offer, he must file his acceptance with the court clerk. After the plaintiff receives the amount specified in the offer from the defendant, he must file a withdrawal of the lawsuit with the clerk, which the clerk must record. Thus, no judgment is entered against the defendant.

Under the old law and the 2005 act, defendants may also file an offer with the court clerk up to 30 days before trial. The plaintiff has 10 days after being notified of the defendant's offer to accept it. If the plaintiff recovers less than the offer of judgment, he must pay the defendant's costs accruing after he received the offer, including reasonable attorney's fees up to \$350.

The 2005 act gives the plaintiff 60 days to accept the defendant's offer, instead of 10. After the plaintiff files an acceptance of an offer to compromise with the clerk and receives the amount specified in the offer, he must file a withdrawal of the lawsuit with the clerk, who must record it.

Medical Malpractice Cases

The 2005 act requires that, in medical malpractice cases, a plaintiff's offer of compromise must specify all damages known to him or his attorney when the offer is made. At least 60 days before filing the offer, the plaintiff or his attorney must provide the defendant or his attorney with an authorization to disclose medical records that meets federal privacy provisions under the 1996 federal Health Insurance Portability and Accountability Act (HIPAA), and disclose all expert witnesses who will testify about the prevailing professional standard of care. The plaintiff must file with the court a certification that he has provided each defendant or his attorney with all supporting documentation.

PA 06-43—sSB 153

Judiciary Committee

Public Safety and Security Committee

Appropriations Committee

AN ACT CONCERNING TRAFFICKING IN PERSONS

SUMMARY: This act enhances criminal and civil penalties for people who coerce others to perform labor or engage in prostitution ("traffic in persons"). It authorizes the state to prosecute traffickers under the racketeering statute when there is a pattern of such activity and to seize property related to the crime.

The act also adds members to the Interagency Task Force on Trafficking in Persons and expands its responsibilities. It appropriates funds for training, witness protection and victim services, and temporary shelter. (PA 06-187 repeals the appropriations.)

EFFECTIVE DATE: July 1, 2006, except the task force provisions, which are effective upon passage.

TRAFFICKING IN PERSONS (§ 1)

Under the act, a person commits this crime when he coerces a victim to force or induce her to engage in prostitution or work. By law, coercion occurs when the actor makes the victim fear that if she does not comply with his demands, he or another person will:

1. commit a crime;
2. accuse someone else of committing a crime; or
3. expose a secret that could subject any person to hatred, contempt, or ridicule, or impair his credit or business reputation.

The act makes trafficking in persons a class B felony. By law, other coercion offenses are either class D felonies or class A misdemeanors (see Table on Penalties).

RACKETEERING (§ 2)

The act subjects a person or enterprise that engages in a pattern of trafficking to prosecution under the Corrupt Organization Racketeering Act (CORA). It also applies to attempts, conspiracies, and aiding and abetting in the commission of the crime.

A pattern is established under CORA by at least two incidents within a five-year period that have the same or similar purposes, results, participants, victims, or methods of commission.

CORA Penalties

CORA violators are subject to imprisonment for up to 20 years, a fine of up to \$25,000, or both. They are also subject to the fines and penalties associated with the underlying crimes themselves. They forfeit to the state all property acquired, maintained, or used in racketeering activities.

CIVIL LAWSUITS

Against Employers (§ 3)

The act authorizes the attorney general to file suit, at the labor commissioner's request, against an employer who employs workers he knows are being coerced by someone else to work for him. Violators may be fined up to \$10,000 for each violation. The court may also order other appropriate relief.

By Victims (§ 4)

The act allows victims to sue for either (1) their actual damages or (2) statutory damages of up to \$1,000 for each day they were coerced to work or engage in prostitution. In either case, the trafficker must pay the victim's reasonable attorneys fees.

Victims may file their suits either in Hartford Superior Court or in the Superior Court for the district in which they live.

TRAINING PROGRAM (§§ 6 & 9)

The act directs the Permanent Commission on the Status of Women (PCSW), in conjunction with the Police Officer Standards and Training Council (POSTC), to develop a training program on trafficking in persons. Training must be provided to state and local police departments, prosecutors, and community organizations upon request.

The act appropriates \$25,000 and \$50,000 for FY 07 to PCSW and POSTC, respectively, to implement the training program. (PA 06-187 repeals these appropriations.)

PROTECTIVE SERVICES (§ 10)

The act appropriates \$75,000 for FY 07 to the Criminal Justice Division for witness protection services for cooperating trafficking victims at risk of harm. (PA 06-187 repeals this appropriation and instead transfers this amount from the Judicial Department's Victim Services Account.)

SHELTER AND VICTIM SERVICES (§ 11)

The act appropriates \$25,000 for FY 07 to the Judicial Department and directs that the Office of Victim Services use it to contract with a community provider for shelter and other services for trafficking victims. (PA 06-187 repeals this appropriation.)

INTERAGENCY TASK FORCE ON TRAFFICKING IN PERSONS (§ 7)

The act adds four members to the existing 25-member Interagency Task Force on Trafficking in Persons. The chief court administrator appoints three; one must represent the Office of Victim Services and one must represent the Court Support Services Division. The fourth new member is the victim advocate.

By law, the task force collects information about trafficking in Connecticut; identifies federal, state, and local victim services and collaborative models; and evaluates approaches to increase public awareness of trafficking. It also recommends legislative changes and other actions to reduce trafficking crimes.

The act requires it to implement public awareness strategies. It must also identify criteria for providing victim services and address access to rights, benefits, and services for trafficking victims, including:

1. medical and related professional services,
2. legal services and protections,
3. safe housing and shelter,
4. voluntary repatriation,
5. victim compensation, and
6. protection while in custody.

The task force must report its recommendations to the legislature by January 1, 2007.

BACKGROUND

Trafficking in Persons

Existing law defines "trafficking" as all acts involved in recruiting, abducting, transporting, harboring, transferring, selling, or receiving people within national or across international borders using force, coercion, fraud, or deception, to place them in situations of slavery or slavery-like conditions; forced labor or services, such as forced prostitution or sexual services; domestic servitude; bonded sweatshop labor; or other debt bondage (SA 04-8).

PA 06-57—HB 5541*Judiciary Committee***AN ACT CONCERNING THE CONVERSION OF PARTNERSHIPS TO LIMITED LIABILITY COMPANIES AND THE DISSOLUTION OF PARTNERSHIPS**

SUMMARY: This act authorizes a general partnership governed by the Uniform Partnership Act and a limited partnership governed by the Uniform Limited Partnership Act to convert to a limited liability company (LLC). By law, general partnerships and limited partnerships formed under these acts may already convert to an LLC by filing articles of organization that meet certain requirements.

The law allows general and limited partnerships formed before these uniform acts became law to be governed by them if they take certain actions. The act also validates conversions of general partnerships to LLCs that occurred on or after July 1, 1997 if they were governed by these uniform laws when they converted.

The act clarifies the circumstances under which a partnership for a definite term or a particular undertaking is dissolved. The law requires dissolution only if, after a partner dies or dissociates, a majority of the remaining partners express the desire to dissolve it. The act makes it clear that the partners must do so within, instead of at the expiration of, 90 days after the death or other act of dissociation.

EFFECTIVE DATE: October 1, 2006, except the provision dealing with conversions to an LLC is effective upon passage.

BACKGROUND*Related Laws*

Effective January 2, 2002, the Uniform Partnership Act governs all partnerships, regardless of when they were formed (CGS § 34-398(b)). Between July 1, 1997, the date the Uniform Partnership Act became effective, and January 2, 2002, partnerships formed under prior laws could elect to be governed by it (CGS § 34-398(a)(2)).

Limited partnerships formed before the passage of the Uniform Limited Partnership Act in 1979, may become a limited partnership formed under that act by complying with the requirements of CGS § 34-10, which governs the formation of limited partnerships under the act (CGS § 34-38).

PA 06-68—sSB 547*Judiciary Committee***AN ACT CONCERNING THE CONNECTICUT BUSINESS CORPORATION ACT AND THE CONNECTICUT REVISED NONSTOCK CORPORATION ACT**

SUMMARY: This act makes various changes to the stock and nonstock corporation laws. It:

1. makes several changes regarding transactions that constitute a conflict of interest for a corporate director, including expanding the category of people whose interest in a transaction will be attributed to the director;
2. establishes a procedure for a director who wants to take advantage of a business opportunity that might be suitable for a corporation to first present it to the board or shareholders to obtain a disclaimer, thereby protecting him from liability;
3. clarifies the procedure for a court to dismiss a derivative proceeding after qualified directors have made a reasonable determination that the suit is not in the corporation's best interest;
4. alters the rules on which directors are qualified to approve indemnification of directors; and
5. eliminates the right of stock corporations that are not publicly traded, or their shareholders, in connection with a corporate dissolution proceeding, to purchase shares to avoid the dissolution under certain circumstances.

The act also makes several technical changes.

EFFECTIVE DATE: October 1, 2006

DERIVATIVE ACTIONS

By law, any stockholder may initiate a stockholder's lawsuit in his own name and on behalf of other stockholders to protect the corporation from the wrongful acts of its directors and officers. This is called a derivative action.

Prior law required a court to dismiss a derivative action if independent directors determined by a majority vote, at a meeting where independent directors constituted a quorum, that it was not in the corporation's best interest. The law does not define "independent director." But it specifies that none of the following can, by itself, cause a director not to be independent: (1) nomination or election by people who are defendants in the derivative proceeding, or against whom action is demanded; (2) being named as a defendant in the derivative proceeding or as a person against whom action is demanded; or (3) approval of the act being challenged in the derivative proceeding if the act resulted in no personal benefit to the director.

The act instead gives the authority to determine that a derivative action is not in the corporation's best interest to directors who do not have (1) a material interest in the outcome of the proceeding or (2) a material relationship with a person who has such an interest.

The act defines a "material relationship" as a familial, financial, professional, employment, or other relationship that would reasonably be expected to impair the objectivity of the director's judgment when participating in the action to be taken.

It defines a "material interest" as an actual or potential benefit or detriment, other than one that would (1) devolve on the corporation or the shareholders generally and (2) reasonably be expected to impair the objectivity of the director's judgment when participating in the action to be taken.

The act specifies that the presence of one or more of the following circumstances does not automatically result in a director having a conflict of interest:

1. nomination or election to the current board by any director who has a conflict of interest with respect to the matter, or by any person who has a material relationship with a director who has a conflict of interest, acting alone or participating with others;
2. service as a director of another corporation with (a) a director who has a conflict of interest or (b) a person who has a material relationship with a director who has a conflict of interest; or
3. status as a named defendant, as a director against whom action is demanded, or as a director who approved the conduct being challenged.

DUTIES OF OFFICERS

Under the act, each officer has the authority and must perform the functions, instead of the duties, set forth in the bylaws or, to the extent consistent with the bylaws, the functions, instead of the duties, prescribed by the board of directors or an officer authorized by the board.

AUTHORIZATION OF INDEMNIFICATION FOR DIRECTORS

By law, a corporation may indemnify a director for liability he incurred in a legal proceeding if the board, a board committee, or the shareholders determine that he met the standard of conduct the law requires. Under prior law, the determination had to be made by a majority vote of disinterested directors, or a majority of a committee of disinterested directors.

Prior law defined "disinterested director" as one who, at the time of a vote relating to indemnification,

(1) was not a party to the proceeding or (2) did not have a familial, financial, professional, or employment relationship with the director whose indemnification or advance for expenses was the subject of the decision being made that would reasonably be expected to influence his judgment.

The act requires that qualified directors instead of disinterested directors make the decision. The main differences are (1) the additional requirement that the relationship must be material; (2) the relationship is not limited to the ones specified above but can be any other relationship; and (3) the relationship must be one that would reasonably be expected to impair the director's objectivity instead of a relationship that would reasonably be expected to influence his judgment.

The act defines the term "qualified director" as one who, at the time action is to be taken, (1) is not a director who is a party to the proceeding or sought approval for the transaction or (2) does not have a material relationship with such a director. A "material relationship" means a familial, financial, professional, employment, or other relationship that would reasonably be expected to impair the objectivity of the director's judgment when participating in the action to be taken. A "material interest" means an actual or potential benefit or detriment, other than one which would devolve on the corporation or the shareholders generally, that would reasonably be expected to impair the objectivity of the director's judgment when participating in the action to be taken.

The act specifies that the presence of one or more of the following circumstances does not automatically prevent a director from being a qualified director:

1. nomination or election to the current board by any director who is not a qualified director, or by any person who has a material relationship with that director, acting alone or participating with others or
2. service as a director of another corporation with (a) a director who has a conflict of interest or (b) a person who has a material relationship with a director who has a conflict of interest.

By law, a corporation may advance funds to pay for or reimburse the reasonable expenses incurred by a director in a legal proceeding against him before the proceeding is over. A corporation may do so by a vote of disinterested directors or a vote of shareholders. Just as with the indemnification process, the act replaces the concept of disinterested director with the concept of qualified directors.

DIRECTOR'S CONFLICT OF INTEREST TRANSACTIONS

By law, a court may not invalidate a transaction by a corporation or any entity it controls, award damages,

or otherwise remedy conduct because a director had a conflict of interest if it:

1. does not come within the statutory definition of a director's conflicting interest transaction,
2. was disclosed to the board and approved by a majority of directors who do not have a conflict of interest regarding the vote,
3. was approved by a majority vote of shares not owned or controlled by a director who has a conflict of interest, or
4. was fair to the corporation.

The act retains this rule and general approach, but makes several adjustments to it.

First, it alters the definition of a director's conflicting interest transaction. Under prior law, a transaction could be a conflict of interest if a director or related person was a party or had a beneficial financial interest in, or was so closely linked to, a transaction and it was of such financial significance that it reasonably would be expected to influence the director's judgment.

The act is similar in that it makes a transaction conflicting if the director knew that a related person was a party or had a material financial interest. But the act eliminates the prior definition and replaces it with a broader definition that includes a larger class of people. Specifically, the act adds the following classes of people to the definition of "related people": the director's or his spouse's grandparents, stepchildren, stepparents, aunts, uncles, nieces, nephews, and any of their spouses. It also adds any entity they control and any entity controlled by the director's spouse, or the director's or spouse's child, grandchild, parent, or sibling, or the spouse of any such person.

Prior law also defined a transaction as conflicting if it was brought before the board, or it normally would be brought before the board, and the director knew that certain people or entities were either parties to the transaction or had such a financially significant interest in the transaction that it would reasonably be expected to influence the director's judgment. The people or entities were:

1. an entity of which the director is a director, general partner, agent, or employee, or a person that controls such an entity, or an entity that is controlled by or under common control with such an entity or
2. a person who is the director's general partner, principal, or employer.

The act eliminates this provision but substitutes a similar one. The main differences are that the act includes limited liability companies and other unincorporated entities when the director is a member of its governing body. The act excludes an entity when the director acts as an agent.

The act defines "control" as:

1. having the power, directly or indirectly, to elect or remove a majority of the entity's board or other governing body's members, whether through the ownership of voting shares or interests, by contract, or otherwise or
2. being subject to a majority of the risk of loss from the entity's activities or entitled to receive a majority of the entity's residual returns.

The act defines "material financial interest" as a financial interest in a transaction that would reasonably be expected to impair the director's objectivity when participating in an action to authorize the transaction.

Transactions that are Fair to the Corporation

Existing law prohibits a court from invalidating a conflicting interest transaction if it was fair to the corporation. The act defines this as any transaction that, as a whole, benefited the corporation, taking into appropriate account whether it was:

1. fair in terms of the director's dealings with the corporation and
2. comparable to what might have been obtainable in an arm's length transaction, in light of what the corporation paid and received.

Finally, it insulates a transaction from liability if at the relevant time, instead of at the time of commitment, the transaction is fair to the corporation.

Approval By the Board of Directors

By law, the board or a board committee can approve a transaction involving a conflict of interest under certain circumstances, including that the vote to approve be by qualified directors (those who do not have a conflict of interest) after certain required disclosures. The act alters the class of directors that can vote on such approval.

Qualified Director. Under prior law, a "qualified director" for this purpose was any director who did not have either (1) a conflicting interest respecting the transaction or (2) a familial, financial, professional, or employment relationship with another director who had a conflicting interest in the transaction that, in the circumstances, would reasonably be expected to influence the first director's judgment when voting on the transaction.

The act alters this definition of "qualified director" by requiring that the relationship reasonably be expected to impair a director's objectivity instead of requiring that the relationship reasonably be expected to influence the director's judgment.

Required Disclosures. Existing law also requires that the director make certain disclosures to the board in connection with the board's decision concerning

approving the transaction. Prior law required that the disclosures include all facts the director knew about the transaction that an ordinarily prudent person would reasonably believe to be material to determining whether to proceed with the transaction. Instead, the act requires that the disclosures include all facts the director knows about the transaction that a director free of the conflict of interest would reasonably believe to be material in deciding whether to proceed with the transaction.

Limited Disclosures to Qualified Directors. Under prior law, a director did not have to make those disclosures if (1) neither he nor a related person was a party to the transaction, and (2) he had a duty under law or a professional cannon, or otherwise had a duty of confidentiality to another person, about information relating to the transaction. The rule applied only if the director was in a fiduciary position with respect to a trust, estate, incompetent conservatee, or minor that is either a party to the transaction or has a financially significant beneficial interest in it. Under such circumstances, he was required to disclose to the directors voting on the transaction only the existence and nature of his conflicting interest and inform them of the character and limitations imposed by that duty before their vote on the transaction.

The act instead allows a director to refrain from full disclosure if the transaction is a conflict because any of the following is a party or has a material financial interest: (1) a domestic or foreign business or nonprofit corporation of which he is a director; (2) an unincorporated entity of which he is a general partner or a member of the governing body; or (3) an individual, trust, or estate for whom, or of which he is a trustee, guardian, personal representative, or similar fiduciary; or (4) a person or entity controlled by his employer. Under such circumstances, the act requires that the disclosures to qualified directors include (1) all information that does not violate the director's duty of confidentiality, (2) the existence and nature of his conflicting interest, and (3) the nature of his duty not to disclose the confidential information.

Voting or Quorum Requirement. The act specifies that when the directors' action to approve a transaction does not satisfy a quorum or voting requirement that applies to the authorization of the transaction under the certificate of incorporation, the bylaws, or a provision of law, the board must take independent action to satisfy those authorization requirements. The act permits directors who are not qualified directors (those with a conflict of interest) to participate in such an action.

APPROVAL BY SHAREHOLDERS

By law, a court may not set aside a corporation's transaction, award damages, or otherwise impose sanctions because a director had a conflict of interest if a majority of the votes cast by shareholders who do not have a conflict approve it. The act requires that approval be by a majority of the votes actually cast by holders of all qualified shares instead of by a majority of the votes entitled to be cast by holders of all qualified shares.

Under prior law, a director who had a conflicting interest respecting the transaction was required, before the shareholders' vote, to inform the secretary or other corporate officer or agent authorized to tabulate votes, of the number of all the shares that the director knew were owned by, or the voting of which was controlled by, the director or by a person related to the director. The act requires that the director do so in writing. Also, it eliminates the requirement that the information the director provides include the identity of persons holding or controlling the vote.

Other Voting or Quorum Requirements. The act specifies that when the shareholders' action to approve a transaction does not satisfy a quorum or voting requirement that applies to the authorization of the transaction under the certificate of incorporation, the bylaws, or a provision of law, the shareholders must take independent action to satisfy those authorization requirements. The act permits holders of shares that are not qualified shares to participate in such action.

PROCEDURE FOR JUDICIAL DISSOLUTION

The act eliminates a non-public corporation's duty to send shareholders a notice stating that they are entitled to avoid the dissolution of the corporation by purchasing the shares of the person seeking dissolution when the dissolution is based on a proceeding by a shareholder or a director in which it is established that either (1) the directors are deadlocked in the management of the corporate affairs and the shareholders are unable to break the deadlock, or (2) the shareholders are deadlocked in voting power for the election of directors and were unable at the preceding annual meeting to elect successors to directors whose term would normally have expired upon the election of their successors.

It also eliminates the right of a corporation to elect, or if it fails to elect, the right of one or more shareholders to elect to purchase all shares owned by the petitioning shareholder at the fair value of the shares when the dissolution is for the same reason as specified above.

A non-public corporation is one that does not have shares listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association.

CORPORATE OPPORTUNITIES

The common law doctrine of “corporate opportunity” is a part of the director’s duty of loyalty to the corporation. Under this doctrine, a corporation has a right to act before its director does on certain business opportunities that come to the director’s attention. In such situations, a director who acts on the opportunity for his own benefit without first presenting it to the corporation can be held to have “usurped” or “intercepted” the corporation’s right, and is subject to damages or equitable remedies, including injunction, disgorgement, or the imposition of a constructive trust in the corporation’s favor.

The act provides a safe harbor for a director considering possible involvement with a prospective business opportunity that might constitute a “corporate opportunity.” It allows a director to present a business opportunity to the board or its shareholders for consideration. By following the act’s procedures before pursuing the opportunity for himself, the director can receive a disclaimer of the corporation’s interest in the matter and thereby be able to pursue the opportunity himself.

The act protects a director from damages or other remedies in a lawsuit against him by the corporation or shareholders initiating a legal action in the corporation’s name because he directly or indirectly took advantage of a business opportunity that should have first been offered to the corporation, if he gets the board of directors or the shareholders to reject the opportunity. Before seeking such rejection, the act requires the director to disclose all material facts that he knows about the business opportunity.

Board Approval

The act requires that a director get the approval of qualified directors in the same manner and following the same procedures that a director seeking approval of a transaction involving a conflict of interest must follow.

Specifically, the act requires the approval to be by the affirmative vote of a majority, but at least two, of the qualified directors. It permits approval by a board committee if all committee members were qualified directors and either (1) the committee consisted of all the qualified directors on the board of directors or (2) the committee members were appointed by the affirmative vote of a majority of the qualified directors on the board.

The act defines a “qualified director” for this purpose as one who (1) is not attempting to take advantage of the business opportunity and (2) does not have a material relationship with another director attempting to take advantage of the business opportunity. The act defines “material relationship” for this purpose as a familial, financial, professional, employment, or other relationship that would reasonably be expected to impair the director’s objective judgment when participating in the action to be taken.

Shareholder Approval

Under the act, the shareholders’ action to reject a business opportunity is effective if a majority of the votes cast by the holders of all qualified shares favor the rejection after (1) notice to shareholders describing the business opportunity and (2) disclosure to the shareholders of all material facts that the director knows about the business opportunity.

“Qualified shares” are all shares entitled to be voted with respect to the rejection of the business opportunity except for shares that the secretary or other officer or agent of the corporation authorized to tabulate votes either knows, or has been advised by the director seeking the vote are held by (1) a director who has a conflict of interest concerning the vote or (2) a person who has a material relationship with the director other than a person that is, or an entity controlled by, an employer of the director.

BACKGROUND

Business Opportunity

Connecticut courts recognize a corporation’s right to sue a director for usurping a corporate opportunity. To prevail on a claim of usurpation of a corporate opportunity, a plaintiff bears the burden of establishing (1) a fiduciary relationship between the corporation and the alleged wrongdoers and (2) the existence of a corporate opportunity (*Murphy v. Wakelee*, 247 Conn. 396, 404 (1998)).

A key issue is whether the corporate opportunity falls within the corporation’s avowed business purpose. Courts consider whether (1) the business opportunity was one in which the complaining corporation had an interest or an expectancy growing out of an existing contractual right; (2) there was a close relationship between the opportunity and the corporation’s business purposes and current activities; and (3) the business areas contemplated by the opportunity were readily adaptable to the corporation’s existing business, in light of its fundamental knowledge, practical experience, facilities, equipment, and personnel (*Ostrowski v. Avery*, 243 Conn. 355 (1997)).

Adequate disclosure of a corporate opportunity is an absolute defense to liability for alleged usurpation of such a corporate opportunity. The director must fully disclose the opportunity to the board and it must be rejected by at least a disinterested vote of the board of directors.

PA 06-69—SB 550

*Judiciary Committee
General Law Committee*

AN ACT CONCERNING ADEQUATE NOTICE IN DRAM SHOP ACTIONS

SUMMARY: The Dram Shop Act makes a liquor seller liable if he or his employee sells liquor to an already-intoxicated person who injures a person or property. In most instances, this act increases, from 60 to 90 days, the amount of time an injured party has to notify the seller of an incident and his intention to sue for damages.

But it eliminates a provision that can allow more time if the injured party dies or is incapacitated. It does this by removing a provision that allows up to 120 days between the injured person's death or incapacity and the appointment of an executor, administrator, conservator, or guardian to be excluded from the 60-day deadline. EFFECTIVE DATE: October 1, 2006, and applicable to causes of action that arise on and after that date.

BACKGROUND

Dram Shop Act

The Dram Shop Act does not require proof that the seller acted negligently. The maximum amount that can be recovered is \$250,000 for injuries to a single person and \$250,000 in aggregate for injuries to more than one person. The actual amount of liability in a particular case is determined in court.

PA 06-99—sHB 5787

*Judiciary Committee
Planning and Development Committee*

AN ACT CONCERNING NOTIFICATION OF THE ISSUANCE OF REARREST WARRANTS

SUMMARY: This act requires the Criminal Justice Policy and Planning Division to notify each municipal chief elected official of the number of people living in the municipality with outstanding rearrest and arrest warrants for probation violations. The division must send the notice by the 15th day of each month beginning

on the first month after the Office of Policy and Management gains access to the warrant data.

The act requires local law enforcement agencies to note any actions they take to execute such a warrant and apprehend the accused person living in their community in any paperless rearrest warrant network that is available and accessible. They must enter the notation within 30 days after a rearrest or arrest warrant for a probation violation is entered into the network.

EFFECTIVE DATE: October 1, 2006

PA 06-100—sHB 5819

*Judiciary Committee
Legislative Management Committee*

AN ACT CONCERNING CRIME VICTIMS

SUMMARY: This act requires certain convicted criminals to get a court's permission to issue a subpoena summoning their crime victim to appear and testify at a court hearing or deposition in any civil matter, including a habeas corpus proceeding.

It gives the Office of Victim Services (OVS) the authority to (1) waive the time limit for crime victims to apply for crime victim compensation and (2) award compensation amounts in excess of the statutory maximum. It prohibits OVS from denying compensation to a sexual assault victim who fails to report the crime to the police within the statutory time period.

The act requires the chief state's attorney, in consultation with the chief court administrator, to develop a plan for establishing and implementing a statewide automated victim information and notification system.

Lastly, the act requires the State Marshal Commission to maintain a list of participants in the Address Confidentiality Program.

EFFECTIVE DATE: Upon passage, except for the provisions on OVS, which are effective on October 1, 2006.

PERMISSION TO ISSUE SUBPOENAS

The act requires a party to a civil proceeding who is not represented by legal counsel (pro se litigant) to (1) notify the court clerk if he has been convicted of any one of a list of crimes and (2) get the court's permission before issuing a subpoena for the crime victim to appear and testify in the proceeding, including a deposition. The crimes triggering the notification and necessity for permission are:

1. a family violence crime;
2. risk of injury to minors;

3. first-, second-, third-, and fourth-degree sexual assault;
4. aggravated first-degree sexual assault;
5. second-degree assault with a firearm;
6. sexual assault in a spousal or cohabitating relationship; and
7. first-, second-, and third-degree stalking.

The act requires the clerk who receives the notice to schedule a hearing and give the pro se litigant notice of its date, time, and place. At the hearing, the pro se litigant must disclose the testimony he expects the victim to give. The court may authorize the subpoena if it finds that the expected testimony is relevant and necessary to the civil matter. The litigant's subsequent examination of the victim must be consistent with the court's findings.

CRIME VICTIM COMPENSATION

By law, crime victims may generally be considered for crime victim compensation if they apply within two years after the date of personal injury or death from a qualifying incident or crime and report the crime to the police either within five days after it occurs or within five days after a report reasonably could have been made. The maximum awards are \$15,000 for personal injuries and \$25,000 for death.

The act permits the OVS to waive the time limitation on crime victim compensation applications for good cause and upon a finding of compelling equitable circumstances. It appears that this act actually imposes additional criteria for exercising the authority since OVS can, by law, grant waivers to anyone who misses the statutory deadline and who (1) sustained physical, emotional, or psychological injuries as a result of the personal injury or death or (2) were minors during the period that the application should have been made and through no fault of their own missed the deadline.

The act makes eligible for compensation sexual assault victims who fail to report the crime to the police within the time period but who go to a health care facility within 72 hours after the assault for a sexual assault examination and evidence collection.

The act also permits OVS or a victim compensation commissioner to award compensation in an amount in excess of the statutory maximum for good cause shown and upon a finding of compelling equitable circumstances.

VICTIM INFORMATION AND NOTIFICATION SYSTEM

The act requires that the chief state's attorney's plan for the system provides registered crime victims with automatic notice of relevant offender information and status reports. By January 1, 2007, the chief state's

attorney must submit the plan, including any recommendations for implementing legislation, to the Judiciary Committee.

ADDRESS PROTECTION PROGRAM

By law, the secretary of the state is the agent for service of process on participants in the Address Confidentiality Program. The act requires the State Marshal Commission to create a list of program participants, refer to it to determine if an intended process recipient is a participant, and verify the participation before serving process on the secretary of the state. It requires the secretary to give the commission's chair the participants' names.

BACKGROUND

Crime Victim Compensation

OVS or a victim compensation commissioner may compensate crime victims or their immediate families when the victim is deceased, incapacitated, or a minor child, for reasonable and necessary expenses, lost wages, pecuniary losses, and other losses resulting from injury or death. Eligible victims must have been injured or killed during (1) their attempts to prevent crime, aid police, or apprehend suspects; (2) attempts to commit, or actual commissions of, crime by another person; (3) international terrorism; or (4) another person's violation of enumerated motor vehicle offenses.

Address Protection Program

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 family violence, stalking, and sexual assault victims and victims of injury or risk of injury to a minor. Participants' residential, work, and school addresses are exempt from disclosure under the Freedom of Information Act.

PA 06-107—HB 5215

Judiciary Committee

AN ACT CONCERNING SEXUAL ASSAULT BY HYPNOTISTS

SUMMARY: This act makes it sexual assault for hypnotists to have sexual intercourse or contact with clients under the same circumstances that currently apply to others who perform or purport to perform psychotherapy.

This conduct is 2nd-degree sexual assault when it involves sexual intercourse:

1. with a client during a treatment session for a mental or emotional illness, symptom, or condition;
2. the hypnotist represents to be for legitimate treatment purposes; or
3. with a client or former client who is emotionally dependent on him.

By law, people convicted of this crime must comply with sex offender registration requirements for 10 years.

The act also makes it 4th-degree sexual assault to have sexual contact with a client or former client under the circumstances listed above.

EFFECTIVE DATE: October 1, 2006

PENALTIES AND FINES

The table below lists penalties and fines for 2nd- and 4th-degree sexual assault, which vary depending on the victim's age.

<i>Offense</i>	<i>Classification</i>	<i>Range of Sanctions</i>
2 nd -degree sexual assault; victim under age 16	Class B felony	At least 9 months and up to 20 years imprisonment, a fine of up to \$20,000, or both
2 nd -degree sexual assault; victim at least age 16	Class C felony	At least 9 months and up to 10 years imprisonment, a fine of up to \$10,000, or both
4 th -degree sexual assault; victim under age 16	Class D felony	Up to 5 years imprisonment, a fine of up to \$5,000, or both
4 th -degree sexual assault; victim at least age 16	Class A misdemeanor	Up to 1 year imprisonment, a fine of up to \$2,000, or both

PA 06-112—HB 5211

Judiciary Committee
General Law Committee

AN ACT CONCERNING UNDERAGE DRINKING

SUMMARY: This act makes it illegal for someone who possesses or controls private property, including a dwelling unit, to (1) knowingly permit a minor to illegally possess alcohol in the unit or on the property or (2) fail to make reasonable efforts to stop a minor from possessing alcohol in the unit or on the property when he knows the minor possesses alcohol illegally. The act makes a first offense an infraction and subsequent offenses subject to up to one year in prison, a fine of up to \$500, or both.

The act makes it illegal for a minor to possess alcohol anywhere, rather than only in public places.

Under prior law, the penalty for illegal possession in public places was a fine of \$200 to \$500. The act makes this the penalty for second and subsequent offenses of illegal possession, regardless of location, and makes a first offense an infraction.

Under prior law, the provisions on illegal possession by minors did not apply to a minor who possessed alcohol while accompanied by a parent, guardian, or spouse over age 21. The act specifies that it must be the minor's parent, guardian, or spouse.

The act also specifies that the prohibitions on illegal possession and those against selling, shipping, delivering, or giving alcohol to minors cannot be construed to burden a person's exercise of religion as protected by the state constitution.

EFFECTIVE DATE: October 1, 2006

BACKGROUND

Other Exceptions to Illegal Possession by Minors

By law, the provisions on illegal possession by minors do not apply to a minor who (1) is over age 18 and possesses alcohol in the course of employment or (2) possesses alcohol on a physician's order.

PA 06-118—sHB 5611

Judiciary Committee

AN ACT CONCERNING THE FAILURE TO RETURN RENTAL PROPERTY

SUMMARY: This act makes changes to two crimes regarding rented or leased property. It (1) modifies an element of the crime of conversion of leased property (a type of larceny) and excludes personal property rented or leased under consumer rent-to-own agreements from the types of property subject to its penalties and (2) adds a definition of economic loss to the crime of 2nd degree criminal trover.

EFFECTIVE DATE: October 1, 2006

CONVERSION OF LEASED PROPERTY

The act excludes personal property rented or leased under consumer rent-to-own agreements from the types of personal property subject to criminal penalties for the crime of "conversion of leased property." By law, a person commits this crime if he (1) rents or leases the property under a written agreement to return it to a particular place at a particular time; (2) intends to convert the property to his own or another's use; (3) sells, conveys, conceals, or aids in concealing the property; and (4) fails to return it to the agreed place or other place of business within 192 hours (eight days) after the lessor sends a written demand by registered or

certified mail to the address on the agreement or a more recent address known to the lessor.

The act also modifies the elements of this crime by specifying that acknowledgement of receipt of the demand is not necessary to show that the 192 hours have passed.

By law, conversion of leased personal property is a form of larceny. The punishment for larceny depends on the value of the property taken, ranging from a class C misdemeanor when the value of the property is up to \$250 to a class B felony when the value of the property is over \$10,000 (see Table on Penalties).

2ND DEGREE CRIMINAL TROVER

By law, someone commits the crime of “criminal trover in the 2nd degree” when, knowing he is not licensed or privileged to do so, he uses another’s personal property without consent and damages or diminishes its value or causes economic loss, fine, or penalty. The act provides that “economic loss” includes situations in which:

1. a property owner is in the business of renting or leasing personal property,
2. the person who rented or leased the property did so under a written agreement requiring its return at a specified time,
3. the person does not return it within 120 hours after the owner sends a written demand for return of the property by registered mail to the person’s address in the agreement unless a most recent address is known (acknowledgement of the receipt of the demand is not necessary to show that 120 hours have passed),
4. the owner suffers over \$500 of uncompensated economic loss, and
5. the property is not rented or leased for personal or household purposes or under a consumer rent-to-own agreement.

By law, 2nd degree criminal trover is a class A misdemeanor (see Table on Penalties).

PA 06-119—HB 5612
Judiciary Committee
Appropriations Committee

AN ACT CONCERNING THE DEPARTMENT OF CORRECTION

SUMMARY: This act transfers, for each fiscal year starting with FY 07, \$350,000 from the Department of Information Technology’s revenue from the contract for pay phone services for inmates to the Department of Correction (DOC) to expand inmate educational

services and reentry programs.

It expands the exemption to the prohibition on direct sales of body armor to include authorized officials of (1) DOC and the Board of Pardons and Paroles and (2) the Department of Administrative Services buying body armor on their behalf.

The law allows a good conduct reduction of a sentence or fine for a person who is confined because he cannot obtain or was denied bail while awaiting sentencing. Under prior law, the reduction was 10 days or \$500 for every 30 days of presentence confinement. The act increases the fine reduction to 10 times the cost of incarceration as determined by DOC. By law, each day in presentence confinement is also a credit against the sentence of imprisonment and, for a fine, a credit at a per diem rate equal to the average daily cost of incarceration as DOC determines.

The act repeals a statute that required men and women to be confined and kept separately except at three facilities. The first two are the Hartell/DWI Correctional Unit and the Western Substance Abuse Treatment Unit, which no longer house inmates, and the third is the Northeast Correction Center, which is now named the Bergin Correctional Institution and houses low security, adult male inmates. In those three facilities, prior law required separate housing and rehabilitative services including substance abuse treatment that addresses the unique causes of addiction for men and women.

The act repeals an obsolete statute creating the Alternatives to Incarceration Advisory Committee, which was established through June 30, 2005.
 EFFECTIVE DATE: July 1, 2006

PA 06-132—HB 5652
Judiciary Committee
Labor and Public Employees Committee

AN ACT CONCERNING PUBLIC AGENCY TERMINATION, SUSPENSION OR SEPARATION AGREEMENTS

SUMMARY: This act makes confidentiality provisions in termination, suspension, and separation agreements between a public agency and an employee or personal services contractor subject to disclosure under the Freedom of Information Act. The act covers agreements that prohibit a public agency from disclosing the existence of the agreement or the cause or causes for a termination, suspension, or separation, as applicable, including alleged or substantiated sexual abuse, sexual harassment, sexual exploitation, or sexual assault by the employee or contractor. Public agencies covered under the act are all state and local government agencies,

departments, institutions, bureaus, boards, and commissions, including all executive, administrative, and legislative offices, and the administrative functions of the Judicial Branch and the Division of Criminal Justice.

EFFECTIVE DATE: October 1, 2006

PA 06-140—HB 5212

Judiciary Committee

AN ACT CONCERNING FREEDOM OF THE PRESS

SUMMARY: With some exceptions, this act prohibits judicial, executive, and legislative bodies with the power to issue subpoenas or compulsory process from compelling the news media to testify about, produce, or disclose (1) information obtained or received, whether in confidence or not, in gathering, receiving, or processing information for potential communication to the public; (2) the identity of the information's source; or (3) information tending to identify the source.

The exception is for information (1) necessary to a pending criminal investigation or prosecution or a civil action; (2) not otherwise available; and (3) of interest to the public.

The act also provides that it cannot be construed to deny or infringe an accused's U.S. and state constitutional rights, in a criminal prosecution, to use subpoenas to obtain witnesses in his behalf.

The act makes information and the identity of a source obtained in violation of the act inadmissible in any action, proceeding, or hearing before a judicial, executive, or legislative body.

The act also requires any person or entity seeking information that is not protected from disclosure to pay the news media's actual copying costs in providing the information and prohibits using subpoenas to avoid paying.

EFFECTIVE DATE: October 1, 2006

NEWS MEDIA AND INFORMATION

The act defines "news media" as:

1. a newspaper, magazine, or other periodical; book publisher; news agency; wire service; radio or TV station or network; cable, satellite, or other transmission system or carrier; channel or programming service for a station, network, system, or carrier; audio or audiovisual production company that disseminates information to the public by print, broadcast, photographic, mechanical, electronic, or other means or medium;
2. an employee, agent, or independent contractor

engaged in gathering, preparing, or disseminating information to the public for one of the entities listed above or anyone supervising or assisting such a person or entity with gathering, preparing, or disseminating information; and

3. a parent, subsidiary, division, or affiliate of an entity or person listed above to the extent the subpoena seeks the identity of a source or information protected by the act.

"Information" has its ordinary meaning and specifically includes pictures, oral or written material, notes, outtakes, video, sound tapes, film, and other data of any sort in any medium, whether recorded or not.

DISCLOSURE OF INFORMATION

The act requires a judicial, executive, or legislative body to negotiate with the news media for information before issuing a subpoena. If the parties cannot resolve the issue, a court can compel disclosure. The court must provide the news media with notice and the opportunity to be heard. The party seeking disclosure must prove by clear and convincing evidence that:

1. there are reasonable grounds, based on information from sources other than the news media, to (a) believe that a crime has occurred, when the matter is a criminal investigation or prosecution or (b) sustain a cause of action, when the matter is a civil action or proceeding;
2. the information or identity of the source is critical or necessary to a (a) criminal investigation, prosecution, or defense or (b) party's claim, defense, or proof of a material issue;
3. the information or identity of the source is not obtainable from another source; and
4. there is an overriding public interest in disclosure.

It provides that the news media's publication or dissemination of information the act protects does not waive the protection for other protected information.

Application by State Courts

The act requires state courts to apply these procedures and standards to any subpoena related to an investigation or case based on Connecticut law or the law of another jurisdiction. When another jurisdiction's law is involved, the court:

1. must give the news media at least the same protection it could receive in the other jurisdiction and
2. cannot enforce the subpoena unless it has personal jurisdiction over the news media.

GETTING THE INFORMATION FROM THIRD PARTIES WITH BUSINESS TRANSACTIONS WITH THE NEWS MEDIA

The act's protections also apply to subpoenas seeking information from a third party about its business transactions with the news media, when aimed at discovering the identity of a source or obtaining information protected by the act. The act requires reasonable and timely notice to the news media and an opportunity for a hearing before executing the subpoena for this information.

PA 06-141—SB 158

Judiciary Committee

Education Committee

Higher Education and Employment Advancement Committee

Banks Committee

AN ACT CONCERNING TUITION WAIVERS FOR THE DEPENDENT CHILDREN OF RESIDENTS KILLED IN A MULTIVEHICLE CRASH IN AVON ON JULY 29, 2005

SUMMARY: This act requires the University of Connecticut, the Connecticut state universities, and the community-technical colleges to waive tuition for any dependent child of a state resident who died in the multivehicle crash that occurred on Route 44 in Avon on July 29, 2005.

EFFECTIVE DATE: Upon passage

PA 06-147—SB 599

Judiciary Committee

Transportation Committee

AN ACT CONCERNING THE OPERATION OF SNOWMOBILES, ALL-TERRAIN VEHICLES AND OTHER MOTOR VEHICLES WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR ANY DRUG

SUMMARY: This act (1) applies the same criminal penalties to operating a snowmobile or an all-terrain vehicle (ATV) while under the influence of alcohol or drugs that apply to operating a motor vehicle and (2) expands the offense of operating a motor vehicle under the influence to include operating on private property, including the operator's property.

By law, it is illegal for anyone to operate a snowmobile or an ATV while he (1) is under the influence of intoxicating liquor, any drug, or both or (2) has a blood alcohol content (BAC) of .08% or more of alcohol, by weight. Under prior law, the penalty was a

fine of up to \$250. The act, instead, applies the same criminal penalties, including mandatory suspension or revocation of a license to operate a motor vehicle, to these violators as apply to driving a motor vehicle under the influence. The prohibition and penalties apply irrespective of where the violation occurs.

The act also expands the scope of the motor vehicle driving under the influence law (DUI) by applying it to operating a motor vehicle (which under the act also includes snowmobiles and ATVs) anywhere instead of just on a public highway or road, any private road on which the state traffic commission has established a speed limit, in any parking area with 10 or more cars, or on any school property. Thus, for example it would apply to the operator's driveway, yard, or other private property, or to private roadways through a condominium development.

The act makes driving under the influence in a motor vehicle interchangeable with operating a snowmobile or ATV under the influence. Thus, (1) a DUI conviction for operating a snowmobile or an ATV that occurs after October 1, 2006, the act's effective date apparently counts as a prior conviction for purposes of determining the penalty for someone subsequently convicted of operating a motor vehicle under the influence; and (2) a DUI conviction for operating a motor vehicle that occurred before or after October 1, 2006 apparently counts as a prior conviction for purposes of determining the penalty for operating a snowmobile or an ATV under the influence.

A snowmobile is any self-propelled vehicle designed for travel on snow or ice, except vehicles propelled by sail. An ATV is a self-propelled vehicle designed to travel over unimproved terrain that the motor vehicles commissioner has determined is unsuitable for operation on the public highways and thus not eligible for registration a motor vehicle. By law, an operator's license is not required to operate a snow mobile or ATV, except to cross a public highway. EFFECTIVE DATE: October 1, 2006

DRIVING UNDER THE INFLUENCE OR WITH AN "ELEVATED" BAC

The act applies the criminal penalties for operating a motor vehicle under the influence of alcohol or drugs or both, or with an elevated BAC, to operating a snowmobile or an ATV under the influence or with an elevated BAC. A person is "under the influence" if his ability to drive is affected to an appreciable degree (*Infield v. Sullivan*, 151 Conn. 506 (1964)).

Criminal Penalties for DUI Offenses

A person convicted of DUI is subject to the criminal penalties listed in Table 1.

Table 1: DUI Criminal Penalties

<i>Conviction</i>	<i>Jail Sentence</i>	<i>Fine</i>	<i>License Suspension</i>
First	Either (a) up to six months with a mandatory minimum of two days or (b) up to six months suspended with probation requiring 100 hours of community service	\$500-\$1,000	One year
Second	Up to two years, with a mandatory minimum of 120 consecutive days and probation with 100 hours community service	\$1,000-\$4,000	Three years (or until age 21 if longer)
Third and Subsequent	Up to three years, with mandatory minimum of one year and probation with 100 hours community service	\$2,000-\$8,000	Permanent revocation

In assessing these penalties, existing law considers as a subsequent conviction one that occurs within 10 years of a prior conviction for the same offense. Also, any conviction that occurs in another state for an offense that the court determines has “substantially the same” essential elements as Connecticut’s criminal drunk driving offenses, manslaughter in the 2nd degree with a motor vehicle, or assault in the 2nd degree with a motor vehicle will constitute a prior conviction of the same offense for purposes of determining someone’s prior criminal history. (Second-degree manslaughter or assault with a motor vehicle involves driving while under the influence of liquor or drugs.)

BACKGROUND

Related Laws

The law also makes it illegal for someone under age 21 to drive with a BAC of .02% or more. This is defined under a different statute (CGS § 14-227g). An operator’s license is not required to operate a snowmobile or ATV, except to cross a public highway (CGS § 14-387).

PA 06-149—sSB 57

Judiciary Committee

Banks Committee

Human Services Committee

Public Safety and Security Committee

AN ACT CONCERNING ESTABLISHMENT AND ENFORCEMENT OF CHILD SUPPORT IN TITLE IV-D CASES

SUMMARY: This act permits the Department of Social Services (DSS) commissioner to implement electronic funds transfer (EFT) for child support payments it processes through the State Disbursement Unit.

It also:

1. enhances the department’s investigative authority and court and administrative enforcement options,
2. makes uniform the three-year cap on past due child support for men who acknowledge or are adjudicated as a child’s parent,
3. increases certain parents’ support obligations, and
4. conforms law to recent child support guideline changes.

It also makes minor and related changes.

EFFECTIVE DATE: Various; see below

EFT (§§ 3 & 26)

Under the act, the commissioner may implement EFT for support payments processed through its disbursement unit. She may establish a debit account for any recipient who does not designate or establish an account on her own.

Accounts DSS establishes can accept only EFT funds and only be accessed using a debit/ATM card. The act bars creditors from seizing funds in EFT accounts to satisfy debts.

The user is responsible for all fees other than those described below or authorized in a contract between the commissioner and the bank. Only user fees that are assessed against all other debit card users can be assessed against EFT accountholders.

DSS and the bank specify in their contract the maximum number of allowable transactions.

Prohibited Fees

The act restricts debit card systems to those that do not charge user fees at point of sale terminals or ATMs, including those outside the issuer’s network. They must also provide users free:

1. means to promptly determine whether a deposit has been credited to their account,
2. account balance information by telephone or on the issuer’s web site, and
3. monthly statements by mail or on the issuer’s web site, at the user’s option.

Other Required Conditions

The act requires the bank to assure that it has a substantial number of ATMs in all regions of the state and that EFT users will be afforded all protections required by the federal Electronic Funds Transfer Act. The bank must provide customer service in languages other than English.

Notice Requirements

The act requires the commissioner or bank, if required by contract, to notify users, when their cards are first issued and at least once a year thereafter about:

1. the type of debit card they have,
2. all service and penalty fees and their amounts,
3. how to obtain funds if the card is lost or stolen,
4. how to report and replace a lost or stolen card,
5. liability for unauthorized card use,
6. how to report account errors and who is liable for them,
7. whether overdrafts are possible, and
8. other similar consumer information.

EFFECTIVE DATE: Upon passage

ENFORCEMENT ENHANCEMENT

Attorney General Participation In Probate Court Proceedings (§§ 7, 9, and 14)

The act makes uniform a requirement that the probate court notify the attorney general of all petitions involving emancipation, termination of parental rights, or paternity. He must be made and remain a party if the child has received state assistance or child support enforcement services.

He is already required to do this in paternity cases involving a child who has received state assistance and in divorce cases in which the family received both public assistance and support enforcement services.

EFFECTIVE DATE: January 1, 2007

Access to Cell Phone Records (§ 1)

The act authorizes DSS's Bureau of Child Support Enforcement (BCSE) to subpoena cell phone and other wireless telecommunications providers for an obligor's address and employer information. Previously, BCSE could get this information only from public utilities such as telephone companies and cable television providers. As under existing law, the providers may not be held liable for complying with the bureau's request, but must not further disclose it.

EFFECTIVE DATE: October 1, 2006

Financial Information (§ 1)

The act also permits BCSE and court support enforcement personnel to require businesses to disclose information about the property, wages, and debts of a person they are investigating, rather than only those who have a support order in place. As under existing law, those who refuse to supply the information may be subpoenaed to testify or produce relevant documents.

EFFECTIVE DATE: October 1, 2006

Warrant and Capias Service (§§ 6 and 24)

The act permits the Department of Public Safety commissioner, upon the DSS commissioner's nomination, to assign up to four, rather than two, special policemen to serve warrants and capias writs to take people into custody.

The act also permits state marshals and special police to serve copies of warrants and capias writs, instead of only original documents. Any photographic, micrographic, electronic imaging, or other process that clearly and accurately copies the original may be used.

EFFECTIVE DATE: October 1, 2006

Liens (§ 25)

The act eliminates a requirement that DSS give advance notice and an opportunity for an administrative hearing before placing a lien on property of an obligor owing more than \$500 in past due child support. Instead, it requires BCSE to give notice and offer the hearing after the lien has been perfected.

By law, DSS may foreclose on the encumbered property at any time.

EFFECTIVE DATE: Upon passage

Administrative Change to Support Order Payee (§§ 2, 5, 12, 13, 17, 22, and 23)

The act allows BCSE to change the name of a child support payee administratively to reflect a child's custody transfer to the state or another custodian. Previously it could only change the payee to the state, and only in cases where the child has received both public assistance and child support enforcement services. Otherwise, BCSE had to get a court order.

As under the existing administrative procedure, the act requires BCSE to mail a notice of its intent to alter the payee to the obligor and obligee at the address listed in its support case registry. If neither objects, BCSE must file the notice with the court. All payments must be distributed according to the federal IV-D formula.

EFFECTIVE DATE: Upon passage, except the probate court provisions are effective October 1, 2006

Distribution of Forfeited Appearance and Performance Bonds (§§ 8, 20, and 21)

By law, courts may order people responsible for paying child support to file bonds intended to insure that they appear in court and make their support payments on time. The bond is forfeited if they fail to do so. The act requires the court to distribute forfeited bonds in the manner specified by the federal welfare law.

Prior law required forfeited bonds to be turned over to the state if the family had received state assistance; otherwise to pay the full amount to the custodial parent. The federal distribution formula would in most cases decrease the state's share of the bond money.

EFFECTIVE DATE: Upon passage, except the probate court provisions are effective October 1, 2006

PAST DUE SUPPORT FOR CHILDREN BORN OUT-OF-WEDLOCK (§§ 5, 12, & 16)

The act sets a three-year cap on past due child support in all cases where the child's parents never married and paternity was established either by acknowledgment or adjudication. The three years run from the date the (1) father acknowledges paternity or (2) paternity petition is filed.

EFFECTIVE DATE: Upon passage

INCREASED PARENTAL SUPPORT OBLIGATIONS

High School Students (§§ 4, 12, 13, and 15)

Prior law conditioned an unmarried, full-time high school student's eligibility for child support beyond age 17 on his living with a parent. The act eliminates this residency requirement. By law, parents must continue paying for support until the student graduates or turns 19, whichever occurs first.

EFFECTIVE DATE: Upon passage

Prisoners (§19)

The act allows BCSE to consider an institutionalized or incarcerated person's assets, rather than only his negligible prison income, in determining how much child support he must pay.

It also prohibits reducing a prisoner's support obligation if he is imprisoned for an offense against his child or his child's guardian.

EFFECTIVE DATE: Upon passage

HUSKY Premium Contributions (§§ 4, 8, 10, 11, 12, & 15)

The act exempts only low-income obligors (e.g., a parent with one child whose net weekly income is no

more than \$250) from having to contribute to a custodial parent's HUSKY health insurance premium costs.

Prior law, applied in conjunction with the revised Child Support Guidelines, exempted virtually all obligors from contribution to the premium costs.

EFFECTIVE DATE: Upon passage

SUPPORT GUIDELINES (§18)

The act specifies that the child support guidelines in effect on the date the obligation was established are to be used in setting support, arrearage, and past due support amounts. There is a rebuttable presumption that support calculations based on the guidelines are correct.

EFFECTIVE DATE: Upon passage

Genetic Testing Costs (§ 11)

The act exempts low-income obligors and those who are otherwise indigent from having to repay DSS for the costs of paternity tests. But it authorizes DSS to recover these costs in full from all other adjudicated and acknowledged fathers who had asked for the test.

Under prior law and existing regulations, the state had to consider such fathers' ability to pay when calculating their repayment obligation.

EFFECTIVE DATE: Upon passage

PA 06-152—sSB 156

Judiciary Committee

Appropriations Committee

AN ACT CONCERNING COURT OPERATIONS

SUMMARY: This act makes numerous changes in the laws relating to the operation of the courts and Criminal Justice Commission.

The act requires the Judicial Branch to develop and implement a plan pursuant to federal law that commits it to a program of equal employment opportunities in all aspects of personnel and administration. It makes the Chief Court Administrator responsible for developing, implementing, and filing the plan with the Commission on Human Rights and Opportunities (CHRO). It eliminates the requirement that the branch submit a report to the General Assembly each year.

The act specifies that the Criminal Justice Commission must develop and implement affirmative action plans adopted pursuant to CHRO affirmative action and nondiscrimination regulations. CHRO can disapprove the commission's affirmative action plan and prevent it from filling a position or position classification by hiring or promotion until CHRO

approves its plan.

It requires the Judicial Branch and Criminal Justice Commission to comply with certain anti-discrimination laws.

The act establishes rules that the Supreme Court chief justice must follow when he summons Superior Court judges or senior justices or judges to hear Supreme Court cases. It also eliminates the authority of senior Supreme Court justices to participate in Supreme Court meetings.

It reduces the time periods for disposing of exhibits and other records in certain cases and applies these changes to any criminal or motor vehicle case regardless of when it was disposed of.

The act authorizes the chief court administrator, as part of a publicly bid contract for an alternative incarceration program, to include a requirement that the contractor provide space for the Court Support Services Division staff to meet with probationers and oversee and monitor the program. It authorizes the chief court administrator, instead of the public works commissioner, to represent the state in providing space for the division as part of a contract for an alternative incarceration program.

It authorizes information contained in an application for a restraining order, instead of a copy of the application, to be sent immediately to police departments.

The act specifies that, as a condition of probation, a court may order anyone arrested for driving under the influence, 2nd-degree manslaughter with a motor vehicle, or 2nd-degree assault with a motor vehicle, not to operate any motor vehicle unless it is equipped with an ignition interlock device.

The act specifies that the monetary contribution criminal defendants make to the Criminal Injuries Compensation Fund may be paid to either the court clerk or the Office of Victim Services. It requires court clerks to collect and receive such contributions and account for and deposit them into the fund.

The act specifies that (1) applications for witness depositions in Connecticut for cases filed in federal, state, or foreign court must be filed in the court in which the civil action or probate proceeding is pending, and (2) the Superior Court has jurisdiction to quash, modify, or enforce compliance with a subpoena issued for taking such a deposition.

The act establishes some new rules for arraigning criminal defendants.

Finally, the act requires filing habeas corpus applications claiming illegal confinement or deprivation in any correctional facility, instead of specified ones, in the Tolland Judicial District.

EFFECTIVE DATE: October 1, 2006, except for the provisions (1) dealing with court clerks, which become effective July 1, 2006, and (2) dealing with the chief

court administrator, affirmative action plan and discrimination, the Supreme Court, and arraignment, which become effective upon passage.

AFFIRMATIVE ACTION AND DISCRIMINATION

Judicial Department

The act requires the Judicial Branch to develop and implement a plan pursuant to federal law that commits the Judicial Branch to a program of equal employment opportunities in all aspects of personnel and administration. It makes the Chief Court Administrator responsible for developing, implementing, and filing the plan with CHRO.

It eliminates the requirement that the branch submit a report to the General Assembly by January 15 each year showing its (1) compliance with its anti-discrimination efforts regarding recruiting, appointing, evaluating, and promoting; (2) written directives carrying out an anti-discrimination policy; and (3) orientation and training programs that emphasize antidiscrimination.

Criminal Justice Commission

The act specifies that the Criminal Justice Commission must develop and implement a plan that commits it to a program of affirmative action in all aspects of personnel and administration in cooperation with CHRO. The plan must be developed pursuant to CHRO regulations to ensure that affirmative action is undertaken as required by state and federal laws to provide equal employment opportunities and to comply with all responsibilities under certain anti-discrimination laws. These laws include the duty to establish programs of career mobility and accommodation and entry level training of people with disabilities (CGS §§ 4-61u to 4-61w).

Affirmative Action Officer

The act also requires the branch and the commission to designate a full- or part-time affirmative action officer, who must:

1. mitigate any discrimination,
2. investigate all complaints of discrimination made to him,
3. report to the head of the branch or commission all findings and recommendations upon the conclusion of an investigation, and
4. complete 10 hours of training provided by CHRO and the Permanent Commission on the Status of Women.

Contracts With Those Who Have Not Complied With Affirmative Action Requirements

The act specifies that the Judicial Branch and the Criminal Justice Commission may not enter into contracts with bidders or prospective contractors unless they have satisfactorily complied with certain anti-discrimination and affirmative action laws or submitted a program for compliance acceptable to CHRO.

Discriminatory Practices By State Agencies

The act:

1. requires the Judicial Branch and the Criminal Justice Commission to perform services without discrimination based upon race, color, religious creed, sex, marital status, age, national origin, ancestry, mental retardation, mental disability, or learning or physical disability, including blindness;
2. prohibits them from using any of their facilities to further any discrimination or from becoming a party to any agreement, arrangement, or plan that has the effect of sanctioning discrimination; and
3. requires that all of their contracts or subcontracts for construction, goods, or services conform to the intent of the law that prohibits discrimination and requires affirmative action provisions in state contracts.

Also, it requires the Criminal Justice Commission to analyze all of its operations to ascertain possible instances of noncompliance with the state's anti-discrimination policy and initiate comprehensive programs to remedy any defect.

Cooperation with CHRO and Compliance with Americans with Disabilities Act (ADA)

The act requires the branch and the commission to:

1. cooperate with CHRO in its enforcement and educational programs and
2. comply in all of its services, programs, and activities with the ADA to the same extent that it provides rights and protections for people with physical or mental disabilities beyond those provided by state law.

Sexual Orientation Discrimination

The act specifies that the branch and the commission must:

1. recruit, appoint, assign, train, evaluate, and promote state personnel on the basis of merit and qualifications, without considering the applicant's or employee's sexual orientation;
2. promulgate written directives to carry out this

policy, guarantee equal employment opportunities, and regularly review its personnel practices to assure compliance; and

3. conduct continuing orientation and training programs with emphasis on human relations and non-discriminatory employment practices.

Sexual Orientation Discrimination – Services of State Agencies

The act specifies that the branch and commission must:

1. perform all services without discrimination based upon sexual orientation;
2. not allow its facilities to be used to further any discrimination, or become a party to any agreement, arrangement, or plan that has the effect of sanctioning discrimination; and
3. analyze all of its operations to ascertain possible instances of noncompliance with the state's anti-discrimination policy and initiate programs to remedy any defect.

It also requires every Judicial Branch contract or subcontract for construction on public buildings, other public work, or goods and services, to conform to the intent of the law that prohibits discrimination and requires affirmative action provisions in state contracts.

Affirmative Action Activities

The act requires the commission to:

1. recruit, appoint, assign, train, evaluate, and promote on the basis of merit and qualifications, without regard for race, color, religious creed, sex, marital status, age, national origin, ancestry, mental retardation, mental disability, learning disability, or physical disability, including blindness, unless it is shown that the disability prevents performance of the work involved;
2. promulgate written directives to carry out an anti-discriminatory policy and guarantee equal employment opportunities at all levels of state government, and regularly review its personnel practices to assure compliance;
3. conduct continuing orientation and training programs with emphasis on human relations and non-discriminatory employment practices; and
4. exercise care to ensure utilization of minority group persons.

Existing law already requires the Judicial Branch to do these things. The act eliminates the requirement in number 4 for the Judicial Branch.

The act also requires the Department of Administrative Services commissioner to insure that the

commission's entire examination process, including qualification appraisals, is free from bias.

SUPREME COURT

By law, each party in a case before the Supreme Court has a right to be heard by a full court. A full court consists of five associate judges or the chief justice and four associate judges or, upon the chief justice's order, six associate judges or the chief justice and five or six associate judges.

Under prior law, if (1) any judge was absent and a party asked to be heard by a full court, (2) any judge was disqualified and the absence or disqualification was not waived, or (3) the business before the court required it, the chief justice or, in the case of his absence or disqualification, the senior judge present and qualified could summon the sixth or seventh member, or both, of the Supreme Court or one or more of the judges of the Superior Court to constitute a full court.

Under the act, a Superior Court or other judge or senior justice may be summoned only if a full court cannot be constituted from the seven members of the Supreme Court. In such a case, the act requires the chief justice or, in the case of his absence or disqualification, the most senior associate judge present and qualified, to summon one or more Superior Court judges, including senior justices of the Supreme Court, and senior judges of the Appellate Court, to constitute a full court, who may act as judges of the Supreme Court for the time being.

By law, the chief court administrator, if he is also an associate justice of the Supreme Court, may be summoned to constitute a full court at the discretion of the chief justice, or, in case of his absence or disqualification, the most senior associate judge present and qualified.

The act specifies that the authority to summon other judges in the absence or disqualification of the chief justice or the chief Appellate Court judge may be exercised only by the most senior associate justice or judge present and qualified.

By law, each chief justice or associate judge of the Supreme Court who elects to retain office but to retire from full-time active service continues to be a member of the Supreme Court during the remainder of his term of office and during the term of any reappointment, until he attains the age of 70. Under prior law, he had the right to participate in the meetings of the Supreme Court judges and to vote as a member. The act limits this right to matters for which he has been summoned.

DISPOSAL OR DESTRUCTION OF COURT EXHIBITS AND OTHER RECORDS

The act authorizes a court to destroy or dispose of

all exhibits entered in certain cases sooner than authorized by prior law or court rule. It slightly lengthens the period for capital felonies.

Specifically, for cases dismissed or not prosecuted or in which a person has been found not guilty, the act authorizes the court to do so within 90 days, instead of three years from the date of final disposition (§§ 7-13 of the Connecticut Practice Book).

In any case in which a nolle has been entered, the act authorizes the court to do so within 13 months from the date of final disposition, instead of within three years from the date of final disposition (§§ 7-13 of the Connecticut Practice Book).

The act authorizes the court to destroy or dispose of all exhibits entered in the following cases after 10 years from the case's final disposition or the expiration of the sentence imposed, whichever is later: (1) misdemeanor cases resulting in a conviction or (2) youthful offender cases. This is the same as required by court rule (§§ 7-13 of the Connecticut Practice Book).

The act requires that, at least 30 days before the scheduled destruction or disposal of such exhibits, the court clerk send a notice to all parties. It authorizes any party to ask for a hearing on the destruction or disposal.

The act specifies that "sentence" includes any period of incarceration, parole, special parole, or probation.

The act specifies that its requirements apply to criminal or motor vehicle matters disposed of before, on, or after October 1, 2006 if they were (1) cases dismissed or not prosecuted or in which a person has been found not guilty; (2) cases in which a nolle has been entered; (3) misdemeanor cases resulting in a conviction; (4) youthful offender cases; (5) habeas corpus proceeding, petition for a new trial, or other proceeding arising from a criminal case in which a person has been convicted.

Multiple Offenses

The act specifies that in any case in which a person is charged with multiple offenses, no destruction or disposal of exhibits may be ordered until the longest applicable retention period has expired.

Habeas Proceedings, Petitions for a New Trial, or Other Proceedings

The act requires that the retention period for the official records of evidence and exhibits in any habeas corpus proceeding, petition for a new trial, or other proceeding arising out of a criminal case resulting in a conviction be the same as the applicable retention period for the criminal case from which the proceeding or petition arose.

Capital Felonies

Under prior law, the official records of evidence or judicial proceedings concerning anyone convicted of a capital felony could be destroyed after 75 years from his conviction. The act lengthens the retention period by allowing them to be destroyed 75 years after the date the sentence was imposed.

Felony Convictions Without a Trial

Under court rule, the official records of evidence or judicial proceedings concerning anyone convicted of a felony without a trial, may be destroyed after 20 years from the date the case was disposed of or when his sentence expires, whichever is later. The act instead allows these records to be destroyed 20 years after the date the sentence was imposed or when the sentence expires, whichever is later.

APPLICATION FOR RESTRAINING ORDER

By law, immediately after making service on the respondent, the proper officer must send, by fax or other means, a copy of the application for the restraining order, stating the date and time the respondent was served, to the law enforcement agency or agencies in the town where the applicant resides, the town where he is employed, and the town where the respondent resides. The act allows the officer to send, or cause to be sent, the information contained in the application, instead of a copy of the application.

MONETARY CONTRIBUTIONS

By law, the court may, in disposing of any criminal or motor vehicle case, consider the fact that the defendant has made a monetary contribution to the Criminal Injuries Compensation Fund. Also by law, in deciding to nolle a case, the prosecutor may consider the fact that the defendant has made a monetary contribution to the fund.

The act specifies that such a monetary contribution may be paid to either the court clerk or the Office of Victim Services. It also requires court clerks to collect and receive such contributions and to account for and deposit them into the Criminal Injuries Compensation Fund.

IGNITION INTERLOCK DEVICE

By law, a court may order any person who has been arrested for driving under the influence, manslaughter in the second degree with a motor vehicle, or assault in the second degree with a motor vehicle not to operate any motor vehicle unless it is equipped with an ignition interlock device. The law specifies that this order can

be made as a condition of such person's release on bail, or as a condition of granting his application for participation in the pretrial alcohol education program. The act specifies that it also may be made a condition of probation.

HABEAS CORPUS

Prior law required an application for a writ of habeas corpus made by or on behalf of a person confined in the Connecticut Correctional Institution, Enfield-Medium or the Carl Robinson Correctional Institution, Enfield claiming illegally confinement or deprivation of his liberty to be made to the Tolland Judicial District. The act, instead, requires such applications made by or on behalf of an inmate or prisoner confined in any correctional facility as a result of a conviction of a crime to be made to the Superior Court, or to a judge thereof, for the Tolland Judicial District.

DEPOSITIONS OF WITNESSES

By law, depositions of witnesses living in Connecticut may be taken to be used as evidence in a civil action or probate proceeding pending in any federal court, any other state's court, or any foreign court. The act specifies that the application for such deposition must be filed in the court in which the civil action or probate proceeding is pending. It also specifies that the Superior Court has jurisdiction to quash, modify, or enforce compliance with a subpoena issued for taking such a deposition.

ARRAIGNMENT OF CRIMINAL DEFENDANTS

Under prior law, a defendant in a criminal case had to be presented for arraignment in the court in the geographical area (GA) in which the arrest was made if the arrest was by warrant. The act also allows the defendant to be arraigned in the GA court in which the crime was alleged to have been committed.

Under prior law, if the arrest was by a warrant issued for violation of probation or for failure to appear the defendant had to be arraigned in the superior court having jurisdiction over the underlying criminal prosecution. The act also allows him to be arraigned in the court in the GA in which the crime was alleged to have been committed or in which the arrest was made.

By law, if the defendant is presented to the court in the GA in which the arrest was made for arraignment and is not released from custody after it, the defendant must be presented to the court in the GA in which the crime was alleged to have been committed by the second court day after the arraignment.

The act requires that any defendant who has been presented to the court for arraignment and is the subject

of one or more additional arrest warrants issued for crimes that were alleged to have been committed in another or other GAs, must subsequently be arraigned in each GA in which the crimes were alleged to have been committed, in such order as the courts may determine, by the second court day after the prior arraignment. The act specifies that this requirement does not apply regarding defendants charged with multiple offenses involving either the fraudulent use of an automated teller machine or credit card crimes.

BACKGROUND

Criminal Justice Commission

The commission is composed of the chief state's attorney and six members nominated by the governor and appointed by the General Assembly, two of whom must be Superior Court judges. The governor appoints the chairman. The commission is an autonomous body within the executive department for fiscal and budgetary purposes only.

Every five years, the commission appoints the chief state's attorney and two deputy chief state's attorneys.

The commission appoints a state's attorney for each judicial district. It also appoints, from candidates recommended by the appropriate state's attorney, as many assistant state's attorneys and deputy assistant state's attorneys on a full-time or part-time basis for each judicial district as the criminal business of the court requires.

The commission is authorized to remove the chief state's attorney from office for misconduct, material neglect of duty, or incompetence. It may reprimand, demote, suspend, or remove state's attorneys, assistant state's attorneys, and deputy assistant state's attorneys for just cause.

Related Court Rule-Supreme Court –Consideration En Banc

Under court rules, before a case is assigned for oral argument, the chief justice or the chief judge may order, on the motion of a party or on his own motion, that a case be heard en banc (before all members of the court). After argument but before decision, the entire court may order that the case be considered en banc, with or without further oral argument or supplemental briefs. The justices or judges who did not hear oral arguments must have the tapes or a transcript of the oral argument made available to them before participating in the decision. After the decision, the entire court may order, on the motion of a party or their own motion, that reargument be heard en banc (§ 70-7 Connecticut Practice Book).

Related Statute – Supreme Court Assignment of Cases

Assignment of cases for hearing by the Supreme Court must be made by the Supreme Court chief clerk under the direction of the chief justice or an associate judge designated by the chief justice (CGS § 51-203).

Related Court Order

In 2000, the Supreme Court issued a supplemental opinion regarding its decision to consider a case en banc (252 Conn. 914B.) (The case was *Doyle v. Metropolitan Property & Casualty Ins. Co.*, 252 Conn. 912 (1999)). The court indicated that it adopted a policy allowing senior justices to vote on (1) general policy and administrative matters that come before the court, (2) petitions for certification to appeal a case, and (3) questions of reargument pursuant to court rules.

In a dissent to the order to consider the case en banc, Justice Berdon was critical of this policy because he believed it effectively diluted his vote as an associate justice.

Alternative Incarceration Program Services

The Court Support Services Division must coordinate with local community service providers to improve services for probation referrals, with a focus on employment, psychiatric and psychological evaluation and counseling, drug and alcohol dependency treatment, and other services to more effectively control and rehabilitate people sentenced to probation (CGS § 54-103b).

PA 06-156—sSB 549

Judiciary Committee

Insurance and Real Estate Committee

Banks Committee

AN ACT CONCERNING MORTGAGES, REAL ESTATE FINANCING AND FEES FOR THE EXAMINATION OF LAND RECORDS IN CIVIL ACTIONS AFFECTING TITLE TO REAL PROPERTY

SUMMARY: This act expands the types of entities that can secure a commercial revolving loan with an open-end mortgage to include non-profit organizations and limited liability companies.

It makes mortgage releases and assignments executed according to law effective to release or assign the mortgagee's interest in the property even if the mortgagee acquires the interest, or does not record the interest, until after the release or assignment is executed. The act specifies that it may not be interpreted to limit the effect of any release or assignment recorded before,

on, or after October 1, 2006.

Also, the act reduces, from 40 to 20 years after full performance was due, the time after which an unreleased mortgage is invalid under certain circumstances. The act makes an unreleased mortgage invalid 40 years after it was recorded on the land records if the mortgage does not disclose the time when the note or indebtedness is payable or the time for full performance of the mortgage conditions.

But the act authorizes a record holder of an undischarged mortgage, before the applicable 20 or 40 year period expires, to record a notice, on the land records of the town in which the property is situated, that contains certain information. Under the act, recording the notice stops the 20 or 40-year period from running for 10 years.

Finally the act increases, from \$150 to \$225, the maximum fee the court may award parties in any civil action affecting the title to real property, or affecting any mortgage or lien on it, for a title search.

EFFECTIVE DATE: October 1, 2006

COMMERCIAL REVOLVING LOANS

By law, a “commercial revolving loan,” for purposes of the open-end mortgage law, involves advances of all or part of the loan proceeds and repayments of all or part of the outstanding balance of the loan from time to time. As long as the mortgage and underlying note comply with certain statutory requirements, the mortgage and the advances made under it will have priority over other claims recorded after the mortgage was recorded.

The act expands the scope of such loans by requiring that the proceeds may not be intended primarily for personal, family, or household purposes, instead of requiring that the proceeds be to an entity organized for profit and engaged primarily in commercial, manufacturing, or industrial pursuits. Thus, it includes such loans made to non-profit entities. The act also specifies such loans may be made to a limited liability company.

MORTGAGE RELEASES

The act applies to mortgage releases that are executed according to law. By law, the release must identify the mortgagor (borrower) and mortgagee (lender), the date the mortgage was executed, the town where it was recorded, and the volume and page of the land records where it appears. Also by law, it must be signed by the releaser, acknowledged to be his free act and deed, and witnessed by two people.

MORTGAGE ASSIGNMENTS

The act applies to mortgage assignments that meet certain requirements established by law. Specifically the law requires that mortgage assignments:

1. contain a sufficient description to identify the mortgage, assignment of rent, or assignment of interest in a lease given as security for a mortgage debt and
2. have been executed, attested, and acknowledged in the manner prescribed by law for deeds.

The law also requires that whenever an assignment of any residential mortgage loan (1) made by a lending institution organized under the laws of or having its principal office in another state and (2) secured by a mortgage on residential real estate located in this state is made in writing, the instrument must also contain the name and business or mailing addresses of all parties to the assignment.

INVALIDITY OF OLD MORTGAGES

Under prior law, when the land records had a mortgage that had not been released and the mortgagor or those who owned the land had been in undisputed possession for at least 40 years after the mortgage should have been paid off, the mortgage was invalid if the person in possession of the land filed an affidavit that satisfied certain conditions in the land records. The act reduces the time from 40 to 20 years.

The act makes a mortgage invalid, under these same circumstances, 40 years after it was recorded on the land records if the mortgage does not disclose the time when the note or indebtedness is payable or the time for full performance of the mortgage conditions.

Notice from Mortgage Holder

Under the act, the notice a record holder of an undischarged mortgage may file on the land records must contain: (1) the mortgagor’s name or names; (2) the recording information for the mortgage and any mortgage assignment; and (3) a statement of the reasons the mortgage is valid and effective.

The act requires that the notice be indexed in the grantor’s index under the mortgagor’s name or names and in the grantee’s index under the name of the record mortgage holder’s name.

PA 06-162—SB 666

Judiciary Committee

**AN ACT CONCERNING FLOOR PROXIMITY
PATH MARKING DEVICES**

SUMMARY: This act requires the state building inspector and the state fire marshal, in conjunction with the Codes and Standards Committee, to amend the State Building Code and the State Fire Safety Code concerning floor proximity path marking devices or related devices intended for installation as a system to identify the path of emergency exit. They must do so by January 1, 2008.

The amendments must require that a path marking system (1) be installed within 18 inches of the floor; (2) provide a visible delineation of the travel path along the designated exit access; and (3) be essentially continuous, except as interrupted by doorways, hallways, corridors, or other similar architectural features. They must specify materials that may be used for path marking. These materials must include electrical photo luminescent or self-luminous material.

The amendments must require installation of a path marking system in new construction in:

1. Group A occupancies (e.g., night clubs, theaters, churches, and stadiums) with an occupant load of more than 300 people;
2. Group B medical occupancies;
3. Group E (educational) occupancies;
4. Group I-1 occupancies (e.g., convalescent homes, drug centers, and half-way houses);
5. Group I-2 occupancies (e.g., hospitals and nursing homes);
6. Group R-1 hotels and motels; and
7. Group R-2 dormitories.

Both codes already require proximity exit signs in all of the above occupancies (except Group E). They must be located so that the bottom of the sign is not less than six inches or more than 18 inches above the finished floor.

EFFECTIVE DATE: October 1, 2006

PA 06-168—sHB 5536

Judiciary Committee

**AN ACT CONCERNING THE RELOCATION OF
PARENTS HAVING CUSTODY OF MINOR
CHILDREN**

SUMMARY: This act requires a divorced parent who relocates or plans to relocate with a child to prove that the relocation is in the child's best interest. Prior binding case law placed the burden on the parent objecting to the move. It also codifies a nonexclusive

list of factors family courts must consider when the non-relocating parent seeks to block the move due to its significant impact on an existing parenting plan (i.e., a court-approved custody and visitation schedule). These considerations are already required by a Connecticut Supreme Court ruling.

EFFECTIVE DATE: October 1, 2006

**BURDEN OF PROOF IN PARENTAL RELOCATION
DISPUTES**

By law, a relocating parent has the burden of proving, by a preponderance of the evidence, that (1) the relocation is for a legitimate purpose and (2) the new location bears a reasonable relationship to that purpose. If those two burdens are met, prior law required the non-relocating parent to prove, again by a preponderance of evidence, that it would not be in the child's best interest. The act requires the relocating parent to prove it is in the child's best interest.

COURT CONSIDERATIONS

Under the act, factors a court must consider in resolving relocation disputes include, at a minimum:

1. each parent's reasons for seeking or opposing the relocation;
2. the quality of the child's relationship with each parent;
3. the relocation's impact on the quality and quantity of the child's future contact with the nonrelocating parent;
4. the degree to which the relocation may enhance the relocating parent and child economically, emotionally, and educationally; and
5. the feasibility of making suitable visitation arrangements to preserve the relationship between the child and nonrelocating parent.

BACKGROUND

Related Case

In 1998, the Connecticut Supreme Court ruled that a divorced parent objecting to his ex-spouse's decision to relocate with their child had to prove that the move was not in the child's best interests. The Court also listed factors that judges should consider in resolving these disputes (*Ireland v. Ireland*, 246 Conn. 413).

PA 06-173—sHB 5839

Judiciary Committee

Public Safety and Security Committee

AN ACT CONCERNING BLOOD OR BREATH TESTS OF SURVIVING OPERATORS INVOLVED IN MOTOR VEHICLE ACCIDENTS AND PROHIBITING PERSONS FACILITATING ILLEGAL STREET RACING

SUMMARY: This act broadens the circumstances in which a surviving driver of a car accident involving serious physical injury or death must give a blood or breath sample. The act requires the driver to give a sample if the police (1) charge him with a motor vehicle violation regarding the accident and (2) have a reasonable articulable suspicion that he was driving while under the influence of liquor or drugs. The law, unchanged by the act, also allows the police to require a test from a surviving driver if the officer has probable cause to believe that the driver was driving under the influence.

The law prohibits driving a motor vehicle on a public highway for purposes of betting, racing, or making a speed record. The act additionally prohibits (1) possessing a motor vehicle under circumstances showing an intent to use it in one of these prohibited races or events; (2) acting as a starter, timekeeper, judge, or spectator at such a race or event; or (3) betting on the race's or event's outcome. It subjects this conduct to the same penalties the law provides for driving in these races or events: (1) a first offense is punishable by up to one year in prison, a fine of \$75 to \$600, or both and (2) subsequent offenses are punishable by up to one year in prison, a fine of \$100 to \$1,000, or both.

EFFECTIVE DATE: October 1, 2006

PA 06-187—HB 5846

Emergency Certification

AN ACT CONCERNING GENERAL BUDGET AND REVENUE IMPLEMENTATION PROVISIONS

SUMMARY: This act makes many unrelated statutory changes, most of which implement the changes made to the state budget for FYs 06 and 07.

The act requires more people to register as sex offenders, changes the duration of registration for some, establishes a Risk Assessment Board to determine sex offenders' likelihood of reoffending, mandates changes to make registration requirements uniform and to keep registrations updated, and allows courts to require certain criminal defendants to submit to monitoring by a

global positioning system (GPS) (§§ 28 – 42).

It creates an Office of Ombudsman for Property Rights to develop expertise in eminent domain law, assist public agencies and property owners, inform the public, mediate disputes about eminent domain and relocation assistance, and recommend changes to the legislature (§§ 3-9, 11). It also requires a public agency, before starting an eminent domain action, to (1) make a reasonable effort to negotiate with the property owner to buy the property and (2) provide the property owner with certain information (§ 10).

The act makes a number of changes regarding taxes, economic development, and jobs, including:

1. reinstating for 13 months a sales tax exemption for residential weatherization products and energy efficient heating equipment (§ 18);
2. allowing certain businesses that are not corporations to pass through to their corporate general or limited partners or members any corporation tax credits for which they would qualify if they were corporations (§ 19);
3. allowing projects redeveloping clean, uncontaminated sites in more towns to qualify for Urban and Industrial Sites Reinvestment tax credits (§ 12);
4. requiring the Office of Workforce Competitiveness (OWC) to study the feasibility of developing a center for nanoscale sciences and permitting OWC to fund nanotechnology research collaborations between academia and industry (§§ 27, 91);
5. requiring the Department of Economic and Community Development (DECD) to prepare a plan for fuel cell economic development (§§ 63-64); and
6. requiring the labor commissioner, in consultation with the education and DECD commissioners, to establish a Twenty-First Century Skills Training Program (§ 14).

It makes several changes to the responsibilities of the Department of Consumer Protection (DCP).

1. It requires homemaker-companion agencies to register annually with DCP. It also requires new employees hired by these agencies on or after October 1, 2006 to undergo comprehensive background checks and answer questions in writing about their criminal convictions or certain disciplinary actions against them (§§ 52-62).
2. It requires anyone practicing hypnosis, or holding himself out to be a hypnotist, to register with DCP. It also makes it sexual assault for a hypnotist to have consensual sexual intercourse or contact with a client or former client under the same circumstances that the law applies to people performing or

purporting to perform psychotherapy (§§ 44-45).

3. It requires DCP to study the feasibility of establishing a registry in which Connecticut residents could register email and Internet messaging addresses and fax, wireless telephone, and pager numbers on which they do not want to receive unsolicited electronic messages (§ 22).
4. It transfers boxing regulation from DCP to the Department of Public Safety (DPS), requires DPS to regulate sparring, and terminates the regulation of professional wrestling (§§ 25-26, 99).

Among the act's other changes, it:

1. creates a juvenile jurisdiction planning and implementation team that must plan for the implementation of any changes needed to extend juvenile court jurisdiction over delinquency matters to 16- and 17-year-olds (§ 16);
2. (a) establishes a lobster trap (pot) allocation buy-back program, an economic assistance program for resident commercial lobster fishermen, and a Lobster Restoration Advisory Committee to advise the Department of Environmental Protection (DEP) on a lobster v-notch conservation program to enhance the lobster stock in Long Island Sound and (b) allows seafood dealers, wholesalers, or shippers to possess and sell lobsters less than a certain length under certain conditions (§§ 46-51);
3. authorizes the Board of Pardons and Paroles to issue provisional pardons to remove certain barriers to offenders' obtaining employment or occupational licenses due to criminal convictions and provides certain employment protections for those given a provisional pardon (§§ 84-87);
4. replaces DPS' State-Wide Cooperative Crime Control Task Force with the State Urban Violence and Cooperative Crime Control Task Force (§ 17);
5. requires certain state facility construction projects funded on or after January 1, 2007 to meet specified energy and environmental standards (§ 70);
6. permits the Department of Children and Families (DCF) to disclose otherwise-confidential records relating to abused and neglected children to employees of the Commission on Child Protection (§§ 75-76); and
7. requires the agriculture commissioner to implement a marketing and advertising

campaign promoting the availability and advantages of purchasing Connecticut-grown farm products (§§ 65-66).

It changes funding provisions and makes a number of other changes.

EFFECTIVE DATE: Various (see below).

PAYMENTS IN LIEU OF TAXES TO VOLUNTOWN AND NEW LONDON (§§ 1 & 2)

The act entitles Voluntown to an additional \$60,000 annually to offset property tax revenue lost due to the tax-exempt status of any state-owned forest in the town. It also doubles New London's annual grant to offset lost tax revenue for the U.S. Coast Guard Academy from \$500,000 to \$1 million.

Funding for the grants must come from the annual General Fund appropriation for reimbursements to towns for taxes lost on private tax-exempt property. As is already the case for New London, the act (1) requires the state to make the payment to Voluntown by September 30th each year and (2) exempts Voluntown from the statutory requirement to file the property's assessed value with the Office of Policy and Management (OPM) as other towns must do in order to be reimbursed for lost tax revenues for state-owned real property or for hospitals and colleges.

EFFECTIVE DATE: July 1, 2006

OFFICE OF OMBUDSMAN FOR PROPERTY RIGHTS (§§ 3-9, 11)

The act creates an Office of Ombudsman for Property Rights to:

1. develop expertise in the law regarding taking private property;
2. assist public agencies in applying eminent domain law and analyzing actions with potential eminent domain implications, on request;
3. assist property owners, on request, concerning eminent domain procedures;
4. identify government actions with potential eminent domain implications and advise agencies, as appropriate;
5. inform the public about eminent domain laws and their rights;
6. mediate disputes between private property owners and public agencies concerning eminent domain or relocation assistance and hire an independent real estate appraiser to assist in mediation, within available appropriations; and
7. recommend changes in eminent domain laws to the legislature.

The office is within OPM for administrative purposes only.

The act requires public agencies to (1) comply with the office's reasonable requests for information and assistance and (2) participate in mediation if requested to do so by the office.

The act's provisions apply to a broad range of public agencies including state and local agencies with the power to acquire property by eminent domain and entities authorized to use eminent domain on their behalf.

EFFECTIVE DATE: July 1, 2006

Ombudsman and Office Employees

Under the act, the ombudsman for property rights directs the office. He is appointed by the governor with the consent of either house of the General Assembly. He is designated a department head and serves at the governor's pleasure for up to four years, unless reappointed. He must be an elector who is an attorney admitted in Connecticut with expertise or experience in real estate law or land use regulation.

The act prohibits office employees from:

1. holding a position or employment in any other public agency;
2. receiving or having the right to receive, directly or indirectly, remuneration under a compensation arrangement with respect to an eminent domain procedure; and
3. knowingly accepting employment with a public agency with eminent domain powers or entities authorized to use eminent domain on their behalf for one year after leaving the office.

Mediation

The act requires the ombudsman to adopt regulations for mediation procedures, including criteria to determine whether to accept or reject a request to mediate eminent domain or relocation assistance disputes.

The act allows the court to stay a court action related to a taking or relocation assistance if a party to the dispute asked the ombudsman for mediation and the ombudsman is either mediating the dispute or deciding whether to do so. The court must stay the action for cause and provide that the stay terminates on motion of either party or when (1) mediation resolves the dispute, (2) the time period for conducting the mediation expires, or (3) the ombudsman denies the request for mediation, whichever is sooner.

Office Account

The act allows the office to apply for and accept grants, gifts, and bequests of funds from states, federal and interstate agencies and independent authorities, private firms, individuals, and foundations to carry out its responsibilities. It creates an ombudsman for property rights account as a separate nonlapsing account in the General Fund and any funds received are credited to that account for the office's use in performing its duties.

Background—Uniform Relocation Assistance Acts

There are separate state and federal relocation assistance laws. The federal law applies to a state project if federal funding is involved. The acts provide similar benefits, for example, moving costs and, for specified periods, a payment towards the higher rent or mortgage that a relocated person must pay following relocation.

AGENCY NEGOTIATIONS AS A CONDITION OF CONDEMNATION (§ 10)

The act requires a public agency seeking to acquire property by eminent domain to make a reasonable effort to negotiate with the property owner to buy the property before starting an eminent domain action.

The agency must also provide the property owner with (1) information about the ombudsman's services and the act's mediation provisions including the ombudsman's name, address, and phone number and (2) a written statement explaining that oral representations or promises during negotiations are not binding on the agency. This information must be on a form prescribed by the ombudsman and given to the owner as early as practicable in the negotiation process but at least 14 days before filing the eminent domain action (unless the court allows a shorter period for good cause).

The act's provisions apply to a broad range of public agencies including state and local agencies with the power to acquire property by eminent domain and entities authorized to use eminent domain on their behalf.

EFFECTIVE DATE: July 1, 2006

URBAN AND INDUSTRIAL SITES REINVESTMENT PROGRAM (§12)

The act narrowly expands the conditions under which projects developing clean, uncontaminated sites qualify for urban and industrial sites reinvestment tax credits. By law, a project located in 31 designated towns qualifies for credits regardless of the site's condition. These are the state designated distressed municipalities and targeted investment communities and

the five cities with populations of more than 100,000. A project located in other towns qualified for credits under prior law only if it developed or redeveloped a contaminated property.

The act exempts a project from this rule if (1) the DECD commissioner determines that it is connected to an operation relocating from another state or (2) it involves the expansion of an existing facility requiring a minimum \$50 million investment.

This investment threshold is higher than the ones the law sets for other projects. A business that invests directly in a project qualifies for tax credits if it invests at least \$5 million. But that threshold drops to \$2 million if the project seeks to preserve or redevelop a historic property. A business that invests in projects through a state registered fund manager can invest any amount as long as the fund's total asset value is at least \$60 million in the year the business claims the credit.

PA 06-184 makes identical changes to the program.
EFFECTIVE DATE: Upon passage

EFFECTIVE DATE FOR FY 06 SURPLUS APPROPRIATIONS (§ 13)

The act changes the effective date of a budget act (PA 06-186) section that appropriates money from the FY 06 anticipated surplus for various purposes, making it effective upon passage, rather than July 1, 2006.

EFFECTIVE DATE: Upon passage

21ST CENTURY SKILLS TRAINING PROGRAM (§ 14)

The act requires the labor commissioner, in consultation with the education and DECD commissioners, to establish a job skills training program to (1) sustain high growth occupations and economically vital industries the commissioners identify and (2) assist workers in obtaining skills to start or move up the career ladder. Employers requesting training must pay at least 50% of its cost.

The act (1) names the program the Twenty-First Century Skills Training Program, (2) requires it be established within available appropriations, and (3) prohibits using more than 5% of the appropriation for administrative expenses.

The program can include training to increase the basic skills of employees, including, but not limited to, training in written and oral communication, mathematics or science, technical and technological skills, and other training the commissioners determine is necessary to meet the needs of the employer. The act authorizes the labor commissioner to adopt implementing regulations.

EFFECTIVE DATE: July 1, 2006

WORKFORCE INVESTMENT ACT (§ 15)

The act provides that General Fund appropriations to the Labor Department for the federal Workforce Investment Act do not lapse at the end of a fiscal year.

EFFECTIVE DATE: July 1, 2006

JUVENILE JURISDICTION PLANNING AND IMPLEMENTATION TEAM (§ 16)

The act creates a juvenile jurisdiction planning and implementation team. It must plan for the implementation of any changes needed to extend juvenile court jurisdiction over delinquency matters to 16- and 17-year-olds. Existing law limits delinquency jurisdiction to youth age 15 and under.

The team must submit a report to the Appropriations and Judiciary committees by February 1, 2007 containing (1) its findings and (2) recommendations for appropriate legislation.

The team comprises:

1. six legislative members, one each appointed by the top six House and Senate leaders;
2. chairpersons and ranking members of the Judiciary and Human Services committees;
3. the chief court administrator, OPM secretary, chief public defender, child advocate, chief state's attorney, and departments of Children and Families and Correction commissioners, or their designees;
4. a juvenile court judge, appointed by the chief justice; and
5. four members of the advocacy community, two each appointed by the co-chairs of the Juvenile Court Jurisdiction Committee.

All appointments must be made not later than 30 days after the act passes. The appointing authority fills vacancies.

The House speaker and Senate president pro tempore's appointees are the committee co-chairs. They must schedule the first meeting not later than 60 days after the act passes.

EFFECTIVE DATE: Upon passage

STATE URBAN VIOLENCE AND COOPERATIVE CRIME CONTROL TASK FORCE (§ 17)

The act replaces DPS' State-Wide Cooperative Crime Control Task Force with the State Urban Violence and Cooperative Crime Control Task Force. (But it does not eliminate (1) the State-Wide Cooperative Crime Control Task Force Policy Board, which coordinated the task force policies with law enforcement agencies (CGS § 29-179i) or (2) related statutes that deal with (a) task force appointments, powers, and duties and (b) personnel immunities, remuneration, and indemnification (CGS §§ 29-179g

and 179h.)

The act defines the task force charge and task force personnel issues.

EFFECTIVE DATE: July 1, 2006

State Urban Violence and Cooperative Crime Control Task Force

Prior law authorized the State-Wide Cooperative Crime Control Task Force to conduct any investigations statewide, as it deemed necessary, subject to specified protocols. The act (1) specifically requires the new task force to conduct and coordinate investigations of violent crimes and other crimes that local authorities cannot contain and (2) allows it, like its predecessor, to conduct its investigations statewide, as it deems necessary. The act additionally requires that any task force investigation be made under agreements between the DPS commissioner and municipal chief elected official or police chief and under the direction of the commissioner or his designee.

As was the case with the State-Wide Cooperative Crime Control Task Force, the new task force may (1) request and get help from federal, state, or local agencies to perform its duties, including temporary assignment of personnel; (2) enter into mutual aid agreements with states on interstate law enforcement matters; and (3) exchange information and personnel with other states pertaining to mutual law enforcement problems.

Task Force Deployment

Under prior law, towns requested task force services by submitting a petition to the commissioner outlining plans for continuing community programs, including enforcement of housing and health codes and graffiti removal. The act, instead, requires that petitions to use the new task force describe the problem, identify efforts local authorities made to solve or contain it, and ask that the task force be deployed to address specific problems or investigations. The act requires municipalities participating in the task force to assign local resources and personnel to the extent they are able.

Personnel Assignments

The act requires the commissioner to appoint a commanding officer and other personnel as he deems necessary for task force duties, within available appropriations, as was the case with the previous task force. It also allows the commissioner, as he deems necessary, to select personnel from any town to act as temporary special state police officers to carry out task force duties.

Powers, Duties, and Immunities of Task Force Personnel

Under the act, municipal police officers on the task force, acting within the scope of their authority and under the direction of the commissioner or his designee, have the same powers, duties, privileges, and immunities as state police officers.

Remuneration

The act requires each municipality to pay the full compensation of its personnel temporarily assigned to the task force and pay their salaries while they are on task force duty.

Indemnification

The act deems municipal personnel assigned to the task force as state employees for purpose of indemnifying them and the municipalities for damages, losses, or liabilities arising out of their task force service.

SALES TAX EXEMPTION FOR RESIDENTIAL WEATHERIZATION PRODUCTS (§ 18)

The act exempts certain residential weatherization products and energy efficient heating equipment from the sales tax for 13 months, from June 1, 2006 through June 30, 2007. A previous exemption for these items expired on April 1, 2006.

The exemption applies to:

1. insulation, programmable thermostats, water heater blankets, window film, window and door weather strips, and caulking;
2. water heaters, gas and propane furnaces and boilers, and windows and doors that meet federal Energy Star standards;
3. oil furnaces and boilers that are at least 85% efficient; and
4. ground-based heat pumps that meet the minimum federal energy efficiency standards.

EFFECTIVE DATE: June 1, 2006

CORPORATION TAX CREDIT PASS-THROUGH (§ 19)

The act allows a partnership, limited partnership, limited liability company, or other type of pass-through business in which one or more corporations have or had an interest as general or limited partners, members, or otherwise, and that sponsors a qualifying "employment expansion project," to pass through to these constituent corporations any corporation tax credits for which the "sponsor" would qualify if it were a corporation.

EFFECTIVE DATE: Upon passage and applicable to

projects with commencement dates on or after September 1, 2005.

Employment Expansion Project

An employment expansion project under the act is one that (1) will create at least 400 permanent, full-time jobs new to Connecticut over a maximum of five income years starting on or after a commencement date approved by the DECD commissioner in an eligibility certification; (2) needs the corporation tax credit pass-through to attract it to Connecticut; (3) will be economically viable and provide direct and indirect economic benefits to the state; and (4) is, in the commissioner's judgment, consistent with the state's strategic economic development priorities and those of any town where the jobs are to be created.

New Jobs

Under the act, a new job is one that is full-time and that did not exist in the state before the sponsor's application for an eligibility certificate. (PA 06-189 changes the definition to jobs that did not exist before the project commencement date.) To qualify as full-time, a job must provide at least 35 hours of work per week and not be temporary or seasonal. The job must be filled by someone hired by either the project's sponsor or one of its constituent corporations. Jobs shifted from a sponsor's or constituent corporation's other Connecticut locations, and any employees who worked for a person related to the sponsor ("related person") during the previous 12 months, do not count.

Under the act, two entities are "related persons" if (1) one controls the other, (2) one of the two is a business or trust controlled by another person or entity that the other controls, or (3) they are members of the same controlled group as the taxpayer. A corporation is considered to be "controlled" by an entity if that entity directly or indirectly owns more than 50% of the combined voting power of all classes of its stock or of its capital or profits interests. In the case of a trust, control means owning 50% or more of the beneficial interest of the trust's principal or income. Ownership is defined as it is in federal income tax law.

Annual Job Targets

To be eligible for pass-through credits in any particular year, the project must meet annual job targets. The number of new jobs the project creates must be determined at the end of each of the five full income years after its commencement date by subtracting the aggregate number of people employed on the project commencement date from the number employed at the end of the income year. New jobs at the sponsor and all its constituent corporations are counted.

Although the act requires the aggregate five-year job increase to be at least 400, the sponsor may qualify to pass through credits for any given income year if the project creates at least 90% of the annual number of new jobs called for in the DECD eligibility certificate for that year. If the project misses this target, the sponsor cannot pass through any credits attributable to its activities for that year, but is still eligible to pass through credits for prior or subsequent years for which it meets the annual targets.

By the first day of the fourth month of each income year, the sponsor must certify the aggregate number of new jobs created as of the end of the preceding year to the DECD commissioner. By the first day of the seventh month, the commissioner must review the certification and issue a continuing eligibility certificate for that year, if the sponsor has met at least 90% of its annual target.

Application Procedure

Sponsors must apply to the DECD commissioner to approve an employment expansion project. The application must have enough information about the project to show that it meets the act's requirements, as well as information about (1) where the new jobs will be located; (2) the number of new jobs the project will create in each of the five years covered by the eligibility certificate; (3) any physical infrastructure the project might create, renovate, or expand; (4) feasibility studies or business plans; and (5) whatever other information the commissioner needs to judge the project's financial viability. The commissioner can charge an appropriate application fee. The sponsor must reimburse the commissioner for some or all of his due diligence costs of reviewing the application.

The commissioner must act on the application within 90 days of receiving it. If he rejects it, he must explain why and identify its defects. The commissioner may combine approval of the application with the exercise of his other powers, including providing other financial assistance. Upon approval, the commissioner must issue an eligibility certificate that includes a project commencement date and any other requirements he considers appropriate.

Credit Allocation Among Constituent Corporations

If the sponsor qualifies, its constituent corporations are entitled to share the corporation tax credits attributable to its activities on a pro rata basis according to their distributive shares of the sponsor's profit or loss for the income year. Pass-through credits are subject to the aggregate corporation tax credit limit of 70% of tax liability without credits. They can be used by companies joining a combined corporate return. One

constituent corporation may assign its share of pass-through credits to another corporate constituent of the same sponsor. But the assignee can use the credits only in the same income year that the assigning corporation could have used them and cannot assign them further.

If a corporation assigns its credits, it and the assignee must jointly submit a written notification to the DECD commissioner within 30 days after the transaction. (PA 06-189 eliminates the 30-day deadline for notifying the commissioner.) The notice must include the credit certificate number, assignment date, amount of the credit assigned, assignor and assignee's tax identification numbers, and any other information the commissioner requires. If the parties fail to comply with the notice requirement, the tax credit is disallowed until they do. The DECD commissioner must give the Division of Revenue Services (DRS) commissioner a copy of the assignment notice if she requests it.

Each constituent corporation that claims pass-through credits for any income year must retain copies of the overall and annual continuing eligibility certificates for the project for as long as its return is subject to audit.

PETROLEUM PRODUCTS GROSS RECEIPTS TAX REVENUE TRANSFERS TO SPECIAL TRANSPORTATION FUND (§§ 20 – 21)

PA 06-136 increases the amounts of the petroleum products gross receipts tax subject to quarterly transfer to the Special Transportation Fund. Previously, the petroleum products tax receipts subject to transfer were those attributable to sale of motor vehicle fuel. This act eliminates this limitation on the source of the tax receipts and makes technical changes to PA 06-136.

EFFECTIVE DATE: July 1, 2006

ELECTRONIC MESSAGE REGISTRY STUDY (§ 22)

The act requires the DCP commissioner to study the feasibility of establishing a registry in which Connecticut residents could register email and Internet messaging addresses and fax, wireless telephone, and pager numbers that they do not want to receive unsolicited electronic messages.

The commissioner must consult with the attorney general and submit a report to the Judiciary, General Law, and Children's committees by January 1, 2007.

EFFECTIVE DATE: Upon passage

Study Contents

The act requires the DCP study and report to describe how the registry would be established and maintained, including procedures for adding, removing, and verifying registrants' information. It must also address:

1. whether a registry would unduly burden interstate or foreign commerce,
2. how it could be implemented without violating the U. S. Constitution or federal law,
3. whether it should be limited (a) to registrants under age 18 or (b) based on the message's content,
4. how much it would cost and potential funding sources,
5. whether criminal or civil liability should attach to unsolicited messages sent either intentionally or inadvertently,
6. the feasibility of identifying violators, and
7. other states' experience with similar registries.

CHIEF CHILD PROTECTION ATTORNEY (§§ 23 – 24)

The law requires that the chief child protection attorney (CCPA), by July 1, 2006, establish a system to deliver (1) legal services to indigent respondents in family contempt and paternity matters and (2) legal services and guardians ad litem to children and indigent parents in civil juvenile matters before the Superior Court. (A guardian ad litem is a person the court appoints to protect a party's best interests in a legal proceeding.)

The act expands her duties to include providing, when ordered by the court:

1. guardians ad litem to children and indigent respondents in family matters;
2. legal services to indigent respondents in any family matter, instead of only contempt and paternity matters; and
3. legal services and guardians ad litem in juvenile matters to indigent parties, instead of only indigent parents in juvenile matters.

It also requires the CCPA to provide initial and in-service training for guardians ad litem provided under the act and makes conforming technical changes.

The act also makes clear that the judge appoints the CCPA to provide legal representation, and that the CCPA assigns the case to an attorney under contract with him.

EFFECTIVE DATE: October 1, 2006

Background—Family Relations Matters

By law, "family relations matters" include, among other things, proceedings related to: (1) child abuse and neglect, including foster care placements and terminations of parental rights; (2) child custody and support; (3) emancipation of minors; and (4) paternity. (CGS § 46b-1 and § 46b-121)).

BOXING, SPARRING, AND WRESTLING (§§ 25 - 26, 99)

The act transfers boxing regulation from the DCP commissioner to the DPS commissioner. It transfers to the DPS commissioner all the DCP commissioner's authority pertaining to boxing except subpoena powers. It also transfers the Connecticut Boxing Promotion Commission to DPS and changes its name to the Connecticut Boxing Commission. The members and appointment procedures remain the same.

The act requires DPS to regulate sparring, and it gives the DPS commissioner sole jurisdiction over sparring matches. It requires organizations, gymnasiums, or independent clubs hosting sparring matches to register with DPS and pay a \$50 fee.

The act terminates the regulation of professional wrestling, the only form regulated under prior law.
EFFECTIVE DATE: October 1, 2006

Boxing Promotion Commission

The act transfers this commission to DPS. Under prior law, the commission was in DCP for administrative purposes only.

The act expands the specified recommendations that the commission must make in its required reports to include the health and safety of boxers. By law, it must recommend ways to encourage, develop, and promote boxing to the governor, the legislature, the DCP commissioner, and the DECD commissioner. The recommendations must, at a minimum, identify (1) legal or administrative impediments to boxing development, (2) ways to improve state and local boxing support and promotion services, (3) ways to develop young boxers through amateur clubs and other programs, and (4) strategies to help promoters of small professional boxing events and create a market for large professional events.

Sports Subject to Regulation

Prior law gave the DCP commissioner sole jurisdiction over boxing and wrestling, except for amateur school-based matches and matches held under the auspices of amateur athletic associations that the commissioner determined capable of ensuring participants' health and safety.

The act (1) eliminates wrestling from state regulation, (2) transfers the DCP commissioner's jurisdiction over boxing to the DPS commissioner, (3) specifies that jurisdiction over nonexempt boxing applies to both professional and amateur boxing, and (4) subjects sparring to DPS regulation. It exempts from regulation amateur school-based sparring matches and matches held under the auspices of amateur athletic associations that the commissioner determines capable

of ensuring participants' health and safety.

Boxing Regulations

Prior law required the DCP commissioner to adopt boxing regulations necessary for the conduct, supervision, and safety of boxing. The act requires the DPS commissioner to adopt such regulations in consultation with the commission.

Sparring

The act requires organizations, gymnasiums, or independent clubs hosting sparring matches to register with DPS. The DPS commissioner must register applicants he deems qualified to host matches. The registration fee is \$50, and the applicant must include it with the DPS application. The commissioner or a designee may inspect the applicant's facility to enforce the law.

Injury Reports

The act requires the owner of any location where a serious physical injury or death from boxing or sparring occurs to report it to the commissioner or his designee within four hours after it happens. The DPS commissioner or his designee must investigate the incident within four hours of receiving the report to determine the cause. He or his designee may enter any registered or licensed premises to further his investigation or inspection.

Enforcement Activities

The act allows the DPS commissioner or his designee to (1) investigate the location, paraphernalia, equipment, and other related matters for boxing or sparring matches; (2) determine whether the match will be reasonably safe for participants and spectators; and (3) make reasonable orders for altering or improving the equipment or paraphernalia and addressing seating, exits, lighting, firefighting appliances, fire and police protection, and such other provisions to make matches reasonably safe from fire and casualty hazards.

The act eliminates the authority that the DCP commissioner or his designee had under prior law to (1) issue subpoenas to anyone involved in a wrestling or boxing investigation, (2) subpoena documents pertinent to the investigation, (3) administer oaths or affirmations, (4) conduct investigatory hearings, and (5) apply to the Superior Court to enforce the subpoenas.

Violations

When asked by DPS, the attorney general may apply to the Superior Court for a temporary or

permanent order to restrain any entity from violating the laws pertaining to boxing or sparring, or regulations pertaining to registration. The commissioner, in consultation with the commission, must adopt necessary regulations for the conduct, supervision, and safety of sparring matches.

Background—Boxing Promotion Commission

Three of the commission's nine members are appointed by the governor. One member each is appointed by the House speaker, Senate president pro tempore, and majority and minority leaders of both chambers. Members are not compensated.

NANOTECHNOLOGY (§§ 27 & 91)

The act adds various nanotechnology development initiatives to the grant programs PA 05-198 required the Office of Workforce Competitiveness (OWC) to establish to promote research collaborations between academia and industry. It provides for matching grants to support students working on nanotechnology projects and university teams working with businesses to apply research and create product prototypes. All grants must be made within available appropriations.

The act calls for OWC to study the feasibility of developing a center for nanoscale sciences and development. And it requires OWC to provide technical assistance to help businesses apply for nanotechnology-related Small Business Innovation Research funds.

EFFECTIVE DATE: July 1, 2006

University-Business Collaboration Grants

As part of OWC's research funding grant program, the act establishes three types of grants that may be used to establish a Connecticut Nanotechnology Collaboration Initiative. The grants can go to colleges, universities, and technology-focused organizations.

1. Discovery grants, up to \$50,000, support graduate or post-doctoral students working with industry under faculty supervision. The grants must be matched equally by money or in-kind services from business.
2. Collaborative grants, up to \$150,000, support university research teams collaborating with industry on research focused on specific application development. These grants must be matched equally by industry funds.
3. Prototype grants, up to \$250,000, enable universities and businesses to demonstrate (a) whether a prototype is functional and can be manufactured and (b) the cost-effectiveness of the nanotechnology application. Industry must

provide \$2 for each state dollar.

The act transfers \$50,000 from the FY 07 appropriation to OWC to establish a Nanotechnology Collaboration Initiative to the Department of Higher Education to identify model nanotechnology curriculum and assess its application to Connecticut colleges and universities.

Nanoscale Sciences and Development Center.

As part of OWC's grant program to promote collaborative research applications between industry and academia, the act authorizes grants to colleges and universities, technology-focused organizations, and businesses to develop a Connecticut Center for Nanoscale Sciences and Development. The center is to provide (1) a shared-use laboratory to advance academic research, industry application development, and education involving the synthesis, characterization, and fabrication of nanoscale materials, intermediates, and devices and (2) related activities. The laboratory may be located in more than one site.

The act requires OWC to conduct a feasibility study and business planning model leading to the center's creation. The study must include strategies for obtaining investments from federal and private sources. OWC must report its findings to the Commerce and Higher Education committees by January 1, 2007.

Small Business Innovation Research (SBIR) Assistance

As part of OWC's grant program to promote commercialization of academic research, the act authorizes grants to colleges, universities, and businesses for specialized technical assistance to advance nanotechnology awards to businesses and the Small Business Innovation Research Program. The grants go through the state's Small Business Innovation Research Office, which is operated by the Connecticut Center for Advanced Technology. The technical assistance can include workshops, seminars, grant preparation and marketing help, services related to matching grants, and other assistance to help business make nanotechnology-related applications for SBIR funds.

SBIR is a federally funded program to assist small, technology-based business research, develop, and commercialize new products. The program has two phases. Phase one provides up to \$100,000 for a small business to determine the feasibility of an innovative technology. Phase two provides up to \$750,000 for prototype development.

Education Grants

The act authorizes OWC to make grants to higher education institutions to establish a nanotechnology

post-secondary education program and clearinghouse for curriculum development, scholarships, and student outreach.

Grant Priorities

The law requires OWC to award its existing grants and the ones the act establishes in the following order. Grants must:

1. focus on key technology areas to give Connecticut a competitive advantage in the knowledge economy;
2. create certificate and degree programs to encourage talent generation;
3. promote collaboration between public and private colleges and universities;
4. involve multiple activities, enhance research capabilities, promote applied research collaboration, and find commercial uses for academic research; and
5. match funds from businesses, technology-focused organizations, or colleges and universities.

Background—Nanotechnology

Nanotechnology is cross-disciplinary science that combines chemistry and engineering to manipulate individual atoms and molecules to produce a desired structure. It can be applied to organic and inorganic matter. Nanotechnology is potentially applicable to material, manufacturing processes, alternate energy production, electronics, and health care products and processes.

SEX OFFENDERS (§§ 28 – 42)

The act reduces, from life to 10 years, the mandatory registration period for violators of several statutory rape offenses. It requires additional offenders to register for 10 years by including them in the definition of “nonviolent offender.” It corrects a disparity in registration terms for offenders released before and after October 1, 1998 (the date the current registration law took effect).

It establishes a Risk Assessment Board and requires it to develop a scale using various factors to determine a sex offender’s likelihood of reoffending. It requires an annual report on registrants’ supervision.

The act requires the court to give DPS a written summary whenever someone is convicted or found not guilty by reason of mental defect or disease of a sex crime that requires registration. The summary must include a specific description of each offense and the age and sex of the crime victim. DPS must add the summary to the sex offender registry information

available to the public on the Internet.

It adds activities that trigger a registrant’s obligation to update his registry information and requires the Department of Correction (DOC) commissioner to ensure that sex offenders in her custody are registered before she releases them. It changes the timeframe for out-of-state offenders to register and for reporting changes to reported information. It requires DPS to establish a protocol for notifying state agencies and local police of such changes.

The act specifies that courts may order criminal defendants on probation or conditional discharge to submit to monitoring by a global positioning system.

EFFECTIVE DATE: July 1, 2006, but PA 06-196 changes the effective date to (1) July 1, 2007, for the requirement that courts give DPS a written summary when someone is convicted or found not guilty by reason of mental defect or disease of a sex crime that requires registration and (2) October 1, 2006, for the provisions on reporting and registration requirements, nonviolent sexual offense classifications, photographs and notification protocol, and probation and conditional discharge.

Crimes Against Minors (§§ 31 & 33)

The act makes statutory rape offenses involving coaches, mentors, and custodians in positions of trust or power who engage in sexual intercourse with underage victims “criminal offenses against a victim who is a minor,” requiring perpetrators to comply with sex offender registry laws for 10 years. Previously, they were “violent sexual offenses,” which required lifetime registration. This change makes the registration period for these offenses consistent with that for other similar offenses (e.g., a statutory rape offense committed by a teacher).

“Nonviolent Sexual Offense” Classification and Voyeurism (§§ 32, 35, & 42)

The act expands the criminal activities that trigger the 10-year registration requirement. It does this by expanding the definition of “nonviolent sexual offense” to include (1) voyeurism committed for the offender’s or a third person’s sexual gratification or arousal and (2) an attempt to commit, conspiring to commit, and aiding and abetting the commitment of voyeurism or fourth-degree sexual assault. Under prior law, voyeurism did not trigger registration unless one of the reasons for the voyeuristic act was to engage in nonconsensual sexual contact or sexual intercourse with another person. And only the principal actor had to register for fourth-degree sexual assault violations.

The act allows a court to exempt a voyeur from the registration requirement if it finds that registration is not necessary for public safety.

By law, a person is guilty of voyeurism if he knowingly photographs, films, videotapes, or otherwise records the image of another person with malice or for his or a third person's sexual gratification or arousal and (1) without the subject's knowledge or consent, (2) while the subject is not in plain view, and (3) under circumstances where the subject has a reasonable expectation of privacy. It is these voyeurs whom the act requires to register. Voyeurism is a class D felony (see Table on Penalties).

Registration of Offenders Released Before 10/1/98 (§ 37)

Under PA 97-183, sexual offenders released into the community after incarceration or probation were required to register for 10 years. PA 98-111 required these same offenders to comply with its provisions and register for life; however offenders convicted of the same crimes now classified as "criminal offenses against a victim who is a minor" and released after the passage of PA 98-111 were required to register for only 10 years.

The act corrects the disparity in registration terms by requiring the pre-1998 registrants to register for 10 years, rather than life.

Risk Assessment Board (§ 30)

Members. The act establishes an 18-member board consisting of a forensic psychiatrist experienced in sex offender treatment appointed by the governor; a person trained in the identification, assessment, and treatment of sex offenders appointed by the governor; and the following state officials or their designees:

1. correction, mental health and addiction services, and public safety commissioners;
2. chief state's attorney;
3. chief public defender;
4. chairperson of the Board of Pardons and Parole;
5. victim advocate;
6. executive director of the Judicial Department's Court Support Services Division; and
7. chairmen and ranking members of the Judiciary and Public Safety committees.

Duties. The board must develop a risk assessment scale and use it to assign a risk level of high, medium, or low to each sex offender required to register based on his likelihood to reoffend. The board must include the assessment, and assign a risk level for, incarcerated offenders within one year of their release date.

The risk assessment scale must assign weights to various risk factors, including:

1. the seriousness of the offense;
2. the offender's prior criminal history and characteristics;
3. the availability of community supports;
4. whether the offender, or credible evidence in his record, indicates that he will reoffend if released into the community; and
5. whether the offender demonstrates a physical condition that minimizes his risk of reoffending.

By February 1, 2007, the board must submit recommendations to the Judiciary Committee regarding:

1. information about sex offenders that should be available to the public through the Internet, including (a) their names, residential addresses, physical descriptions, and photographs; (b) the crime they committed; (c) a brief description of the facts and circumstances of each crime; (d) any history of prior sex offenses that would require registration; and (e) the names of their supervising correctional, probation, or parole officers and the officers' contact information;
2. the level assigned to offenders whose information should be available to the public through the Internet;
3. the need for additional restrictions on registrants, such as curfews and intensive monitoring on holidays; the need to require high-risk offenders to register regardless of when they were convicted or released into the community; and
4. any high-risk offenders who meet the criteria for civil commitment.

Existing law permits the involuntary commitment of people with psychiatric disabilities who are either dangerous to themselves or others or gravely disabled.

Registrant Supervision (§ 41)

The act requires DOC, the Board of Pardons and Parole, and the Judicial Department's Court Support Services Division to each submit an annual report, by January 15th, on the number of registered sex offenders they supervise who are electronically monitored and any additional resources they need to ensure that registrants are supervised.

Registry Information Updates and Penalties (§§ 34 & 36-40)

The law, unchanged by the act, requires residents to register in this state if they were convicted of crimes in another jurisdiction that if committed in Connecticut would require registration. The act also requires these

offenders to register if they are subject to a registration requirement in the other jurisdiction. The law subjects these foreign registrants to the registration periods applicable to offenders convicted under Connecticut law. The act specifies that the registration period is that of the jurisdiction that convicted the offender.

The act adds name changes to the events triggering updated reports to the Sex Offender Registry Unit. Registered offenders must register their new names without undue delay after the change is finalized. It changes the time period for reporting changes in address and status and for registering as an out-of-state offender from five and 10 days, respectively, to without delay.

By law, people who violate sex offender registration laws are guilty of a class D felony. The act specifies that a person who fails to register as an out-of-state offender or report a change in name, address, status, or other reportable event is subject to the penalty only if the failure continues for five business days.

Photographs and Notification Protocol (§ 40)

By law, DPS must retake pictures of registrants at least once every five years. The act requires the department to include the most recent photograph of each registrant in the registry taken by DOC, DPS, a law enforcement agency, or the Judicial Department's Court Services Division.

The act requires the DPS commissioner to develop a protocol for notifying other state agencies, the Judicial Department, and local police departments when a registrant registers a name change or the commissioner determines that a registrant has changed his name.

Probation and Conditional Discharge (§ 29)

The act specifies that courts may order that a defendant be electronically monitored by a GPS as a condition of probation or conditional discharge.

The act raises the maximum daily cost of electronic monitoring services from \$5 to \$6 plus inflation. By law, courts may require offenders subject to monitoring to pay for it.

MAINTENANCE OF FINGERPRINT DATA (§ 43)

The act gives the State Police Bureau of Identification (SPBI) the option of maintaining fingerprints in either electronic or paper format. It applies to fingerprints (1) SPBI receives from police departments for people convicted of crimes of moral turpitude and (2) from people who submit to criminal history record checks required by law.

The act allows the bureau to destroy paper copies of fingerprints in its files when it converts the fingerprints to an electronic format.

PA 06-111 contains these identical provisions.
EFFECTIVE DATE: July 1, 2006

HYPNOTIST REGISTRATION REQUIRED (§ 44)

The act requires anyone practicing hypnosis, or holding himself out to be a hypnotist, to register with DCP. It defines "hypnosis" as an artificially induced altered state of consciousness characterized by heightened suggestibility and receptivity to direction.

The act requires a registration applicant to state that he is not required to register as a sex offender and requires the DCP commissioner to revoke, after notice and hearing, the registration of anyone required to register as one. It sets application, complaint handling, and disciplinary procedures. It authorizes the DCP commissioner to impose a civil penalty of up to \$100 for practicing hypnosis without being registered and to adopt regulations in consultation with the public health commissioner.

EFFECTIVE DATE: October 1, 2006

Applications

The application must be on a DCP-provided form with information and attestation required by the DCP commissioner that must include the applicant's full name, business and residential addresses, and a written representation that the applicant is not a sex offender under Connecticut law. The act requires registrants to notify the commissioner of any change in these facts within 30 days after they occur. The application and annual renewal fees are \$50.

Complaints and Discipline

Under the act, DCP receives and investigates complaints about hypnotists and may cause a prosecution to begin based on its investigation. Grounds for complaints include physical or sexual abuse; misappropriation of property; and fraud or deceit in obtaining, or attempting to obtain, a registration as a hypnotist. The act requires DCP to give a hypnotist written notice of a complaint by certified mail. A hypnotist who wants to appeal must file a request for a hearing within 30 days after DCP mails its notice. Hearings must be conducted in accordance with the Uniform Administrative Procedure Act. The DCP commissioner must make a finding on the complaint and enter it in the registry. He may do so regardless of whether the individual is already on the registry or has obtained a registration as a hypnotist.

The act gives the DCP commissioner the authority to deny a registration to, but not revoke the registration of, a hypnotist who has been the subject of a finding. The act requires the registry to include information about anyone denied a registration and a brief statement

by the individual, if any, disputing the denial.

A hypnotist may ask the commissioner to have a finding removed from the registry if the commissioner determines that the hypnotist’s employment and personal history does not reflect a pattern of abusive, deceitful, or fraudulent behavior, and the conduct involved in the original finding was a singular occurrence. The act prohibits removing a finding less than one year after it was added to the registry.

Exemptions

The act exempts anyone licensed in this state to provide medical, dental, nursing, counseling, or other health care, substance abuse, or mental health services from its hypnotist registration provisions.

SEXUAL ASSAULT BY A HYPNOTIST (§ 45)

The act makes it sexual assault for a hypnotist to have consensual sexual intercourse or contact with a client or former client under the same circumstances that the law applies to people performing or purporting to perform psychotherapy.

EFFECTIVE DATE: October 1, 2006

Sexual Assault

Sexual assault by a hypnotist is 2nd-degree sexual assault when it involves sexual intercourse:

1. with a client during a treatment session for a mental or emotional illness, symptom, or condition;
2. the hypnotist represents to be for legitimate treatment purposes; or
3. with a client or former client the hypnotist has reason to know is unable to withhold consent because of her emotional dependence on him.

By law, people convicted of this crime are subject to 10-year sex offender registration.

The act also makes it 4th-degree sexual assault to have sexual contact with a client or former client under the circumstances listed above. By law, people convicted of this crime are subject to 10-year sex offender registration.

The table below lists penalties and fines for 2nd- and 4th-degree sexual assault.

<i>Offense</i>	<i>Classification</i>	<i>Range of Sanctions</i>
2 nd -degree sexual assault; victim under age 16	Class B felony	At least 9 months and up to 20 years imprisonment, a fine of up to \$20,000, or both
2 nd -degree sexual assault; victim at least	Class C felony	At least 9 months and up to 10 years imprisonment, a

age 16		fine of up to \$10,000, or both
4 th -degree sexual assault; victim under age 16	Class D felony	Up to 5 years imprisonment, a fine of up to \$5,000, or both
4 th -degree sexual assault; victim at least age 16	Class A misdemeanor	Up to 1 year imprisonment, a fine of up to \$2,000, or both

LOBSTER RESTORATION EFFORTS (§§ 46-51)

The act establishes a lobster trap (pot) allocation buy-back program and an economic assistance program for resident commercial lobster fishermen. It bases funding for these programs on whether the Atlantic State Marine Fisheries Commission establishes a v-notch program with equivalent conservation value to existing or future requirements for Long Island Sound by November 1, 2006.

The act establishes a Lobster Restoration Advisory Committee to advise the DEP commissioner on the development of a lobster v-notch conservation program to enhance recovery and rebuilding of lobster stock in Long Island Sound.

The act allows seafood dealers, wholesalers, or shippers to possess and sell lobsters less than a certain length under certain conditions.

EFFECTIVE DATE: Upon passage

V-Notch Program (§ 47)

Under the act, if the Lobster Management Board of the Atlantic States Marine Fisheries Commission approves a lobster v-notch restoration program with conservation values equivalent to current or future requirements for Long Island Sound (known as “management Area 6”) by November 1, 2006, 100% of any appropriations made for FY 2007 for lobster stock recovery and conservation goes to implement the v-notch program.

If the board does not approve a lobster restoration program by November 1, 2006, 60% of the appropriation goes to implement the lobster pot buy-back program and 40% to fund the economic assistance program for resident commercial lobster fishermen, both of which the act establishes. (Connecticut's v-notch program, under PA 05-281, requires the tails of mature female lobsters that licensed commercial fishermen land be marked with a V-shaped notch and then released in order to increase lobster egg production. As of June 2006, it was unfunded and had not been implemented.)

Lobster Pot Allocation Buy-Back Program (§§ 48-49)

The act requires the DEP commissioner to establish a lobster pot allocation buy-back program, within

available appropriations, to permanently retire lobster pots from the lobster fishery. It also requires the program to provide a \$15 payment for each lobster pot allocation permanently retired.

By law, to conserve and manage American lobster populations, the DEP commissioner must adopt regulations governing (1) lobster taking in state waters and (2) lobster possession in the state regardless of where taken. The act additionally allows the commissioner to adopt regulations by April 1, 2007, to implement the lobster pot allocation buy-back program.

The regulations must include provisions for the \$15 lobster pot buy-back. They must stipulate that the buy-back program is limited to the buy-back of lobster pots of resident commercial lobster fishermen holding lobster trap allocations issued by the commissioner who (1) reported lobster landings between January 1, 1999 and December 31, 2005, as determined by the commissioner, based on required reports or (2) received license transfers with trap allocations. The act stipulates that the buy-back program is voluntary.

Economic Assistance Program (§ 50)

Under the act, the DEP commissioner must establish an economic assistance program for resident commercial lobster fishermen. She may adopt regulations by April 1, 2007 to implement the program. The program is for any resident commercial lobster fisherman who (1) held a Connecticut license to take lobsters in 2006 and a lobster trap allocation issued by the commissioner or (2) received a license transfer with a trap allocation, and who, not later than January 24, 2006, reported the landing of lobsters between January 1, 2004, and December 31, 2005, as determined by the commissioner, based on reports the law required.

The regulations must include provisions for direct payment to such lobstermen based on the contribution his lobster catch made to the total qualifying catch of all qualifying lobster fishermen from Long Island Sound with any gear between January 1, 2004, and December 31, 2005. In cases in which more than one fisherman has reported on the same catch report form, catches must be attributed and payments made to the lead license holder indicated on the form.

Lobster Restoration Advisory Committee (§ 46)

The 11-member Lobster Restoration Advisory Committee includes:

1. the DEP and Agriculture commissioners or their designees;
2. the state's administrative, legislative, and governor-appointed commissioners, to the Atlantic States Marine Fisheries Commission; and
3. one representative each from the (a) Southern New England Fishermen's and Lobsterman's Association, (b) Connecticut Commercial Lobstermen's Association, (c) Long Island Western End Lobstermen's Association, (d) state vocational aquaculture school known as the Sound School in New Haven, (e) state vocational aquaculture school in Bridgeport, and (f) Connecticut Seafood Council.

The DEP and agriculture commissioners jointly appoint committee members, after receiving nominations from the above listed groups. They must do so no later than 30 days after the acts passage, which was May 26, 2006. The committee elects its own chairman and any other officers and adopts procedural rules, as necessary. Committee members are not compensated for their services, but are reimbursed for necessary expenses while performing their duties.

Possessing Lobster Below Certain Size (§ 51)

Prior law prohibited anyone from buying, selling, giving away, offering for sale, or possessing, regardless of where taken, any lobster with a body shell (carapace) length less than 3 and 9/32 inches. Under the act, a seafood dealer, wholesaler, or shipper may possess and sell lobsters less than the Atlantic States Marine Fisheries Commission's American Lobster Fishery Management Plan for Long Island Sound minimum legal length, as defined in regulation, provided:

1. the lobsters are not taken from Long Island Sound waters or landed in this state, regardless of where such lobsters were taken;
2. the lobsters are (a) not less than the minimum legal length in effect in the waters of the Lobster Management Area or nation of origin where taken and not less than three and one-quarter inches carapace length regardless of where taken, and (b) not bartered, exchanged, sold, or offered for sale to retail consumers in this state; and
3. the seafood dealer, wholesaler, or shipper in possession of such lobsters possesses written documentation identifying the state, Lobster Management Area, or nation of origin, as applicable, where such lobsters were received; the number of such lobsters received that are less than Long Island Sound minimum legal length; and the date such lobsters were received.

The seafood dealer, wholesaler, or shipper must keep this documentation for a period of six months from the date the lobsters were received and must make it available to law enforcement officers upon request.

REGISTRATION OF HOMEMAKER-COMPANION AGENCIES (§§ 52 – 62)

The act requires homemaker-companion agencies to register annually with DCP for a \$300 fee. The agencies must (1) maintain a surety bond, (2) require employees hired on or after October 1, 2006 to undergo comprehensive background checks, and (3) require these employees to provide information about their criminal convictions or certain disciplinary actions against them. They must provide their clients with written individualized contracts or service plans and make their records accessible to DCP. The act imposes penalties on agencies that provide such services without registering or make certain misrepresentations.

The act requires the DCP commissioner to adopt implementing regulations and to report on the implementation to the Aging Committee and the governor by January 1, 2008.

EFFECTIVE DATE: October 1, 2006

Homemaker- Companion Agencies

The act defines a “homemaker-companion agency” as any public or private organization with one or more employees engaged in the business of providing companion or homemaker services. Under the act, “companion services” means nonmedical, basic supervision services to ensure a person’s well-being and safety in his home. “Homemaker services” means nonmedical, supportive services that ensure a safe and healthy environment for an individual in his home, including assistance with personal hygiene, cooking, household cleaning, laundry, and other household chores. The act defines “employee” as anyone employed by, or who enters into a contract to perform services for, a homemaker-companion agency, including temporary employees, pool employees, and independent contractors.

The act excludes home health care agencies and homemaker-home health aide agencies from the definition of “homemaker-companion agency”; both of these types of agencies must already be licensed by the Department of Public Health (DPH) and consequently are exempt from this act’s DCP registration requirement. As defined under the public health statutes, a “home health care agency” is a public or private organization that provides professional nursing services as well as homemaker-home health aide services, physical therapy, speech therapy, occupational therapy, or medical social services available 24 hours a day, in the patient’s home or an equivalent environment. A “homemaker-home health aide agency” is a public or private organization, other than a home health care agency, that, under the supervision of a registered nurse, provides supportive services such as assistance with

personal hygiene, dressing, feeding, and incidental household tasks essential to achieving adequate household and family management in the patient’s home or in an equivalent environment.

Registration Requirements

The act prohibits anyone acting individually or jointly with another person from establishing, conducting, operating, or maintaining a homemaker-companion agency in the state without first obtaining a DCP registration certificate. Anyone seeking registration must complete and submit a DCP application to the commissioner. The application must include the applicant’s name, residence and business addresses, business telephone number, and other information the commissioner requires. Each application must be accompanied by a \$300 fee, which must be deposited in the General Fund.

The applicant must also certify under oath that the agency:

1. complies with the act’s employee comprehensive background check requirements;
2. maintains a surety bond (but the act does not specify a minimum amount);
3. will keep its records open for DCP inspection, copying, or audit at all reasonable hours; and
4. provides all clients receiving homemaker or companion services with a written individualized contract or “service plan” that specifically identifies the services’ anticipated scope, type, frequency, and duration.

The Connecticut Home Care Program for Elders currently requires such a written service plan for its clients who receive Medicaid or state assistance.

If an agency fails to comply with the act’s registration requirements, the act authorizes the attorney general, at the DCP commissioner’s request, to apply to the Superior Court for a temporary or permanent order to stop the agency from continuing to do business in the state.

Registration Issuance and Denial Procedures

After receiving a completed application and the registration fee, the commissioner must either issue and deliver the certificate of registration or deny it. The certificate cannot be transferred or assigned to someone else. It is valid for one year and renewable annually for a \$300 fee, which is the same as for the original certificate. Failure to receive an expiration notice or a renewal application does not exempt an agency from the obligation to renew the registration.

The act allows the commissioner to suspend, revoke, or deny certificates; place registrants on

probation; or issue letters of reprimand. He can take any of these actions for (1) agency conduct (or that of an agency employee in the course of employment) likely to mislead, deceive, or defraud the public or the commissioner or (2) untruthful or misleading advertising.

If the commissioner denies a certificate, he must notify the applicant of the denial and his right to request a hearing within 10 days after receiving the denial notice. If the applicant requests a hearing within the 10 days, the commissioner must give notice of the grounds for his denial and conduct the hearing in accordance with the Uniform Administrative Procedure Act (UAPA). If the denial is sustained after the hearing, the applicant must wait one year after the date the denial was sustained before he can reapply.

The act also prohibits the commissioner from revoking or suspending a certificate of registration except on notice and hearing consistent with the UAPA. And it prohibits the commissioner from accepting an application to reinstate a revoked certificate within one year after the revocation date.

Commissioner's Inspection Authority

The act gives the DCP commissioner the right to inspect, copy, or audit all of the agency's records at all reasonable hours. It allows the commissioner to conduct investigations and hold hearings on any matter under act and to issue subpoenas, administer oaths, compel testimony, and order the agency to produce books, records, and documents. If anyone refuses to appear or otherwise comply with the commissioner's orders, a Superior Court judge, on the commissioner's application, may make an order appropriate to help enforce the act. The attorney general, at the commissioner's request, may apply to the Superior Court for a temporary or permanent order restraining and enjoining anyone from violating the act.

Registrant's Duties

The act requires anyone obtaining a certificate of registration to (1) show it at the request of any interested party, (2) state the fact that the agency is registered and (3) disclose the registration number in advertising.

The act also prohibits anyone from:

1. presenting or trying to present someone else's certificate as his own;
2. knowingly giving the commissioner false evidence of a material nature in order to procure a certificate;
3. falsely representing himself as, or impersonating, a registered homemaker-companion agency;

4. using or trying to use an expired, suspended, or revoked certificate;
5. offering to provide homemaker or companion services without having a current certificate of registration; or
6. representing that registration constitutes the commissioner's endorsement of the quality of services the person provides.

Anyone who violates these specific provisions is subject to up to six months in prison, up to a \$1,000 fine, or both, in addition to the act's other remedies.

Employee Background Checks and Statement on Criminal Convictions and Disciplinary Actions

The act mandates that a homemaker-companion agency must require any employee hired on or after October 1, 2006 (including temporary and pool employees and independent contractors) to submit to a comprehensive background check, but it specifies no particular procedures for them nor identifies who would do them. The term "comprehensive background check" is not defined in the act or in statute. (In practice, background checks vary in terms of their scope, complexity, and the years covered, among other things. They may include checks of any or all of the following, for example: criminal history, credit, professional license, employment, and education records.)

In addition, under the act, each agency must require that employees hired on or after October 1, 2006 complete and sign a form answering questions about whether they were convicted of a crime involving violence or dishonesty in any state or federal court in any state or were subject to any decision imposing disciplinary action by a licensing agency in any state, the District of Columbia, a U.S. possession or territory, or a foreign jurisdiction. If an employee makes a false written statement about his prior criminal convictions or disciplinary action, the act makes him guilty of a Class A misdemeanor (see Table on Penalties).

Individualized Contract or Service Plan Required

The act requires that, within seven days after a homemaker-companion agency begins providing services to anyone, it must give the client or his authorized representative a written contract or service plan that describes the services' anticipated scope, type, frequency, duration, and cost. The act also requires the contract or service plan to provide notice of (1) the individual's right to request changes to it or to review it, (2) the agency's employees who must submit to a comprehensive background check, and (3) the availability of the agency's records for DCP inspection or audit.

Under the act, no such contract or service plan is valid against the person who receives the services or his authorized representative unless the contract or service plan has been signed by the agency's authorized representative and the person who receives the services or his authorized representative.

The act exempts from its contract and service plan requirements homemaker or companion services provided under the Connecticut Home Care Program for Elders administered by the Department of Social Services (the program already provides its own service plans).

Regulations

The act requires the DCP commissioner to adopt regulations to carry out the act. But it allows him to implement policies and procedures needed to administer the act while in the process of adopting such policies and procedures as regulations, as long as he prints notice of the intent to adopt regulations in the Connecticut Law Journal within 20 days after implementing the policy and procedures. Such policies and procedures are valid until the time final regulations are adopted.

DCP Implementation Report Required

By January 1, 2008, the act requires the DCP commissioner to report on its implementation to the Aging Committee and the governor. The report may include recommended revisions to the statutes or other changes the commissioner deems necessary or advisable to enhance the act's implementation.

CONNECTICUT HYDROGEN-FUEL CELL COALITION (§ 63)

The act requires DECD to establish a Connecticut Hydrogen-Fuel Cell Coalition. DECD must do this in consultation with the Connecticut Center for Advanced Technology, a federally funded nonprofit organization focused on developing the next generation of technological systems for military and civilian applications.

EFFECTIVE DATE: Upon passage

FUEL CELL ECONOMY PLAN (§ 64)

The act requires DECD to contract with the Connecticut Center for Advanced Technology to prepare a plan for fuel cell economic development. DECD must do this in consultation with the Connecticut Hydrogen-Fuel Cell Coalition, the Renewable Energy Investment Fund, and other appropriate state agencies.

EFFECTIVE DATE: Upon passage

Plan Elements

The plan must include a strategy to:

1. help commercialize fuel cells and hydrogen-based technologies;
2. enhance energy reliability and security;
3. promote ways to make transportation and electric generation systems more efficient, reduce their effects on the environment, and increase their use of renewable and sustainable fuels;
4. facilitate the installation of infrastructure for hydrogen production, storage, transportation, and fueling capability;
5. disseminate information about the benefits of hydrogen-based technologies and fuel cells; and
6. develop ways to retain and expand the state's hydrogen and fuel cell industries.

The strategy must also identify how hydrogen-based and fuel cell technologies could benefit the state's transportation and electric and natural gas distribution systems. DECD must consult with the Department of Transportation to identify areas where the state could integrate hydrogen or natural gas and hydrogen mixture refueling stations with mass transit and fleet locations.

Lastly, the strategy must identify areas in the electric and natural gas distribution system where hydrogen and fuel cell technology could be used to generate energy distribution. The strategy must show how the technology could reliably be used to control voltage, secure the grid, make the system more reliable, or provide uninterruptible service at customer sites. DECD must develop this part of the strategy in consultation with electric and natural gas service providers.

Report

DECD must report to the Commerce Committee about the plan. It must submit a progress report to the committee by January 1, 2007 and a final report by January 1, 2008.

Background—Connecticut Center for Advanced Technology

Universities, businesses, and state and federal agencies established the center in 2002 with a \$1.5 million grant from the U.S. Air Force. The center focuses on developing the next generation of technological systems for military and civilian applications. Its initiatives include creating a center to (1) develop and deploy advanced technologies; (2) help entrepreneurs launch new, technology-based businesses; and (3) encourage colleges and universities to train students for advanced technology fields.

Background—Renewable Energy Investment Fund

The quasi-public Connecticut Innovations, Inc. administers the fund, whose purpose is to promote investments in renewable energy resources, stimulate demand for them, and encourage their deployment.

PROMOTION OF CONNECTICUT AGRICULTURE (§§ 65-66)

By law, the agriculture commissioner must establish and administer a program to market farm products grown and produced in Connecticut to encourage state agricultural development. The commissioner may provide grants to anyone who promotes and markets these farm products, provided the words “Connecticut-Grown” are clearly incorporated in such promotional and marketing activities. The act allows use of “CT-Grown.”

Under the act, the commissioner must also design, plan, and implement a multiyear, statewide marketing and advertising campaign, which must include television and radio advertisements promoting the availability and advantages of purchasing Connecticut-grown farm products.

EFFECTIVE DATE: July 1, 2006

Website

The act requires the commissioner to establish and continuously update a website connected with the advertising campaign. It must include a comprehensive listing of Connecticut farmers’ markets, pick-your-own farms, roadside and farm markets, farm wineries, garden centers, and nurseries selling predominantly Connecticut-grown horticultural products, and agri-tourism events and attractions.

Additional Duties

Under the act, the commissioner must promote business relationships and interaction between farmers and restaurants, grocery stores, institutional cafeterias, and other potential institutional purchasers of Connecticut-grown farm products. This includes (1) linking farmers and potential purchasers through a separate feature of the web site the act establishes and (2) inviting farmers and potential institutional customers to participate in statewide or regional events promoting Connecticut-grown farm products.

The commissioner must, to the best of his ability, solicit cooperation and participation from the farm, corporate, retail, wholesale, and grocery communities in advertising, Internet-related, and event planning efforts, including soliciting private-sector matching funds.

Funding

Under the act, the agriculture commissioner must annually use \$100,000 for marketing from the funds collected from the \$30 document-recording fee established by PA 05-228. Under prior law, the commissioner had to use those funds to encourage the sale of Connecticut-Grown food to schools, restaurants, retailers, and other state businesses and institutions.

The act requires the commissioner to deposit the money into the expand and grow Connecticut agriculture account. It is a separate, nonlapsing account within the General Fund already funded from 75% of an annual fee of 40 cents per linear foot the commissioner imposes on the owner of certain facilities that cross any grounds of the Sound within Connecticut’s jurisdiction.

Under prior law, the commissioner could make payments from the expand and grow Connecticut agriculture account for programs that certify that grocery stores, schools, and restaurants use certain percentages of Connecticut-grown or produced farm products. Under the act, the commissioner must make payments from the account to fund these programs and the act’s marketing, advertising campaign, and other requirements. He also must seek private matching funds.

Report

The act requires the commissioner to report annually to the Environment Committee with respect to the act’s requirements, including the amount of private matching funds received and expended by the department. By law, the commissioner may adopt regulations as necessary to carry out the Connecticut-Grown program.

Background—Connecticut-Grown

By law, only farm products grown and eggs produced in Connecticut can be advertised or sold in Connecticut as “Connecticut-Grown.” Farm products grown and eggs produced in Connecticut may also be advertised or sold in Connecticut as “Native,” “Native-Grown,” “Local,” or “Locally-Grown” (CGS § 22-38).

MEMBERS OF THE STATE ELECTIONS ENFORCEMENT COMMISSION, THE FREEDOM OF INFORMATION COMMISSION, AND THE CITIZEN'S ETHICS ADVISORY BOARD (§§ 67 – 69)

The act increases, from \$50 to \$200, the per diem payable to Freedom of Information Commission, State Elections Enforcement Commission, and Office of State Citizens’ Ethics Advisory Board members for attending a commission or board meeting or hearing. Members

continue to be reimbursed for necessary or reasonable expenses associated with discharging their duties.

EFFECTIVE DATE: Upon passage

ENERGY EFFICIENCY (§ 70)

The act requires state facility construction projects funded on or after January 1, 2007 to meet specified energy and environmental standards. The requirement applies to new facilities costing \$5 million or more, other than school construction projects, salt sheds, parking garages, or maintenance facilities.

By January 1, 2007, the OPM secretary, in consultation with the public works, environmental protection, and public safety commissioners, must adopt regulations adopting construction standards that meet or exceed the silver building rating of the Leadership in Energy and Environmental Design's (LEED) rating system for new commercial construction and major renovation projects or an equivalent standard. The alternative standard must at least include a two globe rating under the Green Globes USA design program. The secretary must update the regulations as he considers necessary. The secretary, in consultation with the public works commissioner and the Institute for Sustainable Energy, must exempt a facility from the regulations if the Institute for Sustainable Energy finds, in a written analysis, that the cost of compliance significantly outweighs the benefits of compliance.

Both rating systems give projects points for their environmental characteristics, such as energy and water efficiency, and use of recycled materials and renewable energy. Based on the number of points a project receives, it can be given a silver, gold, or platinum award under the LEED system and one to four globes under the Green Globes system.

EFFECTIVE DATE: October 1, 2006

GENERAL ASSEMBLY STAFF COMPENSATION (§§ 71 - 72, 97)

The act increases the salaries received for each regular session for:

1. Senate and House clerks, from \$18,000 to \$25,000;
2. Senate and House assistant clerks, from \$16,800 to \$23,350;
3. Senate and House chaplains, from \$7,200 to \$10,000; and
4. Senate and House messengers, from \$3,900 to \$5,425.

These officials also receive per diem payments that are unchanged by the act when the General Assembly convenes for special session days.

The act also increases the rate for earning compensatory time for permanent, full-time legislative

employees to one hour of compensatory time for every one hour, rather than two hours, of overtime an employee works. Such an employee must receive one hour of compensatory time for each hour of overtime worked after January 1, 2006.

EFFECTIVE DATE: Upon passage for the compensatory time provision; January 3, 2007 for the salary change.

STATE-WIDE TOURISM MARKETING ACCOUNT (§§ 73 – 74)

The act establishes an account within the General Fund to fund the implementation of the state-wide tourism marketing plan and makes a conforming technical change. The account must contain any funds appropriated to it by law, and any year-end fund balances must be carried forward to the next fiscal year.

EFFECTIVE DATE: July 1, 2006

DISCLOSURE TO COMMISSION ON CHILD PROTECTION (§§ 75 – 76)

The act permits DCF to disclose otherwise-confidential records relating to abused and neglected children to employees of the Commission on Child Protection. Disclosure of copies of court, service provider, and law enforcement records and medical, psychological, psychiatric, and social welfare studies and reports is authorized to those who need access to perform their jobs. The act also allows the chief child protection attorney or his designee to obtain copies of DCF records without the subject's consent to ensure competent representation and accurate billing records of attorneys he contracts with to provide legal and guardian ad litem services for abused and neglected children.

Delinquency records are not subject to disclosure under existing law or the act.

EFFECTIVE DATE: October 1, 2006

INCREASED FUNDING FOR CTN (§ 77)

Under prior law, the revenue services commissioner had to set-aside \$2 million of the cable television companies tax each fiscal year for the Office of Legislative Management (OLM) to defray the costs of providing Connecticut Television Network (CTN) coverage of state government deliberations and public policy events. The act raises the set-aside to \$2.5 million annually, beginning FY 07. The act requires the comptroller, rather than the commissioner, to deposit the funds with the treasurer, who makes them available to OLM.

EFFECTIVE DATE: July 1, 2006

START-UP FINANCING (§ 78)

The act makes a technical change to the criteria a company must meet to receive start-up financing from the quasi-public Connecticut Innovations, Inc.

EFFECTIVE DATE: July 1, 2006

REGULATIONS IMPLEMENTING TAX CREDITS FOR MOVIE AND DIGITAL MEDIA PRODUCTION (§ 79)

PA 06-83 authorizes corporate tax credits for eligible companies that produce qualified films and other types of television, video, or digital entertainment in Connecticut, and requires the Connecticut Commission on Culture and Tourism (CCCT) to administer them. In doing so, it allows CCCT to adopt implementing regulations after consulting with the revenue services commissioner.

This act duplicates a change already made in § 83 of the budget act (PA 06-186), which shifts the responsibility for administering the credits from CCCT to the commissioner. As part of that shift, both acts require the revenue services commissioner, in consultation with CCCT, to adopt implementing regulations.

EFFECTIVE DATE: July 1, 2006

SALES TAX EXEMPTION FOR SERVICES PROVIDED BY PARTICIPANTS IN CERTAIN JOINT VENTURES (§ 80)

The act expands eligibility for, and extends the duration of, a sales tax exemption for specified business services rendered between participants in certain kinds of joint ventures under a joint venture agreement. The exemption applies to personnel; commercial or industrial marketing, development, testing, and research; and business analysis and management services. To qualify, (1) a joint venture's purpose must relate directly to producing or developing new or experimental products or systems and supporting and marketing them and (2) one of its corporate participants must have been actively engaged in business in Connecticut for at least 10 years. The company providing the service must own at least 25% of the joint venture.

Under prior law, to be tax-exempt, the entity receiving services had to be either a corporation or partnership and the one giving services had to be its corporate shareholder or partner, respectively. The act also allows a limited liability company to receive exempt services from a corporate member.

In addition, the act extends the exemption's duration from 10 to 20 consecutive years and specifies that it starts from the date the joint venture is formed, incorporated, or organized. An existing 30-year

exemption term for aircraft industry joint ventures that existed before January 1, 1986 remains unchanged.

EFFECTIVE DATE: Upon passage

SALES TAX EXEMPTIONS (§§ 81-82)

Yoga Instruction

The act exempts from the 6% sales tax, charges for yoga instruction provided at a yoga studio. Under prior law, such instruction was included in taxable health and athletic club services unless (1) it was provided by a municipality or a nonprofit organization or (2) charges for it were included in club dues or fees already subject to the dues tax.

Connecticut Center for Science and Exploration

The act extends to the Connecticut Center for Science and Exploration an existing sales and use tax exemption for items or service used, incorporated into, or otherwise consumed in building the Hartford convention center, Rentschler Field, and related parking facilities and infrastructure improvements.

EFFECTIVE DATE: July 1, 2006

ADRIAEN'S LANDING SCIENCE CENTER FACILITY (§ 83)

The act specifies that the Connecticut Center for Science and Exploration refers to the science center facility constructed and operated in the Adriaen's Landing site. PA 98-179 authorized up to \$300 million in bonds for the Adriaen's Landing project. The science center addresses that element of the original plan that called for a major but unspecified attraction.

EFFECTIVE DATE: July 1, 2006

PROVISIONAL PARDONS (§§ 84-87)

The act authorizes the Board of Pardons and Paroles to issue provisional pardons to remove certain barriers or forfeitures to offenders obtaining employment or an occupational license due to the conviction of crimes named in the provisional pardon. The act allows the board to issue a provisional pardon, any time after sentencing to a person who applies for one or who is under the board's jurisdiction if (1) the person was convicted of a crime in Connecticut or another jurisdiction and resides in the state and (2) the relief in the provisional pardon may promote the public policy of rehabilitating ex-offenders through employment and is consistent with the public's interest in safety and protecting property.

The act prohibits employers from denying employment to a prospective employee or discharging or discriminating against an employee solely on the

basis of a conviction that occurred before his employment for which the person received a provisional pardon. By law, these prohibitions already apply to prior arrests, criminal charges, or legally erased records of convictions (for delinquencies, families with service needs, youthful offenders, criminal charges that were dismissed or nolle, criminal charges resulting in not guilty verdicts, and pardoned convictions).

EFFECTIVE DATE: October 1, 2006

Barriers and Forfeitures

Under the act, a provisional pardon can apply to all of the eligible barriers or forfeitures or it can specify particular ones. It can limit the provisional pardon to specific types of employment or licenses for which the offender is otherwise qualified.

A “barrier” is the denial of employment or a license because of a criminal conviction without considering whether the nature of the crime bears a direct relationship to the employment or license. A “forfeiture” is a disqualification or ineligibility for employment or a license by reason of law based on the offender’s criminal conviction.

“Employment” is any remunerative work, occupation, vocation, or any form of vocational training, but not employment with law enforcement.

A “license” is any license, permit, certificate, or registration the state or any of its agencies require to pursue, practice, or engage in an occupation, trade, vocation, profession, or business.

The provisional pardon cannot apply to eligibility for or the right to retain public office.

Issuing Provisional Pardons

Under the act, the board creates the forms and prescribes the contents for provisional pardons and their applications, investigative reports, and revocations. The board must verify the person’s application. Board staff can investigate an applicant and submit a report. If written, the report is confidential and cannot be disclosed except as required or permitted by statute or on the board’s specific authorization.

When it grants a provisional pardon, the act requires the board to provide written notice to the clerk of the court where the person was convicted. This does not erase the conviction record and the person must disclose the conviction if required.

The act authorizes the board to enlarge the relief granted to a person in a provisional pardon by issuing a new one under the same procedures as for granting original provisional pardons.

A provisional pardon is considered temporary any time that the offender is on probation or parole, and the board can revoke it for a probation or parole violation.

SUMMER YOUTH EMPLOYMENT FUNDING (§ 88)

The act transfers \$4 million to the Labor Department for distribution to the state’s five workforce investment boards. The funds come from OPM’s FY 06 urban youth employment appropriation.

The act requires each board to allocate at least 75% of the amount it receives to at least one distressed municipality in its region and the rest to other towns in the region for summer youth employment programs. It allows the boards to allocate up to 25% of their appropriation, or any unspent money allocated for summer youth employment, for year-round workforce development programs for 14- to 19-year-olds whose family incomes make them eligible for free or reduced-price school meals.

The act requires the Labor Department to distribute the following amounts: \$1.3 million to Capital Workforce Partners; \$900,000 to the Workforce Alliance; \$900,000 to the Northwest Regional Workforce Investment Board, Inc.; \$500,000 to The Workplace, Inc.; and \$400,000 to the Eastern CT Workforce Investment Board.

EFFECTIVE DATE: July 1, 2006

CONNECTICUT UNITED FOR RESEARCH EXCELLENCE BIOBUS (§ 89)

The act requires Connecticut Innovations, Inc. to pay Connecticut United for Research Excellence \$1.5 million for the operation of its BioBus. The amount must be paid over five years from available appropriations beginning July 1, 2006. PA 06-196 eliminates this provision.

EFFECTIVE DATE: July 1, 2006

IPM PROGRAM FUNDING AT UCONN (§ 90)

The act requires the Agriculture Experiment Station to transfer \$300,000 during FY 07 from the Integrated Pest Management (IPM) account to UConn to develop and implement:

1. nonagricultural IPM programs, which must include programs for trees, shrubs, turf, and structural IPM applications and
2. agricultural IPM programs, including programs for vegetables, fruit, forage crops, and nurseries.

EFFECTIVE DATE: July 1, 2006

TRAFFICKING IN PERSONS (§ 92 & 98)

The act repeals provisions of PA 06-43 that appropriated (1) \$25,000 and \$50,000 for FY 07 to the Permanent Commission on the Status of Women and the Police Officer Standards and Training Council,

respectively, to implement a training program on trafficking in persons and (2) \$25,000 for FY 07 to the Judicial Department to use to contract with a community provider for shelter and other services for trafficking victims.

It transfers from the Judicial Department's Victim Security Account to the Criminal Justice Division \$75,000 for FY 07 to the Criminal Justice Division for protective services for cooperative victims at risk of harm.

EFFECTIVE DATE: July 1, 2006

CHILD PROTECTION COMMISSION (§ 93)

The act specifies that up to \$234,000 in the Child Protection Commission account will not lapse at the end of FY 06 and may be used in FY 07.

EFFECTIVE DATE: July 1, 2006

FUND TRANSFER FROM DPS TO DCP (§ 94)

The act requires DPS to transfer \$50,000 of appropriated FY 07 "Other Expenses" funds to DCP for "Other Expenses."

EFFECTIVE DATE: July 1, 2006

DEP'S BEACH EROSION PILOT PROJECT FUNDING (§ 95)

The act moves a \$450,000 FY 06 General Fund appropriation for the DEP's Beach Erosion Pilot Project from Payment to Local Governments to Other Current Expenses within the department for the project.

EFFECTIVE DATE: July 1, 2006

MASHANTUCKET PEQUOT AND MOHEGAN FUND (§ 96)

For FY 08 and each fiscal year thereafter, the act distributes \$1.6 million of the appropriation to the Mashantucket Pequot and Mohegan Fund to towns that are members of the Southeastern Connecticut Council of Governments and to distressed municipalities that are members of the Northeastern Connecticut Council of Governments or the Windham Area Council of Governments. The distribution must be proportional based on the payments each received in the previous fiscal year.

The above distribution (1) is in addition to the grants already paid to the municipalities from the fund, (2) is paid before other grants from the fund, and (3) must not be reduced proportionately if the total payable to each municipality is more than the amount appropriated for the grants that year.

EFFECTIVE DATE: July 1, 2006

Background — Mashantucket Pequot and Mohegan Fund

The fund is a separate, nonlapsing fund that receives revenue derived from casino gaming and provides grants to towns based on different criteria. It provides:

1. \$20 million based on the criteria for making payments in lieu of taxes (PILOTs) for state-owned property,
2. \$20.1 million based on the PILOT criteria for private hospitals and colleges,
3. \$35 million based on the formula for providing property tax relief grants, and
4. \$5.47 million to certain designated municipalities distributed according to the property tax relief fund.

These four types of grants and the impact grants the five towns currently receive must be proportionately reduced when the total grant for all towns exceeds the appropriated amount.

Background — Southeastern Connecticut Council of Governments

The member towns are: Bozrah, Colchester, East Lyme, Franklin, Griswold, Groton, Ledyard, Lisbon, Montville, New London, North Stonington, Norwich, Preston, Salem, Sprague, Stonington, Voluntown, and Waterford.

Background — Distressed Municipalities

Killingly, Putnam, and Windham have been designated as distressed municipalities and are members of the Northeastern Connecticut Council of Governments or the Windham Area Council of Governments.

PA 06-193—sHB 5781

*Judiciary Committee
Appropriations Committee
Public Health Committee
General Law Committee*

AN ACT CONCERNING CRIMINAL JUSTICE POLICY AND PLANNING AND THE ESTABLISHMENT OF A SENTENCING TASK FORCE

SUMMARY: This act creates a Connecticut Sentencing Task Force to review the state's criminal justice and sentencing policies and laws to create a more just, effective, and efficient system of sentencing.

It changes the responsibilities and reporting requirements of the Criminal Justice Policy and

Planning Division within the Office of Policy and Management (OPM), including transferring to the division responsibility for developing and implementing the reentry strategy for offenders returning to the community. It also changes the content requirements for the reentry strategy.

The act renames the Commission on Prison and Jail Overcrowding the Criminal Justice Policy and Advisory Commission, adds four members to the commission, and requires it to advise and assist the division.

EFFECTIVE DATE: July 1, 2006

SENTENCING TASK FORCE

The act requires the task force to:

1. identify overarching criminal justice and sentencing goals and policies;
2. define current sentencing models, including sentencing guidelines, criteria, exemptions, and enhancements;
3. analyze sentencing trends by offense type and offender characteristics;
4. review actual versus intended impact of sentencing policies;
5. determine direct and indirect costs of sentencing policies; and
6. recommend revisions of criminal justice and sentencing policies.

The act also requires the task force to review the fines and terms of imprisonment for classified and unclassified felonies and misdemeanors and make recommendations, including whether:

1. unclassified crimes should be classified;
2. certain classified crimes should be reclassified or penalties for certain unclassified crimes revised to make penalties for similar crimes more uniform;
3. the penalty or type of penalty for certain crimes should be revised or eliminated as no longer necessary, appropriate, or disproportionate to the severity of the crime; and
4. a crime is obsolete and should be repealed.

The task force must report to the Judiciary Committee by December 1, 2008, and it terminates when it completes its duties.

Access to Information

The act requires the Criminal Justice Policy and Planning Division to provide criminal justice data, analyses, and technical assistance to carry out the task force's duties. The task force can request any state office, department, board, commission, or agency to supply reports, information, and assistance necessary or appropriate to carry out its duties, and the act authorizes

and directs state officers and employees to cooperate with the task force.

Membership

The task force consists of the following 28 members:

1. the Judiciary Committee's chairmen and ranking members;
2. two Superior Court judges, appointed by the chief court administrator, who each have been on the bench at least 10 years and have presided over cases in the judicial district criminal court for at least five years;
3. two state's attorneys, appointed by the chief state's attorney, who each have at least 10 years experience as a prosecuting attorney and at least five years prosecuting cases in judicial district criminal courts;
4. two public defenders, appointed by the chief public defender, who each have at least 10 years experience as a public defender and at least five years representing defendants in judicial district criminal courts;
5. two criminal defense lawyers with at least 15 years experience each representing defendants in criminal cases, with one appointed by the Connecticut Bar Association's criminal justice section and the other appointed by the Connecticut Criminal Defense Lawyers Association;
6. the Judicial Branch's Court Support Services Division executive director or his designee;
7. the correction commissioner or her designee;
8. the Board of Pardons and Paroles chairman or his designee;
9. the mental health and addiction services commissioner or his designee;
10. the victim advocate or his designee;
11. the Criminal Justice Policy and Planning Division undersecretary;
12. an assistant attorney general appointed by the attorney general;
13. three municipal police chiefs appointed by the Connecticut Police Chiefs Association, one from an urban area, one from a suburban area, and one from a rural area; and
14. six legislators with one appointed by each of the top six legislative leaders.

The Judiciary Committee chairmen chair the task force.

CRIMINAL JUSTICE POLICY AND PLANNING DIVISION

Reentry Strategy

The act requires the Criminal Justice Policy and Planning Division to develop and implement the comprehensive reentry strategy. Under prior law, the Board of Pardons and Paroles, Judicial Branch, and the departments of Correction, Mental Health and Addiction Services, Social Services, and Labor collaborated to develop and implement the strategy.

The act also changes the requirements for the reentry strategy. Prior law required the strategy to provide a continuum of custody, care, and control for offenders discharged from Department of Correction (DOC) custody. The act requires the strategy to focus on offenders being supervised in the community, especially those discharged from DOC custody.

By law, the strategy must (1) support victims' rights, (2) protect the public, and (3) promote successful transition from incarceration to the community. Under the act, the strategy must achieve this by:

1. maximizing any available period of community supervision for eligible and suitable offenders;
2. identifying and addressing the barriers to offenders' successful transition from incarceration to the community;
3. ensuring sufficient criminal justice resources to manage offender caseloads;
4. identifying community-based supervision, treatment, education, and other services and programs proven effective in reducing recidivism; and
5. creating employment initiatives for offenders through public and private services and partnerships by reinvesting savings from reducing the prison population.

The act requires the division, instead of DOC, to report annually on the success of the reentry strategy to the Appropriations, Judiciary, and Public Safety and Security committees. The first report is due by January 1, 2007.

Reporting Requirements

By law, the division must develop a plan to promote a more effective and cohesive state criminal justice system. The act requires the division to submit its plan to the governor and the Appropriations, Judiciary, and Public Safety and Security committees by January 15, 2007. It must update the plan and re-submit it by January 15, 2009 and every two years after that.

The law also requires the division to submit a report and make a presentation to the Judiciary and Appropriations committees annually by January 1 about

its activities, recommendations, and specific actions to promote an effective and cohesive criminal justice system. Beginning with the report and presentation due by January 1, 2008, the act requires them to include information on the reentry strategy's development and implementation.

CRIMINAL JUSTICE POLICY AND ADVISORY COMMISSION

The act renames the Commission on Prison and Jail Overcrowding the Criminal Justice Policy and Advisory Commission. It adds the labor and social services commissioners, or their designees, to the commission but only gives them authority to deliberate and vote on matters concerning employment and entitlement programs available to adult and juvenile offenders reentering the community. Similarly, it adds the children and families and education commissioners, or their designees, to the commission but only gives them authority to deliberate and vote on juvenile justice matters.

The act also requires the commission to (1) advise the division's undersecretary on policies and procedures to promote more effective and cohesive criminal and juvenile justice systems and to develop and implement the reentry strategy and (2) assist the undersecretary in developing the recommendations in the report and presentation. As under prior law for the Commission on Prison and Jail Overcrowding, the commission must (1) develop and recommend policies to prevent prison overcrowding; (2) examine the impact of statutes and administrative policies on overcrowding, and recommend legislation; and (3) research and gather data and information on efforts to prevent overcrowding and make it available to criminal justice agencies and legislators.

BACKGROUND

Criminal Justice Policy and Planning Division

PA 05-249, effective July 1, 2006, creates the Criminal Justice Policy and Planning Division within OPM, directed by an OPM undersecretary. Among other things, the law requires the division, in developing its plan, to conduct an in-depth analysis of the criminal justice system, determine the system's long-range needs and make recommendations, identify critical problems, advise the General Assembly, and determine information needs. It can also analyze the juvenile justice system.

The division must also develop a reporting system to track trends and outcomes related to policies designed to reduce prison overcrowding, improve rehabilitation efforts, and enhance reentry strategies for offenders released from prison.

PA 06-196—sHB 5820*Judiciary Committee***AN ACT CONCERNING THE REVISOR'S TECHNICAL CORRECTIONS AND CERTAIN OTHER CHANGES TO THE GENERAL STATUTES, THE 2006 SUPPLEMENT TO THE GENERAL STATUTES AND CERTAIN PUBLIC ACTS**

SUMMARY: This act makes a number of unrelated changes, including some to acts adopted during the 2006 session. It also makes many technical and conforming changes.

EFFECTIVE DATE: Upon passage except:

1. four technical changes (§§ 55-56 and 60-61) are effective December 31, 2006 and applicable to elections held starting with that date, which matches the effective date of changes to campaign finance provisions made last year;
2. technical changes to PA 06-83 and PA 06-136 (§§ 287-288); changes regarding early and periodic screening, diagnosis, and treatment (§ 289); changes regarding the study on average manufacturer price (§ 293); and changes to the Risk Assessment Board (§ 295) are effective July 1, 2006; and
3. changes regarding property tax revaluation are effective October 1, 2006 and applicable to assessment years starting with October 1, 2005 (§§ 297-298).

RECYCLED PAPER STANDARDS (§§ 189, 190)

The law requires the state to follow standards set in a federal executive order on minimum recycled content when purchasing paper, subject to specific standards for certain uses and different standards set by the Department of Administrative Services if there is difficulty obtaining the paper. The act replaces references to a repealed federal executive order with references to its replacement. Both orders require purchase of paper with at least 30% postconsumer materials or at least 50% recovered materials that are a waste material byproduct of a finished product other than a paper or textile product that would otherwise be disposed of in a landfill. Under the new order, if enough paper to meet the 30% standard is not reasonably available, paper must be at least 20% postconsumer material.

EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT (EPSDT) (§ 289)

PA 06-188 requires the Department of Social Services (DSS) commissioner to provide EPSDT services, as required by federal law. (This program is for children up to age 21 who are eligible for Medicaid.) This act requires these services to be those defined in federal law as of December 31, 2005.

AUTHORIZATION TO ADOPT ZONING TECHNIQUES (§ 290)

Effective October 1, 2006, PA 06-128 allows towns meeting very narrow criteria (namely, New Haven) to adopt specific zoning techniques. The act changes the effective date to upon that act's passage.

SEX OFFENDER REGISTRY (§§ 291-292, 295)

The act changes the effective date of provisions in PA 06-187 on sexual offenders. Specifically, it delays from July 1, 2006 to July 1, 2007 the requirement for courts to give the Department of Public Safety a written summary whenever someone is convicted or found not guilty by reason of mental defect or disease of a sex crime that requires registration. It delays, from July 1, 2006 to October 1, 2006, other sexual offender provisions in PA 06-187 on reporting and registration requirements, nonviolent sexual offense classifications, photographs and notification protocol, probation and conditional discharge.

It removes the victim advocate from the 18-member Risk Assessment Board that PA 06-187 establishes and replaces him with a gubernatorial appointee who works as a victim advocate serving sexual assault victims and sex offenders. PA 06-187 requires the board to develop a scale for determining a sex offender's likelihood of reoffending.

STUDY ON IMPACT OF AVERAGE MANUFACTURER PRICE (AMP) ON DSS DRUG ASSISTANCE PROGRAMS (§ 293)

PA 06-188 requires DSS, in consultation with the Connecticut Pharmacists Association, to review the impact of implementing the AMP reimbursement methodology. The act requires DSS to also consult with the Connecticut Association of Community Pharmacies.

PREFERRED PROVIDER NETWORK CLINICAL
LABORATORIES (§ 294)

The act amends a provision of PA 06-90 to exclude from the Connecticut insurance code's definition of a "preferred provider network" (PPN) clinical laboratories licensed by the Department of Public Health whose primary payments for contracted or referred services are made to other licensed laboratories or for associated pathology services. By law, the insurance commissioner licenses and regulates PPNs. Consequently, the act excludes such laboratories from PPN requirements.

PROPERTY TAX REVALUATION (§§ 296-298)

PA 06-176 modifies how towns can phase in property tax revaluations. It generally requires the town's legislative body to approve the phase-in and to specify its method and term. But, in town meeting towns, it assigns these responsibilities to the board of selectmen. This act instead assigns these responsibilities to the town meeting itself. It also makes these provisions of PA 06-176 applicable to assessment years beginning on or after October 1, 2005.

CONNECTICUT UNITED FOR RESEARCH
EXCELLENCE BIOBUS (§ 299)

The act eliminates a provision of PA 06-187 requiring Connecticut Innovations, Inc. to pay Connecticut United for Research Excellence \$1.5 million over five years from available appropriations to operate its BioBus.

PA 06-3—sSB 19

Labor and Public Employees Committee

AN ACT CONCERNING NOTIFICATION TO PROSPECTIVE EMPLOYEES OF RELIGIOUS SCHOOLS NOT PARTICIPATING IN THE UNEMPLOYMENT COMPENSATION SYSTEM

SUMMARY: This act requires any employer who is not subject to state unemployment compensation law and has not voluntarily accepted liability under the law to give written notification to all its employees, by July 1, 2006, and to any prospective employees, that they are not covered by unemployment compensation.

In general, an employer is subject to state unemployment compensation law if he (1) paid wages of \$1,500 or more in any calendar quarter; (2) had one or more employees at any time in each of 20 different weeks, not necessarily consecutive, in either the current or previous calendar year; or (3) is liable under the Federal Unemployment Tax Act.

The law, unchanged by the act, excludes religious employers by exempting working for a church, a convention or association of churches, or an organization operated primarily for religious purposes and operated, supervised, controlled, or principally supported by a church, association of churches, or an ordained minister. By law, these exempt employers can opt into the unemployment compensation system and voluntarily accept liability for the compensation.

EFFECTIVE DATE: Upon passage

PA 06-84—sSB 25

*Labor and Public Employees Committee
Appropriations Committee*

AN ACT CONCERNING SOCIAL SECURITY OFFSETS UNDER THE WORKERS' COMPENSATION ACT

SUMMARY: This act eliminates the requirement that workers' compensation wage replacement benefits be reduced by an amount equal to the Social Security retirement benefits to which the injured worker is entitled. Under prior law, a person receiving Social Security retirement benefits who is eligible for workers' compensation total disability payments for an injury that took place on or after July 1, 1993, receives workers' compensation only if the compensation exceeds his Social Security benefit, and he receives only the amount of compensation in excess of his Social Security. Under the act, the injured worker can receive both Social Security and workers' compensation benefits with no reduction for any compensable injury that occurs on or after the act's effective date (May 30, 2006).

Workers' compensation total disability benefits are payable to workers who cannot work because of a job-related injury or illness. Social Security retirement benefits are payable to eligible retirees once they reach age 62.

EFFECTIVE DATE: Upon passage

PA 06-123—SB 16

*Labor and Public Employees Committee
Planning and Development Committee
Insurance and Real Estate Committee
Appropriations Committee*

AN ACT PROTECTING MUNICIPAL RETIREE HEALTH INSURANCE BENEFITS

SUMMARY: This act bars municipalities, housing authorities, and other municipal subdivisions from eliminating or reducing group health insurance benefits to municipal retirees in violation of a union contract. It applies to municipalities that arrange for health insurance on their own or through the state-sponsored Municipal Employee Health Insurance Program. Prior law did not specifically address municipalities providing health insurance for their retirees. But by law, a municipality cannot reduce retiree pension benefits.

The act specifically applies to SA 01-1, which created the Waterbury Financial Planning and Assistance Board and gave the board broad power over the city's finances, budgets, and union contracts.

EFFECTIVE DATE: Upon passage

ALTERNATIVE CARRIER OPTION AND COLLECTIVE BARGAINING EXCEPTION TO THE OPTION

Although the act bars municipalities and other subdivisions from eliminating or diminishing retiree group health insurance benefits in violation of a union contract, it specifically allows them to select an alternative group health insurance carrier for retirees if the benefits remain at least equivalent to those previously provided. But it prohibits the option to seek a new carrier in cases (1) where the retiree's health benefits are provided through a union contract negotiated under the Municipal Employee Relations Act (MERA) and the contract is in effect on the date of the person's retirement and (2) the contract contains a provision specifying that retirees are entitled to the same health insurance benefits provided to active employees under the same contract.

BACKGROUND

NERA

This law establishes collective bargaining rights and procedures for municipal employees. It (1) establishes mandatory issues for collective bargaining, (2) defines what constitutes an unfair labor practice, and (3) establishes procedures and schedules for negotiations. It prohibits strikes, but requires binding arbitration in cases of a negotiation impasse between workers and a municipality.

PA 06-139—SB 58
Labor and Public Employees Committee
Judiciary Committee

AN ACT CONCERNING PROTECTION OF MINORS IN THE WORKPLACE AND FOURTEEN-YEAR-OLDS EMPLOYED AS CADDIES

SUMMARY: This act significantly increases and makes uniform the fines, maximum prison terms, and civil penalties for violating laws regulating the hours and type of work performed by minors, people with disabilities, and other specified groups. Under prior law, the fines ranged from \$25 to \$200 for each offense, and under the act they range from \$2,000 to \$5,000 for each. Under prior law, jail sentences did not exist or were for a maximum of 30 days. The act establishes maximum jail terms up to five years.

It similarly increases the penalties and fines and creates jail terms for parents or guardians who permit a minor to work in violation of some of the same laws.

The act also allows a minor age 14 or older to be employed or allowed to work as a caddie or in a pro shop at any municipal or private golf course. Under prior practice, they were allowed to do so although they were not legally considered employees.

EFFECTIVE DATE: January 1, 2007, except the golf course provision is upon passage.

EMPLOYER PENALTIES

Table 1 shows the act’s increases in fines and imprisonment for employers who violate six laws regulating the hours and types of work for minors and others.

Table 1: New Fines and Jail Terms for Child Labor Law Violations

<i>Law Violated</i>	<i>Fine and/or Imprisonment</i>	
	<i>Prior Law</i>	<i>Act</i>
Work hours of minor, elderly, or handicapped persons in manufacturing or mechanical establishments	\$25 for the first offense; \$100 or up to a 30 days in jail, or both, for ensuing offenses	\$2,000 to \$5,000 fine, or jail term of up to 5 years, or both, for each offense
Work hours of minor, elderly, or handicapped persons in mercantile establishments	\$100 for each offense	
Night work of minors	\$50 for the first offense; up to \$200, or up to 30 days in jail, or both, for ensuing offenses	
Work hours of minors, elderly, and handicapped persons in specified establishments (other than those mentioned above)	\$200 for each offense	
Employment of minors prohibited, with some exceptions, in specified occupations	\$200	
Hazardous employment of children prohibited	\$200	

In addition to the fines and imprisonment, the act increases, from \$300 to \$600 for each violation, the civil penalty for each of the above statutes.

PARENT AND GUARDIAN PENALTIES

By law, parents or guardians are prohibited from permitting a minor to work in violation of the laws regulating when minors can work at night or in manufacturing, mechanical, or mercantile establishments. Under prior law, they could be fined \$50 for each offense. The act increases the penalties, for each offense, to a fine of \$2,000 to \$5,000, a jail term of up to five years, or both.

In addition to the fines and imprisonment, the act increases, from \$300 to \$600 for each violation, the civil penalty for parent or guardian violations.

WORKING PAPERS FOR CADDIES

The act authorizes school superintendents to issue "certificates of age" (working papers) for minors, age 14 or older, to work at municipal or private golf courses. By law, anyone who employs a minor under age 18 must obtain and keep such a certificate, which must be available during business hours to Labor Department inspectors.

It is unclear under the act (1) whether the caddie would be the employee of the golf course or, as is common, would work on an informal day basis for individuals golfers, and (2) who would be the employer responsible for obtaining and keeping the minor's working papers when he caddies. When the minor is employed in the pro shop, it is clear that he is a golf course employee; consequently the working papers would be on file with the course.

BACKGROUND

The penalties increased in the act are for violations of the following existing laws:

Work Hours of Minor, Elderly, or Handicapped Persons in Manufacturing or Mechanical Establishments

This statute limits minors, the elderly (those age 66 or older), persons with disabilities, and disabled veterans to no more than nine hours of work a day and 48 hours in a week in manufacturing and mechanical establishments; those under age 18 cannot work more than six hours a school day, unless the school day precedes a nonschool day, or eight hours any other day, and not more than 32 hours during a school week. Exceptions include the following: (1) minors who have graduated from high school, (2) elderly who consent to do additional work, (3) disabled employees who consent to do additional work and receive physician approval, and (4) national emergency situations.

Work Hours of Minor, Elderly, or Handicapped Persons in Mercantile Establishments

This statute limits minors, the elderly, persons with disabilities, and disabled veterans to no more than eight hours of work a day and 48 hours a week in mercantile establishments; those under 18 cannot work more than six hours a school day, unless the school day precedes a nonschool day, or eight hours any other day, and not more than 32 hours during a school week. The exceptions are the same as in the previous section.

Night Work of Minors

Those under 18 cannot be employed in manufacturing, mechanical, or mercantile establishments between 10 p.m. and 6 a.m. except they may work until 11 p.m. in such establishments or until midnight in a supermarket if the following day is not a regular school day. The law permits exceptions for minors who are high school graduates and for national emergencies.

Work Hours of Minors, Elderly, and Handicapped Persons in Certain Other Establishments

This law limits minors, the elderly, persons with disabilities, and disabled veterans to no more than nine hours of work a day, which cannot be between 10 p.m. and 6 a.m. in specified establishments, but it allows these people to work for 10 hours one day in a week and not more than 48 hours a week. This applies to any restaurant; café; dining room; barber shop; hairdressing, manicuring, shoe-shining, amusement, or recreational establishment; bowling alley; billiard or pool room; or photography gallery. Employees ages 16 and 17 have the same night hour restrictions as in the previous section, with later hours permitted when the following day is not a school day. The exceptions to this are similar to those in the previous sections.

Employment of Minors Prohibited, with Some Exceptions, in Certain Occupations

This law prohibits minors under 16 from working in manufacturing, mechanical, mercantile, and other jobs, but creates exceptions for (1) those age 14 or 15 in authorized work-study programs or summer work-recreation programs, (2) those age 15 to work in mercantile businesses as a bagger or cashier during school vacation periods or on any Saturday, with other limitations.

Hazardous Employment of Children Prohibited

This statute prohibits minors under 16 from working in (1) a number of hazardous jobs (e.g., working with machinery, acids, explosives, and dangerous gases, or in any tunnel, mine, or quarry) unless in a state vocational school or in a public school teaching manual training or (2) any capacity requiring the minor to stand continuously except for those age 15 who work in mercantile businesses as a bagger or cashier during school vacation periods or on any Saturday, with other limitations.

PA 06-146—sSB 459

*Labor and Public Employees Committee
Appropriations Committee
Public Safety and Security Committee*

AN ACT CONCERNING ACCRUED LEAVE FOR STATE EMPLOYEES SERVING IN THE MILITARY

SUMMARY: This act gives a state employee called to active military service in the National Guard or the military reserves vacation and sick leave accrual for the entire period of active service rather than just the first 30 days. It applies to an employee called to duty for (1) federal or state post-September 11 anti-terrorism or homeland security-related duty or (2) the Afghanistan or Iraq wars.

By law, unchanged by the act, a guard member or reservist accrues such time and receives full state pay during the first 30 days of active duty. By law, a state employee called to active duty receives partial state pay (to make up the difference, if any, between his military pay and his state pay) for any active service time beyond 30 days.

Prior law and the act cover state employees who are guard members in other states.

EFFECTIVE DATE: Upon passage

PA 06-171—sHB 5647

*Labor and Public Employees Committee
Appropriations Committee*

AN ACT CONCERNING CERTAIN ELIGIBILITY REQUIREMENTS FOR UNEMPLOYMENT COMPENSATION CLAIMANTS WITH A DISABILITY

SUMMARY: This act exempts an unemployed person with a disability from the unemployment compensation (UC) requirement of looking for full-time work and allows him eligibility if he meets other requirements. A claimant can qualify for UC if he:

1. provides documentation from a physician that
 - (a) he has a physical or mental impairment that is chronic or expected to be long-term or permanent and
 - (b) the impairment leaves him unable to work full-time and
2. establishes, to the satisfaction of the UC administrator, that the impairment does not prevent him from doing part-time work.

In determining whether a person has satisfied these requirements, the administrator must consider his work history, efforts to find work, the hours he is medically permitted to work, and his availability during those hours for suitable work considering his impairment.

EFFECTIVE DATE: October 1, 2006

BACKGROUND*Unemployment Compensation Requirements*

Generally, the law requires that to receive UC benefits a claimant must show that he is (1) available for full-time work, (2) making reasonable efforts to find work, and (3) has a sufficient work history to qualify.

PA 06-175—sHB 5034

*Labor and Public Employees Committee
Government Administration and Elections Committee
Planning and Development Committee
Appropriations Committee*

AN ACT CONCERNING CONSTRUCTION SAFETY

SUMMARY: This act requires all state or municipal building construction or repair contracts of \$100,000 or more that receive any state funding to require the contractor to prove that all its employees performing manual labor or telecommunications work have completed safety training. It applies to contracts entered into on or after July 1, 2007 by the state and any of its political subdivisions, which includes quasi-public agencies.

Manual laborers must complete a 10-hour construction safety and health course conducted in accordance with federal Occupational Safety and Health Administration (OSHA) Training Institute standards. Telecommunications workers must complete 10 hours in federal OSHA telecommunications safety training. Contractors must submit proof of course or training completion to the labor commissioner within 30 days after the contract is awarded.

The act requires the Labor Department to remove from the construction worksite any manual laborer who does not have proof of course completion, unless he provides proof within 15 days after he was found in noncompliance. It requires the commissioner to accept an OSHA Training Institute course completion card or other such proof that he deems appropriate. Course cards or other proof are valid if issued within five years before the date of the building project's start.

The act does not provide a similar enforcement procedure for telecommunications workers found without proof of safety training.

It defines "public building" as a structure, funded at least partly by the state, with a roof and exterior or fire walls designed for housing, shelter, enclosure, and support or employment of people, animals, or property of any kind, including sewage-treatment and water-

treatment plants. It specifically excludes from the definition: site work; roads or bridges; rail lines; parking lots; or underground water, sewer, or drainage systems, including pump houses or other utility systems.

The act requires the labor commissioner to adopt the necessary regulations by January 1, 2007.

EFFECTIVE DATE: October 1, 2006

BACKGROUND

Federal Telecommunications Safety Training

Federal regulations require employers to provide safety training for telecommunications workers working in the field or at phone centers and prohibits workers from performing such work until they receive the training.

PA 06-17—sSB 41

Planning and Development Committee

AN ACT CONCERNING MUNICIPAL PLANS OF CONSERVATION AND DEVELOPMENT

SUMMARY: This act alters the process local planning commissions (or combined planning and zoning commissions) must follow when amending plans of conservation and development (plan of C&D) when they or individuals propose changes or revisions. The law requires commissions to revise their plans at least once every 10 years. The act sets or extends deadlines for certain actions and changes the sequence in which other actions must occur. It also shortens the process for acting on changes citizens propose.

EFFECTIVE DATE: October 1, 2006

PROCESS FOR COMMISSION-INITIATED CHANGES

Submitting Drafts to the Legislative Body

The act changes the point in the process when a planning commission must submit a draft plan or plan amendment to the legislative body for endorsement. Prior law required the commission to submit the draft to the legislative body (or the board of selectmen if that body is the town meeting) after the commission held a hearing on the plan, but imposed no deadline for doing so.

Under the act, the commission must submit the draft to the legislative body or board of selectmen at least 65 days before the commission holds the hearing. It also requires the commission to submit the draft to the board of selectmen in towns where the legislative body is a representative town meeting.

Public Hearing and Endorsement

By changing when the commission must submit the plan to the legislative body, the act also changes the sequence when public hearings and endorsements must occur. Under prior law, a commission and a board of selectmen could hold separate hearings on a plan, but the commission had to hold its hearing first. The commission had to submit the plan after the hearing to the board if the town's legislative body was a town meeting. The board could then hold a hearing on the plan before submitting it to the legislative body for approval. This authorization to hold a second hearing did not specifically extend to towns with councils, boards of aldermen, or other types of legislative bodies.

Under the act, the board must hold its hearing and endorse or reject the draft before commission's hearing. This change stems from the fact that the commission must now give the board a copy of the draft before the

commission's hearing. The act also allows legislative bodies other than town meetings to hold hearings on the draft. These bodies must also endorse or reject the draft before the commission's hearing. The act allows the commission to approve or reject the draft without the legislative body or board's report regarding the draft.

Regional Planning Agency

The act changes the deadline by which the commission must submit the draft plan to the regional planning agency for comments. Under prior law, the commission had to submit the draft at least 35 days before its hearing. Under the act, it must submit the draft at least 65 days before that hearing. If the commission proposes to revise or amend only a part of an existing plan, the act requires it also to submit those sections to the agency.

By law, the agency must review the plan and submit an advisory report to the commission, which can approve the plan without the report.

Revising and Adopting the Draft

The act changes when the commission may revise the draft. Under prior law, the first opportunity was after the commission received the regional planning agency's comments. The second was after the commission held its hearing but before it submitted the draft to the legislative body or the board of selectmen. Under the act, the commission may revise the draft only after completing its hearing.

The act specifies that the commission may approve the draft only after its hearing. As under prior law, it may approve all or parts of the draft by a single resolution or successive resolutions. The commission must still approve the plan by a two-thirds vote if the legislative body did not endorse it. The act specifies that this requirement also applies to situations where the board of selectmen must approve or reject the plan instead of the town meeting or representative town meeting.

OPM Notification

By law, the commission must notify the Office of Policy and Management (OPM) about any inconsistencies between the adopted plan and the State Plan of Conservation and Development. The act requires the commission to do so within 60 days after the plan's adoption.

Internet Posting

By law, the commission must post the draft plan on the town's Internet web site, if it has one, at least 35 days before the hearing. The act requires the

commission also to post the adopted plan on the web site within 30 days after adopting it.

Town Clerk

By law, the commission must file a copy of the draft plan with the town clerk before the hearing. The act requires the commission to do this at least 35 days before the hearing.

RESIDENT-PROPOSED CHANGES

The law allows property owners and tenants or their authorized agents to propose changes to the plan of C&D. Prior law established a two-step process for the commission to act on these proposals. The act shortens the process by eliminating the first step.

Under prior law, the commission first had to decide whether to hold a hearing on a proposed change within 35 days after receiving it. If the commission decided to hold the hearing, it had to schedule and conduct it within the same statutory time that combined planning and zoning commissions have to act on zone changes, special permits, and other land use applications requiring public hearings.

The next step depended on the magnitude of the change. The commission had to approve, deny, or modify the proposal if doing so required no significant changes to the plan's policies and goals. If the proposal did require significant changes, the commission had to act on it by following the same procedures it follows when it revises the plan. As discussed above, these procedures include public hearings and regional planning agency reviews.

The act eliminates the first step, thus requiring the commission to act on a citizen proposal under the same procedures it follows when it proposes to amend or revise the plan. It also requires the commission to follow these procedures regardless of whether the proposal would significantly change the plan.

PA 06-20—HB 5039

Planning and Development Committee

AN ACT CONCERNING SITE PLANS

SUMMARY: This act allows all zoning commissions to require site plans and standardizes the requirements for reviewing and approving them. Site plans allow a commission to see how a proposed project conforms to the zoning regulations, such as those specifying the distances between a proposed building and the property's boundary lines. Commissions usually require developers to submit these plans when they apply for zoning approval.

Prior law allowed zoning commissions operating under the statutes to require site plans. Those operating under a special act or charter provision could also require site plans if the act or charter authorized them. Commissions operating under a special act or charter that did not authorize site plans could require them only if they amended the act or charter or adopted the zoning statutes in their place. The act allows these commissions to review and approve site plans without having to take these steps.

The act also requires all commissions operating under a special act or charter to comply with the statutory requirements for reviewing and approving site plans. A commission must comply with these requirements even if its special act or charter provision imposes similar ones.

EFFECTIVE DATE: Upon passage

BACKGROUND

Special Acts and Statutes

The legislature initially granted zoning powers to individual towns under special acts it adopted on their behalf. This method allowed the legislature to customize the zoning power to address each town's needs.

The legislature eventually ended this practice when it enacted the zoning statutes and allowed any town to adopt them without its approval. But it did not repeal the special acts, which some towns incorporated in their charters. For this reason, the zoning power flows from two distinct bodies of law. But the legislature has amended the zoning statutes to grant powers or impose requirements on all commissions, not just those operating under the statutes. For example, it explicitly authorized all commissions to waive density limits in exchange for affordable housing even if their special acts did not (CGS § 8-2g).

Site Plans

The law authorizing towns to require site plans also specifies how commissions must review and approve them. For example, it addresses situations where a site plan affects inland wetlands and allows the zoning commission and inland wetlands agency to modify or deny the plan only if it fails to comply with the zoning and inland wetlands regulations. Other provisions concern the steps a commission can take to insure that a developer completes the plan according to regulations.

PA 06-22—sHB 5284

*Planning and Development Committee
Public Safety and Security Committee*

AN ACT CONCERNING MODEL GUIDELINES FOR VOLUNTEER EMERGENCY PERSONNEL

SUMMARY: This act requires the state fire administrator, within available appropriations, to develop model guidelines by January 1, 2007 that municipalities with paid or volunteer emergency personnel may use to enter into agreements allowing people to serve as volunteer emergency personnel during their personal time. Currently, labor contracts in several municipalities restrict or bar paid firefighters from serving as volunteer firefighters in other municipalities.

EFFECTIVE DATE: Upon passage

PA 06-24—sHB 5042

Planning and Development Committee

AN ACT CONCERNING MUNICIPAL PLANS OF CONSERVATION AND DEVELOPMENT AND INTERIM CHANGES TO THE STATE PLAN OF CONSERVATION AND DEVELOPMENT

SUMMARY: This act modifies how the Office of Policy and Management (OPM) secretary can make interim changes to the state Plan of Conservation and Development (state plan of C&D) in the years between its revision and adoption by the legislature.

Under prior law, municipal planning commissions had to notify OPM of any inconsistency between their local plans of conservation and development and the state plan of C&D. The act instead requires the commissions to (1) send a copy of their plans to OPM within 60 days of their adoption and (2) include a description of any inconsistencies with the state plan of C&D.

EFFECTIVE DATE: October 1, 2006

STATE PLAN OF C&D

By law, the legislature must revise the state plan of C&D at least every five years. The OPM secretary can make interim changes, with the written approval of the Continuing Legislative Committee on State Planning and Development, without initiating a plan revision.

By law, the secretary can make these changes on his own initiative or upon application of certain parties. The act limits who can apply. Previously, any person, political subdivision of the state, or state agency could apply. The act limits the individuals who can apply to the owner of the real property or an interest in the

property that is the subject of the proposed change. It limits public-sector applications to a municipality's chief elected official, with the approval of the municipality's legislative body (i.e., other political subdivisions and state agencies cannot apply for a change). It bars applications from municipalities unless they have updated their local plans of conservation and development as required by law, i.e., at least once in the previous 10 years. It also requires that municipal applications include the municipal planning commission's opinion of the proposed change.

The act also requires the legislative committee to notify the secretary of its decision to approve or reject the application within 10 days of making the decision.

BACKGROUND

Continuing Legislative Committee on State Planning and Development

This committee consists of 10 legislators: the Planning and Development Committee chairmen and eight members appointed by legislative leaders. It is responsible for setting broad goals and objectives for the state's physical and economic development.

PA 06-48—SB 545

Planning and Development Committee

AN ACT CONCERNING HOUSING PRESERVATION

SUMMARY: By law, the owners of federally subsidized multifamily housing projects must notify tenants and other parties at least one year before they prepay the project's mortgage; prepayment could remove the restrictions that make the project affordable to low- and moderate-income people. Owners must comply with this requirement if their projects received subsidies under one or more of several specified federal programs.

This act subjects more projects to the one-year notification requirement and adds to the types of events that trigger it. It also requires 90-day notice in certain cases and makes minor related changes.

EFFECTIVE DATE: July 1, 2006

NOTIFICATION REQUIREMENT

The law, unchanged by the act, ties the notification requirement to (1) the federal program under which a project was subsidized and (2) a specified event that could remove federal restrictions that make the project affordable to low- and moderate-income people. Prior law limited (1) the programs to those that insure mortgages for developing low- and moderate-income

rental housing and (2) the event to an owner's decision to prepay the mortgage.

In these cases, the owner had to give written notice to the project's tenants, the chief executive officer of the town where the project was located, and the economic and community development commissioner at least one year before prepaying the mortgage.

The act expands the range of federal programs and events under which the owner must notify these parties. It keeps the minimum one-year written notice requirement but requires the owner to give these parties at least 90 days written notice if the project:

1. was not subject to the prior law's notice requirement before July 1, 2006 and
2. has less than one year left before an event ends or reduces the federal subsidy or requirements that make the project affordable to low- and moderate-income people.

By law, the notice requirements do not affect the owner's ability to prepay a mortgage, limit his contractual rights, or interfere with any existing contract. The act extends this assurance to programs and events it subjects to that requirement.

FEDERAL PROJECTS AFFECTED

Prior law required an owner to give notice if the project's mortgage was guaranteed under any of the following programs:

1. Below Market Interest Rate Program (12 USC § 1715l);
2. rental and cooperative housing for lower-income families (12 USC 1715z-1); and
3. housing and related facilities for elderly, handicapped, low- and moderate-income people and families, or other low-income people and families in rural areas (42 USC § 1485).

The act extends the notice requirement to owners whose projects are subsidized under any of the following programs:

1. project-based subsidies under Section 8 of the 1937 U.S. Housing Act (42 USC § 1437f *et seq.*),
2. supportive housing for the elderly (12 USC § 1701q),
3. rent supplement programs for qualified lower-income families (12 USC § 1701s),
4. rural rental assistance payments (42 USC 1490a),
5. Low Income Housing Tax Credit Program (26 USC § 42), and
6. Supportive Housing for Persons with Disabilities (42 USC 8013).

EVENTS REQUIRING NOTIFICATION

Prior law required an owner to give at least one year's notice only before prepaying a federally subsidized mortgage. Under the act, he must also give notice before any of the following events if they will end or reduce the federal restrictions that make units affordable to low- and moderate-income people:

1. the owner decides to sell or lease the project or transfer its title,
2. the owner plans or proposes to end the federal subsidy,
3. the owner plans to prepay a contract,
4. the subsidy expires or the federal agency running the program plans or proposes to end the subsidy, or
5. the mortgage matures.

POSTING AND DISSEMINATING THE NOTICE

The act requires the economic and community development commissioner to post the one-year or 90-day notice on the department's web site within 10 days after receiving it and send it electronically to anyone who requested to be notified in this manner. To receive the notice, a party must request it in writing and provide its current electronic mail address.

PA 06-79—sSB 533

Planning and Development Committee

Education Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING MUNICIPAL PENSION DEFICIT FUNDING BONDS

SUMMARY: By law, municipalities can issue bonds to pay for their unfunded pension obligations. This act changes the requirements for issuing and repaying these bonds, including (1) making scheduled contributions to the pension plan while the bonds are outstanding, (2) increasing the kind of information that must be provided to the state before and after issuing the bonds, and (3) requiring annual pension plan status reports to the Office of Policy and Management (OPM) secretary and the state treasurer.

The act also allows regional school districts to issue and repay bonds to cover unfunded pension obligations under the same rules as municipalities. A district can issue bonds only if its board adopts an authorizing resolution by a two-thirds vote.

The act gives municipalities more choices for investing retiree benefits reserve funds by allowing them to (1) increase the share they can invest in equities and (2) invest the remaining share in a broader range of

government obligations and other investment instruments. The act also allows them to establish trusts to manage and invest retirement system assets.

Lastly, the act eliminates municipal authorization to issue bonds to fund retiree benefits reserve funds and, consequently, limits the authorization to issue bonds to fund loss reserve funds to just property or casualty losses.

EFFECTIVE DATE: July 1, 2006

PENSION DEFICIT FUNDING BONDS

Actuarially Recommended Contribution (ARC)

The law allows municipalities to issue bonds to pay for unfunded past pension benefit obligations. Under prior law, a municipality that issued these bonds could pay off these obligations by contributing the employer normal cost or the ARC, whichever was less.

The act instead requires a municipality to contribute the ARC according to a fixed payment schedule that cannot exceed the longer of 10 years or 30 years from the date when the bonds were issued. But the municipality must reduce that term if the plan's funding ratio is reduced by 30% or more after depositing bond proceeds in the fund. (The funding ratio measures the extent to which the plan has enough funds on hand to cover its liabilities.) In these cases, the municipality must reduce the term by the same percentage as the funding ratio. These changes apply to bonds issued on or after July 1, 2006.

The law requires the municipality to begin making ARCs in the fiscal year when it issues the bonds. The act requires the municipality to appropriate enough funds for each contribution and to contribute them to the plan. If it fails to do so, the act deems the required amount to be appropriated, regardless of any state or local law or ordinance to the contrary.

Information to be Submitted to the State before Issuing Bonds

The act expands the kind of information a municipality, including a political subdivision, must submit to OPM before it can issue pension deficit funding bonds. The municipality must compare, in a manner the secretary prescribes, the anticipated effects of funding past benefit obligations by issuing bonds versus making annual ARCs.

It must document the fact that its legislative body adopted an ordinance or resolution requiring the municipality to appropriate enough funds to cover the ARC and contribute that amount to the pension plan while the bonds are outstanding. (A regional school district or other political subdivision that cannot adopt ordinances must document its approval by providing a copy of the resolution authorizing the bond sale.)

The municipality also must (1) provide the method used to calculate the ARC and its assumptions and (2) provide a draft of its official statement for issuing the bonds.

Prior law required the municipality to submit a three-year financial plan prepared according to OPM's specifications. The act requires the plan to include its major assumptions but drops the requirement that it conform to the secretary's rules. It requires the municipality to provide a certified copy of the resolution or ordinance authorizing the bond sale and an opinion by a nationally recognized bond counsel as to the due authorization to issue the bonds. The municipality must also provide any information the secretary and treasurer request, not just information he specifies in regulations.

By law, the municipality must also submit:

1. the actuarial valuation of the pension plan's normal cost, accrued liability, asset value, and related present values;
2. an actuarial analysis of how it plans to pay for any unfunded past benefit obligations the bonds will not offset;
3. an explanation of its strategic investment plan for the pension plan, including an asset allocation plan; and
4. any other information the OPM secretary or the state treasurer requires by regulation.

The act allows the secretary and the treasurer to hire an independent actuary to review the information the municipality provides.

Information to be Submitted after the Bonds are Issued

The act requires the municipality to submit a final financing summary to the secretary and the treasurer within 10 days after it issues the bonds. The summary must compare the anticipated effects of funding past benefit obligations by issuing bonds versus doing so by making annual ARCs. The municipality must prepare the summary in the manner the secretary requires.

Pension Fund Annual Status Report

The act requires the municipality to report annually on the plan's status to the secretary and the treasurer. In doing so, it must provide:

1. the plan's actuarial valuation;
2. specific identification, in the format the secretary prescribes, of any changes in the actuarial assumptions or methods compared to the plan's previous actuarial valuation;
3. the footnote disclosure and supplementary information required by Government Accounting Board Statement (GABS) 27; and

4. a review of the plan's investments, including a statement of its current asset allocation and an analysis of the plan's performance by each asset class.

The municipality must prepare and submit the status report when it issues bonds for the plan on or after July 1, 2006. It must also do this if the secretary and the treasurer allow it to apply the act's ARC requirement with respect to bonds issued before that date.

Regulations

The act allows, rather than requires, the secretary to adopt regulations for reviewing and approving the way municipalities can issue pension deficit bonds.

INVESTING LOSS AND RETIREE BENEFIT RESERVE FUND ASSETS

Equity Investments

The law allows municipalities to establish loss and retiree benefit reserve funds. Prior law allowed them to invest up to 40% of the reserve fund in equities. With respect to retiree benefit funds, the act increases this share to 50% if the municipality's budget-making authority adopted an asset allocation and investment policy (i.e., policy for investing the funds in a way that achieves the fund's goals while minimizing its risks).

Government Obligations

The act also allows municipalities to invest the remaining share of a loss or retiree benefit fund's assets in a broader range of government obligations. Prior law allowed the municipality to invest only in U.S. government obligations. The act allows it to invest in these and state and municipal government obligations that fall in the top rating categories of any nationally recognized rating service or one that the banking commissioner recognizes. The state and local government obligations must meet this standard when the municipality invests the fund.

A similar requirement applies to obligations issued by Connecticut's political subdivisions. These obligations, when the municipality makes the investment, must be rated in one of the top two rating categories of any nationally recognized rating service or one that the banking commissioner recognizes.

Other Investment Options

The act also allows the municipality to invest the remaining share in:

1. any U.S.-registered investment company or investment trust whose portfolio is limited to

- U.S. government obligations,
2. investment agreements with a financial institution, and
3. U.S.-secured or -guaranteed investment agreements.

The municipality may invest in an investment agreement whose long-term obligations are rated in the top two rating categories of any nationally recognized rating service or any rating service the banking commissioner recognizes. Alternatively, the municipality may invest in an agreement whose short-term obligations are rated in the top rating category of any nationally recognized rating service or one that the banking commissioner recognizes.

As under prior law, the municipality may also invest in certificates of deposit, commercial paper, savings accounts, and bank acceptances.

Transfers to Trust Funds

Besides investing a reserve fund's assets in equities, government obligations, investment agreements, and other instruments, the act also allows the municipality to transfer some or all of the assets to a trust established to hold and invest the assets of its pension, retirement, or post-employment health and life benefit system. The municipality may do this if its chief executive officer and the budget authority recommend it and the legislative body approves it. (Under GABS Statement 45, the municipality receives a higher actuarial assumed rate of return and may count the return on investment against its other post-employment liabilities).

ESTABLISHING TRUST FUNDS FOR RETIREMENT PENSION AND RETIREMENT SYSTEMS

The act allows municipalities and other state political subdivisions, to establish trusts to hold and invest their retirement systems' assets. A municipality can do this by adopting an ordinance or amending the one establishing the system. Regional school districts and other political subdivisions that do not enact ordinances can establish trusts if their legislative body resolves to do so by a two-thirds vote.

A municipality may establish one or more trusts or participate in a multi-employer trust. It can also specify how the retirement system and the trust must be managed and its assets invested. It may establish a board or commission to perform this task or assign it to an existing one. It can specify how the board or commission must be organized and require its members to be elected or appointed.

The trust must invest the system's assets as the system requires. But it must comply with the statutory standards for the prudent investor.

The act does not invalidate any post-employment health and life benefit system a municipality established or designated before October 1, 2005. Nor does it invalidate any trust, board, or commission established or designated before July 1, 2006.

Under the act, municipalities must continue to subject their retirement systems to an actuarial evaluation every five years. Their chief fiscal officer must receive the evaluation, and he must deliver a certified copy to the town or municipal clerk. The officer of a regional school district or other multi-town district must submit a certified copy to each town's clerk.

BACKGROUND

GABS Statements 27 and 45

The annual pension fund status report the act requires must include the information GABS statements 27 and 45 require. GABS is a subsidiary of the nonprofit Financial Accounting Foundation and sets financial accounting standards for state and local government entities. The foundation's trustees appoint the board.

Statement 27 sets standards for measuring, recognizing, and displaying pension fund expenditures and expenses and related liabilities, assets, and note disclosures. It also sets standards for the supplementary information state and local employers must include in their reports when that information is required.

Statement 45 sets standards for measuring and recognizing other post-employment benefit (OPEB) costs over a period of years that approximates employees' years of service. It also provides information about actuarial accrued liabilities associated with OPEBs and whether, and to what extent, progress is made in funding the pension plan.

PA 06-80—sHB 5290

*Planning and Development Committee
Appropriations Committee*

AN ACT CONCERNING NOTICE REQUIREMENTS FOR LAND USE APPLICATIONS

SUMMARY: This act exempts planning commissions and combined planning and zoning commissions from the requirement to publish a newspaper notice about a public hearing they hold on proposals they initiate to adopt or amend subdivision regulations. The law

already exempted zoning commissions and combined planning and zoning commissions from this requirement with respect to a hearing they hold on proposals they initiate to adopt or amend zoning regulations or zoning district boundaries.

Although the act expands the existing exemption from the newspaper notice requirement, it requires all commissions to notify those residents and nonprofit organizations requesting notice of any changes commissions propose to land use regulations and plans. Commissions must do this by creating a registry through which parties can request notice of these proposals.

The act still requires zoning, planning, and combined planning and zoning commissions to publish newspaper notices about regulatory changes developers propose. But it changes the requirements under which they may provide additional direct notice to those people the proposals directly affect.

The act eliminates the requirement that the Planning and Development Committee study how zoning commissions can use the definitions of lakes and other water bodies in their zoning ordinances. Prior law required the committee to annually report its findings to the legislature. The first report was due January 1, 2006.

EFFECTIVE DATE: October 1, 2006

EXEMPTION FROM PUBLIC HEARING NOTICE REQUIREMENT

The act expands the exemption from the requirement that land use commissions publish a newspaper notice about a public hearing on proposals they initiate to adopt or amend a regulation. Prior law limited the exemption to proposals zoning and planning and zoning commissions initiate concerning zoning regulations or zoning district boundaries. The act expands the exemption to include proposals planning and combined planning and zoning commissions initiate to adopt or amend subdivision regulations. It also makes a conforming technical change.

By law, zoning, planning, and combined planning and zoning commissions must hold public hearings on proposals developers submit to adopt or amend regulations and plans and publish newspaper notices informing the public about the hearing's date, time, and place.

PUBLIC NOTICE REGISTRY

Requirement

The act requires zoning, planning, and combined planning and zoning commissions to establish a registry through which they can directly notify people and organizations about regulatory changes they propose. Zoning and combined planning and zoning commissions

must use the registry for this purpose when proposing new zoning regulations and zoning district boundaries or changes to existing ones. Planning and combined planning and zoning commissions must use the registry to notify the registrants when (1) proposing new subdivision regulations or changes to existing ones or (2) adopting or amending plans of conservation and development.

Establishing and Maintaining the Registry

The act specifies how a commission must establish and maintain the registry. The commission must make the registry available to voters, landowners, and federally tax-exempt organizations. It must do so by notifying them about it and explaining how they can register for notices.

The commission must register a party's name and address if it submitted a written request to be entered in the registry. In doing so, the party may ask the commission to send the notices by regular or electronic mail. Its name and address remains in the registry for three years from the date the commission established the registry. After being registered for three years, the party must ask the commission to reenter its name and address if it wants to remain in the registry for another three-year period.

Sending Notices

The act requires the commission to notify registered parties by regular or electronic mail at least seven days before it holds a public hearing on a proposal it initiates, if feasible. The commission may send the notice by electronic mail if it has this capability.

Immunity from Liability

Under the act, the commission is not civilly liable to any party asking to be listed in the registry for anything the commission did or failed to do in good faith or because of a bona fide error that occurred even though the commission followed reasonable procedures intended to prevent errors.

NOTICE OF APPLICANT-INITIATED PROPOSALS

The act changes the requirement under which land use commissions may provide for additional notice of proposals submitted by developers and other parties. Besides publishing newspaper notices about proposals from applicants, prior law allowed commissions to notify those property owners the proposal directly affected. A commission that chose to provide the additional notice had to do so by regulation. The notice had to go to people who owned or occupied land adjacent to the property that was the subject of the

hearing.

The act specifies that the regulation must require the commission to provide the additional notice by mail, posting a sign on the property that is the subject of the hearing, or both. It still requires the commission to notify people who own adjacent property but eliminates the requirement that it also notify people who occupy but do not own that property. The act specifies that owners are those people listed as the owners on the property tax map or the most recently completed grand list as of the notice's mailing date. The act requires the commission to prove that it notified these people by a certificate of mailing.

PA 06-88—sHB 5289

Planning and Development Committee

Government Administration and Elections Committee

AN ACT CONCERNING TAX COLLECTOR CERTIFICATION

SUMMARY: This act expands the actions the Office of Policy and Management (OPM) secretary can take with respect to state-certified tax collectors. Prior law allowed him only to rescind a certification if he determined there was sufficient cause. The act allows him also to suspend or deny a certification or recertification.

The act eliminates the requirement that the OPM representative on the seven-member tax collector certification committee be knowledgeable about collecting property taxes. By law, this member has no voting rights. He and the six voting members are appointed by the secretary.

The act requires the committee to recommend standards for training, examining, certifying, and recertifying tax collectors and charging fees for doing so. The committee must recommend these standards to the secretary, who must adopt regulations to implement the ones he approves. Prior law required the committee to adopt the implementing regulations.

The act potentially changes the length of a tax collector's certification. Under prior law, the certification was valid for five years. Under the act, the certification is valid for five years or until the secretary adopts regulations, whichever is later.

Lastly, the act removes the committee from OPM administration.

EFFECTIVE DATE: July 1, 2006

PA 06-97—sHB 5707*Planning and Development Committee***AN ACT CONCERNING SUBDIVISIONS FOR AFFORDABLE HOUSING DEVELOPMENTS**

SUMMARY: This act allows a municipality's legislative body to adopt an ordinance exempting from the municipality's subdivision regulations a landowner's first subdivision of land so long as the lot created is for affordable housing developed by the municipality or a nonprofit organization. (Subdivision regulations routinely impose requirements on developers for such things as streets, sewers, and open space.) The ordinance must provide that this exemption is in addition to any other exemption provided under the law governing subdivisions and may not be construed as exercising any right under any other exemption. The ordinance must also provide that any further subdivision of the lot created for affordable housing is subject to subdivision regulations.

By law, a "subdivision" is the division of a parcel into three or more lots. As a result, a property owner can divide one lot from his previously un-subdivided parcel without being subject to the subdivision regulations.

EFFECTIVE DATE: October 1, 2006

PA 06-106—SB 537*Planning and Development Committee**Transportation Committee**Finance, Revenue and Bonding Committee***AN ACT CONCERNING REMISSION TO MUNICIPALITIES OF A SURCHARGE FOR CERTAIN MOTOR VEHICLE VIOLATIONS**

SUMMARY: This act adds a \$10 surcharge on specified motor vehicle violations and requires the state to remit the revenue to the municipalities where the violations occurred. The surcharge applies to anyone who pays a fine or forfeiture for any of 35 motor vehicle violations, including: (1) speeding, (2) reckless driving, (3) driving under the influence, (4) making an illegal turn, (5) failing to yield right of way, (6) failing to stop for a school bus (for a first offense), and (7) failing to stop at a stop sign. The surcharge also applies to anyone who pays a fine or forfeiture under any ordinance enacted in accordance with these laws. The act requires the Superior Court clerk or the chief court administrator (or his designee) to certify to the comptroller the amount due for the previous quarter to each municipality. The certifications must be made by January 30, April 30, July 30, and October 30.

EFFECTIVE DATE: July 1, 2006

PA 06-122—HB 5706*Planning and Development Committee***AN ACT CONCERNING INFORMATION ON MUNICIPAL RESERVE FUNDS**

SUMMARY: This act changes the requirement for reporting information about reserve funds towns may create to cover capital and nonrecurring expenditures. Under prior law, a town treasurer had to submit an annual report to the town's budget-making authority that gave a complete and detailed picture of the fund's condition. The town had to include that report in its annual report.

The act eliminates the annual report and instead requires the treasurer to make information and data available annually to the budget-making authority and the public. It also allows the town to include the information and data the treasurer provides in its annual report.

EFFECTIVE DATE: October 1, 2006

PA 06-128—SB 546*Planning and Development Committee**Finance, Revenue and Bonding Committee***AN ACT AUTHORIZING MUNICIPALITIES TO ABATE TAXES ON OPEN SPACE LAND AND AUTHORIZING FLOATING AND OVERLAY ZONES AND FLEXIBLE ZONING DISTRICTS**

SUMMARY: This act sets conditions under which municipalities, including boroughs and special taxing districts, may abate property taxes on open space land. This abatement is separate from the property tax benefit available to open space land owners under the 490 Program.

The act also allows municipalities meeting very narrow criteria to adopt specified zoning regulatory techniques. Its authorization applies to municipalities exercising zoning powers under a special act, that have a mayor-alderman form of government, and that were incorporated in 1784. (New Haven is the only municipality that meets these criteria.) The techniques are floating and overlay zones and flexible zoning districts. A municipality that chooses to adopt these techniques must do so under its zoning regulations and comply with the act's restrictions.

EFFECTIVE DATE: October 1, 2006 and the property tax provisions are applicable to assessment years beginning on or after that date. (PA 06-196 changes the effective date for the authorization to adopt zoning techniques to upon passage.)

OPEN SPACE LAND TAX ABATEMENT

Eligibility Criteria

The act allows municipalities to abate the taxes for open space land, including forests, if preserving or restricting its use would:

1. maintain and enhance the conservation of natural or scenic resources;
2. protect natural streams or water supplies;
3. promote soil, wetlands, beach, and tidal marsh conservation;
4. enhance the public value of abutting or neighboring parks, forests, wildlife preserves, nature reservations or other sanctuaries, or other open spaces;
5. preserve historic sites; or
6. promote orderly urban or suburban development.

Implementing Ordinance

Municipalities that choose to offer the abatement must do so by adopting an ordinance to implement it. The ordinance must authorize the abatement if the property's owner agrees to transfer the land's development rights to the municipality, accepts conservation easements on the property, allows rights of way, or agrees to any combination of these benefits. The ordinance must specify how owners may apply for the abatement and require appraisals to determine the land's value with and without the development rights.

Abatement

The town may set the abatement for an amount that is up to the open space land's fair market value and determine the time period during which the taxpayer may claim the abatement. The land's owner may transfer the abatement to any other property he owns in the town.

FLOATING AND OVERLAY ZONES AND FLEXIBLE ZONING DISTRICTS

Defined

The act allows municipalities exercising zoning powers under a special act and meeting other narrow criteria to adopt certain zoning techniques. The techniques depart from traditional zoning methods, which divide a municipality into districts and impose different requirements on how people can develop and use the land in each district. In practice, floating and overlay zones specify requirements without anchoring them to any specific area until the zoning commission approves a project that meets those requirements.

Flexible zoning districts also depart from the traditional practice by emphasizing general goals instead of strict regulatory requirements. They allow developers to plan and develop projects involving a mix of different uses as a single entity. They include planned development districts, planned development units, special design districts, and planned area developments.

Restrictions

A municipality's zoning regulations must establish regulatory standards for floating and overlay zones and flexible zoning districts. The flexible zoning districts must benefit the municipality, its floating and overlay zones, and the neighborhoods in which the districts are located. A flexible zoning district regulation may establish a zone within an existing residential neighborhood, but the new zone's requirements must be at least as restrictive as the underlying zone's.

The flexible zoning district regulations must not allow anyone to expand a preexisting nonconforming use (i.e., one that does not conform to the current zoning requirements but was allowed before they were adopted or changed). The act also prohibits a zoning commission from approving planned development districts in residential zones.

BACKGROUND

490 Program

By law, tax assessors must classify farms, forests, and open space land under the 490 Program and assess them based on their current use value without regard to their potential resale or fair market value (i.e., the highest and best use one can make of undeveloped land). Assessing land based on its current use yields a lower assessment and, consequently, a lower tax bill than if it were taxed based on its fair market value.

Related Case

The Connecticut Supreme Court ruled on June 6, 2006 that the special act granting New Haven zoning powers authorized it to approve planned development districts (*Susan C. Campion et al v. Board of Aldermen of the City of New Haven et al*, SC 17347). In doing so, the court overturned an Appellate Court decision (*Campion v. Board of Aldermen*, 85 Conn. App. 820). The case arose after the Board of Aldermen, the city's zoning authority, approved a planned development district that included a preexisting, nonconforming use.

The decision upholds the ordinance under which the city approved planned development districts. But it appears the city may approve districts after the act's effective date only if they meet the act's criteria.

PA 06-185—sSB 389

*Planning and Development Committee
Judiciary Committee*

AN ACT AUTHORIZING MUNICIPALITIES TO ESTABLISH A SPECIAL ASSESSMENT ON BLIGHTED HOUSING, INCREASING THE FINES FOR VIOLATIONS OF MUNICIPAL ORDINANCES AND CONCERNING MUNICIPAL LIENS FOR ACCRUED FINES AND CODE VIOLATIONS

SUMMARY: This act allows municipalities that meet certain conditions to impose a special assessment on blighted housing and specifies the conditions under which they may do so. Any unpaid special assessment a municipality imposes is a lien on the real estate against which it was imposed, running from the date of the fine. The lien may be continued, recorded, enforced, and released like a property tax lien.

The act makes certain municipal housing and health related fines, expenses, charges, and penalties that remain unpaid for 60 days after they are due a lien on the violator’s property if the municipality records a violation notice on its land records within 30 days after the fine, expense, service charge, and penalty are imposed. The lien takes precedence over subsequently recorded transfers and encumbrances. The act requires that a current record of all properties for which fines, expenses, charges, and penalties remain unpaid be kept in the enforcing agency’s office and available for public inspection.

It requires a municipality to notify a lienholder of any notice or order to a property owner under local or state law to dispose of the real estate or make it safe and sanitary. It also requires municipalities to make reasonable efforts to send a copy of the notice by first class mail to lienholders of the property at their current or last-known address. It allows a municipality to recover its costs in making a property sanitary in the same way it can recover its costs in making it safe or secure, including making these costs a lien on the property. It adds the municipality’s costs of making a property safe, secure, or sanitary to the taxes due on the property.

The act increases fines that municipalities may impose for violations of local laws, but decreases the daily maximum fine that they may impose for housing code and tenement or lodging house safety and health code violations. It allows violations of certain local laws to be handled as infractions.

EFFECTIVE DATE: July 1, 2006 for the blight provisions, October 1, 2006 for the remaining provisions.

BLIGHTED HOUSING

Conditions Under Which Municipality May Impose Assessment

In order to impose a blight assessment (1) the municipality must have adopted housing blight regulations, as authorized by existing law, and (2) its legislative body must adopt an ordinance, upon the recommendation of its board of finance or equivalent body, authorizing the assessment on housing that is blighted, as defined in the regulations.

Contents of the Ordinance

The ordinance must at least include:

1. standards for determining if a special assessment should be imposed on a property;
2. the amount of the assessment, which must be reasonable and based on an analysis of the costs to the municipality for health, housing and safety code inspection and enforcement, including police and fire costs;
3. procedures for notifying the property owner of imposition of the special assessment, which must tell him (a) how long he has to remedy the violation of the code before the assessment goes into effect and (b) how he may appeal an assessment; and
4. the appointment of a board consisting of the finance director, tax assessor, and municipal code enforcement official to determine when the special assessment should be imposed on a specific property.

The legislative body must annually review the amount of the assessment and can revise this amount.

Steps the Municipality Must Take Before Implementing the Assessment

Before the legislative body can initially approve the plan for implementing the assessment, the municipality’s executive authority must appoint a committee to study the issue. The committee must consist of (1) at least six taxpayers, one of whom must be a landlord; (2) the tax assessor; and (3) representatives of the municipality’s zoning, health, housing, fire, and other safety code compliance agencies.

Within 60 days of its appointment, the committee must complete a study and investigation concerning the special assessment and report to the board of finance or equivalent body in the municipality. The report must at least include:

1. a statement describing the assessment's effect on municipal revenue;
2. an identification of properties that may be subject to the assessment;
3. the amount of property taxes the properties generate and the municipality's costs for code enforcement on such properties, including costs for police and fire personnel;
4. recommendations regarding the form and extent of any assessment; and
5. standards for imposing the assessment.

In establishing the standards, the committee must consider (1) the number of outstanding health, housing, and safety code violations for the property; (2) the number of times municipal health, housing, and safety personnel have had to inspect the property; and (3) the municipality's cost to enforce code compliance on the property.

After the legislative body initially approves the special assessment, it may vote to amend the plan, on the recommendation of its board of finance or equivalent body, without following these procedures.

A municipality must deposit any money it receives from a special assessment into a special fund or account. The fund or account must be dedicated for the municipality's expenses related to enforcing the blight regulations and state and local health, housing, and safety codes and regulations, including police expenses.

LIENS

Tenement, Lodging, or Boarding Houses

By law, when (1) any building or structure is dangerous or detrimental to life or health or (2) a tenement, lodging, or boarding house violates the law requiring houses to have adequate heat, the board of health or other enforcing agency may declare that it is a public nuisance. The board or enforcing agency may order the nuisance removed or otherwise remedied. If the owner does not comply with the order within five days after it is served, the board or agency can execute the order. Municipalities must collect the expense of executing such orders, including an amount up to 5% of the expense as a service charge and 10% of the expense as a penalty.

The act makes any expense of executing such an order, including the service charge and penalty, that is unpaid for 60 days after its due date a lien on the real estate against which the expense was imposed, so long as the municipality (1) records a violation notice on its land records within 30 days after the fine, expense, service charge, and penalty are imposed and (2) indexes it in the property owner's name. The lien takes precedence over subsequently recorded transfers and encumbrances.

The notice of violation is effective from the time it is recorded on the land records. The lien may be foreclosed like a mortgage and may be discharged or dissolved like a mechanic's lien.

Housing Codes and Health and Safety Standards in Tenement and Boarding Houses

By law, any enforcing agency may issue a notice of violation to anyone who violates any provision of state law regarding health and safety standards in tenement and boarding houses or a provision of a local housing code. The notice must specify each violation and specify the last day by which it must be corrected. Anyone who fails to correct a violation before this date is subject to a cumulative civil penalty of \$5 a day for each violation from the date set for correction in the violation notice to the date it is corrected.

The act makes any such penalty remaining unpaid for 60 days after its due date a lien on the real property against which the penalty was imposed, subject to the provisions described above.

RECOVERY OF COSTS OF MAKING BUILDINGS SAFE, SECURE, AND SANITARY

The act allows a municipality to recover its costs in making a property sanitary in the same way it can recover its costs in making it safe or secure. By law, municipalities that incur costs for inspecting, repairing, demolishing, removing, or otherwise disposing of real estate in order to secure it or make it safe can recover their expenses against the property's owner. The owner's interest in the property is subject to a lien, which takes priority over other encumbrances, other than municipal taxes. The owner's interest in any insurance proceeds on the property is also subject to the municipality's lien. These provisions do not apply to one and two-family homes.

The act extends these provisions to the municipality's costs in making a property sanitary. It specifies that the existing and new provisions apply to costs the municipality incurs under any provision of the statutes or any municipal building, health, housing, or safety codes or regulations.

Additionally, the act allows the municipality's costs in making a property safe, secure, or sanitary under state or local law to be assessed against the property for which the costs were incurred if the municipality does not file a lien on the property. Upon certification by the municipal agency incurring these costs that are reasonably related to the municipality's actual cost, the tax collector must add the unpaid costs to the taxes due on the property and the added amount becomes a part of the taxes to be collected at the same time, in the same way, and at the same interest rate as delinquent taxes.

The added amount is a lien on the property from the date such amount was due. The lien may be continued, recorded, released, and enforced in the same way as a property tax lien. The act requires a municipality to make reasonable efforts to mail a copy of the lien certificate to existing lienholders by first class mail to their current or last-known addresses.

FINES

The act increases, from \$100 to \$250, the maximum penalty municipalities may prescribe for violations of regulations and ordinances they adopt in furtherance of the general powers conferred on them by state law.

The act decreases, from \$500 to \$100, the daily maximum penalty for violations of housing codes and health and safety standards in tenement and boarding houses.

TREATING VIOLATIONS OF LOCAL LAWS AS INFRACTIONS

The act authorizes violations of local laws for which the penalty is between \$90 and \$250 to be handled as an infraction, except (1) violations of health and building codes and (2) other violations if the municipality has established a payment and hearing procedure as authorized by law. Thus, an accused violator does not have to appear in court if he pays his fine and any applicable additional fees or costs by mail. The payment is considered a no contest plea and is inadmissible in any civil or criminal proceeding to establish his conduct.

BACKGROUND

Tenement, Lodging, and Boarding House

A “tenement house” means any house or building, or portion of it, rented to be occupied, or arranged or designed to be occupied, or occupied, as the home or residence of three or more families, living independently, and doing their cooking upon the premises, and having a common right in the halls, stairways, or yards. A “lodging house” or “boarding house” means any house or building or portion of it, in which six or more people stay, or any building or part of it, used as a sleeping place or lodging for six or more persons not members of the family living there (CGS § 47a-50(1)).

PA 06-28—HB 5468
Public Health Committee

**AN ACT CONCERNING CERTIFICATE OF
NEED CAPITAL EXPENDITURE THRESHOLDS**

SUMMARY: This act raises to \$3 million the capital and major medical equipment expenditure threshold that triggers an Office of Healthcare Access (OHCA) certificate of need (CON) review. The previous threshold was \$1 million for capital costs and \$400,000 for major medical equipment.

The higher threshold does not affect the acquisition of imaging equipment, such as a CT or PET scanner, which is subject to CON review regardless of cost unless it was purchased or leased for under \$400,000 before July 1, 2005. But the act conditions this exemption by specifying that the equipment must be in operation before July 1, 2006.

EFFECTIVE DATE: July 1, 2006 for the higher CON threshold; upon passage for the provision affecting the CON exemption for imaging equipment.

INCREASED THRESHOLDS

In addition to raising thresholds for CON review, the act raises thresholds that (1) permit exemptions from CON for replacement equipment and (2) trigger civil penalties. The law permits OHCA to waive CON requirements for facilities and providers that want to replace major medical or imaging equipment for which they already obtained a CON if the replacement equipment costs, or is valued at, less than a specified amount. The act raises this threshold from \$2 million to \$3 million.

The law subjects facilities and providers that own, operate, or seek to acquire major medical equipment costing over a threshold amount to civil penalties of up to \$1,000 for each day they fail to report required information to OHCA. The act raises this threshold from \$400,000 to \$3 million.

PA 06-33—HB 5843
Emergency Certification

**AN ACT CONCERNING THE STEM CELL
RESEARCH ADVISORY COMMITTEE**

SUMMARY: This act adds eight members to the existing nine-member Stem Cell Research Advisory Committee. (The committee thus consists of 16 members and the Department of Public Health (DPH) commissioner, who serves as the chairperson.) These additional members begin serving on or after July 1, 2006. By law, this committee is responsible for (1)

establishing and administering, in consultation with the DPH commissioner, a program to provide stem cell research grants to eligible institutions; (2) directing the commissioner on grant awards; (3) monitoring grant-funded research; (4) developing, in consultation with DPH, a donated funds program for stem cell research; and (5) reporting to the governor and General Assembly on stem cell research in the state.

The act specifies that it is not a conflict of interest for a person affiliated with an eligible institution to serve as an advisory committee member. By law, an “eligible institution” is (1) a nonprofit tax-exempt college or university, (2) a hospital conducting biomedical research, or (3) any entity conducting biomedical research or embryonic or human adult stem cell research.

EFFECTIVE DATE: Upon passage

STEM CELL RESEARCH ADVISORY COMMITTEE

New Membership

The eight additional committee members must be appointed in the same manner as the existing committee members as follows:

1. two by the governor, one who is a nationally recognized active investigator in stem cell research and one with background and experience in bioethics;
2. one each by the Senate president pro tempore and the House speaker with background and experience in private-sector stem cell research and development;
3. one each by the House and Senate majority leaders who must be academic researchers specializing in stem cell research;
4. one by the Senate minority leader with background and experience in public- or private-sector research and development or related research fields including embryology, genetics, or cellular biology; and
5. one by the House minority leader with background and experience in business or financial investments.

As with the existing member, the new members serve staggered four-year terms, with the members first appointed by the governor and majority leaders serving for only two years and three months. Members first appointed by the other appointing authorities serve a term of four years and three months. Members cannot serve more than two consecutive four-year terms and no member can serve concurrently on the Stem Cell Research Peer Review Committee.

All of the new appointments must be made by July 1, 2006 and the appointing authority must fill any vacancy. As under existing law, a member missing

three consecutive meetings or failing to attend 50% of the meetings in a calendar year is deemed to have resigned.

Code of Ethics; Conflict of Interest

As with the current committee members, the new members are considered public officials and must follow the Code of Ethics for Public Officials.

The act specifies that it is not a conflict of interest for a trustee, director, partner, officer, stockholder, proprietor, counsel, or employee of an eligible institution, or for any other individual with a financial interest in an eligible institution to serve as a committee member. Under the act, members can participate in committee affairs concerning the review or consideration of grant applications, including their approval or disapproval.

Existing law, unchanged by the act, prohibits a member from reviewing or considering any grant application he filed or in which he has a financial interest or one filed by someone with whom he engages in any business, employment, transaction, or professional activity.

BACKGROUND

Stem Cell Peer Review Committee

The five-member peer review committee must review all applications for grants and make recommendations to DPH and the advisory committee concerning the ethical and scientific merit of each application. It must establish guidelines for rating and scoring the applications. The DPH commissioner appoints the members (CGS § 19a-32g of the 2006 supplement to the General Statutes).

PA 06-53—sSB 313

Public Health Committee

Environment Committee

Legislative Management Committee

AN ACT CONCERNING PROTECTION OF PUBLIC WATER SUPPLY SOURCES

SUMMARY: This act requires that the public health (DPH) commissioner receive notice of applications submitted to local agencies about activities on public water supply watersheds. It allows the DPH commissioner to adopt regulations that incorporate by reference federal drinking water regulations.

The act requires the public health and environmental protection (DEP) commissioners to study the use of ethanol as a gasoline additive in the state as a means of meeting federal Clean Air Act requirements.

It also makes technical changes.

EFFECTIVE DATE: October 1, 2006 for the DPH commissioner notification and regulation provisions; the ethanol study and technical changes take effect upon passage.

NOTIFICATION OF PUBLIC HEALTH COMMISSIONER

By law, anyone filing an application, petition, request, or plan with the local zoning or zoning appeals authority for any site within a water company's watershed or aquifer protection area must notify the water company if the company has filed a watershed map with the municipality or map of the aquifer protection area. The act adds a filing made with a local planning commission.

The act requires that the applicant also notify the DPH commissioner, in a format he approves, when DPH has filed such a map. The applicant must send the notice by certified mail, return receipt requested, within seven days after the application date. The commissioner has the right to be heard at any hearing on the application.

The law establishes an exemption from the notice requirements in towns that allow zoning agents to approve applications, if the agent determines that a proposed activity will not adversely affect the public water supply. Existing law exempts notice to water companies in such towns. The act correspondingly exempts notice to the DPH commissioner in such towns.

By law, an applicant for a regulated activity on an inland wetland or watercourse must notify the water company of the application if it affects the company's watershed and the company has filed a map with the municipality. The act extends the notice requirement to include the health commissioner in a format he approves. The applicant must send the notice by certified mail, return receipt requested, within seven days of the date of the application. The commissioner can appear and be heard at the hearing on the application.

REGULATIONS

The act authorizes DPH to adopt regulations that incorporate by reference the provisions of the federal National Primary Drinking Water regulations (40 CFR, Parts 141, 142) if they (1) are consistent with other regulations adopted by the state and (2) explicitly incorporate any future amendments to the federal regulations.

ETHANOL STUDY

The act requires the DEP and DPH commissioners to study the costs and benefits of using ethanol as a gas

additive to meet the federal Clean Air Act requirements. The study must address (1) public health implications of exposure to unsafe ethanol levels and other toxics unique to ethanol-blended gasoline, (2) how using ethanol affects motor vehicle emissions and affects the state's implementation plan under the federal act, and (3) health risks associated with chronic exposure to ethanol or ethanol-blended gas.

DEP must, within available appropriations, report the study findings to the Public Health and Environment committees by December 31, 2006. Additionally, the report must include an analysis of (1) any reports or recommendations made by Northeast States for Coordinated Air Use Management and the New England Institute Water Pollution Control Commission; (2) whether Connecticut should continue to use ethanol as a gas additive and if not, an analysis of the waiver process from the federal Environmental Protection Agency to discontinue its use; and (3) the effect of ethanol on the state's air quality.

The report must also include (1) an update on other states' use of ethanol as a gas additive, (2) recommendations for new ethanol exposure standards for gas-related occupations and sensitive population subgroups, and (3) specific recommendations on alternative or supplemental air pollution reduction programs (e.g., alternative motor vehicle fuel incentives, mass transit, and employee commuter programs).

PA 06-64—SB 386

Public Health Committee

AN ACT CONCERNING REVISIONS TO THE OFFICE OF HEALTH CARE ACCESS STATUTES

SUMMARY: This act makes a number of changes to the Office of Health Care Access' (OHCA) certificate of need (CON) program. CON is a regulatory process 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, CON approval is OHCA's formal determination that a health facility improvement, medical equipment purchase, or service change is needed.

The act amends the CON process by (1) modifying the letter of intent phase of CON in emergency situations, (2) allowing OHCA to waive CON for specific termination or relocation of certain services, and (3) modifying the existing waiver from CON for replacement equipment.

The act makes a number of minor and technical changes to OHCA statutes. It extends the time by which

hospitals must report certain information to OHCA, changes some of the salary and benefits data they must report, and modifies their reporting of uncompensated care information. It also repeals several statutory provisions concerning obsolete budget and net revenue system procedures and references to the uncompensated care pool. The uncompensated care pool program has been replaced by the disproportionate share program (DSH) and OHCA no longer regulates hospital net revenue limits.

EFFECTIVE DATE: July 1, 2006

CON LETTER OF INTENT (§§ 6 & 7)

By law, the CON process begins when an applicant submits a "letter of intent" (LOI) to OHCA. It must be filed before the CON application can be submitted. The law requires that the LOI be on file with OHCA for at least 60 days before a CON can be considered submitted.

Existing law allows OHCA to waive the LOI phase of a CON in an emergency situation so that a health care facility can comply with federal, state, or local health, fire, building, or life safety code requirements. The act expands this LOI waiver option to emergency situations where the facility must maintain continued access to a health care service it provides. These waivers do not exempt the applicant from CON review, the public hearing, or any other aspect of the CON process.

CON WAIVER FOR SPECIFIC TERMINATION OR RELOCATION OF SERVICES (§§ 1 & 8)

The law allows OHCA to exempt any nonprofit facility, institution, or provider from CON requirements, other than terminating a service or facility, if certain conditions are met. The act limits any CON exemption for nonprofits to those under contract with a state agency or department.

The act also allows OHCA to grant a CON exemption for a nonprofit wanting to terminate a service or facility that is currently under contract with a state agency or department. OHCA can do this if (1) the commissioner, executive director, chairperson, or chief court administrator of the state agency or department contracting with the nonprofit entity confirms in writing to OHCA that the service needs of the area previously served will continue to be met in a better or satisfactory manner and how this will be done and (2) the OHCA commissioner or her designee concurs.

If a nonprofit wants to relocate its services, the act requires the OHCA commissioner or her designee to determine that the needs of the area previously served will continue to be met in a better or satisfactory manner before exempting the nonprofit from CON.

The act also exempts from CON requirements Department of Mental Health and Addiction Services–funded alcohol and drug treatment programs seeking to terminate or relocate services.

CON FOR REPLACEMENT EQUIPMENT (§ 9)

The law allows OHCA to waive CON requirements when a health care facility, institution, or provider proposes to replace major medical or radiological equipment if:

1. the facility, institution, or provider previously obtained a CON for the equipment being replaced;
2. the replacement value is not more than the original cost plus 10% for each 12-month period that has passed since the original CON; and
3. the replacement value or expenditure is less than \$2 million.

The act repeals the second condition.

OTHER CHANGES

Report Filing Changes (§§ 5 & 19)

The act extends from February 28 to March 31 the time by which short-term acute care general hospitals and children's hospitals must submit budget data to OHCA for the hospital budget year that began the preceding October 1.

The law requires acute care hospitals to submit to OHCA an annual report on their previous fiscal year (which ends on September 30); an audit of their charges, payments and uncompensated care; and hospital budget system data for their 12 months' actual filing requirements. The act extends the reporting deadline from February 28 to March 31 and requires the audit to be independent.

Hospital Salary Data (§ 12)

The law requires short-term acute care general and children's hospitals to file annually certain salary and fringe benefit data with OHCA. The act eliminates a requirement that the report include average salaries of administrative, supervisory, and direct services personnel in each department by job classification. It also repeals a provision that the report, at OHCA's discretion, include a breakdown of hospital and department budgets by administrative, supervisory, and direct service categories; by total dollars; and by full-time or equivalent staff. The law continues to require a report on the salaries and fringe benefits for the hospitals' ten highest paid positions (CGS § 19a-644(a)).

Uncompensated Care Reporting (§ 13)

By law, OHCA and the Department of Social Services must review annually the level of uncompensated care, including emergency assistance to families, each hospital provides to indigent people. Hospitals must file annually with OHCA their policies on free or reduced cost services to the indigent, excluding medical assistance (Medicaid) recipients, and their debt collection practices. Each hospital must get an independent audit of the level of charges, payments, and discharges by primary payer related to Medicare, Medicaid, and CHAMPUS (the federal Civilian Health and Medical Program of the Uniformed Services). This act adds TriCare (the Department of Defense's health plan for all uniformed services) to this list.

Previously, hospitals had to submit the audits and financial statements by February 28 annually. Under the act, hospitals must provide the audit results by March 31 annually and the financial statements must be audited.

BACKGROUND

Medicaid Disproportionate Share Hospital (DSH) Payments

Medicaid DSH payments are additional payments in the Medicaid program that help hospitals finance care to low-income and uninsured patients. Federal law requires state Medicaid programs to take into account the situation of hospitals that serve a disproportionate number of low-income patients when determining payment rates for inpatient hospital care. This is known as the Medicaid DSH adjustment.

Related Act

PA 06-28 increases the CON threshold for all capital expenditures, including major medical equipment, to \$3 million.

PA 06-77—sSB 311

*Public Health Committee
Government Administration and Elections Committee
Insurance and Real Estate Committee*

AN ACT DESIGNATING THE MONTH OF NOVEMBER AS LUNG CANCER AWARENESS MONTH AND CONCERNING THE ESTABLISHMENT OF A PUBLIC UMBILICAL CORD BLOOD BANK

SUMMARY: This act directs the public health (DPH) commissioner, in consultation with the Stem Cell Research Advisory Committee, to establish an ad hoc committee concerning a public umbilical cord blood

bank in the state.

The act also requires the governor to designate November as Lung Cancer Awareness Month to heighten public awareness that lung cancer is the leading cause of cancer death of both men and women in the United States. The act specifies that suitable events must be held in the State Capitol and other places the governor designates.

EFFECTIVE DATE: Upon passage for the cord blood bank provisions; October 1, 2006 for the lung cancer awareness section.

PUBLIC UMBILICAL CORD BLOOD BANK AD HOC COMMITTEE

Committee Responsibilities

The eight-member ad hoc committee must examine and evaluate the feasibility of (1) establishing a public umbilical cord blood bank for collecting and storing umbilical cord blood and placental tissue donated by maternity patients at hospitals in the state, (2) entering into a multistate public umbilical cord blood collaboration, and (3) developing a public-private partnership with existing cord blood banks. The first meeting must be held within 60 days of the act's effective date. The committee may examine other topics at the discretion of either the commissioner or the Stem Cell Research Advisory Committee.

Membership

Committee membership includes the commissioners of DPH and the Department of Economic and Community Development, or their designees, and the following members appointed by the public health commissioner: (1) one member of the Stem Cell Research Advisory Committee, selected by that committee; (2) one researcher from a Connecticut private higher education institution; (3) one researcher from a Connecticut public higher education institution; (4) one representative of a bioscience educational and business support network organization in the state; (5) one member in good standing of the American Association of Blood Banks, with expertise in cord blood banking and the federal Food and Drug Administration's federal safety standards for such blood banks; and (6) one individual with multiple years of experience in establishing and administering an umbilical cord blood registry. (The Revisor's Technical Corrections Act, PA 06-196, makes a technical change to the committee membership provisions.)

The DPH commissioner is the committee's chairperson and can, in consultation with the Stem Cell Research Advisory Committee, expand the ad hoc committee's membership if either decides it would be useful.

Results and Recommendations

By January 5, 2007, the DPH commissioner must submit the results of the committee's examination, along with any recommendations, to the governor and Public Health Committee.

BACKGROUND

Umbilical Cord Blood

Following the birth of a baby, the umbilical cord usually is discarded along with the placenta. But blood retrieved from the umbilical cord is a rich source of stem cells. These are unspecialized stem cells that produce all other blood cells, including blood-clotting platelets and red and white blood cells. Like donated bone marrow, umbilical cord blood can be used to treat various genetic disorders that affect the blood and immune system.

Both private and public cord blood banks have developed in the last few years in response to the success of umbilical cord blood transplants in treating certain diseases. Private blood banking allows families to preserve their blood for their own use. For-profit private banks charge a fee to preserve a newborn's cord blood for possible use by the family later. Public banks, usually established at medical centers, accept donations for use by anyone in need. Connecticut does not have a public cord blood bank.

PA 06-91—HB 5475

*Public Health Committee
Judiciary Committee*

AN ACT CONCERNING RECOMMITMENT OF ESCAPED PERSONS AND CONFINEMENT OF ACQUITTEES FOR EXAMINATION

SUMMARY: This act specifies that the Psychiatric Security Review Board (PSRB) may order a person under its jurisdiction committed to an institution (hospital) if he has been absent from the institution for an extended period following an escape.

The act extends, from 45 to 60 days, the amount of time for examining an acquttee committed to the custody of the Department of Mental Health and Addiction Services following the commitment order.

EFFECTIVE DATE: October 1, 2006

COMMITMENT TO THE PSYCHIATRIC SECURITY REVIEW BOARD

By law, the name of any person who has escaped from any institution for persons with psychiatric disabilities and has not returned to the facility within

one year must be stricken from the institution's records. By law, the person cannot be returned to the institution except upon further commitment by a court of competent jurisdiction. The act authorizes the PSRB to order the return of such an escaped person in the case of an acquittee committed to the board's jurisdiction.

BACKGROUND

Psychiatric Security Review Board

The PSRB is a state agency to which the Superior Court commits persons found not guilty of a crime by reason of mental disease or mental defect. These individuals are called "acquittees." The PSRB's responsibility is to review the status of acquittees through an administrative hearing process and order the level of supervision and treatment for the acquittees necessary to protect the public. The PSRB, at the time of commitment, takes jurisdiction over the acquittee and decides which hospital he will be confined in and when and under what circumstances he can be released into the community. The general findings and orders that the PSRB issues are: confinement in a maximum security facility, confinement in a hospital for the mentally ill or placement with the mental retardation commissioner, approval of temporary leave, approval of conditional release with specific conditions, modification or termination of conditional release, recommendations for discharge or continued confinement to the court (CGS § 17a-580 to 17a-603).

PA 06-92—sHB 5478

Public Health Committee

Legislative Management Committee

AN ACT CONCERNING THE DEPARTMENT OF MENTAL RETARDATION

SUMMARY: This act specifies that the Department of Mental Retardation (DMR) is not precluded from determining that a person has mental retardation just because his school or medical records do not contain a diagnosis of, or reference to, mental retardation or intellectual or developmental disability.

The act also requires the DMR commissioner to gather information from DMR clients, their families, and other interested parties about changing the department's name. He must do this within available appropriations and report his findings and recommendations to the governor, Office of Policy and Management, and the Public Health Committee by January 1, 2007. The findings must include an estimate of the costs of changing the name.

EFFECTIVE DATE: Upon passage for the name

change study; October 1, 2006 for the mental retardation diagnosis provision.

PA 06-98—HB 5720

Public Health Committee

Planning and Development Committee

Energy and Technology Committee

AN ACT CONCERNING THE REGULATION OF DISTRIBUTION WATER MAIN INSTALLATIONS AND WELLS ON RESIDENTIAL PROPERTY

SUMMARY: This act specifically excludes certain distribution water main installations from the Department of Public Health's (DPH) review and approval. The act requires water companies to report to DPH annually on the number and location of such new installations. Reporting must be in an electronic format prescribed by DPH.

Existing law prohibits the construction or expansion of a water supply system owned or used by a water company or the use of a new additional water supply source until plans for them have been submitted to and approved by DPH. Under the act, no prior review or approval is required for distribution water main installations if they are constructed according to sound engineering standards and all applicable laws and regulations.

The act defines "distribution water main installations" as installations, extensions, replacements, or repairs of public water supply system mains from which water is or will be delivered to one or more service connections and which do not require construction or expansion of pumping stations, storage facilities, treatment facilities, or supply sources.

EFFECTIVE DATE: October 1, 2006

PA 06-110—sHB 5477

Public Health Committee

AN ACT CONCERNING THE SUPERVISION OF PHYSICIAN ASSISTANTS

SUMMARY: This act revises the supervision requirements for physician assistants (PAs) by (1) making a distinction between supervision in a hospital versus other settings and (2) eliminating a requirement that the supervision in any setting be at the specific location where the PA is practicing. By law, each PA must have a clearly identified supervising physician, registered with the Department of Public Health (DPH), who has final responsibility for patient care and the PA's performance. A physician may supervise up to six

full-time PAs concurrently or the equivalent part-time number, if medically appropriate.

The law requires the supervising physician to personally review the PA's practice at least weekly or more frequently as needed to ensure quality care. In settings other than hospitals, the act requires (1) that these reviews be done through face-to-face meetings, at least weekly or more frequently as necessary to ensure quality care, at a facility or location where the PA or supervising physician practices and (2) that the supervising physician document in writing his already-required regular review of the PA's charts and records at the facility or practice location of the PA or physician.

The act also specifies that, in any setting, a physician designated as the PA's alternate supervising physician in the absence of his regular supervising physician must be registered with DPH.

EFFECTIVE DATE: October 1, 2006

PA 06-120—HB 5616

Public Health Committee

AN ACT CONCERNING SCREENING FOR KIDNEY DISEASE

SUMMARY: This act imposes certain requirements, beginning September 1, 2006, on licensed physicians, hospitals, and clinical laboratories concerning testing of patients age 18 and older for kidney disease.

It requires physicians to order a serum creatinine test as part of the patient's annual physical examination if the patient has not had such a test within the preceding 12 months. (Creatinine is a breakdown product of creatine, which is an important part of muscle. A serum creatinine test measures the amount of creatinine in the blood.) The physician's test order must include a notification that it is being done according to the act's provisions.

The act requires hospitals to order this test for each patient admitted to the hospital, at least once during the patient's stay. The test order must include the same notification as above. (PA 06-195 amends this to instead require that if a serum creatinine test is performed on a patient admitted to a hospital as an inpatient, the ordering provider must request at least once during the patient's stay that the testing laboratory report an estimated glomerular filtration rate (eGFR)). GFR is a measure of how effectively the kidneys are removing waste and excess fluid from the blood. It is calculated based on a blood test for creatinine.

Under the act, a clinical laboratory, when it tests a specimen to determine a patient's serum creatinine level as ordered by a physician or hospital, must (1) calculate the patient's eGFR using the patient's age and gender

which the physician or hospital must provide and (2) include the patient's eGFR with its report to the physician or hospital.

EFFECTIVE DATE: Upon passage

CLINICAL LABORATORY

Under the act, a "clinical laboratory" is any facility or other area used for microbiological, serological, chemical, hematological, immunohematological, biophysical, cytological, pathological, or other examinations of human body fluids, secretions, excretions, or excised or exfoliated tissues, to provide information for the (1) diagnosis, prevention, or treatment of any human disease or impairment; (2) assessment of human health; or (3) presence of drugs, poisons, or other toxicological substances (CGS § 19a-30).

The act specifies that a person, firm, or corporation operating a clinical laboratory is deemed in compliance with the act's provisions if the laboratory makes available to the ordering physician or hospital test order codes for serum creatinine that include eGFR.

PA 06-125—sSB 164

Public Health Committee

Judiciary Committee

AN ACT CONCERNING PATIENT ACCESS TO PHYSICAL THERAPY

SUMMARY: This act allows physical therapists meeting certain standards to treat patients without referral from another health care practitioner, except in cases involving workers' compensation injuries and a specific kind of treatment. The act establishes procedures a physical therapist must follow in treating patients without a referral.

The act specifically authorizes the Board of Examiners for Physical Therapists to take disciplinary action, including license suspension or revocation, against a physical therapist who fails to comply with continuing education requirements. The law already subjected physical therapists to disciplinary action for failure to comply. And the act modifies the process for therapists to seek a waiver from continuing education requirements.

It specifies that physical therapy does not include performing surgery; prescribing drugs; or diagnosing disease, injury, or illness. And it prohibits physical therapists and physical therapist assistants from using the terms "chiropractic adjustment or manipulation" to indicate or suggest they use these techniques in their practice.

EFFECTIVE DATE: October 1, 2006

TREATMENT WITHOUT REFERRAL

Under prior law, physical therapists could only treat patients referred to them by a physician, podiatrist, natureopath, chiropractor, dentist, advanced practice registered nurse, or physician assistant. But, they could provide wellness care to anyone without symptoms of illness or injury, with or without referral from one of these health care providers. "Wellness care" means services related to conditioning and fitness, strength training, workplace ergonomics, or injury prevention.

To obtain a physical therapist license, a candidate must complete a program of study approved by the American Physical Therapy Association (which currently requires at least a master's degree) and pass a national test or be certified by a specific national body. This act allows a licensed physical therapist to treat people without an oral or written referral if he earned (1) a master's or higher degree in physical therapy from an accredited college or university or (2) a bachelor's degree before January 1, 1998 and has practiced physical therapy for at least four of the last six years of clinical practice. (PA 06-195 instead requires the therapist to have been admitted to a master's or bachelor's program.)

In treating a patient without a referral, the therapist must:

1. at each initial treatment visit, require the patient to disclose or confirm the name of his primary care provider or provider of record;
2. inform anyone seeking treatment about the need to consult with his primary care provider or provider of record regarding his underlying condition if it is prolonged, does not improve within 30 days, or still requires continuous treatment; and
3. refer the patient to one of the licensed practitioners listed above if, after examination or reexamination, the condition for which the patient sought physical therapy does not show objective, measurable, functional improvement in any 30-day consecutive period or at the end of six visits, whichever occurs sooner.

TREATMENT REQUIRING REFERRAL

The act requires an oral or written referral before a person can receive physical therapy for a workers' compensation injury or a Grade V spinal manipulation (Grade V is the most severe type of spinal injury). In the latter case, the physical therapist must:

1. have earned a bachelor's degree before January 1, 1998 and practiced physical therapy for at least four of the last six years of his clinical practice or earned a master's or higher degree in physical therapy from an accredited college

or university (PA 06-195 instead requires the therapist to have been admitted to a master's or bachelor's program) and

2. hold a specialist certificate in orthopaedic physical therapy from the American Physical Therapy Association or have proof that he has completed 40 hours of course work in manual therapy, including Grade V spinal manipulation.

As under existing law, a referral must come from a physician, podiatrist, natureopath, chiropractor, dentist, advanced practice registered nurse, or physician assistant. The act permits a referral from a practitioner from any state whose licensing requirements are approved by the appropriate Connecticut examining board. Under prior law, only practitioners from bordering states with approved licensure requirements could make a referral.

CONTINUING EDUCATION

By law, physical therapists must complete 20 hours of continuing education during each 12-month registration period in order to renew their licenses. Therapists completing continuing education activities must get a completion certificate from the provider of the activity. Previously, a physical therapist had to submit the certificate to the Department of Public Health (DPH) upon request; the act requires submission within 45 days after DPH requests it.

By law, DPH can grant a waiver or time extension for completing continuing education requirements in the case of medical disability or illness. The act requires the licensee to submit a waiver or extension application to DPH, certification by a licensed physician of the disability or illness, and any other documentation DPH may require. It allows DPH to grant the waiver or time extension for up to 12 months (one registration period), rather than for any specified period. DPH can grant additional waivers or extensions if the disability or illness continues beyond the waiver or extension period and the licensee applies to DPH for that additional period.

PA 06-131—HB 5114

*Public Health Committee
Appropriations Committee
Insurance and Real Estate Committee
Human Services Committee*

AN ACT CONCERNING DEVELOPMENTAL NEEDS OF CHILDREN AND YOUTH WITH CANCER

SUMMARY: This act requires individual and group

health insurance policies to provide coverage for neuropsychological testing of children diagnosed with cancer after December 31, 1999. The mandate applies to plans delivered, issued for delivery, amended, renewed, or continued in the state on and after October 1, 2006. The act also requires the social services commissioner to amend the state's Medicaid and State Children's Health Insurance Program plans to provide this coverage under HUSKY A and B.

Under the act, insurers and the HUSKY plans must cover tests a licensed physician orders to assess the extent chemotherapy or radiation treatment has caused the child to have cognitive or developmental delays. They may not require prior authorization for the tests.

The law requires individual and group health insurance policies that cover dependents to do so through age 18 and up to age 23 if they are full-time students at an accredited school. HUSKY A and B cover children through age 18.

EFFECTIVE DATE: October 1, 2006, except the HUSKY provision, which is effective on passage.

PA 06-142—sSB 160

Public Health Committee

Government Administration and Elections Committee

AN ACT CONCERNING HOSPITAL ACQUIRED INFECTIONS

SUMMARY: This act creates an 11-member "Committee on Healthcare Associated Infections" responsible for developing, operating, and monitoring a mandatory reporting system for healthcare associated infections.

The act defines a "healthcare associated infection" as any localized or systemic condition resulting from an adverse reaction to the presence of an infectious agent or its toxin that (1) occurs in a patient in a healthcare setting; (2) was not found present or incubating at the time of admission unless the infection was related to a previous admission to the same setting; and (3) if the setting is a hospital, meets the criteria for a specific infection site, as defined by the National Centers for Disease Control.

The act requires the Department of Public Health (DPH) to implement the committee's recommendations concerning a mandatory reporting system for infections and standardized data reporting measures. It also establishes reporting requirements.

EFFECTIVE DATE: Upon passage

COMMITTEE MEMBERSHIP

The committee includes the DPH commissioner or his designee and the following 10 members appointed

by him: (1) two representing the Connecticut Hospital Association, (2) two from organizations representing health care consumers, (3) two who are either hospital-based infection disease specialists or epidemiologists with demonstrated knowledge and competence in infection disease issues, (4) one representative of the Connecticut State Medical Society, (5) one representative of a labor organization representing hospital-based nurses, and (6) two public members. All appointments must be made by August 1, 2006 and the first meeting must be held by September 1, 2006.

COMMITTEE RESPONSIBILITIES

By April 1, 2007, the committee must :

1. advise DPH on the development, implementation, operation, and monitoring of a mandatory reporting system for healthcare associated infections;
2. identify, evaluate, and recommend to DPH appropriate standardized measures, including aggregate and facility-specific reporting measures for healthcare associated infections and processes to prevent them in hospitals and other healthcare settings the committee deems appropriate, which must, to the extent applicable to the measure under consideration, be (a) capable of validation, (b) based on nationally recognized and recommended standards if they exist, (c) based on competent and reliable scientific evidence, (d) protective of practitioner and individual patient information, and (e) capable of easy use and understanding by consumers; and
3. identify, evaluate, and recommend to DPH appropriate ways of increasing public awareness about effective measures to reduce the spread of infections in communities, hospital settings, and other healthcare settings the committee deems appropriate.

RECOMMENDATIONS AND REPORTS

By October 1, 2007, DPH must, within available appropriations, implement the committee's recommendations concerning the creation of a mandatory reporting system for healthcare associated infections and standardized data reporting measures. Also by October 1, 2007, DPH must report to the Public Health Committee on the plan for implementing the mandatory reporting system and its status.

By October 1, 2008 and annually afterwards, DPH must report to the Public Health Committee on the information collected by DPH through the mandatory reporting system. The report must be posted on DPH's website and be available to the public.

BACKGROUND

Quality of Care/Adverse Event Reporting Law

Connecticut, while not having a law specifically addressing hospital acquired infections, does require hospitals to report hospital acquired infections that result in death or serious injury as part of the quality of care/adverse event reporting law (PAs 02-125 and 04-164).

PA 06-160—sSB 651

Public Health Committee

AN ACT CONCERNING PODIATRIC MEDICINE

SUMMARY: This act expands the scope of practice of podiatrists by allowing the medical and nonsurgical treatment of the ankle under certain conditions. Podiatrists' existing scope allows diagnosis and treatment of ailments of the foot, including medical and surgical treatment, and administering and prescribing drugs incidental to the care.

The act requires the public health (DPH) commissioner to convene a panel, directed by an arbitrator, to develop a protocol and recommendations for allowing qualified podiatrists to perform surgery on the ankle.

EFFECTIVE DATE: October 1, 2006 for the scope of practice changes; upon passage for the panel.

EXPANDED SCOPE OF PRACTICE

The act allows a licensed podiatrist who is board qualified or certified by the American Board of Podiatric Surgery or the American Board of Podiatric Orthopedics and Primary Podiatric Medicine to engage in the medical and nonsurgical treatment of the ankle and its anatomical structures. This includes administering and prescribing drugs incidental to the treatment as well as the nonsurgical treatment of manifestations of systemic diseases as they appear on the ankle. The act restricts treatment of displaced ankle fractures to the initial diagnosis and initial attempt at closed reduction at the time of presentation. The act prohibits a podiatrist from treating tibial pilon fractures.

For purposes of the act, "ankle" includes the (1) distal (farthest from the center) metaphysis and epiphysis of the tibia and fibula; (2) the articular cartilage of the distal tibia and distal fibula; (3) the ligaments that connect the distal metaphysis and epiphysis of the tibia and the talus (ankle bone); and (4) the portions of skin, subcutaneous tissue, fascia, muscles, tendons, and nerves at or below the level of the myotendinous junction of the triceps surae. ("Triceps

surae" refers to the group of lower leg muscles called the gastrocnemius and the soleus. The gastrocnemius is the two-headed, heart-shaped muscle in the back of the lower leg. The soleus is the broader, flat muscle just beneath the gastrocs. Both of these muscles attach to the heel bone via the Achilles tendon. The triceps surae makes up the superficial, posterior lower leg compartment.)

PANEL ON ANKLE SURGERY

The six-member panel, convened by and including the DPH commissioner or his designee, must also include a qualified arbitrator selected and retained by the commissioner, and two representatives each from the Connecticut Podiatric Medical Association and the Connecticut Orthopedic Society. The panel must develop a protocol and recommendations allowing qualified podiatrists to perform podiatric surgery. The arbitrator must direct and advise the panel. The commissioner must report the panel's findings and recommendations to the Public Health Committee by January 1, 2007. Arbitrator costs must be distributed equally among the five other panel members.

PA 06-169—HB 5617

Public Health Committee

AN ACT CONCERNING THE PRESCRIPTIVE AUTHORITY OF ADVANCED PRACTICE REGISTERED NURSES

SUMMARY: This act allows advanced practice registered nurses (APRNs) to request, receive, and dispense sample medications in all health care settings. Prior law allowed APRNs to do this only in noninstitutional settings (i.e., a physician's office).

EFFECTIVE DATE: October 1, 2006

PA 06-195—sSB 317

Public Health Committee

Insurance and Real Estate Committee

Judiciary Committee

AN ACT CONCERNING REVISIONS TO DEPARTMENT OF PUBLIC HEALTH STATUTES

SUMMARY: This act makes numerous substantive and technical changes to Department of Public Health (DPH) and other related statutes concerning various health care professionals, health care facilities, programs, and activities.

EFFECTIVE DATE: Various, see individual sections.

LOCAL REGISTRARS AND VITAL RECORDS (§ 1)

The act deletes obsolete language providing a \$2 fee to the local registrar for completing each birth, marriage, death, or fetal death record. Registrars are compensated by salary, not by this fee structure.

EFFECTIVE DATE: October 1, 2006

DIALYSIS PATIENT CARE TECHNICIANS (§§ 2, 7)

Public Act 05-66, which allows dialysis patient care technicians employed in outpatient dialysis units to administer certain medications, did not require DPH to license or certify the technicians. The act repeals references to dialysis patient care technicians in a statute (CGS § 19a-14) that identifies those health professions for which there are no boards or commissions and provides DPH with regulatory oversight over them. The act allows technicians to administer limited medications in hospital dialysis units, as well as outpatient dialysis units, under the supervision of a registered nurse as necessary to initiate or conclude hemodialysis treatment. The act also makes a technical change to recognize that technicians must be certified as such by an organization approved by DPH.

EFFECTIVE DATE: October 1, 2006

RESPIRATORY CARE PRACTITIONERS (§§ 3, 11, 12)

Under the act, a respiratory care practitioner applying for renewal for registration periods beginning on and after October 1, 2007 must maintain either (1) credentialing as a respiratory therapist (which presumably is the same as a respiratory care practitioner) from the National Board for Respiratory Care, or its successor or (2) earn a minimum of six contact hours of continuing education within the preceding registration period. (A registration period is the one-year period for which a renewed license is current and valid.) The continuing education must be directly related to respiratory therapy and reflect the licensee's professional needs in order to meet the public's health care needs. Qualifying continuing education includes courses (including on-line courses) offered or approved by the American Association for Respiratory Care, regionally accredited higher education institutions, or a state or local health department.

Each license renewal applicant must sign a statement attesting that he has maintained credentialing as a respiratory therapist, issued by the national board, or has met the continuing education requirements. Licensees must keep credentialing records, records of attendance, or certificates of completion showing compliance with the continuing education requirements. These must be kept for a minimum of five years following the year in which the licensee was

recredentialed or completed the continuing education. The licensee must submit the records within 45 days after DPH requests them. A first-time applicant for license renewal is exempt from the continuing education requirements.

In his discretion, the DPH commissioner may waive the continuing education requirements or grant an extension to fulfill them in cases of medical disability or illness. The licensee must submit a waiver or extension application to DPH on a department form, along with a physician's certification of his disability or illness and other documentation DPH may require. DPH can grant a waiver or extension for up to one registration period and can grant additional waivers or extensions if the disability or illness continues beyond the initial period and the licensee reapplies.

A licensee whose license expires and who applies to DPH for reinstatement must provide documentation showing successful completion of the six contact hours of continuing education within the one-year period immediately preceding his application.

DPH can take disciplinary action against a respiratory care practitioner failing to comply with the continuing education requirements. This can include license revocation or suspension, censure, letter of reprimand, probation, and civil penalties.

The act allows respiratory care practitioners on active duty in the armed forces to renew their licenses when they become void for up to one year from the date of discharge, once they complete six contact hours of continuing education. A "contact hour" is a minimum of 50 minutes of continuing education. A licensee applying for renewal must submit an application on a DPH-prescribed form and other documentation the department may require.

EFFECTIVE DATE: October 1, 2006

NEEDLE AND SYRINGE EXCHANGE (§§ 4, 15, 16)

The act eliminates the existing cap of 30 needles and syringes that may be exchanged at any one time under DPH's needle and syringe exchange program. It makes corresponding changes to the laws on drug paraphernalia reflecting the cap's removal. By law, unchanged by the act, first-time needle exchange program applicants are subject to a 30 needle and syringe cap.

EFFECTIVE DATE: Upon passage

BREAST AND CERVICAL CANCER PROGRAMS AND COMPREHENSIVE CANCER PLAN (§§ 5, 6, 52)

Breast and Cervical Cancer Programs

Under existing law, DPH can apply for and receive money from public and private sources and the federal

government to fund a breast and cervical cancer early detection and treatment referral program. The act expands the use of this money to allow for the funding of a comprehensive cancer program.

Previously, if the state received a payment according to a court settlement for use for women's health it had to be deposited in a DPH account for breast and cervical cancer treatment services. Under the act, any such money must be deposited in a DPH account for comprehensive cancer initiatives.

The act defines "breast cancer screening and referral services," instead of "breast cancer treatment services," as necessary breast cancer screening services and referral services for a procedure to treat breast cancer. Similarly, it defines "cervical cancer screening and referral services," instead of "cervical cancer treatment services," as "necessary cervical cancer screening services and referral services for a procedure to treat cancer of the cervix."

The act expands the breast cancer program's current public education and outreach initiative to include publicizing the benefits of early detection and the recommended frequency of screening services, including clinical breast examinations and mammography.

The act requires DPH to provide clinical breast examinations, screening mammograms, and pap tests as recommended in the most current breast and cervical cancer screening guidelines of the U.S. Preventive Services Task Force, for the woman's age and medical history. It retains the 60-day pap test follow-up for sexual assault victims and the every six-month test for HIV-positive women.

Under prior law, DPH had to provide, within existing appropriations and through contracts with health care providers, unserved or underserved populations with: (1) an annual mammogram for those aged 45 to 65; (2) an annual mammogram for those aged 35 to 44 with a first-degree female relative who has had breast cancer or with other equal risk factors; (3) one annual pap test for cervical cancer for those aged 19 to 64 who have had a positive finding, otherwise one every three years or more frequently as directed by a physician; (4) a 60 day follow-up pap test for sexual assault victims; and (5) a pap test every six months for women who have tested HIV-positive.

Comprehensive Cancer Plan

The act requires DPH, within available appropriations, to establish a comprehensive state cancer plan. The plan must provide for (1) a statewide smoking cessation program that targets Medicaid recipients; (2) development and implementation of (a) a program that encourages people to get colorectal screenings and (b) a statewide clinical trials network;

(3) identification of services for, and provision of services to, cancer survivors; and (4) identification and provision of services to organizations offering hospice or palliative care education.

EFFECTIVE DATE: July 1, 2006 for the use of money to fund a comprehensive cancer program, upon passage for the changes to the breast and cervical cancer program, and October 1, 2006 for the comprehensive cancer plan.

YOUTH CAMPS (§§ 8, 9, 10)

Staff Training and Safety Issues

The act requires licensed youth camps to provide training to staff on the camp's policies and procedures on behavioral management and supervision; emergency health and safety procedures; and recognizing, preventing, and reporting child abuse and neglect.

It requires that DPH, and the state or local fire marshal certify each of the camp's dwelling units, buildings, and structures as presenting no health or fire hazard. This must be indicated by a current fire marshal certificate dated within the past year and available on-site when the camp is operating. Previously, such certification had to be received within 90 days of applying for the license and DPH or the State Fire Marshal could certify them.

Disciplinary Action against a Youth Camp Licensee and Hearing Process

The act expands the list of disciplinary actions that DPH may take against youth camp licensees. Under existing law, DPH can suspend, revoke, or refuse to renew a youth camp license if the licensee:

1. is convicted of any offense of moral turpitude,
2. is legally found insane or mentally incompetent,
3. uses any narcotic or controlled drug that impairs his ability to care for children,
4. consistently fails to meet DPH standards,
5. provides misleading or false statements or reports to DPH,
6. refuses to provide DPH with reports or records necessary for licensure investigation,
7. fails or refuses to submit to a DPH investigation,
8. fails to maintain safe and sanitary premises, or
9. willfully or deliberately violates any provisions of the youth camp law.

The act amends the fourth standard above to "failure to comply with the statutes and regulations for licensing youth camps."

This act allows DPH, after a contested case hearing, to take any of the following actions, when it finds that the youth camp licensee has substantially failed to

comply with the law or regulations:

1. revoke or suspend a license,
2. impose a civil penalty of up to \$100 per violation for each day of occurrence,
3. place the licensee on probation and require regular reporting to DPH on those matters that are the basis of the probation, or
4. restrict the licensee's acquisition of other facilities for a set period.

The act requires DPH to notify the licensee in writing of its intent to take action. The licensee, if aggrieved, can apply in writing for a hearing, stating why he is aggrieved. DPH must receive the application within 30 days of the licensee getting DPH's notice of intended action. The commissioner must hold a hearing within 60 days of receiving the application and mail a notice to the licensee at least 10 days before the hearing date, giving its place and time. The commissioner or a hearing officer can conduct the hearing and the commissioner or licensee may issue subpoenas requiring witnesses to attend. The licensee can be represented by counsel and a hearing transcript must be made. (The act "entitles" licensees to be represented by counsel but presumably does not guarantee the right to counsel.) The hearing officer must state his findings and make a license action recommendation to the commissioner.

Under the act, the commissioner must make his written decision on whether to suspend, revoke, or continue the license or take other action against the licensee. A decision to revoke or suspend a license is effective 30 days after DPH mails it by certified or registered mail. The licensee can appeal the commissioner's decision to Superior Court.

The act specifies that the hearing and appeal provisions do not apply to the denial of an initial license application if DPH notifies the applicant of the denial and the reasons for it in a written notice mailed to the applicant. Under prior law, DPH had to notify applicants in this manner.

Reports or Complaints about a Camp

The act allows anyone with reasonable cause to believe a youth camp is operating (1) without a current and valid license; (2) in violation of regulations; or (3) in a manner posing a potential danger to a camper's health, welfare, and safety to report that information to DPH, which must investigate. It authorizes the DPH commissioner or his authorized agent, concerning any youth camp investigation, to administer oaths; issue subpoenas; compel testimony; and order the production of books, records, and documents. If a person refuses to appear, testify, or produce any documents when ordered, a Superior Court judge can issue an appropriate enforcement order.

The act specifies that the name of the person making the report or complaint must not be disclosed unless (1) the person consents, (2) a judicial or administrative proceeding results from the report or complaint, or (3) a license action against the camp results from the complaint or report.

All records DPH obtains of these investigations are not subject to disclosure under the freedom of information laws for 30 days from the date the investigation is initiated, until the investigation is terminated because of a withdrawal or other informal disposition, or until a hearing is convened, whichever is earlier. A formal statement of DPH charges is subject to disclosure from the time that it is served or mailed to the respondent. Records that are otherwise public records cannot be deemed confidential just because they have been obtained in connection with these investigations.

EFFECTIVE DATE: October 1, 2006

FUNERAL SERVICE CONTRACTS (§ 13)

The act requires every funeral home to maintain at its address of record for inspection purposes copies of all records relating to funeral service contracts, prepaid funeral contracts, or escrow accounts for at least three years after the death of the person for whom the funeral services were provided.

EFFECTIVE DATE: October 1, 2006

CREMATED REMAINS (§ 14)

Prior law required the funeral director to provide notice to the local registrar of vital records who issued the cremation permit about the method of disposition of unclaimed cremated remains. The act instead requires that the funeral director give notice to the registrar of the town where the person died.

EFFECTIVE DATE: Upon passage

INVESTIGATION OF HEALTH CARE PRACTITIONERS AND INSURANCE RECORDS (§ 17)

The act gives DPH access to records maintained by insurance companies for review during the course of an investigation of a health care practitioner.

EFFECTIVE DATE: October 1, 2006

VALIDATION OF MARRIAGES (§§ 18, 19)

The act updates the law to validate marriages performed up to the act's passage in a town other than (1) that authorized by the marriage license or (2) where either party resided at the time of the marriage license application. It also validates those marriages performed by a justice of the peace whose appointment expired.

EFFECTIVE DATE: Upon passage

PROFESSIONAL LIABILITY INSURANCE FOR DENTISTS (§ 20)

The act requires dentists who provide direct patient care services to maintain professional liability insurance or other indemnity against liability for professional malpractice. The amount each dentist must carry against claims for injury or death for malpractice must be at least \$500,000 for one person, per occurrence, with an aggregate of at least \$1.5 million.

Beginning January 1, 2007, each insurance company issuing professional liability insurance must provide DPH with a true record of the names and addresses, by classification, of cancellations of, and refusals to renew, professional liability insurance policies, including the reasons for cancellation or refusal, for the year ending on the preceding December 31.

Under the act, a dentist who must carry malpractice insurance is deemed in compliance when providing dental services at a DPH-licensed, tax exempt clinic (under § 501(c)(3) of the IRS Code) if the dentist is not compensated and the clinic:

1. does not charge patients for services,
2. maintains professional liability insurance coverage in the required amounts for each aggregated 40 hours or fraction of for the dentists,
3. carries additional appropriate professional liability coverage for itself and its employees of \$500,000 per occurrence with an aggregate of not less than \$1.5 million, and
4. maintains total professional liability coverage of at least \$1 million per occurrence with an annual aggregate of at least \$3 million.

But a dentist is subject to the insurance requirements when providing direct patient care services in any setting other than the clinic. The act specifies that it does not relieve the clinic from any other insurance requirements.

Under the act, a person insured with a claims-made medical malpractice insurance policy does not lose the right to unlimited additional extended reporting period coverage when he permanently retires from practice if he solely provides professional services without charge at a tax-exempt clinic.

EFFECTIVE DATE: October 1, 2006

CLOSING A FUNERAL HOME (§ 21)

The act requires the person or entity that holds a DPH certificate to operate a funeral home to notify owners of prepaid funeral contracts, people for whom it is holding cremated remains and DPH when more than

50% of the business is transferred or the business is discontinued or terminated. The person or entity must:

1. notify each owner of a prepaid funeral contract;
2. mail a letter to anyone for whom the home is storing cremated remains; and
3. give DPH, within 10 days of the action, notice and a list of all unclaimed cremated remains the home held at that time.

EFFECTIVE DATE: October 1, 2006

INDOOR TANNING FACILITIES (§ 22)

The act subjects the operator of a tanning facility to a fine up to \$100 for permitting anyone under age 16 to use a tanning device without a parent or guardian's written consent if he knows or should have known the person's age. The fine is payable to the local health department or health district where the device is located. The act permits departments and districts to enforce its provisions within their available resources.

It applies to devices in tanning facilities, which it defines as any place where a device is used for a fee, membership dues, or other compensation. An operator is the person the facility designates to control its operation and help consumers use the device properly.

EFFECTIVE DATE: October 1, 2006

NURSING FACILITY MANAGEMENT SERVICES (§ 23)

The act requires DPH to certify nursing facility management services. It defines these as services provided in a nursing home to manage the home's operations, including providing care and services. It prohibits anyone from providing these services after December 31, 2006 without a certificate.

Anyone seeking a certificate, or to renew one, must apply to DPH on a form it prescribes. The application must include a \$300 fee and:

1. the applicant's name, business address, organization type (e.g., individual, corporation, partnership, or other form) and a description of its nursing home management experience;
2. a signed criminal history affidavit disclosing whether the applicant has a history of certain crimes, civil actions, or administrative penalties;
3. the location and description of any other nursing facilities in which the applicant currently provides management services or has provided them within the past five years.

The criminal history affidavit must disclose any matter in which the applicant:

1. has been convicted of or pleaded nolo contendere to any felony involving fraud, embezzlement, fraudulent conversion, or

misappropriation of property or been held liable for such activity in a civil action;

2. is subject to a current injunction or restrictive or remedial court order; or
3. has, within the past five years, had a federal or state license or permit revoked or suspended due to business activity or health care facility operation.

In addition to the above information, DPH may reasonably request to review the applicant's audited and certified financial statements, which remain the applicant's property when used for either initial or renewal certification.

DPH must base its certification decision on the information presented to it and on the managed nursing home's compliance status. DPH can deny an applicant certification for any specific facility where there has been substantial noncompliance with the Public Health Code. The certificate must list each location at which nursing facility management services may be provided. Certificate holders must renew them biennially after submitting (1) the information required above and any other information DPH requires and (2) satisfactory evidence that the nursing home where they provide management services substantially complies with the law on health care institution licensure and the Public Health Code, and (3) \$300.

If DPH finds substantial noncompliance with the act's requirements, the commissioner can initiate disciplinary action against the management services certificate holder. DPH can limit or restrict the management services provided by a certificate holder against whom it has begun disciplinary action.

EFFECTIVE DATE: July 1, 2006

HOSPITAL PERFORMANCE IMPROVEMENT PLANS (§ 24)

The law requires hospitals to implement performance improvement plans. The act requires them to make their plans available to DPH at its request, rather than submit them annually as a condition of licensure.

EFFECTIVE DATE: October 1, 2006

ADVERSE EVENT REPORTS (§ 25, 26)

The act specifies that the form the DPH commissioner prescribes for hospitals and outpatient surgical facilities to report adverse events to DPH does not have to be adopted in regulation.

EFFECTIVE DATE: October 1, 2006

ALCOHOL AND SUBSTANCE ABUSE SCREENING PROTOCOLS (§ 27)

The act requires hospitals to annually send the protocols they use to screen patients for alcohol and substance abuse only to the Department of Mental Health and Addiction Services (DMHAS), rather than to both it and DPH.

EFFECTIVE DATE: October 1, 2006

EMERGENCY ACTION AGAINST NURSING HOME LICENSEES (§ 28)

This section is technical.

EFFECTIVE DATE: October 1, 2006

CONTINUING EDUCATION FOR RADIOGRAPHERS (§ 29)

Beginning October 1, 2008, the act requires radiographers, in order to renew their license, to attest in writing that they (1) are registered by a professional radiology organization or (2) have earned at least 24 contact hours of continuing education in the previous 24 months. A contact hour is at least 50 minutes of continuing education activity. Anyone who fails to do this is subject to disciplinary action, including license revocation or suspension. An individual who does not take the continuing education path must register as a radiographer or radiation therapy technologist with the American Registry of Radiologic Technologists. Continuing education must be in the individual's practice area and reflect his professional needs in order to meet the public's health care needs.

The act specifies 10 organizations, including the American College of Radiology, that offer or approve courses that qualify for continuing education credit. On-line courses offered or approved by any of these organizations qualify, as do courses offered or approved by hospitals and other health care institutions, regionally accredited colleges and universities, and state and local health departments. Individuals must keep records for at least three years after completing their continuing education activities and submit these records to DPH within 45 days of its asking for them.

The act exempts from its continuing education requirements first-time license renewal applicants and those not engaged in active practice. The latter must submit a notarized exemption application to DPH plus any other documentation DPH requires before his license expires. The exemption application, which must be on a DPH form, must state that the individual will not practice until he has met the act's continuing education requirements.

The act permits the DPH commissioner to waive continuing education requirements or extend the time for fulfilling them for a radiographer who is ill or

disabled. The individual must submit a waiver or extension application and other documentation the commissioner may require. A waiver or extension can be for up to one year, and the commissioner can grant additional waivers or extensions if the illness or disability continues and the person applies again.

A radiographer who applies to have his license reinstated after it has lapsed must show DPH that he completed 12 contact hours during the immediately preceding year.

EFFECTIVE DATE: October 1, 2006

ADVANCED PRACTICE NURSE TEMPORARY PRACTICE (§ 30)

The act permits a graduate advanced practice registered nurse (APRN) to work without a license for 120 days after graduating in a hospital or other setting under the supervision of a physician or other APRN. The graduate APRN cannot prescribe or dispense drugs. The hospital or other setting must verify that the graduate has applied to take the national certification exam and must end his work if it is notified that he failed the exam.

EFFECTIVE DATE: Upon passage

DENTIST AND PHYSICIAN CONTINUING EDUCATION (§§ 31, 32)

The act specifies that:

1. the 25 hours of continuing education dentists must take every two years, beginning October 1, 2007, include at least one hour in each of the following topics: infectious diseases, access to care, risk management, special needs populations, and domestic violence and
2. the 50 hours of continuing education physicians must take every two years, beginning October 1, 2007, include at least one hour in each of the following topics: infectious diseases, risk management, sexual assault, and domestic violence.

Under prior law, dentists and doctors needed one hour of study in infectious disease, which included the other areas of study.

EFFECTIVE DATE: Upon passage

MEDICAL HEARING PANEL MEMBERSHIP (§ 33)

By law, a three-person panel hears allegations of malpractice against physicians and physician assistants (PA). The panel consists of a public member, a member of the Connecticut Medical Examining Board, and a physician or PA, as appropriate. Under prior law, the physician was from a list the DPH commissioner created. The act permits the physician to be a member of the Medical Examining Board.

EFFECTIVE DATE: Upon passage

EMERGENCY MEDICAL SERVICES (EMS) (§§ 34, 35)

Certificate of Need Process

The act grants primary service area responders (PSAR) intervenor status in DPH hearings on the need for new or expanded EMS service in their area and establishes an expedited process for certain PSARs to add ambulances to their fleets. Intervenor status, including the opportunity to cross examine witnesses, must be granted to a PSAR if the hearing deals with new or expanded service in a town it serves and the PSAR asks for this status.

The act permits a licensed or certified volunteer municipal ambulance service that is a PSAR to add one emergency vehicle every three years without having to go through the public hearing that is otherwise required. The one vehicle limit applies to the provider's entire fleet regardless of the number of towns it serves.

When it applies for this expedited review, the volunteer municipal PSAR must give written notice to all other PSARs in (1) towns where the applicant proposes to add the vehicle and (2) those abutting them. If one of them requests a hearing on the application within 15 calendar days after receiving notice, DPH must hold one, at which the applicant must demonstrate the need for the vehicle. If none object, the application is deemed approved 30 calendar days after it is filed.

PSARs must apply for expedited review on a short form DPH develops. The form must require the applicant to provide, at least, (1) its name and address; (2) the primary service area for which the vehicle is proposed; (3) how the vehicle will be used and why it is needed; (4) proof of insurance; (5) a list of the PSARs it notified and proof of this notification; (6) its total call volume, response time, and calls passed within the primary service area in the year before its application; and (7) any other information the commissioner deems necessary.

The act requires an entity (which includes an ambulance, rescue, or management service), within six months after the date DPH approves its request for new or expanded services, to (1) acquire the resources, equipment, and other material it needs to comply with the terms of approval and (2) operate in the area identified in its application. Failure to do either within six months voids the approval, which DPH must rescind.

EMS Management Services

The act specifies that EMS management services organizations, which provide personnel to EMS providers, are employment organizations and may not

own or lease ambulance or other emergency vehicles. The law requires DPH to license these organizations, and the act explicitly (1) subjects them to DPH disciplinary and licensing action if they violate DPH regulations or fail to maintain required standards and (2) permits them to appeal DPH's actions under the Uniform Administrative Procedures Act. These disciplinary actions include license or certification suspension or revocation, probation, and a civil penalty of up to \$10,000.

The act also requires all ambulance services to secure and keep medical control by a sponsor hospital for all their EMS personnel, whether they or a management service employs them.

EFFECTIVE DATE: Upon passage

NURSE-MIDWIFE PRACTICE (§ 36-39)

The act revises nurse-midwives' scope of practice and their relationship with physicians. It expands the scope to include all women's health care needs; previously their scope was limited to gynecology, pregnancy, childbirth, and post-partum care of mothers and newborns. It removes the restriction that nurse-midwives care only for essentially normal newborns and women and only under an obstetrician-gynecologist's (OB-GYN) direction (which does not require the physician to be present). And it specifies that (1) their scope includes family planning and (2) they practice in collaboration with qualified ob-gyns.

The act eliminates the requirement that the clinical relationship between a nurse-midwife and a physician be based on written protocols and guidelines that contain a list of the drugs, devices, and lab tests a nurse-midwife can prescribe, administer, or dispense. Instead, it requires them to practice within a health care system and have a clinical relationship with ob-gyns that provide for consultation, collaborative management, or referral as indicated by the patient's health status. It requires each nurse-midwife to provide (1) care consistent with standards the American College of Nurse Midwives establishes and (2) information about, or referral to, other providers or services, if the patient asks or requires care that is not in the nurse-midwife's scope of practice.

The act permits a graduate of a nurse-midwife program approved by the American College of Nurse Midwives to practice midwifery without a license in a hospital or other facility for up to 90 days after graduation or until he learns that he failed the licensing exam, whichever occurs first. The facility must (1) verify the graduate's successful completion of an approved program and (2) provide supervision the DPH commissioner determines is adequate.

Finally, the act requires the nurse-midwives the DPH commissioner appoints to advise him in regulating

the profession be licensed and have practiced for at least five years. It prohibits any of them from being an officer in the Connecticut Chapter of the American College of Nurse Midwives.

EFFECTIVE DATE: October 1, 2006

MOLD ABATEMENT PROTOCOL (§ 40)

The act requires DPH, by October 1, 2006, to publish guidelines establishing mold abatement protocols that contain acceptable methods for performing abatement or remediation work. The act specifies that these guidelines are not regulations.

EFFECTIVE DATE: Upon passage

HOSPITALISTS (§ 41)

The act requires the best practices subcommittee of the Quality of Care Advisory Committee, which advises DPH on ways to measure health care facilities' clinical performance, to make recommendations on best practices concerning communications between patients' primary care providers and other providers involved in patient care, including specialists and hospitalists. The subcommittee must make its recommendations to DPH by January 1, 2008. Hospitalists are physicians, mainly internists, whose primary professional focus is the general medical care of hospitalized patients.

EFFECTIVE DATE: October 1, 2006

MENTAL HEALTH FACILITY LICENSURE (§ 42)

The act extends DPH licensing requirements to all facilities that treat people with mental illness, not just (1) those treating adults and (2) outpatient facilities treating youths over age 15 who receive services from DMHAS. It does this by revising the definition of "mental health facility."

EFFECTIVE DATE: Upon passage

ATHLETIC TRAINERS (§ 43-46)

For purposes of athletic trainer licensure, the act references certification by the Board of Certification, Inc. or its successor instead of the National Athletic Trainers' Association Board of Certification, Inc. It also specifies that the DPH commissioner, before April 30, 2007, must license as an athletic trainer an applicant providing satisfactory evidence of (1) continuously providing services as an athletic trainer since October 1, 1979 or (2) being certified as an athletic trainer by the Board of Certification or its successor.

It authorizes DPH to take various disciplinary actions against a licensed athletic trainer failing to meet the profession's accepted standards. These include license suspension or revocation; censure; issuance of a letter of reprimand; placement on probation; or

assessment of a civil penalty. DPH can order a licensee to submit to a reasonable physical or mental examination if his physical or mental capacity to practice safely is the subject of investigation. DPH can petition Hartford Superior Court to enforce an order or action. The licensee must receive notice of any contemplated action, the cause of the action, and the opportunity and date for a hearing.

EFFECTIVE DATE: Upon passage, except that the provision concerning the April 30, 2007 date for certain licensure takes effect October 1, 2006.

PHYSICAL THERAPY ASSISTANTS (§ 47)

The act alters two conditions under which DPH can license a physical therapy assistant (PTA) without an examination. It permits DPH to issue a license (1) before April 30, 2007, to people who show that they had worked for 20 years as a PTA before October 1, 1989 or (2) to people who were registered PTAs before April 1, 2006. Under prior law, DPH could license a person without an exam who was eligible to register as a PTA when DPH notified the public that it had adopted PTA licensing regulations (it did so on April 11, 2006), had graduated from an approved physical therapy school, or had worked 20 years as a PTA by October 1, 1989. DPH continues to be able to license anyone without an exam who is licensed or registered in another state or nation with similar or higher requirements than Connecticut.

EFFECTIVE DATE: Upon passage

PROFESSIONAL COUNSELORS (§ 48)

The act changes the education criteria required for a person seeking a professional counselor's license. Under prior law, a person must have completed 60 hours of graduate school work in professional counseling-related areas and have earned a master's degree, a master's degree and a sixth-year degree, or a doctorate. The act, instead, requires licensure candidates to have accomplished one of the following:

1. completed 60 hours of graduate school work in counseling-related areas;
2. earned (a) a master's degree with at least 42 graduate hours with a major the National Board of Certified Counselors deems to be in the discipline of counseling or (b) a master's degree with a major in social work, marriage and family therapy, counseling, psychology, or a mental health field plus a sixth-year degree in a discipline deemed as counseling by the national board; or
3. a doctorate in a discipline the national board deems to be counseling.

EFFECTIVE DATE: October 1, 2006

PHARMACEUTICAL EMERGENCY PREPAREDNESS (§§ 49, 50)

When the governor or her authorized representative declares an emergency, the act allows a hospital pharmacy, pharmacy, or other registrant authorized by state or federal law to possess controlled substances to transfer or distribute drugs or controlled drugs to a licensed pharmacy, registrant, or a location authorized by the Department of Consumer Protection (DCP) commissioner. This must be done according to applicable federal law, regulations, guidelines, and policy and with the commissioner's prior approval. The registrant must record the transfer accurately in compliance with all state and federal law and report the transfer in writing to the commissioner.

The act requires licensed wholesalers that distribute prescription drugs to provide the DCP commissioner with a report on the wholesaler's on-hand inventory of specifically identified prescription drugs. Licensed repackagers of the finished form of the drug must do the same.

The inventory report must include the (1) name, address, town, and state of the wholesaler and manufacturer; (2) prescription drug name; (3) quantity of the drug on hand, including the size of each container and the number of containers; and (4) report date. The information must be reported as prescribed by DCP.

DCP must establish a list of strategic prescription drugs that must be reported. The list must include selected vaccines and antibiotic products, and be based on priorities DCP establishes in consultation with DPH. The list, issued biannually, must be based on anticipated medication requirements for public health preparedness, pharmacological terrorism prevention or response, and medication and economic integrity. The republished list must indicate any changes to it.

Information licensed wholesalers provide under the act is not subject to disclosure under the Freedom of Information Act. But it is available to DCP, DPH, the Office of Emergency Management, and other agencies and entities determined by DCP after they request it and demonstrate a need for public health preparedness, pharmacological-terrorism prevention or response, medication integrity, or other appropriate purpose.

DCP may adopt regulations, with the assistance of the Commission on Pharmacy. Violation of these provisions results in a fine of up to \$10,000, imprisonment up to one year, or both.

EFFECTIVE DATE: Upon passage

COMMITTEE TO IMPROVE HEALTH CARE ACCESS (§ 51)

The act requires the DPH commissioner to establish an ad hoc committee to assist him in examining

statutory and regulatory changes to improve health care through access to school-based health centers, particularly by under- or uninsured people or Medicaid recipients. The committee must meet by July 15, 2006. The committee includes the DPH and Department of Social Services (DSS) commissioners or their designees and the following members appointed by the DPH commissioner: (1) two DPH employees, (2) one DMHAS employee recommended by the department, (3) one Office of Policy and Management (OPM) employee recommended by the office, and (4) three school-based health center providers recommended by the Connecticut Association of School Based Health centers. The DPH commissioner can expand membership to include representatives from related fields if he determines this is useful.

The committee must focus on improving school-based resources, facilitating access to school-based health centers, and identifying or recommending appropriate fiscal support for operational and capital activities. It must also assess the current school-based health center system, with particular emphasis on (1) expansion of existing services to achieve the school-based health center model; (2) supportive processes for such expansion, including the use of unified data systems; (3) identification of geographical areas of need; (4) financing for an expanded system; and (5) service availability under the current and expanded system. Other topics may be included at the discretion of the commissioner and the committee.

The committee must submit the results of its examinations with specific recommendations for statutory or regulatory changes to the governor and Public Health Committee by December 1, 2006.

EFFECTIVE DATE: Upon passage

KIDNEY DISEASE TESTING (§ 53)

The act imposes certain requirements, beginning September 1, 2006, on licensed physicians, hospitals, and clinical laboratories concerning testing of patients age 18 and older for kidney disease.

PA 06-120 requires physicians to order a serum creatinine test as part of each patient's annual physical examination if the patient has not had such a test within the preceding 12 months. (Creatinine is a breakdown product of creatine, which is an important part of muscle. A serum creatinine test measures the amount of creatinine in the blood.) The physician's order must include notice that the test is being done as required by law.

PA 06-120 requires hospitals to order this test for each patient admitted to the hospital at least once during the patient's stay. This act amends that act to instead require that if the test is performed on a patient admitted as an inpatient, the ordering provider must request at

least once during the patient's stay that the testing laboratory report an estimated glomerular filtration rate (eGFR). This is required if the patient has not had the test in the year preceding the hospitalization.

Under PA 06-120 and amended by this act, a clinical laboratory, when it tests a specimen to determine a patient's serum creatinine level as ordered by a physician or provider in the hospital, must: (1) calculate the patient's eGFR using the patient's age and gender which the physician or hospital provider must provide and (2) include the patient's eGFR with its report to the physician or hospital provider. eGFR is a measure of how effectively the kidneys are removing waste and excess fluid from the blood. It is calculated based on a blood test for creatinine.

A "clinical laboratory" is any facility or other area used for microbiological, serological, chemical, hematological, immunochemical, biophysical, cytological, pathological, or other examinations of human body fluids, secretions, excretions, or excised or exfoliated tissues, to provide information for the (1) diagnosis, prevention, or treatment of any human disease or impairment; (2) assessment of human health; or (3) presence of drugs, poisons, or other toxicological substances (CGS § 19a-30).

A person, firm, or corporation operating a clinical laboratory is deemed in compliance with the act's provisions if the laboratory makes available to the ordering physician or hospital provider test order codes for serum creatinine that include eGFR.

EFFECTIVE DATE: Upon passage

DEFIBRILLATORS AT PUBLIC GOLF COURSES (§ 54)

The act requires all public golf courses (a course with at least nine holes and a course length of at least 2,750 yards) to provide and maintain at least one automatic external defibrillator at a central location on the premises.

EFFECTIVE DATE: October 1, 2006

ALZHEIMER'S SPECIAL CARE UNITS (§§ 55, 56)

The act requires Alzheimer's special care units or programs to disclose in writing to people who will live in them or their legal representative or other responsible party information about the unit's philosophy, costs, admission, and discharge procedures; care planning and assessment; staffing; physical environment; residents' activities; and family involvement. Disclosure must begin by January 1, 2007 and be signed by the patient or responsible party.

An "Alzheimer's special care unit or program" is any nursing home, residential care home, assisted living facility, adult congregate living facility, adult day care

center, hospice, or adult foster home that locks, secures, segregates, or provides a special program or unit for residents with a diagnosis of probable Alzheimer's disease, dementia, or similar disorder. The unit or program must be one that prevents or limits a resident's access outside the designated or separated area and advertises or markets itself as providing specialized care or services for those with Alzheimer's disease or dementia.

The required disclosure, which the resident or responsible party must sign, must explain what additional care and treatment or specialized program the Alzheimer's unit will provide that is distinct from the care and treatment required by the applicable licensing rules and regulations.

It must include:

1. a written statement of the special unit's overall philosophy and mission as it reflects the needs of residents with Alzheimer's, dementia, or similar disorders;
2. the process and criteria for placement within or discharge from the unit;
3. the process for assessing, establishing, and implementing the care plan, including how it is modified in response to changes in condition;
4. the extent and nature of staff coverage, including staff to patient ratios and staff training and continuing education;
5. the physical environment and design features appropriate for the residents' functioning;
6. the frequency and types of activities and the ratio of residents to recreation staff;
7. the role of families and family support programs; and
8. the cost of care, including any additional fees.

Each Alzheimer's special care unit program must develop a standard disclosure form for compliance with the act and, at least once a year, review and verify the accuracy of information provided. Each unit must update any significant changes to the information reported above within 30 days of the change.

The act requires each special care unit or program to annually provide Alzheimer's and dementia specific training to all licensed and registered direct care staff who provide direct patient care to residents in these units or programs. At a minimum, this must include (1) at least eight hours of dementia-specific training, completed within six months after beginning employment, followed by three hours of such training annually and (2) at least two hours a year of training in pain recognition and administration of pain management techniques for direct care staff.

EFFECTIVE DATE: October 1, 2006 for the disclosure provisions; upon passage for the training requirements.

EMERGENCY RESPONSE INFORMATION (§ 57)

The act changes the information public safety answering points are required to report quarterly to the Office of Statewide Emergency Telecommunications. Instead of reporting the calls they receive for EMS services and the 9-1-1 calls they receive involving medical emergencies, it requires them to report all calls they receive through the 9-1-1 system for services. And, instead of reporting the time that elapsed between answering a call and dispatching services or relaying it to another public or private safety agency, they must report the elapsed time until they transfer or terminate a call. Finally, the act removes the requirement that they report this information quarterly to DPH.

EFFECTIVE DATE: Upon passage

USE OF THE TERM 'DOCTOR' AND RELATED TERMS (§ 58)

The act amends the law on use of the title "doctor" and related terms and abbreviations. It prohibits anyone engaged in any branch of the art of healing the sick or injured or claiming to do so, other than a licensed medical doctor, from using or implying the use of the terms "physician," "surgeon," "medical doctor," "osteopath," or "doctor," or the initials "M.D.," "D.O.," or "Dr.," or any similar title or description of services with the intent to represent or likely have someone believe that the person (1) practices medicine in the state, (2) is licensed to practice medicine in the state, or (3) may diagnose or treat any injury, deformity, ailment or disease, actual or imaginary, of another person for compensation, gain, or reward.

But someone who has a doctor of medicine degree or doctor of osteopathy, but is not licensed to practice medicine under state law, may use the initials "M.D.," or "D.O.," if they are not used with the intent to represent or induce such belief.

Violation of these provisions or of existing law on who may legally practice medicine results in a fine of up to \$500, imprisonment up to five years, or both. The act specifies that each instance of patient contact or consultation in violation of the physician practice law constitutes a separate offense. The act specifies that failure to timely renew a license is not a violation of the act.

EFFECTIVE DATE: Upon passage

HEALTH CARE DECISION- MAKING (§ 59-81)

The act amends and updates Connecticut law on health care decision making by:

1. combining the authority of the health care agent and attorney-in-fact for health care decisions into a unified proxy known as the "health care representative";

2. expanding the scope of a living will from covering only decisions concerning life support to include any aspect of health care;
3. conferring on the health care representative the authority to make any and all health care decisions for a person incapable of expressing those wishes himself;
4. clarifying that (a) a conservator must comply with the previously executed advance directives of a ward and (b) a decision of a health care representative takes precedence over that of a conservator;
5. providing for recognition of advance directives validly executed elsewhere that are not contrary to Connecticut policy; and
6. specifying that advance directives properly executed before October 1, 2006 remain valid.

EFFECTIVE DATE: October 1, 2006

Definitions

The act defines “advance health care directive” as a writing executed according to law including a living will, an appointment of a health care representative, or both. “Appointment of a health care representative” is a document that complies with the law that someone executes appointing a health care representative to make health care decisions for him in the case of his incapacity. A “health care representative” is the representative a person appoints to make health care decisions on his behalf.

Appointment of a Health Care Representative

The law allows anyone at least 18 years old to execute a document containing health care instructions, the appointment of a health care agent, the appointment of an attorney-in-fact for health care decisions, the designation of a conservator of the person for future incapacity, and a document of anatomical gift (CGS § 19a-575a). The maker must sign the document in the presence of at least two witnesses whose signatures also must be included. (These statutes provide sample documents.) Another statute (CGS § 19a-576) authorizes a person 18 or older to execute a document appointing a health care agent under the preceding statute or under CGS § 19a-577. The latter statute states that the document may, but need not be, in substantially the same form contained in the statute. A living will or appointment of a health care agent becomes operative when the document is furnished to the attending physician and he determines that the patient is incapacitated.

The act replaces references to health care agent and attorney-in-fact with “health care representative” throughout the applicable statutes and in the related

document forms.

Expanding the Scope of a Living Will and Giving the Health Care Representative Certain Authority

The act expands the scope of a “living will” from covering only decisions involving life support to include any aspect of health care, including the withholding or withdrawal of life support systems. It gives the health care representative the authority to make any and all health care decisions for a person who is incapacitated to the point where he can no longer actively take part in decision-making and cannot direct his physician as to his medical care. The health care representative can decide to accept or refuse any treatment, service, or procedure used to diagnose or treat a physical or mental condition, including psychosurgery or shock therapy.

The person can direct his health care representative to make decisions on his behalf according to his wishes, as stated in the executed document, or as otherwise known by the representative. In the event that the person's wishes are not clear or an unanticipated situation arises, the health care representative can make a decision in the person's best interests, based upon the representative's knowledge of the person.

Revocation of the Appointment of a Health Care Representative

Under the act, an appointment of a health care representative can only be revoked by the declarant in writing, with the signature of two witnesses to the signing. Existing law, unchanged by the bill, provides for the revocation of the appointment of a spouse as a health care agent upon the divorce or legal separation of the couple, unless the person specifies otherwise.

The act requires the attending physician or other health care provider to make the revocation a part of the person's medical record. A person who carries out an advance directive is not subject to civil or criminal liability for unprofessional conduct if he does not know about the revocation of a health care representative appointment. The act specifies that the revocation of the health care representative appointment does not, of itself, revoke the person's living will.

A person whose appointment as a health care representative has been revoked has standing to file a claim challenging the validity of the revocation. He must file this with the probate court for the district in which the declarant is domiciled or located at the time of the dispute.

Under the act, the probate court for the district in which the person is domiciled or located at the time of a dispute over a person's health care has jurisdiction over any dispute concerning the capacity of the health care representative, any claim that the actions of the named

representative would interfere with the person's treatment, or the person named as health care representative.

Conservators

The act requires a conservator to comply with a ward's individual health care instructions and other wishes expressed while the ward had the capacity to do so and to the extent known to the conservator, except as authorized by a court of competent jurisdiction. The conservator cannot revoke the ward's advance health care directive unless the appointing court expressly authorizes it.

Unless there is a court order to the contrary, the act gives a health care decision of a health care representative precedence over that of a conservator's, except when (1) the health care decision concerns persons subject to the laws on examination of certain persons for psychiatric disabilities, temporary leaves or conditional release of acqutees in hospitals for psychiatric disabilities, or competency to stand trial; (2) a conservator has been appointed for a ward who is subject to an order concerning administration of medication for treatment of psychiatric disabilities, for the duration of the ward's hospitalization; or (3) a conservator has been appointed for a ward subject to an order concerning medication administration to a criminal defendant placed in the custody of the DMHAS commissioner.

Recognizing Advance Directives from Other States and Countries

Under the act, health care instructions, or the appointment of a health care proxy executed under and in compliance with another state's, Connecticut's, or another country's laws and not contrary to Connecticut's public policy, are deemed validly executed for purposes of Connecticut law.

A health care provider can rely on such instructions, or recognize the health care proxy appointment, based on any of the following: (1) an order or decision by a court of competent jurisdiction, (2) the health care provider's own good faith legal analysis, or (3) presentation of a notarized statement from the patient or person offering the proxy that it (a) is valid under the laws of the state or country where it was made and (b) is not contrary to Connecticut public policy.

EFFECTIVE DATE: October 1, 2006

PHYSICAL THERAPIST DIRECT ACCESS (§ 82)

PA 06-125 permits licensed physical therapists to treat people without a referral from a physician or other specified medical practitioner (i.e., direct access). The act amends provisions of that act concerning the

education a physical therapist needs to treat patients without a referral. It allows direct referral to a physical therapist who was admitted to a bachelor's degree program before 1998 and meets certain practice criteria, rather than one who earned a BA before that date and meets those criteria.

EFFECTIVE DATE: October 1, 2006

PHYSICAL THERAPIST MALPRACTICE INSURANCE (§§ 83, 85)

The act requires licensed physical therapists who provide direct patient care to carry malpractice insurance of at least \$500,000 per person, per occurrence, with an aggregate of at least \$1.5 million. It requires malpractice insurers, beginning January 1, 2007, to notify DPH annually of the names and addresses of physical therapists whose policies it cancelled or refused to renew in the previous calendar year and the reasons why.

EFFECTIVE DATE: October 1, 2006

LOAN REPAYMENT PROGRAM (§ 84)

The law authorizes DPH to establish, within available appropriations, a program providing three-year grants to community-based, primary care service providers to expand access to health care for the uninsured. The grants may be awarded to recruit and retain primary care clinicians and registered nurses through salary subsidies or a loan repayment program. By law, clinicians and nurses participating in the loan repayment or salary subsidy program must provide services to the uninsured based on a sliding fee schedule, provide free care if necessary, accept Medicare assignment, and participate as a Medicaid provider. The act specifies that these providers can also provide nursing services in a school-based health center.

EFFECTIVE DATE: July 1, 2006

MUNICIPAL WATER AUTHORITIES (§ 86)

The act repeals a law passed in 2005 allowing any municipality with a population greater than 100,000 to create, by ordinance, a water authority and transfer all or part of its water supply to the authority (PA 05-5, June Special Session, § 23-35; §§ 7-244g to 244s of the 2006 Supplement to the General Statutes.)

EFFECTIVE DATE: Upon passage

HEALTH CARE DECISION REPEAL (§ 87)

The act repeals a statutory short form power of attorney for health care decisions for consistency with the act's health care decision making provisions.

EFFECTIVE DATE: October 1, 2006

PA 06-6—SB 305*Public Safety and Security Committee***AN ACT CLARIFYING THE LICENSING AUTHORITY OF THE GAMING POLICY BOARD AND THE DIVISION OF SPECIAL REVENUE**

SUMMARY: This act clarifies the licensing authority of the Division of Special Revenue (DSR) and the Gaming Policy Board as it relates to affiliate gaming licenses for concessionaires, which are people or businesses that operate concessions at licensed gaming facilities.

Under CGS § 12-574(b), the board has the authority to issue affiliate licenses to organizations that control association licensees (i.e., affiliate of association license). Under CGS § 12-574(f) and current practice, DSR issues affiliate licenses to organizations that control concessionaires (i.e., affiliate of concessionaire license). But CGS § 12-574(h) gives both the board and DSR the authority to issue affiliate of concessionaire licenses. The act eliminates the last provision and specifies DSR's authority to issue affiliate of concessionaire licenses and the board's authority to issue affiliate of association licenses.

By law, an association license is required in order to conduct racing, jai alai, and off-track betting.

EFFECTIVE DATE: October 1, 2006

PA 06-15—sHB 5085*Public Safety and Security Committee***AN ACT DEFINING "EMERGENCY" AND "MAJOR DISASTER"**

SUMMARY: This act conforms the definitions of "major disaster" and "emergency" to the current federal definitions (42 USC § 5122) for purposes of the state's civil preparedness and emergency management statutes. It specifically includes manmade disasters in the definition of major disaster.

EFFECTIVE DATE: October 1, 2006

PA 06-21—HB 5083*Public Safety and Security Committee**Government Administration and Elections Committee***AN ACT CONCERNING THE MEMBERSHIP OF THE STATE-WIDE SECURITY MANAGEMENT COUNCIL**

SUMMARY: This act adds the Emergency Management and Homeland Security commissioner to the State-Wide Security Management Council, increasing its membership from 11 to 12.

EFFECTIVE DATE: October 1, 2006

BACKGROUND*Security Management Council*

This council coordinates nonexempt state agencies' activities that relate to statewide state facility security. The Department of Public Works (DPW) commissioner serves as council chairman. Each council member must provide technical assistance in his area of expertise as the council may require.

Agencies exempt from DPW's security standards and audits must report to the council quarterly on (1) the frequency, character, and resolution of workplace violence and (2) security-related expenditures.

PA 06-42—sSB 74*Public Safety and Security Committee**Finance, Revenue and Bonding Committee***AN ACT CONCERNING THE REGULATION OF AMUSEMENT RIDES**

SUMMARY: This act expands the types of amusement rides subject to Department of Public Safety (DPS) licensing and regulation. It exempts inflatable devices leased for private residential use from DPS licensing and regulation. It allows the DPS commissioner to grant variations from, or approve equivalent or alternative compliance with, amusement ride laws or regulations if strict compliance would result in exceptional practical difficulty or undue hardship. The variation or alternative compliance must, in the commissioner's opinion, secure the public safety.

The act does not preclude the hiring of certified lifeguards under age 18 to oversee aquatic rides and devices such as pools, water slides, lazy rivers, or interactive play devices as long as an adult at least age 18 and trained in normal operating and emergency procedures supervises the area with the rides or devices.

EFFECTIVE DATE: October 1, 2006

RIDES SUBJECT TO REGULATION

By law, DPS must license amusement ride owners for an annual \$50 fee. Owners must provide proof of financial responsibility and meet licensing standards, including annual inspections and reporting requirements. Under prior law, the requirements applied to open-air circuses or carnivals and included any place where mechanical rides or devices capable of holding more than four people were presented for amusement or entertainment. The act broadens the definition of rides by including all passenger rides normally requiring supervision or operator services and eliminating the mechanical standard and minimum passenger requirement.

PA 06-72—sSB 72

Public Safety and Security Committee

**AN ACT CONCERNING THE USE OF
EMERGENCY PERSONNEL BICYCLES WITH
AUDIBLE WARNING DEVICES**

SUMMARY: This act exempts firefighters and emergency services personnel from state laws and local regulations governing bicycle operations on highways, under the same circumstances as police officers. Police officers are exempt when responding to emergency calls, engaged in rescue operations, or pursuing actual or suspected criminals if they (1) completed a basic bicycle patrol course certified by the Police Officer Standards and Training Council or an equivalent course and (2) wear a distinctive uniform and use an audible signal such as a siren, whistle, or bell. The act requires that the firefighter, police officer, or emergency services personnel be at least age 16.

EFFECTIVE DATE: October 1, 2006

PA 06-111—sHB 5084

Public Safety and Security Committee

**AN ACT CONCERNING THE FILING, STORAGE
AND DISPOSITION OF THE FINGERPRINTS
AND PHOTOGRAPHS OF ARRESTED PERSONS**

SUMMARY: This act gives the State Police Bureau of Identification the option of maintaining fingerprints in either paper or electronic format. It allows the bureau to destroy paper copies of fingerprints in its files when it converts them to an electronic format.

The act requires the bureau to delete all electronically maintained fingerprints, photographs, physical description, and other identification data for a

person who has no prior criminal record when the charges against him are dismissed or nolle or he is found not guilty.

By law, law enforcement officials must take the fingerprints, physical description, and photographs of anyone arrested for a crime of moral turpitude. They must immediately send to the bureau two copies of a standard identification card imprinted with the person's fingerprints and photograph or the electronic images of fingerprints and photographs taken electronically. The act eliminates the requirement that photographs be included on the identification cards.

EFFECTIVE DATE: July 1, 2006 for the provisions on maintenance and disposition of fingerprints; upon passage for the other provision.

MAINTENANCE OF SPBI FINGERPRINT DATA

The act gives the bureau the option of maintaining fingerprints in either electronic or paper format. It applies to fingerprints the bureau receives from (1) police departments for people convicted of crimes of moral turpitude and (2) people who submit to criminal history record checks required by law.

DISPOSITION OF FINGERPRINT DATA

Under existing law, the bureau must return fingerprints and related data of a person with no prior criminal conviction record if he is found not guilty or his case is nolle or dismissed. The act requires that in cases where the data is stored electronically, the bureau delete the stored images and related data and destroy any paper copies or duplicates. The bureau must do this within 60 days after the case is dismissed or nolle or the person is found not guilty. This is the same time frame for returning paper documents to such individuals under existing law.

PA 06-151—sSB 110

Public Safety and Security Committee

Planning and Development Committee

Government Administration and Elections Committee

Appropriations Committee

Labor and Public Employees Committee

**AN ACT CONCERNING AN EMERGENCY
PROTOCOL AND THE APPOINTMENT OF
STATE POLICE PERSONNEL**

SUMMARY: This act allows the Department of Public Safety (DPS) commissioner to assess threats to public safety and requires him immediately to inform the Emergency Management and Homeland Security commissioner of any that qualifies as a genuine terrorist

threat. He may consult with whatever agency or officials he deems appropriate in making the assessment. The act defines a “genuine terrorist threat” as a credible incident, threat, or activity involving an act of domestic or international terrorism sufficient to affect public safety.

The act requires DPS to develop a method to communicate directly with local chief elected officials. When bomb detection personnel respond to any location because of a threat received at the state level, the act requires (1) DPS immediately to notify the local police chief of the location and (2) the police chief immediately to notify the local chief elected official.

The act also increases, from two to three, the number of state police lieutenant colonels the DPS commissioner may appoint. It reduces, from eight to seven, the number of majors he may appoint.

EFFECTIVE DATE: October 1, 2006

PA 06-177—HB 5123

*Public Safety and Security Committee
Judiciary Committee*

AN ACT CONCERNING SPARKLERS

SUMMARY: This act defines sparklers and excludes them from the definition of fireworks. It also defines “fountains” and places the same restrictions on them as sparklers.

Existing law bans fireworks, with exceptions for use and display pursuant to a permit. It requires the state fire marshal to adopt regulations for granting permits for supervised displays of fireworks or the indoor use of pyrotechnics for special effects by towns, fair associations, amusement parks, other associations, or groups of people or artisans pursuing their trade. The act requires that the regulations cover permits for supervised display and indoor use of sparklers and fountains for special effects by these entities and people as well.

EFFECTIVE DATE: Upon passage

SPARKLERS AND FOUNTAINS

The law bans fireworks, with exceptions for use and display under a permit and pursuant to the state fire marshal’s regulations. Under prior law, sparklers were classified as fireworks, but people age 16 or older could do any of the following with sparklers that were nonexplosive and nonaerial and had up to 100 grams of pyrotechnic mixture per item: offer or expose for sale; sell at retail; or buy, use, or possess with intent to sell.

The act excludes sparklers from the definition of fireworks. It instead defines “sparklers” as a wire or stick coated with pyrotechnic composition that gives off

a shower of sparks when lit. It retains the age restrictions and adds the following restrictions: (1) sparklers cannot contain magnesium, except for magnalium or magnesium-aluminum alloy and (2) they cannot have more than five grams of chlorate or perchlorate salts per item. The act places all these restrictions on fountains as well, and it limits to 200 grams the total pyrotechnic composition of fountains when more than one fountain is mounted on a common base.

The act defines “fountain” as any cardboard or heavy paper cone or cylindrical tube containing pyrotechnic mixture that produces a shower of colored sparks or smoke when ignited. Fountain includes (1) a spike fountain, which has a spike for inserting the fountain into the ground; (2) a base fountain, which has a wooden or plastic base for placing the fountain on the ground; and (3) a handle fountain, which is a hand-held device with a wooden or cardboard handle. Under the act, fountains are not fireworks.

Violators of existing law are subject to a fine up to \$100, imprisonment for up to 90 days, or both. But if an illegal sales violation involves more than \$10,000 in sales, it is a class A misdemeanor (see Table on Penalties). And the penalty for a permit violation that results in an injury or death is a fine up to \$10,000, imprisonment for up to 10 years, or both. The act applies these penalties to violations of the provisions governing fountains as well.

BACKGROUND

*Permit and Competency Certificates for Supervised
Fireworks Display*

The law requires anyone conducting or sponsoring a supervised fireworks display to get a permit from the state fire marshal. He may issue the permit only after (1) the local fire marshal inspects the display site to determine compliance with regulations and (2) both the fire and police chiefs approve the permit application. In towns where there is no fire or police chief, the first selectman must approve it. The law requires anyone shooting fireworks under a supervised fireworks display permit to get a competency certificate from the state fire marshal attesting to his competency.

PA 06-121—HB 5658

Transportation Committee

Environment Committee

Government Administration and Elections Committee

Appropriations Committee

AN ACT CONCERNING THE REMOVAL OF ABANDONED SUNKEN VESSELS

SUMMARY: Under prior law, the owner, agent, or operator of a vessel, scow, lighter, or similar floating structure who caused or allowed it to be broken or altered so that it would not keep afloat, or grounded, or left any part of it in a river or harbor was subject to a fine of up to \$500, up to six months imprisonment, or both. Previously, the transportation commissioner could (1) cause the vessel or structure to be removed at the owner’s, agent’s, or operator’s expense and recover removal costs, and legal and court costs from the owner by court action; and (2) require the owner, agent, or operator to furnish a performance bond sufficient to cover the amount the commissioner estimated it would cost to remove it.

The act eliminates the criminal penalty for causing or permitting such a vessel to be broken or altered so that it cannot remain afloat, or grounding or leaving any part of it in a river or harbor. Instead, it authorizes a duly authorized harbormaster to determine that a vessel is a “derelict vessel.” Once the harbormaster makes this declaration, he, the transportation commissioner, or a duly authorized representative of a municipality may cause the derelict vessel to be removed at the expense of the owner, agent, or operator. The act makes the last owner of record responsible for the derelict vessel.

The act establishes procedures for the official to take the derelict vessel into custody after 24 hours and move it to a place of storage. It also allows the official to sell it after a specific period of time has passed. The procedures the act establishes are similar to some of the procedures in the law governing towing of apparently abandoned or unregistered motor vehicles from public highways, but do not include a provision for a hearing to contest the validity of the seizure or the sale.

EFFECTIVE DATE: Upon passage

DERELICT VESSEL

The act defines a derelict vessel as any vessel, scow, lighter, or similar floating structure or part thereof, whether or not moored, anchored, or made fast to shore, that is broken or altered to such an extent that it will not keep afloat with ordinary care. Under the act, a vessel can meet this definition whether or not the owner caused or permitted it to be in this condition.

HARBORMASTER AUTHORITY TO FIND A VESSEL TO BE A DERELICT

The act gives a “duly authorized” harbormaster the authority to declare a vessel to be a derelict. Thereafter, the harbormaster, DOT commissioner, or a duly authorized representative of a municipality may cause it to be removed and the costs, including legal and court fees, may be recovered from the vessel’s owner, agent, or operator through court action.

NOTICE

Before removing a derelict vessel, the official must make a reasonable attempt to notify its owner, agent, or operator and must allow him to make arrangements to remove it. The notification must inform him that, if not removed within 24 hours, the vessel will be removed, taken into custody, and stored at his expense.

The act requires the official intending to take the vessel into custody to place a readily visible notification sticker on it. The sticker must show (1) the date and time it was put on the vessel, (2) a statement that if the vessel is not removed within 24 hours it will be removed and stored at the owner’s expense, (3) the location and telephone number where more information is available, and (4) the identity of the official who placed the sticker on the vessel.

Once the derelict vessel has been removed, the official who removed it must give written notice by certified mail with return receipt to its owner, agent, or operator if the address is known. The notice must state (1) that the vessel has been removed, taken into custody and stored; (2) the location from which it was removed; and (3) that it either may be disposed of after 15 days if a certified marine surveyor determines that its market value is \$2,000 or less or sold after 90 days.

DISPOSAL OR SALE AT PUBLIC AUCTION OF DERELICT VESSEL

Disposal if Value is \$2,000 or Less

The act authorizes a vessel that has been removed and taken into custody to be “disposed of” after 15 days if a certified marine surveyor determines that its market value is no more than \$2,000. The act does not define what constitutes disposal of the vessel so it appears that this could be through either its sale or destruction. If sold, the act does not specify how the proceeds are to be applied or if they must be given to the vessel owner if claimed.

Sale at Public Auction

The official who took the vessel into custody may sell it at a public auction after 90 days have passed since the written notice required by the act. The seizing official must apply the sale proceeds toward payment of its charges, any storage fees, and the payment of any debt or obligation incurred by the official who took the derelict vessel into custody. This appears to apply only if the vessel's market value exceeds \$2,000.

The sale must be advertised twice in a newspaper published or circulated in the town where the vessel is stored or located. The legal advertisement must appear at least five days before the sale. If the seizing official knows or finds out through reasonable diligence the last place of abode of the owner, agent, or operator, he must give written notice by certified mail with return receipt at such abode at least five days before the day of sale.

The sale proceeds, after deduction of amounts due for removal, storage, and expenses, must be paid to the derelict vessel's owner, agent, operator, or his legal representative, if claimed at any time up to one year from the sale. Any unclaimed balance after one year must escheat to the municipality from which the vessel was removed. The derelict vessel's owner, agent, or operator is liable for any charges or other expenses that exceed the sale proceeds.

Constitutional Issue Regarding Due Process

The act's provisions are substantially like the state law authorizing police officers and motor vehicle inspectors to take into custody motor vehicles apparently abandoned, unregistered, or deemed to be a menace to traffic (CGS § 14-150). The notice sticker, 24-hour waiting period, and owner notification are all similar to those in the towing law. The disposal provisions are similar for higher value vessels, but not for those of lesser value. However, unlike the towing law, this act has no provisions giving a vessel owner an opportunity to contest the seizure of his vehicle before a specified local official who is not the agent that seized the vessel. Under the towing law, such a hearing may result in the owner having the vehicle returned to him and a finding that he is not liable for any charges or expenses incurred.

The legislature adopted the hearing provision of the towing statute after the federal court determined that failure to grant a hearing deprived affected vehicle owners of due process with respect to the legitimacy of the seizure and sale of a vehicle either before or after their occurrence. The court found that this violated the Fourteenth Amendment to the U.S. Constitution (*Tedeschi v. Blackwood*, 410 F. Supp. 34, D.C. Conn. (1976)).

BACKGROUND

Harbor Masters

By law, the governor must appoint a harbor master, and may appoint a deputy harbor master, for the harbors of Branford, Bridgeport, New Haven, New London, Norwalk, Norwich, Stamford, and Stonington. The governor may appoint a suitable number of harbor masters or deputy harbor masters in any other town that has navigable waters. Harbor masters are subject to the direction and control of the transportation commissioner and are responsible to him for the safe and efficient operation of harbors under their jurisdiction.

PA 06-130—sSB 328

Transportation Committee

Education Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE DEPARTMENT OF MOTOR VEHICLES

SUMMARY: The act makes numerous changes to the motor vehicle laws. It:

1. changes several definitions in the motor vehicle laws, largely to comply with federal requirements;
2. modifies requirements for disqualifying drivers of commercial motor vehicles from driving them, also primarily to comply with federal requirements;
3. allows motor carriers who have unsatisfactory safety ratings to be ordered out of operation until they acquire a satisfactory rating;
4. allows the Department of Motor Vehicles (DMV) to report to certain authorized entities the name of anyone who holds a license with an endorsement to carry passengers that the license or endorsement has been withdrawn, suspended, or revoked;
5. replaces criminal penalties on commercial driving school licensees who violate the laws with license suspensions and civil penalties imposed by DMV;
6. makes changes to laws prohibiting the use of mini-motorcycles on highways, public sidewalks, and public property and corrects some ambiguities in the law;
7. prohibits anyone holding a commercial driver's license from invoking the pretrial alcohol education program for a drunk driving charge occurring in a vehicle that is not a commercial motor vehicle;

8. exempts 16- and 17-year-olds assigned as drivers in "Safe Rides" programs from the nighttime driving hour restrictions that apply to teen drivers;
9. allows the DMV commissioner to limit handicapped parking placards to one per applicant;
10. allows registered wreckers to transport vehicles under additional circumstances than previously allowed;
11. requires motor vehicle dealers who sell motorcycles to offer purchasers component parts marking as an optional service;
12. expands the venues for taking motorcycle rider training courses and allows the commissioner to waive the on-road skills test for motorcycle endorsement applicants who have successfully completed the training;
13. requires the Board of Education and Services for the Blind to provide additional information to DMV about people diagnosed as blind and requires DMV to keep such information confidential;
14. allows refuse collection vehicles to make use of video backing monitors for longer periods than allowed for other vehicles;
15. requires DMV to give applicants for non-driver photo identification cards the same opportunity to complete organ donation cards that license applicants get;
16. makes a minor conforming change in the law on secondary school driver education programs;
17. conforms statutorily required language on signs that must be posted in motor vehicle repair shops to reflect a 2004 change in the law about inspection of replaced parts;
18. eliminates the requirement that applicants for motor vehicle registrations provide their Social Security numbers to DMV;
19. gives the DMV commissioner the authority to participate in the federally-mandated unified carrier registration system, an on-line system being developed to consolidate several different federal information systems applicable to motor carriers;
20. postpones, until January 1, 2007, a requirement that operators of camp vehicles get a special driver's license endorsement; and
21. requires some motor carriers to give their prospective drivers an on-road skills test and certify that they have the qualifications to drive certain vehicles before employing them to do so.

In addition, the act eliminates a vague reference in the law on learners' permits for 16- and 17-year-olds by making it clear that the alternative of holding a learner's permit for 120 days rather than 180 days before being eligible to apply for a license test applies only to learners who provide a certification of training through a secondary school driver education program or from a DMV-licensed commercial driving school and not from home training (§ 2).

The act also prohibits the commissioner from registering a student transportation vehicle, and prohibits anyone from operating one, until the commissioner receives satisfactory evidence that the vehicle has adequate insurance or bond coverage to meet the law's minimum liability requirements (§ 13). By law, a student transportation vehicle is any vehicle other than a registered school bus used by a carrier, i.e., school districts, their transportation contractors, and certain others, to transport students, including children requiring special education.

EFFECTIVE DATE: Upon passage; except the repair shop notice, commercial driver's license, motor carrier sanction, enabling language for transition to the unified carrier registration program, and motor carrier pre-employment driver skill testing provisions are effective on July 1, 2006; and the provisions on DMV reporting of drivers with suspended licenses or endorsements for carrying passengers, and motorcycle component parts marking are effective on October 1, 2006.

MOTOR VEHICLE LAW DEFINITION CHANGES (§ 15)

The act redefines the terms "commercial motor vehicle" and "gross vehicle weight rating" as used in the motor vehicle laws. These changes primarily reflect current definitions in federal regulations that the states must implement.

The act changes the farm vehicle exception from the commercial motor vehicle definition to the federal definition of a vehicle used for farming purposes. Under federal regulations, a farm vehicle must be (1) controlled and operated by a farmer or his employees or family members; (2) used to transport agricultural products, farm machinery, or farm supplies to or from the farm; (3) used within 150 miles of the farmer's farm; and (4) not used in operations of a common or contract carrier. The prior Connecticut definition used only the 150-mile criterion. The act also revises the exception from the definition for emergency vehicles to link it directly to the definition used elsewhere in the motor vehicle laws establishing the rights of emergency vehicles.

The act also adds to the commercial motor vehicle definition a vehicle transporting any quantity of a material listed as a select agent or toxin under federal

regulations. These materials are primarily biological agents and are included under federal regulations as hazardous materials.

Finally, the act revises the definition to include vehicle combinations with a gross combination weight rating of 26,001 pounds or more, inclusive of a towed unit or units with a gross vehicle weight rating of more than 10,000 pounds. Previously, gross vehicle weight rating was defined as the value specified by the manufacturer as the maximum loaded weight of a single or combination vehicle or its registered gross weight, whichever is greater. The act eliminates reference to registered gross weight as an option. This reflects the current federal definition.

REQUIREMENTS PERTAINING TO COMMERCIAL DRIVER'S LICENSES (§§ 18 & 19)

The act authorizes the DMV commissioner to refuse to issue a commercial driver's license (CDL), or issue it subject to conditions he sets, to anyone whose driver's license, nonresident operating privilege, or license endorsement is (1) under suspension or (2) subject to any pending action by the commissioner that may result in suspension. It also makes several changes to the requirements establishing grounds for a CDL holder to be disqualified from operating a commercial motor vehicle. It makes evading responsibility following an accident grounds for disqualification whether it occurs in the licensee's commercial or personal vehicle. Previously, it only applied if the violation occurred in a commercial motor vehicle.

The act makes violations of another state's implied consent law grounds for disqualification if the commissioner finds that the other state's law is substantially similar to Connecticut's. Under these provisions, a license holder is deemed to have given his implied consent to a chemical test of his blood, breath, or urine under certain circumstances. If he refuses to take the test, or takes it and the results show a blood-alcohol level above legal amounts, he is subject to license sanctions. Previously, out-of-state violations of this type were not included in the disqualification law.

Previously, a CDL holder was subject to a disqualification of at least 60 days if convicted within a three-year period of two serious traffic violations (defined in the law), or 120 days if convicted of three such violations arising from separate incidents. The act requires the disqualification period for a subsequent offense to begin immediately after the period of any other disqualification imposed on the licensee.

By law, a CDL holder whose driving is determined by the Federal Motor Carrier Safety Administration to constitute an imminent hazard must be disqualified from commercial vehicle operation for up to 30 days unless the commissioner finds that the federal agency has

complied with the review and hearing procedures in its regulations. The act requires any such disqualification as an imminent hazard to be concurrent with any other period of disqualification or suspension imposed on the driver. Under federal regulations an "imminent hazard" is a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion of a formal proceeding begun to lessen that risk (49 CFR § 383.5).

MOTOR CARRIER ORDER TO CEASE OPERATIONS (§ 20)

Certain motor carriers are subject to both state and federal safety regulations and procedures. Among these procedures is a process for assigning a safety rating to the carrier based on a number of factors including accident history and the number of previous safety violations. A carrier may receive a rating of "satisfactory," "conditional," or "unsatisfactory." The DMV performs these safety ratings under its Motor Carrier Safety Assistance Program. The act allows DMV to order any motor carrier with an unsatisfactory rating to cease operations until it achieves a satisfactory rating. The carrier must be given notice and an opportunity for a hearing before an order to cease operations would take effect.

DMV REPORTING OF CERTAIN SUSPENDED DRIVERS' LICENSES (§§ 10 & 11)

The act authorizes the DMV commissioner to give any board of education or public or private organization that is actively engaged in providing public transportation, including transporting school children, a report that shows the names and license numbers of the people who have drivers' licenses with endorsements for transporting passengers whose license or endorsement he has withdrawn, suspended, or revoked. The report must be updated periodically as determined by the commissioner. It may be transmitted or made available to authorized recipients through electronic means. Previously, the commissioner had to furnish such a list bimonthly at the request of a school board or the board's transportation contractor, but this only applied to those with a passenger and school endorsement.

SANCTIONS FOR VIOLATION OF REQUIREMENTS FOR COMMERCIAL DRIVING SCHOOLS (§ 6)

Previously, any person or business violating any of the laws applicable to DMV-licensed commercial driving schools was subject to a criminal penalty of a

fine of \$100 - \$250, imprisonment for 10 to 30 days, or both, for a first violation and a fine of \$250 - \$500, imprisonment for 30 days to three months, or both, for a subsequent violation. The act replaces these criminal penalties with authority for the commissioner to (1) suspend or revoke the license or (2) impose a civil penalty of up to \$1,000 for each violation. He may impose these sanctions after providing an opportunity for a hearing.

MINI-MOTORCYCLES AND MOTOR ASSISTED BICYCLES (§§ 15 – 17)

Previously, mini-motorcycles meeting certain criteria were prohibited from highways, public sidewalks, and public property. (Some of these types of vehicles are also commonly referred to as “pocket bikes.”) The act redefines mini-motorcycles and bicycles with helper motors (“mopeds”) to eliminate an overlap between the two that created confusion between the two laws. The act also eliminates the prohibition against mini-motorcycles being operated on public property other than highways and sidewalks.

Previously, a mini-motorcycle was defined as a vehicle (1) with no more than three wheels in contact with the ground, (2) equipped or designed to have a seat on which the rider may sit, (3) propelled by an engine with a piston displacement of 50 cubic centimeters (c.c.) or less, (4) capable of a speed in excess of 20 miles per hour, and (5) not eligible for registration as a motor vehicle. The act replaces the prior seat criterion with one specifying that the vehicle must have a manufactured seat height of less than 26 inches measured at the lowest point on top of the seat cushion without the rider. It also (1) revises the engine displacement criterion from 50 c.c. or less to less than 50 c.c. and (2) eliminates the criterion specifying speed capability. Although it eliminates the criterion that it not be eligible for registration as a motor vehicle, the act also excludes mini-motorcycles from the statutory definition of a motor vehicle so, in effect, the requirement does not change. The act also eliminates the definition of a “minibike” or “minicycle” in the motor vehicle laws as the term does not appear in any of the motor vehicle laws except for the definition section.

The act adds a minimum seat height criterion of not less than 26 inches to the definition of a bicycle with a helper motor which, in effect, distinguishes it from a mini-motorcycle. Other criteria in the definition remain unchanged.

The act postpones, from January 1, 2006 to January 1, 2007, the date by which DMV must adopt regulations setting out the criteria for (1) warning information the law requires anyone who sells, rents, or leases mini-motorcycles to provide to customers and (2) the transportation and storage fees that may be charged

when mini-motorcycles are temporarily confiscated by law enforcement officers pursuant to the law.

PRETRIAL ALCOHOL EDUCATION PROGRAM (§ 21)

The act makes CDL holders ineligible for the pretrial alcohol education program when charged with operating while under the influence of alcohol or drugs. Previously, only a CDL holder charged with such a violation while driving a commercial motor vehicle was ineligible. Under the act, the CDL holder is also ineligible if his alleged offense took place in any other type of vehicle. By law, a person may apply for the pretrial alcohol education program if he meets certain conditions and, if over age 21, has not previously participated in the program in 10 years. If he successfully completes the program, which can include education, intervention, or treatment, he may return to court and, if satisfied, the court must dismiss the charge against him.

EXEMPTION FROM DRIVING HOUR RESTRICTIONS FOR SAFE RIDE PROGRAMS (§ 9)

By law, a 16- or 17-year-old licensed driver may not drive from midnight to 5:00 a.m. unless he is traveling (1) for employment, school, or religious activities; (2) for medical necessity; or (3) to respond to an emergency or pursuant to his duties as an active member of a volunteer fire company or department, volunteer ambulance service or company, or an emergency medical services organization. The act adds an exemption for anyone who is an assigned driver in a Safe Ride program sponsored by the American Red Cross, the Boy Scouts of America, or other national public service organization.

Safe Ride programs apparently take several forms. In some forms, drivers who feel they cannot or are afraid to drive can get a ride home. Most frequently, this is due to the person having had too much to drink to drive safely, but this is not always the case. The ride may come from a taxi or a tow from a tow truck at a reduced rate, but frequently it involves volunteers, usually two, who drive to the person’s location. One volunteer typically drives the person’s car and the other follows in the volunteer’s car. These programs have expanded in recent years from college campuses to the high school level. Safe Ride programs do not necessarily have to be accredited, although the American Red Cross apparently does accredit some that follow certain guidelines.

HANDICAPPED PARKING WINDSHIELD PLACARDS (§ 14)

By law, anyone who qualifies under state law and regulations for use of designated parking spaces for the handicapped may apply to the commissioner for special license plates for a passenger vehicle, combination passenger and commercial vehicle, or motorcycle registered in his name; removable windshield placards; or both plates and placards. Use of either the plates or the windshield placard allows the person to make use of the handicapped parking spaces and other parking privileges. The act allows the commissioner to limit issuance of removable windshield placards to one per applicant.

DEFINITION OF WRECKERS (§ 15)

Previously, a wrecker was defined as a vehicle registered, designed, equipped, and operated according to law, and used to tow or transport wrecked or disabled motor vehicles for compensation or for related purposes. The act expands this definition to include any vehicle contracted to tow or transport one or more motor vehicles on a consensual basis to move to or from a place of sale, purchase, salvage, or repair. Although it appears that vehicles used for this purpose also have to be registered, designed, equipped, and operated as the law requires for the already authorized purposes, the act does not clearly specify that.

By law, only DMV-licensed motor vehicle dealers or repairers may operate wreckers for the purpose of towing or transporting disabled, inoperative, or wrecked motor vehicles for compensation, or which are being removed from public or private property according to law or for violating parking restrictions. It appears that wreckers used for the new purpose the act authorizes may be operated by entities other than licensed dealers and repairers.

COMPONENT PARTS MARKING FOR MOTORCYCLES (§ 23)

The act requires new and used motor vehicle dealers who sell motorcycles to offer to mark the motorcycle's component parts with its complete vehicle identification number. By law, dealers may offer motor vehicle purchasers parts marking as an optional service. Although motorcycles are considered motor vehicles by definition, the prior law did not mention them explicitly with respect to these services. The act requires motorcycle parts marking services to comply with the regulations and standards the commissioner has adopted for such services.

MOTORCYCLE TRAINING REQUIREMENTS (§ 22)

Previously, someone under age 18 applying for a license endorsement to operate a motorcycle had to successfully complete a novice motorcycle training course offered by the Department of Transportation before receiving the endorsement. The act makes acceptable for meeting the training requirement any course conducted by a firm or organization that uses the curriculum of (1) the Motorcycle Safety Foundation or (2) another safety or educational organization whose curriculum the commissioner approves. The course the Department of Transportation currently administers is based on the Motorcycle Safety Foundation curriculum with some modifications. The act allows the DMV commissioner to waive the on-road skills portion of the endorsement examination for any applicant, including one age 18 or older, who presents evidence of satisfactorily completing a motorcycle training course.

BOARD OF EDUCATION AND SERVICES FOR THE BLIND (§§ 7 & 8)

By law, the Board of Education and Services for the Blind must provide DMV with the name of everyone age 16 or older who, on or after October 1, 2005, has been diagnosed as blind by a physician or optometrist, and update the list on a quarterly basis. The act requires the board to provide each person's address and birth date as well. DMV must maintain the list it receives on a confidential basis in the same way it keeps other reports or records for drivers for whom it must make fitness determinations based on health-related matters.

VIDEO MONITORS FOR REFUSE COLLECTION VEHICLES (§12)

By law, a television screen or similar device may not be installed or used in a motor vehicle where it may be seen by the driver except if it is a video display unit installed for instrumentation purposes or a closed video monitor for backing that operates for no more than 15 seconds after the vehicle's transmission has been shifted out of reverse. The act creates an exception to the time limit for disabling a backing monitor for the driver of a commercial motor vehicle equipped with a garbage compactor, detachable container, or curbside recycling body. The driver of such a vehicle may use a backing monitor when engaged in collection activity on a public highway after the vehicle is shifted out of reverse for the time necessary for him to observe vehicles or pedestrians that may be behind the vehicle in a position that cannot be viewed through the vehicle's mirror system. As with existing law, a violation is designated an infraction.

ORGAN DONATION OPTION FOR NON-DRIVER PHOTO IDENTIFICATION CARDS (§ 4)

The act conforms the law to DMV practice by requiring that the application for a non-driver photo identification card DMV issues include the opportunity for the applicant to complete an organ donation card. Previously, this was required for driver's license applications only. However, the act does not require that a copy of a completed donor card be imprinted on the back of the identity card as the law requires for drivers' licenses.

SECONDARY SCHOOL DRIVER EDUCATION PROGRAMS (§ 3)

In 2005, the legislature increased from eight to 20 the number of hours of behind-the-wheel, on-the-road training a 16- or 17-year-old must get before he is able to apply for a driver's license. The requirement was written in such a way that the learner can get the required training from more than one source. Learners can get training from commercial driving schools, driver education programs in secondary schools, or through certain designated relatives through home training. The act conforms the law for driver education programs to reflect the requirement as it appears elsewhere in the law.

MOTOR VEHICLE REPAIR SHOP SIGNS (§ 5)

The act conforms the law specifying information that must be displayed on signs required in motor vehicle repair shops to reflect a 2004 change in the law regarding when customers must request that replaced parts be available for them to inspect. The 2004 change required customers to request this when they provide written or oral authorization for performance of the work rather than when the car is returned to them. The law stating what must be on the required signs was not changed at that time.

ELIMINATION OF REQUIREMENT FOR PROVIDING SOCIAL SECURITY NUMBER WHEN REGISTERING A MOTOR VEHICLE (§ 1)

The act eliminates a requirement that, as a matter of state policy, an applicant for a motor vehicle registration must provide a Social Security number or federal employer identification number, or both, if available. Another law requiring the DMV commissioner to obtain these numbers from registration applicants was repealed in 2003, but this provision was left unchanged.

UNIFIED CARRIER REGISTRATION SYSTEM (§24)

The act authorizes the motor vehicle commissioner to participate in the unified carrier registration plan established by federal law, and to file the required state plan on behalf of the state. This replaces prior enabling legislation for participation in the single state registration system (also a requirement of federal law). Beginning when the Secretary of the U.S. Department of Transportation establishes the program, the act prohibits any foreign or domestic motor carrier, motor private carrier, leasing company, broker, or freight forwarder from operating in Connecticut without having first registered under the unified carrier registration system and paying all required fees.

The act requires the commissioner to continue to require all haul-for-hire motor carriers to make an annual payment of up to \$10 for each vehicle they own and operate for filings made to DMV required by the single state registration system until the transition termination date, which appears likely to be January 1, 2007.

The unified carrier registration system was created by the federal Unified Carrier Registration Act of 2005. It is intended to replace the current single state registration system and certain other federal requirements with a unified on-line system for issuing federal DOT identification numbers, registering, identifying service of process agents, and recording financial responsibility information for vehicles operated by motor carriers, brokers, freight forwarders, and leasing companies. A state must submit a plan for implementing the system that includes, among other things, identification of the state agency responsible for implementing the system and how it will use fees authorized by the law.

LICENSE ENDORSEMENTS FOR OPERATORS OF CAMP VEHICLES (§25)

By law, anyone who transports passengers in an activity vehicle or a camp vehicle, as defined by law, must get an "A" endorsement on his driver's license. The person may also drive these vehicles if he holds a "V" endorsement, which is a higher level endorsement necessary for those who drive student transportation vehicles. The requirement went into effect on October 1, 2005, but DMV has not yet issued endorsements for the current camp season. The act postpones the requirement for camp vehicle license endorsements until January 1, 2007.

SKILL TEST FOR PROSPECTIVE MOTOR CARRIER DRIVERS (§26)

The act requires certain motor carriers to road test prospective drivers before they may be employed to drive certain of their vehicles. It prohibits any motor carrier as defined by specified federal regulations from authorizing or employing someone to drive any motor vehicle registered or required to be registered in Connecticut with a gross vehicle weight rating or gross combination weight rating of 18,001 pounds or more without an on-the-road skills test performed in the vehicle. The carrier must sign and date a written certification that the person tested has the skills, capability, and fitness to operate the vehicle safely.

Motor carriers subject to these requirements include for-hire motor carriers of passengers or property and private motor carriers. Under federal regulations, the term also includes a motor carrier's agents, officers, and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching drivers and employees concerned with installing, inspecting, and maintaining motor vehicle equipment and accessories.

PA 06-133—sHB 5664

Transportation Committee

Government Administration and Elections Committee

Appropriations Committee

AN ACT CONCERNING THE DEPARTMENT OF TRANSPORTATION

SUMMARY: This act:

1. modifies the state's maximum motor vehicle width law to accommodate certain aspects of recreational vehicles;
2. adds two members to the Connecticut Pilot Commission, changes qualifications for some members, and makes it, rather than the transportation commissioner, responsible for some areas of pilot regulation;
3. expands slightly the powers of campus traffic regulation committees in the Connecticut State University System;
4. modifies the way the Department of Transportation (DOT) can dispose of certain nonconforming parcels of land it has acquired;
5. creates a task force to study the state's taxi industry and report to the legislature;
6. requires police approval of licensed motor vehicle dealer or repairer locations in municipalities with fewer than 20,000 people; and

7. designates commemorative names for 10 state highway segments and five state bridges, revises an existing designation, and requires the DOT to install signs on I-84 eastbound and westbound exit ramps, where appropriate, for the Connecticut Historical Society Museum and Library.

EFFECTIVE DATE: Upon passage

WIDTH OF RECREATIONAL VEHICLES

By law, a motor vehicle, or a vehicle and its load, must have a special DOT permit to operate on Connecticut roads if it is more than eight feet, six inches wide, exclusive of certain safety devices, such as rear view mirrors, steps, and handholds. There are limited exceptions to this prohibition for farm equipment, vehicles loaded with hay or straw, school buses with folding stop signs and external mirrors, and trailers transporting boats not exceeding 4,000 pounds gross weight. The act creates another exception to the width limit for recreational vehicles with appurtenances, including safety devices and retracted shade awnings, that extend up to six inches on each side of the vehicle, thus allowing these vehicles to be up to nine feet, six inches wide counting these devices.

CONNECTICUT PILOT COMMISSION

The act expands the membership of the Connecticut Pilot Commission, from seven to nine, adding the transportation commissioner, or his designee, and a licensed Connecticut pilot. The pilot member must be active and work on the Connecticut side of the rotation system for assigning pilots. He must be selected by a majority vote of pilots operating on the Connecticut side of the rotation system. (DOT regulations establish a rotation system, in conjunction with authorities in New York, through which work piloting vessels through Long Island Sound and to ports in Connecticut and New York is distributed among the pilots each state licenses.)

The act specifies that the two public members with an interest in the environment appointed by the Senate president pro tempore and the Senate majority leader may not have an economic interest in the subject matter of the commission. It also requires the House majority leader's appointee representing a maritime-related industry to have a shipping agent perspective.

The act also expands the role of the commission with respect to certain pilotage matters and increases the threshold at which the commission may exercise its authority and form a quorum to conduct business, from three to five members present at a meeting. Previously, the commission served entirely in an advisory capacity to the transportation commissioner. Its duties included providing advice on:

1. pilot license eligibility qualifications, including background, training, length of service, and apprenticeship;
2. examination requirements for getting a pilot or other type of operating license;
3. the appropriate number of state-licensed pilots necessary for the safe, efficient, and proper operation in Connecticut ports and waters, including Long Island Sound;
4. establishing rates for pilot services, including a hearing process for setting rates and license fees;
5. state policy on a rotation system assigning pilots, issuing reciprocal licenses to pilots licensed in other states, and matters of interstate pilotage;
6. the enhancement of safety and protection of the marine environment during vessel operations and the prevention of oil spills and other marine incidents;
7. the proper equipment on vessels and the operation of vessels used by pilots to board and disembark;
8. designation of pilot boarding stations;
9. proper safety equipment on vessels to allow pilots to safely board them; and
10. any other matter on which the commissioner asks for advice.

The act authorizes the commission to determine the first three matters above (qualifications for licensure, examination requirements, and determining the appropriate number of pilots to be licensed), subject to the DOT commissioner's approval. It prohibits the commission from considering licenses held by pilots in other jurisdictions a disqualifying factor. The commission remains an advisory body with respect to the other matters noted above.

Previously, the commission also could perform other acts when the DOT commissioner requested it to. These include:

1. assisting in preparing pilot examinations and certificates;
2. evaluating examination results and making recommendations on applicants' qualifications;
3. helping review and monitor pilot performance;
4. reviewing applications for reciprocal licensure and making recommendations on applicants' qualifications;
5. recommending pilots' duties to report faulty boarding and disembarkation systems and violations of state law;
6. reviewing and investigating any marine incident or casualty and holding hearings to determine causes;
7. recommending disciplinary measures, including license suspension and forfeiture for

- matters such as alcohol or drug abuse;
8. retaining an independent investigator to compile a comprehensive factual record of any marine incident or casualty;
9. helping review complaints filed with the commissioner; and
10. helping prepare any report or matter relating to pilotage.

The act eliminates the requirement that the commission act in these matters only when the commissioner asks it to. Thus, it gives the commission independent authority in these areas. It also expands its authority to (1) assist with reviewing and monitoring pilot performance to include compliance with state policies, procedures, and regulations and (2) make recommendations on disciplinary measures to include conducting investigations.

The act specifies that none of the authority granted to the commission supersedes the transportation commissioner's statutory authority to license marine pilots.

CAMPUS TRAFFIC COMMITTEES

By law, the Connecticut State University System Board of Trustees must appoint a committee at each campus to establish traffic and parking regulations for passenger vehicles on the campus. These committees have broad authority, among other things, to prohibit or limit parking, set speed limits, and determine one-way streets subject to the approval of the board and the State Traffic Commission (STC). However, the committees do not have explicit authority to put up stop signs on campus. The act gives them this authority, thus eliminating the need for the STC to act with respect to stop signs.

DOT DISPOSITION OF NONCONFORMING PROPERTY

By law, DOT must follow certain procedures for disposing of property it acquires for transportation purposes. Previously, if DOT disposed of a parcel that did not meet local zoning requirements for residential or commercial use, it had to offer it for sale by bid or auction to all abutting landowners. The act, instead, allows the commissioner to sell or transfer a parcel to an abutter without the public bid or auction if the sale or transfer will result in the abutting landowner's existing property becoming a nonconforming use under local zoning requirements. In effect, the bill allows DOT to sell or transfer privately such parcels in those situations where purchase of the parcel by one abutting owner might eliminate another landowner's entire frontage along a state road, thus leaving him with no access to the road.

TAXI INDUSTRY TASK FORCE

The act creates a 10-member task force to study regulation of the Connecticut taxi industry and report its findings and recommendations to the Transportation Committee by January 1, 2007.

The task force must examine, at least:

1. the current taxi regulatory scheme,
2. standards for issuing taxi certificates,
3. procedures for licensing taxi operators,
4. the possible repetition of current oversight functions,
5. the need for and procedures associated with public hearings in the regulatory process,
6. governance and resources, and
7. any other matters that may come to its attention.

The task force consists of the transportation, motor vehicles, and consumer protection commissioners and the Office of Policy and Management secretary, or their designees; the chairpersons and ranking members of the Transportation Committee, or their designees; and two representatives of the Connecticut Taxicab Association. (The act does not specify who appoints or selects the association's representatives.) Any member of the task force may be a legislator. The House speaker and Senate president pro tempore must select the task force co-chairmen from among its members. All appointments to the task force must be made no later than 30 days after the act's passage.

The task force must get administrative assistance from the staff of the Transportation Committee.

APPROVAL OF LOCATION OF LICENSED MOTOR VEHICLE DEALER OR REPAIRER

By law, anyone who wants to get a Department of Motor Vehicles (DMV) license for dealing in or repairing motor vehicles must first get and present to the DMV commissioner a certificate of approval of the location for which he wants the license. This certificate must come from the board or authority designated by local charter, regulation, or ordinance of the municipality in which the business is located or proposed. In a town or city with a zoning commission, combined planning and zoning commission, and a board of appeals, the certificate must come from the zoning commission. Certain changes of ownership involving transfers between immediate family members or due to withdrawal of one or more partners from a partnership are exempt from this requirement.

In municipalities with populations under 20,000, the act requires, in addition, that the location certificate be approved by the chief of police of any organized police force or, if there is none, by the commander of the state police barracks closest to the proposed

location.

COMMEMORATIVE ROAD AND BRIDGE NAMES

The act revises the designation for the segment of Route 349 in Groton from the "William J. Snyder, Sr. Memorial Highway" to the "City Police Officer William J. Snyder, Sr. Memorial Highway." It designates the following commemorative names for 10 state roads and five bridges:

1. Route 160 from its intersection with Route 99 east to Meadow Road in Rocky Hill as the "Donna Askintowicz Witherell Memorial Highway";
2. State Road 504 in Hartford from Flatbush Avenue to the junction of I-84 as the "William J. Hilliard Memorial Highway";
3. State Road 530 in Hartford as the "Julian A. Nesta Memorial Highway";
4. Route 10 in Granby as the "Veteran's Memorial Highway";
5. the connector in Thomaston west from Route 222 west to the junction of Route 222 as the "Father McGivney Way Memorial Connector";
6. Route 102 from Route 35 east to Route 7 in Ridgefield as the "Robert Mugford Memorial Highway";
7. Route 66 in Portland from the junction of Route 17A east to the junction of Route 17 as the "Thomas C. and Thomas W. Flood Memorial Highway";
8. Route 173 in Newington from Route 175 north to Stoddard Avenue as the "Officer Ciara McDermott Memorial Highway";
9. Route 220 in Enfield from Route 5 east to the I-91 interchange as the "John Maciolek Post #154 Memorial Highway";
10. Route 313 in Woodbridge as the "Lt. Col. James A Verinis Memorial Highway";
11. Bridge No. 03161 on Route 3 over I-91 in Rocky Hill as the "Employer Support of the Guard and Reserve Memorial Bridge";
12. Bridge No. 6104B on Route 9 north over Route 175 in Newington as the "Michael S. Mowchan, Sr. Memorial Bridge";
13. Bridge No. 6104A on Route 9 southbound over Route 175 as the "Donald H. Platt Memorial Highway"; and
14. Bridge Nos. 4320A and 4320B on I-84 over Washington Street (in Waterbury) "In Honor of the United States Army's First Infantry Division."

The designation made in No. 13 above appears to erroneously designate Bridge No. 6104A on Route 9 as a memorial "Highway."

The act requires DOT to put up signs on I-84 exit ramps, where appropriate, for the Connecticut Historical Society Museum and Library.

TECHNICAL CHANGE REGARDING RECEIPT OF FEDERAL FUNDS

The act makes a technical change in the law regarding receipt of federal transportation funding apportionments to reflect the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) as the successor to the Transportation Equity Act for the 21st Century authorizing federal transportation aid.

PA 06-136—HB 5844

Emergency Certification

AN ACT CONCERNING THE ROADMAP FOR CONNECTICUT'S ECONOMIC FUTURE

SUMMARY: This act:

1. authorizes \$1 billion in new Special Tax Obligation (STO) bonding for strategic transportation projects and initiatives;
2. specifies these strategic projects and initiatives and the assessments the Department of Transportation (DOT) must do for several potential future projects;
3. increases the amount of petroleum products gross receipts tax revenue that must be transferred to the Special Transportation fund (STF) each year to fund the transportation improvement projects, defines what such projects include, and limits the safety net provision under which shortfalls in the petroleum product tax receipts must be made up from the General Fund;
4. authorizes the State Bond Commission to issue up to \$1.3 billion in bonding that would be secured through future federal transportation revenues;
5. places the Transportation Strategy Board (TSB) in the Office of Policy and Management (OPM) for administrative purposes, makes OPM responsible for staff assistance for the TSB, realigns some of the TSB's responsibilities to be performed by the OPM secretary, and makes a change in how two members of the TSB must be appointed;
6. makes the OPM secretary responsible for coordinating state and regional transportation planning with other state planning and interagency policy development;
7. permits the use of previously authorized bonding under the Urban Action Program for transit-oriented development projects in municipalities and defines "transit-oriented development";
8. authorizes the Department of Economic and Community Development (DECD) and the Connecticut Development Authority (CDA) to make grants or loans, as appropriate, to support transit-oriented development projects and encourage the development and use of port and rail freight facilities and services;
9. authorizes the DOT commissioner to make agreements with Amtrak, Massachusetts, and other entities that are necessary to provide rail commuter service on the New Haven-Hartford-Springfield rail line;
10. requires DOT to study (a) building a fuel cell power station to generate power for the New Haven Line, (b) the mobility needs of residents and businesses in eastern Connecticut, and (c) implementing commuter rail service between New London and Worcester, Massachusetts, and report back to certain legislative committees by January 1, 2008;
11. requires Connecticut, acting through the governor, to initiate ongoing formal discussions with the surrounding states regarding opportunities to enhance regional commuter and freight mobility and report any results to the legislature;
12. requires the governor to make recommendations to the legislature on any projects necessary to implement the recommended strategy, and how these will be financed;
13. requires the OPM secretary to perform a regional "build out" analysis and make recommendations on performing one for the entire state; and
14. repeals several TSB and DOT report requirements, revises others, and modifies the requirement for DECD, CDA, and Connecticut Innovations, Inc. to submit project impact statements to the TSB for large traffic generating projects they assist.

EFFECTIVE DATE: July 1, 2006

STO BONDING FOR STRATEGIC TRANSPORTATION PROJECTS (§§1 § 2, 4-9, & 17)

Strategic Transportation Projects and Initiatives

The act requires the DOT commissioner to implement these strategic transportation projects and initiatives:

1. restoring commuter rail service on the New Haven-Hartford-Springfield line and initiating shuttle bus service from the line to Bradley International Airport;
2. implementing the New Britain-Hartford busway subject to the availability of federal funds for the project;
3. rehabilitating rail passenger coaches for use on the Shore Line East and the New Haven-Hartford-Springfield lines, and the New Canaan, Danbury, and Waterbury branches of the New Haven rail line;
4. developing a new commuter rail station between New Haven and Milford;
5. meeting the costs of capital improvements to the New Haven Line branch lines, up to \$45 million;
6. meeting the capital costs of parking and rail station improvements on the New Haven Line and its branches, and the Shore Line East service (including at least four stations east of New Haven), up to \$60 million;
7. funding the local share of the Southeast Area Transit federal pilot project;
8. completing the Norwich Intermodal Transit Hub Roadway improvements;
9. conducting environmental planning and assessment for the expansion of I-95 between Branford and Rhode Island;
10. funding the capital costs of the greater Hartford highway infrastructure improvements in support of economic development;
11. completing preliminary design and engineering for widening I-84 between Waterbury and Danbury;
12. funding the Commercial Vehicle Information System Network; and
13. completing a rail link to the port of New Haven.

If the DOT is unable to implement the intermodal connection between the port and rail facilities at the port of New Haven by July 1, 2008, the commissioner must submit a report to the transportation and finance, revenue and bonding committees explaining the reasons why and describing alternative ways to facilitate intermodal shipping at the port.

The commissioner must recommend implementation of additional transportation improvement projects in consultation with the TSB. With the governor's approval and allocation by the State Bond Commission, the proceeds of the new STO bonds authorized under the act may be used to support these projects.

The act authorizes the commissioner to enter into grant and cost-sharing agreements with local governments, transit districts, regional planning

agencies, and councils of governments in connection with the projects described above and any additional transportation improvement projects the commissioner may implement.

The act also requires the commissioner to evaluate and plan for implementation of:

1. improving Routes 2 and 2A in Preston, North Stonington, and Montville;
2. upgrading the Pequot Bridge in Montville;
3. evaluating rail links to other ports;
4. supporting and encouraging dredging of the state's commercial ports;
5. developing a second rail passenger station between New Haven and Milford; and
6. expanding Route 9.

The commissioner must identify obstacles to improved service on Shore Line East including, at least, increased service frequency, reverse commute service, and weekend service, and report his findings and recommendations to the legislature by January 1, 2007. He must also ensure that the state's transportation plans, including the master transportation plan, are consistent with the state transportation strategy as developed by the TSB and adopted by the legislature.

Bonding for Transportation Improvement Projects

The act authorizes the State Bond Commission to authorize issuance of up to \$1 billion in STO bonds, the proceeds of which must be used to pay the transportation costs for (1) the specific strategic transportation projects identified above; (2) additional transportation improvement projects recommended by the commissioner after consulting with the TSB, and the various plans, evaluations, assessments, and studies the act authorizes; and (3) project planning pursuant to the fuel cell, eastern Connecticut mobility, and New London-Worcester rail line studies the act requires.

The act defines a "transportation improvement project" as improvements to the state's transportation system including, at least, (1) projects included in the State-wide Transportation Improvement Program; (2) projects included in regional transportation improvement plans; and (3) projects identified § 13b-57h of the general statutes, which identifies specific projects recommended by the TSB in each of the five transportation investment areas (TIAs) established by law as part of the process for developing and implementing a state transportation strategy. These projects are transportation strategy projects that the legislature has designated as priorities for completion. These priority transportation strategy projects, some of which may overlap with some of the initiatives described above, include:

1. acquiring rail equipment to add at least 2,000 additional seats for interstate and intrastate service on the New Haven Line;
2. constructing or expanding stations in Stamford, Bridgeport, and New Haven to accommodate rail service and at least one other mode of transportation;
3. making improvements to Long Island Sound to facilitate its use for passenger and freight movement, and expanding the Bridgeport Intermodal Facility to support high speed ferry service;
4. establishing express bus services from New Haven to Bradley International Airport;
5. completing the New Britain-Hartford busway and establishing other bus rapid transit or light rail service in Hartford and surrounding towns;
6. expanding passenger rail service through Danbury to New Milford to assist commuter movement on Routes 7 and I-95;
7. upgrading or constructing maintenance and parking facilities, and upgrading feeder bus services for passenger rail service, particularly along the New Haven Line;
8. establishing commuter bus or commuter rail service as determined by the Hartford-New Haven-Springfield Implementation Study (which proposed rail service);
9. establishing rail freight service with connections to the New London port;
10. expanding bus service frequency and connections within and outside of the region, particularly in and to Norwich and New London and acquiring enough new buses to add capacity for at least 200 additional seats;
11. designing and planning for traffic mitigation in southeastern Connecticut, including planning for the extension of Route 11 from its terminus in Salem to the I-95/I-395 intersection, with appropriate greenway purchases;
12. acquiring sufficient rail equipment to add at least 1,000 seats for the Shore Line East rail service;
13. making highway and operational traffic flow improvements on I-95 and I-395;
14. expanding DOT marketing of the Deduct-a-Ride program to all eligible employers; and
15. continuing to fund the Jobs Access Program.

The act determines the issuance of these bonds to be in furtherance of one or more of the purposes authorized for the use of STO bonds. It declares them to be special obligations of the state and thus payable only from the revenues pledged by law for repayment of STO bonds.

The act allows DOT to solicit bids or qualifications for equipment, materials, or services for these projects at any time in the fiscal year even if all of the required funds may not be available until later in the same or a succeeding fiscal year.

REVENUE BONDING SECURED BY FUTURE FEDERAL FUNDING (§§10 § 11)

The act authorizes the State Bond Commission to issue up to \$1.3 billion in bonds to be secured by future federal transportation revenue funds the state receives. These are commonly known as Grant Anticipation Revenue Vehicles or “GARVEE bonds.” The act creates a special fund called the Grant Anticipation Transportation Fund into which all revenues required or permitted to be used to secure the bonds must be deposited and held separate from all other money, funds, or accounts. It requires the OPM secretary and the treasurer to provide the bond commission with a written determination that issuing these bonds is in the state’s best interest before the commission may issue any such bonds. The bonds may be used to finance any qualified federal aid transportation project, state transportation costs or projects, or other transportation costs, secured by a pledge of (1) federal transportation funds that are appropriated annually for this purpose; (2) any proceeds from the bonds and any earnings from investment of the bond proceeds; or (3) other revenue, funds, or other security pledged or appropriated for this purpose.

Under the act, a “qualified federal-aid transportation project” is any transportation cost or project that may be fully or partially financed with federal transportation funds. A “state transportation project” means any planning, capital, or operating project with regard to transportation undertaken by the state. “Federal transportation funds” are those funds paid or reimbursed by the U.S. Department of Transportation, including future obligational authority, reimbursement funds, or any other money payable under Titles 23 and 49 of the U.S. Code. (These are the two bodies of federal law under which states receive most of their federal transportation aid.)

If federal funds are not sufficient to pay the federal share of principal, interest, and costs for these bonds, the act authorizes the state to pay the federal share temporarily with state funds appropriated for that purpose. Debt service requirements for any bonds issued must be secured by (1) a first call upon the pledged revenues as they are received by the state and credited to the Grant Anticipation Transportation Fund and (2) a lien on any of the money credited to the fund.

REQUIREMENTS FOR PLANNING COORDINATION (§ 3)

The act requires the OPM secretary to (1) consult with the transportation, economic and community development, and environmental protection commissioners to ensure the coordination of state and regional transportation planning with other state planning, including economic development and housing plans; (2) coordinate interagency policy and initiatives concerning transportation; (3) evaluate transportation initiatives and proposed expenditures in consultation with the transportation commissioner; and (4) coordinate staff and consultant services for the TSB.

URBAN ACTION BONDING FOR TRANSIT- ORIENTED DEVELOPMENT (§ 12)

The act permits the use of previously authorized general obligation bonds available under the Urban Action Program to be used with the State Bond Commission's approval for transit-oriented development projects in any municipality. It defines "transit-oriented development" as the development of residential, commercial, and employment centers within walking distance to public transportation facilities and services in order to facilitate and encourage use of those services.

TRANSPORTATION STRATEGY BOARD (§§ 13 & 14)

The act puts the TSB in OPM for administrative purposes only. It allows the transportation, environmental protection, economic and community development, and public safety commissioners, as well as the OPM secretary, all of whom currently serve on the TSB, to designate someone to serve in their capacity as a board member. It makes the OPM secretary solely responsible for staff support for the TSB. Previously, DOT, OPM, and DECD had to provide staff assistance. The act allows the OPM secretary to use staff from OPM and any other state agency, in consultation with the head of that agency. When the OPM secretary approves the hiring of consultants for the TSB, as he may already do within available appropriations, the act allows either the secretary or the DOT commissioner to procure the consultants, as the secretary determines. Previously, the DOT commissioner procured any such consultants for the TSB.

By law, one member of the 15-member TSB comes from each of the TIAs and is appointed by a different legislative leader. In each TIA, the chairpersons of the board of the local planning agencies in the TIA must nominate three qualifying individuals who live in the TIA for consideration by the appointing authority. The act specifies that if the planning agency chairpersons

fail to nominate three qualifying people within 180 days of expiration of the previous appointment term, the appointing authority may appoint someone who meets the qualifications without waiting for a list of nominees to consider.

Previously, the Senate president pro tempore appointed a member of the TSB who had to come from the I-91 corridor TIA and the House majority leader appointed a member who had to come from the I-84 corridor TIA. Beginning July 1, 2006, these appointments will be reversed, that is, the Senate president pro tempore's appointment will come from the I-84 corridor TIA and the House majority leader's from the I-91 corridor TIA.

No later than January 1, 2007, and every two years thereafter, the act requires the TSB to review and, if necessary, revise the state transportation strategy. It must submit a report describing any revisions and the reasons for them to the governor and the General Assembly. The report must include a prioritized list of projects that the TSB, in consultation with the transportation commissioner, determines are necessary to implement the recommended strategy, including their estimated capital and operating costs and time frames. By January 31, 2007, the transportation, planning and development, and finance, revenue and bonding committees must meet with the DOT and DECD commissioners, the OPM secretary, the TSB chairperson, and any others they deem appropriate to consider the report.

By law, the TSB must take certain things into account when developing and revising the transportation strategy. The act adds the need to reduce congestion by encouraging greenway initiatives, safe-routes-to-school programs, and rideshare programs to the things the TSB must consider. The act eliminates several special reports or assessments the TSB or DOT must produce.

PETROLEUM PRODUCTS GROSS RECEIPTS TAX REVENUE TRANSFERS TO THE SPECIAL TRANSPORTATION FUND (§ 15)

By law, each calendar quarter the revenue services commissioner must deposit into the STF a specific amount of the revenue generated from the petroleum products tax generated from motor fuel sales. (PA 06-187 removes the limitation that revenues transferred be attributable to sales of motor fuels.) This tax is paid by companies that distribute certain products in Connecticut that contain or are made from petroleum or petroleum derivatives. The act increases these transfers, specifies the annual amount to be transferred, and continues to require them on a quarterly basis. It increases the quarterly transfers by \$20 million in FYs 07 through FY 10 (\$80 million total each fiscal year) and \$25 million in FY 11 and thereafter (\$100 million

total each fiscal year). The specific amounts to be transferred are shown in the following table.

<i>Fiscal Year</i>	<i>Prior Quarterly Installment to STF (millions)</i>	<i>Quarterly Installment Under The Act (millions)</i>	<i>Annual STF Transfer Under The Act (millions)</i>
2006	\$10.875	\$10.875	N/A
2007	15.25	35.25	\$141
2008	21.0	41.0	164
2009	25.225	45.225	180.9
2010	25.225	45.225	180.9
2011	25.225	50.225	200.9
2012	25.225	50.225	200.9
2013	25.225	50.225	200.9
2014 and after	29.85	54.85	219.4

N/A means not applicable

Under prior law, if in any calendar quarter the receipts from the petroleum products tax were less than the amount required to be transferred to the TSB projects account, the revenue services commissioner had to certify the amount of the shortfall to the state treasurer who then had to transfer an amount equal to the shortfall from the General Fund. The act requires, beginning in FY 07, that these transfers be made if the receipts from the tax are less than 25% of the amounts required by law. It also makes the state comptroller, rather than the revenue services commissioner, responsible for certifying the amount of the shortfall to the treasurer and for making the actual tax receipt transfers to the STF.

CHANGES TO CURRENT STO BONDING AUTHORITY (§ 16)

Previously, the State Bond Commission could authorize the issuance of up to \$485.65 million in STO bonds for transportation purposes. These bonds became available in specific maximum amounts in each fiscal year from FY 2005 through FY 2015. The act eliminates these specific authorized amounts by fiscal year, thus making the entire amount available as needed.

REQUIREMENTS FOR DOT COMMISSIONER REGARDING HARTFORD-NEW HAVEN-SPRINGFIELD RAIL SERVICE (§ 18)

The act requires the DOT commissioner, in consultation with the OPM secretary with the governor’s approval, to (1) enter into agreements with (a) Amtrak or its successor that are necessary to operate rail passenger service on the New Haven-Hartford-Springfield line and (b) Massachusetts or any entity acting on its behalf that are necessary for participation in the New Haven-Hartford-Springfield rail service and (2) select, through a competitive process, one or more

entities to operate the New Haven-Hartford-Springfield rail service.

DOT STUDY REQUIREMENTS (§§ 19, 24 & 25)

The act requires DOT to study the feasibility of building a fuel cell power station to generate power for the New Haven Line. The study must consider, at least, a plan for generating a large percentage of the line’s peak power needs, as well as having the station serve as a backup in emergencies. DOT must report its findings and recommendations to the transportation and appropriations committees by January 1, 2008.

DOT must also study the transportation and mobility needs of residents and businesses in eastern Connecticut. This must include, at least, (1) transportation between residential and employment centers; (2) improved rail freight service; and (3) opportunities for improved public transportation services and facilities, including the feasibility of creating commuter rail lines between (a) New London and Worcester, Massachusetts and (b) Old Saybrook and Hartford. DOT must report its findings and recommendations to the transportation and planning and development committees by January 1, 2008.

The act requires DOT also to develop an assessment and plan for implementing New London-Worcester commuter rail service. This must include, at least, (1) operating schedules and costs; (2) ridership; (3) fare structure and subsidies; (4) connections to other public transportation services; (5) required facilities and equipment, including trackage, sidings, signalization, stations, and parking; (6) trackage rights issues and costs, if any; (7) coordination with Massachusetts and other authorities, entities, or governments; and (8) potential economic and environmental impacts of any such service. DOT must submit its findings and recommendations to the transportation, appropriations, planning and development, and finance, revenue and bonding committees by January 1, 2008.

INTERSTATE COOPERATION REGARDING OPPORTUNITIES TO ENHANCE MOBILITY (§ 20)

The act requires Connecticut, acting through the governor or her designee, to initiate ongoing formal discussions with Massachusetts, New York, and Rhode Island regarding opportunities to enhance regional commuter and freight mobility. By January 1, 2008 and every two years thereafter, the governor or her designee must report to the legislature on these discussions and any actions taken or recommended as a result.

GOVERNOR'S RECOMMENDATIONS ON TRANSPORTATION STRATEGY (§ 21)

The act requires the governor to make recommendations regarding the transportation strategy to the General Assembly no later than the day she is required by law to submit her biennial budget to the legislature. Her recommendations must include (1) any projects she believes are necessary to implement it and (2) a financing plan for the projects.

STATE GRANTS AND LOANS FOR TRANSIT- ORIENTED DEVELOPMENT PROJECTS AND PORT AND RAIL FREIGHT FACILITIES AND SERVICES (§§ 22 & 23)

The act authorizes the DECD commissioner, in consultation with the DOT commissioner, to use available funds, including bond funds available pursuant to the Urban Action Program, to make grants or loans to (1) support transit-oriented development projects and encourage the location of residential, commercial, and employment centers near public transportation services and (2) encourage the development and use of port and rail freight facilities and services, including trackage and related infrastructure.

The act also authorizes the CDA to make loans for these purposes subject to conditions it imposes.

PILOT "BUILD-OUT" ANALYSIS (§ 33)

The act requires the OPM secretary to report to the Planning and Development Committee by January 1, 2008 regarding the development of a pilot regional "build-out" analysis and make recommendations with respect to the potential cost, schedule, methodology, and plans for doing a state-wide build-out analysis.

PROJECT IMPACT STATEMENTS (§ 26)

Previously, before DECD, CDA, or Connecticut Innovations, Inc. approved funding for any project that is a major traffic generator under state law, the commissioner or executive directors, as the case may be, had to submit an impact statement on the project to the TSB. This had to, among other things, describe how the project addressed the goals established by the TSB for developing the state transportation strategy. The act requires this impact statement to be submitted prior to entering into a grant, loan, or assistance agreement instead of prior to approving funding. It also requires the impact statement to describe the project and its expected impact on the transportation system instead of how it addresses the goals the TSB has set for developing the strategy.

The act eliminates the DECD commissioner's duty to make quarterly reports on its project activities to the TSB.

PROJECT IMPLEMENTATION STATUS REPORT (§ 27)

The act requires the OPM secretary, after consulting with the DOT commissioner and the TSB, to submit an annual report to the governor and General Assembly on the implementation status of projects funded under this act and PA 05-4 of the June 2005 special session. (Among other things, PA 05-4 funds the acquisition of 342 new rail cars, construction of a rail car maintenance facility, and other activities that are part of the New Haven Line revitalization program.) The report must include the financial status of each project, project schedules and anticipated completion dates, an explanation of any obstacles to completing the projects, and any planned revisions to them. The first annual report must be submitted by the OPM secretary by December 1, 2007.

The act requires the Transportation, planning and development, and finance, revenue and bonding committees to meet during December each year with the DOT and DECD commissioners, the OPM secretary, and any others they deem appropriate to consider the project implementation status report.

CARRYOVER OF PRIOR FUNDING (§ 34)

The act carries forward the unexpended balance of \$150,000 transferred to the DOT from the TSB projects account in FY 04 and makes these funds available for expenditure in FY 07 for implementing increased motorist-assistance services known as the Connecticut Highway Assistance Motorist Patrol or CHAMP program recommended by the TSB.

REPEAL OF CERTAIN REPORTING REQUIREMENTS (§ 35)

The act repeals several reporting and related requirements for the TSB and DOT. Specifically, these include requirements that:

1. any TSB project requiring expenditures of more than \$1 million be accompanied by an economic development plan that specifies its projected economic benefits to the TIA in which it is located and to the state and that it meets certain other criteria (CGS § 13b-57h(c));
2. the TSB coordinate preparation of a performance report on TSB projects requiring accompanying economic development plans that provides certain information about the projects, their relationship to the strategy, and

- how they address the transportation problems and needs of the TIA (CGS § 13b-57i);
3. the TSB separately monitor the planning and implementation of the TSB projects identified by law as priority strategy projects and report certain information to the governor and legislature (CGS § 13b-57j(b)); and
 4. the DOT prioritize the projects and purposes specified in CGS § 13b-57h (the priority transportation strategy projects and initiatives), including associated operating and maintenance costs, and submit a report to the TSB every two years describing the priorities, which the TSB may then revise, delete, change, add a particular project or purpose, or determine the sequence and timing of projects (CGS § 13b-57p).

TECHNICAL AND CONFORMING PROVISIONS
(§§ 28-32)

The act makes several technical and conforming changes relating to the its requirements.

PA 06-46—sSB 316

*Select Committee on Veterans' Affairs
Government Administration and Elections Committee
Public Safety and Security Committee*

AN ACT CONCERNING THE USE OF MILITARY FACILITIES

SUMMARY: This act expands the types of facilities that the adjutant general of the Connecticut National Guard may let organizations use, from armories to military facilities. It limits the leasing of the facilities to government agencies, military and nonprofit organizations, and organizations receiving state aid. The act specifies that it must not be construed to allow leases that conflict with military use.

Beginning August 1, 2007, the act requires the adjutant general to submit an annual report showing each military facility's lease revenue and expenses for the 12-month period ending on June 30 of the same year. The reports go to the Military Department and the Veterans' and Public Safety and Security committees.

The act deletes obsolete language and makes conforming, related, and technical changes.

EFFECTIVE DATE: October 1, 2006

USE OF MILITARY FACILITIES

Rental Applications

Under prior law, the adjutant general could rent armories to certain organizations subject to certain procedures and standards. The act allows him to lease, instead of rent, armories and to lease any other state-owned military building as well. It generally retains, with minor changes, the requirements that already apply to armory rentals.

Under prior law, the officer in charge of an armory received and forwarded rental applications, with his recommendations, to the adjutant general who responded to applicants through the officer. The act eliminates the requirement for the officer to make recommendations, and it requires the adjutant general to respond directly to applicants.

Use of Military Facilities

Prior law required the attorney general to provide "quarters to camps and posts of war veterans" in (1) new armories and (2) existing armories, if space was available. The act, instead, requires him to provide space, if available, to veterans' service organizations in military facilities. It does not distinguish between new and existing facilities.

Fee for Using Military Facilities

Prior law required that army units and veterans' organizations quartered, or entitled to quarters, in armories be allowed to use the armory and other areas usually included in armory rentals on certain terms and conditions. The act, instead, requires army units and veterans' organizations jointly using military facilities to be allowed to use them under these terms. (It is unclear if veterans' organizations and veterans' service organizations mentioned above are synonymous.)

Prior law required that agricultural and other associations that get state aid be allowed to use armories for exhibition purposes at no more than it costs to maintain the armory during the rental period. The act allows, rather than requires, that they be charged this rate for using military facilities, and it allows military organizations to be charged this rate as well. Under prior law, army units were charged the military rate (not defined) for use of the armory after midnight.

By law, the adjutant general may allow the following to use a state armory without charge: (1) public or private nonprofit elementary or secondary schools or regional community-technical colleges for athletic events for which no admission is charged and (2) the American Red Cross for blood supply programs. The act broadens the groups that he may allow to use military facilities for free to include all public colleges and any local, state, or federal government agency.

PA 06-62—sSB 314

*Select Committee on Veterans' Affairs
Labor and Public Employees Committee
Public Safety and Security Committee*

AN ACT EXTENDING FEDERAL PROTECTIONS TO STATE SERVICE MEMBERS

SUMMARY: This act gives to National Guard members whom the governor orders into state active service (e.g., riot control and disaster response) the same protections two federal laws give to service members in federal active service, except those pertaining to life insurance. The laws are the Uniformed Services Employment and Reemployment Rights Act (USERRA) and Servicemembers Civil Relief Act (SCRA).

USERRA provides reemployment rights and protections for members returning from serving in the armed forces. SCRA provides rights and protections to people in active-duty service.

EFFECTIVE DATE: October 1, 2006

BACKGROUND

USERRA

USERRA provides reemployment rights for service members returning from serving in the uniformed services and prohibits employers from discriminating against them based on their military service or obligation (38 USC §§ 4301-4333). USERRA covers nearly all employees, including part-time and probationary employees, and nearly all civilian employers, regardless of size, including the federal, state, and local governments, and private employers.

Pre-service employers must reemploy service members returning from a period of service in the uniformed services if the members meet specified criteria. USERRA supersedes state laws providing lesser rights or imposing additional eligibility criteria, but states may provide greater rights and protections.

SCRA

SCRA gives specific rights and legal protections to people in military service. It addresses such issues as interest rates, rental and lease agreements, eviction, health and life insurance, mortgage foreclosure, civil judicial proceedings, and income tax payments.

SCRA applies to active-duty military personnel and reservists and guard members while in active-duty service under Title 10 of federal law. The act also applies to guard members called to active service for more than 30 consecutive days under Title 32 to respond to a national emergency declared by the president and supported by federal funds. In limited situations, it also applies to dependents of eligible personnel (50 App. USC §§ 501-596).

PA 06-138—sSB 170

*Select Committee on Veterans' Affairs
Government Administration and Elections Committee*

AN ACT CONCERNING THE LOWERING OF THE FLAG

SUMMARY: This act requires that, whenever the governor prescribes that the state flag be flown at half-staff following the death of an armed forces member in the line of duty, she must prescribe that the U.S. flag be flown at half-staff for the same period as the state flag.

EFFECTIVE DATE: October 1, 2006

PA 06-153—sSB 169

*Select Committee on Veterans' Affairs
Planning and Development Committee
Finance, Revenue and Bonding Committee
Appropriations Committee*

AN ACT CONCERNING DISABLED VETERANS' PROPERTY TAX EXEMPTION, THE DEFINITION OF VETERAN AND THE REPORTING OF VETERAN'S BENEFITS

SUMMARY: This act excludes veterans' disability payments when determining income for purposes of income-based property tax exemptions for veterans, the blind, and people with total disabilities.

The act explicitly includes the reserve components of the U.S. Armed Forces, including the National Guard performing duty under Title 32 of federal statutes (e.g., on certain homeland security missions), in the definition of "armed forces." It thereby makes guard members' Title 32 service qualifying service for state veterans' benefits, as is already the case with federal Title 10 service. Under prior practice, Title 32 service did not qualify for the benefits, but an attorney general opinion regarding retirement credit benefit concluded that guard members in Title 32 status were members of the armed forces and therefore qualified for the retirement credit (see BACKGROUND). In addition to retirement credit, veterans' benefits include college tuition waivers, local property tax exemptions, burial in a state veterans' cemetery, and admission to the state Veterans' Home.

The act does not appear to have any legal effect on other reserve components of the armed forces because federal law includes the reserves in the definition of each branch of the U.S. Armed Forces under Title 10 (see for example, 10 USC 3062, which defines the army). Thus, it seems they already qualify for benefits provided they meet the criteria that apply to all veterans.

Beginning July 15, 2007, the act requires state agencies and towns that provide veterans' benefits to submit annual reports to the veterans' affairs commissioner showing the number of recipients and the type, value, and description of benefits for the 12-month period ending on June 30. The commissioner must compile and, annually, beginning August 1, 2007, report the data for the same 12-month period to the Military Department and the Public Safety and Security Committee. The report must show the total number of veterans receiving benefits, value of the benefits by category, and total for the period.

The act also makes technical changes.

EFFECTIVE DATE: October 1, 2006

NATIONAL GUARD STATUS

By law, veterans honorably discharged from the armed forces are eligible for a range of benefits under state law. These include war service benefits for veterans who served at least 90 days on active duty during a statutorily defined war period, unless they were separated from service earlier because of a Veterans' Administration-rated disability or the war lasted less than 90 days and they served for the duration. "Armed forces" is defined as the U. S. Army, Navy, Marine Corps, Coast Guard, and Air Force. Under federal law, guard members can be called into active service under (1) Title 32 (NATIONAL GUARD) or (2) Title 10 (ARMED FORCES), which defines the National Guard when in the service of the United States (i.e., federalized) as a part of the U.S. Army (10 USC §§ 3062 and 10106).

In practice, at least some state agencies do not consider Title 32 service as qualifying service for benefits, based apparently on an interpretation of the above-referenced law that guard members called under Title 32 remain in their National Guard status and are not part of the U. S. Armed Forces. By expressly including guard members who serve in Title 32 status in the definition of armed forces, the act makes such service qualifying service for veterans' benefits.

BACKGROUND

Veterans' Property Tax Exemptions

The law requires towns to give qualified veterans and their surviving spouses certain property tax exemptions. It allows them to grant others if their legislative body approves. The first category is commonly called mandatory exemptions; the latter, local option.

The main state-mandated exemptions are granted through two statutes. CGS § 12-81(19) requires towns to give all qualified applicants a basic \$1,000 property tax exemption (and increase this amount after revaluations that, in practice, result in a 150% taxable grand list increase over the previous year). CGS § 12-81g requires towns to give veterans who get the basic exemption an additional exemption, the amount of which depends on their income.

For those whose income falls below a certain statutorily determined limit, the additional exemption is equal to twice the basic exemption (CGS § 12-81g(a)). For those whose income exceeds this limit, the additional exemption is 50% of the basic exemption (CGS § 12-81g(b)). (Disabled and severely disabled veterans are eligible for increased exemptions based on their disability level.)

In addition to these mandatory exemptions, a municipality, with its legislative body's approval, may give a larger exemption to veterans and their surviving spouses whose income falls below specified limits (CGS § 12-81f).

Property Tax Exemptions for the Blind and Disabled

The law requires towns to give up to a \$1,000 property tax exemption to anyone who has total disabilities (and meet other criteria). It allows the town, with its legislative body's approval, to provide an additional exemption up to \$1,000 if the person's income is below a certain statutorily defined level (CGS § 12-81i).

The law requires towns to give up to a \$3,000 property tax exemption to people who are totally blind. It allows the town, with its legislative body's approval, to provide an additional exemption up to \$2,000 if the person's income is below a certain statutorily defined level (CGS § 12-81j).

Title 10 Versus Title 32 Service

Guard members in Title 10 status are mobilized by the president (voluntarily or involuntarily) for service in the United States or overseas. In Title 10 status, they are federally funded and under federal control.

Guard members mobilized under Title 32 for homeland security missions, such as airport security duty, are called up by the governor at the president's request and federally funded.

Attorney General's Opinion on Title 10 Versus Title 32 Service

The Connecticut attorney general has concluded that under existing law, the National Guard is part of the U. S. Armed Forces whether called to active service under Title 10 or Title 32. According to the opinion, "periods spent as a full-time member of the National Guard, while in the armed forces of the United States under orders issued pursuant to either Title 10 or Title 32 of the United States Code, qualify as "vesting service" under Connecticut General Statutes § 5-192i(j) and as "credited service" under Connecticut General Statutes § 5-192j(d), entitling Connecticut state employees in Tier II to receive retirement credit for such service" (Attorney General Opinion 05-004).

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