SUMMARY OF 2007 PUBLIC ACTS

Connecticut General Assembly

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NOTICE TO USERS

This publication, *Summary of 2007 Public Acts*, summarizes all public acts passed by the 2007 Regular Session and the June and September 2007 Special Sessions of the Connecticut General Assembly. Special acts are not summarized.

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

Use of this Book

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The office strongly discourages using the summaries as a substitute for the public acts. The summaries are meant to be handy reference tools, not substitutes for the text. The public acts are available in public libraries and can be purchased from the secretary of the state. They are also available online from The Connecticut General Assembly's website (http://www.cga.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 June and September 2007 Special Sessions each appear in separate chapters according to 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 2007 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 07-135, An Act Concerning Access to Postsecondary Education (*Human Services Committee)*
2. PA 07-137, An Act Concerning the Palliative Use of Marijuana (*Judiciary Committee)*
3. PA 07-229, An Act Concerning the Implementation of Generally Accepted Accounting Principles (*Appropriations Committee)*
4. PA 07-248, An Act Concerning Various Revenue Measures (*Finance, Revenue and Bonding Committee)*
5. §§126 and 128 in PA 07-242, An Act Concerning Electricity and Energy Efficiency (*Emergency Certification)*
6. PA 07-83, An Act Concerning Legislative Review and Approval of Waiver Applications Submitted by the Commissioner of Social Services to the Federal Government (*Human Services Committee) (OVERRIDDEN)*
7. PA 07-6, June Special Session, An Act Authorizing and Adjusting Bonds of the State for Capital Improvements and for Transportation Infrastructure Improvements and Concerning State Contracting Reform (*Emergency Certification)*

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 or persistent offenses may result in a higher maximum than specified here.

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

Violations

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

A violation is not a crime; thus a violator does not have a criminal record. Most statutory violations are subject to Infractions Bureau procedures which allow the accused to pay the fine by mail without making a court appearance. As with an infraction, the bureau will enter a *nolo contendere* (no contest) plea on behalf of anyone who pays a fine in this way. The plea is inadmissible in any criminal or civil court proceeding against the accused.

Infractions

Infractions are punishable by fines, usually set by Superior Court judges, of between $35 and $90, plus 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.

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

PA 07-186—sHB 6141
Appropriations Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING ADEQUATE FUNDING OF THE TEACHERS' RETIREMENT SYSTEM

SUMMARY: The act authorizes enough state general obligation (GO) bonds to fund (1) $2 billion of the unfunded liability of the Teachers' Retirement System (TRS), (2) the cost of issuing the bonds, and (3) up to two years of interest on the bonds. It exempts the bonds from the state's debt limit. The maximum bond term is 30 years.

For each fiscal year in which the bonds are outstanding, the act automatically appropriates the actuarially required annual state contribution to the Teacher's Retirement Fund (TRF). It allows the state to reduce annual TRF contributions only if (1) it protects bondholders' rights in another way or (2) the governor declares an emergency or extraordinary circumstances, a supermajority of the legislature approves, and the reduction does not cause the TRF's funded ratio (assets versus liabilities) to fall below specified levels.

The act makes all TRS benefits contractual for all vested TRS members while the bonds are outstanding, thus barring the state from unilaterally reducing benefits during that time. Certain specified TRS benefits are already contractual for active teachers who were vested in the system on October 1, 2003 or who become vested or accumulate 10 years of credited service after that date.

The act eliminates the cost of living adjustment reserve account (CLARA) within the TRF and credits all CLARA's assets to the TRF. CLARA was used to fund annual cost of living adjustments (COLAs) for TRS members who retired on or after September 1, 1992 and their surviving beneficiaries. Under prior law, CLARA was funded by allocating to it any total annual TRF returns above 11.5%.

The act guarantees TRS members who retire on or after September 1, 1992 an annual COLA by eliminating a provision that barred TRS from paying them a COLA in any year that TRS actuaries determined CLARA did not have enough money to pay for it. The act also reduces promised retirement COLAs for members who join TRS on or after July 1, 2007.

Finally, the act automatically appropriates all the GO bond premiums the state receives from July 1, 2007 through June 30, 2009 for GO bond debt service in addition to budgeted debt service appropriations. Under the act, premium funds do not lapse at the end of those fiscal years and the treasurer can use them for debt service unless she determines they are no longer needed for that purpose. The treasurer usually deposits any bond premiums in the General Fund's debt service account. (A premium is an amount a bond purchaser pays for a bond that exceeds its face value. Buyers typically pay a premium to receive an above-market interest rate on a bond.)

EFFECTIVE DATE: July 1, 2007

TRS BONDS

Bond Authorization

The act authorizes the State Bond Commission to allocate the amount of state GO bonds, with a maximum term of 30 years, needed to fund the act's purposes. The state must use the bond proceeds to pay $2 billion of the TRS' unfunded liability plus the bond issuance costs and up to two years of bond interest. TRS' unfunded liability is its actuarially determined pension liability for service before the determination date minus the assets in the TRF.

Before the bond commission can authorize the bonds, it must receive:

1. a signed request for a bond authorization by, or on behalf of, the Office of Policy and Management secretary containing any terms and conditions the commission requires and
2. a written determination from the secretary and the state treasurer that issuing the bonds is in the state's best interest.

Exemption from State Debt Limit

The act exempts the bonds from the state's debt limit law and related certifications. That law limits the total amount of General Fund-supported state debt the General Assembly can authorize to 1.6 times the net General Fund tax receipts for the fiscal year of the authorization. Before the General Assembly may pass any bond act, the state treasurer must certify that it will not cause the state to exceed the debt ceiling. A similar certification is required before the bond commission can authorize new bonds.

Bond Proceeds and Net Premium

The act requires the bond proceeds and any investment earnings on them, minus issuance costs, to be deposited in the TRF. It requires the treasurer to invest those proceeds according to the statutory requirements for investing state trust funds. The proceeds must be used, along with TRS member contributions and General Assembly appropriations, to pay teacher retirement benefits. The act requires any net premium the state realizes on the sale of the bonds to be used to pay debt service on them.

Annual State Contribution to the TRF

For each fiscal year in which any TRS bonds or any bonds refunding them remain outstanding, the act establishes an automatic General Fund appropriation for the state's required annual contribution to the TRF, as determined by the fund actuaries and certified by the Teachers' Retirement Board and state comptroller. The annual appropriation must be allotted quarterly on July 15, October 1, January 1, and April 1.

State Commitments to Bondholders

The act promises, and authorizes the state treasurer to promise bondholders, that the General Assembly will not pass any law to diminish the state's required contributions until the bonds are paid off except (1) when the state makes other provisions to protect bondholders' rights or (2) in an emergency or extraordinary circumstance, provided certain conditions are met (see below). The act makes this promise contingent on the TRS actuaries certifying the state's annual contributions as required by law.

Emergency Reduction in State Contribution

The act allows the state to reduce its actuarially required annual TRF contribution while the bonds are outstanding if certain conditions are met. It also places limits on the amount of any reduction.

Before any reduction can occur, all of the following conditions must be met.

1. The governor must declare an emergency or the existence of extraordinary circumstances. The act specifies that an extraordinary circumstance can be a change in the actuarial methods or accounting standards used to value the TRF that results in a significant increase in the state's required contribution.
2. The governor must invoke the statute that (a) gives her discretion, and (b) requires her whenever the comptroller projects a General Fund budget deficit greater than 1%, to reduce appropriated accounts by up to 5% and total fund appropriations by up to 3%.
3. At least three-fifths of the members of each house of the General Assembly must approve the reduction.
4. TRF's funded ratio (actuarial value of TRF assets over its liabilities) must be at least as high as it was immediately after the sale of the TRS bonds.

Once these conditions are met, the act allows the state to reduce its actuarially required contribution within certain limits. The limits are that the reduced contribution may not lower TRF's funded ratio more than (1) 5% below what it would have been if the full contribution had been made or (2) its funded ratio immediately after the TRS bond sale, whichever is greater.

TEACHER BENEFITS UNDER TRS

While the TRS bonds are outstanding, the act makes all TRS benefits for all members contractual. By doing so, it bars the state from unilaterally diminishing TRS benefits during the bond term. The act specifies that it does not grant members any vested rights to TRS benefits until they meet the TRS vesting requirements in effect when the bonds are issued.

Certain TRS benefits were already contractual for active teachers who were vested in TRS as of October 1, 2003 or who vest or accumulate 10 years of service in TRS on or after that date. Prior law already barred the General Assembly from diminishing statutory TRS retirement provisions concerning credited service; retirement and survivors' benefits eligibility; benefit formulas, payment schedules, and cost of living allowances; death and survivors' benefits; and disability benefits. The act extends the contractual benefits to cover voluntary contributions, benefit payment options, and reemployment benefits, among others.

Both the prior law and the act exclude retired teachers' health coverage and health coverage contributions and annual state contributions to the TRF from the TRS contractual benefits.

COST OF LIVING ADJUSTMENTS

CLARA

Under prior law, COLAs for TRS members who retired on or after September 1, 1992 and their surviving beneficiaries were paid from the CLARA account, which was a separate TRF account. CLARA was funded by allocating to it any part of the total return on the fund's pension assets for the preceding year that exceeded 11.5%. On May 1 each year, the fund actuaries determined how much of a COLA the CLARA account could support. If they determined there was not enough money, no COLA would be paid. (This never actually happened and COLAs were paid every year.) The act eliminates both CLARA and the no-COLA possibility and transfers CLARA's assets to the TRF on July 1, 2007.

COLAs for TRS Members Who Retire On or After 9/1/92

Under prior law, TRS members who retire on or after September 1, 1992 and their surviving beneficiaries were eligible for an annual benefit COLA only if the TRS actuaries determined the CLARA account could pay for it. If there was not enough money

to pay the full COLAs, the COLAs were to be proportionately reduced or eliminated.

The act repeals the actuarial certification and proportional COLA reduction requirements and thus guarantees annual COLAs for these retirees. It keeps the existing COLA calculation for these members, which is a COLA equal to the Social Security benefit COLA, but no more than 6%, or, if the total return on the TRF's assets was less than 8.5% in the previous year, no more than 1.5%.

COLAs for New TRS Members

The act reduces promised retirement COLAs for members who join TRS on or after July 1, 2007. For these members, TRS retirement COLAs will be the Social Security benefit COLA subject to a three-tier maximum based on annual TRF earnings. If total fund returns for the preceding year are less than 8.5%, the maximum COLA is 1%; if returns are between 8.5% and 11.5%, the maximum COLA is 3%; and if returns are more than 11.5%, the maximum COLA is 5%.

BACKGROUND

Teachers' Retirement System

The TRS is a state-funded, defined benefit retirement system for professional employees working in Connecticut public schools. It covers employees who (1) hold positions requiring a teaching certificate or permit issued by the State Board of Education, (2) hold the appropriate certification for their position, and (3) are employed at least half-time. It offers normal, proratable, and early retirement after a 10-year vesting period. TRS members are not covered by Social Security for their TRS service, and TRS benefits are not coordinated with Social Security. The TRS is administered by a 12-member Teachers' Retirement Board.

PA 07-229—sHB 7338 (**VETOED**)
Appropriations Committee

AN ACT CONCERNING THE IMPLEMENTATION OF GENERALLY ACCEPTED ACCOUNTING PRINCIPLES (GAAP)

SUMMARY: Starting in FY 09, the act requires the state comptroller, instead of the Governmental Accounting Standards Board (GASB), to prescribe the generally accepted accounting principles (GAAP) that (1) the comptroller can use to prepare and maintain the state's annual financial statements and (2) the Office of Policy and Management (OPM) can use to prepare the annual state budget.

The act also delays the use of GAAP for those purposes from July 1, 2007 to July 1, 2009. The provision has no effect since the act is not effective until the end of the two-year delay. (PA 07-1, June Special Session, corrects this provision by making the two-year delay effective July 1, 2007.)
EFFECTIVE DATE: July 1, 2009

BACKGROUND

Governmental Accounting Standards Board (GASB)

GASB is an independent, private, not-for-profit organization that establishes standards of financial accounting and reporting for state and local governments. Governments and the accounting industry recognize GASB as the official source of GAAP for state and local governments.

Related Act

PA 07-1, June Special Session, also delays GAAP implementation for two years. It makes corresponding two-year delays in requirements that (1) the comptroller and the OPM secretary prepare a conversion plan and submit the plan to the Appropriations Committee and (2) starting on the conversion date, the comptroller establish an opening combined balance sheet for all appropriated funds, with the accrued and unpaid expenses from prior years aggregated and carried as a deferred charge on the state's combined balance sheet and amortized in equal installments in state budgets over 15 fiscal years. The delay provisions of PA 07-1, June Special Session, take effect July 1, 2007.

PA 07-2—sHB 5003
Banks Committee

AN ACT REQUIRING NOTICE OF IMPOSITION OF DORMANCY FEES ON INACTIVE DEPOSIT ACCOUNTS

SUMMARY: This act requires financial institutions that impose dormancy fees on inactive deposit accounts to notify account holders at least 15 days before the institution can impose the fee. The notice must state, in at least 12 point bold-face type, that the account will become inactive and a dormancy fee may be imposed. It must be mailed to the depositors' last-known mailing address. The requirement does not apply to deposit accounts for which the institution sends periodic statements.
EFFECTIVE DATE: October 1, 2007

PA 07-14—HB 7108
Banks Committee

AN ACT PROHIBITING BANK BRANCHING IN CERTAIN RETAIL LOCATIONS

SUMMARY: This act prohibits (1) Connecticut and out-of-state banks from establishing or maintaining a branch and (2) Connecticut banks from establishing or maintaining a limited branch, in this state on the premises or property of their affiliates if the affiliates engage in commercial activities. The banking statutes define an affiliate as any entity controlling, controlled by, or under common control with another entity.

The act defines "commercial activities" as those in which a bank or financial holding company, national bank, or national bank financial subsidiary may not engage under federal law. Generally, the federal Bank Holding Company Act and the National Bank Act limit these entities to financial activities, such as taking deposits, money lending, and securities activities.
EFFECTIVE DATE: Upon passage

PA 07-55—HB 7004
Banks Committee

AN ACT PROMOTING INVESTMENT WITH FEDERAL CREDIT UNIONS

SUMMARY: This act makes certain federal credit unions eligible for funds that the state treasurer may make available under a program to provide funding to community financial institutions. The law allows the treasurer to establish a program under which she may, based on cash availability, make available up to $100 million for investment with community banks and community credit unions. Prior law referenced the "community credit union," definition contained in the community reinvestment statutes, which is a Connecticut credit union with assets between $10 million and $500 million and membership limited to people in a well-defined community, neighborhood, or rural district.

The act changes that definition of community credit union, for the act's purposes, to include federal and state credit unions meeting the same membership limit requirements and $500 million asset maximum as under prior law, but eliminating the $10 million asset minimum. It defines a state credit union in the same way as the law defines a Connecticut credit union, which is as a cooperative, nonprofit financial institution that (1) is organized under the Connecticut banking laws, (2) has a limited membership, (3) operates for the benefit and general welfare of its members, and (4) is governed by a volunteer board of directors elected by and from its membership.
EFFECTIVE DATE: Upon passage

PA 07-72—HB 6979
Banks 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: October 1, 2007

PA 07-91—sSB 1143
Banks Committee
Insurance and Real Estate Committee
Judiciary Committee

AN ACT CONCERNING MORTGAGE, SMALL LOAN AND MONEY TRANSMITTER LICENSEES, MORTGAGE LOANS AND EMERGENCY ORDERS OF THE BANKING COMMISSIONER AND ADOPTING THE UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT

SUMMARY: This act makes a number of changes to banking statutes. Among other things it:

1. authorizes the banking commissioner to, under certain circumstances, require a person to take or refrain from taking actions, in order to effectuate the purposes of the law;

2. consolidates statutes concerning mortgage closings and requires loan proceeds to be paid at loan consummation or when the right of rescission terminates, if one exists;
3. allows the commissioner to adopt regulations and make necessary findings for the conduct of small loan licensees in their association with other businesses and the conduct of those associated businesses, rather than doing so just for the licensee; and
4. makes a number of changes to the money transmitter laws to specify that certain provisions apply to monetary value, rather than just money, and Connecticut payment instruments, rather than all payment instruments.

It also provides guidelines for the management, investment, and expenditure of institutional funds by establishing the Uniform Prudent Management of Institutional Funds Act. The act applies to institutions, which are defined as entities organized and operated exclusively for charitable purposes; government or governmental subdivisions, agencies, or instrumentalities, to the extent that they hold funds exclusively for a charitable purpose; and trusts that had both charitable and noncharitable interests, after all noncharitable interests have terminated. The term “charitable purpose” includes purposes related to relieving poverty, advancing education or religion, promoting health, and other purposes that are communally beneficial.

Finally, the act defines a number of terms and makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2007, except for the provisions on small loan licensees and the commissioner’s authority regarding enforcement activities, which are effective on passage, and the provision on the IOLTA advisory panel which is effective July 1, 2007.

ORIGINATORS

§§ 1 & 4 — Definition

The act makes several changes to the definition of first and second mortgage loan originators. It specifies that the term includes individuals who act on behalf of lenders and brokers, rather than just those employed or retained by those individuals as under prior law. It includes taking a mortgage loan application in the duties that define an originator. Previously, originators only included those that negotiated, solicited, arranged, or found a first mortgage loan. The law specifies that the term does not include officers, partners, members, or sole proprietors of the corporate entity holding the first or second mortgage broker or lender license. The act also excludes individuals who do not engage in any originator activities and whose only responsibilities are clerical and administrative.

§§ 2 & 5 — False or Misleading Statements in Registration Application

The act specifies that a first or second mortgage broker or lender filing an originator registration renewal application with knowledge that it contains a material misstatement by the originator violates the banking law prohibiting false or misleading statements. Prior law applied only to initial applications.

§§ 3 & 6 — MORTGAGE LOAN LICENSE CHANGES

The act requires that, at least 21 calendar days before changing the name or location specified on a first or second mortgage loan license, the licensee file written notice with the banking commissioner on a form satisfactory to the commissioner. For a first mortgage loan license, the licensee must provide a bond rider or endorsement reflecting the changes. Prior law required only prior written notice before a location change. The act allows the licensee to make the change unless the commissioner disapproves in writing or requests further information within the 21-day period.

§§ 8-11 — MONEY TRANSMISSION

The act makes a number of changes to the money transmission statutes. First, it specifies that the definitions of “electronic payment instrument” and “payment instrument” relate to the transmission of monetary value, rather than just money. The term money transmission already includes the transmission of monetary value, which is defined as a medium of exchange, whether or not it is redeemable in money.

The act also specifies that the proceeds of the surety bond that money transmitter licensees must file are for the benefit of any claimant against a licensee in connection with the sale or issuance of payment instruments sold in this state, rather than just payment instruments generally. It specifies that the provision applies to the transmission of monetary value, rather than just money. It also specifies that investments in lieu of a surety bond benefit any claims against a licensee in connection with the transmission of monetary value, rather than just money.

The act specifies that permissible investments that money transmitter licensees must maintain must equal the aggregate amount of its outstanding payment instruments located in this state and stored value. Prior law did not limit the requirement to Connecticut payment instruments.

Finally, the act makes a licensee liable for the failure of its agents or subagents to forward the proceeds of any monetary value, rather than just money, given for transmission.

§§ 12, 38 — REAL ESTATE CLOSINGS

The act requires first and second mortgage loan proceeds to be paid when the loan is consummated or, in the case of a loan where the mortgagor has the right to rescind the transaction within three days under Regulation Z, at the end of this period. Under prior law, proceeds had to be paid when the loan was executed or at the termination of the rescission period. The act allows the lender to pay the loan proceeds to any person specified in the settlement agreement or any written agreement, as well as to the mortgagor or his attorney as allowed under prior law. The law allows funds to be paid by certified bank or cashier's check or by wire transfer.

The act repeals requirements specifically for first and second mortgage loan proceeds paid by wire transfer. Specifically, prior law required these proceeds to be transferred to the bank that holds the mortgagor's attorney's account in a timely manner, but no later than the scheduled time and date of closing or, if there is a right to rescind, by the disbursement date. For second mortgages, the requirement only applied to loans to finance the acquisition or initial construction of the mortgagor's principal dwelling. The law also specifically allowed the commissioner to suspend, revoke, or refuse to renew a license for failure to comply. The commissioner can still take these actions generally for any violation of the banking laws.

§§ 13-26 — BANKING COMMISSIONER'S AUTHORITY

The act specifically authorizes the commissioner to order a summary suspension of a license, in accordance with the law, if he finds that the public health, safety, or welfare imperatively requires emergency action and puts that finding in the required notice.

It also allows him to require a licensee to take or not take certain actions in the interim in order to effectuate the law's purposes, pending proceedings for suspension, revocation, or refusal to renew a license. The act specifically allows the commissioner to take these actions for each type of licensee. It gives the commissioner similar authority with regard to a related person of any Connecticut bank, holding company, credit union, or credit union service organization and registrants under the Connecticut Uniform Securities Act.

The law already allows the commissioner to issue a temporary cease and desist order for any person who is violating, about to violate, or has violated the banking laws after finding that the public welfare requires immediate action and putting this fact in the required notice. The act also allows him, as part of the order, to require that person or entity to take or not take any action that he believes will effectuate the purposes of the law, as part of the order. It gives the commissioner similar authority for cease and desist orders issued against a Connecticut bank, holding company, credit union, or credit union service organization and registrants under the Connecticut Uniform Securities Act.

§ 27 — IOLTA ADVISORY PANEL

The act requires the advisory panel established to oversee the program that uses the interest on lawyers' clients' funds accounts (IOLTA) to report on the program to the Banks Committee, in addition to the Judiciary Committee and chief court administrator as required under prior law. It specifies that the committees or the administrator can request such reporting.

§§ 28–37 — UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT

Management and Investment

In addition to complying with the duty of loyalty imposed by law, the act requires individuals or entities responsible for managing and investing an institutional fund to do so in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. Institutions must also consider, subject to the donor's intent expressed in the gift instrument, the charitable purposes of the institution and the purposes of the fund. The act defines institutional fund, generally, as a fund held by an institution exclusively for charitable purposes.

In managing and investing an institutional fund, the act requires institutions to (1) incur only costs that are appropriate and reasonable in relation to the institution's assets, purposes, and available skills and (2) make a reasonable effort to verify relevant facts. The act allows institutions to pool institutional funds for management and investment purposes.

Additionally, the act requires the institution to consider the following factors in managing and investing an institutional fund (if they are relevant and except as otherwise provided in the gift instrument):

1. general economic conditions;
2. the effect of inflation or deflation;
3. expected tax consequences;

4. the role that each investment or course of action plays within the overall investment portfolio of the fund;
5. the expected total return from the investments;
6. the institution's other resources;
7. the need to make distributions and to preserve capital; and
8. an asset's special relationship or value to the institution's charitable purposes.

The act also sets out a number of other requirements that must apply to an institution, except as otherwise provided in the gift instrument. First, management and investment decisions about an individual asset must be made in the context of the institutional fund's whole portfolio of investments and as a part of an overall investment strategy having risk and return objectives reasonably suited to the fund and institution.

Second, the act allows an institution to invest in any kind of property or type of investment, except as otherwise provided by law, consistent with the standards set by the act. It requires institutions to diversify an institutional fund's investments unless it reasonably determines that the purposes of the fund are better served without diversification because of special circumstances. Within a reasonable time after receiving property, the act requires institutions to make and implement decisions on the retention or disposition of the property or to rebalance a portfolio in order to bring the institutional fund into compliance with the act and the purposes, terms, distribution requirements, and other circumstances of the institution.

Finally, the act specifies that a person who has special skills or expertise, or is selected in reliance on the person's representation that she or he has such skills or expertise, has a duty to use them in managing and investing institutional funds.

Appropriation and Expenditure of Endowment Funds

The act allows an institution to accumulate or appropriate for expenditure an amount from an endowment fund that the institution determines to be prudent for the fund's uses, benefits, purposes, and duration, subject to the donor's intent as expressed in a gift instrument. However, the gift instrument must specifically state any limitation on the authority to appropriate for expenditure or accumulate. The act defines an endowment fund as an institutional fund, or any part thereof, that is not currently wholly expendable by the institution under the terms of a gift instrument. The term does not include an institution's assets that it designates as an endowment fund for its own use.

In making a determination to appropriate or accumulate funds, the institution must act in good faith with the care that an ordinarily prudent person in a like position would exercise under similar circumstances. It must consider, if relevant, the following:

1. the endowment fund's duration and preservation;
2. the purposes of the institution and the endowment fund;
3. general economic conditions;
4. possible effects of inflation or deflation;
5. expected total return from income and the appreciation of investments; and
6. the institution's other resources and investment policy.

The act provides that terms in a gift instrument designating a gift as an endowment or a direction or authorization in the gift instrument to use only "income," "interest," "dividends" or "rents, issues or profits," or "to preserve the principal intact," or similar words (1) create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose and (2) do not otherwise limit the authority to appropriate for expenditure or accumulate as provided in the act.

The act specifies that, unless otherwise stated in the gift instrument, the assets in an endowment fund are considered donor-restricted until the institution appropriates them for expenditure.

External Agents

The act allows an institution to delegate the management and investment of an institutional fund to an external agent, if it could prudently do so and subject to any specific limitation in a gift instrument or in existing law. The act requires institutions to act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, in:

1. selecting an agent;
2. establishing the scope and terms of the delegation, consistent with the purposes of the institution and the institutional fund; and
3. periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

An institution that complies with these requirements is not liable for the decisions or actions of an agent.

An agent owes a duty to the institution to exercise reasonable care to comply with the scope and terms of the delegation and, by accepting such a delegation from an institution, submits to the jurisdiction of the state's courts in all proceedings related to the delegation or performance of the delegated function.

The act also specifies that institutions can delegate management and investment functions to its committees, officers, or employees as authorized by existing law.

Release or Modification of Restrictions

The act allows an institution to release or modify a restriction on the management, investment, or purpose of an institutional fund if it has a record of the donor's consent. However, the fund must still be used for the institution's charitable purposes. The act defines a record as information that is transcribed in a tangible medium that is stored in an electronic or other medium and is retrievable in perceivable form.

Additionally, the act allows a court, upon an institution's application, to modify a management or investment restriction if (1) it becomes impracticable or wasteful or impairs management or investment or (2) a modification will further the purposes of the fund because of circumstances the donor did not anticipate. Modifications must be made in accordance with the donor's probable intention to the extent practicable. Similarly, the act allows a court, upon an institution's application, to modify a fund's purpose or use restriction in a manner consistent with the charitable purposes expressed in the gift instrument if a particular charitable purpose or a restriction becomes unlawful, impracticable, impossible to achieve, or wasteful. In both of these situations, the institution must notify the attorney general, who must be given an opportunity to be heard.

The act states that its provisions should not be construed as amending or altering existing standards for approximation, *cy pres* (next best use), or equitable deviation actions.

Applicability

The act specifies that (1) its requirements apply to institutional funds existing on or established after October 1, 2007 and, for funds existing on that date, govern only decisions or actions occurring after that date; (2) compliance must be determined in light of the facts and circumstances at the time decisions or actions occur; and (3) in applying and construing the act, consideration must be given to the need to promote uniformity among enacting states.

The act specifies that it modifies, limits, and supersedes most of the federal Electronic Signatures in Global and National Commerce Act except for some basic provisions. This federal law was established to facilitate the use of electronic records and signatures in interstate and foreign commerce by ensuring the validity and legal effect of contracts entered into electronically.

BACKGROUND

Uniform Management of Institutional Funds Act

In 1973, Connecticut adopted the Uniform Management of Institutional Funds Act (UMIFA), which this act does not repeal. UMIFA, requires the governing board of a charitable, religious, or educational institution to exercise the same reasonable skill, care, and caution in managing its endowment as a prudent investor would under the Connecticut Prudent Investor Act. An endowment is a fund held by an institution exclusively for its use or benefit that is not wholly expendable by the institution on a current basis under the terms of the gift instrument. A gift instrument is a will, deed, grant, agreement, or other document that transfers property to set up the fund.

UMIFA allows boards to invest funds for total return and hire professional investment counsel and managers. It also sets rules for the appropriation of net appreciations; accumulation of income; investment of funds; delegation of authority; and elimination of obsolete, inappropriate, or impractical restrictions on the fund.

PA 07-111—sSB 1151
Banks Committee
Judiciary Committee
Planning and Development Committee

AN ACT CONCERNING ALIAS TAX WARRANTS AND EXECUTIONS AGAINST DEBTS DUE TO JUDGMENT DEBTORS SERVED UPON FINANCIAL INSTITUTIONS

SUMMARY: This act prohibits tax collectors or serving officers from serving alias tax warrants or executions relating to a single person or business on more than one financial institution at a time. The act also prohibits a collector from serving, or directing others to serve, more than 15 alias tax warrants on one financial institution in the same day without first confirming that the taxpayers have funds in that institution. It sets out the procedures for obtaining this confirmation. Finally, it makes conforming and technical changes.
EFFECTIVE DATE: October 1, 2007

SEQUENTIAL SERVICE OF ALIAS TAX WARRANTS AND OTHER BANK EXECUTIONS

The act prohibits a tax collector or officer from serving alias tax warrants, or copies, relating to one taxpayer on more than one financial institution at a time. The act specifies that the officer or collector cannot

serve the same warrant on another institution until receiving confirmation from the first institution that the taxpayer has no funds available.

For executions in general, the act prohibits officers from serving more than one financial institution execution, or copies, per judgment debtor (natural persons and businesses) at a time. It prohibits officers from serving the same execution on another institution until they receive confirmation from the first institution that there are insufficient funds available to satisfy the judgment. Under the law, officers must serve executions relating to natural persons within seven days of receiving them. Under prior law, officers could make subsequent demands on other institutions without waiting for a response from the first institution.

The tax collector or serving officer can assume the taxpayer does not have funds in the financial institution if the collector or officer does not receive a response from the institution within 20 days of service. In that case, the collector or officer may serve another financial institution. For executions in general, serving officers can take such an action if a response is not received within 25 days.

REQUESTS FOR INFORMATION

Content and Delivery

The act requires a collector or officer who wants to serve more than 15 alias tax warrants on one financial institution on the same day to first confirm that the institution holds funds for the taxpayers. The collector must do so by serving the institution with a request for information on the taxpayers in question. The act prevents collectors and officers from serving these alias tax warrants on an institution unless they have received a response to a request for information from the institution 180 days or less before the date of service. A tax collector or serving officer can submit a request for information even if one is not required. The content, delivery, and financial institution response must be the same as if it were mandatory.

The request must be in writing and include (1) the taxpayers' names and last-known addresses; (2) the address or fax number to which the response can be sent; (3) in the case of a request by fax, the serving officer's name, address, judicial district, badge number, and phone number; and (4) a notice commanding the institution to report the information according to law. The request for information can include up to 250 taxpayers.

It must be (1) delivered or mailed, first class postage prepaid, to an office that the financial institution designates and makes available or (2) faxed, as long as it is sent using the number and to the department or recipient the institution designates.

The act requires financial institutions with offices in the state to designate an office, fax number, and recipient or department for these purposes and make this information available to tax collectors and serving officers (1) upon request and (2) by mailing or delivering it to the State Marshal Commission and to the tax collector in each municipality in which the financial institution has an office. An institution can change this information as long as it mails the updated designations to the tax collectors and the State Marshal Commission at least 15 days before the changes are effective. The act allows tax collectors or serving officers to serve the request for information on any office of the financial institution located in Connecticut if the institution fails to (1) assign the designations or (2) make them available as required.

Response to Request for Information

The act specifically authorizes financial institutions to disclose otherwise confidential financial information in response to a request for information. When the institution receives a request it must respond either (1) that it does not hold any of the taxpayers' money or (2) with a list of the taxpayers' names for which it holds funds. It may also respond that additional information is necessary to make a determination with respect to a particular taxpayer if it is unable to do so based on the information supplied with the request.

If the request for information covers fewer than 100 taxpayers, the institution has five business days after receiving it to mail, deliver, or transmit the response. If the request includes between 100 and 250 names, the institution has 10 days following its receipt to do so. A request that is received after 5 p.m. on any day is considered to be received on the next business day. The act allows the institution to choose, for each name in the request, a specific day within the five- or 10-day limit on which to determine its holdings for that person. It is not responsible for reporting on the presence or absence of such holdings on any other day.

The act prohibits financial institutions from disclosing to a taxpayer listed in a request that the request has been received unless it is otherwise required by law. However, the act does not prevent the disclosure of information that is known to the public or the taxpayer or is otherwise necessary to protect the financial institution's interests.

After a request for information has been served by or on behalf of a particular town, the act prohibits collectors or officers from serving additional requests on its behalf until the financial institution has had the opportunity to respond to the first one.

Liability for Disclosure

As under existing laws for executions in general, the act specifies that financial institutions and their officers, directors, and employees are not liable for (1) any good faith act or omission or (2) errors that occur despite the existence of reasonable procedures to prevent such errors for the purpose of complying with the act's provisions. It also limits the liability of municipalities and their officers, employees and agents, and serving officers on the same grounds.

PA 07-118—sHB 7073
Banks Committee
Judiciary Committee

AN ACT PROTECTING CONSUMERS' PRIVACY IN MORTGAGE APPLICATIONS

SUMMARY: This act prohibits first and second mortgage lenders and brokers from engaging in any unfair or deceptive act or practice, as defined in the act, when soliciting a mortgage secured by residential property in Connecticut if the solicitation is based in any way on a mortgage trigger lead. It makes a violation of its provisions an unfair or deceptive trade practice under the Connecticut Unfair Trade Practices Act (CUTPA).
EFFECTIVE DATE: October 1, 2007

MORTGAGE TRIGGER LEADS

Definition

The act defines a "mortgage trigger lead" as a consumer report that is (1) obtained in accordance with the provisions of the federal Fair Credit Reporting Act (FCRA) governing the issuance of consumer reports when the transaction is not initiated by the consumer and (2) issued as a result of an inquiry to a consumer reporting agency (CRA) in connection with a consumer's credit application. The act excludes from the definition a consumer report obtained by a lender that holds or services the applicant's existing debt.

Unfair or Deceptive Acts or Practices

The act makes it an "unfair or deceptive act or practice" to:

1. fail to clearly and conspicuously state in the initial phase of the solicitation that (a) the solicitor is not affiliated with the lender or broker with which the consumer initially applied and (b) the solicitation is based on information about the consumer purchased from a CRA without the initial lender's or broker's permission or knowledge;
2. fail to comply with FCRA's provisions on pre-screened offers of credit; or
3. knowingly or negligently use information from a mortgage trigger lead to solicit consumers who have, in accordance with FCRA, opted-out of receiving pre-screened offers of credit or who are on the federal or state "Do Not Call" list.

BACKGROUND

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.

Fair Credit Reporting Act (FCRA)

FCRA promotes the accuracy, fairness, and privacy of information in the files of CRAs. It allows CRAs to issue "consumer reports" in a number of circumstances, but contains special provisions for situations where the consumer does not initiate the transaction (i.e., for unsolicited pre-screened offers). Among other things, FCRA prohibits an agency from furnishing a consumer report in connection with any credit or insurance transaction not initiated by the consumer unless:

1. the consumer authorizes it or
2. the transaction consists of a "firm offer" of credit or insurance, the CRA gives consumers an opportunity to be excluded from such pre-screened lists that the agency provides without the consumer's consent, and the consumer has not exercised his right to be excluded.

The law also places disclosure duties on people who use the reports to solicit consumers. They must accompany each written solicitation with a clear and conspicuous statement that:

1. information in the consumer's credit report was used;
2. the consumer received the offer of credit or insurance because he satisfied the criteria for

creditworthiness or insurability under which he was selected;
3. if applicable, the credit or insurance offer may be denied if, after the consumer responds, he does not meet the selection or other applicable criteria or does not furnish any required collateral; and
4. the consumer has a right to prohibit information in his file at the agency from being used in any transaction not initiated by him and can exercise this right by writing to a specific address or calling a toll-free number.

FCRA does not address how the disclosures should be made for telephone solicitations.

PA 07-156—HB 7116
Banks Committee
Insurance and Real Estate Committee
Government Administration and Elections Committee
Finance, Revenue and Bonding Committee
Judiciary Committee

AN ACT ALLOWING PARTICIPATION IN THE NATIONAL MORTGAGE LICENSING SYSTEM

SUMMARY: This act allows the banking commissioner to participate in the national mortgage licensing system. It (1) requires mortgage originators to be licensed rather than registered; (2) allows the system to process mortgage lender, broker, and originator licenses in Connecticut and receive and maintain related records; and (3) makes a number of conforming changes regarding confidentiality, criminal history record checks, and license fees. The act defines the national mortgage licensing system as the system that the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators will implement under a uniform mortgage licensing project. The system is expected to be fully operational by 2008.

The act requires the banking commissioner to submit to the Banks Committee three consecutive annual reports, including financial statements of the State Regulatory Registry, LLC, on the licensing system. Each financial statement must cover a 12-month period. Each report must be submitted within 10 days after the commissioner receives the financial statement.
EFFECTIVE DATE: September 30, 2008

DISCLOSURE OF CONFIDENTIAL RECORDS

The act exempts from the laws concerning the confidentiality of Department of Banking (DOB) records, the disclosure of (1) records maintained with the national mortgage licensing system to any supervisory, government, or law enforcement agency authorized to access those records and (2) a licensee's record to that licensee. Records disclosed to an agency are DOB property and cannot be further disclosed without the commissioner's consent.

The act prohibits anyone from obtaining information from the system that could not otherwise be obtained under state law. It specifies that information obtained from the system is inadmissible in, and cannot be used to initiate, a civil proceeding in Connecticut unless it would otherwise be admissible in the proceeding under state law.

By law, the following records must not be disclosed by the commissioner or any DOB employee, or be subject to public inspection or discovery:

1. examination and investigation reports and information contained therein or derived from them;
2. confidential supervisory or investigative information obtained from a state, federal, or foreign regulatory law enforcement agency; and
3. information obtained, collected, or prepared in connection with examinations, inspections, or investigations, and public complaints received by the DOB, if the records are protected from disclosure under federal or state law or would reasonably lead to the disclosure of certain investigative information, financial information, or information that would harm a person.

The law allows the commissioner to disclose these records for any appropriate supervisory, government, law enforcement, or other public purpose. It also prohibits individuals associated with Connecticut banks or credit unions from disclosing information contained in any examination report that is not a public record without the commissioner's consent.

CRIMINAL BACKGROUND CHECKS

The act allows the commissioner to conduct criminal history record checks before issuing specific licenses. The law allows the commissioner to issue first and second mortgage loan licenses. It requires that license and license renewal applications for these licenses be made on a form provided by the commissioner and specifies the things that must be included in the application, as well as any other information the commissioner may require on the applicant and the applicant's background, and the background of his or her principals and employees.

The act allows the commissioner to conduct a criminal history record check of each first and second mortgage lender, correspondent lender, and broker applicant; each member, partner, officer, or director of the applicant; the person with supervisory authority at the license location; and each originator license applicant. It allows the commissioner to require the

applicant to submit fingerprints of these individuals as part of the application. The application must be filed with the national mortgage licensing system, which must process the fingerprints through the FBI.

FEES AND LICENSING PERIODS

The act eliminates the previous licensing and registration fees for first and second mortgage lenders, correspondent lenders and brokers, and originators. It requires the payment of fees to the national mortgage licensing system, rather than to the commissioner, and on an annual, rather than biennial, basis.

Under prior law, first and second mortgage lenders and correspondent lenders generally paid the commissioner an $800 license fee, brokers paid a fee of $400, and the originator registration fee was $100. The act eliminates these fees and requires the licensees to pay an unspecified amount in licensing and processing fees to the national mortgage licensing system for initial applications and renewals.

Previously, unless the licenses were renewed, they expired at the close of business on September 30 of the even-numbered year following issuance. The originators' registrations expired when the associated license expired. Under the act, all of the licenses, including the originator license, expire on December 31 of the year following issuance unless they are renewed. The act eliminates existing language on the timing of renewal applications and payment of fees with a dishonored check.

The act specifically provides that each secondary mortgage originator license remains in force and effect until it has been surrendered, revoked, suspended, or expires. This language already existed for first mortgage originator registrations. The act makes the conforming change to first mortgage originator licenses.

BACKGROUND

National Mortgage Licensing System

The Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators are developing a national Residential Mortgage Licensing System that will provide uniform licensing applications for residential mortgage lenders and mortgage brokers, as well as a central repository of information about licensing and publicly adjudicated enforcement actions. The National Association of Securities Dealers has been selected to design and operate the system.

The system's basic features will be a central licensing system and repository containing licensing information, enforcement actions, and background data for every participating state-licensed mortgage lender, broker, and branch and loan originator.

The system will be accessible over the Internet, allowing prospective and current licensees to apply for or renew licenses for one or more jurisdictions through a secure website. The system will also collect licensing fees at the time of application or renewal and disburse these to the respective state agencies. The system will only process license applications or renewals. Each state agency will retain its regulatory authority to approve, deny, suspend, or revoke a license.

PA 07-8—SB 1152
Select Committee on Children
Human Services Committee

AN ACT CONCERNING PLACEMENT OF SIBLINGS OF CHILDREN BY THE DEPARTMENT OF CHILDREN AND FAMILIES

SUMMARY: This act increases short-term, unlicensed placement options for foster children. It allows the Department of Children and Families (DCF) to place half- and step-siblings with an unlicensed caregiver who is related to at least one of the children. Prior law required that each child be related to the caregiver. The act also lowers, from 14 to 10, the minimum age for placing children temporarily with unlicensed family friends or other responsible adults who already know the child.
EFFECTIVE DATE: October 1, 2007

BACKGROUND

Unlicensed Foster Homes

State law prohibits DCF from placing children in unlicensed foster homes. But when it is in a child's best interests, it may place him or her for up to 90 days with responsible unlicensed relatives or others with whom the child has a positive relationship. Caregivers must become licensed foster parents if the placement extends beyond 90 days.

PA 07-47—HB 5108
Select Committee on Children
Human Services Committee
Legislative Management Committee

AN ACT CONCERNING REPORTING REQUIREMENTS RELATED TO THE CHILD POVERTY AND PREVENTION COUNCIL

SUMMARY: This act extends reporting responsibilities related to the state's 10-year plan to reduce child poverty by 50% by June 2014. By law, each agency represented on the legislatively-established Child Poverty and Prevention Council whose budget includes poverty prevention programs must report to the council by November 1, 2007 on at least two programs, and describe the performance-based measurements it uses to gauge their effectiveness. The act extends this annual reporting requirement through November 1, 2014. It makes a conforming change to the law requiring the council to file progress reports with the governor's office and legislative committees each January.

It also extends, from FY 08 through FY 21, the requirement that the governor's biennial budget document include a (1) prevention report and recommended agency appropriations for prevention services and (2) report on the state's progress in meeting the goal that, by 2020, at least 10% of total recommended appropriations for each budgeted agency be allocated for prevention services.
EFFECTIVE DATE: October 1, 2007

AFFECTED STATE AGENCIES

The budgeted agencies represented on the council are the:

1. Chief Court Administrator, Child Advocate, and Policy and Management offices;
2. Children and Families, Correction, Education, Economic and Community Development, Higher Education and Employment Advancement, Labor, Mental Health and Addiction Services, Mental Retardation, Public Health, Social Services, and Transportation departments; and
3. Children's Trust Fund.

BACKGROUND

Child Poverty and Prevention Council

The 21-member council is composed of legislative and executive branch appointees. Among other things, it monitors state prevention programs and the extent to which the state's actions conform to the legislative goal of reducing poverty by 50% by June 2014. It must also consult with experts and service providers and make budget priority recommendations.

Prevention Services and Programs

Prevention services are policies and programs that promote healthy, safe, and productive lives. Their purposes include reducing crime, violence, substance abuse, illness, academic failure, and other socially destructive behavior.

PA 07-147—sSB 977
Select Committee on Children
Education Committee
Appropriations Committee

AN ACT CONCERNING RESTRAINTS AND SECLUSION IN PUBLIC SCHOOLS

SUMMARY: This act regulates the use of physical restraints and seclusion on students receiving or

awaiting eligibility determinations for special education services in public schools. It (1) gives the State Board of Education (SBE) authority over their use as part of its existing mandate to regulate special education curriculum and instructional conditions and (2) requires the SBE to adopt implementing regulations.

Existing law regulates the use of these techniques on people receiving direct care and educational services from regional educational service centers; private institutions and facilities that provide special education under contract with school boards; the departments of Children and Families, Mental Health and Addiction Services, Mental Retardation, and Public Health; and entities they license or supervise. It excludes nursing homes and Department of Correction (DOC) facilities.

The act requires local and regional boards of education to tell pupils, parents, guardians, and others standing in the place of parents about:

1. the laws and regulations governing the use of physical restraints and seclusion and
2. related student and parental rights.

This must occur at the first planning and placement team meeting (PPT) involving the student's individual educational program (IEP).

The act also creates reporting procedures.

EFFECTIVE DATE: October 1, 2007

PHYSICAL RESTRAINTS AND SECLUSION

Physical Restraints

With some exceptions, the law defines "physical restraints" as any mechanical or personal restriction that immobilizes or reduces the free movement of a person's arms, legs, or head. The act excludes helmets, mitts, and similar devices used to prevent special education students from hurting themselves if their use is documented in their IEPs.

Seclusion

With some exceptions, the law defines "seclusion" as the confinement of a person in a room, whether alone or with staff supervision, in a manner that prevents the person from leaving. The law permits involuntary seclusion (1) in accordance with a student's IEP or (2) in an emergency to prevent immediate or imminent injury to the person or others, so long as it is the least restrictive alternative.

REPORTING REQUIREMENTS

Local and Regional School Boards

Existing law requires institutions and facilities (other than nursing homes and DOC facilities) to report injuries caused by the use of restraints and seclusion to the state agency that supervises or has jurisdiction over them. Agencies, in turn, must review the reports when considering contract and license renewals. The act extends the reporting and review requirements to local and regional school boards and the State Department of Education, respectively. It allows the boards and institutions and facilities that provide special education to report these incidents to the SBE.

The act also requires local and regional school boards, institutions, and facilities to notify a special education student's parent or guardian of each incident in which the child was placed in physical restraints or seclusion. The boards also must keep records and compile annual reports of each instance and the nature of the underlying emergency that necessitated their use.

State Board of Education

The act requires the SBE to notify the child advocate and director of the Office of Protection and Advocacy for Persons with Disabilities when it receives a report involving a serious injury or death. The law authorizes these agencies to conduct investigations and issue written reports.

The act also permits the SBE to (1) review schools', facilities', and institutions' annual reports on the use of physical restraints and seclusion and (2) produce yearly summaries indicating how often these techniques were used on special education students.

BACKGROUND

Special Education Law

State and federal laws require local and regional boards of education to identify students who need, or may be eligible for, special education services and to provide free, appropriate services in the least restrictive environment. They must hold PPTs to develop IEPs for each eligible child. They must also hold PPTs whenever they propose to modify or terminate a student's IEP.

Students, parents, guardians, and surrogate parents and their chosen representatives may attend and participate in each of these meetings and challenge the appropriateness of the recommended services.

PA 07-174—sHB 7037
Select Committee on Children
Human Services Committee
Appropriations Committee

AN ACT EXPANDING THE SUBSIDIZED GUARDIANSHIP PROGRAM TO SIBLINGS OF CHILDREN LIVING WITH RELATIVE CAREGIVERS, AND THE RIGHT OF FOSTER

PARENTS, PROSPECTIVE ADOPTIVE PARENTS AND RELATIVE CAREGIVERS TO BE HEARD IN CERTAIN LEGAL PROCEEDINGS

SUMMARY: This act makes more guardians eligible for cash and medical assistance through the Department of Children and Families' (DCF) Subsidized Guardianship Program. The program was previously restricted to relatives taking care of children whose parents were either dead or unlikely to be able to care for them within the foreseeable future. Under the act, caregivers qualify for additional subsidies when they assume guardianship of the child's half- or step-siblings to whom they are not related.

Under existing law, DCF's Kinship Navigator Program must provide relative caregivers with information about state services and benefits for which they may be eligible. The act specifies that the program is for relatives taking care of children under age 18.

The act also gives foster parents, prospective adoptive parents, and relative caregivers the right to be heard at all proceedings concerning an abused or neglected child they are caring for or who was under their care in the last year. Prior law gave only some foster parents the right to be heard in some types of proceedings.

EFFECTIVE DATE: October 1, 2007

SUBSIDIZED GUARDIANSHIP

By law, the Subsidized Guardianship Program subsidizes DCF-approved relatives who have (1) foster care licenses, (2) been taking care of the child for at least six months, and (3) a probate court order naming them the child's guardian. The subsidy includes (1) a one-time payment of up to $500 for expenses associated with taking the child in, unless the costs can be paid from another source; (2) HUSKY A medical insurance, unless the child has private coverage; and (3) monthly cash payments that equal the prevailing foster care rate.

The act provides the same subsidy for each additional step- and half-sibling. By law, subsidies generally end on the child's 18th birthday, but continue through age 20 when he or she is enrolled full-time in college, technical school, or a state-accredited job training program.

Prior law required DCF to provide the subsidy after the child had been living in an approved household for at least 18 months, but permitted subsidies, within appropriations, after six months. The act requires that approved caregivers become eligible for subsidies after six months, but retains the limitation that subsidies for care given between six and 18 months be made within the department's available appropriations.

PARTICIPATING IN ABUSE AND NEGLECT HEARINGS

Prior law required courts to notify a child's foster parents about scheduled hearings concerning DCF's permanency plan or commitment revocations and required that they be given an opportunity to be heard. It also required courts to permit former foster parents to be heard on these matters and on requests to change the child's placement if they had cared for the child in the last year, so long as the child lived with them for at least six months.

The act extends the notice and hearing requirements to prospective adoptive parents and relative caregivers. It modifies the restriction on recent foster parents, eliminating the requirement that the child have lived with them for at least six months. It permits recent prospective adoptive parents and relative caregivers to be heard in the same manner.

PA 07-203—sSB 761
Select Committee on Children
Human Services Committee
Appropriations Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING REIMBURSEMENT FOR PAYMENTS MADE BY THE DEPARTMENT OF CHILDREN AND FAMILIES FOR THE CARE OF A CHILD

SUMMARY: The law authorizes the Department of Children and Families (DCF) or the Department of Administrative Services, acting on DCF's behalf, to bill and collect up to the full cost of care for children in the state's child welfare program. The departments can bill the child's legally liable relatives (e.g., parents), the child, or both.

The act prohibits them from billing a deceased recipient's estate. It also prohibits collections from a recipient's (1) lawsuit and lottery proceeds; (2) inheritance; or (3) trust payments, other than those from specified Medicaid trusts.

EFFECTIVE DATE: Upon passage

PA 07-10—SB 1261
Commerce Committee

AN ACT CONCERNING PUBLIC INVESTMENT COMMUNITIES

SUMMARY: By law, the Office of Policy and Management (OPM) prepares an annual index used to designate the state's most fiscally distressed towns (i.e., public investment communities (PICs)). The designation originally qualified these towns for multi-purpose grants under a 1992 economic development program that was funded only once in 1993. But now, the legislature also uses the PIC designation as an eligibility criterion for several other programs.

This act eliminates the original grant and requires OPM to prepare the index using more recent demographic data. Instead of using data from three fiscal years before OPM awarded the original grant (i.e., FY 90), the act requires OPM to use data from two fiscal years before it calculates the index (e.g., FY 05 for the 2007 index).

It also (1) requires OPM to adjust a town's population estimate if more than 40% of its population resides in a state or federal institution and (2) provides a five-year grace period for towns that no longer meet the designation criteria, allowing them to remain eligible for grants under other programs.

EFFECTIVE DATE: July 1, 2007, except for the provision repealing the original PIC program, which takes effect upon passage.

POPULATION ESTIMATES

The act requires OPM to adjust a town's population estimate if more than 40% of its population resides in a state or federal institution. These people include those who are incarcerated or in custodial situations, including jails or prisons; hospitals or training schools; school, college, or university dormitories; or military bases. OPM must subtract the number of people residing in these institutions from the town's population estimate.

MAINTAINING PIC DESIGNATION

By law, OPM annually designates as PICs the 42 towns in the top quartile in a ranking of all towns from the most to least distressed. A town's rank can change from year to year. Consequently, a town's rank can fall below 42, causing it to lose its PIC designation, while another town's rank rises to or above that number.

Under the act, a town whose rank drops below 42 retains its PIC designation for five fiscal years without affecting the ranks of the other towns. Under prior law, these towns kept the PIC designation only for the original PIC grants. In practice, OPM maintained designations for five years, which allowed the towns and their residents and businesses to qualify for funds under other programs.

BACKGROUND

Preparing the PIC Index

By law, OPM prepares the annual PIC index by ranking towns based on residents' income, tax base and tax rates, share of residents who are unemployed, and share who receive temporary family assistance. It must use U.S. Census estimates of town population and per capita income.

Programs Using the PIC Designation as an Eligibility Criterion

Table 1 below lists and describes the programs using the PIC designation as an eligibility criterion and explains how it benefits PIC towns, their residents, or businesses located in these towns.

Table 1: Programs Using the PIC Designation

Program	*Citation*	*Description*	*Benefit to Town*
Urban Action Bonds	§4-66c	Funds for physical development projects based on project or town criteria.	Eligibility limited to projects in PICs, distressed municipalities, and state designated urban centers.
Community Economic Development Program	§8-240k-8-240n	Funds for small businesses and community projects creating jobs or physically improving distressed neighborhoods.	70% of funds must go to projects in PICs and targeted investment communities (i.e., the 17 towns with enterprise zones).
Residential Mortgage Guarantee Program	§8-286	Loans to cover down payments on home mortgage loans financed by the Connecticut Housing Finance Authority.	Eligibility limited to people purchasing homes in PICs.
Malpractice Insurance Purchase Program	§ 19a-17m	Funds malpractice liability insurance for eligible health care professionals.	Eligibility limited to professionals providing services at community health care centers and other eligible sites in PICs.

Program	Citation	Description	Benefit to Town
Enterprise Corridor Zone Program	§ 32-80	State-reimbursed property tax exemptions and corporate business tax credits for eligible businesses building or expanding facilities and creating jobs in state-approved zones.	Eligibility for zones limited to groups of two or more contiguous towns that are PICs and distressed municipalities with fewer than 40,000 people. At least half of the towns must be located along the same major highway.

PA 07-64—sSB 1263
Commerce Committee
Energy and Technology Committee
General Law Committee

AN ACT CONCERNING THE CONSOLIDATION OF ENERGY CONSERVATION LOAN PROGRAM STATUTES

SUMMARY: The act increases the income threshold for receiving lower interest rates on loans from the Energy Conservation Loan Fund (ECLF). It also eliminates one of two largely duplicative statutes governing the ECLF program, thereby resolving conflicts between the two laws and clarifying loan terms and administrative procedures. It incorporates the higher loan limits for multifamily residences with more than four units and the stricter electric heating conversion loan requirements of the repealed statute into the one it retains. Finally, it eliminates the duplicative energy conservation revolving loan account. (The act appears to cover only loans made with state general obligation bonds authorized before July 1, 1992.)

EFFECTIVE DATE: October 1, 2007

INTEREST RATES

The ECLF provides low-cost loans for specified energy conservation improvements for single- and multi-unit residences. For loans for one-to-four unit residences, the State Bond Commission must establish interest rates ranging from zero to 1% above the interest rate on the state's most recently issued general obligation bonds. The interest rate on a loan depends on the borrower's household income. Borrowers with incomes over a statutory income threshold pay the highest rate.

For ECLF loans for one-to-four unit dwellings, the act increases the income threshold at which the highest interest rate applies from 115% to 150% of median area income by household size. Because only borrowers with household incomes at or below the 150% income threshold are eligible for the loans, the act applies the program's maximum interest rate only to those whose incomes are 150% of median area income rather than to all whose incomes are between 115% and 150%. (For FY 08, PA 07-242 establishes a maximum interest rate of 3% for all loans.)

ECLF LOAN LIMITS

In addition to loans for one-to-four unit residences, the ECLF also provides low-cost and deferred repayment loans and loan guarantees for residential buildings with more than four units. Prior laws governing the ECLF program had different loan and loan guarantee limits. The act resolves the conflicting provisions by incorporating higher loan limits from the repealed statute (CGS § 32-317) into the remaining law (CGS § 16a-40b), as shown in Table 1.

Table 1: ECLF Loan Limits

Limits	Prior Laws		Act
	§ 16a-40b	§ 32-317	
Loan for 1-4 unit residences	$6,000	$15,000	$15,000*
Per-unit loan for building with more than 4 units	1,000	2,000	2,000
Overall loan for building with more than 4 units	30,000	60,000	60,000
Per-unit loan guarantee for building with more than 4 units but not more than 30 units	1,500	3,000	3,000

(*PA 07-242 increases the maximum loan for a one-to-four unit residence to $25,000, effective July 1, 2007.)

ELECTRIC HEATING SYSTEM CONVERSIONS

The ECLF provides loans for converting heating systems or installing secondary heating systems in one-to-four unit residences built before January 1, 1980 that use electric heat as their primary heating source. The act adopts a requirement in one of the prior statutes that such loans be used only for high-efficiency systems and eliminates the other statute's less restrictive standard that required only that the replacement or secondary system be one that uses a source of heat other than electricity.

ENERGY CONSERVATION REVOLVING LOAN ACCOUNT

The act eliminates the account, which, under prior law, was used for making ECLF loans and loan guarantees and paying the Department of Economic and Community Development's (DECD) administrative expenses. The account was funded by any excess of loan repayments and annual utility assessments that remained after covering the state's debt service payments on outstanding bonds issued for the program and DECD's administrative expenses. The act instead directs this money to the ECLF, which, under both prior law and the act, is also used for making the loans and loan guarantees and paying DECD's program-related expenses.

BACKGROUND

Energy Conservation Loans

Under prior law and the act, ECLF borrowers can use loan funds to buy or install energy conservation material, insulation, replacement furnaces and boilers, and alternative energy devices in a residential structure. Alternative energy devices are woodstoves or solar, wood, wind, water, or geothermal systems for space heating, water heating, cooling, or electricity generation. A residential structure is a building that uses at least two-thirds of its square footage as dwellings (CGS § 16a-40).

Related Act

For FY 08, PA 07-242 lowers the interest rate for loans for one-to-four-unit residences under the program to a maximum of 3% and includes siding and replacement roof projects in the interest rate reduction. That act also increases the maximum loan for such a residence to $25,000.

PA 07-171—sSB 1266
Commerce Committee
Legislative Management Committee

AN ACT CONCERNING DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT REPORTING REQUIREMENTS

SUMMARY: This act consolidates all annual program reports the General Assembly requires from the Department of Economic and Community Development (DECD) into the department's annual report. DECD's annual report must be filed with the governor and General Assembly by February 1 each year and posted on the department's website within 30 days thereafter. It does not change the information that DECD must include in the reports.

The act retains a requirement that Connecticut Development Authority (CDA) and the Connecticut Innovations, Inc. (CII) report to the Commerce Committee, by August 1 annually, on the amount of bond funds they spend on the state's economic clusters.

The act also makes several technical changes.

EFFECTIVE DATE: October 1, 2007

REPORTING DATES

The act specifically requires DECD to include the following separate annual reports in its February 1 annual report:

1. the amount of bond funds it spent in the previous fiscal year on each of the state's economic clusters, which DECD was formerly required to file by August 1 (CDA and CII must still file their reports on this topic by that date);
2. a summary of its efforts on the dry cleaning grant program, formerly filed on or after February 1;
3. in consultation with the Connecticut Housing Finance Authority (CHFA), an assessment of current and future needs for rental assistance for state-assisted housing projects for the elderly and disabled, formerly filed by April 1; and
4. information on the Housing Trust Fund and the Housing Trust Fund Program, formerly filed annually but not by any set date.

REPORT INFORMATION

Dry Cleaning Grant Program

The program provides grants to eligible dry cleaning businesses to prevent, contain, and remediate pollution from hazardous chemicals the businesses use. It is funded by a 1% surcharge on each dry cleaning business' gross receipts from retail dry cleaning services.

The act continues to require the DECD commissioner's annual report on the program to include (1) the number of grant applications received and the applicants' names; (2) the number and amounts of grants made since the program began; (3) the elapsed time between an application and a grant decision; (4) which applications were approved and which were denied, along with the reasons for any denials; and (5) a recommendation on whether the surcharge grant program should continue.

Prior law required DECD to submit the report to the Environment Committee. The act requires DECD to

include it in its annual report to the full General Assembly.

Housing Trust Fund Program

This program seeks to expand affordable housing for low- and moderate-income people. It is funded by four annual bond authorizations of $20 million each, to be deposited in the Housing Trust Fund.

Under the act, DECD's overall annual report must continue to provide information on (1) activities for the prior fiscal year for both the Housing Trust Fund and the Housing Trust Fund Program and (2) DECD's efforts to obtain private support for the fund and the program. The act eliminates a requirement that copies of the report be filed with the chairpersons and ranking members of the Select Committee on Housing.

PA 07-220—sSB 1277
Commerce Committee
Government Administration and Elections Committee

AN ACT CONCERNING TOURISM DISTRICT REPRESENTATION AND THE CONNECTICUT MUSIC HALL OF FAME

SUMMARY: This act (1) allows members of regional tourism district boards of directors to serve on the Connecticut Commission on Culture and Tourism (CCCT) and (2) requires the seven appointed CCCT members representing tourism to have both knowledge and experience in the tourism industry.

The act also establishes a six-member Connecticut Music Hall of Fame Committee to develop a plan to create and operate a hall of fame to recognize Connecticut residents distinguished in the music field. It allows the committee to solicit and receive financial and in-kind contributions and other valuable items from any source for the music hall of fame.
EFFECTIVE DATE: Upon passage

CCCT TOURISM MEMBER QUALIFICATIONS

The CCCT has authority over state activities relating to the humanities, history, art, film and digital media, and tourism. It has 35 voting members appointed by the governor and legislative leaders.

The act tightens the required qualifications for commission appointees representing tourism. Under prior law, the governor and legislative leaders each had to appoint one member who has knowledge, experience, or an interest in tourism. The act instead requires these appointees to have knowledge and experience in the tourism industry.

CONNECTICUT MUSIC HALL OF FAME COMMITTEE

Members

Each of the committee's six members is appointed by one of the six top legislative leaders. The leaders must make their appointments within 30 days after the act's passage. Appointing authorities fill any vacancies. The House speaker and the Senate president pro tempore must select the committee chairperson from among the members. The chairperson must schedule, and the committee must hold, its first meeting within 60 days of the act's passage.

Plan

The act requires the hall of fame plan to include a recommended location, criteria for hall of fame members, and rules for operating the hall of fame. The committee must submit a report on the plan to the Commerce Committee by February 1, 2008.

PA 07-233—sHB 7369
Commerce Committee
Appropriations Committee
Finance, Revenue and Bonding Committee

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE BROWNFIELDS TASK FORCE

SUMMARY: This act expands the state's capacity to clean up and redevelop contaminated property (i.e., brownfields). It establishes a new program to finance these activities and authorizes the Department of Economic and Community Development (DECD) to administer it. It allows the Connecticut Development Authority (CDA) to guarantee bank loans and issue bonds on behalf of towns for redeveloping brownfields. The act allows tax assessors to reduce the value of contaminated business property when owners agree to remediate it.

The act gives property owners more latitude when voluntarily cleaning up contaminated properties. It expands the role of licensed environmental professionals (LEPs) in overseeing that process and specifies procedures for documenting, verifying, and auditing their work. The act also broadens the conditions under which the Department of Environmental Protection (DEP) commissioner can enter into covenants not to sue with parties that agree to remediate contaminated sites according to DEP standards. It also makes it easier for state agencies to develop contaminated property in floodplains.

The act establishes a pilot program for identifying brownfields in areas where the Office of Policy and Management (OPM) secretary recommends targeting state development dollars. It reestablishes the Brownfields Task Force and requires it to recommend additional brownfield remediation options to the legislature by February 1, 2008.

The act expands Office of Brownfield Remediation and Development's (OBRD) duties and makes it a unit of DECD. It also increases the number of towns OBRD must select for the Brownfields Pilot Program from four to five.

EFFECTIVE DATE: July 1, 2007

FINANCIAL ASSISTANCE PROGRAMS

New Brownfield Remediation and Development Program

§§ 3 & 4 — Purpose. The act establishes a program to provide financing for assessing, remediating, and developing contaminated land and structures. This property includes subterranean or subsurface rights and all easements, air rights, and franchises. The program is open to towns, local and regional nonprofit economic development organizations acting on a town's behalf, and for-profit and nonprofit organizations. These entities qualify for funding when proposing a project separately or together.

An abandoned or underused property qualifies for financing if it has not been redeveloped and reused because it is contaminated or potentially contaminated. The contamination could be in the groundwater, soil, or buildings and must be investigated, assessed, and cleaned up while the property is being restored, redeveloped, or reused or before these activities can occur.

The DECD commissioner, in consultation with the DEP commissioner, can provide different types of financing for investigating and cleaning the property. The DECD commissioner can provide grants, loans, loan guarantees, and credit extensions. She can also purchase a portion of a loan CDA made for redeveloping a remediated property. In these cases, CDA can apply for this type of financing on the applicant's behalf. The commissioner can also combine these different types of financing in one package.

§§ 6 & 7 — Funding Sources. The act taps several existing sources to fund the program. It requires the money taken from them to be deposited in a separate, nonlapsing "Brownfield Remediation and Development Account," which the act establishes in the General Fund for this purpose. The funding sources are:

1. Urban Act bonds issued for economic development programs and earmarked by the governor and the State Bond Commission for the program;
2. principal and interest payments on loans made under the existing Special Contaminated Property Remediation and Insurance Fund, which provides loans for assessing and demolishing contaminated properties; and
3. money the attorney general recovers from the parties that polluted the properties being cleaned up under the program (see below).

The act also requires money from other potential sources to be deposited in the account. These include the proceeds from any state bonds issued specifically for the program and, if the OPM secretary approves, any federal or private dollars provided for a project being assisted under the program. Principal and interest payments on loans made under the program must be credited to the fund as well as the interest and income it generates.

§ 5(d) — Eligible Costs. Developers can use the financing to cover a wide range of tasks, including:

1. investigating and assessing contaminated sites;
2. planning and engineering, including paying for architects, appraisals, attorneys' fees, feasibility and market studies, environmental consultants, laboratory analyses, investigatory and remedial contractors, and related activities;
3. acquiring and improving sites;
4. demolishing structures, abating asbestos, removing hazardous waste and polychlorinated biphenyl (PCBs), and remediating related infrastructure;
5. cleaning the land and monitoring the groundwater, including natural attenuation groundwater monitoring, and the filing of environmental land use restrictions;
6. purchasing environmental insurance; and
7. covering other reasonable costs the DECD commissioner deems necessary to start, implement, and complete the clean-up.

The act limits the total amount of financing for acquiring a site to its appraised fair market value if it were uncontaminated.

DECD can finance the eligible tasks by itself or in conjunction with CDA. It can do this by purchasing a portion of a loan CDA made to a developer for any of these tasks.

§ 5(a), (b), (c), & (d) — Applying for Funds. An eligible applicant must apply to the commissioner for financing on forms she must provide. In doing so, the applicant must describe:

1. the proposed project and its potential benefits;
2. the applicant's technical and financial capacity to undertake it; and
3. the site's condition, including the findings of any environmental assessment conducted on the site and the budget for remediating it.

The applicant must also list the names of the people known to be responsible for cleaning up the property and provide any additional information the commissioner requires.

The commissioner may also provide financing to a developer who also applied for CDA financing. CDA may submit an application to her on the developer's behalf, providing all the information developers must provide when applying directly to the commissioner. In these cases, the commissioner cannot require the developer to submit an additional application.

The commissioner must review each application and decide whether to approve, disapprove, or modify it. If she decides to fund the project, she must determine the type and amount of funding based on:

1. the funds available;
2. the estimated assessment and cleanup costs, if known;
3. the town's relative economic condition;
4. the project's need for financing relative to that of other projects;
5. the extent to which the financing is needed to induce the applicant to undertake the project;
6. the project's environmental and public health benefits;
7. the project's relative economic benefits to the town, region, and the state;
8. when the site became contaminated;
9. the applicant's relationship to the party that contaminated the site; and
10. other criteria the commissioner establishes, which must be consistent with the program's purpose.

The act bases the maximum amount of financing the commissioner can provide on the project's location. She can finance up to 90% of the cost for projects located in the 17 targeted investment communities and up to 50% of the costs for projects in the other towns. The commissioner can finance up to 90% of the costs for planning studies or site assessments, regardless of the project's location. The developer can match the commissioner's financing with real property and other noncash contributions or money a town received under any federal program if federal law allows it.

§ 5(e) — Terms and Conditions. The act authorizes the commissioner to attach any terms and conditions she deems necessary to achieve its purposes. These include stipulations requiring the applicant to:

1. discharge his or her obligations regarding the project and
2. provide DECD with letters of credit; liens; security interest in goods, equipment, inventory, or other property; or other appropriate security.

§ 5(g) — DEP Cost Recovery. The law allows the DEP commissioner to recover money she spent to contain, remove, or mitigate pollution on property included in the hazardous waste disposal site inventory. The act also allows her to do this with respect to property that is subsequently assessed and remediated under the program. She can recover the money from anyone who contaminated the property by asking the attorney general to bring a civil action against that person. He must do this in conjunction with action the commissioner took to address the contamination.

In bringing the civil action, the act specifically allows the attorney general to seek reimbursement for:

1. the actual cost to identify, evaluate, plan for, or remediate a site;
2. the interest on the actual costs at 10% per year from when they were paid;
3. any associated administrative costs DEP incurred up to 10% of the actual costs; and
4. the cost of recovering the reimbursement.

The act prohibits a defendant in these actions from suing anyone who is party to a DEP covenant-not-sue with respect to the pollution on or coming from the site. (Under these covenants, the party that cleaned the site according to DEP standards does not have to clean it again if more pollution is subsequently found on the site.)

As noted above, any funds DEP recovers from these actions must go into the account.

§§ 13 & 14 — CDA Programs

The act allows CDA to establish a program specifically for guaranteeing loans banks make for investigating and remediating contaminated sites. The guarantees may cover up to 30% of the loan amount. A borrower qualifies for a guarantee if he or she qualifies for financing under the Brownfield Remediation and Development Program.

The act expands the range of brownfield remediation projects CDA can finance with bonds it issues on towns' behalf. Prior law allowed CDA to issue these bonds only for projects that would clean up and redevelop sites for business uses. A project qualified if it created jobs or increased business in the town or strengthened its and the state's economic base. The act allows CDA to issue bonds for cleaning up sites to be developed as condominiums, including those that are part of a mixed use development.

§ 11 — Property Tax Assessment

The act specifies when property tax assessors may reduce the fair market value of contaminated business property. The law prohibits them from doing so to reflect the contamination's effects. (Because the law requires towns to tax all property at 70% of its fair market value, reducing that value correspondingly reduces property's assessed value or the value at which it is taxed.)

The ban against reducing the fair market value of contaminated property applies when the federal and state environmental protection agencies or a court determines the owner caused the contamination. It also continues after the owner sells the property if its condition was noted in the land records. Under the act, assessors may reduce the value if the owner or his successor in title:

1. volunteers to remediate it under an agreement with DEP,
2. plans to do so under a DEP-approved remediation plan, and
3. files the agreement in the town's land records.

Assessors may increase the fair market value after the property has been remediated to reflect this new condition.

REGULATORY ASSISTANCE

§ 10 — Licensed Environmental Professionals (LEPs)

The act expands the role of LEPs in certifying a property's environmental status before it is sold or transferred. By law, the parties involved in the transaction must report on the property's status to the DEP commissioner if hazardous waste was generated there. They must do so by completing one of four forms depending on the status.

1. The parties must complete a Form I if no hazardous wastes or substances were released on the property or, if there was, the property was remediated according to DEP standards.
2. They must complete a Form II if hazardous wastes or substances were released but were subsequently cleaned up. The clean up must have been approved by the commissioner or an LEP.
3. The parties must complete a Form III if the status is unknown or the property is contaminated.
4. They must complete a Form IV if the contamination reported on a Form III was remediated.

Forms III and IV must identify the party responsible for investigating and remediating the property (i.e., certifying party).

Under prior law, the commissioner had to decide whether she would review and approve the property's remediation or allow an LEP to do so based on statutory criteria. She had to notify the certifying party about her decision within 45 days after she received a completed Form III or IV. The act instead requires the certifying party to use an LEP unless the commissioner notifies it within 75 days after receiving the completed form that she will review and approve the remediation.

The act expands the LEP's duties regarding properties for which a Form III was submitted before October 1, 1995. In these cases, the law allows the certifying party to submit an Environmental Condition Assessment Form (ECAF), which must be prepared by an LEP. As its name suggests, the form describes the property's environmental state. The certifying party may submit the ECAF with a Form III or IV.

After receiving the ECAF, the commissioner may choose to approve the remediation herself or allow an LEP to verify that it was done according to remediation standards. The act requires the LEP to verify that property was also investigated according to prevailing standards and guidelines.

§ 10 — Documentation and Verification

By law, the commissioner may allow a certifying party to a Form III or IV to verify that the property was properly investigated and its remediation started instead of reviewing and approving these actions herself. She notifies the party about whether it can complete these tasks when she receives a completed Form III or IV. If the commissioner allows the party to verify the tasks, the act requires the party to document as well as verify that they were completed.

If the commissioner allows an LEP to verify a property's remediation, the law requires the certifying party to submit a schedule to the commissioner for completing the investigation and starting the remediation. The schedule must also indicate when the party will notify the public about the remediation, which it must do before starting this work.

The act changes the timeframe for submitting the schedule. Under prior law, the party had to submit the schedule within 30 days after the commissioner notified it that it could use an LEP to verify the remediation. Under the act, the party must submit the schedule within 75 days after she notified it that the Form III or IV was complete.

The act makes a corresponding change to the timeframe for completing the investigation and starting the remediation. Under prior law, the certifying party had to complete the investigation within two years after the commissioner notified it that it could use an LEP to verify the remediation and begin the remediation within three years of that notice. The act imposes this

timeframe on the certifying party for submitting documentation that the investigation was completed and the remediation started.

Additionally, the act requires the commissioner to provide the forms for submitting the documentation. The documentation regarding the investigation must show that it was completed according to prevailing standards and guidelines. It must also be approved by an LEP in writing. The documentation for the remediation must be accompanied by a plan for cleaning up the property. The commissioner must provide a form for preparing the plan, which must be approved in writing by an LEP.

Even if the commissioner allows the certifying party to verify the property's investigation and remediation, the law allows her to review and approve this work. The act specifically allows her to do this at any time in the process. As under prior law, the commissioner must notify the certifying party whenever she decides to review and approve the remediation.

After the property has been cleaned up, the law requires the certifying party to verify that fact by submitting a "final verification" to the commissioner. An LEP must prepare the verification even if the commissioner decided to review and approve the remediation. The act requires the LEP to prepare the verification on a form the commissioner prescribes.

§ 10 — Verification Audits

The act explicitly authorizes the commissioner to audit any verification, but limits the circumstances when she can audit a final verification. She can audit a verification without conditions three years after receiving the final verification. This deadline applies to verifications she receives after October 1, 2007.

She may audit these verifications three years after they were submitted only if she:

1. determines that the verification was based on materially inaccurate, erroneous, or misleading information or that misrepresentations were made when the verification was submitted to her;
2. orders the certifying party to submit a final verification for improperly filing a Form I or II or failing to complete remediation or post remediation monitoring under a Form III or IV;
3. determines that the certifying party has not monitored or operated the property as the final verification requires;
4. learns that a required environmental land use restriction was not recorded in the town's land records as the law requires;
5. discovers that the property was transferred without completing the required forms; or
6. determines that information exists showing that the clean-up may have failed to prevent a substantial threat to the public health and environment.

The commissioner may request additional information when auditing a verification. The certifying party must provide the information within 90 days of her request or the date she sets in writing. If the party fails to meet the submission deadline, the commissioner may suspend the audit or complete it based on the information that was previously provided. If the commissioner suspends an audit of a final verification, she also stops the three-year clock for completing that audit. The clock resumes after the certifying party submits the requested information.

The commissioner must submit her audit findings to the certifying party and the LEP.

§ 12 —Covenants Not to Sue

Investigation Plan and Remediation Schedule. The act broadens the conditions under which the commissioner may enter into a covenant-not-to-sue (CNS). CNSs implicitly recognize that investigative methods and remediation techniques are not full proof, that they cannot identify and remove all of the contamination in a property. If a party investigates and remediates the property according to state standards and then finds more contamination, the CNS generally exempts the party from having to remediate it. The party could be the property's owner or potential buyer or a lender holding a security interest in the property.

By law, the commissioner may enter into a CNS with a party if it did not cause the pollution or was not involved with anyone that did. The party must also agree to clean up and redevelop the property. Under prior law, it had to submit its remediation plan or final remediation report to the commissioner, who had to approve both documents before she could enter into a CNS.

The act alternatively allows the commissioner to enter into a CNS before the property is remediated if the party submits a schedule and plan for investigating the property and a schedule for remediating it. These documents must indicate when the party will (1) complete the investigation according to prevailing standards and guidelines, (2) submit the completed investigation report and detailed written remediation plan, and (3) complete the remediation according to DEP standards. The party must submit these documents before the commissioner approves the remediation plan or final remedial action report.

The commissioner must review and, as appropriate, approve the detailed written remediation plan. If she approves the plan, it is considered to be included in the CNS by reference.

The commissioner must decide whether to oversee the investigation and remediation or delegate this task to an LEP. Even if she oversees the investigation and remediation, the party must complete these tasks under an LEP's direction. The LEP must also approve in writing any documents the party must submit to the commissioner regarding these tasks.

Grounds for Requiring Further Remediation. The act expands the grounds under which the commissioner may require remediation of a property that is subject to a CNS. Under prior law, she could require further remediation only if the party provided false and misleading information when it applied for the CNS or failed to:

1. remediate the property according to the plan and schedule referenced in the covenant;
2. substantially comply with the covenant while the property was being remediated or make a good faith effort to do so;
3. meet the remediation standards that were in effect when she approved the covenant; or
4. record a required environmental land use restriction or comply with it.

The act establishes a new ground for requiring further remediation that is not tied to the investigation plan and investigation and remediation schedule. It allows the commissioner to require this action whenever a party fails to pay the entire CNS fee or a scheduled amount (see below).

The act also allows the commissioner to require further remediation when she enters into a CNS based on an investigation plan and an investigation and remediation schedule. As noted above, the remediation schedule requires the party to indicate when it will submit the detailed remediation plan. The act allows the commissioner to require further remediation if she rejects the plan or the remediation did not comply with the standards that were in effect when she approved the covenant or the plan, whichever is later.

She can also require further remediation before she approves the detailed written remediation plan if she finds that the party did not substantially comply with the investigation plan and investigation and remediation schedule and made no good faith effort to do so. As noted above, the party must submit the plan and schedule when it enters into the CNS. The schedule must indicate when the party will submit the remediation plan to the commissioner.

Fee Exemptions and Payment Schedules. The law imposes a fee on CNSs equal to 3% of the property's uncontaminated value. The act exempts towns and their economic development agencies from paying the fee. It also exempts nonprofit economic development corporations acting on a town's behalf.

It also allows this fee to be paid over time. A party may do this if it submits an investigation plan and investigation and remediation schedule and the commissioner approves a written payment schedule, which must be incorporated by reference in the covenant.

§ 9 — Development in Floodplains

The act makes it easier for state agencies to develop contaminated property in floodplains. By law, a state agency must obtain the DEP commissioner's approval before transferring state-owned property in these areas or doing things that could affect land uses there. She may approve the activity if it serves the public interest, will not harm people or property, and complies with the National Flood Insurance Program. Under the act, the activity serves the public interest if the property must be remediated according to DEP standards and is located in an area the State Plan of Conservation and Development designates for development.

PLANNING

§ 8 — New Pilot Brownfield Identification and Assessment Program

By law, the OPM secretary must recommend priority funding areas (PFAs) where the state should target development dollars to the Continuing Legislative Committee on State Planning and Development by 2010. This is the same year he must submit the next revision of the five-year State Plan of Conservation and Development to the committee for approval.

The act requires the DEP and DECD commissioners, in consultation with the OPM secretary, to identify and evaluate brownfields in these areas. After doing so, the commissioners must work with other state and local agencies as a coordinated team to (1) solicit proposals for redeveloping these sites, (2) identify the necessary permits and approvals, and (3) review all requests for funding and permit approvals.

§ 15—Brownfields Task Force

The act reestablishes the Brownfields Task Force to prepare and submit more recommendations to the legislature on how to clean up contaminated properties. The report is due no later than February 1, 2008. The task force terminates on that date or the date when it submits the report, whichever is later. (This provision appears to keep the task force in business if it misses the February 1 reporting deadline.)

The act increases the task force's membership from 9 to 11 by appointing two new members and changing an existing one. Under prior law, the task force consisted for two gubernatorial and six legislative appointees and a DEP representative appointed by the DEP commissioner.

The act adds the DECD commissioner and the OPM secretary or their designees to the task force. It allows the DEP commissioner to be the department's representative. As under prior law, all members must have expertise in environmental law, engineering, finance, development, consulting, insurance, or other relevant areas.

OBRD

§ 1(b) — Expanded Duties

The act expands OBRD's duties and refines and expands some existing ones. The new duties include:

1. providing a single point of contact for financial and technical assistance for state and quasi-public agencies;
2. developing a common application to be used by all state and quasi-public entities providing financial assistance for assessing, remediating, and developing brownfields; and
3. including people, towns, economic development agencies, and other organizations in OBRD's existing outreach program.

The act redefines some of OBRD's existing duties. Prior law required it to create a place where towns and economic development agencies could help developers comply with state and federal clean-up requirements and qualify for state funds. Under the act, OBRD must create an office to provide information and help about the state's technical assistance, funding, regulatory, and permitting programs. Prior law required the office to develop policies and procedures for streamlining the remediation process. The act requires OBRD to do the same for the development process as well.

The act eliminates OBRD's duty to analyze state brownfield programs and to create new funding sources for them.

§ 1(a) — Coordination

The act makes OBRD an organizational unit of DECD. Prior law placed it in that department for administrative purposes only.

The law requires DEP and CDA to assign liaisons to the office. The act requires the Department of Public Health (DPH) to assign a liaison as well. It also requires DECD, DEP, and DPH commissioners and the CDA executive director to enter into a memorandum of understanding regarding their agencies respective responsibilities vis-à-vis the OBRD. The act eliminates a requirement that OBRD's staff and the agency liaisons serve as the office's "response team."

Lastly, the act allows rather that requires OBRD to recruit volunteers with brownfield remediation experience to help it achieve its goals.

§§ 1(c) & 2 — Pilot Program

PA 06-184 required OBRD to establish a pilot program to clean up contaminated properties that hinder a town's economic development. It required OBRD to run the program in four towns, one of which must have between 25,000 and 50,000 people, one between 50,000 and 100,000 people, and two more than 100,000. The act increases the number of participating towns to five and changes some of the criteria for selecting them. It drops the requirement that OBRD select a town that has between 25,000 and 50,000 and instead requires it to select one with less than 50,000 people. It also requires OBRD to select one town without regard to population.

The act specifies that the sites in these towns must be assessed and remediated according to prevailing standards and practices.

The act shifts responsibility for the program from OBRD to the DECD commissioner and expands the funding criteria. Prior law required projects to be selected based on their potential economic benefits. The act also requires them to be selected based on their feasibility and environmental and public health benefits.

BACKGROUND

Related Act

PA 07-81 makes changes to the laws governing LEPs. Among other things, it makes the use of an LEP to verify the investigation and remediation of contaminated property a standard procedure unless the DEP commissioner, at her discretion, chooses to review and approve the clean-up herself; requires an LEP to submit documentation to the commissioner when a site investigation required by the Transfer Act has been completed; and to notify her when remediation begins.

PA 07-236—sHB 6500
Commerce Committee
Finance, Revenue and Bonding Committee
Appropriations Committee
Higher Education and Employment Advancement Committee

AN ACT EXPANDING CONNECTICUT'S FILM INDUSTRY

SUMMARY: This act establishes new transferable credits against the corporation and insurance premium

taxes for (1) investments in state-certified film and digital media infrastructure projects and (2) digital animation productions. Digital animation production credits are limited to an aggregate of $15 million per year. The new credits are administered by the Connecticut Commission on Culture and Tourism (CCCT) and are modeled on the existing state tax credit for film and digital media production expenses. The act also makes several changes in the existing film credit, including applying it against the insurance premium tax as well as the corporation tax and changing the types of productions and expenses that are eligible.

For all three credits, the act (1) allows an eligible entity to apply for and receive credits during production or while building an infrastructure project; (2) allows those who purchase credits from their original recipients to sell them to others in their turn and allows the credits to change hands up to three times; (3) imposes financial penalties for deliberately submitting false information to receive credits; and (4) once credit vouchers are issued, limits the state's power to further audit or review the expenses on which they are based and requires any inflated or inaccurate credits to be recovered from their original recipients rather than any transferees.

The act also:

1. requires the Office of Workforce Competitiveness to establish a film industry workforce training program;
2. exempts certain payments to media payroll services companies from the sales tax;
3. explicitly exempts film and television scripts and detailed production budgets from the Freedom of Information Act (FOIA) as trade secrets; and
4. authorizes Connecticut Innovations, Inc. (CII) to provide financial help for those developing and building film and digital media industry infrastructure projects.

EFFECTIVE DATE: July 1, 2007, except for the FOIA exemption, which is effective on passage. The new tax credits and the changes in the existing film production credit apply to income years starting on or after January 1, 2007.

§ 1 — FILM PRODUCTION TAX CREDIT CHANGES

Tax Credit

Connecticut provides a transferable credit equal to 30% of eligible film and digital media production expenses that exceed $50,000. The act allows the credit to apply against the insurance premium tax as well as the corporation tax.

Qualified Productions

By law, only qualified productions are eligible for credits. The act makes videos, sound recordings, and certain interactive websites explicitly eligible.

Eligible sound recordings are music, poetry, and spoken-word performance recordings. Such recordings are not eligible if recorded as part of a movie, video, theatrical production, t.v. news coverage, or athletic event. Eligible interactive websites are those (1) whose production costs exceed $500,000 per year and (2) are primarily (a) interactive games or end-user applications or (b) animation, simulation, sound, graphics, story lines, or video created or converted from another format ("repurposed") for Internet distribution. Websites used primarily for institutional, private, industrial, retail, wholesale marketing or promotion, or that contain obscene content are not eligible.

Under prior law, ongoing productions created primarily as news, weather, or financial market reports were ineligible for credits. The act limits the exclusion for such programs to television programs of those types. It also makes the following types of productions ineligible:

1. current or sporting events;
2. awards shows and other gala events;
3. productions whose sole purpose is fundraising;
4. productions used for corporate training or in-house corporate advertising and similar productions; and
5. long-form productions that primarily market a product or service. (It is not clear how this type of production differs from an "infomercial," a type of production explicitly allowed as a qualified production under a provision of the existing law that the act leaves unchanged.)

Eligible and Ineligible Expenses

In- and Out-of-State Expenses. Under prior law, a company could claim a credit for eligible production expenses exceeding $50,000, but only if the expenses were incurred in Connecticut. From January 1, 2009 to January 1, 2012, the act allows 50% of expenses incurred outside the state to count towards the credit if they are used in the state. On and after January 1, 2012, no expenses incurred out of state will count towards the credit. (PA 07-4, June Special Session, restores the requirement that all eligible expenses must be incurred in Connecticut.)

Intellectual Property. The act excludes all expenses for purchasing intellectual property rights. Intellectual property expenses were previously eligible if (1) the intellectual property was produced primarily in Connecticut, (2) 75% of the qualified production based on it is produced in Connecticut, and (3) the cost of

optioning or buying it is less than 35% of the production's Connecticut costs and expenses.

Star Compensation. Starting January 1, 2008, the act also excludes compensation over $15 million paid to any individual working on the production or to any entity that represents such an individual. There was formerly no limit on individual star compensation eligible for a credit.

Compensation of Other Performers. The act removes limits on credit-eligible talent fees for extras, principal day players, and atmosphere as defined by the Screen Actors' Guild (SAG). The former limit for such fees was double the scale amounts under SAG's current collective bargaining agreement.

Production Equipment. The act allows a credit for production equipment expenses only if they are not eligible for the film infrastructure credit the act establishes (see below).

Obscene Productions

Under both prior law and the act, productions containing obscene material or performances are ineligible for a tax credit. The act changes the standard for determining obscenity from a state to a federal one.

Under prior law, a production was ineligible if (1) taken as a whole, it appealed predominantly to prurient interest; (2) it showed or described a sexual act in a patently offensive way; and (3) taken as a whole, it lacked serious literary, artistic, educational, political, or scientific value (CGS § 53a-193).

Under the act, a production is ineligible if it contains obscene material or performances on which, by federal law, producers must keep certain records. 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).

Tax Credit Vouchers

The act allows a production company to apply for and receive credits on an annual basis as a production is continuing, instead of only after it is finished.

Under prior law, a company had to apply to the CCCT for a production tax credit eligibility certificate within 90 days after incurring its first production expenses. Then, no later than 90 days after incurring its last expenses, it had apply for the actual credit certificate on which CCCT had to enter a credit amount. The act keeps these two deadlines but also allows companies to apply for, and receive, tax credit vouchers on annual basis while the production is in progress instead of after it is finished. It requires a company to wait at least three months after submitting its eligibility application before applying for a credit for its expenses up to that time. It also allows a company to apply for credits within 90 days after the end of its annual period.

The act changes the tax credit certificates to tax credit vouchers and requires CCCT to deduct the credits issued during production from the company's final credit amount. It allows expenses to be listed only once and bars the same expenses from being included in more than one claim for a production credit or for an infrastructure or digital animation production credit.

The act allows taxpayers to claim credits in the income year when the expenses were incurred, instead of requiring them to wait until the CCCT issues a final certification for the production.

Credit Transfers

By law, production companies may sell or otherwise transfer their credits. This act allows a transferee to sell the credits again after a first transfer but limits the total number of transfers to three. It requires the parties to the second and third transfers to jointly notify CCCT, supplying the same information and using the same procedures as are already required for the initial transfers.

Financial Penalty

The act imposes a financial penalty equal to the credit amount on any qualified production company that deliberately submits false or fraudulent information to the CCCT for purposes of the credit. The new penalty is in addition to other penalties already provided by law.

Limits on Post-Certification Remedies

Once a credit voucher is issued, the act limits the CCCT's and Department of Revenue Services' (DRS) power to further audit or examine the production expenses on which the credits are based unless there is the possibility of material misrepresentation or fraud.

If CCCT or DRS determines, after issuing a credit voucher, that a production company made material misrepresentations or committed fraud in its expense report and that those actions resulted in inflated or inaccurate tax credits, the act gives the agencies the sole remedy of recovering the credits from the production company itself and not from any other company to which the production company transferred the credits. The act bars the agencies from requiring that credits be recaptured, disallowed, recovered, reduced, forfeited, decertified, or subject to any other remedy that reduces or limits the credit amounts stated on the voucher.

The act applies the same post-certification remedy restrictions to the film infrastructure and digital animation production tax credits it establishes (see below).

§ 2 — FILM INFRASTRUCTURE INVESTMENT TAX CREDIT

State-Certified Projects

The act establishes a transferable credit against the corporation and insurance premium taxes for investments in capital projects for basic buildings, facilities, or infrastructure that the film and digital media industry needs to function in Connecticut. Projects must be state-certified. The entity that undertakes the project must (1) comply with regulations the act requires CCCT to adopt in consultation with the DRS commissioner; (2) be authorized to do business in Connecticut; (3) not have (a) defaulted on any Connecticut state loan or loan guarantee or (b) had any obligation to repay public funds discharged because of bankruptcy; and (4) be approved for an infrastructure credit by CCCT.

Tax Credits

As Table 1 shows, credit amounts depend on the infrastructure project's costs.

Table 1: Determining Credit Amounts

Project Cost		***Credit***
At least	***But Less Than***	***(% of Investment)***
$15,001	$150,000	10%
150,000	1,000,000	15%
$1,000,000 and over		20%

The act allows companies that receive tax credits to sell or transfer them and allows those who buy them to sell them to other eligible companies. The maximum number of such transfers is three. Taxpayers holding credits can only claim them for the income year in which they made infrastructure expenditures. Credits are not refundable. Excess credits can be carried forward for three income years.

Infrastructure credit buyers and sellers must jointly notify CCCT of a transfer and supply the same information as for a production credit transfer.

Eligible Expenses

All money spent on a capital project for leased or purchased film, digital media, television, or video production buildings, facilities, and installations is eligible for an infrastructure credit under the act. Eligible expenses include those necessary for (1) development, production, pre- and post-production, and distribution equipment and system access; (2) project development, such as design and professional consulting fees and transaction costs; and (3) fixtures and other equipment.

Credit Application Procedure

The process for applying for infrastructure credits is similar to the film production credit application and issuance process. The entity that undertakes the project must apply to CCCT within 90 days after incurring its first expenses for the project. The applicant must give CCCT the information it requires to determine if the project is eligible for a credit, including, at least, a detailed project description, preliminary budget, and estimated completion date.

CCCT can require an independent audit of project costs and expenses before certification. If it determines a project is eligible, it must indicate the project costs and issue a tax credit certification letter for investors showing the available credits. CCCT must give the DRS commissioner a copy of the letter if the commissioner asks for it.

The act bars the CCCT from issuing a tax credit voucher based on the certification letter until the project is at least 60% complete. Before it issues the voucher, the CCCT must receive a progress report from the entity building the project and an estimated completion date. The commission can also require an independent audit of the project costs and spending before issuing a voucher.

Once the CCCT issues a voucher for an infrastructure credit, the act imposes the same restrictions on the state's audit and tax credit recapture authority as it imposes for the production and digital animation credits.

§ 3 — DIGITAL ANIMATION PRODUCTION CREDIT

The act establishes a separate transferable tax credit for digital animation production activity, which it defines as developing and producing computer-generated animation content for public exhibition and distribution. The credit is equal to 30% of eligible digital animation production expenses over $50,000 for any income year starting on or after January 1, 2007. It applies against the corporation and insurance premium taxes.

To qualify for a credit, a company must (1) be exclusively engaged in the production activity, (2) maintain a studio in Connecticut, (3) employ at least 200 full-time employees (permanent, non-seasonal employees required to work at least 35 hours a week),

and (4) be certified by CCCT and comply with its regulations. The act limits aggregate credits that CCCT may reserve to $15 million per year. A company that receives a digital animation credit is not eligible to apply for or receive a film production credit.

The digital animation credit has the same application, transfer, post-certification remedy, and other requirements as the overall film and digital media production credit, with the following exceptions.

1. The act requires eligible digital animation production expenses to be incurred in Connecticut.
2. It makes intellectual property purchase expenses eligible for a credit, if they are less than 35% of the digital animation production company's expenses or costs in any income year.
3. It makes expenses for the following additional types of costs explicitly eligible: actors, voice talent, rent, utilities, insurance, administrative and systems support, and short film production and distribution.
4. It limits the frequency of a digital animation company's applications to CCCT for credit vouchers to twice during the company's income year.

§ 4 — ASSISTANCE FROM CII

The act expands CII's purposes to include research and development of new businesses as well as of new products and technologies. It also allows CII to provide financial help for people developing basic buildings, facilities, or infrastructure that the film and digital media industry needs to function in Connecticut.

§ 5 — FREEDOM OF INFORMATION ACT EXEMPTION

The act exempts film and television scripts and detailed production budgets from the Freedom of Information Act (FOIA) as trade secrets if they meet the existing requirements that they (1) derive independent actual or potential economic value from being kept secret from those who could derive economic value from their disclosure or use and (2) are subject to reasonable efforts to maintain their secrecy. The FOIA already exempts "cost data" from disclosure.

§ 6 — FILM INDUSTRY WORKFORCE TRAINING PROGRAM

The act requires the Office of Workforce Competitiveness (OWC), in consultation with the labor, education, and economic and community development commissioners and the CCCT, to establish a program to develop a trained film industry workforce in Connecticut. The training program must have (1) an unpaid internship program for high school and college students, (2) a production assistant training program for state residents, and (3) a workforce training program that includes classroom and on-set training and mentoring.

OWC must establish participation guidelines for the program by September 28, 2007 and submit a status report on it by January 1, 2008 to the Connecticut Employment and Training Commission and the Commerce and Higher Education committees.

§§ 7-9 — SALES TAX EXEMPTION

The act exempts separately stated charges for compensation, fringe benefits, workers' compensation, and payroll taxes or assessments paid to a media payroll services company from the 6% sales tax. Under the act, a "media payroll services company" is one whose principal business is managing and paying compensation, benefits, and payroll taxes and assessments to a film or digital media production company eligible for a film production tax credit.

BACKGROUND

Related Act

PA 07-4, June Special Session, makes two changes in the film production tax credit and the digital animation production tax credits in this act. First, it restores a requirement that the 30% credit for qualifying film production expenses applies only to production expenses and costs incurred in Connecticut. Second, it requires a film production or digital animation company applying for a production or digital animation tax credit voucher, respectively, to provide whatever independent certification of the amount of its production expenses and costs the CCCT may require.

PA 07-20—sSB 1285
Education Committee

AN ACT CONCERNING THE CONNECTICUT CAREER CERTIFICATE PROGRAM

SUMMARY: This act updates the Connecticut Career Certificate Program to reflect existing practice and federal funding requirements. Under the program, the education commissioner awards career certificates to high school and postsecondary school students who successfully complete school-to-career programs approved by the education and labor commissioners. The school-to-career programs must consist of school- and work-based instruction and connecting activities that coordinate the two.
EFFECTIVE DATE: July 1, 2007

CHANGES TO CONFORM TO PRACTICE AND FEDERAL REQUIREMENTS

Program Grants

The act eliminates the education commissioner's authority to award program grants to local and regional boards of education and the vocational-technical school system. It changes the focus of the grants from supporting development and implementation of career certificate programs to developing the educators administering the programs.

Regional School-to-Career Partnerships

The act eliminates a requirement that the education commissioner establish regional school-to-career partnerships to review and comment on the career certificate programs in their regions. Under prior law, partnerships had to include, at least, educators; students; and representatives of school boards, postsecondary institutions, regional workforce development boards, business and industry, and labor organizations.

Other Changes

The act:
1. requires the school-based instruction for the programs to include instruction in workplace safety awareness,
2. organizes the program under the 16 federally recognized career clusters and requires the education commissioner to keep a list of those clusters instead of the eight state-recognized clusters, and
3. requires the commissioner to maintain a list of clusters that are projected occupation growth areas in Connecticut identified by the Labor Department's labor market projections.

The act designates the programs as "career pathway" programs.

STATE LABOR LAWS

The act explicitly requires that student employment under a career certificate program comply with the state minimum wage law and with the law prohibiting minors under ages 16 and 18 from doing certain types of work. It also requires the terms of the student's compensation to comply with state labor laws governing employment of minors, presumably the state minimum and overtime wage laws.

BACKGROUND

Federally Recognized Career Clusters

The federal Department of Education's Office of Vocational and Adult Education recognizes the following career clusters:
1. agriculture, food, and natural resources;
2. architecture and construction;
3. arts, audio-visual technology, and communications;
4. business, management, and administration;
5. education and training;
6. finance;
7. government and public administration;
8. health science;
9. hospitality and tourism;
10. human services;
11. information technology;
12. law, public safety, and security;
13. manufacturing;
14. marketing, sales, and service;
15. science, technology, engineering, and mathematics; and
16. transportation, distribution, and logistics.

PA 07-30—sSB 1287
Education Committee

AN ACT CONCERNING VISITING INTERNATIONAL TEACHER PERMITS

SUMMARY: This act requires the State Board of Education (SBE), in response to a request from a local or regional school board, to issue a temporary international teacher permit in a subject shortage area identified by the education commissioner. The permit allows a foreign teacher with certain qualifications to teach in a public school under the school board's

jurisdiction. The permit is valid for one year with a maximum of two one-year renewals in the two years after issuance. The school board must request the renewals.

The local or regional school board requesting the permit must attest that it has a plan for supervising the foreign teacher.
EFFECTIVE DATE: July 1, 2007

TEACHER QUALIFICATIONS

To qualify for the international teacher permit, a teacher must:

1. hold a J-1 visa from the U.S. State Department;
2. teach in the U.S. either under a memorandum of understanding between Connecticut and the teacher's home country or as part of the Exchange Visitor Program run by the State Department's Teacher Exchange Branch;
3. have the equivalent of a bachelor's degree from a higher education institution regionally accredited by a foreign accrediting agency recognized by the education commissioner;
4. have the degree with either (a) a major in, or closely related to, the subject he or she is to teach or (b) an unrelated major plus successful completion of an SBE-approved teacher test in that subject;
5. have completed, in his or her home country, the equivalent of a regionally accredited teacher preparation program; and
6. successfully complete an English oral proficiency exam approved by the education commissioner.

BACKGROUND

J-1 Visa and Exchange Visitor Program

A J-1 visa is a non-immigrant visa provided to foreign visitors who fall under the "Exchange Visitor" designation and are allowed to come to the United States to promote mutual educational and cultural exchanges. The visitor's sponsor must be accredited through the State Department's Exchange Visitor Program. Among those who qualify for J-1 status through the program are high school, college, and graduate students; business and flight aviation trainees; primary and secondary school teachers; college professors; research scholars; and medical residents and interns receiving U.S. medical training.

Subject Shortage Areas

By December 1 each year, the education commissioner must identify subjects where teacher shortages exist in the state. For the 2006-07 school year, the subject shortage areas, depending on the grade level, are bilingual education, comprehensive special education, English, intermediate administrator, math, music, remedial reading, science, speech and language pathology, and world languages.

PA 07-38—sSB 1113
Education Committee

AN ACT CONCERNING UNIFIED SCHOOL DISTRICT #1 EDUCATION CREDIT

SUMMARY: By law, a school district receiving a transfer student must give written notice of the student's enrollment to the student's former school district. This act requires school districts receiving transfer students from Unified School District #1 to provide the written notification to the unified district within 10 days of the enrollment. It specifies that, as is required by law for all sending districts, Unified School District #1 must transfer the student's records within 10 days of receiving the notice. Unified School District #1 serves students in the custody of the Department of Correction.
EFFECTIVE DATE: July 1, 2007

PA 07-40—sSB 1283
Education Committee

AN ACT CONCERNING THE ADVISORY COMMITTEE ON CONNECTICUT'S TECHNICAL HIGH SCHOOLS

SUMMARY: This act expands the membership of, and changes the types of entities that must be represented on, the statewide advisory committee for regional vocational-technical (V-T) high schools. It expands the committee's duties and changes them to reflect a focus on workforce needs. Finally, it requires the committee to meet at least semiannually. There were no meeting requirements under prior law.
EFFECTIVE DATE: July 1, 2007

ADVISORY COMMITTEE DUTIES

The act requires the advisory committee to:

1. identify emerging state and national workforce needs, and trade technology programs for the V-T system to meet those needs;
2. identify the workforce skills that will be needed for the next 30 years and ensure that the V-T system curriculum incorporates those skills;
3. ensure that all students who graduate from the V-T system have communication, leadership,

teamwork, and problem-solving skills and expertise in a trade technology;
4. assess the adequacy of the resources available to the V-T system as it develops and refines programs to meet workforce needs; and
5. advise and make recommendations to the State Board of Education (SBE) to carry out these duties.

Under prior law, the committee had to make recommendations to the SBE on meeting the skill needs of employers, strengthening the role of school craft committees, expanding alternative technical training models for certain students, and new trade programs.

ADVISORY COMMITTEE MEMBERSHIP

The act decreases the number of legislative appointments from 12 to 10 by requiring the House and Senate minority leaders to appoint one member each, rather than two. The governor, House speaker, and Senate president pro tempore continue to appoint two members each and the House and Senate majority leaders to appoint one member each.

The act requires all of the appointees to represent businesses, holding the title of chief executive, president, chief operating officer, or the equivalents, drawn from key industry, service, and manufacturing firms. The four representatives appointed by the House speaker and Senate president pro tempore must be from firms with more than 1,000 full-time employees; the three appointed by the House majority and minority leaders and the Senate majority leader must be from firms with between 500 and 1,000 full-time employees; and the three appointed by the Senate minority leader and the governor must be from firms with fewer than 500 full-time employees. Under prior law, the appointees had to include four members of the public, two board of education members, three representatives of the business community, and three representatives of the labor community.

The act also expands the committee's membership from 12 to 19 members to include (1) the education, labor, and economic development commissioners, or their designees; (2) the SBE chairperson, or his designee; (3) an Office of Workforce Competitiveness representative; and (4) the Education Committee chairpersons and ranking members. As was already required by law, the committee membership must reflect the state's geographic, racial, and ethnic diversity.

PA 07-66—sHB 7350
Education Committee

AN ACT CONCERNING IN-SCHOOL SUSPENSIONS

SUMMARY: This act generally prohibits out-of-school suspensions and extends, from five to 10 days, the maximum length of in-school suspensions. The law allows a student to be suspended for conduct (1) that violates a publicized board policy or seriously disrupts the educational process or (2) on school grounds or at a school-sponsored activity that endangers persons or property. It defines suspension as exclusion from school privileges, or from transportation services only, for up to 10 consecutive school days.

The act requires suspensions to be in-school suspensions unless the school administration determines, at the required informal suspension hearing, that the student must serve the suspension outside of school because he or she (1) poses such a danger to persons or property or (2) is so disruptive of the educational process. Prior law defined in-school suspension as exclusion from classroom activity, but not from school, for up to five consecutive days. The act extends this to a maximum of 10 consecutive days. An exclusion from school privileges for more than 10 days constitutes an expulsion under existing law.

EFFECTIVE DATE: July 1, 2008

PA 07-114—sSB 1354
Education Committee
Government Administration and Elections Committee
Legislative Management Committee

AN ACT CONCERNING THE APPOINTMENT OF THE COMMISSIONER OF EDUCATION

SUMMARY: This act eliminates the State Board of Education's authority to appoint the education commissioner and instead requires the board to recommend a candidate to the governor. It requires the governor to nominate the commissioner, and requires the legislature to approve the nomination, using the executive and legislative nomination and approval process for department heads. Under prior law, the General Assembly did not confirm the education commissioner's appointment.

The act does not change the State Board of Education's statutory designation as the department head for the State Department of Education. As under prior law, the commissioner is the department's administrative officer and coordinates, administers, and supervises the department according to the board's policies.

EFFECTIVE DATE: October 1, 2007

APPOINTMENT OF DEPARTMENT HEADS

The act applies the statutory process for appointing executive agency department heads to the education commissioner. It thus requires the governor to submit the commissioner's nomination to either house by February 1 of the first year of the governor's term. As with any department head nomination, the act requires the chamber that receives the governor's nomination for education commissioner to "immediately refer" it to the Executive and Legislative Nominations Committee. The committee must report it by resolution within 15 calendar days. The chamber must accept or reject the resolution within 10 calendar days after receiving the resolution from the committee.

If confirmed, a nominee takes office on March 1 of the year in which he or she is nominated, with two exceptions (CGS § 4-7(a)). One, if a nominee is not appointed or reappointed by March 1, the incumbent may continue to serve until March 10. Two, if a position is vacant before March 1 during the first year of a governor's term, the nominee may exercise the powers and duties of the office as a designate before confirmation (CGS § 4-7(b)(2)).

VACANCY APPOINTMENTS DURING A REGULAR SESSION

Under the act, if a vacancy in the education commissioner's position occurs when the General Assembly is in regular session, the governor must submit a nomination to fill it within 30 days after the vacancy occurs. The chamber receiving the nomination must immediately refer it to the Executive and Legislative Nominations Committee. The committee has 10 legislative days to report its resolution. If the chamber confirms the nomination within 30 calendar days after it is submitted, the nominee takes office and serves until the end of the original term. If the chamber rejects the nomination within this time frame, the governor must, within 30 calendar days, submit another nomination. If the governor submits a nomination within 30 days of a session's constitutional adjournment date and the legislature does not confirm or reject it, the procedure for filling vacancies that occur during the interim must be followed (CGS § 4-7(b)(1)).

VACANCY APPOINTMENTS DURING THE INTERIM

If an education commissioner vacancy occurs during a legislative interim, the governor must fill it until the sixth Wednesday of the next regular session. The governor must submit the nominee's name to either chamber for confirmation at the beginning of the next regular session. The chamber to which the nomination is submitted must follow the procedure for vacancies occurring when the General Assembly is in session (CGS § 4-7(c)).

REJECTED NOMINATIONS

If the General Assembly rejects a nomination for education commissioner, the nominee is barred from serving as education commissioner during the remainder of the General Assembly's term (CGS § 4-7(d)).

BACKGROUND

State Board of Education

The State Board of Education is an 11-member board (nine voting and two nonvoting members) appointed by the governor and confirmed by both houses of the General Assembly. The nine voting members serve staggered four-year terms. The board is the state policy-making authority for public education, including preschool, elementary, and secondary education; special education; and vocational education.

PA 07-122—HB 7273
Education Committee

AN ACT CONCERNING SUSPENSIONS AND EXPULSIONS BY LOCAL AND REGIONAL BOARDS OF EDUCATION

SUMMARY: This act allows a school administration to shorten or waive suspension periods for students who have not previously had either a suspension or expulsion imposed on them if the students complete an administration-specified program and meet any other administration-required conditions. The act allows a board of education to take the same action with regard to an expulsion for such students if they complete a board-specified program and requirements. The law already allows administrations to determine suspension periods and boards to determine expulsion periods, but only specifically allows for modifications, on a case-by-case basis by the board, where the law requires a student to be expelled for a year because he or she possessed a weapon or sold drugs.

The act prohibits the programs from charging students or their parents or guardians a fee to participate. Finally, it requires local boards to expunge the required notice of the disciplinary action from the student's cumulative record when it has been waived or shortened pursuant to the act and the student graduates high school or, if the board or administration chooses, completes the specified program and requirements,

whichever is earlier. The law previously only required the notice, except for a notice of an expulsion based on possession of a firearm, to be expunged when the student graduated from high school.
EFFECTIVE DATE: July 1, 2007

PA 07-126—SB 1412
Education Committee
Appropriations Committee

AN ACT CONCERNING THE STATE EDUCATION RESOURCE CENTER

SUMMARY: This act extends membership in the Teachers' Retirement System (TRS) to professional staff employed by the State Education Resource Center (SERC) who have certificates or permits issued by the State Board of Education. By law, SERC helps the board provide programs and activities to promote educational excellence, including training, professional development, and continuing education seminars; technical material and information on successful school models and best practices; and research on and evaluation of school improvement.

The act also allows TRS members to purchase credit in the TRS for pre-July 1, 2007 service with SERC. It requires members to pay the full present value actuarial cost of the SERC service credit, instead of 50% of the full cost as required for other authorized TRS service credit purchases. The full actuarial cost is the present value of the increase in the member's TRS retirement benefit attributable to the purchased credit.
EFFECTIVE DATE: July 1, 2007

BACKGROUND

Teachers' Retirement System

The TRS is a state-funded defined benefit retirement system for professional employees employed by Connecticut public schools. It covers employees who (1) hold positions requiring a teaching certificate or permit issued by the State Board of Education, (2) hold the appropriate certification for their position, and (3) are employed at least half-time. Being employed by a "public school" for purposes of the TRS includes those who meet the foregoing definition and are employed by, among others, the State Board of Education, the Board of Governors of Higher Education or any higher education constituent unit, the Connecticut Children's Center, and other state institutions that employ teachers.

PA 07-138—HB 7017
Education Committee

AN ACT CONCERNING DEMOCRACY EDUCATION IN ELEMENTARY SCHOOLS

SUMMARY: This act requires public and private elementary schools to provide a program on democracy that allows students to learn about the branches of government in a participatory manner as part of their fourth or fifth grade curriculum. The program is required as part of the existing law (1) requiring that all schools provide a U.S. history program and (2) prohibiting students from graduating from such schools if they are found to be unfamiliar with the subject.
EFFECTIVE DATE: July 1, 2007

PA 07-190—HB 7351
Education Committee

AN ACT CONCERNING TEXTBOOK LOANS

SUMMARY: The law allows boards of education to loan textbooks to students residing in and attending nonpublic elementary and secondary schools in their districts. Prior law allowed the loans only at the request of the student or parent or guardian; the act allows nonpublic school administrators to make the request on students' behalf as well. The act also eliminates the requirement that the textbooks be in use in the district and instead allows a board to loan any non-religious textbook available to it from its book distributor.
EFFECTIVE DATE: July 1, 2007

PA 07-208—sSB 1110
Education Committee
Public Safety and Security Committee
Appropriations Committee
Higher Education and Employment Advancement Committee

AN ACT CONCERNING SECURITY ASSESSMENTS AND ASSISTANCE FOR SCHOOLS AND EMERGENCY RESPONSE PLANS FOR INSTITUTIONS OF HIGHER EDUCATION

SUMMARY: This act requires any school district applying for a state school construction grant for a new school or a major alteration, extension, renovation, or replacement of a school that involves a school entrance, to include in the project plans security infrastructure for the entrances. The act bars the State Department of Education (SDE) from approving plans for such projects

if they do not include entrance security infrastructure. The new requirement covers school construction applications for projects to be included on priority lists submitted to the General Assembly for approval on or after July 1, 2008 (i.e., project priority lists for 2009 and thereafter).

The act establishes a competitive state grant for FY 08 to improve security infrastructure in schools, install security systems in schools' primary entryways, purchase portable security devices, and train school personnel to use the devices and the infrastructure. The grants reimburse school districts for 20% to 80% of the eligible expenses for such security measures incurred after the act's effective date. The reimbursement percentage is based on the district's wealth. To receive a grant, a district must show that it (1) has conducted a uniform security assessment of its school entrances and any security infrastructure, (2) has an emergency plan at its schools developed with applicable state and local first-responders, and (3) periodically practices the plan. The security assessment must be carried out under the supervision of the district's local law enforcement agency and use the Safe Schools Facilities Check List published by the National Clearinghouse for Educational Facilities.

Finally, the act requires colleges, universities, and private occupational schools to (1) by October 1, 2007, have emergency response plans and (2) by that date and annually thereafter, submit their plans to the public safety (DPS) and emergency management and homeland security (DEMHS) commissioners and local first-responders. Institutions must consult local first-responders in developing their plans. Each plan must include a method for notifying the institution's students, employees, and visitors of emergency information.

EFFECTIVE DATE: July 1, 2007, except for the security grants, which take effect on passage.

SCHOOL PROJECT PLANS REQUIRING SECURITY INFRASTRUCTURE

The act's requirement that plans for state-reimbursed school projects include security infrastructure for any entrances involved applies to the following types of school building projects:

1. new construction,
2. extension (an addition to an existing school),
3. major alteration (a capital improvement in an existing school building costing more than $10,000),
4. renovation (totally refurbishing a school to make it the equivalent of a new school), and
5. replacement (a new school built on the same or another school site to replace an existing school).

SCHOOL SECURITY GRANT

The grant reimburses school districts for eligible expenses to develop and improve security infrastructure for school entrances, including surveillance cameras, entry door buzzers, scan cards, and panic alarms. Districts may also use a grant for (1) training school personnel to operate and maintain entrance security infrastructure and (2) buying such portable entrance security devices as metal-detector wands and screening machines and training school personnel to use them. Only expenses incurred on or after the act's passage are reimbursable.

The act requires the DEMHS commissioner to administer the grants within available appropriations, and the education commissioner to transfer funds appropriated to SDE for the grants to DEMHS under a memorandum of understanding between the two commissioners. School districts may apply for grants when and how the DEMHS commissioner prescribes. The DEMHS commissioner, in consultation with the DPS commissioner, determines which expenses are eligible for reimbursement. Reimbursement percentages range from 20% to 80% depending on wealth, with wealthier districts receiving a lower reimbursement. Town wealth is determined by the wealth measures used for the Education Cost Sharing and other state education grants.

If there is not enough money to reimburse every district for its full percentage, the commissioners must give first priority to applicants with schools they determine most need entrance security, based on the required security assessments. From among those applicants, they must give first priority to schools that have no entrance security infrastructure and second priority to schools located in priority school districts.

The act allows DEMHS to use up to 1.5% of the total grant appropriation to administer the grant.

BACKGROUND

National Clearinghouse on Educational Facilities

The clearinghouse was created by the U.S. Department of Education and is funded by the department and overseen by its Office of Safe and Drug-Free Schools. It provides information on planning, designing, funding, building, improving, and maintaining safe, healthy, high-performance schools. The clearinghouse's Safe Schools Facilities Check List allows schools to assess the safety of their buildings and grounds.

PA 07-224—sHB 6955
Education Committee
Transportation Committee
Appropriations Committee
Judiciary Committee

AN ACT CONCERNING OPERATOR'S LICENSES BEARING A SCHOOL BUS ENDORSEMENT

SUMMARY: This act imposes additional background check requirements on applicants for licenses and endorsements to drive school buses and school transportation vehicles (STVs), including a check of the state child abuse and neglect registry. It requires the Department of Motor Vehicles (DMV) commissioner to deny a license or suspend an endorsement for transporting students for anyone convicted of a serious criminal offense, if the person has not completed his or her sentence or completed it within the past five years.

The act (1) requires, rather than allows, the DMV commissioner to periodically provide reports to public transportation providers, including school districts, listing anyone whose commercial driver's license or passenger endorsement the commissioner has suspended, withdrawn, or revoked and (2) requires each carrier to check these reports at least twice a month and, within 10 days after each check, prohibit from driving any of its school bus or STV drivers who are not properly licensed.

The act extends required random drug testing to those employed to drive STVs that carry 10 or fewer students and bars carriers from continuing to employ as a driver any school bus or STV driver who tests positive for drugs. The ban runs for two years after a first positive test and becomes permanent after a second such test.

The act increases penalties on (1) carriers who fail to implement required drug testing for school bus and STV drivers and applicants and (2) school transportation contractors who allow anyone not properly licensed to drive a school bus carrying school children. It imposes fines on carriers who fail to carry out the required checks of drivers' licensure status or fail to remove an operator who is not properly licensed.

The act also bars the DMV commissioner from issuing temporary licenses with school bus or STV endorsements, eliminates special license endorsements for camp vehicle drivers, and makes minor and technical changes.

Finally, the act requires each school bus company to paint its name and phone number and the bus number conspicuously in black lettering on the rear and sides of each of its school buses. It requires the DMV commissioner to determine the size of the lettering.

EFFECTIVE DATE: July 1, 2007, except for the bus-painting requirement, which is effective October 1, 2007.

DRIVER BACKGROUND CHECKS

Before the DMV commissioner issues a license with a school bus or STV endorsement, the act requires him to check each applicant against the state child abuse and neglect registry maintained by the Department of Children and Families (DCF). The registry lists individuals the DCF commissioner finds are responsible for child abuse or neglect. The act allows the DMV commissioner to refuse endorsements to applicants listed as perpetrators of abuse and immediately notify the applicant, in writing, of the refusal. (PA 07-5, June Special Session, requires the DCF commissioner to give DMV copies of records, without an applicant's consent, to allow DMV to check the registry.)

The act also subjects applicants for STV endorsements to the same state and national criminal history records checks as already apply to applicants for school bus driver endorsements. As is the case for school bus endorsement applicants, the act allows the DMV commissioner to refuse to issue an STV endorsement when he or she is notified that the applicant has a state or national criminal history record.

By law, an STV is any vehicle, other than a registered school bus, that a carrier uses to transport students under age 21, including special education students. A "carrier" is a school district, a school district's contractor, or any other person compensated for transporting students. Carriers also include corporations, institutions, and nonprofit organizations that provide transportation as an ancillary service primarily to people under age 18.

DENYING LICENSURE OR CONTINUED ENDORSEMENT FOR SERIOUS CRIMINAL CONVICTIONS

The act requires the DMV commissioner to deny licensure or suspend an endorsement issued for transporting students to anyone convicted of a criminal offense the commissioner determines is serious, or an offense under any federal or other state's law the commissioner determines is substantially similar, if any part of the sentence for the conviction is either not completed or was completed in the past five years. It requires the commissioner to adopt regulations to implement this provision.

PERIODIC LICENSE AND ENDORSEMENT STATUS CHECKS

The act requires, rather than allows, the commissioner to give boards of education and other

public and private organizations actively engaged in providing public transportation a report containing the names and license numbers of anyone whose license or endorsement he or she has withdrawn, suspended, or revoked. The commissioner must periodically update the report, according to a schedule the commissioner establishes, and can transmit or make the report available electronically.

The act requires each carrier to (1) review the commissioner's report at least twice a month to check whether any of its school bus and STV drivers' names and license numbers is listed and (2) bar from driving a school bus or STV any employee whose license or endorsement to operate such vehicles is listed as having been withdrawn, suspended, or revoked.

DRUG TESTING

The law requires carriers to conduct pre-employment urinalysis drug tests of all school bus and STV drivers they intend to employ. Federal and state laws also require carriers to conduct random drug and alcohol testing of their employees who drive school buses designed to seat more than 10 passengers. This act subjects all school bus and STV drivers to random drug testing, thus extending testing to those who drive STVs designed to carry 10 or fewer passengers. As under prior law, drug testing must comply with state laws governing employment and pre-employment drug testing.

The act bars a carrier from continuing to employ as a driver someone who tests positive for drugs. The ban applies for two years after the first positive test and becomes permanent after a second such test. Under state and federal law, a driver with a positive drug test result already had to be removed from safety-sensitive duty, but there was formerly no set period during which such a driver was barred from driving. Instead, before such a driver could return to duty, he or she had to be evaluated, comply with recommended rehabilitation, and have a negative result on a return-to-duty test (CGS § 14-261b and 49 USC § 31306).

PENALTIES

Drug Testing Violations

The act increases, from $1,000 to $2,500, the civil penalty against carriers who, for a second or subsequent time, (1) fail to conduct pre-employment and random drug testing of school bus and STV drivers and applicants or (2) hire applicants or continue to employ as drivers employees who test positive for drugs. It does not change the penalty for a first offense, which remains $1,000. The act makes penalties consistent by also increasing penalties in another statute (CGS § 14-261b(c)) that subjects to civil penalties a carrier who fails to comply with federal and state drug testing requirements for employees. It increases penalties under that law from $300 to $1,000 for a first offense and from $1,000 to $2,500 for subsequent offenses.

Failure to Review License Status Reports and Remove Listed Drivers Within 10 Days

The act imposes civil fines on carriers who fail to review the DMV commissioner's periodic reports of drivers whose licenses have been suspended, withdrawn, or revoked, or who fail, within 10 days after the review, to bar those listed in the report from driving a school bus or STV. The fine for failure to review the report is $1,000 for a first, and $2,500 for each subsequent, violation. The fine for failure to remove a driver listed in a report within 10 days is $2,500 for a first, and $5,000 for a subsequent, violation. The act allows the DMV commissioner to reduce these penalties when a carrier presents appropriate justification.

Using a Driver Who is Not Properly Licensed

The act increases the penalty against a town's school transportation contractor who permits anyone without a passenger and school endorsement to drive a school bus carrying school children. The previous fine was from $35 to $90. The act increases it to between $2,500 and $5,000 and eliminates the offense's designation as an infraction.

BACKGROUND

Camp Vehicle

A camp vehicle is a motor vehicle regularly used to transport passengers under age 18 in connection with the activities of any youth camp requiring licensure by the Department of Public Health.

PA 07-227—sHB 7290
Education Committee
Finance, Revenue and Bonding Committee
Government Administration and Elections Committee

AN ACT CONCERNING PUBLIC LIBRARIES

SUMMARY: This act extends confidentiality requirements to cover more types of personally identifiable information maintained by libraries open to the public. It also updates laws governing the State Library, local public libraries, the State Library Board, and the state librarian. Among other things, it expands the State Library's collection of public documents to

include electronic and digital documents, adjusts the authority of the State Library Board and the state librarian, and eliminates obsolete provisions and wording.
EFFECTIVE DATE: July 1, 2007

§ 20 — CONFIDENTIALITY OF LIBRARY RECORDS

The act expands confidentiality requirements for library records. Prior law required public libraries to keep confidential any personally identifiable information contained in their circulation records and exempted such information from disclosure under the Freedom of Information Act (FOIA).

The act extends confidentiality and the FOIA exemption to any library record, regardless of format, that can be used to identify a library user or link a user to a library transaction. It bars a library from releasing the information to a third party without (1) a court order or (2) written permission from the library user. The act's confidentiality requirement applies to any library that is regularly open to the public, including public and private libraries; libraries maintained by industrial, commercial, or other associations or groups; and libraries maintained by state or local government agencies.

The confidentiality requirements do not apply to:

1. records maintained by school or higher education institution libraries;
2. records disclosed to a library's officers, employees, and agents in order to run the library; or
3. statistical reports regarding library registration and use of materials that do not contain personally identifying information.

§§ 3-5 — STATE PUBLICATIONS COLLECTION

The act expands the State Library's state publications collection to include state agency publications produced in electronic and other intangible formats. By law, the library must administer the collection, which under prior law included only publications printed or published by or under the direction of a state agency or other agency supported by state funds. The act refers to printed state publications as "tangible" publications and to electronic or digital publications as "intangible" ones.

The act expands the definition of state publications to include any document issued by a state agency that is available to the public. It expressly includes legislatively mandated reports and interoffice memos. It exempts only "routine," rather than all, correspondence.

The act requires the State Library to provide permanent public access to the tangible publications collection and to a digital archive of the intangible publications. It requires state agencies to notify the State Library of the existence, availability, and location of intangible publications, when the agency publishes them. Agencies were already required to provide the library with copies of their tangible publications.

The act eliminates requirements that the State Library distribute two copies of each state publication to the Library of Congress and one copy to a designated national or regional research library. It makes the official indexed list of state publications, which the State Library must publish, an annual rather than a quarterly publication. It eliminates a requirement that the library distribute the list on request to other libraries, state agencies, and legislators.

§§ 17-19 — COPIES OF OFFICIAL LOCAL PUBLICATIONS

Under prior law, the State Library was required to keep files of official municipal publications for reference. The act instead requires the library to keep copies of the tangible municipal publications, which town, city, and borough clerks must already supply. It also requires the clerks to notify the library of the existence, availability, and location of any intangible publications, when they are published.

Town, city, and borough clerks must file copies of charters, charter amendments, ordinances, and home rule ordinances with the secretary of the state, the State Library, and various other law libraries. The act requires clerks to provide these documents in an electronic or digital form when they are published.

§ 10 — LIBRARY OPERATING GRANTS

The act makes statutes consistent by specifying that only principal public libraries receive annual state library operating grants. It repeals obsolete language phasing out grants for nonprincipal public libraries over three years from FY 1985 through FY 1987. Principal public libraries are designated as such by local municipal governing boards.

By law, libraries must certify that operating grants are used for library purposes. The act prohibits any part of the grant from reverting to the towns the libraries normally serve.

The act expands the requirement that principal public libraries provide free services to residents of their towns by specifying that they must not only provide free access to library materials but also free loans of library materials and free access to information, advice, help, and literacy promotion programs.

Finally, the act updates population factors in the operating grant formula by eliminating explicit references to the 1980 Census.

§1 — STATE LIBRARY BOARD

The act eliminates a requirement that the State Library Board report to the General Assembly every two years. It also allows members of the board's Advisory Council for Library Planning and Development to be reappointed for additional two-year terms after serving two consecutive terms and taking at least a one-year break in service. Under prior law, the board could reappoint advisory council members only once and members could serve for no more than four years.

§§ 2 & 8 — STATE LIBRARIAN

The act allows the state librarian to make contracts to help the librarian perform his or her duties, without the State Library Board's approval. The contracts are subject to the attorney general's approval and must be within available appropriations or public or private funds.

It eliminates:

1. requirements that the State Library Board approve the state librarian's staff appointments and book and library material purchases for the State Library;
2. the state librarian's responsibility to help local public libraries select books; and
3. the state librarian's authority to (a) buy and arrange for loans of pictures and books to public libraries, schools, and similar organizations he selects and the State Library Board approves, and (b) advise and assist libraries in the state's charitable and correctional institutions, according to rules established by the institutions' directors.

§§ 6-8, 11-16, 21-23 — LOCAL PUBLIC LIBRARY DIRECTORS AND TRUSTEES

Prior law referred to the governing boards of local public libraries as either directors or trustees and to each library's administrative head as the librarian or director. The act eliminates the alternative names for each position by designating the members of library governing boards as "trustees" and the administrative heads as "library directors," thus eliminating statutory confusion between local librarians and the state librarian and library directors and library boards of directors.

§ 7 — TOWN RECORDS

The act eliminates a statute that explicitly authorizes town clerks to deposit any books in their custody, other than records, in the local public library.

§ 9 — LIBRARY SERVICE CENTER ADVISORY BOARDS

The act eliminates the authority of local library boards and boards of education to designate representatives to serve on the advisory board for the library service center where the library or schools are located. The advisory boards are obsolete.

§ 24 — STATE LIBRARY BOARD CERTIFICATES

The act repeals a law allowing the State Library Board to award certificates to librarians in Connecticut public libraries, according to regulations it establishes.

PA 07-241—sHB 7347
Education Committee

AN ACT CONCERNING MINOR CHANGES TO THE EDUCATION STATUTES

SUMMARY: This act:

1. revises the timetable for compiling data used to calculate each district's "mastery percentage" to reflect the change in the schedule for administering grades 3-8 mastery tests from fall to spring;
2. allows school boards to require certain information about surveys accompanying college admission exams to be provided to parents and guardians who attend college fairs at high schools under their jurisdiction;
3. allows directors of school readiness and certain before- or after-school programs to give medicine to children enrolled in the programs under certain conditions, and immunizes them from civil liability for ordinary negligence in giving the medicine;
4. allows the education commissioner to waive the requirement that a school superintendent hold a superintendent certificate issued by the State Board of Education (SBE), if the person meets the act's criteria for exceptional qualifications;
5. waives certain requirements for a durational shortage area permit and requires the SBE to issue a permit to a person who meets certain narrow criteria; and
6. requires the SBE to adopt regulations to certify marital and family therapists employed by local school boards.

EFFECTIVE DATE: July 1, 2007, except for provisions allowing school readiness and certain after-school program directors to administer medication and waiving requirements for a

durational shortage area permit, which are effective on passage.

§ 1 — MASTERY TEST DATA

In 2005, the General Assembly shifted the schedule for administering state mastery tests for grades 3 through 8 from the fall to the spring. The change took effect in the 2005-06 school year. The act makes a conforming change in the timetable for compiling mastery test data from tests administered in the 2005-06 and subsequent school years. The data is used to calculate each district's "mastery percentage," which is a factor in determining educational need for the student weightings in the Education Cost Sharing (ECS) formula and is also used to help determine priority school districts. (PA 07-3, June Special Session, eliminates the mastery percentage factor from the ECS formula starting in FY 08.)

For mastery tests administered in the 2005-06 school year and after, the act requires the State Department of Education to use mastery data on record as of the December 31st, rather than the April 30th, following the test. It continues to allow school districts to ask for adjustments in their data but requires them to do so by the November 30th, rather than the March 31st, following the test.

§ 2 — NOTICE REGARDING SURVEYS ACCOMPANYING COLLEGE ADMISSION TESTS

The act authorizes school boards to require their high schools that host college preparation or admissions forums that parents and guardians may attend to inform them that responding to some surveys accompanying the admission exams is optional. It also requires the information to include a warning that releasing personal identifying information can increase a student's risk of identity theft.

Personal identifying information includes name; date of birth; mother's maiden name; ID numbers on various government documents such as drivers' licenses, passports, or Social Security cards; and bank card ID numbers.

§ 3 — ADMINISTERING MEDICATION IN SCHOOL READINESS AND BEFORE- AND AFTER-SCHOOL PROGRAMS

The act allows directors of school readiness programs and certain before- or after-school programs to give medicine to a child who is enrolled in the program. The before- and after-school programs covered are those that are (1) administered by a public school system or municipal agency or department and (2) located in a public school. The medicine must be administered according to SBE regulations.

The act immunizes those who administer medicine according to the act from civil liability to the child or his or her parent or guardian for negligent acts or omissions in giving medicine. The immunity does not extend to acts or omissions that constitute gross, willful, or wanton negligence.

§§ 4 & 5 — WAIVER OF SUPERINTENDENT CERTIFICATION

The act allows the education commissioner to waive the requirement that a school superintendent hold an appropriate certificate issued by the SBE. It allows the commissioner to waive certification for a person he or she considers exceptionally qualified to be a school superintendent. To be considered exceptionally qualified, a person must:

1. have been appointed under an existing law allowing a local or regional board of education to appoint a person who is not properly certified as acting superintendent for up to 90 days with the education commissioner's approval,
2. have worked as a school superintendent in another state for a minimum of 15 years, and
3. be or have been certified as a superintendent by the other state.

§ 6 — DURATIONAL SHORTAGE AREA PERMIT WAIVER

The act waives certain requirements for the SBE to issue a durational shortage area permit (DSAP) and requires the board to issue a permit to a person who meets the act's criteria. It waives requirements that (1) a permit be issued only for teaching in a shortage area and (2) the permit holder have a bachelor's degree from a regionally accredited institution. It requires the SBE to grant a DSAP in elementary education (a non-shortage area) to a person who (1) was born in Canada, (2) became a U.S. citizen on September 17, 2003, and (3) has been teaching special education classes for at least nine years. Regular DSAP terms and renewal limits apply to the DSAP issued under the act.

§ 7 — MARITAL AND FAMILY THERAPIST CERTIFICATION

The act requires the SBE, by June 1, 2008, to adopt regulations establishing standards for certifying marital and family therapists employed by boards of education. The regulations must require (1) licensure by the Department of Public Health (DPH) as a marital and family therapist and (2) other experience the SBE

considers appropriate for a marital and family therapist working in a school system.

BACKGROUND

Licensure Requirements for Marital and Family Therapists

DPH requires applicants for licensure as a marital and family therapist to complete:

1. a graduate degree program in marital and family therapy at an accredited higher education institution or a postgraduate clinical training program approved by the Commission on Accreditation for Marriage and Family Therapy Education and recognized by the U.S. Education Department;
2. at least 12 months of a supervised practicum or internship supervised by the degree-granting institution or postgraduate program within no more than 24 consecutive months with (a) an emphasis in marital and family therapy and (b) at least 500 direct clinical hours, including 100 hours of clinical supervision;
3. at least 12 months of relevant postgraduate experience, including at least 1,000 hours of direct client contact offering marital and family therapy after receiving a master's or doctoral degree or after the training year specified above; and
4. 100 hours of postgraduate clinical supervision by a licensed marital and family therapist not directly compensated by the license applicant for providing supervision.

Applicants must also pass a DPH-prescribed licensing exam (CGS § 20-195c).

Related Act

PA 07-3, June Special Session, revamps the ECS formula starting with FY 08. That act's changes include eliminating the mastery percentage from the formula's student weighting for educational need and eliminating supplemental aid, an ECS supplemental formula that also uses mastery percentage as a factor. But that act also uses the mastery percentage as a factor for determining each town's minimum budget requirement for education.

PA 07-249—sSB 1406
Education Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING AUTHORIZATION OF STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS AND CHANGES TO THE STATUTES CONCERNING SCHOOL BUILDING PROJECTS

SUMMARY: This act authorizes $378 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%.

The act also:

1. requires school renovation projects to meet additional criteria in order to receive a state grant,
2. limits the circumstances under which the state will reimburse school districts for project-related litigation expenses,
3. limits reimbursements for site remediation and improvement costs,
4. gives the education commissioner additional flexibility to approve vocational-technical school projects,
5. requires charter schools that receive state school construction grants of at least $250,000 to repay the unamortized part of the grant if they change the building to a nonschool use within 10 years of receiving the grant, and
6. subjects architectural and construction management services for school construction projects to competitive bidding.

The act repeals a two-percentage-point bonus reimbursement for green school projects and reverses certain changes concerning green building standards for schools enacted in PA 07-242. It establishes special school construction grants for the Connecticut Science Center and up to two New London school projects, allowing them to receive the interdistrict magnet school reimbursement rate of 95% of eligible project costs, up to certain limits.

Finally the act waives various statutory and regulatory requirements for state-assisted school construction projects to make specific projects eligible for state grants.

EFFECTIVE DATE: Various, see below.

§1 – SCHOOL CONSTRUCTION PROJECT AUTHORIZATIONS

The act authorizes $322.1 million in state grant commitments for 31 new school construction projects of various types. It also reauthorizes 17 previously authorized projects for the first time and 14 for the

second time. These projects have changed substantially (more than 10%) in cost or scope. The reauthorizations increase state grant commitments by $55.9 million from the amounts previously authorized.
EFFECTIVE DATE: Upon passage

§ 2 – RENOVATION PROJECTS

The act adds two conditions to the grant eligibility requirements for school renovation projects. School districts are already eligible for school construction grants for school renovation projects if (1) the project results in the renovated building having a useful life comparable to that of a new building and (2) renovation is cheaper than building a new school. In addition, the act requires that (1) the same school not have been renovated with a state school construction grant within the 20 years before the new grant application date and (2) at least 75% of the building to be renovated be at least 30 years old.
EFFECTIVE DATE: July 1, 2007

§ 3 – LITIGATION EXPENSES

The State Department of Education previously allowed school districts to include attorneys' fees and court costs for project-related litigation in their eligible project costs and to be reimbursed for those costs at the regular rate applicable to the project. For projects authorized on or after July 1, 2007, the act allows school districts to be reimbursed for project-related litigation expenses only if they win the lawsuit.
EFFECTIVE DATE: July 1, 2007

§ 4 – SITE REMEDIATION AND IMPROVEMENT COSTS

The act limits state reimbursement for school construction site remediation and improvements to no more than 25% of the site's appraised value with improvements. The limit does not apply if the site's purchase price is reduced so the price plus remediation cost is no greater than 125% of the appraised value of the site and the improvements. The new limit applies to projects authorized, and sites for school use selected, on or after July 1, 2007.
EFFECTIVE DATE: July 1, 2007

§§ 5 & 6 – VOCATIONAL-TECHNICAL SCHOOL PROJECTS

The act exempts vo-tech projects from a law limiting to two the number of legislative reauthorizations for a school construction project. It thus allows the General Assembly to authorize three or more changes in cost or scope that exceed 10% for a vocational-technical school project.

The act also allows the education commissioner, on or after July 1, 2007, to approve, within available grant authorizations and without separate legislative authorization, the same types of emergency and code violation projects for vo-tech schools as he can for other schools. The commissioner's payments on such projects are limited to available appropriated funds. The types of projects are those that:

1. fix damage from fire and catastrophes,
2. remedy code violations,
3. replace roofs,
4. remedy certified school indoor air quality emergencies, or
5. buy and install portable classrooms.

As with other schools, the commissioner's authority to approve portable classrooms for vo-tech schools applies only if they do not create a new facility or modify an existing facility so that portables become a substantial percentage of the facility's total area.
EFFECTIVE DATE: July 1, 2007

§ 7 – CHARTER SCHOOL PROJECTS

The act requires charter schools that receive state school facility grants of $250,000 or more to repay some of the grant if they stop using the building as a school within 10 years after receiving it. The same grant repayment requirements already apply to other schools receiving state assistance.

The act requires the education commissioner to amortize the grant equally over 10 years. If the charter school governing authority takes the building out of service or converts it to a nonschool use during the amortization period, it must repay the unamortized grant balance. A charter school required to make a repayment can ask the state to forgive the repayment if it directs the building to another public use.
EFFECTIVE DATE: July 1, 2007

§ 15 – "GREEN BUILDING" STANDARD CHANGES

The act reverses certain statutory changes adopted by PA 07-242. It restores a provision that applies the green building standards to all state facilities projected to cost $5 million or more and that are funded on or after January 1, 2008. PA 07-242 limited that requirement to state buildings where at least $2 million of the funding comes from the state.

The act also reverses a provision of PA 07-242 that requires the Institute for Sustainable Energy, rather than the Office of Policy and Management (OPM) secretary, to determine whether the cost of complying with the green standards significantly outweighs the benefits. Finally, it requires the OPM secretary to consult with the institute, as well as the public works commissioner,

when exempting any facility from the standards.
EFFECTIVE DATE: January 1, 2008

§ 21 – CONNECTICUT SCIENCE CENTER

By July 1, 2007, the act requires the Connecticut Science Center president and the education commissioner to agree to a memorandum of understanding concerning the operation and status of the science center as a statewide magnet science learning center. Once the science center achieves that status, the act makes it eligible for school construction grant reimbursements of 95% of its costs for building, replacing, altering, and repairing its facilities, including reasonable costs for major exhibits. It allows the science center to fund the other 5% of such costs from private donations.

The act requires the science center to apply for school construction grant reimbursements according to regular application procedures. The science center's projects must meet all requirements for school construction projects unless the education commissioner waives any of them for good cause.
EFFECTIVE DATE: Upon passage

§ 25 - COMPETITIVE BIDDING REQUIREMENTS FOR PROFESSIONAL SERVICES CONTRACTS

The act expands the requirements for competitive bidding on all orders and contracts for state-assisted school building projects to include orders and contracts for architectural and construction management services for such projects. By law, competitive bidding requirements do not apply to projects for which the school district is using a state contract, change orders, contracts or orders costing less than $10,000, and emergency contracts and orders.
EFFECTIVE DATE: July 1, 2007

§ 30 – NEW LONDON MAGNET SCHOOL DISTRICT

The act allows the education commissioner to designate one or two schools in a school district that meets certain criteria as interdistrict magnet schools and makes school construction projects at those schools eligible for the 95% state school construction reimbursement rate applicable to interdistrict magnet schools. The act limits the total project costs for the two schools to $10 million. (PA 07-3, June Special Session eliminates this limit and substitutes a $10 million limit on the additional reimbursement grant for the projects.)

To qualify, a district must be a priority school district and the district for a town (1) that has a population of between 20,000 and 30,000, (2) with an area of less than six square miles, and (3) with at least 50% of its property listed as tax-exempt. Only New London meets these conditions. Before the commissioner may designate the schools as a magnet district, the New London Board of Education must submit a plan that the commissioner finds reasonable for achieving a minimum district-wide enrollment of 15% of students from outside the district. Three years after it receives the 95% reimbursement rate under the act, the New London Board of Education must report to the Education Committee on its progress in meeting the act's enrollment requirement.

If the district fails to meet the enrollment requirement by June 30, 2012, it must repay the difference between the 95% school construction grant and the grant it would have received at its regular reimbursement rate. For FY 08, New London's regular reimbursement rate is 77.86%.

Under the act, the district's schools are eligible for magnet school operating grants only if they meet the same interdistrict magnet school enrollment requirements as all other such schools. These are that (1) the school's enrollment from a single participating district not exceed 75% of its total enrollment and (2) at least 25%, but no more than 75%, of the students enrolled in the school be from racial minorities.
EFFECTIVE DATE: Upon passage

§ 33 – REPEAL GREEN SCHOOL BONUS

The act repeals a provision of PA 07-242 that gave school districts a two-percentage-point bonus in their school construction grant reimbursement rates (but no more than 100% reimbursement) for school projects subject to the green building requirements, and requiring a school district to certify to the Education Department that the school will meet the standards.
EFFECTIVE DATE: October 1, 2007

WAIVERS FOR SPECIFIC PROJECTS

The act waives certain statutory and regulatory requirements to make the school construction projects listed in Table 2 eligible for state grants.

Table 2: Waivers for Specific School Construction Projects

§	*District*	*School*	*Project*	*Requirements Waived and Conditions*
8	Ellington	Crystal Lake School	Code violation	• Timing of bid and SDE plan approval
9	Avon	Avon Middle School	Code violation	• Timing of bid and SDE plan approval
10	Region 19	E.O. Smith High School	Off-site extension of water system	• Ineligible costs
11	Region 14	Nonnewaug High School	Agri-science equipment project	• Grant application deadline

§	District	School	Project	Requirements Waived and Conditions
			costing approximately $182,000	• Local funding authorization deadline • Completed application required by 6/30/08
12	Killingly	Killingly High School	New school and new regional vo-ag center	• Deadline to begin construction extended to 6/30/08
13	North Canaan	North Canaan Elementary School	Roof replacement	• Timing of bid and SDE plan approval
14	Waterbury	Enlightenment and Special Education Program Center	Extension and alteration	• Grant application deadline • Add to 2007 priority list • Completed application required by 6/30/07
16	Tolland	Parker Memorial School and Old Tolland High School	Water line installation	• Timing of bid and SDE plan approval
17	New Haven	Interdistrict magnet school to be operated in cooperation with the University of New Haven	New school	• Education commissioner must give review and approval priority to placing the project's application on the 2008 school priority list • Completed application required by 6/30/07
18	New Haven	New Cooperative Arts and Humanities High School	New magnet school – additional reauthorizatio n for increased costs up to $66 million in total project costs	• Limit on number of legislative reauthori-zations for changes in project scope or cost over 10%
19	New Haven	Fair Haven Middle School	Renovation costs for leased swing space	• Ineligible costs
20	Colchester	Bacon Academy	Relocatable classrooms	• Acoustical standards for relocatable classrooms, provided they were purchased prior to 7/1/05
22	NA	Connecticut Science Center	Finish construction of new facility, up to $16 million in total project costs. Apply 95% magnet school reimbursemen	• All school construction grant provisions

§	District	School	Project	Requirements Waived and Conditions
			t rate.	
23	West Hartford	Conard High School	Extension and alteration	• Use 10-year instead of 8-year enrollment projection for the project
24	Middletown	Middletown High School	Fuel cell installation project	• Public RFP as conducted by district meets competitive bidding requirements. • Portion funded by Ct. Clean Energy Fund not considered a project expense. • Incremental costs over Clean Energy Fund grant for installing the fuel cell and related equipment are fully eligible for grant purposes. • Wall and area enclosing the fuel cell and slab area for emergency generator excluded from standard space specifications. • Requirement for SDE to approve plans and specifi-cations prior to bid, provided CII certifies to SDE that the fuel cell and generator were installed according to industry standard and applicable codes.
26	West Hartford	Charter Oak Academy & Smith School	Technology improvements	• Grant application deadline • Local funding authorization deadline • Ineligible costs • Completed application required by 6/30/08
27	Manchester	Bennet School	Change extension and alteration project to a renovation project, limited to the cost of a grant for new construction	• Requirement that project description be submitted at time of project application • Requirement that a renovation project cost

§	District	School	Project	Requirements Waived and Conditions
				less than a new building
28	Brooklyn	Brooklyn Elementary and Junior High Schools	Water line extension	• Expand 1994 ineligible cost waiver for sewer line extension
29	Simsbury	Central Elementary School	New construction or alterations to recreational facility, up to $20,000	• Ineligible cost
30(c)	New London (see above)	Up to 2 schools	School construction projects	• Deadline to file grant application • Local funding authorization • Add projects to 2007 priority list • District must secure local funding, file a completed application by 6/30/08, and meet other school construction requirements.
31	Region 11 & Brooklyn	New high school	New high school construction under a cooperative arrangement	• Deadline to file grant application, provided (1) a cooperative agreement for the project is established by June 30, 2007 and (2) the district files application by December 31, 2007.
32	Madison	Walter C. Polson Middle School	Roof replacement	• Timing of bid and SDE plan approval
34	Waterbury	Duggan School – New Elementary School #1	Change new building project to a renovation project, limited to the cost of a grant for new construction	• Requirement that project description be submitted at time of project application • Requirement that a renovation project cost less than a new building
35	New Fairfield	New Fairfield High School and Middle School Facility	Renovate only portion built around 1972 plus, at the district's option, (1) limited alterations to the part of the facility built in 1995, (2) extension of the portion built in 1995, or (3) both.	• Scope of renovation
36	New Canaan	New Canaan High School	Renovation and extension, to the extent increased costs due to discovery and remediation of latent asbestos or other code hazard	• Limitations on changes in project scope or costs
37	Southington	South End Elementary and Plantsville Elementary	Unspecified projects	• Local funding authorization deadline • Add to 2007 list • Local funding authorization must be secured and project applications filed by 6/30/2007 • Projects must meet all other school construction requirements

EFFECTIVE DATE: Upon passage

BACKGROUND

School Construction Grants

By law, the state reimburses school districts on a sliding scale of from 20% to 80% of their eligible school construction costs, depending on the district's wealth. Districts receive higher reimbursement rates for certain projects, such as regional and interdistrict magnet schools, vocational agriculture, and special education projects and projects that include space for school readiness and all-day kindergarten. Vocational-technical school projects are included on the annual authorization and reauthorization lists the education commissioner submits to the General Assembly, but the projects are 100% state-funded.

Related Acts

This act eliminates and reverses certain provisions of PA 07-242 relating to school construction and energy efficient buildings. PA 07-3, June Special Session, changes this act's cost limit for the New London magnet school projects and adds statutory and regulatory waivers for projects in Suffield (regional agriscience center), Meriden (Edison Magnet School), Region 4 (Valley Regional High School and John Winthrop Jr. High School), and Westbrook (Westbrook Middle/High School).

PA 07-139—sHB 7178
Energy and Technology Committee
Government Administration and Elections Committee
Environment Committee

AN ACT CONCERNING WATER COMPANY INFRASTRUCTURE PROJECTS

SUMMARY: This act authorizes the Department of Public Utility Control (DPUC) to allow a water company to use a rate adjustment (e.g., a surcharge) in the period between rate cases in order to recover the depreciation, property taxes, and related return for certain company capital projects that have been completed. The act specifies how DPUC must establish a surcharge mechanism and how it would work.
EFFECTIVE DATE: Upon passage

DPUC ESTABLISHMENT OF THE SURCHARGE MECHANISM

Under the act, a water company may only use the adjustment to the extent allowed by DPUC based on the company's infrastructure assessment report, as approved by DPUC, and semi-annual filings by the company that reflect plant additions consistent with the report.

The act requires DPUC, by 90 days after the act's passage (after June 19, 2007), to begin a generic proceeding to determine what must be included in an assessment report. The act requires the report to identify the company's water system infrastructure needs and its criteria for determining which are priority projects. The proceeding must also specify the contents of an annual reconciliation report, described below. DPUC can hold a hearing to solicit input on the contents of these reports and on the criteria for determining project priority. It must issue its decision within 180 days after the deadline for interested parties to submit their recommendations.

ELIGIBLE PROJECTS

To be eligible for the adjustment mechanism, a capital project (1) must not have been previously included in the water company's rate base in its most recent rate case and (2) must be intended to improve or protect the quality and reliability of service. Eligible projects can include:

1. the renewal or replacement of existing infrastructure, such as mains and valves, that have reached the end of their useful life, are worn out, are deteriorated, are or will be contributing to unacceptable levels of unaccounted-for water, or are harmful to water quality or reliability of service if not replaced;
2. main cleaning and relining projects;
3. relocation of facilities as a result of government actions, when the capital costs are not otherwise eligible for reimbursement; and
4. purchasing leak detection equipment or installing production meters or pressure reducing valves.

APPLICATION FOR THE ADJUSTMENT

A water company seeking to use the adjustment mechanism must file the assessment report with DPUC. The report must identify the water system's infrastructure needs and the company's criteria for determining priorities among eligible infrastructure projects. In reviewing the report, DPUC must address the criteria specified in its proceeding. DPUC's approval criteria must include (1) the facilities' age, material, or condition; (2) the extent and frequency of main breaks or interruption of service; (3) adequacy of pressure; (4) head loss; (5) availability of fire flows; and (6) the projects' potential impact on system integrity and reliability.

DPUC APPROVAL OF ASSESSMENT REPORT

DPUC must approve an assessment report if the company demonstrates through generally accepted engineering practices that (1) the projects are eligible under the act; (2) they will benefit customers by improving water quality, system integrity, or service reliability; (3) they meet the criteria established for determining project priority; and (4) there is sufficient investment in infrastructure. DPUC may hold a hearing to solicit input on the infrastructure assessment report so long as it issues a decision within 180 days after the report is filed. If DPUC does not act on the report within this time, it is considered to be approved.

The act states that DPUC, in conjunction with the Office of Consumer Counsel, must conduct the proceeding pursuant to an existing law (CGS § 16-18a) that deals with the retention of consultants by these agencies. It is unclear how this law applies to this act.

IMPOSITION OF THE SURCHARGE

Upon DPUC approval of the assessment report, the company can impose a rate surcharge. No proposed surcharge or credit can become effective until DPUC has approved it in an administrative proceeding. DPUC must complete a hearing within 30 days after the filing of the application or within the timeframe established in the initial generic proceeding. DPUC may receive and consider comments of interested persons and the public at the proceeding, which shall not be considered a contested case. DPUC's approval or denial is not considered a DPUC order, authorization, or decision

and therefore cannot be appealed to the courts. The adjustment must be calculated as a percentage, based on (1) the original cost of completed projects multiplied by the applicable rate of return, plus associated depreciation and property tax expenses related to the projects and (2) any reconciliation adjustment calculated as a percentage of the retail water revenues approved in the company's most recent rate filing versus the projected revenues for the regulated activities of the company. The first part of the approach is similar to how DPUC sets rates in a rate case.

Water companies can impose the surcharge for eligible projects on customers' bills at intervals of no less than six months, starting on January 1st, April 1st, July 1st, and October 1st each year.

If DPUC has not approved or denied an application as the act requires, the proposed surcharges or credits become effective at the company's option, pending DPUC's finding with respect to the charges. In such cases, the company must refund its customers any amounts collected from them in excess of the surcharges approved by DPUC in its finding.

The amount of the adjustment applied between general rate case filings cannot exceed 7.5% of the company's annual revenues and 5% of revenues for any 12-month period. The amount of the adjustment must be reset to zero once new base rates are approved in a rate case or if the company exceeds its allowed rate of return by more than one percentage point for any calendar year. Water companies must notify customers through a bill insert or other direct communication when the adjustment is first applied after which it must appear as a separate item on the customers' bills.

RECONCILIATION REPORT

The act requires affected water companies to submit to DPUC, by each February 28, an annual reconciliation report through December 31 for any surcharge applied to customers' rates in the previous calendar year. The report must identify those parts of projects that have been completed. It must demonstrate that the adjustment was limited to eligible projects that were in service and used and useful as of the end of the calendar year. In addition, the report must indicate whether there have been any significant changes in the amount of infrastructure spending, the priorities for determining eligible projects, or the criteria established in the assessment report. The report must compare the revenues actually collected to the allowed amount of the surcharge.

If upon the completion of the report, DPUC determines that the company over-collected or under-collected the adjustment, the difference between the revenue and costs for eligible projects will be recovered or refunded, as appropriate, as a reconciliation adjustment over a one-year period beginning on April 1. The company must provide a refund to customers, with interest, for any over-collection, but the company is not eligible for interest for any under-collection.

PA 07-152—sHB 6209
Energy and Technology Committee
Government Administration and Elections Committee
Commerce Committee
Legislative Management Committee
Appropriations Committee
Finance, Revenue and Bonding Committee
Environment Committee

AN ACT CONCERNING THE RENEWABLE ENERGY INVESTMENT FUND

SUMMARY: This act creates the Renewable Energy Investments Board within Connecticut Innovations, Inc. (CII) for administrative purposes only and allows CII to spend money in the Clean Energy Fund only as authorized by the board. It specifies the board's membership and establishes its responsibilities. It eliminates the advisory committee that previously assisted CII in developing a comprehensive plan, among other things.

By law, the Energy Conservation Management Board (ECMB) helps the electric companies develop a plan to implement cost-effective conservation programs, which is subject to Department of Public Utility Control (DPUC) approval. The act requires DPUC to approve, modify, or reject the plan in an uncontested proceeding. It allows DPUC to hold a public hearing as part of this proceeding.

EFFECTIVE DATE: October 1, 2007, except that the provision explicitly allowing CII to administer the fund in accordance with the act is effective upon passage.

RENEWABLE ENERGY INVESTMENTS BOARD

Membership

Under the act, the Renewable Energy Investments Board has 15 members. The board consists of the Consumer Counsel and the heads of the following agencies, or their designees: the Department of Emergency Management and Homeland Security, the Office of Policy and Management, and the Department of Environmental Protection. The board also has 11 appointed members, as described in Table 1. The membership of the new board is similar to that of the prior advisory committee.

Table 1: Appointed Members of the Renewable Energy Investments Board

Appointing Authority	*Members*
Governor	One person with expertise in renewable energy resources, one representative of organized labor, and one representative of residential customers or low-income customers
Senate president pro tempore	One representative of a state or regional environmental protection organization
House speaker	One person with expertise in renewable energy resources
Senate majority leader	One representative of a state or regional environmental protection organization
House majority leader	One person with experience in business or commercial investments
House minority leader	One person with experience in business or commercial investments
Senate minority leader	One representative of a statewide business organization, manufacturing association, or chamber of commerce
CII Board of Directors	Two people with experience in business or commercial investments

Every two years, the board must elect a chairperson and vice-chairperson. It must adopt necessary bylaws and procedures and can establish committees and subcommittees to carry out its business.

Responsibilities`

Under prior law, CII was responsible for administering the Clean Energy Fund. The act allows CII to spend money from the fund only upon the authorization of the Renewable Energy Investments Board and places the fund within CII for administrative purposes only. The act explicitly authorizes CII to administer the fund as provided for in the act. It allows the fund to (1) reimburse the services of the fund administrator, including a management fee and (2) be used to develop and carry out the renewable energy plan described below.

Under prior law, the chairperson of CII's board of directors appointed an advisory committee to help CII regarding the Clean Energy Fund, including the development of a comprehensive plan and expenditure of money in the fund. The act instead requires the board to act on matters related to the fund, including plan development and expenditure of funds. It requires the board to make a draft of the plan available for public comment for at least 30 days. It requires the board to hold three hearings on the draft plan in different parts of the state. The board must summarize the comments it receives in the final plan approved by the board. It must provide a copy of the plan to the Energy and Technology and Commerce committees. The board must submit the plan to DPUC, which must approve, modify, or reject the plan in an uncontested proceeding. DPUC can hold a public hearing as part of this proceeding.

The board must annually submit a report to DPUC reviewing the activities of the Clean Energy Fund and provide a copy of the report to the Energy and Technology and Commerce committees and to the Office of Consumer Counsel. The report must describe the programs and activities undertaken jointly or in collaboration with the electric companies' conservation funds during the reporting period.

Under prior law, the advisory committee was required to evaluate the performance of the fund by December 31, 2011 and every five years thereafter and submit the report to the Energy and Technology Committee. The act transfers this responsibility to the board and requires that the report go to the Commerce Committee as well.

Under prior law, there was a joint committee of the advisory committee and ECMB. The act instead requires that there be a joint committee of ECMB and the Renewable Energy Investments Board. By law, the joint committee is required to coordinate conservation and renewable energy programs and activities.

Under prior law, ECMB had to consult with the advisory committee in evaluating the performance of the electric companies' conservation funds. The act instead requires ECMB to consult with the Renewable Energy Investments Board.

PA 07-222—HB 5927
Energy and Technology Committee
Planning and Development Committee
Government Administration and Elections Committee
Appropriations Committee

AN ACT CONCERNING THE CONNECTICUT SITING COUNCIL AND CELLULAR TOWERS

SUMMARY: This act requires each telecommunications services provider, by January 1, 2008, to submit to the Siting Council, at its request, all information on (1) locations in a municipality that do not have coverage or have inconsistent coverage and (2) the provider's existing and projected demand for coverage in a municipality. The act requires the Siting Council, by January 1, 2008 (the same date as when it receives the provider information), to develop a telecommunications coverage assessment for a municipality upon the municipality's request. The assessment must (1) identify locations in the municipality that do not have coverage or have inconsistent coverage and (2) analyze existing and projected demands for coverage in the municipality. Information from providers can be used only to prepare the assessment.

The act requires the council to request a municipality that is the proposed site of a telecommunications tower to submit its location preferences or criteria to the council within 30 days after a tower application is filed with the council and the municipality is notified. The council must consider the location criteria and preferences that the municipality submits or those that were in its zoning regulations as of the date of the application when evaluating it.

The act allows the Siting Council to order the restoration of vegetation in overhead transmission line rights-of-way (ROW).

The act (1) modifies how the Siting Council's assessment of telecommunications companies is calculated, (2) increases the maximum assessment on electric retailers from $1 million to $1.5 million, and (3) imposes penalties on late assessments. It increases the per diem that council members receive for attending council hearings and other council business from $150 to $200 and eliminates the $12,000 annual cap on the per diem.

EFFECTIVE DATE: July 1, 2007 for the per diem increase; upon passage for the remaining provisions, with the telecommunications assessment calculation changes applicable to assessment period beginning on or after July 1, 2006.

RESTORING TRANSMISSION LINE RIGHTS-OF-WAY

The act allows the Siting Council, as part of its supervision of any transmission line construction project, to order restoration or revegetation of the ROW of an overhead transmission line as it considers necessary to promote the long-term restoration of vegetation in those parts of the ROW in residential areas where there has been a significant and material loss of screening (e.g., fewer trees blocking the view of the line) as a result of clearing activities. The order must be consistent with all standards for (1) required clearances between the transmission conductors that have been energized and the vegetation and (2) minimum work distances for those working in proximity to conductors.

SITING COUNCIL ASSESSMENTS

By law, the Siting Council receives part of its funding from an assessment on the electric and telecommunications companies over which it has jurisdiction. The act increases, from $1 million to $1.5 million, the maximum annual assessment on companies that have gross retail electric sales in excess of $100,000.

Under prior law, the assessment applied to telecommunications companies that provide communications services and that have come before the council in the previous calendar year. The act additionally assesses companies that have provided communications service facilities (e.g., cell tower builders) that have come before the council in the previous calendar year. The act requires the assessment to be based on the share of the council's direct costs they are responsible for, rather than on (1) frequency of appearances, (2) degree of regulation required, and (3) percent of the council's workload.

The act requires the council to charge a 1.5% late fee each month on any assessment or other council charge that is 30 or more days overdue.

PA 07-228—sHB 7308
Energy and Technology Committee
Judiciary Committee

AN ACT CONCERNING RESOURCE RECOVERY OUTPUT PURCHASE REQUIREMENTS AND INDIRECT COSTS AND REMEDIES FOR PUBLIC SERVICE COMPANIES

SUMMARY: This act eliminates a requirement that electric companies enter into long-term contracts with resources recovery facilities in which the company pays

the facility owner the company's retail rate for the power the facility produces. The act requires the companies to continue paying the rate set in existing contracts for the remainder of the contract. But for contracts entered into and approved in 1999, the company must pay the rate set by the Department of Public Utility Control.

By law, a utility can petition the courts to appoint a receiver of rents when the owner of a residential building who is directly billed for utility service fails to pay the bill. If appointed, the receiver receives the rents or other payments the occupants make, pays the current utility bill and certain other expenses, and remits the remainder to the owner. The act additionally allows the receiver to receive rents or payments made (1) on behalf of the building's occupants or (2) by people who are residents rather than occupants. It also expands the provisions to include occupants or residents of facilities, thus potentially subjecting more people to these provisions.

EFFECTIVE DATE: Upon passage for the resources recovery provisions; July 1, 2007 for the receivership provisions.

PA 07-240—sHB 7311
Energy and Technology Committee
Legislative Management Committee

AN ACT CONCERNING GEOTHERMAL HEAT SYSTEMS

SUMMARY: This act allows a municipality to adopt an ordinance exempting from the property tax electric generating facilities used on a farm that use class I renewable energy sources, such as solar and wind power and certain hydropower facilities. The law already permitted municipalities to exempt such facilities installed for private residential use.

The act requires the Clean Energy Fund advisory committee to study (1) the cost-effectiveness and efficiency of geothermal and other advanced heat pump systems; (2) appropriate geothermal applications for industrial, commercial, and municipal purposes; and (3) financial and other barriers to greater applications and ways to promote more applications. The committee must consult with the Department of Public Utility Control and the Energy Conservation Management Board (ECMB) in conducting the study. ECMB must report its findings and recommendations to the Energy and Technology Committee by February 1, 2008.

EFFECTIVE DATE: Upon passage for the study; October 1, 2007 and applicable to assessment years starting on or after that date for the tax exemption.

PA 07-242 — HB 7432 (**TWO PROVISIONS VETOED**)
Emergency Certification

AN ACT CONCERNING ELECTRICITY AND ENERGY EFFICIENCY

SUMMARY: This act makes many substantive changes to the state's energy laws. Among other things, it restores funding for the electric conservation and clean energy funds and establishes new energy efficiency programs and tax incentives for energy efficiency and renewable energy. There are separate efficiency measures for electricity, heating fuels, and vehicles.

The act also:

1. broadens and increases the state's "green building" requirements;
2. includes various measures to encourage the development of new power plants and other forms of power generation by electric companies and others;
3. requires electric companies, with the approval of the Department of Public Utility Control (DPUC), to engage in "integrated resources planning" in which the need for electricity is first met by conservation;
4. modifies how electric companies procure power for their large customers and requires DPUC to study procurement options for the service the companies provide to their small- and medium-sized customers;
5. modifies the membership of the Connecticut Energy Advisory Board and expands its responsibilities;
6. increases the proportion of the power sold in the state that must come from renewable resources;
7. makes various other changes regarding renewable energy;
8. includes several measures to increase electric reliability and energy security;
9. expands energy assistance programs; and
10. makes many other changes, primarily related to electricity.

EFFECTIVE DATE: Various, see below.

§ 126 — RESTORATION OF CONSERVATION AND CLEAN ENERGY FUNDS

In recent years, the legislature has diverted to the General Fund part of the revenue that would have otherwise gone into the electric companies' conservation funds and the state's Clean Energy Fund. To reduce the impact of the transfer on these funds, the legislature authorized the issuance of bonds backed by future revenue from the conservation and renewable energy charges on electric bills.

The act appropriates $95 million from the FY 07 budget to defease or buy back the bonds that mature after December 30, 2007, or a combination of these measures. Seventy-five percent of the revenue resulting from this measure (net of the state's administrative costs) must go into the conservation funds and 25% must go into the Clean Energy Fund.

The governor vetoed these provisions, but they were reinstated in the budget act (PA 07-1, June Special Session), with an $85 million appropriation. PA 07-5, June Special Session makes conforming changes.
EFFECTIVE DATE: Upon passage

ENERGY EFFICIENCY

§§ 1, 2 — Replacement Furnace Rebate Program

Under the act, between July 1, 2007 and July 1, 2017, the Office of Policy and Management (OPM) secretary must provide a rebate of up to $500 for the purchase and installation of certain replacement home heating equipment. The rebate decreases with income in the same way as the property tax credit against the income tax. The rebate is available for equipment installed in residential structures containing up to four dwelling units. Replacement gas furnaces must be Energy Star-rated and oil and propane equipment must be at least 84% efficient. The act caps the total amount of rebates at $5 million annually.

Prior law authorized the issuance of up to $5 million in bonds for low interest energy efficiency loans. The act, instead, makes this an annual authorization and allows the proceeds to be used for the rebate program as well as the loan program.

The Energy Conservation Management Board (ECMB) must report to the Energy and Technology Committee on the cost-effectiveness of the rebate program by January 1, 2009.
EFFECTIVE DATE: July 1, 2007

§ 14 — Residential Conservation Program

The act requires ECMB, by October 1, 2007, to develop and estimate the cost of a comprehensive residential electric and gas conservation program. ECMB must do this in consultation with the electric and gas companies. The program must include:

1. an audit identifying appropriate conservation measures applicable to a customer's home or apartment;
2. a ranking of measures in terms of cost-effectiveness and peak electricity demand reductions;
3. a system that ranks customers to be assisted at least in part by their agreeing to install the measures that are the most cost-effective and reduce peak electricity demand;
4. an oversight system that helps:
   (a) renters get their landlords' permission when this is needed to install measures and
   (b) all customers obtain incentives, other cost savings, and financing and identify knowledgeable contractors to successfully install the measures;
5. financing for conservation measures on the utility bill over a period that does not exceed the measure's expected life, where the repayment amount plus the customer's bill after installing the measures does not exceed the anticipated utility bill without the measures;
6. an authorization from the customer to disconnect his utility service for nonpayment of any financing repayment amount; and
7. assignment of repayment obligations to subsequent owners or tenants of the dwelling unit.

The act requires ECMB to report, by February 1, 2008, to the Energy and Technology and Environment committees on the development and the estimated cost of the program. The act does not preclude development and implementation of similar conservation programs if they are approved by DPUC.
EFFECTIVE DATE: July 1, 2007

§§ 6, 70 — Sales Tax Exemptions

The act (1) makes permanent the sales tax exemption for residential energy efficiency goods such as insulation, programmable thermostats, and gas furnaces that meet Energy Star standards and (2) makes oil furnaces and boilers that are 84% or more efficient, rather than 85% efficient or more, eligible for this exemption. The act also permanently exempts compact fluorescent light bulbs from the sales tax. Finally, it exempts household appliances that meet federal Energy Star standards until June 30, 2008. (PA 07-1, June Special Session terminates the appliance exemption on September 30, 2007).
EFFECTIVE DATE: Upon passage for the Energy Star appliance exemption; June 1, 2007 for the exemption for energy efficiency goods and compact fluorescent lamps.

§ 72 — Tax Credits Under Neighborhood Assistance Act

Prior law provided a credit against business taxes of up to 60% of a firm's investments in energy conservation projects in low-income housing developments or properties occupied by charitable organizations. The act (1) increases the maximum credit

to 100% and (2) establishes a 100% credit for energy conservation investments in properties owned, but not occupied by, these organizations. (PA 07-5, June Special Session makes conforming changes.)
EFFECTIVE DATE: July 1, 2007

§§ 13, 101 — Management of Energy Use in State Facilities

The act requires OPM, in consultation with the Department of Public Works (DPW), to develop a strategic plan to improve energy use management in state facilities. The plan must address such things as efficiency, distributed generation, and renewable energy initiatives. The plan must also include options for agencies to pursue competitive electric supply options through an integrated purchasing program. The plan must specify the potential near-term budget savings that could be realized.

By September 1, annually, OPM must submit the plan to the Connecticut Energy Advisory Board (CEAB). CEAB must approve or modify the plan by the subsequent January 1. By each March 15th, CEAB must measure the plan's success and determine the financial benefits to the state and the overall electric system. Electric ratepayers must (1) retain 75% of any savings, (2) reinvest 12.5% in energy efficiency programs in state buildings, and (3) reinvest 12.5% in energy efficiency programs and technologies on behalf of energy assistance programs administered by the Department of Social Services (DSS). DSS must use the systems benefit charge on electric bills to cover the costs of the last two allocations, although the act specifies that the funding comes from savings.

The act gives OPM several powers in connection with these provisions, including hiring a consultant. The costs of implementing these provisions must be paid from the state budget.
EFFECTIVE DATE: Upon passage

§ 73 — Bonding for Energy Efficiency Projects in State Buildings

The act authorizes up to $30 million in state bonds for DPW to fund the net costs of energy efficiency projects in state buildings implemented under the previously described provisions. The bonds are subject to standard statutory issuance and repayment provisions.
EFFECTIVE DATE: July 1, 2007

§ 74 — Grants For Energy Efficiency Projects In Colleges, Hospitals, and Other Facilities

The act allows the Connecticut Health and Educational Facilities Authority to provide grants or other financial assistance to colleges, health care facilities, nursing homes, day care centers, and other nonprofit organizations for energy efficiency and renewable energy construction and renovation projects.
EFFECTIVE DATE: October 1, 2007

§§ 75, 80 — Low-Interest Energy Conservation Loans

The act reinstates, until June 30, 2008, provisions of PA 05-2, October 25 Special Session that lowered the interest rate for the Department of Economic and Community Development's energy efficiency loan program. Unlike that act, this act includes siding and replacement roof projects in the interest rate reduction. It increases, from $15,000 to $25,000, the maximum loan that can be provided to owners of one- to four-unit residential properties under this program.
EFFECTIVE DATE: Upon passage

§§ 87, 88, 100, 111, 127 — Energy Efficiency Outreach Campaign

The act requires DPUC, in coordination with ECMB, to establish a statewide energy efficiency and outreach marketing campaign to target the following sectors:

1. commercial, including small businesses;
2. industrial;
3. governmental;
4. institutional, including schools, hospitals, and nonprofit organizations;
5. agricultural; and
6. residential.

The campaign must educate consumers on the (1) benefits of energy efficiency, including information on the partnership program; (2) real-time energy reports and the alert system prepared in compliance with the act; and (3) option of choosing a competitive electric supplier.

By December 1, 2007, DPUC must develop and approve a plan to meet the program's goals and begin to implement it by March 1, 2008. DPUC can retain a consultant to help it develop and implement the plan, which must include customer bill inserts, media advertisements, a web site, and other marketing strategies.

As part of the campaign, DPUC, in consultation with ECMB, must develop a real-time energy report by April 1, 2008, for use on TV and other media. The report must identify the state's current real-time energy demand and give tips for reducing consumption, among other things. DPUC, in consultation with ECMB, must also develop a real-time system by this date to alert the public via e-mail and cell phone on the need to reduce consumption during peak periods.

The act establishes a separate, nonlapsing account in the General Fund to fund these programs, and appropriates $5 million into the account for these

programs and the compact fluorescent light program described below. (PA 07-4, June Special Session, eliminates the account and the appropriation.)
EFFECTIVE DATE: July 1, 2007

§ 97 — Connecticut Energy Excellence Plan

The act requires ECMB to develop a "Connecticut energy excellence plan," which must:

1. describe in detail existing Connecticut higher education energy efficiency resources,
2. quantify the role that energy efficiency programs can play in creating a more efficient and competitive business climate,
3. identify measures that can be employed and investments in research that can be made to make Connecticut a national leader in energy efficiency, and
4. detail how energy efficiency efforts can be expanded to reduce the state's peak electric demand by at least 10% by 2010.

ECMB must submit its plan to the Energy and Technology Committee by February 1, 2008.
EFFECTIVE DATE: Upon passage

ENERGY EFFICIENCY — ELECTRICITY

§ 3 — Air Conditioning Replacement Program

The act requires ECMB, in consultation with the electric companies, to establish a rebate program for residential customers who replace air conditioners that do not meet the federal Energy Star efficiency standards with ones that do. ECMB must run the program from January 1, 2008 to September 1, 2008. The rebate ranges from at least $25 to at least $100 for room air conditioners, depending on the cost of the new air conditioner. The act provides a rebate of at least $500 to residential customers who replace a central air conditioning unit that does not meet the Energy Star standards with one that does. ECMB, in consultation with the Low-Income Energy Advisory Board, must establish program specifications for people who live in apartments. The program must be funded from the existing electric company conservation funds. PA 07-4, June Special Session, (1) requires that the program be cost-effective and (2) allows ECMB to provide smaller rebates for room air conditioners rebates if these levels are not cost-effective.

The Department of Consumer Protection (1) must allow retailers to participate in the program only if they certify that the rebates go only to customers who turn in an air conditioner for replacement before or when buying a new one and (2) may fine retailers up to $10,000 if they provide rebates inappropriately.

ECMB must provide for the environmentally responsible disposal of the air conditioners and report to the Energy and Technology Committee by January 1, 2009 on the program's results.
EFFECTIVE DATE: Upon passage

§§ 12, 16 — Equipment Energy Efficiency Standards

The act establishes energy efficiency standards for various products. These include certain incandescent lamps, medium voltage transformers, bottled water dispensers, commercial hot food holding cabinets, portable electric spas, walk-in refrigerators and freezers, and pool heaters. In most cases, the standards go into effect January 1, 2009.

The act establishes efficiency standards for residential furnaces and boilers purchased by the state on or after January 1, 2009. It requires the Department of Administrative Services and other purchasing agencies to buy appliances and equipment that meet federal Energy Star standards. (It appears that the furnaces and boilers must meet the Energy Star standards and the standards established by the act.)

Under prior law, DPUC, in consultation with OPM, had to take several steps to implement and revise the standards. The act instead assigns these responsibilities to OPM, in consultation with DPUC.
EFFECTIVE DATE: October 1, 2007

§ 61 — Compact Fluorescent Light Promotions

The act requires the state Department of Education (SDE), by September 1, 2007, to:

1. establish a week-long promotional event to take place in late September or early October each year, to promote renewable energy and energy conservation;
2. encourage and solicit school districts, schools, and other public educational institutions to participate in a statewide compact fluorescent light (CFL) bulbs fundraiser; and
3. provide outreach, guidance, and training to districts, parent and teacher organizations, and schools concerning the value of renewable energy.

The department must consult with DPUC, electric companies, and interested CFL manufacturers in developing this program.

SDE and ECMB must develop and implement a statewide fundraiser for all public schools in which students sell CFLs, with the participating schools keeping part of each sale. SDE must establish a sales target for the fundraiser and adopt regulations to determine the program's parameters. The act appropriates $5 million in funding for this and several other programs, but PA 07-4, June Special Session,

eliminates the funding and PA 07-3, June Special Session, eliminates the promotion program.
EFFECTIVE DATE: July 1, 2007

§§ 94, 96 — Connecticut Electric Efficiency Partnership Program

The act requires ECMB, in consultation with the Clean Energy Fund advisory committee, to evaluate and approve technologies that can be deployed by "Connecticut electric efficiency partners" (including electric company customers and energy management companies) to reduce electric demand. These technologies can include demand-side measures such as conservation and supply- side measures such as renewable generation and emergency generators that can be centrally dispatched, as well as high efficiency natural gas and oil furnaces. ECMB must file its evaluation with DPUC by October 15, 2007. DPUC must approve or modify the analysis by that date.

Also by October 15, 2007, ECMB must file with DPUC an analysis of growth in overall and peak demand. The analysis must evaluate the costs and benefits of these technologies and set funding levels for the partnership program described below.

Starting April 1, 2008, anyone can seek DPUC approval and funding as a partner by showing adequate financial resources, managerial ability, and technical competence. The application must describe the services and DPUC-approved technologies that the partner will buy or provide and the amount of funding it is seeking. In evaluating the application, DPUC must consider the applicant's potential to reduce overall and peak demand. DPUC must determine how much of the cost of an approved application the customer will bear and how much will be funded by ratepayers. DPUC must ensure that approved applications achieve a two-to-one payback ratio. At least 75% of the investment must go for the technologies themselves. Starting February 1, 2010, partners can receive funding only if chosen in a request for proposals (RFP) conducted by DPUC, subject to the same cost-benefit test. No more than $60 million in ratepayer funds can go to this program each year.

A person cannot receive ratepayer funding under these provisions for a project that is receiving funding from the electric company's energy conservation and load management fund.

Partners must comply with DPUC orders and are subject to civil penalties that apply to entities that are under DPUC's jurisdiction if they do not.

DPUC can retain a consultant to help it develop the partnership program. The cost of the program, including the consultant's costs, are recovered through the systems benefit charges on electric bills.

The act also requires DPUC to develop a low-interest loan program to finance the customer's share of the capital cost of the technologies. It can provide these loans through a mechanism in existing law, under an agreement with the Connecticut Development Authority, or through an entity chosen by competitive bid. The financing agreements entered into with the Connecticut Development Authority cannot exceed $10 million dollars.

DPUC must report to the Energy and Technology Committee by February 15, 2009, and annually thereafter. The report must describe the approved technologies, payback ratios for all investments, the number of projects deployed, and a list of denied projects and the reasons for their denial. By April 1, 2011, DPUC must begin a proceeding to review the program's cost-effectiveness and perform a ratepayer cost-benefit analysis. Based on DPUC's findings, it may modify or discontinue the program.
EFFECTIVE DATE: Upon passage

§ 119 — Summer 2007 Conservation Program

The act requires electric companies, in calendar year 2007, to offer an electricity conservation incentive program to their customers. The program must compare electricity use during the period from June 1, 2007 to August 31, 2007 to use in the same period in 2006 and give customers an incentive to conserve electricity in 2007. The comparison must be adjusted for changes in weather between the two years. The program is open only to customers who lived in the same dwelling in 2006 and 2007.

Electric companies must issue credits to customers who successfully participate in the program. The credit is 10% of the summer 2007 bill for customers who use 10% less electricity than they used in summer 2006. Customers who reduce their summer consumption by 15% get a 15% credit and those who reduce their consumption by 20% get a 20% credit. If the customer is participating in other peak-reduction programs, the credit must be reduced to reflect the benefits the customer receives under the other program. If the customer has an arrearage, the credit must be applied to his overdue balance.

The electric companies must file plans with DPUC to implement the program 15 days after the act is passed. DPUC must conduct an uncontested docket to establish the program's parameters. The program must be funded by the systems benefits charge on electric bills. DPUC must report to the Energy and Technology Committee by February 1, 2008 on the program's success and make recommendations for improving it.
EFFECTIVE DATE: Upon passage

ENERGY EFFICIENCY — HEATING FUELS

§ 115 — Natural Gas Conservation Programs

By law, natural gas companies must develop annual conservation plans, but prior law did not provide a funding mechanism. The act requires that the plans be funded by the growth in the utilities gross receipts tax in each fiscal year over the amount contained in the revenue estimate in the adopted state budget for that year, subject to a $10 million per year cap. Under the act, the money goes into an ECMB account, which is used to reimburse gas companies for their conservation expenditures. By law, the gas conservation programs are subject to the same evaluation and approval processes as the current electric conservation programs, i.e., programs must be cost-effective and reviewed by the ECMB. The act also implicitly allows DPUC to establish a gas conservation charge to support the programs in the plan.
EFFECTIVE DATE: July 1, 2007

§ 116 — Fuel Oil Conservation Programs

The act establishes a 13-member Fuel Oil Conservation Board, consisting of six members of the public appointed by the governor, the chairperson of the board that licenses heating and related contactors, one member representing an environmental advocacy group appointed by the Senate minority leader, and five members, representing fuel oil dealers and the heating, ventilation, and air-conditioning trades appointed by other legislative leaders. The six members appointed by the governor must include representatives of:

1. an environmental organization, who must be knowledgeable in energy efficiency programs;
2. in-state generators;
3. a consumer advocacy group;
4. the business community;
5. low-income ratepayers; and
6. state residents in general.

All of these members must have expertise in energy issues.

The act requires the board to establish itself as a federally tax-exempt nonprofit organization and to issue an RFP to choose an entity to administer oil conservation programs. By November 1, 2007, it must contract with this entity for up to three years. It can renew the contract or issue a new RFP.

By March 1, 2008, the program administrator must submit a comprehensive oil conservation plan for the rest of 2008 to the ECMB for its approval. In subsequent years, the administrator must submit a plan for the next calendar year by October 1 to ECMB and the Fuel Oil Conservation Board for their approval. The Fuel Oil Conservation Board must assist the administrator with plan development and implementation. The act imposes cost-effectiveness and other requirements on programs in the plan that parallel those in existing law for electric and natural gas conservation plans.

Under the act, funding for the oil conservation programs comes from the excess in revenue from the petroleum products gross receipts tax sales above the 2006 revenue, subject to a $10 million annual cap. (PA 07-1, June Special Session, reduced the limit to $5 million per year starting in FY 09.) The money goes into a separate nonlapsing General Fund account. The Fuel Oil Conservation Board must authorize specific amounts from the account for grants, which must be awarded twice a year. Any money in the account at the end of the fiscal year reverts to the General Fund.

By July 1 in even-numbered years, a third party selected by the attorney general must audit the board's activities and submit its report to the Energy and Technology and Environment committees. By January 1 annually, starting in 2009, the board must report to these committees on the fund's expenditures, balances, and program cost-effectiveness.
EFFECTIVE DATE: July 1, 2007

ENERGY EFFICIENCY — VEHICLES

§§ 19, 20 — Tax Exemptions for Efficient Vehicles

The act establishes, starting January 1, 2008, a local option property tax exemption for hybrid motor vehicles and those with fuel efficiencies of at least 40 miles per gallon. (PA 07-4, June Special Session expands the exemption to apply to all motor vehicles that get this mileage.) It creates a sales tax exemption from January 1, 2008 until July 1, 2010, for vehicles with city or highway fuel efficiencies of at least 40 miles per gallon.
EFFECTIVE DATE: January 1, 2008 and applicable to sales on or after that date.

§ 122 — State Fleet Fuel Efficiency

The act modifies fuel efficiency requirements for state fleet vehicles and increases the proportion of these vehicles that must be alternatively fueled. By law, the average fuel efficiency of cars and light-duty trucks must be at least 40 miles per gallon. The act additionally requires that, starting January 1, 2008, each car or light-duty truck have an efficiency rating that is in the top third of the vehicles in its class.

By law, the state fleet must meet federal requirements for the proportion of vehicles that run on alternative fuel. Under federal law, at least 75% of vehicles bought by the state (with certain exceptions) must be alternative-fuel vehicles (these include electric vehicles and vehicles capable of operating on ethanol, among others). The act requires that, between January 1,

2008 and December 31, 2009, at least 50% of the purchased vehicles be alternative-fueled, hybrid electric, or plug-in electric vehicles. This proportion must increase to 100% starting January 1, 2010.
EFFECTIVE DATE: Upon passage

ENERGY EFFICIENCY STUDIES

§ 106 — Stabilizing Peak Demand

The act requires DPUC to study the feasibility of developing a program to provide incentives for electric companies to stabilize or reduce the state's peak demand. To implement the program, DPUC must use historic data to establish a target for each company. The program must offer an incentive to a company that does not exceed DPUC's pre-set growth projections and an additional incentive if the company reduces demand growth below this level. DPUC must develop an annual incentive payment structure for each company. It must report on the feasibility of such a system to the Energy and Technology Committee by February 1, 2008.
EFFECTIVE DATE: Upon passage

§ 84 — ECMB Conservation Study

The act requires ECMB, by July 1, 2007, to contract with an independent third party to assess Connecticut's conservation and energy efficiency potential, including conservation, demand response, and load management. The assessment is an update of a similar assessment conducted in 2004. By February 1, 2008, ECMB must present to the Energy and Technology Committee (1) the assessment results and (2) recommendations for cost-effective methods or mechanisms to fund new or expanded energy efficiency initiatives to address the energy efficiency potential determined in the assessment.
EFFECTIVE DATE: Upon passage

§ 125 — Study of ECMB's Efficacy

The act requires DPUC, by July 1, 2010, to conduct a contested case proceeding examining the effectiveness of the ECMB's programs. Based on its findings, DPUC may modify or discontinue any of ECMB's conservation or load management programs.
EFFECTIVE DATE: July 1, 2007

"GREEN BUILDING" STANDARDS

§§ 10, 11 — Green Buildings-Public Sector, Funding for School Construction

The act broadens and increases the state's "green building" requirements. Under prior law, state facilities costing $5 million or more, funded on or after January 1, 2007 (with limited exceptions for schools and structures such as maintenance garages) had to meet specified energy and environmental standards. The standards are a silver rating under the Leadership in Energy and Environmental Design (LEED) program or its equivalent. The OPM secretary, in consultation with the public works commissioner and the Institute for Sustainable Energy, must waive the requirements if he finds that the cost of compliance significantly outweighs the benefits.

Starting January 1, 2008, the act modifies the requirements by eliminating the exceptions and limiting the green building requirements to those state facilities where at least $2 million of the funding comes from the state. (PA 07-249 eliminates the $2 million threshold.) The act also extends the requirements to the following types of projects with at least $2 million or more in state funding: (1) renovations to state facilities approved and funded on or after January 1, 2008, (2) new school construction projects authorized by the legislature on or after January 1, 2009 that cost $5 million or more, and (3) school renovation projects authorized by the legislature on or after that date costing at least $2 million. In all cases, the act requires the institute, rather than the OPM secretary, to determine whether the cost of compliance significantly outweighs the benefits. (PA 07-249 reverses this to require OPM to make the determination.) The act also requires all of these facilities to exceed the current building code energy efficiency standards by at least 20%.

The act increases, by two percentage points, but not more than 100%, the reimbursement rate under the school construction grant program for those projects subject to the green building requirements. The school district must certify to the Education Department that the school will meet the standards. (PA 07-249 repeals both the bonus and certification requirements.)

PA 07-213 specifies that that the standards apply only to projects for which all budgeted bond funds are allocated by the State Bond Commission on or after January 1, 2007.
EFFECTIVE DATE: October 1, 2007 for the increase in school construction grants, and January 1, 2008 for the remaining provisions.

§ 78 — Green Building Standards in the State Building Code

The act requires the state building inspector and the Codes and Standards Committee to amend the State Building Code to require (1) buildings costing $5 million or more built after January 1, 2009 and (2) renovations costing $2 million or more starting January 1, 2010 to meet the LEED silver standard or its equivalent. The requirements apply to private and public sector projects, other than residential buildings with up

to four units. The act requires the inspector and the committee to waive these requirements if the Institute for Sustainable Energy finds that the cost of compliance significantly outweighs the benefits.

By law, the State Building Code requires that buildings and building elements be designed to provide optimum cost-effective energy efficiency over a building's life. The act requires the state building inspector and the committee to revise the code starting January 1, 2008, and specifically includes residential buildings in this mandate.
EFFECTIVE DATE: October 1, 2007

NEW POWER PLANTS AND OTHER FORMS OF GENERATION

§ 50 — Peaking Generation

The act requires the electric companies, singly or jointly, to submit a plan to DPUC between January 1 and February 1, 2008, to build peaking generation plants. Other entities can submit such plans during this period. An electric company's plan must (1) include the full projected costs of the plants and (2) demonstrate that the plan will not be subsidized by the companies' affiliates. DPUC must require the companies to submit additional information if it determines that this is in the public interest, and can require the companies to modify their plans to protect customers' interests.

DPUC must review each plan in a contested case and can retain a consultant to help it determine whether the plan's costs are good-faith estimates. Within 120 days of receiving the plan, DPUC must approve it unless it determines that the plan is not in customers' interests. Any approved plan must include a requirement that the applicant be compensated at the plant's cost of service plus a reasonable rate of return. The applicant must also agree to run the plant when and at the capacity needed to reduce overall rates.

Selected entities can recover only the just and reasonable costs of building the plant. The recovery of costs must be set in an annual contested case. The entities are entitled to recover their prudently incurred costs, including capital and operating expenses, fuel, taxes, and a reasonable return on equity. DPUC must review the cost recovery using existing rate-making principles. The return on equity must be updated at least once every four years. The selected entity must bid the plant into the regional wholesale electric markets, including the energy, capacity, and forward resource markets. It must do so in accordance with guidelines set by DPUC in the annual generation rate case.
EFFECTIVE DATE: January 1, 2008

§ 83 — Utility Purchase of Generating Plants

Under the act, if any existing power plant in the state is offered for sale, DPUC must authorize any electric company to buy and operate the plant if, through a contested case proceeding, it determines that the purchase and operation is in the public interest. An acquisition plan must provide for (1) payment of property taxes on the value of the purchased plant and (2) employee protections consistent with the requirements that applied when the electric restructuring law required the companies to put their plants up for auction. An electric company purchasing such a plant is entitled to recover the costs of the purchase in an annual retail generation rate determined in a case, consistent with rate regulatory principles. The return on equity associated with the plant's purchase and operation must be established in this contested case and updated at least every four years. DPUC must review and approve the cost recovery provisions in the proceeding to determine that the purchase and operation are in the public interest.
EFFECTIVE DATE: Upon passage

§§ 17, 18 — Funding for Distributed Resources

PA 05-1, June Special Session established incentives for new distributed generation (e.g., small power plants using technology such as microturbines and fuel cells). One of the incentives is a one-time capital award of between $200 and $500 per kilowatt of capacity. The act extends the incentives to distributed generation developed in the state before January 1, 2007 if the generation:

1. underwent upgrades that (a) increased its thermal efficiency operating level by at least 10 percentage points or (b) for resources that have thermal efficiency of at least 70%, increased the heat rate by at least five percentage points;
2. increased its electrical output by at least ten percentage points;
3. operates at a thermal efficiency level of at least 50%; and
4. added electric capacity in the state on or after January 1, 2007.

The awards are funded by a charge on electric company customers' bills. The act requires municipal electric utilities to contribute a share of the awards in order for their customers to be eligible for them. DPUC must conduct a contested case, by July 1, 2007, to determine the utilities' share, which must reflect an equitable allocation of costs that reflect the benefits to electric company customers as a result of these payments. To qualify, the customer must submit an application to DPUC in which an independent licensed engineer certifies that the resource is designed to reduce the customer's peak load and is financially viable.

The act entitles municipal utilities in southwest Connecticut to awards of at least $200 per kilowatt by January 1, 2008. It appears that the Norwalk and Wallingford municipal utilities would be eligible for this award, since they are located in the southwest Connecticut region as defined by the entity that administers the New England wholesale market.

The act requires DPUC, in consultation with the Office of Consumer Counsel, to report to the Energy and Technology Committee by January 1, 2009 on the incentive program's cost-effectiveness.
EFFECTIVE DATE: Upon passage, except for the provision on the incentive program, which is effective July 1, 2007.

§§ 108, 109 — Distributed Generation Grant Program

The act requires DPUC, in consultation with OPM and the Clean Energy Fund advisory committee, to establish, by October 1, 2007, a grant program for distributed generation projects in business and state buildings that are powered by class I resources such as solar energy and fuel cells. It requires DPUC to award grants of up to $25 million each for fuel cell and other projects. The act apparently authorizes $50 million in bonding for this program. The bonds are subject to standard statutory bond issuance procedures and repayment requirements.
EFFECTIVE DATE: July 1, 2007

§§ 102, 103 — DEP Permitting of Distributed Generation/Pilot Program for Expanded Use of Emergency Generators

The act requires DPUC to implement a pilot program that will (1) allow certain electric generation resources to run more frequently for reliability and economic reasons, (2) identify strategies that couple conservation and technologies that shift when power is used into an aggregate resource plan that reduces aggregate emissions, and (3) still meets established reliability standards. The program must be limited to resources that can operate by December 1, 2007. DPUC must determine (1) the minimum ratio by which the benefits of each project in the program must exceed its implementation costs and (2) the maximum level of aggregate investment that would be cost-effective.

The act allows anyone owning or controlling emergency generators to apply to DPUC for approval to install emissions control equipment on emergency generators that meet the requirements of the Department of Environmental Protection (DEP) general permit described below to meet the goals of the pilot program. DPUC must act on these applications on a first-come, first-served basis. It must establish a financing mechanism to help people defray the cost of installing the equipment on their emergency generators. The mechanism must include measures established by DPUC, such as collateral requirements, to protect the public interest. Funding for the program must come from the federally mandated congestion charges on electric bills, up to a total of $10 million. DPUC can retain a consultant to help implement these provisions. DPUC can only approve applications to participate in the pilot program that at least meet the requirements of the general permit, are cost-effective, and can be funded by using no more than $10 million of the revenues from the federally mandated congestion charges on electric bills.

The act requires DEP to develop a general permit for the construction and operation of certain emergency engines and other distributed generation resources by August 3, 2007. The eligible generators are those that (1) have a generating capacity of two megawatts or less and (2) are approved by DPUC to participate in the pilot program. The applicants must provide the DEP commissioner with the information she needs to issue the permit. The general permit must allow generation that will maximize savings to electric ratepayers but ensure that emissions from these resources are offset by emission decreases from other generating facilities consistent with the state's air quality plan. The permits must limit the generator's hours of operation and establish requirements for a minimum reduction of at least 90% in the generator's nitrogen oxides emissions, and offsets of the remaining emissions, among other things.

The permit expires by December 31, 2010 or 90 days after the Middletown-Norwalk transmission line (which is under construction) goes into service, whichever is later. However, DEP, in consultation with DPUC, can renew a permit if DEP determines that it is consistent with the provision's energy and environmental goals. DEP, in consultation with DPUC, must report to the Environment and Energy and Technology committees by February 1, 2008 on the energy and environmental benefits of the general permits and the actions they have taken with regard to the pilot program.
EFFECTIVE DATE: Upon passage

§ 118 — Charges for Fuel Cell Owners

The act requires an electric company or competitive supplier to waive its demand charge for a fuel cell operator during (1) a loss of power caused by problems with the company's distribution infrastructure or (2) a scheduled or unscheduled shutdown of the fuel cell that occurs during off-peak hours. The amount waived is limited to the charge incurred during the shutdown or as a result of the problem.
EFFECTIVE DATE: October 1, 2007

§ 62 — Siting Council Review of Fuel Cells

By law, a Siting Council certificate is not required for (1) any fuel cell with a capacity of up to 10 kilowatts or (2) a larger fuel cell, unless the council finds that it causes substantial environmental harm. The act increases the 10-kilowatt-limit to 250 kilowatts for fuel cells manufactured in the state.

Under prior law, a certificate was not needed for distributed generation resources below 65 megawatts that complied with DEP air quality standards. The act also requires the facility to meet DEP water quality standards in order to be eligible for the exemption.

EFFECTIVE DATE: October 1, 2007

§§ 37, 38 — Power Plant Interconnection Standards

By law, electric utilities (including municipal electric utilities) must interconnect with non-utility generators. By January 1, 2008, the act requires DPUC to issue a final decision on interconnection standards that meet or exceed national standards. (Interconnection standards deal with such things as the transformers that connect generating facilities with transmission lines.) If DPUC does not do this by October 1, 2008, each of the utilities and the municipal electric energy cooperative must meet New Jersey's interconnection standards.

EFFECTIVE DATE: October 1, 2007

§§ 51-53 — INTEGRATED RESOURCES PLANNING AND RESOURCE PROCUREMENT

Assessment and Plan Development

The act requires the electric companies to annually assess:

1. the energy and capacity requirements of their customers for the next three, five, and 10 years;
2. how best to eliminate or stabilize growth in electric demand;
3. the impact of current and projected environmental standards, including those related to greenhouse gas emissions and the Clean Air Act goals, and how different resources could help achieve those standards and goals;
4. energy security and economic risks associated with potential energy resources; and
5. the estimated lifetime cost and availability of potential energy resources.

The companies must submit this assessment annually to CEAB by January 1.

The act requires the electric companies, in consultation with CEAB, to (1) review the assessment and (2) develop a comprehensive plan for procuring energy resources. The plan must include a wide range of resources, including energy efficiency, conventional and renewable generating resources, combined heat and power (cogeneration), and emerging energy technologies. The plan's goal is to minimize the cost of these resources and maximize customer benefit consistent with the state's environmental policies. The electric companies' costs in developing the assessment and plan are recoverable from the systems benefits charge on electric rates.

Under the act, resource needs must first be met through all available energy efficiency and demand reduction resources that are cost-effective, reliable, and feasible. The procurement plan must specify:

1. the total amount of energy and capacity resources needed to meet all customers' needs;
2. to what extent demand-side measures such as conservation, demand response, and load management can cost-effectively meet these needs;
3. needs for generating capacity and transmission and distribution improvements;
4. how developing these resources will reduce and stabilize customers' electric costs; and
5. how each of the proposed resources should be procured, including the optimal contract periods.

The plan must consider:

1. approaches to maximizing the impact of demand-side measures;
2. the extent to which generation needs can be met by renewable and cogeneration facilities;
3. the types and locations of generation that would optimize the state's generation portfolio;
4. fuel types, diversity, availability, and firmness of supply and security;
5. the various fuels' environmental impacts, including how they affect the state's ability to meet its greenhouse gas emission goals;
6. reliability, peak load and energy forecasts, system contingencies, and existing resource availability;
7. import limits and the appropriate reliance on imports; and
8. its impact on electric costs.

Review by the CEAB and DPUC

The companies must submit the plan to a reformulated CEAB (see below). The act requires CEAB, in consultation with the entity that administers the regional wholesale market, to review and approve the plan within 120 days of receiving it (although another provision allows CEAB to consult with this entity in creating the plan). Starting in 2009, CEAB must review and approve the plan within 60 days after receiving it. (The act prohibits the transportation and agriculture commissioners and DPUC chairperson, who

are CEAB members, from participating in this review.) To help with the review, the board may retain a consultant with experience in energy procurement and may consult with the regional independent system operator. CEAB must hold a hearing on the plan and approve or modify it. CEAB must submit the reviewed plan, together with a statement of any unresolved issues, to DPUC.

DPUC must consider the plan in an uncontested docket and give interested parties an opportunity to submit comments on it. Within 120 days after CEAB submits the plan, DPUC must approve, or modify and approve it. Starting in 2009, DPUC must approve or modify the plan within 60 days.

By September 30, 2009, and every two years thereafter, DPUC must report on the plan to the Energy and Technology and Environment committees.

Plan Implementation

The electric companies must implement the plan under DPUC oversight. The companies must implement the demand-side and certain supply-side measures in the procurement plan as part of their conservation plans developed under existing law. The companies must submit proposals to the appropriate regulatory agencies for distribution and transmission upgrades included in the procurement plan. The companies must issue RFPs to acquire any other resources specified in the plan, subject to DPUC approval of the RFP.

If the plan specifies that a generating plant should be built, DPUC must issue an RFP. DPUC must make the confidential information it receives available to the Office of Consumer Counsel and the attorney general. The bids and DPUC's analyses of them are not subject to disclosure under the Freedom of Information Act until three months after DPUC issues its final decision, and information regarding losing proposals must conceal the bidders' identities.

Starting July 1, 2008, an electric company may submit proposals to individual electric supply components in response to the RFP on the same basis as other respondents. An electric company proposal must include its full projected costs and demonstrate that it is not being subsidized from the company's affiliates. Affiliates can submit bids, subject to the existing code of conduct that regulates interactions between electric companies and their affiliates and other requirements DPUC imposes.

If DPUC approves an electric company proposal, the company cannot recover more than the costs identified in its proposal. Its costs and revenues do not count in determining whether the company is exceeding its authorized rate of return or whether its rates are just and reasonable. The act makes a conforming change, exempting the plants built under this provision from the law that generally bars electric companies from owning or operating power plants and other generation assets.

If DPUC selects a proposal from a non-electric company, the affected electric company must negotiate in good faith with the RFP winner and submit a contract to DPUC for its approval within 30 days of DPUC's selection. DPUC must determine how the costs of selected proposals will be recovered.

DPUC can retain consultants to help develop the RFP and assist DPUC in approving proposals. The costs of the consultants must be recovered in the generation services charges on electric bills.

EFFECTIVE DATE: Upon passage

§ 117 — DPUC Proceedings if New RFP Does Not Meet Demands Identified in the Integrated Resources Plan

The act requires DPUC, by January 1, 2008, to begin a contested case to determine the costs and benefits of the state serving as the "builder of last resort" for the shortfall of generating capacity from the RFP described above.

On or after July 1, 2009, if DPUC does not receive and approve proposals that cover the needs identified in the integrated resources plan, it may order the electric companies to submit proposals to build and operate an electric generation facility in the state. DPUC must review these proposals in a contested case. If approved, the companies would be compensated for these projects on a cost-of-service basis.

EFFECTIVE DATE: July 1, 2007

§ 104 — Procuring Resources for Standard Service

By law, electric companies must provide "standard service" for small- and medium-size customers who do not choose a competitive supplier. The act requires DPUC, in consultation with the electric companies, to study the feasibility of different standard service procurement options and their potential risks and benefits. The study must at least examine the options of (1) selecting a standard service portfolio manager, which may include the electric companies; (2) procuring individual electric supply components directly from a wholesale electricity supplier or an electric generating facility; (3) creating a nonprofit entity to procure standard service power; and (4) procuring physical and financial hedges to manage prices. The latter approach can include tolling arrangements and financial transmission rights. (Under the former, an electric company could pay a third party to build a power plant in exchange for being entitled to the power coming from it; the latter refers to market incentives to build new generation or transmission facilities in congested areas.) DPUC must report its findings and legislative

recommendations to the Energy and Technology Committee by February 1, 2008.
EFFECTIVE DATE: Upon passage

§ 49 — Procuring Resources for Last-Resort Service

By law, electric companies must act as a supplier of last resort for large customers that do not choose a competitive supplier. The act requires the electric companies to procure power for this service at least every quarter. It eliminates a provision that bars a customer from returning to last-resort service unless it agrees to stay on this service for at least one year.
EFFECTIVE DATE: July 1, 2007

CONNECTICUT ENERGY ADVISORY BOARD

§ 53 — CEAB Membership

Under prior law, CEAB consisted of nine members: six agency heads and one member each appointed by the governor, House speaker, and Senate president pro tempore. The act increases the number of appointed members by six, with each appointing authority selecting three members. It requires the governor to appoint a representative of an environmental organization with knowledge of energy efficiency programs, a consumer advocacy organization, and a statewide business association. It requires the Senate president pro tempore to appoint a representative of a chamber of commerce and a statewide manufacturing association, and a member of the public with expertise in energy programs. It requires the House speaker to appoint a representative of low-income ratepayers, a member of the public who is expert in energy programs, and a representative of the public with expertise in energy issues.

The act eliminates a requirement for CEAB to prepare an annual report and makes conforming changes. It also allows ECMB to retain consultants to meet the board's goals.
EFFECTIVE DATE: Upon passage

§§ 54, 55 — CEAB Review Process/"Net Energy" Evaluation of Proposed Power Plants

By law, CEAB must conduct an alternatives analysis when an application is made to the Siting Council to build certain energy facilities. The act exempts from this requirement (1) generating facilities with a capacity of up to five megawatts and (2) any power plant, transmission line, or substation if the Siting Council determines, as part of the security study required under the act, that the facility is required for reliable electric supply to defense and homeland security infrastructure. The Siting Council must make this determination by December 31, 2007. Both types of facilities are also exempt from a fee used to reimburse municipalities for their costs in participating in Siting Council proceedings.

The act also exempts other substations from the alternatives analysis requirement. It allows CEAB, by a two-thirds vote of the members present and voting, to waive the alternatives analysis requirement for a specific application because the process is not likely to result in a reasonable alternative to the proposed facility. By December 1, 2007, the board must develop (after soliciting public comment) and approve additional criteria to apply when determining whether the process can be waived. CEAB must include its reasons in its determination.

The act makes a conforming change with regard to the CEAB comprehensive energy plan.

The act also requires CEAB to conduct a "net energy analysis" of each plant larger than 65 megawatts. This analysis must determine the ratio between (1) the amount of energy the plant will produce over its lifetime to (2) the amount of energy used in plant construction and maintenance and the total fuel cycle, both over the plant's lifetime.
EFFECTIVE DATE: July 1, 2007

§ 58 — CEAB Studies

The act requires CEAB to study and then develop recommendations, by January 1, 2008, on how to (1) integrate the state's energy entities, (2) meet state and regional greenhouse gas emission goals, and (3) promote indigenous alternative fuel resources. CEAB must submit its recommendations to the Energy and Technology Committee by January 1, 2009.
EFFECTIVE DATE: July 1, 2007

§§ 59, 60 — DPUC and CEAB Studies

The act requires CEAB to study the efficacy, innovativeness, and customer focus of electric conservation programs. It must hold hearings and investigate the options of (1) retaining the current system in which each electric company administers its own programs; (2) selecting a statewide conservation program provider from among the electric companies, the Connecticut Municipal Electric Energy Cooperative (CMEEC), and other entities; or (3) having a nonprofit organization serve as the administrator. CEAB must report its findings to the Energy and Technology Committee by February 1, 2008.

The act requires DPUC to study, in an uncontested proceeding, by January 1, 2009, the efficacy and rate impact of last-resort service and standard service.
EFFECTIVE DATE: Upon passage for the CEAB study and October 1, 2007 for the DPUC study.

RENEWABLE ENERGY

§ 40 — Renewable Portfolio Standard

Under prior law, electric companies and suppliers had to obtain at least 3.5% of their power from class I renewable resources such as solar and wind power in 2007, 5% in 2008, 6% in 2009, and 7% in 2010 and subsequent years under the state's renewable portfolio standard (RPS).

The act increases the RPS for class I resources to 8% starting in 2011. It increases the class I RPS to 9% in 2012, 10% in 2013, 11% in 2014, 12.5% in 2015, 14% in 2016, 15.5% in 2017, 17% in 2018, 19.5% in 2019, and 20% in 2020 and thereafter. The act continues to require the company or supplier to get an additional 3% of its power from class I or class II resources each year. The act also allows companies and suppliers to meet the standard by buying power and associated "attributes" from residential net-metering customers (customers who generate power from class I resources, as described above) as an alternative to the existing options. This option refers to the fact that renewable energy credits (which reflect the "attribute" of the power having been produced from renewable resources) can be sold separately from the power itself.
EFFECTIVE DATE: October 1, 2007

§ 41 — Municipal Electric Utilities and Renewable Energy

The act requires CMEEC to develop standards for promoting renewable resources that apply to each municipal electric utility in the state. By January 1 annually, CMEEC must submit the standards to the group that advises Connecticut Innovations, Inc., which administers the Clean Energy Fund. The act also requires CMEEC to submit an annual report to this group on the activities of municipal utilities to promote renewable resources.
EFFECTIVE DATE: July 1, 2007

§§ 42, 43, 44 — Class III Renewable Resources

By law, electric companies and suppliers must get part of their supply from class III resources as part of the RPS. The act makes several changes regarding these resources, which under prior law were (1) electricity produced by systems that produce heat and power developed at commercial and industrial facilities and (2) electricity savings from conservation and load management programs at these facilities that began on or after January 1, 2006. The act expands class III resources to include (1) systems that recover waste heat or pressure from commercial and industrial processes installed on or after April 1, 2007 and (2) electricity savings from all conservation programs that started on or after January 1, 2006.

Prior law excluded projects that violate DEP's air quality standards from the class III RPS. The act additionally excludes projects that violate DEP's water quality standards.

The act entitles a customer who implements energy conservation or customer-side distributed resources on or after January 1, 2008 to class III credits equal to at least one cent per kilowatt-hour. For nonresidential projects receiving conservation and load management funding, 25% of the credit goes to the customer and the remainder to conservation and load management funds. For such projects not receiving such funding that are submitted on or after March 9, 2007, 75% of the credit goes to the customer and the rest to the conservation and load management funds. For projects serving residential customers, 75% of the credits must go to the conservation and load management funds. (The act does not specify where the rest goes.)

By July 1, 2007, DPUC must conduct a contested case to develop a procedure for awarding and aggregating the credits. These provisions appear to supersede prior law, which (1) entitles the customer to at least 25% of the credit with the remainder going to the conservation fund and (2) requires DPUC to conduct an annual proceeding in which it can give the customer a larger proportion of the credit for good cause shown.

In all cases, to be eligible for class III credits, the customer's application must (1) certify that applicable installation and metering requirements have been met, (2) provide a detailed energy savings or output calculation for the period specified by DPUC, and (3) include other information requested by DPUC.

The act delays, from February 1, 2006 to February 1, 2008, the deadline for DPUC to issue a decision in a proceeding to develop administrative processes for a class III credit trading program and makes minor related changes.
EFFECTIVE DATE: Upon passage, except for the requirement that class III resources meet DEP water standards and the delay in the DPUC decision deadline, which are effective October 1, 2007.

§ 39 — Net Metering

By law, electric utilities and competitive suppliers must give a credit to their customers in one- to four-dwelling unit properties who generate electricity using class I resources or hydropower. The act expands these provisions to cover all customers with generation capacity up to two megawatts. It provides for credits to customers who generate more power than they use in a given billing period, with annual reconciliation in which the customer is paid for any excess production at the avoided wholesale cost, and makes related changes.

EFFECTIVE DATE: October 1, 2007

§§ 46, 47 — Property Tax Exemptions for Renewable Energy

The act requires, rather than allows, municipalities to exempt certain renewable energy systems from the property tax and expands the scope of the systems subject to the exemption. Under prior law, municipalities could exempt class I renewable resources (e. g., solar electric, wind, and fuel cell systems) and hydropower facilities in one- to four-unit residential buildings. The act requires rather than allows them to exempt these resources, but limits the exemption to resources installed on or after October 1, 2007. It also requires municipalities to exempt any passive or active solar water or space heating system or geothermal energy resource, in any type of building.
EFFECTIVE DATE: October 1, 2007 and applicable to assessment years beginning on or after that date.

§ 68 — Sales Tax Exemptions

The act exempts from the sales tax (1) solar electric and space and water heating systems and related equipment and installation services, (2) geothermal systems and related equipment and installation services, and (3) ice storage systems used for cooling and related equipment and installation services for utility customers billed on time-of-use rates.
EFFECTIVE DATE: July 1, 2007

§ 121 — Bonding for Renewable Energy Projects in State Buildings

The act authorizes $30 million in bonds for Connecticut Innovations, Inc. (CII), to fund the net project costs of renewable energy and combined heat and power (cogeneration) projects in state buildings through the Clean Energy Fund. To be eligible, the building must be certified in the LEED program or in the process of being certified. PA 07-4, June Special Session expands eligibility for this program to include buildings that (1) are becoming LEED silver rated (a more stringent standard than certified), (2) have a two-globe rating in the Green Globes USA design program (another rating system), or (3) are in the process of receiving this latter rating.
EFFECTIVE DATE: July 1, 2007

§§ 90, 91 — Municipal Grant Program

The act requires CII, in consultation with DPUC and the departments of Education and Emergency Management and Homeland Security, to establish a municipal renewable energy and efficient energy generation grant program. CII must make grants under the program to municipalities to purchase and operate (1) renewable energy sources, including solar energy, geothermal energy, and fuel cells or other energy-efficient hydrogen-fueled energy or (2) energy-efficient generation sources, including cogeneration units that are at least 65% efficient, for municipal buildings. CII must give priority to applications for grants for disaster relief centers and high schools. Each grant must make the cost of purchasing and operating the generation source competitive with the municipality's current electricity expenses.

By October 1, 2007, CII must develop an application for these grants. It can receive grant applications starting on this date. Applications must include a complete description of the proposed generation source. By January 1, annually, starting in 2009, CII must report on the program's effectiveness to the Energy and Technology Committee.

The act authorizes up to $50 million in bonding for the program, with the proceeds going into a separate account within the Clean Energy Fund. For FY 08 and each of the next five fiscal years, at least $10 million must go into the account (although the act specifies that the program ends in FY 12, which would be FY 08 and the next four fiscal years). Any balance not used for the grants during a fiscal year must be carried forward to the next fiscal year. The bonds are subject to standard statutory issuance and repayment requirements.
EFFECTIVE DATE: Upon passage, except for the bond authorization, which is effective July 1, 2007.

§ 41 — Municipal Electric Utilities and Renewable Energy

The act requires CMEEC to develop standards for promoting renewable resources that apply to each municipal electric utility in the state. By January 1 annually, CMEEC must submit the standards to the group that advises CII. The act also requires CMEEC to submit an annual report to this group on the activities of municipal utilities to promote renewable resources within 90 days of the end of the year.
EFFECTIVE DATE: July 1, 2007

§§ 15, 120 — Clean Energy Fund Investments

The act allows the fund to invest in (1) alternative fuel for electric generation, including ethanol, biodiesel, or other fuel, produced in Connecticut and derived from agricultural produce, food waste, or waste vegetable oil, if DEP determines that these fuels reduce greenhouse gas emissions and fossil fuel consumption; (2) geothermal energy; and (3) hydropower that will meet the low-impact standards of the Low-Impact Hydropower Institute. It also specifically allows the fund to invest in solar thermal and solar photovoltaic

energy to be used for demonstration projects for advanced technologies that reduce energy use from traditional sources.

The act eliminates the requirement that the funding plans of the Clean Energy Fund be consistent with the comprehensive energy plan developed by CEAB, which the act also eliminates.
EFFECTIVE DATE: Upon passage

§ 124 — Project 100

The law requires the electric companies to enter into long-term contracts with generators of class I renewable resources. Prior law required the companies to enter for 100 megawatts. The act requires them to contract for 125 megawatts for the period October 1, 2007 to October 1, 2008 and increases this amount to 150 megawatts starting October 1, 2008. By law, the resources must have received funding from the Clean Energy Fund, and individual projects must be at least one megawatt in size.

By September 1, 2007, DPUC in consultation with the Office of Consumer Counsel and the Clean Energy Fund Advisory Council, must study the operation of these contracts, and report its findings to the Energy and Technology Committee.
EFFECTIVE DATE: Upon passage

§ 71 — Long-Term Contracts for Renewable Energy

The act allows electric companies, starting January 1, 2008, to meet the RPS by procuring renewable energy certificates under long-term contracts. (These credits are bought and sold on the New England market as one way of complying with RPS in Connecticut and other states. The credits can be sold separately from the power produced by renewable resources.) The act allows the electric company to enter into a contract for up to 15 years to buy the certificates. The credits count towards the company's RPS compliance for standard service and last resort service.

The act requires DPUC, by July 1, 2007, to begin a contested case to examine whether long-term contracts should be used to procure certificates. DPUC must determine:

1. the method and timing of counting the procurement of the certificates against the RPS;
2. the terms and conditions to be imposed on entities seeking to supply the credits;
3. compensation to the companies for administering procurement under these provisions, not to exceed a one-time payment of 0.1 cent per kilowatt-hour;
4. the impact of the contract on price stability, fuel diversity, and costs;
5. how the costs of the contracts will be recovered from ratepayers; and
6. other issues DPUC considers appropriate.

The one-time compensation does not count towards the company's earnings for determining whether the company's rates are just and reasonable and does not have to be shared with ratepayers.
EFFECTIVE DATE: Upon passage

§ 45 — DEP Hydropower Agreements

The act allows the DEP commissioner to enter lease agreements with private entities, in consultation with affected towns and watershed organizations, to allow the private entities to generate hydroelectricity. The projects must meet the certification standards of the Low Impact Hydropower Institute.
EFFECTIVE DATE: October 1, 2007

§ 48 — Solar Contractor Licensing

The act exempts from Department of Consumer Protection licensure requirements employees of, and contractors employed by, licensed solar contractors engaged in solar technology installations, if they are (1) working under the direction of a licensed solar contractor and (2) performing only specified tasks such as hoisting solar collectors.
EFFECTIVE DATE: Upon passage

ELECTRIC RELIABILITY AND ENERGY SECURITY

§ 4 — Dual Fuel Capacity at Power Plants

Starting January 1, 2008, the act requires DPUC to order that each intermediate or baseload electric generating facility with a rating of 65 megawatts or more have the capacity to burn either oil or gas on 48 hours' notice if it is (1) currently fueled by one of these fuels and (2) owned by, or under contract to, an electric company. The act allows DPUC to waive the dual fuel capability requirement if it determines that it is in consumers' interest.
EFFECTIVE DATE: Upon passage

§ 8 — Energy Security

The act requires the Siting Council, in conjunction with DPUC and the Coordinating Council of the Department of Emergency Management and Homeland Security, to conduct a contested case to investigate energy security with regard to siting of power plants and transmission facilities. The investigation must address planning, preparedness, and response and recovery capabilities. The Siting Council must begin the proceeding by September 1, 2007, and may conduct

proceedings in executive session to protect sensitive information covered by a protective order.
EFFECTIVE DATE: Upon passage

§ 9 — DPUC Study on Electric Reliability

The act requires DPUC, in consultation with the Siting Council, to begin an uncontested case proceeding by July 1, 2007 to assess ways the state can ensure and enhance the reliability of generating facilities in the state during peak electric demand periods. The proceeding must, at a minimum, examine the:

1. current compliance of generation facilities with existing on-site dual fuel storage and operational requirements,
2. existing inventory of fuel storage and fuel delivery resources available to supply generating facilities in the state,
3. amount of fuel delivery and storage infrastructure needed to ensure the reliable operation of these facilities during peak demand periods,
4. value of firm delivery contracts and the appropriate level of such contracts, and
5. types of incentives that can be offered to the electric and gas industry to enhance the reliability of electric service during peak periods.

DPUC and the Siting Counsel must seek input from interested parties, including the electric and gas industries, the Office of Consumer Counsel, the attorney general, and the entity that operates the New England power grid. DPUC must submit its findings and recommendations to the Energy and Technology Committee by February 1, 2008.
EFFECTIVE DATE: Upon passage

§ 89 — Notifying Customers of Impending Blackouts

The act requires electric companies, municipal utilities, and CMEEC, by October 1, 2007, to submit a proposal to DPUC for its consideration, on how they can notify customers of a capacity deficiency (which could cause a blackout) and the steps that customers can voluntarily take to address the deficiency. Each utility's related costs are recoverable in the part of electric bills used to pay for costs related to transmission line congestion.
EFFECTIVE DATE: Upon passage

ENERGY ASSISTANCE

§ 65 — Energy Assistance Benefits

The act requires DSS to maintain the energy assistance benefit increases that were adopted in 2005 when it proposes its low-income energy assistance block grant allocation plan for 2007-2008. Among other things, the 2005 legislation (1) increased, by $200, the basic benefit provided to low-income households under the Connecticut Energy Assistance Program (CEAP) and (2) required the program to provide a $300 basic benefit and $200 crisis benefit for moderate-income households.
EFFECTIVE DATE: July 1, 2007

§ 66 — Discounted Fuel Purchasing Program

The act broadens requirements for DSS to buy fuel at discounted prices for CEAP participants. It expands the requirement to include all deliverable fuels, rather than just heating oil. It also requires that DSS ensure that all fuel assistance recipients are treated the same as other similarly situated customers and that fuel dealers do not discriminate against them in their standard payment, delivery, service, or other similar plans.

DSS must take advantage of programs offered by dealers that reduce the cost of the fuel, such as fixed-price, capped-price, pre-purchase, or summer-fill options, thereby reducing CEAP's program cost and making the maximum use of its revenues. DSS must ensure that all agencies administering CEAP make payments to participating dealers in advance of the delivery of energy where the dealer provides price-management strategies that require advance payments.

The act requires the community action agencies that administer CEAP to provide DSS with pricing information from participating dealers. The information must include (1) the statewide or regional retail price per unit of fuel, (2) the reduced price per unit paid by the state, (3) the number of units delivered to the state under the program, and (4) the total savings under the program due to the purchase of deliverable fuel using the dealers' price-management strategies.

The act also requires the community action agencies that administer fuel assistance programs to begin accepting applications by September 1 annually.

PA 07-4, June Special Session makes several changes in these provisions. It eliminates the requirement for the commissioner to ensure that all fuel assistance recipients are treated the same way as any other similarly situated customer. It allows, rather than requires, the commissioner to take advantage of programs offered by fuel vendors that reduce the cost of fuel purchased. That act only requires that the commissioner ensure that all agencies administering the program pay fuel vendors in advance of the delivery if funding allows. Similarly, it limits the requirement that community action agencies administering fuel assistance programs begin accepting applications by September 1 each year to those years in which funding is available.
EFFECTIVE DATE: July 1, 2007

§§ 81, 82, 128 — Operation Fuel

The act requires Operation Fuel, Inc. to establish a one-time grant program in 2007 for low-income people with high utility bill arrearages. The program must provide one-time grants of up to $1,000 based on the customer's arrearage and income level. The grants can be used only for arrearages that are up to 24 months old. The program must also provide case management services such as budget counseling and help with utility payment programs.

Under prior law, electric and gas companies had to allow their customers to donate $1 per billing cycle to Operation Fuel, which helps people ineligible for state energy assistance. The act extends this requirement to municipal electric and gas utilities. It requires all utilities to (1) offer $1, $2, $3, or other donation options and (2) allow customers who are billed or pay electronically to participate. It also requires Operation Fuel, Inc. (the group that administers the program) to provide fundraising inserts to fuel oil dealers who choose to participate in the program. It requires the companies and utilities to place requests for donations in customers' monthly bills. It requires the utilities and the participating fuel oil dealers to coordinate their program promotions. It also explicitly requires the companies to transmit the contributions they voluntarily make to the program to Operation Fuel, Inc. when they transmit their customers' contributions.

The act appropriates the following to OPM from the FY 07 General Fund surplus: (1) $2.5 million for the arrearage forgiveness program, (2) $1.75 million for an expansion of Operation Fuel, and (3) $750,000 for Operation Fuel's infrastructure. The governor vetoed these appropriations, but they were re-adopted in PA 07-5, June Special Session.
EFFECTIVE DATE: Upon passage

§ 67 — Winter Shut-Off Moratorium Extension

The act extends, from April 15 to May 1, the end date of the annual winter moratorium, during which electric and gas utilities cannot terminate service to hardship customers who cannot pay their utility bills. By law, the start date is November 1. Hardship customers include households (1) whose only income is Social Security, veterans', or unemployment benefits; (2) that have a seriously ill household member; and (3) with incomes up to 125% of the federal poverty level, among others. The act also makes related changes.
EFFECTIVE DATE: October 1, 2007

OTHER ELECTRIC PROVISIONS

§ 86 — Long-Term Energy Contracts

Pursuant to law, DPUC recently conducted an RFP in which generators submitted proposals to sell the capacity of their plants to electric companies under long-term contracts, as a means of reducing federally mandated congestion charges. The contracts between the generators and the electric companies are subject to DPUC approval.

Under the act, 60 days after approving the contracts, DPUC must direct electric companies to negotiate, in good faith, long-term contracts for the power produced by each of the generation projects selected and approved by DPUC to provide capacity under the RFP. The companies must apply to DPUC for approval of the contracts. To be approved, the rates paid for power, when added to the payments made for capacity, must equal the project's cost of service plus a reasonable rate of return. DPUC can approve only those contracts it finds would reduce and stabilize the cost of electricity to Connecticut ratepayers. The term of the power contract cannot exceed the term of the capacity contract for the project.
EFFECTIVE DATE: Upon passage

§ 92 — Retail Supplier Choice

The act requires electric companies to provide information to their residential and small commercial customers, upon request, about introductory offers from competitive suppliers. The offers must be for a fixed price and run for at least one year. The companies must make information about these offers available when the customer (1) begins service or reinstates service after moving, (2) inquires about utility rates, or (3) seeks information about energy efficiency. The information must include at least the suppliers' prices and terms. The customer must be immediately transferred to a call center operated by the supplier. A customer can switch to a participating supplier, switch to another participating supplier, or return to electric company service at any time without charge

DPUC must establish, by September 1, 2007, the terms and conditions under which a supplier can participate in this program. The terms must include requiring the supplier to offer time-of-use and real time rates for residential customers.

The act also allows participating suppliers to provide information about their introductory offers in electric company bills once per quarter.

The act requires each electric company to offer to bill customers on behalf of participating suppliers. The companies must make transfers of the customers' payments for generation services, less a percentage

deduction of uncollectible bills and overdue payments as approved by DPUC. The act requires DPUC, by July 1, 2007, to begin a proceeding to determine whether electric supplier bills provide enough information to allow customers to compare pricing policies and charges among suppliers.

The act specifies that these provisions do not preclude an electric company from entering into standards service supply contracts or standard service supply components with generating facilities.
EFFECTIVE DATE: July 1, 2007

§ 98 — Advanced Metering

The act requires each electric company to submit a plan to DPUC by July 1, 2007, to deploy a system to support advanced metering. The system must support net metering, under which electric companies pay residential customers for the power the customers produce from renewable resources. The system must also be capable of tracking hourly changes in a customer's power use to support innovative rates such as real-time pricing.

The plan must allow for deployment of these meters, together with the systems needed to support them, by January 1, 2009. Instead of this plan, an electric company can seek a determination from DPUC that its existing system already meets these requirements. Starting January 1, 2009, the act allows any customer to obtain a meter on demand. The companies must pay for the cost of the system, including the meters and supporting network, and recover the costs through their rates. They can continue to recover the costs of the existing meters through rates.

The act also requires electric companies, competitive suppliers, and aggregators (entities that gather customers together for suppliers) to provide time-of-use rate options, including hourly and real-time options, to all customer classes. These options must be available within six months of the act's passage (June 2, 2007).
EFFECTIVE DATE: Upon passage

§ 123 — Electric Heating Tariffs

The act requires any electric company that has a tariff for residential heating customers to maintain it until at least July 1, 2012. The tariff must be available for requests for electric service at locations that previously were served under this tariff. The tariff can only be available for customers who use electricity as their primary heating source and who enter into agreements with the company for at least 12 months.
EFFECTIVE DATE: July 1, 2007

§ 85 — Time-of-Use Rates

Under prior law, electric companies had to submit a plan to DPUC to implement peak, shoulder, and off-peak rates for customers whose demand is 350 kilowatts or more, with implementation starting January 1, 2007. The act instead requires the plan to provide for one or more time-of-use rates, including the three specified.
EFFECTIVE DATE: Upon passage

§ 99 — Real-Time Pricing

The act requires electric companies, by July 1, 2007, to submit a proposal to DPUC to implement voluntary critical peak or real-time pricing rates for all customer classes. DPUC must approve the rates to be effective by January 1, 2008.
EFFECTIVE DATE: Upon passage

§§ 105, 110, 112-114,129 — Comprehensive Energy Plan Eliminated

The act repeals a requirement that CEAB develop an annual comprehensive energy plan. Unlike the plans established or modified by the act, which focus on electric supply and demand, the comprehensive plan also addresses natural gas and oil issues and the use of energy for transportation. The act also repeals related provisions requiring consistency with CEAB's plan, including those that require electric company conservation plans to be consistent with the comprehensive energy plan.

By law, conservation programs proposed under electric company conservation plans must be tested for cost-effectiveness. The act requires the testing to analyze the effects of the programs on increasing the state's load factor (making demand more even during the year). The act also allows the programs to include demand side technology programs recommended under the electric company procurement plan.
EFFECTIVE DATE: July 1, 2007

§ 107 — Decoupling

The act requires DPUC, in rate cases that begin after the act's passage, to order electric and gas companies to decouple their distribution revenues from the volume of sales. It can do this by a sales adjustment clause, rate changes that increase the amount of revenues recovered through fixed distribution charges, a mechanism that adjusts actual distribution revenues to reflect allowed revenues, or a combination of these measures. In making its choice, DPUC must consider the impact of such "decoupling" and the rate of return the company earns on its equity and make necessary adjustments.
EFFECTIVE DATE: Upon passage

MISCELLANEOUS PROVISIONS

§ 5 — Electric Company Linemen Staffing Levels

The act requires DPUC, by July 1, 2007, to begin an uncontested case proceeding to study (1) the appropriate number of linemen needed for an electric company to maintain, repair, and extend its distribution lines under normal circumstances and extraordinary circumstances, including storms; (2) whether the consolidation of repair facilities and personnel results in longer access times; (3) whether greater use of newer technology would reduce outages; and (4) the most effective ways of notifying the public of an outage and the status of the company's efforts to restore power. DPUC must report the proceeding's results to the Energy and Technology Committee by February 1, 2008.
EFFECTIVE DATE: Upon passage

§ 6 — Wire Maintenance Plans

The act requires each electric company to submit a plan to DPUC each January 1 for maintaining transmission and distribution systems along highways, in a format DPUC prescribes. The plan must include a summary of appropriate staffing levels.
EFFECTIVE DATE: October 1, 2007

§ 7 — Staffing Levels and Rate Setting

By law, utility rates must be just sufficient to allow the utility to cover its operating and capital costs and attract needed capital. The act specifies that operating costs include appropriate staffing levels. It also includes energy security as one of the utilities' responsibilities.
EFFECTIVE DATE: October 1, 2007

§§ 21-36 — Energy Improvement Districts

The act allows a municipality, by a vote of its legislative body, to establish "energy improvement districts" and prescribes how they can be formed. It specifies the powers of such districts, which include developing and operating small power plants and certain conservation programs. It requires the district to develop a plan, in consultation with the Connecticut Center for Advanced Technology, for financing and developing these resources. This plan must be consistent with the integrated resources plan the act requires electric companies to develop and the Siting Council's determinations.

The act gives the districts a variety of powers, including hiring staff, operating distributed resources, and charging fees for its projects. The district boards can issue revenue bonds, which are subject to standard provisions regarding the bond issuance, revenue guarantees to back the bonds, trust indentures, and other bondholder rights. Districts are tax-exempt but can make payments in lieu of property taxes.

The act gives municipalities a wide range of powers to aid districts, including guaranteeing each district's bonds, issuing general obligation bonds to support the district, and appropriating funds for the district's use.

PA 07-5 subjects the bond and the income they produce to the estate and succession taxes and subjects the interest on the bonds to excise and franchise taxes.
EFFECTIVE DATE: Upon passage

§ 56 — Cost-Sharing for Relocating Electric Utility Facilities

PA 05-210 relieved the Department of Transportation of having to pay part of the cost when electric transmission and trunkline facilities had to be relocated in highway rights-of-way. This act limits these changes to facilities owned by an electric company.
EFFECTIVE DATE: Upon passage

§ 57 — DPUC Commissioners

Under prior law, at least three of the five DPUC commissioners had to have experience and education in specified fields, such as economics, engineering, or law. The act requires any newly appointed commissioner to have a background in one of these fields. It also requires that whenever a new DPUC commissioner is appointed, at least one of the commissioners have experience in utility customer advocacy.
EFFECTIVE DATE: October 1, 2007

§§ 76, 77 — Restrictions on Eminent Domain for Energy Facilities

The act bars municipalities, other than those with municipal electric utilities, from condemning or restricting the operation of any existing energy facility (e. g., power plants, transmission lines, and fuel storage facilities) that DPUC determines is a critical, unique, and immovable part of the state's infrastructure, without getting the written approval of DPUC, OPM, CEAB, and the Siting Council stating that the taking would not harm the state's or region's ability to provide a particular energy resource to its citizens.
EFFECTIVE DATE: Upon passage

§ 93 — Climate Change

The act requires DEP to adopt regulations to implement the Regional Greenhouse Gas Initiative (RGGI), an interstate program to reduce emissions of gasses that contribute to global warming. It requires DEP, in consultation with DPUC, to auction all of the emission allowances and invest the proceeds in electric

conservation and load management and class I renewable energy programs for the benefit of electric ratepayers. In making the investments, the commissioner must consider strategies that maximize cost-effective reductions in emissions.

The regulations can allow part of the proceeds to be used for administrative costs and to fund assessment and planning of measures to reduce emissions and mitigate the impacts of climate change. No more than 7.5% of the value of the allowances can be used for these purposes. It allows part of the allowances to be set aside for voluntary renewable energy provisions of the RGGI model rule and cogeneration systems. Any allowances allocated to electric companies' conservation programs must be factored into the companies' planning and procurement process established in the act (§§ 51, 52).
EFFECTIVE DATE: July 1, 2007

§ 95 — Municipal Debt Limits

The act exempts from municipal debt limits bonds issued for electric demand responses, conservation and load management, distributed resources, and renewable energy projects.
EFFECTIVE DATE: July 1, 2007

BACKGROUND

Related Act

Municipalities by ordinance, may exempt active, passive, and hybrid solar energy heating and cooling systems from property taxes for 15 years after they are installed. Such exemptions were formerly allowed only for (1) active systems installed on or after October 1, 1976 and before October 1, 2006 and (2) passive and hybrid systems installed on or after April 20, 1977 and before October 1, 2006. PA 07-225 eliminates the October 1, 2006 expiration dates, thus allowing more recently installed systems to be eligible for exemptions. The exemption applies to the difference between what the assessed valuation of the property would be with a conventional heating and cooling system and what it is when equipped with a solar system.

PA 07-253—sHB 7182
Energy and Technology Committee
Finance, Revenue and Bonding Committee
Legislative Management Committee
Judiciary Committee

AN ACT CONCERNING CERTIFIED COMPETITIVE VIDEO SERVICE

SUMMARY: This act requires companies, other than cable TV companies and their affiliates, that provide video programming to be certified by the Department of Public Utility Control (DPUC). It subjects the companies that provide these competitive video services ("providers") to some of the requirements that apply to cable TV companies, notably those regarding community access and customer information. But the providers are not subject to other requirements that currently apply to cable TV companies, including obtaining and renewing a franchise for a specified number of years and being subject to rate regulation.

Once a provider enters the territory of a cable TV company, the act allows the cable TV company to apply for a new certificate in lieu of its existing franchise certificate. The cable TV company is generally subject to the same application requirements and DPUC review as a provider. Once DPUC grants the new certificate, the cable TV company becomes subject to a similar type of regulation as the provider. Among other things, this means that it will no longer need to have its franchise renewed and its rates will apparently not be subject to DPUC regulation. The act also makes minor changes in the laws concerning cable TV advisory councils.

The act subjects providers to the 5% gross earnings tax that applies to cable TV companies and direct broadcast satellite companies. It provides that this tax is in lieu of the property tax for the company's tangible personal property. It subjects the services sold by the providers to the sales tax and modifies how the sales tax applies to other telecommunications services.

The act establishes two nonlapsing General Fund accounts, one to provide property tax relief for municipalities and the other to provide funding for community access and for education technology. It funds the first account with up to $5 million per fiscal year from the gross earnings tax. It funds the second account with a new tax on the gross earnings of cable TV, direct broadcast satellite, and the providers.

The act establishes statewide video and statewide cable TV advisory councils.

By law, DPUC determines whether a cable TV company or a nonprofit organization will administer community access programming in the company's franchise area. If a nonprofit organization has this responsibility, this act allows the DPUC to extend the company's franchise by two years if the company agrees with the organization to provide funds solely to upgrade or replace capital equipment. The act makes a number of minor related changes.

The act requires the Finance, Revenue and Bonding Committee to review and analyze the state and local taxes that apply to telecommunications services, cable TV services, and video programming services by satellite and certified competitive video service providers for its consideration during the 2008 regular

session.

PA 07-5, June Special Session makes several substantive and conforming changes to this act.

EFFECTIVE DATE: October 1, 2007, except that the gross earnings tax provisions are effective July 1, 2007.

COMPETITIVE VIDEO SERVICE PROVIDERS

The act excludes from the definitions that apply to cable TV companies, and many of the laws that apply to them, "certified competitive video service providers." It defines such providers as entities that provide video service under a certificate granted by DPUC. Video services, for these purposes, include those provided by wireline facilities, part of which must be in the public right-of-way. These services can be provided by any technology, including Internet protocol technology. On the other hand, they do not include any services provided by commercial mobile service providers such as personal communications services (PCS) companies, any programming provided by a cable TV company, or services that allow users to access content, information, e-mail, or other services over the Internet.

Application Requirements

The act requires any entity, other than a cable TV company or its affiliates, that seeks to provide video services to file a certificate application with DPUC. The application costs $1,000. A company that is already providing video services by October 1, 2007 (e.g., AT&T) must file its application by October 31, 2007, but can continue to offer video services while its application is pending.

The application must be signed by an officer or general partner of the applicant. It must:

1. identify the applicant's principal place of business and the names of its principal executive officers;
2. affirm that it has filed or will timely file with the Federal Communications Commission all forms the commission requires before offering video service in the state;
3. affirm that it will comply with all applicable federal and state statutes and regulations and DPUC orders, including those regarding the provision of video service and the use of public rights-of-way in delivering video service; and
4. affirm that it will comply with the act's requirements.

The application must also include (1) a description of the area the company will serve in the state, which the applicant must update before it can expand to a previously undesignated service area and (2) a general description of the technologies the applicant will use to provide video programming in its service area, which may include wire line, satellite, or any other technologies.

DPUC must notify the applicant whether the application is complete within 15 days after the applicant submits it. DPUC's failure to do so is considered to be an issuance of the certificate. If DPUC finds that an application is incomplete, it must specify the incomplete items and allow the applicant to amend the application. DPUC must issue a certificate within 30 calendar days of receiving an amended and completed application.

DPUC Review of the Application

DPUC must limit its review of the application to whether it provides the information the act requires. DPUC may not conduct a contested case but may submit written questions to the applicant and require written answers regarding the information provided. DPUC may accept written comments and reply comments from the applicant, the Office of Consumer Counsel, the attorney general, and other interested companies, organizations, and individuals. The comments must be limited to the issue of whether the application complies with the act's filing requirements.

DPUC must issue a certificate within 30 days after notifying the applicant that its application is complete. The certificate must provide a grant of authority to (1) provide video service as requested in the application and (2) use and occupy the public rights-of-way to deliver this service, subject to state law. The certificate must also include a statement that the grant of authority is subject to lawful operation of the video service by the applicant or its successor.

The certificate allows the provider to own, lease, maintain, operate, manage, or control facilities in, under, or over a public highway to offer video service to its customers in the state. The certificate is fully transferable to any successor of the applicant. A notice of transfer must be filed with DPUC within 14 business days after the completion of such a transfer. The certificate holder can terminate it by submitting notice to DPUC.

Restrictions on DPUC's Regulatory Authority

DPUC cannot require the provider to build out its facilities on a set schedule or to provide video service to any customer using any specific technology. Nor can DPUC regulate the provider's rates, except as provided in the act. (The act does not have any provisions regarding regulating the provider's rates, other than requiring it to provide a credit if its service is interrupted for 24 hours or more.) DPUC must begin a contested case three years after issuing the certificate to the provider to investigate the availability of its services

and report its findings to the Energy and Technology Committee.

Obligations of Providers

Community Access. Within 120 days after a provider begins offering service in an area under its certificate, it must provide capacity over its video service to allow community access programming in its basic service package. The provider must provide:

1. the same number of community access channels as currently is offered by the incumbent cable TV company in the area;
2. funds for community access operations in the same way as cable TV companies; and
3. for the transmission of community access programming with connectivity up to at least 200 feet from its activated wireline distribution facility and must do so without imposing additional requirements for the creation of any content.

The community access programming must be submitted to the provider in a form compatible with the technology or protocol it uses to deliver video services over its network, and must be capable of being accepted and transmitted by the provider, without requirement for additional alteration or change in the content by the provider.

A provider and a cable TV company or nonprofit organization providing community access operations must negotiate in good faith regarding interconnection of community access operations where technically feasible or necessary. Interconnection may be accomplished by direct cable, microwave link, satellite, or other reasonable method. At the request of a provider, cable TV company, or community access provider, DPUC may facilitate the negotiation for such an interconnection.

Customer Information. When a customer initially subscribes to the provider's service, and annually thereafter or upon request, each provider must give each customer a description of (1) its video service offerings and current rates; (2) its credit policies, including any finance or late payment charges; and (3) its billing practices and complaint procedures.

The act requires providers to inform a customer, when he enters an agreement for video service, of the provider's practices regarding the collection and use of personally identifiable information. Consistent with federal law, the provider must inform the customer about:

1. the type of information collected,
2. the purposes for which it is used,
3. the extent and manner in which it is shared with unaffiliated third parties for purposes of enabling delivery of video service, and
4. the provider's procedures to ensure the customer' right to privacy.

A provider may not disclose personally identifiable customer information other than anonymous or aggregate data to unaffiliated third parties for their own marketing purposes without the customer's consent.

Except when otherwise required by federal law, a provider must inform each customer, the chairpersons of the Energy and Technology Committee, and the chairperson of the statewide video advisory council of any planned rate changes at least 30 days before implementing the changes unless (1) the law requires the changes to made in less than 30 days or (2) DPUC prescribes a longer or shorter notice period in appropriate circumstances when in the best interest of customers. The same notice provisions apply when the provider plans to eliminate or reduce programming. In addition, unless otherwise provided by federal law, the provider must notify. DPUC of any programming or rate changes at least 30 days in advance unless (1) the law requires that they be made sooner or (2) in appropriate circumstances where a shorter notice is in subscribers' best interests. The council may hold an advisory public hearing concerning the planned changes and may make a recommendation to the company prior to the planned implementation date.

Most of these requirements currently apply to cable TV companies.

Customer Complaints. A provider must implement an informal process for handling DPUC and customer inquiries, billing and service issues, and other complaints. If an issue is not resolved through this process, a customer may ask DPUC to provide a confidential, nonbinding mediation with the provider with a designated DPUC staff member serving as the mediator. If the mediation is unsuccessful, the customer may file a formal complaint with DPUC. DPUC's sole jurisdiction over the complaint is to determine if the provider is complying with the act's requirements. If the provider is not complying, DPUC must order it to cure the noncompliance within a reasonable period of time. Failure to comply may subject the provider to civil penalties and revocation of its certificate.

The provider must comply with the customer service requirements of federal law for its video services, but is not subject to any state laws, regulations, or DPUC orders that impose more stringent requirements.

Prohibited Acts. The provider may not deny access to service to any group of potential residential customers based solely on the income of the residents in the area. An affected person or the municipality in which he or she lives may seek to enforce this requirement by filing a complaint with DPUC. The act also subjects providers to the law, which already applies to cable TV companies, that governs wiring of multi-

family housing. Among other things, this law bars cable TV companies from entering into agreements with the building owners that affect the ability of the occupants to use individual or master antennas.

Other Obligations. Within 120 days after the provider begins offering service in a designated area, it must transmit the Connecticut Television Network (CTN) to all its customers, including real-time transmission as technically feasible, provided (1) these transmissions are supplied in a way that is consistent with the provider's technology or delivery protocol and (2) CTN's connection is within 200 feet of the provider's activated facilities.

A provider must provide any public library and any school system, college, or university located in a part of its franchise area where service is available with one free outlet for basic video service if the institution participates in educational or public access programming offered throughout the area. DPUC may exempt a provider from providing this service at no charge if it would harm the provider. A provider is not required to provide this free service if the library or school is receiving cable TV or video service from another provider.

If video service provided by a provider to a customer is interrupted for more than 24 continuous hours, the provider must give the customer a credit or refund in an amount that represents the proportionate share of the service not received in a billing period, so long as the customer did not cause the interruption.

A provider must make closed captioning available when simultaneously broadcast with video signals it carries. A provider must also offer the concurrent rebroadcast of local television broadcast channels, or use another economically or technically feasible process, to provide an appropriate message when a public safety emergency alert is issued over the emergency broadcast system.

A provider and its officers, agents, and employees must comply with the relevant portions of the act and each applicable DPUC order made under the act. DPUC may fine any provider it finds has failed to comply up to $10,000 per offense. Each distinct violation of an order is a separate offense and, in the case of a continued violation, each day is a separate offense. DPUC must follow the procedures specified in existing law in imposing such penalties. If the penalty is imposed, it is the sole remedy for such violations. DPUC can also revoke the provider's certificate if it finds, after notifying all interested parties and holding a hearing, that the provider is in substantial noncompliance with law or DPUC orders.

Most of these requirements apply to cable TV companies.

CABLE TV COMPANIES

Under the act, 30 days after a certified competitive video service provider offers video service in a cable TV company's franchise area, the cable company may seek a certificate of cable franchise authority from DPUC. A company may also apply for a certificate (1) for its existing franchise area 30 days after a municipal electric utility, its affiliate, or subsidiary begins offering video service there under a certificate of video franchise authority and (2) for any area that was outside of its franchise areas on or before October 1, 2007 (it appears that the cable TV company can apply for the certificate at any time under this provision). The application fee is $1,000. The application requirements are the same as for the certificate granted to a video provider. The DPUC application review requirements are similar, although in this case the Office of Consumer Counsel and other interested parties can submit comments that go beyond whether the application complies with the act's requirements.

A certificate of cable franchise authority becomes effective immediately upon being issued. The certificate must provide:

1. authority to provide cable TV or video services as requested in the application;
2. authority to own, lease, maintain, operate, manage, or control facilities in, under, or over any public highway in the delivery of such service, subject to state law; and
3. a statement that the grant of authority is subject to lawful operation of the cable TV or video service by the company or its "interest" (apparently its successor in interest).

Certificate holders are subject to the same taxes as cable TV companies.

Once the company obtains a certificate of cable franchise authority, it is subject to the same general requirements that apply to video providers. However, the company continues to be subject to most of the law's requirements regarding community access. Among other things, these provisions require cable TV companies that are responsible for community access to:

1. provide facilities, equipment, and technical and managerial support to enable the production of meaningful community access programming;
2. carry all of the community access channels on its basic service tier;
3. conduct various outreach programs;
4. adopt scheduling policies that promote program diversity;
5. comply with DPUC standards regarding community access equipment; and
6. pay an annual charge set by DPUC to support community access.

Like a video provider, the company would not be subject to franchising and build-out requirements. However, if DPUC approved the transfer of an existing franchise, the transferee's franchise term would be the remainder of the original franchise term unless DPUC grants a different term. A company would no longer have to (1) fund the cost of community needs assessment, which currently takes place in connection with franchising; (2) provide financial and infrastructure information to DPUC upon request; or (3) comply with DPUC customer services regulations, including those dealing with responding to customer complaints and inquiries that subject companies to civil penalties if they did not meet DPUC standards in these areas. Nor would a company be subject to rate regulation except as "set forth in federal law." Federal law allows but does not require franchising authorities (in Connecticut, the DPUC) to regulate basic service rates. Thus, the act appears to terminate DPUC's ability to regulate a cable TV company's basic service rates once it obtains a new certificate.

Under the act, once the company receives its new certificate, it must continue to meet with its advisory council at least twice per year. By law, members of the council cannot be cable TV company employees or contractors, and cannot receive free or discounted cable TV service. The act extends these provisions to prohibit council members from being employees or contractors of a video service provider or receiving free or discounted video services.

Under prior law, the cable TV company had to provide at least $2,000 in funding to the council each year, which could take the form of in-kind contributions at the council's option. The act instead requires the company to provide $2,000 in funding per year. The act eliminates provisions that (1) allow a council to file a written petition with DPUC if a company fails to provide adequate service to a customer, (2) require DPUC to hold a hearing on the petition and issue a written decision, and (3) require the company to provide service as prescribed by DPUC in the decision.

Except as provided by the act, the company continues to be subject to the requirements of federal and state cable TV laws and relevant DPUC orders.

TAX PROVISIONS

Gross Earnings Tax and Property Tax

The act subjects providers to the 5% gross earnings tax that currently applies to cable TV companies and direct broadcast satellite companies. For providers, the amount of revenues allocated to Connecticut and thus subject to the tax is proportional to the share of the provider's subscribers who are in the state compared to the average number of its subscribers in both Connecticut and everywhere else.

PA 07-5, September Special Session specifies that a cable TV company remains subject to the tax if it gets certified to serve a new area.

By law, the gross earnings tax is in lieu of the property tax on tangible property used solely and exclusively to provide the services subject to the gross earnings tax. The act extends this provision to tangible personal property acquired in the 2007, 2008, and 2009 assessment years to upgrade a telecommunications network, even if the property is used only in part for competitive video services. By law, the gross earnings tax exemption applies to personal property used to provide both cable TV and telecommunications services, e.g., fiber optic lines that carry both types of signals. The act extends this provision to property used to provide competitive video and telecommunications services.

Sales Tax

The act subjects certified competitive video services to the sales tax starting October 1, 2007. Under the act, these are video services provided by wireline facilities, part of which must be in the public right of way, that use the Internet and other technologies. These services do not include cable TV service; audio and video programming services delivered by commercial mobile radio service providers, such as personal communications services (PCS) companies; and video programming included in Internet services that allows users to access e-mail and other services.

The act modifies the definition of "telecommunications services" for purposes of the sales tax. It broadens the tax exemption for radio and TV services. Prior law exempted any one-way radio or television broadcasting transmission. The act instead exempts radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, or routing of such services by the programming service provider.

The act also explicitly exempts the following from the definition of "telecommunications services" and thus the sales tax:

1. digital products delivered electronically, such as music, videos, and ring tones;
2. Internet access services;
3. certain advertising services; and
4. several other types of related services and products.

Some of these items may already have been exempt from the sales tax.

On the other hand, the act subjects directory assistance and vertical services to the sales tax. The latter include such things as caller ID and conference

calling features.

NEW GENERAL FUND ACCOUNTS

Municipal Video Competition Trust Account

The act establishes a nonlapsing "municipal video competition trust account" in the General Fund. The money in the account must be distributed as property tax relief to municipalities. The comptroller must deposit in the account up to $5 million per fiscal year from the gross earnings tax imposed on certified competitive video service providers under the act.

The amount to be distributed to each town is proportional to its share of the total number of subscribers to certified competitive video service. An unconsolidated city or borough receives a part of the town's allocation that is proportional to its share of the property taxes levied in the town in the fiscal year. The city or borough may, by vote of its legislative body, direct the Office of Policy and Management (OPM) secretary to reallocate some or all of its share to the town in which it is located.

Annually, beginning July 30, 2008, each certified competitive video service provider must file with OPM its total number of subscribers in each town and the total of such subscribers in all towns as of the last day of the immediately preceding fiscal year.

Beginning September 15, 2008, the secretary must certify annually to the comptroller the percentage of the amount in the account to be paid to each municipality, the comptroller must inform the treasurer of the amounts by September 25th, and the treasurer must pay the municipalities by September 30th.

Account for Community Access and Educational Technology

The act establishes a nonlapsing "public, educational and governmental programming and education technology investment account" in the General Fund. The account must be supported solely from 0.5% of the gross earnings tax from rendering cable TV service (including services rendered by a cable TV company under the new type of certificate authorized by the act), video programming service by satellite, and certified competitive video service in this state beginning October 1, 2007. Starting October 1, 2009, the proportion drops to 0.25%. The tax for each fiscal year must be remitted to the Department of Revenue Services, on a form it prescribes, by August 30th following the close of the fiscal year. (PA 07-5, September Special Session makes this tax payable quarterly.) Gross earnings in this state must be determined in the same way as the gross earnings tax. The comptroller must deposit this money into the account. (PA 07-5, September Special Session makes this tax subject to the interest and penalty that already apply to the gross earnings tax. It places the interest and penalties into the account.)

DPUC must make half of the money in the account available to local cable TV and video advisory councils; statewide cable TV and video advisory councils; and public, educational, and governmental programmers; and studio operators to subsidize capital and equipment costs related to producing and procuring this programming. DPUC must allocate the other half to boards of education and other education entities for education technology initiatives.

By October 1, 2007, DPUC must begin a contested case proceeding to establish eligibility requirements and procedures for applying for the allocations. By April 1, 2008, DPUC must issue a final decision, which must include any recommendations to the governor and the legislature that DPUC considers necessary with regard to the account's operation.

ADVISORY COUNCILS

Video Advisory Council

The act establishes a statewide video advisory council, whose membership consists of one representative from each of the existing cable TV advisory councils. A provider must biannually convene a council meeting. No council member can be an employee of a cable TV company or provider, i.e., anyone working full-time or part-time or performing any subcontracting or consulting services for a cable TV company. Members of the council must serve without compensation, including free or discounted video service.

Each video service provider must annually give the council $2,000.

DPUC must designate the council as an intervenor in any contested case proceeding before it involving the provider it advises. The provider must give the council's chairperson a copy of any report, notice, or other such document it files with DPUC in the proceedings.

A provider must, every six months, provide on bills, bill inserts, or letters to customers, a notice indicating the name and an address of the council chairperson and describing the council's responsibilities. The council must be given an opportunity to review the notice before its distribution.

Cable TV Advisory Council

The act establishes a 13-member statewide cable TV advisory council to assist local cable TV advisory councils perform their functions and disseminate information to local councils relevant to the interests of cable TV customers. The council consists of:

1. three members appointed by the Governor;
2. two each by the House speaker and the Senate president pro tempore;
3. one each by the House and Senate majority leaders; and
4. two each appointed by the House and Senate minority leaders.

Each member's term is coterminous with that of his or her appointing authority. By January 1, annually, beginning in 2008, the members must elect a chairperson from among themselves.

Each cable TV company must contribute at least $200 annually to this council.

EXTENSION OF CABLE FRANCHISE

The act requires DPUC to extend a cable company's initial or renewal franchise by two years if the company agrees with the franchise's nonprofit community access provider to provide funds to upgrade or replace capital equipment for public access. The company must agree not to pass on the contribution in subscribers' rates or community access fees.

If there is more than one community access provider in the franchise area, an agreement is reached when at least two-thirds of them independently reach an agreement with the company. Only the access providers that reach an agreement with the company can receive the additional funding. The DPUC's decision must be made in a non-contested case proceeding. There can only be one extension per franchise term.

MINOR CHANGES

By law, a company must conduct a needs assessment and make recommendations when it seeks a franchise certificate, unless it is subject to effective competition as defined by federal law. The act requires DPUC to state its reason for not implementing any key recommendations in its final decision on the franchise application. It also allows DPUC to require that a company enter into good faith negotiations to facilitate community access television interconnection with its existing or potential cable competitors in the franchise area as a condition of granting the certificate.

The act requires the company or nonprofit community access organization to consult with the local cable advisory council in (1) establishing community access programming policies, (2) adopting a community access programming budget, and (3) allocating capital equipment and community access programming resources.

By law, the company or nonprofit organization responsible for community access must conduct an outreach program. Under the act, the program may encourage the formation and development of local community access studios operated by volunteers or nonprofit groups in multitown franchise areas.

By law, DPUC must require a nonprofit community access organization to undergo an audit, at its expense, for good cause, if the Office of Consumer Counsel or the local advisory council requests the audit. The act specifies that "good cause" includes the failure or refusal of the organization to:

1. account for and reimburse the community access programming budget for its commercial use of community access programming facilities, equipment, or staff, or for the allocation of the facilities, equipment, or staff to functions not directly related to the community access operations;
2. carry over unexpended community access programming funding at the end of each fiscal year;
3. properly maintain community access programming facilities or equipment in good repair; or
4. plan for replacing community access programming equipment made obsolete by technological advances.

The act requires DPUC to state its reasons when responding to the request for the audit.

BACKGROUND

Related DPUC Decision

In Docket 05-06-12, DPUC concluded that the Southern New England Telephone Company d/b/a AT&T Connecticut had demonstrated that, from a regulatory perspective, its planned Internet Protocol-based video product was distinguishable from cable television service. DPUC found that the service merely transmits data over the Internet, and as such is not subject to cable franchising requirements. The Office of Consumer Counsel and others have appealed the decision in federal court.

PA 07-42—sSB 1223
Environment Committee
Government Administration and Elections Committee

AN ACT ESTABLISHING AN EQUINE ADVISORY COUNCIL

SUMMARY: This act establishes an Equine Advisory Council to help the Department of Environmental Protection study state horse trail preservation.
EFFECTIVE DATE: Upon passage

EQUINE ADVISORY COUNCIL

The council's membership consists of the Connecticut Horse Council president and six representatives from an organization that serves the state's horse industry. Five of these six members must represent each of the state's five Congressional districts. The House speaker appoints the member from the 1st district, the Senate president pro tempore appoints the 2nd district member, and the House majority and minority leaders and the Senate majority leader, respectively, appoint the members from the 3rd, 4th, and 5th districts. The sixth person must also be a member of the Connecticut Forests and Parks Association and is appointed by the Senate minority leader.

The appointing authorities must make their appointments no later than 30 days after the act's passage (May 22, 2007) and fill any vacancy.

The council elects a chairperson from its members. The chairperson must schedule the first council meeting, which must occur no later than 60 days after the act passes. Council members are not compensated for their services.

PA 07-45—SB 1358
Environment Committee

AN ACT CONCERNING FEDERAL ENVIRONMENTAL STANDARDS AND PROCEDURES

SUMMARY: By law, the Department of Environmental Protection (DEP) commissioner may adopt regulations regarding activities for which there are federal standards or procedures. When proposing these regulations, prior law required DEP to clearly distinguish, either in the regulation or through supplemental documentation, those provisions that differed from the applicable federal standards or procedures. This act requires DEP to clearly distinguish these proposed regulatory provisions from any federal standards or procedures, not just those that are applicable. It is not clear what legal effect this has.

EFFECTIVE DATE: October 1, 2007

PA 07-59—SB 1079
Environment Committee
Planning and Development Committee
Judiciary Committee

AN ACT CONCERNING DOGS THAT ATTACK DOMESTIC ANIMALS OR LIVESTOCK

SUMMARY: This act creates a process to address dogs that damage people's pets and other animals that is similar to the law's process for dogs and other animals that bite people. It requires (1) anyone whose animal is attacked by a dog to report the incident to an animal control officer (ACO) and (2) the ACO to investigate. The act allows the Department of Agriculture (DOAG) commissioner or an ACO to make any order concerning the restraint or disposal of such an attacking dog after an ACO investigates.

Under the act, if the owner or keeper of an attacking dog fails to comply with an ACO's order, an ACO may seize the dog to ensure compliance. The owner or keeper is (1) responsible for any expenses resulting from the seizure and (2) subject to a fine of up to $250, up to 30 days in prison, or both.

The act allows anyone aggrieved by an order to request a hearing before the commissioner no later than 14 days after the order is issued. After the hearing, the commissioner may affirm, modify, or revoke the order as he or she deems proper.

The act exempts from its provisions dogs that a state or local police agency owns if they (1) are under the direct supervision, care, and control of an assigned police officer; (2) have received yearly vaccinations; and (3) are subject to routine veterinary care.
EFFECTIVE DATE: October 1, 2007

DOGS THAT DAMAGE OTHER ANIMALS

Under the act, if a dog damages a person's poultry, ratite (e.g., emu or ostrich), domestic rabbit, companion animal, or livestock, the person must make a complaint concerning the attack to a state ACO or the appropriate regional or municipal ACO. By law, livestock includes cattle, camelid (i.e., llamas and camels), and hooved animals a person raises for domestic or commercial use. The act requires the ACO to immediately investigate the complaint. The DOAG commissioner, the state's chief ACO, or any ACO may make any order they deem necessary concerning the restraint or disposal of the attacking dog, if the investigating ACO finds that a dog attacked or bit the complainant's animal when it (1) was not on the property of the attacking dog's owner or

keeper and (2) the complainant's animal was under his or her control or on his or her property.

BACKGROUND

Dogs that Bite People

By law, the victim of a dog or animal bite must report the attack to an ACO. The ACO must immediately investigate the attack. The law requires an ACO to quarantine a dog or other animal that has bitten someone off its owner's property. The animal must be quarantined for 14 days in a public pound, veterinary hospital, or place approved by the DOAG commissioner. The purpose of the quarantine is to ensure the animal does not have rabies and to examine its demeanor. The owner must pay all associated fees.

An ACO or the DOAG commissioner may make any order he or she deems necessary concerning the restraint or disposal of a dog or animal that bites a person. Notice of the order must be given to the person bitten within 24 hours. Anyone aggrieved by an ACO's order may request a hearing before the commissioner within 14 days of its issuance. After the hearing, the commissioner may affirm, modify, or revoke the order.

ACOs can seize an animal that bit a person when the owner does not comply with the restraining or quarantine order. The owner may also be fined up to $250, imprisoned for up to 30 days, or both (CGS § 22-358 (c)).

A dog's owner or keeper is liable for any damage caused by his or her dog to a person's body or property, unless the damage was sustained while the person was committing a trespass or other tort, or teasing, abusing, or tormenting the dog.

PA 07-61—sSB 1091
Environment Committee
Planning and Development Committee
Judiciary Committee

AN ACT CONCERNING DAM SAFETY

SUMMARY: This act makes several changes to the laws on dams and dam inspections. Specifically, it:

1. authorizes municipal officials to inspect certain dams they believe pose a public safety concern;
2. requires the Department of Environmental Protection (DEP) commissioner to notify a dam owner if a dam needs to be repaired or maintained to keep it safe;
3. requires owners of property with "high hazard" or "significant hazard" dams to record the dams' presence and classification in town land records; and
4. tightens permit requirements for people constructing dams and related structures in certain situations.

EFFECTIVE DATE: October 1, 2007

DAM INSPECTION BY LOCAL OFFICIALS

By law, the DEP commissioner has jurisdiction over dams, dikes, and similar structures whose failure might endanger life or property. The act authorizes a municipality's chief elected official or his designee to inspect a dam under DEP's jurisdiction in his municipality if the official reasonably believes it poses a public safety concern. But the act imposes special conditions on water company and hydroelectric dam inspections. It exempts from such inspections a dam the Federal Energy Regulatory Commission licenses (i.e., most hydroelectric dams).

Under the act, the official may enter private property, within constitutional limits, to inspect the dam after (1) notifying the DEP commissioner and (2) making a reasonable attempt to notify the dam owner. The official must file an inspection report with the commissioner within seven days of the inspection, but must file one immediately if he discovers an immediate public safety threat.

Notification and Inspection of Water Company and Hydroelectric Dams

The act requires an official or designee who believes there is a public safety concern with a dam owned or controlled by a water company or a hydroelectric facility to immediately notify the commissioner and the water company or facility by calling a telephone number in the dam's emergency operation plan on file with the municipality. If no such plan exists, the company or facility may file an emergency notification contact form with the municipality. The commissioner must, by October 1, 2008, develop an emergency notification contact form. If a company or facility files a form with the municipality, the official must use it.

The official may inspect a water company or hydroelectric facility only if (1) a company or facility representative is present; (2) the water company has permitted him to do so; or (3) (a) he has a public safety concern, (b) he notified the commissioner and made a reasonable attempt to notify the company or facility, and (c) a water company representative is unavailable. The second and third options refer to a water company, but not to the owner or operator of a hydroelectric facility. Because water companies do not generally own or operate hydroelectric dams, it is not clear how these provisions apply to hydroelectric facility inspections.

The official must file an inspection report with the commissioner as described above. The act exempts from the notification requirement a municipal official who inspects a water company dam or land his municipality owns or controls.

DEP DAM INSPECTION

By law, the DEP commissioner must inspect all dams and similar structures whose failure would cause death or property damage and must order the repair or removal of an unsafe structure. If she finds a dam must be inspected periodically to reduce the potential danger to life and property, the dam owner must have a registered engineer inspect it at regular intervals.

Under the act, if the commissioner finds, after an inspection, that a dam needs to be maintained or repaired to remain safe, she must notify the dam owner, in writing, that such work is needed. The notification must request that the owner perform the work within a specified time. If the owner does not repair or maintain the dam within the designated time, the commissioner may order the owner to do the repairs or maintenance.

NOTICE OF THE PRESENCE OF CERTAIN DAMS

Starting October 1, 2007, the act requires owners of property where there is a high hazard or significant hazard dam to record in the town land records the dam's presence and classification. The commissioner must publish a standard form for this purpose.

DAM CONSTRUCTION PERMITS

By law, the commissioner may issue a general permit for certain activities if she finds they would only minimally affect the environment. Prior law specifically allowed her to issue a general permit for dam construction if she found it would present a low or negligible safety hazard. The act eliminates her ability to issue a general permit in such cases, requiring people building such dams to obtain an individual permit.

BACKGROUND

Dam Classification

State regulations classify dams by the hazards they would pose if they failed. A high hazard dam is one whose failure would result in (1) probable loss of life; (2) major damage to habitable structures, homes, hospitals, convalescent homes, or schools; (3) damage to main highways; or (4) great economic loss. A significant hazard dam is one whose failure would result in (1) possible loss of life; (2) minor damage to habitable structures, homes, hospitals, convalescent homes, or schools; (3) damage to, or interruption of, utility service; (4) damage to primary roadways or railroads; or (5) significant economic loss (Conn. Agency Regs § 22a-409-2(d)).

General and Individual Permits

DEP issues both individual and general permits to regulate activities. Individual permits are issued directly to an applicant, while general permits authorize similar minor activities by one or more applicants. Typically, the commissioner issues a general permit if she determines an activity would cause minimal individual and cumulative environmental effects.

Water Company

For the purposes of this act, a water company is any individual, partnership, association, corporation, municipality, or other entity, or the lessee thereof, that owns, maintains, operates, manages, controls, or employs any pond, lake, reservoir, well, stream, or distributing plant or system that supplies water to two or more consumers or 25 or more people on a regular basis. If the entity or lessee owns or controls 80% of the equity value of more than one such system or company, the number of consumers or people supplied by all the systems is considered as owned by one company (CGS § 25-32a).

PA 07-74—HB 7018
Environment Committee

AN ACT CONCERNING IDENTIFICATION OF HARVESTED SHELLFISH

SUMMARY: This act transfers jurisdiction over the Cockenoe Flats shellfish grounds in Westport from the state to the town of Westport, gives the Westport Shellfish Commission jurisdiction over recreational clamming in the shellfish grounds, and allows the commission to issue recreational clamming permits for use of the grounds by all state residents.

It allows the Department of Agriculture (DOAG), upon a municipality's written request to enter into a memorandum of understanding (MOU) with the municipality authorizing the municipal health department or similar agency to collect sea water samples for shellfish harvest water classification. It specifies duties with respect to the MOU and sampling and allows the municipality to assist DOAG with sample collection under certain circumstances.

The act also requires DOAG to assign a unique confidential code for tag identification information about shellfish harvest locations.

It requires a buoy to meet certain specifications if it marks (1) the line between private and public or natural oyster, clam, or mussel (shellfish) beds and (2) an area in town beds for planting or cultivating shellfish (marker buoy).

It also limits the area authorized by a resource assessment permit, which DOAG issues to assess the viability of a shellfish area, to 100 acres or less. Under the act, DOAG must require buoys to be placed at each corner of the assessment area, as the permit applicant defines it, before any assessment begins. The department must notify all abutting shellfish ground owners or lease holders that it has issued such a permit no later than five days before the permit's effective date.

EFFECTIVE DATE: Upon passage, except for the provision concerning buoys, which is effective July 1, 2007.

MOU AND SAMPLES

Under the act, the MOU cannot limit the geographic area from which the municipality collects samples nor can it be construed to prevent the municipality from collecting or processing samples to improve shellfish harvest water classification. DOAG must give the municipality support, documentation, and training on record keeping, collecting samples, and transport. The municipality must provide training to any employees or agents it designates to take the samples.

The samples that a municipality collects must be collected and processed in accordance with the National Shellfish Sanitation Program (NSSP) Model Ordinance (see BACKGROUND). The samples must be processed by a laboratory certified as the ordinance requires. Under the act, the analysis of a sample processed in a laboratory other than one the DOAG operates must be transmitted directly to DOAG's Bureau of Aquaculture and the municipality that submitted the sample.

The municipality may help DOAG collect samples in post-rainfall conditions or spills, or for routine sampling requirements. Under the act, DOAG must (1) accept all sample data analysis from samples that municipalities collect and (2) include the data analysis in any database, report, file, calculation, or process it uses to determine or report water quality classification or reclassification.

TAG IDENTIFICATION

By law, all tag identification information about shellfish harvest locations is confidential if the shellfish harvester marks the tag with a unique code corresponding to the harvest location. Prior law required the harvester to provide DOAG and the Department of Environmental Protection (DEP) with (1) a written code key describing his or her harvest location and (2) the corresponding code he or she used for it. The act instead requires DOAG to give the harvester and DEP the code key describing the harvest location and the corresponding code.

SHELLFISH MARKER BUOYS

Under the act, the marker buoys must be constructed of rigid polystyrene foam or similar buoyant material. The buoy must support a vertical pole at least 10 feet high and be tethered by a rope or line to an anchoring device weighing enough to maintain the buoy's position. This vertical pole cannot (1) exceed 3.5 inches in diameter at any point or (2) be constructed of metallic material. The buoy must have a durable waterproof flag that is at least six inches tall and eight inches long affixed to the pole's top.

By law, all stakes, buoys, or other markers, except state-placed buoys, that mark the divisional line, in whole or in part, between any private and any public or natural oyster, clam, or mussel beds in any state waters must have the name or initial of the owner plainly marked and visible at high water. Any corporation or person who fails to comply with these requirements, and those under the act, commits an infraction (see Table on Penalties).

BACKGROUND

Classification

By law, 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. Anyone aggrieved by a classification decision may appeal as the law provides.

An area may be classified as prohibited for taking or harvesting shellfish if it fails to conform to the standards established by the department for other classifications. The department may specify the activities that may occur within each classified area. The activities must be listed on the shellfish license the department issues.

Resource Assessment License

By law, people must obtain a license if they conduct shellfish operations involving relay (transplant), aquaculture, scientific studies, market harvesting, shucking, repacking, or the sale of shellfish to market. Licenses are usually valid for up to one year and are not transferable. Fees range from zero to $50. DOAG may issue a license to conduct a scientific resource assessment or for educational or research purposes. Shellfish may not be removed from any leased or granted state or local natural bed without permission.

Harvested shellfish from such an area may not be sold, consumed, or otherwise offered.

NSSP Model Ordinance

The NSSP Model Ordinance establishes (1) minimum requirements for regulating the interstate commerce in molluscan shellfish and (2) a program to protect consumers' public health by ensuring that shellfish sold and distributed (a) are from safe sources and (b) have not been adulterated at any point. The model ordinance provides guidelines and is not a regulation.

PA 07-81—sSB 1224
Environment Committee
Planning and Development Committee

AN ACT CONCERNING LICENSED ENVIRONMENTAL PROFESSIONALS

SUMMARY: This act expands the sanctions that can be imposed on licensed environmental professionals (LEPs) who falsify information, engage in professional misconduct, or otherwise violate relevant environmental laws or regulations. It makes the use of an LEP to verify the investigation and remediation of contaminated property standard procedure unless the Department of Environmental Protection (DEP) commissioner, at her discretion, chooses to review and approve the clean-up herself. It specifies that the law on investigation and remediation of contaminated real property applies to political subdivisions of the state that own such land. It requires an LEP to submit documentation to the commissioner when a site investigation required by the Transfer Act has been completed, and to notify the commissioner when remediation begins. It makes other minor and conforming changes.
EFFECTIVE DATE: October 1, 2007

LEP SANCTIONS

By law, the State Board of Examiners of Environmental Professionals (board) may investigate an LEP's conduct. Prior law required the board to authorize the commissioner to either (1) revoke or suspend an LEP's license or (2) deny his license application if the board found the LEP had (a) submitted false or misleading information; (b) engaged in professional misconduct, including either knowingly or recklessly falsely verifying a remediation; or (c) violated any relevant environmental law or regulation. The act broadens the range of available sanctions by allowing the board to authorize the commissioner to impose any other sanction the board deems appropriate. As under prior law, the board must notify the LEP of the proposed sanction and provide an opportunity for a hearing.

INVESTIGATION AND REMEDIATION OF CONTAMINATED PROPERTY

By law, LEPs may determine if certain contaminated sites, such as those in the voluntary remediation program, have been properly cleaned up (see BACKGROUND). Prior law required the commissioner to tell the property owner if she or an LEP would review the remedial action.

The act instead requires, as standard procedure, that an LEP verify the investigation and remediation. He must do so by determining if the site was investigated using prevailing standards and guidelines and remediated according to DEP standards. However, the commissioner may notify the property owner that she must review and approve the remedial action. Under the act, as under existing law, the commissioner must do this in writing within 30 days after receiving a description of the property's environmental condition.

Under prior law, once the commissioner notified a property owner that the commissioner need not formally review and approve the remediation of the property, the owner had 90 days to submit a statement and a schedule showing how he or she intended to investigate and remediate the parcel. The act requires all property owners, not just those whose property the commissioner will not formally review, to submit this statement and schedule. They must do so within 90 days after submitting an environmental condition assessment. Prior law authorized the commissioner to (1) require the property owner to submit copies of technical plans and reports related to the investigation and remediation and (2) notify the owner if the commissioner determined her review and written approval of the statement, schedule, and accompanying technical reports was necessary. The act specifies that the commissioner must notify the property owner if she determines, at any time, that she needs to review and approve in writing only the technical plans and reports.

LEP Verification and Notice to Abutting Landowners

Under prior law, a property owner had to provide the commissioner a copy of an LEP's written verification that the property was properly remediated. The act specifies that the LEP must also verify the parcel was investigated using prevailing standards and guidelines. It requires the property owner to submit the LEP's original verification, not a copy, to the commissioner on a form she prescribes.

Prior law required that before beginning to clean up a contaminated parcel, the property owner had to (1)

publish notice of the planned remediation in the newspaper, (2) notify the local health director, and (3) either erect a six by four foot sign on the property, or notify every property owner on the town's last completed grand list by mail. The act allows an owner of contaminated property who chooses the mail notification option to send notice only to those landowners whose property abuts the contaminated parcel. The landowner must send the notice to the abutting property owner's last known address on the last-completed grand list of the town where the land is located.

LEPS AND THE TRANSFER ACT

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, disposed of, transported, or treated.

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.

In the case of a Form III or Form IV, a "certifying party" is a person associated with the transfer of an establishment who agrees to investigate a parcel according to prevailing standards and properly remediate pollution. 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 or she 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.

Under prior law, the commissioner had 45 days from receiving a complete Form III or Form IV to notify the certifying party whether (1) the commissioner needed to review the remediation and approve it in writing, or (2) an LEP could verify the investigation and remediation. Under the act, a certifying party must have an LEP verify the investigation and remediation unless the commissioner notifies him, within 45 days of receiving a complete Form III or Form IV, that her review is needed.

The act also conforms certain verification requirements to existing law.

NOTIFICATION THAT INVESTIGATION IS COMPLETE OR REMEDIATION BEGUN

Under prior law, within 30 days after receiving notice from the commissioner that an LEP may verify the investigation and remediation, a certifying party submitted an investigation and remediation schedule. By law, the schedule provides for completing the investigation within two years, and beginning remediation within three years, after the owner receives the notice, unless the commissioner specifies a later date in writing.

Under the act, unless the commissioner states that her review and written approval is needed, the certifying party instead has 75 days from notification that his Form III or Form IV is complete to submit the investigation and remediation schedule. As under prior law, the commissioner may extend the 75-day deadline. She must do so in writing.

The act requires the certifying party to submit documentation that the investigation has been completed and notify the commissioner, on forms the commissioner prescribes, when remediation has begun. The party must submit the investigation documentation and remediation notification within two years and three years, respectively, after receiving notice that the Form III or Form IV is complete, unless the commissioner has specified a later date in writing. The commissioner may, at any time, determine that her review and written approval is needed, and must so notify the certifying party.

BACKGROUND

Voluntary Remediation Program

This program is available to political subdivisions of the state and owners of (1) establishments under the Transfer Act, (2) property on the hazardous waste disposal site inventory, or (3) property located in an area where there is groundwater DEP classifies as suitable for drinking without treatment (CGS § 22a-133x).

Related Act

PA 07-233 expands the role of LEPs in overseeing remediation and establishes procedures for documenting, verifying and auditing their work.

PA 07-85—sHB 7121
Environment Committee
Planning and Development Committee
Judiciary Committee

AN ACT CONCERNING THE AQUIFER PROTECTION AREA PROGRAM

SUMMARY: This act specifies when public and private water companies must submit maps of new well fields to the Department of Environmental Protection (DEP), amends aquifer protection agencies' hearing and decision schedules, authorizes municipalities to fine people who violate municipal aquifer regulations, and makes minor changes.
EFFECTIVE DATE: October 1, 2007

MAPPING REQUIREMENTS

An aquifer is a geologic formation which provides water to wells and springs. Water flows to wells from "contribution" areas, and to contribution areas from "recharge" areas. The law requires public and private water companies to map contribution and recharge areas to two different standards: level B (initial mapping) and level A (more precise mapping). The act requires a water company to map contribution and recharge areas for new, unmapped well fields serving 1,000 or more people to (1) level B standards no later than one year, and (2) level A standards no later than three years, after receiving a water diversion permit.

Under prior law, a water company serving more than 10,000 people (large water company) and those serving between 1,000 and 10,000 people (small water company) had to map the contribution and recharge areas they identified as future water supply sources to level B standards two years after the public health commissioner approved their coordinated water system plans. The act instead requires them to map to level B standards within two years after the DEP commissioner requests such mapping. It eliminates requirements that large and small water companies map to level A standards, four years and five years, respectively, after approval of their water system plans. As under existing law, the DEP commissioner must approve the aquifer maps.

HEARING AND NOTICE REQUIREMENTS

By law, an aquifer protection agency regulates certain activities (regulated activities) that occur within aquifer boundaries (see BACKGROUND).

Prior law set specific deadline and notice requirements for applications to conduct these regulated activities in an aquifer protection area. The act replaces these requirements with the notice and hearing requirements the law applies to zoning commissions, planning and zoning commissions, zoning boards of appeals, and inland wetlands agencies. But it retains a requirement that the aquifer protection agency notify affected water companies of a hearing at least 10 days before it takes place. As under prior law, this notice must be sent by certified mail, return receipt requested.

By law, an aquifer protection agency may hold a public hearing on an application to conduct a regulated activity. Prior law required the agency to (1) hold the hearing no later than 65 days after receiving the application, (2) complete the hearing within 45 days, and (3) act on the application no later than 35 days after the end of the hearing. Under the act, the agency has the same 65-day period from receiving the application to hold the hearing, but must complete it within 35 days and issue a decision no later than 65 days after the hearing ends. The act therefore extends the period between the start of the hearing and release of a decision by 20 days.

By law, zoning commissions, zoning boards of appeals, planning and zoning commissions, and inland wetlands agencies must notify the clerks of adjoining towns about any applications, petitions, appeals, requests, or plans concerning projects within 500 feet of the adjoining town, or that would affect the adjoining town in certain other ways. The act applies these requirements to aquifer protection agencies.

MUNICIPAL FINES

The act authorizes a municipality to establish, by ordinance, fines of up to $1,000 for violating its aquifer protection regulations. A police officer or other person authorized by the municipality's chief executive may issue a citation to anyone violating the regulations. A municipality that adopts such an ordinance must also adopt a hearing procedure. Any fines collected must be deposited in the municipality's general fund or a special fund it designates. But the fine cannot be imposed against the state or any state employee acting within the scope of his or her employment.

The act specifies that establishment of this ordinance, imposition of fines, and issuance of citations do not apply to agricultural uses employing best management practices (see BACKGROUND). By law, any person engaged in agriculture on land in an aquifer protection area (1) whose annual gross sales from agricultural products during the preceding calendar year were at least $2,500, and (2) who submits to DEP a farm resources management plan, is not conducting a regulated activity (CGS § 22a-354m).

DEP COMMISSIONER'S AUTHORITY AND POWERS

By law, the DEP commissioner has sole authority to grant, deny, limit, or modify, according to regulation, a permit for any regulated activity in an aquifer protection area proposed by anyone to whom she has issued an individual permit (1) under the National Pollution Discharge Elimination System (NPDES) or state pollution discharge system or (2) for a treatment, storage, or disposal facility, the Resource Conservation and Recovery Act (RCRA). The act specifies that the commissioner must have issued the individual permit for the site proposed for the regulated activity.

It authorizes the commissioner to exercise all incidental powers to carry out the aquifer protection laws, including issuing orders necessary to enforce rules and regulations adopted under those laws.

BACKGROUND

Regulated Activities and Best Management Practices

By law, a regulated activity is any action, process, or condition which the DEP commissioner determines, by regulation, involves producing, handling, using, storing, or disposing of material that may pose a threat to groundwater in an aquifer protection area, including structures and appurtenances used in conjunction with the regulated activity. A best management practice is a practice, procedure, or facility designed to prevent, minimize, or control spills, leaks or other releases that pose a threat to groundwater (CGS § 22a-354h).

National Pollution Discharge Elimination System

The NPDES permit program controls water pollution by regulating point sources (pipes, ditches, and channels) that discharge pollutants to U.S. waters (40 CFR § 122).

Resource Conservation and Recovery Act

RCRA regulates solid and hazardous wastes (42 USC 6901 *et seq.*).

PA 07-100—sHB 6396
Environment Committee

AN ACT CONCERNING THE USE OF CLEANING PRODUCTS IN STATE BUILDINGS

SUMMARY: This act bans the use of cleaning products that do not meet certain guidelines or environmental standards in state-owned buildings beginning October 1, 2007. The guidelines or standards must be set by a national or international environmental certification program, which the Department of Administrative Services must approve in consultation with the Department of Environmental Protection commissioner. To be eligible for use, the cleaning products must minimize the potential harmful impact on human health and the environment to the maximum extent possible.

The act specifies that for its purposes "cleaning product" does not include any disinfectant, disinfecting cleaner, sanitizer, or any other antimicrobial product regulated by federal law.

EFFECTIVE DATE: October 1, 2007

PA 07-105—HB 7194
Environment Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE EXPANSION OF THE ANIMAL POPULATION CONTROL PROGRAM

SUMMARY: This act expands the state's Animal Population Control Program (APCP), requiring the agriculture commissioner to establish programs to (1) sterilize and vaccinate the pets of low-income people and (2) assist registered nonprofit rescue groups with feral cat sterilization and vaccination. The commissioner must use APCP funds to pay for the two new programs. It eliminates a provision of prior law that allowed the commissioner to set aside APCP funds to assist in the sterilization of feral cats.

Specifically, the act allows the commissioner to (1) use up to 20% of APCP funds for the two new programs (up to 10% for each) and (2) seek funds for them. It also increases, from $180,000 to $225,000, the amount of APCP funds that the Agriculture Department may use for administrative costs.

The act requires the agriculture commissioner to distribute a standard dog licensing form to pet shop operators, grooming facilities, municipal pounds and dog training facilities that offer to make it available to dog owners. Under prior law, the commissioner distributed this form only to veterinarians.

It makes related minor and technical changes.

EFFECTIVE DATE: October 1, 2007, except a conforming change is effective upon passage.

APCP FUNDING AND NEW PROGRAMS

By law, residents must pay a $45 adoption fee for any unsterilized dog or cat they buy or adopt from a municipal impound facility, for which they receive a sterilization voucher and vaccination benefits.

By law, a resident may redeem an APCP voucher valid for 60 days at a participating veterinarian's office. The $45 sale or adoption fee goes to APCP. Additional funding for the APCP comes from (1) an annual surcharge on Connecticut dog licenses ($2 for a sterilized and $6 for an unsterilized dog), (2) proceeds from the sale of "Caring for Pets" commemorative license plates, and (3) donations. APCP funds are placed in the animal population control account.

Under existing law, the commissioner may solicit and accept funds from any public or private source to help carry out APCP goals. The act allows him to do so for the existing voucher and the two new programs and allows a donor to earmark funds for any or all of the programs.

Under existing law, the commissioner may suspend the APCP voucher program when less than $300,000 is available for it and the commissioner may reinstate the program when funds exceed that amount. The act expands this provision to include all three programs, allowing the commissioner to suspend and reinstate any or all of them.

Low-Income Pet Sterilization and Vaccination

Under the act, pet owners receiving or eligible for certain forms of public assistance are eligible to receive financial assistance to have their pets sterilized and vaccinated. It defines a "low income person" as someone receiving or eligible for one of the following programs:

1. the food stamp program;
2. Temporary Assistance for Needy Families;
3. Medicaid Fee-for-Service or HUSKY A;
4. state-administered general assistance, either medical or cash assistance components;
5. state supplement; or
6. any other public assistance program that the commissioner determines qualifies a person as low-income.

Feral Sterilization and Vaccination

The act requires the commissioner to establish a program to assist nonprofit rescue groups with feral cat sterilization and vaccination. The act defines a "feral cat" as an animal of the species *felis catus* (1) that is unowned and exists in a wild or untamed state or has returned to an untamed state from domestication and (2) whose behavior is suggestive of a wild animal. It eliminates a provision that allows the agriculture commissioner to provide up to $40,000 in APCP funds per year, if available, to charitable organizations to sterilize feral cats.

BACKGROUND

APCP Veterinarian Reimbursement

The commissioner must pay participating veterinarians for the sterilization and vaccinations of a dog or cat when he or she submits a signed APCP voucher (CGS § 22-380i(c)).

PA 07-127—sHB 6776
Environment Committee
Finance, Revenue and Bonding Committee

AN ACT PRESERVING MARITIME HERITAGE LAND

SUMMARY: This act provides a property tax break for certain licensed commercial lobstermen by treating portions of waterfront property they own and use for lobstering as "490 program" land. Under the 490 program, farm, open space, and forest land is assessed at its current use value for property tax purposes.

The act defines "maritime heritage land" as the portion of waterfront real property that a licensed commercial lobster fisherman owns and uses for commercial lobstering. It excludes buildings the lobsterman does not use exclusively for commercial lobstering. The lobsterman must have earned at least 50% of his or her adjusted gross income in the prior tax year, as determined for federal income tax purposes, from commercial lobster fishing. The lobsterman must provide satisfactory proof to the municipal assessor where the property is located.

By law, a conveyance tax is imposed on land in the 490 program when (1) its use classification changes or (2) it is sold or transferred within 10 years of its classification (with certain exceptions). The act extends the same conveyance tax penalty, as well as other 490 program provisions, to property classified as maritime heritage land.

The act also adds a municipal option for an additional 50% commercial property tax break for land classified as maritime heritage land.

It makes conforming and technical changes.

EFFECTIVE DATE: July 1, 2007

MARITIME HERITAGE LAND

490 Program and Maritime Heritage Land

By law, assessors must determine the value of 490 land based solely on how it is being used (i.e., current use value) without regard to its potential resale or fair market value (i.e., the highest and best use one can make of such property). The act adds maritime heritage

land to the program and uses a classification process similar to that for farmland. Under the law, the classification processes for open space and forest land have additional requirements (see BACKGROUND).

Applying for Maritime Heritage Land Classification

Under the act, a landowner may apply to the tax assessor for classification of his or her land as maritime heritage land on any grand list of a municipality by filing a written notice no less than 30 days before and no later than 30 days after the assessment date. But in a year in which a revaluation of all real property becomes effective, the application may be filed no later than 90 days after the assessment date.

The application must be on a form the Office of Policy and Management (OPM) secretary prescribes. It must describe (1) the land, (2) its use in general terms, (3) the potential tax liability if a conveyance tax is assessed, and (4) any other information the assessor may require to help him or her determine whether the land qualifies for the maritime heritage land classification.

If the assessor determines an applicant's land is maritime heritage land, he or she must so classify it and include it on the grand list. The assessor must annually file a certificate with the town clerk stating the date of initial classification as maritime heritage land and the conveyance tax obligation under the program, as under the law for 490 program land.

If a landowner fails to apply for the classification within the act's prescribed deadline or as it requires, he or she is considered to have waived the right to such classification.

As under current law for 490 land, any person aggrieved by an assessor's denial of land classification as maritime heritage land has the same rights and remedies for appeal and relief as the law provides for other taxpayers claiming to be aggrieved by the actions of assessors or boards of assessment appeals.

CONFORMING CHANGES

The act adds maritime heritage land to the following provisions of the 490 program.

Classification, Sale Notification, and OPM Report

The law specifies that the classification of land as open space, farm, or forest land under the 490 program attaches to the owner and not the land. Under the law, the classification ends if (1) the land use is changed to something other than that described in the owner's application or (2) the land is sold or transferred. In the case of a change in use, the classification terminates on the earlier of the date the use changes or the assessor becomes aware of this change.

By law, the town clerk must notify the assessor of the sale of any land in the program when the sale is filed in the land records. Upon receiving the notice, the assessor must notify the new owner of the tax benefits of participating in the program. The law requires the filing of a revised program application with the assessor whenever ownership of land in the program changes.

Conveyance Tax

By law, a conveyance tax is imposed on program land that changes use or is sold or transferred within 10 years of its classification. The tax is 10% if the land is sold in the first year following its classification, and decreases by 1% per year. The law also imposes the tax based on sales or transfers within 10 years if a person other than the owner caused the land to be classified as open space or farm or forest land. By law, the tax penalty is based on the property's fair market value as determined in conjunction with the most recent revaluation. The conveyance tax does not apply in several circumstances under the law, for example, upon a land owner's death, where no consideration was received for the land.

BACKGROUND

490 Program

The 490 Program is the popular name for PA 63-490, the public act that created it.

Farm Land. The law requires assessors to determine the value of farm land under 490 based solely on its current use value without regard to its potential fair market value. A farmer must apply for such an assessment and the land must be farm land, as defined by law, which the assessor must determine.

Open Space Land. By law, a property qualifies for the open space classification if it is located in an area a municipality's planning commission designated as open space in its plan of conservation and development.

Forest Land. Under the law, to qualify for classification, eligible forest land must consist of (1) one tract of 25 or more contiguous acres or (2) at least two tracts totaling at least 25 acres, in which no single tract is less than 10 acres. Additionally, land contiguous to a forest land tract owned by the same person can be classified as forest land, if it meets the law's standards.

PA 07-131—sHB 7275
Environment Committee
Appropriations Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE FACE OF CONNECTICUT

SUMMARY: This act increases grant ceilings for, and makes adjustments to, the Open Space and Watershed Acquisition Grant Program. It also creates a loan program to help municipalities purchase agricultural land.

By law, grants under the Open Space and Watershed Acquisition Grant Program are capped at certain percentages of a desired property's fair market value. The act increases those percentages. It also increases, from 2% to 5%, the percentage of grant funds that the Department of Environmental Protection (DEP) may use for certain administrative expenses related to the program.

The act requires the Department of Agriculture (DOAG) commissioner to administer a program that provides eligible municipalities with loans to purchase agricultural land. The act provides that municipalities (1) are eligible for the loan if they provide at least 20% of the purchase price for the land and (2) may apply for it on a form the DOAG commissioner prescribes. Under the act, the loan term cannot exceed five years and is not subject to interest.

The act establishes the "municipal purchasing of agricultural land account" as a separate, non-lapsing account within the General Fund. It specifies that the account may contain any money the law requires to be deposited in it. The DOAG commissioner must use the account funds to provide municipalities the interest-free agricultural land acquisition loans.

The act authorizes the DOAG commissioner to adopt regulations that establish the criteria for the agricultural land acquisition loans and the terms governing the loans.

It also makes a technical change.

EFFECTIVE DATE: July 1, 2007

OPEN SPACE AND WATERSHED LAND ACQUISITION PROGRAM

By law, this program provides financial assistance to (1) municipalities and nonprofit land conservation organizations to acquire open space and watershed land and (2) water companies to acquire water supply property. The land or watershed must meet certain eligibility criteria (see BACKGROUND).

The law authorizes the DEP commissioner to make Open Space Acquisition and Watershed Acquisition Grants to:

1. a municipality for open space acquisition or for acquisition of land for class I and class II water supply protection;
2. non-profit land conservation organizations for acquisition of land for open space or watershed protection;
3. water companies to acquire land that is eligible to be classified as class I or II land; or
4. a distressed municipality or targeted investment community, or with such a municipality's permission, a nonprofit land conservation organization, to acquire land for open space preservation—the act additionally allows such a municipality or community to also give permission to a water company.

Under prior law, a grant to a municipality was 50% of the land's fair market value or interest. The act increases the amount to 65%. (By law, a grant to a municipality for acquisition of land for class I and class II water supply protection is already capped at 65%.)

The act also increases the cap amount on the percentage of land value:

1. from 50% to 65% for grants to nonprofit land conservation organizations for acquisition of land for open space or watershed protection;
2. from 40% to 65% for grants to water companies to acquire land that is eligible to be classified as class I or II land; and
3. from 65% to 75% for grants to distressed municipalities, targeted investment communities, or the entity they approve for open space acquisition.

BACKGROUND

Class I and II Land

By law, class I land is water company property that is closest to a supply source (e.g., within 200 feet of a well) or that meets certain geological criteria (e.g., having a slope of 15% or more). Class II land is other property that is (1) within a watershed or (2) off a watershed but within 150 feet of a reservoir or a stream that flows into a reservoir.

Farmland Preservation Purchase of Development Rights (PDR) Program

The state's primary farmland preservation program is the voluntary Farmland Preservation PDR Program, which allows DOAG to purchase from farmers development rights to preserve prime and important farmland. As of January 3, 2007, the Farmland Preservation Program had preserved 31,782 acres on 228 farms. Farmers may apply to DOAG, which evaluates applications according to regulatory criteria.

The program's primary goal is to preserve farmland containing a high percentage of prime farmland soils in established farm communities.

PA 07-154—sHB 6856
Environment Committee
Planning and Development Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING A MUNICIPAL STORMWATER AUTHORITY PILOT PROGRAM, SPECIAL SERVICES DISTRICTS, CLEAN WATER FUND DISBURSEMENTS AND THE DEFINITION OF UNIMPROVED LAND FOR TAX PURPOSES

SUMMARY: This act requires the Department of Environmental Protection (DEP) commissioner to create a municipal stormwater authority pilot program in up to four municipalities adjoining Long Island Sound by September 1, 2007, and authorizes her to provide up to $1 million in grants to the participating towns. Each stormwater authority may adopt regulations to implement a stormwater management program and may, with the commissioner's approval, enter into contracts with any municipal or regional entity to accomplish its purposes.

It defines unimproved land, for purposes of the commercial real estate conveyance tax, as farm, forest, or open space. (The conveyance tax applies to real property transfers for $2,000 or more, with several exceptions. The seller pays the tax. The conveyance of commercial real estate is taxed at a rate of 1% of the sale price. Unimproved land is taxed at a 0.5% rate.) The act does not limit farm, forest, or open space land to property considered as such in the "490" program or require that it continue to be used as farm, forest, or open space land after it is conveyed. It is also unclear how this provision relates to the 490 program's conveyance tax penalty (see BACKGROUND).

By law, regional water pollution control authorities finance their water pollution control projects with a combination of grants and loans from the Clean Water Fund. Under prior law, starting in FY 07, eligible projects could receive only loans, and not grants. The act repeals this provision, allowing regional authorities to continue to receive project grants.

Finally, it extends the length of time in which a special services district must repay its debt obligations from one to seven years after it incurs them.

EFFECTIVE DATE: Upon passage, except that a reporting requirement for municipalities in the pilot program and the special services district provision taken effect September 1, 2007, and the conveyance tax provision takes effect July 1, 2007.

MUNICIPAL STORMWATER AUTHORITY PILOT PROGRAM

Eligibility Criteria

The act establishes population criteria that four priority municipalities must meet to participate in the program, and allows other, non-priority municipalities to apply if a priority town chooses not to participate.

Priority Municipalities. To qualify as a priority municipality, a town must border Long Island Sound and have a population, according to the most recent Register and Manual, of between (1) 18,000 and 18,500, (2) 26,000 and 26,500, (3) 84,000 and 84,500, or (4) 125,000 and 125,500. According to the 2006 Register and Manual, four municipalities meet the act's geographic and demographic criteria: Stonington, New London, Norwalk, and New Haven. Municipalities meeting these criteria that wish to participate must apply, on forms the commissioner prescribes, by September 15, 2007. A municipality that fails to submit a timely application waives its right to apply for a grant. If the commissioner rejects an application she deems incomplete, the applicant has 15 days to correct any defects. If the commissioner is not satisfied with the town's application, she must consider the town a non-priority applicant.

Non-priority Municipalities. If any priority town waives its right to apply, any other town may apply that is complying with permit requirements for stormwater discharge from, or associated with, a separate storm sewer system it owns or operates. Under the act, a separate storm sewer system includes roads with drainage systems, streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains that discharge into state waters.

The commissioner must review timely applications from non-priority towns in the order she receives them. In choosing a non-priority town to participate, she must consider (1) its proximity to Long Island Sound or other major rivers or water bodies and (2) whether its inclusion will result in a diverse representation of urban and suburban areas.

Each town chosen to participate in the pilot program must submit a stormwater management program for the commissioner's approval. The program must include an estimate of the operational and capital expenses and income required to implement the plan over five years, and other elements the commissioner prescribes.

Grants

The commissioner may authorize up to $1 million in grants for the pilot program from any Clean Water Fund account, to the extent bond funds are available

(see BACKGROUND). Towns may use the grants to reimburse up to 80% of the planning, engineering, and legal costs associated with creating a stormwater authority and developing a stormwater program. But the grants cannot be used to reimburse towns for costs associated with their program applications. The commissioner can use money from the fund to pay reasonable administrative costs.

Stormwater Authorities

The act allows the legislative body of a municipality participating in the pilot program to adopt an ordinance designating an existing board or commission as the stormwater authority, or to create a new authority. If a town creates a new authority, it must, by ordinance, decide:

1. the number of members;
2. their compensation, if any;
3. whether they are elected or appointed;
4. if appointed, the method of their appointment;
5. the method of removal; and
6. their terms of office, with no more than half the members' terms may expire in any one year.

Stormwater Management Program

The authority must develop a stormwater management program. It must include provisions for (1) construction and post-construction site stormwater runoff control, including control detention and prevention of stormwater runoff from development sites or (2) controlling and abating pollution from existing land uses, and detecting and eliminating connections to the stormwater system that threaten the public health, welfare, or the environment. It must also (1) provide public education and outreach relating to stormwater management activities and establish procedures for public participation; (2) administer the program; (3) set boundaries for the stormwater authority district; and (4) recommend to the town's legislative body a levy on taxable real property in the stormwater district to permit the authority to plan, lay out, acquire, construct, reconstruct, repair, maintain, supervise, and manage stormwater control systems.

Assessment of Fees

The authority may levy fees on property owners to achieve its purposes. In setting fees, it may consider (1) the amount of impervious surfaces generating stormwater runoff, (2) land use types that result in higher concentrations of stormwater pollution, and (3) the property's grand list valuation. The authority may reduce or defer such fees for land classified as, or consisting of, farm, forest, or open space. This apparently refers to land classified as "490" land for property tax purposes, as well as land not so classified.

Reporting Requirements

By February 11, 2008, municipalities taking part in the pilot program must submit a joint report to the Environment Committee on the program's status. The report must include:

1. recommendations on whether additional legislation is needed to grant authorities the power to issue bonds, notes, or other evidence of debt;
2. a map showing the district's boundaries (apparently for each district);
3. information on the purpose and amount of any assessment recommended to fund the authority; and
4. any other information the commissioner requests under her grant agreements with the participating towns.

BACKGROUND

Clean Water Fund

The Clean Water Fund provides financial assistance to municipalities for planning, designing, and building wastewater collection and treatment projects. The fund includes a water pollution control federal revolving loan account, water pollution control state account, a Long Island Sound clean-up account, a drinking water federal revolving loan account, a drinking water state account, and a river restoration account (CGS § 22a-477).

Regional Water Pollution Control Authorities

Two or more municipalities may form a regional water pollution control authority. Regional water pollution control authorities receive various combinations of grants and loans from the Clean Water Fund for eligible projects, depending on the type of project (CGS § 22a-517).

490 Program Classifications and Penalty

By law, farm, open space, and forest land is assessed at its current use value for property tax purposes. The classification terminates when (1) the land's use is changed to something other than was described in the owner's application or (2) the land is sold or transferred. Under the 490 program, property is subject to a conveyance tax on its fair market value if it is sold or its use is changed within 10 years of the classification. The tax rate starts at 10% of the total sales price if it is sold within one year of classification

and declines by 1% annually if it sold within 10 years (CGS §§ 12-107a, 12-504a, and 12-504e).

Special Services Districts

Any municipality may establish, by ordinance, a district to preserve, enhance, protect, and develop the town's economic health in order to promote the economic and general welfare of its citizens and property owners (CGS § 7-339m *et seq*.). Although the statutes suggest that municipal officials start the formation process, the initiative usually comes from property owners who desire extra public services and are willing to pay for them through extra property taxes. Property owners elect a board of commissioners who set the budget and calculate the mill rate.

Related Act

PA 07-196 includes an identical provision extending the time a special services district has to repay its debt obligation from one to seven years after it incurs them.

PA 07-162—sSB 872
Environment Committee
Government Administration and Elections Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE CREATION OF A FARMLAND PRESERVATION ADVISORY BOARD, A STATE BUILDING CODE FOR AGRICULTURE, AND ZONING REGULATION OF FARMING

SUMMARY: This act requires the State Bond Commission to vote on whether to issue, at certain times and when available, bonds that the legislature approved for agricultural land preservation programs but the commission has not allocated.

The act creates a 12-member Farmland Preservation Advisory Board to help the agriculture department with its purchase of development rights program and other efforts to preserve agricultural lands. It establishes the board's composition and duties, and places it within the department for administrative purposes only.
EFFECTIVE DATE: July 1, 2007

FUNDING AGRICULTURE PRESERVATION PROGRAMS

The act requires the bond commission to vote on whether to issue unallocated bonds that the General Assembly approved for agricultural land preservation programs when such funds are available. Specifically, it requires the commission to vote on whether to issue at least $5 million of such unallocated bonds, if available, at its regularly scheduled August and February meetings. If the commission does not meet in those months, it must vote on whether to issue the bonds at its next regularly scheduled meeting. The act specifies that when the balance of approved bonds is less than $5 million at the time of the commission's August or February meetings, the commission must vote on whether to issue the remaining bonds.

When there is a sufficient balance of approved, unallocated bonds and there are pending agricultural land preservation transactions in excess of $5 million, the act allows the commissioner to request, and requires the commission to vote on whether to issue, bonds of more than $5 million.

FARMLAND PRESERVATION ADVISORY BOARD

Board Membership, Appointing Powers, and Initial Terms

The 12-member advisory board consists of:

1. a University of Connecticut Cooperative Extension Service representative appointed by the governor;
2. a Connecticut Farm Bureau representative, who may be an owner and operator of a Connecticut farm, appointed by the governor;
3. five Connecticut farm owners and operators appointed by the governor, Senate president pro tempore, House speaker, and Senate and House majority leaders;
4. a Connecticut Agriculture Experiment Station representative appointed by the Senate minority leader;
5. a Connecticut Conference of Municipalities representative appointed by the House minority leader;
6. a representative of an organization whose mission includes farmland preservation, who may be an owner and operator of a Connecticut farm, appointed by the Senate president pro tempore;
7. a representative of an organization whose mission includes food security, appointed by the House speaker; and
8. a representative of a financial lending organization whose clients include Connecticut farm owners and operators, appointed by the governor.

The board members must select a chairperson from those members who own and operate Connecticut farms. The members, other than the Farm Bureau representative and the five farm owners and operators (who are each appointed for three years), are initially

appointed to two-year terms. Once the initial terms expire, all members are appointed for three years. Members are eligible for reappointment. Anyone appointed to fill a vacancy serves for the rest of the unexpired term.

Duties

Once established, the board:

1. must meet publicly with the agriculture commissioner and the staff of the development rights purchase program by October 1, 2007 and at least quarterly thereafter to review ongoing program activities;
2. must evaluate and provide comments and recommendations on the purchase of development rights transaction process, including (a) methods (i) for streamlining the process and appropriate staffing and funding levels, (ii) for increased participation by municipalities and farmers, (iii) of planning for future acquisitions and identifying prime land for preservation and (b) agriculture department outreach strategies aimed at the state-wide farming community, geared at attracting more quality applications;
3. may recommend any other changes to the program that the board deems appropriate, including recommendations for future legislative action; and
4. must evaluate and comment on the efficacy of the method of bond funding the act establishes.

PA 07-168—sHB 5234
Environment Committee
Education Committee

AN ACT BANNING PESTICIDE USE ON SCHOOL GROUNDS

SUMMARY: This act:

1. expands a ban on applying lawn care pesticides at preschools and elementary schools to schools with students through grade eight, but allows a school superintendent and other appropriate authorities to authorize emergency applications of lawn care pesticides in health emergencies at such schools;
2. extends, for one year, an exemption to the ban for pesticides applied according to certain integrated pest management plans (IPMs); and
3. makes the Department of Environmental Protection (DEP) responsible for administering and enforcing school pesticide applications.

Under prior law, the DEP commissioner could designate DEP officers or employees to enforce pesticide laws by, among other things, observing pesticide applications, inspecting equipment, obtaining pesticide samples, and verifying applicator certifications. The act (1) permits the commissioner to authorize any such enforcement actions only within available appropriations, and (2) authorizes her to designate officers and employees to enforce school pesticide applications.

Also under prior law, the commissioner (1) had to annually review a sampling of state department, agency, or institution pest control management plans required by regulation and (2) could review an application of pesticides at the departments, agencies, or institutions to determine whether they used IPM at their facilities if the commissioner has provided a model IPM plan pertaining to those facilities. The act applies these provisions to schools and requires that the commissioner’s annual review of department, agency, institution, and school pest control management plans be conducted within available appropriations.

EFFECTIVE DATE: October 1, 2007

APPLICATION OF LAWN CARE PESTICIDES

Integrated Pest Management Plans

Prior law barred anyone from applying a lawn care pesticide on the playing fields and playgrounds of public and private preschools and elementary schools, except that pesticides could be applied until July 1, 2008 on their grounds according to an IPM. The act expands the ban to public and private schools with students through grade eight and extends the IPM exemption for one year, to July 1, 2009. The IPM plan may be developed by a local or regional school board for public schools it controls and must be consistent with DEP’s model pest control management plan.

Emergency Applications

Despite the ban, prior law allowed emergency applications of lawn care pesticides on public and private preschool and elementary school grounds to eliminate a threat to human health, as determined by the local health director, public health or environmental protection commissioner, and, in the case of a public elementary school, a school superintendent. The act allows these officials to determine health threats at schools with students through grade eight.

DEP ADMINISTRATION AND ENFORCEMENT

The act gives DEP the authority, under the Connecticut Pesticide Control Act (CGS § 22a-46 et seq.), to administer and enforce the laws concerning

school pesticide applications, within available appropriations. These laws include registration, notice, and record-keeping provisions, in addition to the provisions concerning the applications themselves. The act makes it unlawful to violate the school pesticide statutes and applies Pesticide Control Act penalties to violators, as follows:

1. Any registrant; commercial applicator; uncertified person who performs, advertises, or solicits to perform commercial application; wholesaler; dealer; retailer; or other distributor who knowingly violates the law may be fined up to $5,000, imprisoned up to one year, or both.
2. A private applicator or other person, not included in the above categories, who knowingly violates the law, may be fined up to $1,000, imprisoned up to 30 days, or both.

Under the Pesticide Control Act, the action, omission, or failure to act of any officer, agent, or other person acting or working for any person is deemed to be the action, omission, or failure of the employer as well as the employee. The act extends this provision to school pesticide applications.

It also applies to school pesticide applications existing law authorizing the attorney general, on the complaint of the DEP commissioner, to seek a civil penalty in Hartford Superior Court against violators of the Pesticide Control Act of up to $2,500 per day for each day a violation continues.

DEP Review of Pesticide Applications

By law, state agencies, departments, and institutions must use IPM at facilities they control if the DEP commissioner has provided a model IPM plan pertaining to those facilities. The law allows each agency, department, or institution that enters into a contract for pest control and pesticide application to revise and maintain its bidding procedures to require contractors to supply IPM services.

The act allows schools to revise and maintain their bidding procedures to require contractors to supply IPM services. It requires that DEP's annual review of department, agency, institution, and school pest control management plans be within available appropriations, and authorizes it to review any school pesticide application to determine if it used IPM as the law requires.

BACKGROUND

Integrated Pest Management

IPM means the use of all available pest control techniques, including judicious use of pesticides, when warranted, to maintain a pest population at or below an acceptable level, while decreasing the use of pesticides (CGS § 10-231a).

PA 07-177—sHB 7231
Environment Committee
Finance, Revenue and Bonding Committee

AN ACT INCLUDING ON-BOARD OIL REFINING SYSTEMS IN THE DEFINITION OF LOCAL CAPITAL IMPROVEMENT PROJECTS

SUMMARY: This act allows municipalities that acquire and install certain on-board oil refining systems to have their costs reimbursed from the Local Capital Improvement Program (LoCIP) Fund. The refining systems must consist of filtration and evaporation canisters that remove solid and liquid contaminants from lubricating oil.

EFFECTIVE DATE: July 1, 2007

BACKGROUND

Local Capital Improvement Program (LoCIP)

LoCIP, administered by the Office of Policy and Management, reimburses municipalities for the cost of eligible local capital improvement projects, such as road, bridge, and public building construction activities. OPM annually allocates LoCIP funds to municipalities according to a statutory formula (CGS §§ 7-535 *et seq.*)

PA 07-189—sHB 7249
Environment Committee
Finance, Revenue and Bonding Committee
Government Administration and Elections Committee
Appropriations Committee
Judiciary Committee

AN ACT CONCERNING THE COLLECTION AND RECYCLING OF COVERED ELECTRONIC DEVICES

SUMMARY: This act creates a mandatory recycling program for discarded computers and televisions. Starting January 1, 2009, manufacturers must participate in a program to implement and finance the collection, transportation, and recycling of these covered electronic devices (CEDs). They may participate in the statewide program or a private program.

It requires each CED manufacturer to register with the Department of Environmental Protection (DEP) and pay an annual registration fee, which DEP must use to administer the program. Each registered manufacturer also must pay recyclers the reasonable costs of

transporting and recycling its CEDs. The act sets a maximum transportation and recycling reimbursement rate of 50 cents per pound.

The act prohibits, with some exceptions, retailers from selling CEDs manufactured by noncompliant manufacturers. It requires municipalities to provide for the convenient recycling of CEDs generated within their borders and arrange for bringing CEDs to DEP-approved recyclers.

The act prohibits, starting January 1, 2011, anyone (1) from knowingly discarding a CED at a solid waste disposal facility other than a transfer station, and (2) charging a fee to state residents bringing seven or fewer CEDs to a collector (apparently a transfer station or solid waste hauler) at any one time.

It creates two separate, nonlapsing accounts within the Environmental Quality Fund. DEP must use funds from the (1) "electronic device recycling program account" to carry out the act's provisions and (2) "covered electronic recycler reimbursement account" to reimburse recyclers for their unpaid qualified expenses.

The commissioner must adopt regulations to implement the act. The regulations must include provisions establishing (1) annual registration and reasonable fees for administering the program; (2) a process for approving recyclers; (3) a table of qualified reimbursable costs for recyclers; (4) standards for the operation, accounting, and auditing of recyclers; (5) a list of CEDs not limited to those the act specifies, such as printers; and (6) any other requirements needed to carry out the act. The commissioner may help create and implement a regional, multi-state organization or compact to help carry out its provisions.

EFFECTIVE DATE: October 1, 2007, except for the provision requiring DEP to adopt regulations, which takes effect July 1, 2007, and the provision allowing the commissioner to take part in a regional organization or compact, which takes effect upon passage.

RECYCLING PROGRAM BASICS

Covered Electronic Devices

The act applies to (1) devices with video displays larger than four inches when measured diagonally, including desktop and laptop computers, and their central processing units; cathode ray tube (CRT) and other types of computer monitors that do not contain tuners; CRT and other types of televisions; and similar or peripheral electronic devices.

Excluded Products

The act excludes devices that are:

1. motor vehicle components or parts;
2. functionally or physically part of equipment used in an industrial, commercial, or medical setting;
3. contained in an appliance;
4. telephones (unless they have a video display larger than four inches diagonally);
5. handheld devices used for commercial mobile radio service as defined by federal law (e.g., cell phones and pagers); and
6. portable handheld calculators, portable digital assistants and similar devices, and automated typewriters and typesetters.

Manufacturers and Retailers

Under the act, manufacturers are firms that make or made devices under their own brand, a brand they license, or without a brand; or resell under their own brand a device made by others. Manufacturers also include retailers who sell devices under their own names; and importers, exporters, distributors, and others.

The act defines retail sales as sales made in stores, over the Internet, by mail order, and by other means, regardless of whether the seller has a physical presence in the state. The act does not cover leases.

REGISTRATION AND RECYCLING FEES

Starting January 1, 2008, manufacturers (1) can sell only devices clearly and permanently labeled with the manufacturer's brand, (2) must register annually with DEP, and (3) must pay DEP the appropriate yearly registration fee. The act sets the 2008 registration fee at $5,000 for each manufacturer that sold more than 100 CEDs in 2007, apparently in Connecticut. The commissioner must deposit the registration fees in the electronic device recycling program account the act creates to cover the program's administrative costs.

On or after January 1, 2008, each registered manufacturer that has not sold CEDs in the state before that date must pay the initial $5,000 registration fee. In addition, these firms must pay a fee equivalent to the greater of (1) 1% of the prior year's total share of orphan CEDs, expressed in pounds, multiplied by 50 cents, or (2) $1,000. (Under the act, an orphan device is a CED for which no manufacturer can be identified, or one made by a manufacturer that is no longer in business or has no successor in interest.) The commissioner must deposit the additional fee in the covered electronics recycler reimbursement account to reimburse recyclers for unpaid qualified expenses they incur. She must deposit the initial $5,000 registration fee in the electronic device recycling account to cover administrative costs.

Starting January 1, 2009, all manufacturers must pay an annual registration renewal fee the commissioner

determines according to regulations she must adopt by October 1, 2008. The regulations must set annual registration fees and reasonable fees to administer the recycling program. DEP must base the registration fee on (1) the cost of administering the program and (2) a sliding scale representing a particular manufacturer's share of CEDs sold in the state. The state must base this market share data on available national market share information. Under the act, market share is a manufacturer's national sales of CEDs, expressed as a percentage of the total of all manufacturers' national sales for a category of CEDs, based on publicly available data. The fees the commissioner sets must cover, but not exceed, her costs to implement the program, including educational and outreach costs.

DEP may review the registration and recycling fees at a public hearing as necessary.

DEP LIST OF COMPLYING MANUFACTURERS

Starting June 1, 2009, the commissioner must post and maintain on the DEP website a list of manufacturers who comply with the act. The act requires retailers to consult this list before selling a CED and bars them from selling a CED made by a noncompliant manufacturer. But a retailer may sell such a CED if it ordered it when the manufacturer was listed as compliant. A retailer also may sell any CEDs ordered or in stock when the commissioner first posted the list, regardless of whether the CED is listed, until six months after the initial posting or December 1, 2009, whichever is earlier.

PROGRAM RESPONSIBILITY

Municipal Responsibility

Starting January 1, 2009, each municipality must provide for the recycling of CEDs generated within its borders in a manner emphasizing convenience and accessibility. Municipalities that participate in a regional recycling program may participate in the statewide program through the regional authority. Each municipality or regional authority must provide for the collection of CEDs from residents within the municipality or region, arrange for transportation of collected CEDs to a recycler, and inform residents of the time and place that CEDs will be collected.

Recyclers' Responsibility

Starting January 1, 2009, each recycler must:

1. cooperate with any municipality or regional authority to provide CED collection and transportation services,
2. reimburse a municipality or regional authority for eligible transportation costs,
3. recycle all collected CEDs according to minimum standards the commissioner establishes,
4. maintain a written log identifying responsible manufacturers by the brand and weight of each CED delivered to the recycler and identified as generated by a Connecticut household,
5. report to the commissioner any manufacturer behind on its payments for more than 90 days, and
6. file a plan to carry out the provisions of this section.

Recyclers must bill manufacturers quarterly for the reasonable costs of transporting and recycling for which the manufacturer is responsible. Recyclers must calculate the costs on a per-pound basis up to 50 cents per pound, or the amount set by regulation.

The act does not prevent a registered manufacturer from recycling its own CEDs by agreeing to have a recycler return the CEDs to it for recycling, provided the manufacturer verifies to the commissioner that the CEDs are being recycled according to the act, and the manufacturer reimburses the recycler for its eligible costs.

Manufacturers' Responsibility

Starting January 1, 2009, manufacturers must participate in a program to implement and finance the collection, transportation, and recycling of CEDs. They may take part in a private recycling plan.

Also starting January 1, 2009, each manufacturer must pay a recycler's reasonable costs of transportation and recycling for (1) the CEDs attributed to the manufacturer and (2) the manufacturer's pro rata share of recycled orphan devices. A manufacturer determines its share of orphan devices by dividing its CED market share for the preceding calendar year by the total market share of all registered manufacturers for the same year, multiplied by the total pounds of orphan devices returned. Pro rata shares of orphan devices must be calculated separately for computer-related CEDs and for televisions. Computer and television manufacturers are only responsible for the pro rata share of the type of CED each produces.

The commissioner may suspend any manufacturer that is more than 90 days behind in its payments. A suspended manufacturer seeking reinstatement must first demonstrate it has (1) made all past-due payments and (2) paid a penalty equal to 10% of its past-due payments. The commissioner must (1) deposit the penalty in the covered electronic recycler reimbursement account and (2) use it to pay recyclers for unpaid qualified expenses. A recycler seeking

reimbursement must certify to the commissioner that his expenses are eligible for repayment. The commissioner must reimburse recyclers to the extent funds are available.

Private Recycling Plan

A manufacturer may take part in a private recycling plan that complies with the act. Starting January 1, 2009, manufacturers taking part in a private plan must file a description of the plan with their annual registration. The description must include:

1. the methods used to collect the CEDs, including the names and locations of all collection and consolidation points;
2. the processes and methods used to recycle recovered CEDs, including a description of the disassembly and physical recovery operation (such as crushing, shredding, grinding, or glass-to-glass recycling); and
3. the names and locations of all recycling facilities used.

The plan also must include descriptions of the means of publicizing collection opportunities and the total weight of CEDs collected, transported, and recycled in the previous year. It must contain documentation of audits of each processor the plan uses, and proof of compliance with processing standards the act sets.

POSTING RECYCLING INFORMATION

Starting July 1, 2010, retailers selling CEDs must provide consumers with information provided by DEP, including a toll-free telephone number and an Internet website. The information must be clearly written and either included in the CED's packaging or accompany its sale. Manufacturers taking part in private CED recycling programs must make information about the programs readily available to their CED retailers.

RECYCLING PERFORMANCE REQUIREMENTS AND ENFORCEMENT

Starting January 1, 2009, all CEDs must be recycled according to applicable federal, state, and local laws, regulations, and ordinances, and must not be exported for disposal in a way that poses a significant risk to public health or the environment.

The commissioner must establish performance requirements for collectors, transporters, and recyclers to be eligible to receive DEP funds. All such entities must comply with the U. S. Environmental Protection Agency's Plug-In to eCycling Guidelines for Materials Management and any other federal or state requirements.

Starting January 1, 2009, the act authorizes the commissioner to order anyone violating the act to cease and desist, and, following a hearing, to suspend or revoke a registration for cause. The act authorizes (1) the attorney general to file a civil action in any judicial district affected by a violation, and (2) courts to grant restraining orders and temporary and permanent injunctive relief needed to secure compliance.

§ 7 — RECYCLING PLAN REPORTS

By October 1, 2010 and every three years thereafter, the commissioner must prepare an electronics recycling plan that sets statewide per-capita collection and recycling goals and identifies any actions needed to achieve them. It must post the plan on its website and submit it to the Environment Committee.

Also by October 1, 2010 and annually thereafter, the commissioner must gather information from registered manufacturers and prepare a report on the status of the recycling program. The commissioner must also submit this report to the Environment Committee. The report must include enough data to enable the commissioner to analyze the program's effectiveness. It also must include information on the adoption of any federal electronic waste recycling law that meets or exceeds the act's provisions.

§ 9 — DISPOSAL BAN

Starting January 1, 2011, the act prohibits anyone, including individuals, firms, and government agencies, from knowingly discarding a device or its component or subassembly in any solid waste facility except a transfer station. A solid waste facility owner or operator will not be found to have violated the act if he or she (1) made a good faith effort to comply, (2) conspicuously posted at the facility a sign stating that the facility cannot accept CEDs and their components, and (3) notified in writing all collectors registered to haul solid waste to the facility that it cannot accept CEDs or their components.

BACKGROUND

Solid Waste Facilities and Transfer Stations

By law, a solid waste facility is a solid waste disposal area, volume reduction plant, transfer station, wood-burning facility, or biomedical waste treatment facility. A transfer station is a location or structure, whether located on land or water, where more than 10 cubic yards of solid waste generated elsewhere may be stored for transfer or transferred from transportation units and placed in other transportation units for movement to another location, whether or not such

waste is stored at the location prior to transfer (CGS § 22a-207).

PA 07-192—sSB 1258
Environment Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING UNDERGROUND STORAGE TANKS

SUMMARY: This act makes several changes to the Underground Storage Tank (UST) Petroleum Clean-Up program. Among other things, it:

1. allows certain owners and operators of USTs to store certain records off-site;
2. broadens eligibility for reimbursement from the account;
3. limits the attorney general's ability to sue in certain cases;
4. changes requirements for obtaining payment or reimbursement from the UST Clean-Up Petroleum Account Review Board (board);
5. modifies the requirements for written approvals accompanying reimbursement and payment applications;
6. requires the Department of Environmental Protection (DEP) commissioner to adopt certain regulations concerning the removal of residential heating oil storage tank systems; and
7. makes technical and conforming changes.

EFFECTIVE DATE: Various, see below.

UST PETROLEUM CLEAN-UP ACCOUNT

The UST Petroleum Clean-up Account reimburses UST owners and operators for remediation costs they incur because of leaking commercial USTs. The account is funded by a portion of the revenue from the petroleum products gross earnings tax. The board decides which claims to reimburse and directs the DEP commissioner to make payments.

RECORD STORAGE

Prior law required UST owners and operators to store most UST records on-site (see BACKGROUND). The act allows UST owners and operators with more than 10 UST facilities to store certain records at a central state location as long as they can immediately provide them to DEP for inspection. They must specify, in writing, the central location and any other information the DEP commissioner requires. They must submit the information to DEP on a form DEP prescribes.

But the act requires such owners and operators to keep the following records on-site:

1. a copy of all UST facility notification forms (Form EPHM-6) submitted to the commissioner;
2. the most recent cathodic protection tests for all metallic USTs;
3. the previous six months of inspection records of USTs with impressed current cathodic protection, if applicable;
4. the most recent 12 months of UST repair records required by regulation;
5. the most recent six months of records showing compliance with release detection regulations, including inventory control and reconciliation of inventory control records;
6. records of the two most recent UST tightness tests; and
7. any other UST records the commissioner specifies in writing.

The act states explicitly that these provisions do not affect any water pollution control laws other than those regarding record storage.
EFFECTIVE DATE: October 1, 2007

RESIDENTIAL UST REGULATIONS

The act requires the DEP commissioner to adopt regulations concerning the removal of pipes from residential heating oil storage tank systems when the tank is removed, regardless of the tank's capacity.
EFFECTIVE DATE: October 1, 2007

UST CLEAN-UP ACCOUNT REIMBURSEMENT ELIGIBILITY

The act broadens eligibility for reimbursement from the UST Clean-Up Account for costs incurred because of leaking USTs. Prior law barred the DEP commissioner from reimbursing claims for interest after June 1, 2005. The act authorizes the commissioner to reimburse claims for interest on attorneys' fees filed on or before March 31, 2003 that have been tabled for at least three years.

Prior law also barred the commissioner from reimbursing claims for attorneys' fees or other legal costs of more than (1) $5,000 to a responsible party (see BACKGROUND), and (2) $10,000 to anyone who is not a responsible party. The act allows the commissioner to reimburse larger claims if they were filed on or before June 30, 2005.
EFFECTIVE DATE: Upon passage

WRITTEN APPROVAL OF REIMBURSEMENT REQUESTS

Under prior law, an applicant seeking payment or reimbursement of more than $250,000 from the clean-up account had to include all necessary written approvals with his application. The approval had to be from the commissioner, or if the commissioner so authorized, a licensed environmental professional (LEP). The act allows an applicant to submit the commissioner's written approval (but not the LEP's) separately. It specifies that the commissioner's written approval for this purpose (1) does not constitute an approval for any other purpose, and (2) must be presented to the board before it decides on the payment or reimbursement application.
EFFECTIVE DATE: Upon passage, and applicable to applications filed on or after July 1, 2005.

REIMBURSEMENT REQUIREMENTS

Under prior law, the account review board had to reimburse or pay certain people from the account if certain conditions were met. To receive payment, a responsible party, among other things, had to have notified the commissioner of a release according to regulation, or as soon as practicable. The act requires that the responsible party notify the board, and not the commissioner, of the release.

Under prior law, if, when a responsible party applied for reimbursement there was no UST dispensing petroleum on the property where the release occurred, he must have shown, among other things, that his failure to comply with the law or regulation was not directly responsible for the leak. The act limits this requirement to cases where an application is made by a UST owner or operator, or someone who owned and operated the UST at the time of the release.

It distinguishes between applications filed before October 1, 2007, and those filed on or after that date. Generally, in either case the owner or operator must show that the release was neither caused by his failure to comply with the law or regulation, or from his reckless, willful, wanton or intentional acts or omissions, and there must not be a UST dispensing petroleum on the property. But the act exempts from this requirement owners and operators who file applications on or after October 1, 2007 who do not have a UST subject to federal financial requirements. Under the act, the requirement that an owner or operator show that failure to comply with the law was not the direct cause of the leak does not apply to an application filed with the board concerning a leak from a UST owned or operated at the time of the leak by a municipality or political subdivision of the state, if the leak was reported to DEP in September 2003 and the UST was removed on or before April 1, 2005.

The act specifies that if the board denied reimbursement or made only partial payment or reimbursement to an applicant in certain cases on or before June 30, 2005, the denial, partial payment, or reimbursement remains in effect and applies to all subsequent applications concerning that release.
EFFECTIVE DATE: Upon passage and applicable to applications filed either before or after the act's passage, but the financial responsibility requirement applies only to applications filed on or after October 1, 2007.

FAILURE TO NOTIFY OF A RELEASE

By law, the attorney general may sue to recover damages from UST owners and operators or others in certain instances. Under prior law he could sue an owner or operator who failed to notify the commissioner of a UST leak when required to do so. Under the act, he can only sue in those cases where the UST is subject to facility notification form EPHM-6 and the owner or operator knowingly and intentionally fails to submit that form to the commissioner. (By law, unchanged by the act, the attorney general may also sue when the leak results from a reckless, willful, wanton or intentional act or omission and in other cases.)
EFFECTIVE DATE: Upon passage, and applicable to applications filed with the account before and after passage.

BACKGROUND

UST Record Keeping

By regulation, owners and operators of UST systems must maintain records of the operation of corrosion protection equipment, system repairs, compliance with release detection requirements, and other information. They also must maintain up-to-date records of significant construction or installation, monitoring, substantial modifications, and other activities.

Federal Underground Storage Tank Program

In 1984, Congress amended Subtitle I of the Resource Conservation and Recovery Act (42 USC 6901 *et seq.*) requiring the Environmental Protection Agency (EPA) to develop regulations to protect human health and the environment from damage caused by USTs. EPA developed regulations designed to prevent leaks and to locate and correct leaking systems. The regulations also require states to develop UST programs at least as strict as EPA's (40 CFR 281.11). DEP adopted regulations in 1985, which EPA approved in 1988. Federal regulations require UST owners and

operators to keep records (1) on-site and immediately available for inspection or (2) at a readily available alternative site, to be provided for inspection upon request (40 CFR 280.34).

Responsible Party

The law (CGS § 22a-449a (3)) creates two definitions of responsible party, depending on when the board received a claim for payment. For claims received before July 1, 2005, a responsible party is anyone who owns or operates a UST from which a release or suspected release takes place.

For claims received after July 1, 2005, a responsible party is anyone who, at any time (1) owns, leases, uses, operates, or has an interest in a UST from which a leak or suspected leak occurred or (2) owns, leases, uses, or has an interest in property where there is a UST. These people are responsible parties regardless of whether they had an interest in the UST or the property when the leak occurred. A responsible party also includes anyone related to someone in the first two groups through a family, contractual, corporate, or financial relationship.

PA 07-223—sHB 6567
Environment Committee
Public Health Committee

AN ACT CONCERNING AN EXEMPTION FOR ANTIQUES

SUMMARY: The law prohibits anyone from selling or distributing for promotional purposes certain products that contain mercury or a mercury compound, and requires sellers and distributors to label other such products. The act exempts such products if an antiques dealer certifies in writing that, to the best of his knowledge, the products were made before January 1, 2004. It requires product owners to retain the written certification. For the purposes of the act, an antiques dealer is a person whose primary business is buying or selling items that are at least 25 years old.
EFFECTIVE DATE: October 1, 2007

PA 07-231—HB 6768
Environment Committee
Public Health Committee
Appropriations Committee

AN ACT CONCERNING THE APPROVAL OF SMALL ALTERNATIVE ON-SITE SEWAGE TREATMENT SYSTEMS

SUMMARY: This act requires the Department of Public Health (DPH) commissioner, by December 31, 2008, to establish and define discharge categories for alternative on-site sewage treatment systems that have a daily capacity of 5,000 gallons or less. It gives the commissioner jurisdiction over such systems once he has done so and requires him to establish minimum requirements for the systems. (PA 07-1, June Special Session, requires the commissioner to accomplish these tasks within available appropriations.) The Department of Environmental Protection (DEP), which under prior law had jurisdiction over all alternative on-site sewage treatment systems, retains jurisdiction over any system not under DPH's jurisdiction.
EFFECTIVE DATE: July 1, 2007

ALTERNATIVE ON-SITE SEWAGE TREATMENT SYSTEMS

Under the act, an alternative on-site sewage treatment system (1) serves at least one building on a single piece of property, (2) is an alternative to a subsurface sewage disposal system (septic system), and (3) discharges domestic sewage to state groundwaters.

The act gives the DPH commissioner jurisdiction to issue or deny permits and approvals for alternative on-site sewage treatment systems and domestic sewage they discharge to state groundwater, once he has established and defined discharge categories for these systems. The commissioner must establish minimum requirements for the systems according to the Public Health Code, including (1) requirements related to activities that may occur on the property; (2) changes that may occur to the property or to buildings on it that may affect a system's installation or operation; and (3) procedures for the commissioner, a local health director, or a licensed sanitarian to issue permits or approvals.

The permit or approval must:

1. be consistent with the federal Water Pollution Control and Safe Drinking Water acts and state water quality standards;
2. not be construed as or deemed an approval for another purpose, including planning and zoning or municipal inland-wetlands and watercourses requirements; and
3. be instead of a DEP individual or general water discharge permit.

Permits or approvals that the DPH commissioner, local health director, or licensed sanitarians deny may be appealed in the same manner as appeals of local health department orders.

In establishing and defining the categories of discharge and in establishing minimum requirements for alternative on-site sewage treatment systems, the commissioner must consider (1) the individual and cumulative impact the systems or discharges may have on public health, the environment, and land use patterns and (2) recommendations for responsible growth made by the Office of Policy and Management secretary through the Office of Responsible Growth established by Executive Order 15.

The DEP commissioner retains jurisdiction over, and environmental laws apply to, any alternative on-site sewage treatment system not under the DPH commissioner's jurisdiction. The act does not affect any DEP permit issued before July 1, 2007, and applicable environmental laws continue to apply to such permits until they expire.

BACKGROUND

Water Pollution Control and Safe Drinking Water Acts

The Water Pollution Control Act (33 USC § 1251 *et seq*.), also known as the Clean Water Act, seeks to restore and maintain the chemical, physical, and biological integrity of the nation's waters. The Safe Drinking Water Act (42 USC § 300f *et seq*.) is the main federal law ensuring drinking water quality.

PA 07-87—sHB 7385
Finance, Revenue and Bonding Committee
Education Committee

AN ACT CONCERNING SCHOOL CONSTRUCTION BOND MATURITY

SUMMARY: This act allows municipalities and regional school districts to issue bonds for school construction projects with a maximum term of 30 rather than 20 years. The 30-year bonds are allowed only for projects for which the General Assembly authorized grant commitments on or after July 1, 1996, thus barring municipalities and regional school districts from refinancing earlier projects for a longer term. The act makes conforming changes by requiring annual repayments of any municipal or regional school district bond anticipation notes issued in conjunction with 30-year school project bonds to be at least 1/30th instead of 1/20th of the total project cost.

The act also increases regional school districts' flexibility in issuing bonds to refinance outstanding debt ("refunding bonds").

EFFECTIVE DATE: July 1, 2007

MUNICIPAL AND REGIONAL SCHOOL DISTRICT BONDS FOR SCHOOL BUILDING PROJECTS

Under the act, municipalities may issue 30-year bonds for building, buying, extending, replacing, renovating, or making major alterations in a building to be used for a public school, and for acquiring and improving land for a public school. They cannot use 30-year bonds for any project that the General Assembly authorized before July 1, 1996 or for buying equipment or making minor improvements to land or buildings for schools unless these activities are part of a larger school project.

The act allows regional school districts to issue 30-year bonds to acquire land, prepare sites, and buy or equip buildings for school purposes. As is the case with municipalities, regional school districts may issue 30-year bonds only for grant commitments the General Assembly authorized on or after July 1, 1996. By law, the General Assembly annually authorizes state grant commitments for school construction projects.

REGIONAL SCHOOL DISTRICT REFUNDING BONDS

The act increases regional school districts' flexibility to issue refunding bonds. It does so by requiring only that total debt service for such bonds constitute a net present value savings over that of the bonds being refinanced, after accounting for the cost of issuance and the underwriters' discount.

Prior law required regional school district refunding bonds to meet the same requirements as the original bonds, namely that:

1. they be payable either (a) in substantially equal annual installments of principal and interest or (b) so that no principal installment is more than 50% higher than any prior installment, and
2. the first installment come due within three years of the issue date and the last installment by the end of the original bond term.

The law already allowed this refunding bond flexibility for municipal refunding bonds.

BACKGROUND

School Project Financing for Projects Authorized On or After July 1, 1996

In 1997, the General Assembly changed the way the state funds state school construction grants starting with projects the General Assembly authorized for state grant commitments on or after July 1, 1996. For earlier projects, the state funded 20% to 80% of a school district's eligible costs for the project, including interest on local bonds issued to pay the local share of the projects. For more recent projects, the state and municipalities or regional school districts bond their respective shares of the project cost separately, thus eliminating the state's responsibility to issue state bonds to cover interest payable on municipal or regional school district bonds for school construction projects.

PA 07-130—sSB 1451
Finance, Revenue and Bonding Committee
Human Services Committee

AN ACT ESTABLISHING THE CONNECTICUT HOMECARE OPTION PROGRAM FOR THE ELDERLY

SUMMARY: This act establishes a Connecticut Home Care Option Program for the Elderly and a Connecticut Home Care Trust Fund, administered by the state comptroller. The program and the fund must help people plan and save for the costs of certain elderly services that (1) are either not covered by a long-term health insurance policy or supplement services covered by such a policy or by Medicare and (2) will allow them to remain in their homes or live in a non-institutional setting as they age.

The act allows participants to establish individual savings accounts within the fund and allows an account's designated beneficiary to withdraw funds from it for qualified home care expenses. It exempts interest earned on fund accounts from the state income

tax and makes any unspent funds remaining in an account when a beneficiary dies part of his or her estate.

The act specifies the comptroller's duties and authority over the program and the trust fund, establishes standards for investing the fund's assets and for offering the fund to investors, and creates a 19-member advisory committee for the program.

Finally, the act eliminates the 250-person limit on the number of participants in a state-funded pilot program that allows seniors to hire their own personal care assistance (PCA) attendants directly instead of going though a home health care agency.

EFFECTIVE DATE: October 1, 2007, except for the repeal of the PCA pilot program participation limit, which takes effect July 1, 2007. The income tax exemption applies to tax years starting on or after January 1, 2007.

QUALIFIED HOME CARE EXPENSES

The act allows home care program account beneficiaries to withdraw funds from an account to pay for "qualified home care expenses," which are expenses for instrumental activities of daily living, such as chore, homemaker, or companion services; adult day care; preparing meals; home-delivered meals; or transportation. They must be either (1) services performed by a Connecticut-licensed home care services provider, a homemaker or companion service registered with the Department of Consumer Protection, or a personal care assistant, or (2) licensed transportation services. They must also be recommended by a physician. Before a beneficiary can withdraw money from an account, a physician must certify to the fund that the beneficiary needs the qualified services to live independently in his or her home or another non-institutional setting.

INCOME TAX EXEMPTION

The act exempts interest a designated beneficiary earns on a home care program account from the state income tax. It does so by allowing the beneficiary to deduct any such interest includable in his or her federal adjusted gross income (AGI) when calculating his or her Connecticut AGI for state income tax purposes.

COMPTROLLER'S AUTHORITY AND DUTIES

On behalf and for the purposes of the fund, the act allows the comptroller to:

1. receive and invest its money;
2. procure insurance for its assets and activities;
3. establish funds within the larger trust fund and maintain separate accounts for each beneficiary;
4. establish consistent terms for operating the trust, such as (a) ways of making contributions, (b) withdrawal, termination, and payment transfers (including to an eligible home care provider), (c) penalties for improper use of funds, (d) changing beneficiaries, and (e) administration charges or fees;
5. enter contractual agreements for services for the fund and pay for them with the fund's earnings;
6. apply for and receive public or private donations to enable the fund to achieve its objectives;
7. adopt regulations;
8. sue and be sued; and
9. take other necessary action to carry out the act's purposes or that is incidental to her duties under the act.

TRUST FUND INVESTMENTS

The act requires the comptroller to invest the fund in a reasonable way to achieve its objectives; exercise a prudent person's care and discretion; and consider such things as rate of return, risk, maturity, portfolio diversification, liquidity, projected disbursements and expenditures, and expected deposits and other gifts. The comptroller cannot require the fund to invest directly in Connecticut state or municipal bonds or other funds or investments (if any) she administers. She must keep fund assets continuously invested according to its objectives until they are (1) used by beneficiaries for qualified home care expenses, (2) used to pay the fund's operating expenses, or (3) returned to depositors and beneficiaries according to the participation agreement between the fund and its depositors.

FUND OFFERING AND SOLICITATION

Under the act, fund material intended for distribution to prospective investors does not have to be filed, and fund investments do not have to be registered, with the banking commissioner. But the comptroller must get written advice from counsel, the Securities and Exchange Commission, or both, that the trust and participation in it are not subject to federal securities laws.

The act promises that the state will not alter participants' rights until all the fund's obligations are discharged and contracts performed, unless the law makes adequate provision for their protection. It allows the trust to include this promise in its participation agreements and other contracts.

ADVISORY COMMITTEE

The act establishes a 19-member advisory committee for the program consisting of a provider of home care services for the elderly and a physician specializing in geriatrics, both appointed by the governor, and the following officials or their designees:

1. the state treasurer, state comptroller, and social services commissioner;
2. a Commission on Aging representative;
3. the director of the long-term care partnership policy program within the Office of Policy and Management; and
4. the chairpersons and ranking members of the Human Services; Aging; and Finance, Revenue and Bonding committees.

The committee must meet at least once a year. The comptroller convenes the meetings.

PA 07-133—SB 1391
Finance, Revenue and Bonding Committee
Planning and Development Committee

AN ACT CONCERNING FEE INCREASES FOR CERTAIN VITAL RECORDS

SUMMARY: This act increases town clerks' fees (1) from $5 to $10 for each certified copy of a marriage, death, or long-form birth certificate and (2) from $1 to $2 for certifying copies of maps, surveys, and other documents filed with their offices. It also doubles the fee for a certified copy of a marriage or death certificate from the Department of Public Health's registrar of vital statistics from $5 to $10. The $5 fee for a certified copy of a birth registration, also known as the short form, remains unchanged. A birth registration contains only a person's name, sex, date and place of birth, and date of birth registration. A birth certificate also includes such information as parents' names, mother's maiden name, hospital location, and home addresses.

Lastly, the act allows blind people and people with mental retardation to get free lifetime sport fishing licenses, instead of requiring them to renew their licenses every year and provide proof of disability each time. It makes the same change to allow free lifetime hunting, sport fishing, or trapping licenses for (1) Connecticut residents who have lost, or permanently lost the use of, one or more limbs and (2) nonresidents with the those physical disabilities, if their home states have reciprocal laws.
EFFECTIVE DATE: July 1, 2007

PA 07-140—HB 7281
Finance, Revenue and Bonding Committee

AN ACT CONCERNING PROPERTY TAX EXEMPTIONS FOR CERTAIN MACHINERY AND EQUIPMENT

SUMMARY: This act rewrites and makes several minor, conforming, and technical changes in the 2006 law that (1) exempts eligible manufacturing, biotechnology, and recycling machinery and equipment (MME) from local property taxes after a five-year phase-in and (2) requires the state to make payments in lieu of taxes (PILOTs) to municipalities for lost revenue.
EFFECTIVE DATE: Upon passage. The provisions concerning the calculation of the fixed grant apply to assessment years starting on or after October 1, 2007.

CONTINUATION OF FIVE-YEAR EXEMPTION PROGRAM WITH 80% PILOT

By law, during the exemption phase-in, MME acquired before October 1, 2010 is covered by an earlier property tax exemption program that gives new and newly acquired MME a 100% property tax exemption for five years after acquisition, with the state reimbursing towns for 80% of the resulting revenue loss.

The act specifies that (1) the 80% PILOT grant covers property first approved for an exemption for the October 1, 2010 assessment year as well as property approved for earlier years and (2) eligible MME approved for the five-year exemption program for the October 1, 2010 assessment year continues to be exempt in subsequent years under the permanent exemption program, with the permanent 100% PILOT grant for MME replacing the five-year 80% PILOT as of July 1, 2013.

EXEMPTION PHASE-IN FOR OLDER MACHINERY AND EQUIPMENT

Basis for Phase-In

In addition to the 80% PILOT for MME exempt under the five-year program, the state must provide gradually increasing payments to towns for the revenue they lose from phased-in property tax exemptions for MME that is six years old or older in each assessment year of the phase-in. Percentage exemptions for this older MME increase by 20% per year for five years. As they do, the law requires corresponding increases in state PILOT payments for town revenue losses from these exemptions.

The act simplifies these phase-in provisions. It ties each annual increase in the exemption percentage to the MME's acquisition date rather than to the fact that the town is not receiving an 80% PILOT payment for it under the old five-year exemption program. It also links the state PILOTs to the exempt percentages of the MME's assessed value. It eliminates an explicit requirement that, during the phase-in, the owner of the older MME continue to pay any residual property tax not covered by the state payment. At the end of the phase-in, the act specifies that the state's permanent PILOT replaces the phase-in grants.

Applying for PILOT Grants During the Phase-In

By law, in order to access state payments for older MME during the phase-in, towns must certify its assessed value to the Office of Policy and Management (OPM) secretary every year starting March 15, 2007. The act also requires towns to submit whatever supporting information the secretary requires, including a copy of each exemption recipient's personal property tax declaration supplement for the immediately preceding assessment date. It allows the secretary to modify a municipal grant either to correct a clerical error or when an assessor submits documentation supporting a correction.

Processing Grant Payments

By law, the OPM secretary must notify the state comptroller of the grant amounts by December 15th annually. The act extends the deadline for the comptroller to draw an order on the state treasurer for the grant payments to December 24th rather than five business days after December 15th. Finally, to correspond to the end of the exemption phase-in, the act sunsets the certification requirements as of March 15, 2012 and the payment and grant modification procedures as of December 15, 2012.

Exempt MME Valuations

By law, all existing valuation and enforcement procedures apply to exempt MME and taxpayers may appeal assessments of eligible MME to local boards of assessment appeals according to the usual procedure. The act also allows taxpayers to appeal from local board decisions according to the usual procedure.

FIXED GRANT PAYMENT AFTER PHASE-IN

Starting with FY 2014, the law freezes the state's annual PILOT to each town for exempt MME. Prior law fixed the grant at 100% of the property taxes the town would have received in the October 1, 2011 assessment year if the MME were not tax-exempt. The act fixes it at (1) the town's tax loss in FY 2013 from eligible older MME exemptions approved for the October 1, 2011 assessment year plus (2) the tax loss the town would have had in FY 2013 if the five-year exemption program for new and newly acquired MME were in effect for that year. The OPM secretary must reduce the latter amount to reflect depreciation on eligible MME acquired between October 2, 2006 and October 1, 2010 and approved under the five-year exemption program for the October 1, 2010 assessment year.

PA 07-196—sSB 1440
Finance, Revenue and Bonding Committee
Planning and Development Committee

AN ACT CONCERNING THE SPECIAL TAXING DISTRICTS WITHIN REDDING AND BRIDGEPORT AND THE AUTHORITY OF SPECIAL SERVICES DISTRICTS TO BORROW MONEY

SUMMARY: This act extends the maximum time a special services district has to repay its debt obligations from one to seven years after it incurs them. It must discharge the debt according to the provisions of the ordinance that established the district. It also allows a district to construct, own, operate, and maintain common, as well as public, improvements in the district.

The act raises the threshold, from $200,000 to $1 million in annual revenues, for a municipality or local agency to comply with the auditing requirements of the Municipal Auditing Act. That act requires each agency above the threshold to be audited annually by an independent auditor and file the audit with the Office of Policy Management for its review. Agencies below the threshold do not have to be audited but must file annual financial statements with their town clerks.

The act also gives a special taxing district in Redding additional powers, including the authority to finance more types of infrastructure improvements, adopt and enforce design codes on district property, and impose and collect taxes on land and buildings in the district that benefit from its improvements. The act also allows the district's board to secure district debt through trust agreements pledging or assigning district revenues.

Finally, the act adjusts the boundaries of a special taxing district in Bridgeport.

EFFECTIVE DATE: The statutory special district changes take effect October 1, 2007. The Redding special taxing district provisions are effective on passage, except for the section defining a "clean renewable energy bond qualified project," which is effective July 1, 2007. The Bridgeport special taxing district boundary and Municipal Auditing Act changes are effective July 1, 2007.

REDDING SPECIAL TAXING DISTRICT

§§ 1 & 2 – District Powers

Special Act 05-14 allowed Redding to form a special taxing district to provide various services and build and maintain certain infrastructure, such as roads, drains, and sewers.

The act also allows the district to finance, plan, acquire, own, lease, mortgage, maintain, operate, and regulate the use of other infrastructure improvements, including open space, parks, parking facilities, and other real and personal property interests. Among the infrastructure projects the act authorizes is any clean renewable energy project that qualifies for clean renewable energy bonds under the federal tax law (see BACKGROUND). It also allows the district to make, transfer, and assign mortgage and other loans related to such an energy project.

The act allows the district to adopt and enforce design codes and property use restrictions within the district.

§ 3 – District Bonds

The special act allows the district to issue bonds to finance its activities. This act makes the district's bonds urban renewal debt for purposes of the municipal debt limit. By law, municipal debt for urban renewal projects is capped at 3.25 times the municipality's aggregate annual receipts.

The act allows the district's board of directors to secure district debt through a trust agreement that pledges or assigns district revenues. It allows either the bond issuance resolution or the trust agreement to include reasonable protections of bondholders' rights. It allows the expenses for carrying out any trust agreement to be part of the district's operating costs. It requires any pledged revenues to be subject to a lien that is valid and binding on all parties, regardless of notice. It exempts the trust agreement or resolution that contains the pledge from all filing and recording requirements other than the requirement that it be recorded in the records of the district's board of directors.

The act makes the district's bonds valid and legal investments for governments, banks, insurance companies, and fiduciaries.

§ 4 – Taxing and Other Revenue Raising Powers

The act gives the district the power to impose and collect taxes, fees, rents, and benefit assessments on land and buildings in the district that benefit from its infrastructure improvements. It allows it to charge reasonable fees, rents, and benefit assessments for their cost, maintenance, improvement, and operation. The district can allow payment of the benefit assessments for infrastructure in up to 30 annual installments and can forgive any single annual assessment without causing the remaining ones to be forgiven. The act specifies that providing open space either within the district or elsewhere in Redding benefits all property within the district.

The act gives the Redding district the same powers to collect and enforce its taxes, assessment, fees, and rents as statutory special districts have. It establishes any unpaid amounts as a lien against the property and requires the owners to pay the same interest rate on delinquent amounts as on delinquent property taxes (1.5% per month or 18% per year). The liens take precedence over all other liens except tax liens from the town of Redding.

The act requires the district board of directors to adopt or revise benefit assessments at a meeting and to provide notice to interested parties. It requires the board to hold at least one public hearing. It must give notice of the hearing to Redding's first selectman and publish a hearing notice in a local newspaper at least 10 days in advance. The board must follow the same statutory hearing and appeal procedures as a water pollution control authority.

The act specifies that the district is tax-exempt and not subject to state or local taxes or assessments and that interest on the district's bonds is tax-exempt. Individuals and entities operating within the district are subject to state and local taxes.

BACKGROUND

Clean Renewable Energy Bonds

Federal law allows qualified borrowers to issue clean renewable energy bonds (CREBs) to finance certain types of renewable energy projects. Instead of receiving interest, CREB holders receive federal tax credits, thus allowing the bond issuer to borrow at zero interest. Qualified CREB issuers include state and local governments and their political subdivisions, among others. Qualified projects are facilities that use the following types of renewable energy resources: wind, open- and closed-loop biomass, geothermal, solar, small irrigation power, landfill gas, trash combustion, refined coal, and certain types of hydropower (26 USCA §§ 45 & 54).

Related Acts

PA 07-154 also extends the maximum special district debt repayment term from one to seven years.

PA 07-199—sSB 1392
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE DIESEL FUEL TAX

SUMMARY: This act establishes a three-step increase in the motor fuel tax on diesel fuel used in any type of motor vehicle from 26 cents per gallon to 36 cents as of July 1, 2007; 36.8 cents as of July 1, 2008; and 38 cents as of July 1, 2013. (PA 07-1, June Special Session, revises these increases.)

The act also exempts from the petroleum products gross earnings tax petroleum refiners' or distributors' gross earnings from first sales of diesel fuel in Connecticut, but only if the fuel is exclusively for use by motor carriers. (PA 07-1 expands the exemption.) The exemption applies to first sales of qualifying fuel occurring on or after July 1, 2007.

Finally, to reflect its changes in these two taxes, the act reduces scheduled petroleum products gross earnings tax revenue transfers from the General Fund to the Special Transportation Fund (STF). (PA 07-1 further reduces transfer amounts for FYs 08-10.) Petroleum products gross earnings tax revenue goes to the General Fund and is transferred to the STF, while motor fuel tax revenue goes directly to the STF.
EFFECTIVE DATE: July 1, 2007

PETROLEUM PRODUCTS GROSS EARNINGS TAX EXEMPTION FOR DIESEL FUEL

The petroleum products gross earnings tax exemption covers diesel fuel used to operate (1) two-axle trucks or combinations with gross vehicle weights or registered gross vehicle weights above 26,000 pounds and (2) three-or-more-axle trucks regardless of weight. It does not cover fuel for recreational vehicles used by individuals exclusively for pleasure and not in connection with a trade or business.

REVENUE TRANSFERS TO THE STF

Starting in FY 08, the act reduces scheduled petroleum products gross earnings tax revenue transfers from the General Fund to the STF for each fiscal year as shown in Table 1.

Table 1: Scheduled Petroleum Products Gross Earnings Tax Revenue Transfers From General Fund To The STF

FISCAL YEAR(S)	ANNUAL TRANSFERS (in millions)	
	Prior Law	The Act
2007	***$141.0***	***No change***
2008	***164.0***	***$131.1***
2009-10	***180.9***	***145.3***
2011-13	***200.9***	***165.3***
2014 and after	***219.4***	***179.2***

BACKGROUND

Related Act

PA 07-1 June Special Session substantially revises this act. It increases the diesel tax rate for FY 08 to 37 cents per gallon, eliminates the other two increases required by this act, and requires the revenue services commissioner instead to set annual diesel tax rates for FY 09 and subsequent years based on average wholesale diesel prices for the previous 12 months. PA 07-1 June Special Session, also expands this act's diesel fuel exemption from the petroleum products gross earnings tax to cover all diesel fuel except that used in electric generating plants to generate electricity. Finally, PA 07-1 June Special Session, reduces petroleum products gross earnings tax revenue transfers for FYs 08-10 below the levels specified in this act.

PA 07-248—sHB 7400 **(VETOED)**
Finance, Revenue and Bonding Committee
Appropriations Committee
Commerce Committee

AN ACT CONCERNING VARIOUS REVENUE MEASURES

SUMMARY: This act makes many changes in state taxes. With respect to the income tax, it:

1. increases the number of personal income tax brackets from two to five;
2. for taxable income formerly subject to a flat 5% rate, establishes a range of rates from 4.875% to 5.95% for the 2007 tax year and 4.75% to 6.5% for the 2008 and subsequent tax years;
3. doubles the property tax credit and raises the income levels for the credit phase-out, thus making more taxpayers eligible and allowing higher-income taxpayers to receive bigger credits; and

4. establishes a refundable state earned income tax credit (EITC) equal to 20% of the federal EITC.

With respect to the sales tax, the act:

1. eliminates exemptions for clothing and footwear costing under $50 and property costing $2,500 or less and used for funerals;
2. exempts sales of computer and data processing services, all health club services, and meals sold from "honor boxes."
3. extends a tax exemption for residential weatherization products for three years; and
4. requires the state to join the multi-state Streamlined Sales and Use Tax Agreement.

The act also:

1. reduces the aggregate value of tax credits a company can claim to reduce its corporation or insurance premium tax liability in any year;
2. increases the cigarette tax by 49 cents per pack and establishes a one-time tax on cigarettes in dealers' and distributors' inventories;
3. eliminates a cliff in the estate and gift tax, increases taxes on estates and gifts valued at over $6.1 million, and makes changes to preclude double taxation of certain gifts and reduce taxes on out-of-state property;
4. suspends collection of the 25-cent-per-gallon motor vehicle fuels tax ("gas tax") from its date of passage through September 3, 2007 (Labor Day) and requires gasoline distributors and dealers to reduce their prices by the same amount;
5. requires petroleum distributors to report their prices and sales volumes to the Attorney General's Office and establishes a petroleum transparency and reporting oversight program in that office;
6. transfers $124.7 million from the FY 07 surplus to the Special Transportation Fund for FYs 07 and 08;
7. postpones scheduled increases in the petroleum products gross earnings tax by one year, keeping the rate at 6.3% until July 1, 2008;
8. increases annual motor boat fuel tax revenue transfers to the Conservation Fund, with corresponding increases in the boating and fisheries accounts and in allocations to the Long Island Sound councils;
9. makes permanent the basic 0.25% municipal real estate conveyance tax rate; and
10. increases various Department of Public Safety (DPS) fees and imposes a flat boiler inspection fee in place of varying fees based on the type of boiler.

EFFECTIVE DATE: Various, see below.

INCOME TAX

§§ 23 & 24 – Changes in Tax Rates and Brackets

The act increases the number of personal income tax brackets from two to five by adding three new brackets. It maintains the existing 3% bracket but breaks the higher bracket, formerly a single bracket with a flat 5% rate, into four brackets taxed at rates ranging from 4.875% to 5.95% for the 2007 tax year and from 4.75% to 6.5% starting in the 2008 tax year.

The act reduces the marginal tax rate on taxable incomes of $100,000 or under for joint filers, $53,125 or under for singles, $80,000 or under for heads of household, and $50,000 or under for couples filing separately from 5% to 4.875% for the 2007 tax year and 4.75% for 2008 and after. It increases tax rates on taxable incomes over $250,000 for joint filers, $132,800 for singles, $200,000 for heads of household, and $125,000 for couples filing separately from a flat 5% to 5.7% and 5.95% for the 2007 tax year and 5.875% and 6.5% for 2008 and after.

The act also increases the flat tax on trust and estate income from 5% to 5.95% for 2007 and 6.5% for 2008 and after.

Table 1 shows tax rates and brackets under the prior law and the act. The tax rates shown apply only to the taxable income in the applicable bracket, not to all of a taxpayer's income.

Table 1: Income Tax Rates And Brackets

TAX RATE			CT TAXABLE INCOME			
			Married Filing Jointly or Surviving Spouse		Single	
Prior Law	Act (Tax Years Starting) 1/1/07	1/1/08 & after	Over	But Not Over	Over	But Not Over
3.0%	3.0%	3.0%	$0	$20,000	$0	$10,000
5.0%	4.875%	4.75%	20,000	100,000	10,000	53,125
	5.0%	5.0%	100,000	250,000	53,125	132,800
	5.70%	5.875%	250,000	500,000	132,800	163,000
	5.95%	6.5%	Over $500,000		Over $163,000	
TAX RATE			Head of Household		Married Filing Separately	
Prior Law	Act (Tax Years Starting) 1/1/07	1/1/08 & after	Over	But Not Over	Over	But Not Over
3.0%	3.0%	3.0%	$0	$16,000	$0	$10,000
5.0%	4.875%	4.75%	16,000	80,000	10,000	50,000
	5.0%	5.0%	80,000	200,000	50,000	125,000
	5.70%	5.875%	200,000	400,000	125,000	250,000
	5.95%	6.5%	Over $400,000		Over $250,000	

The act requires the Department of Revenue Services (DRS) commissioner to issue new withholding tables to take effect July 1, 2007.

EFFECTIVE DATE: July 1, 2007. The rate changes apply to tax years starting on or after January 1, 2007.

§ 25 – Property Tax Credit

The act increases the maximum property tax credit against the income tax from $500 to $1,000. It also raises the income thresholds for phasing out the credit, thus making more taxpayers at higher income levels eligible for a credit and increasing the amount of the credit those taxpayers receive (see Table 2).

Table 2 shows credit phase-out thresholds for single taxpayers for the 2007 tax year only. By law, these thresholds are scheduled to increase annually through the 2012 tax year. The act raises the annual single filer credit phase-out thresholds from $55,500 to $82,500 for 2007, $56,500 to $84,300 for 2008, $58,500 to $87,300 for 2009, $60,500 to $90,300 for 2010, $62,500 to $93,300 for 2011, and $64,500 to $96,300 for 2012 and after.

Table 2: Maximum Property Tax Credit And Phase-Out Schedules By Filing Status

PRIOR LAW			THE ACT		
Married Filing Jointly or Surviving Spouse					
CT AGI Over	CT AGI Not Over	Maximum Credit	CT AGI Over	CT AGI Not Over	Maximum Credit
$0	$100,500	$500	$0	$150,000	$1,000
100,500	110,500	450			
110,500	120,500	400			
120,500	130,500	350			
130,500	140,500	300			
140,500	150,500	250			
150,500	160,500	200	150,000	160,000	900
160,500	170,500	150	160,000	170,000	800
170,500	180,500	100	170,000	180,000	700
180,500	190,500	50	180,000	190,000	600
Over $190,000		0	190,000	200,000	500
			200,000	210,000	400
			210,000	220,000	300
			220,000	230,000	200
			230,000	240,000	100
			Over $240,000		0
Single (2007 Only)					
CT AGI Over	CT AGI Not Over	Maximum Credit	CT AGI Over	CT AGI Not Over	Maximum Credit
$0	$55,500	$500	$0	$82,500	$1,000
55,500	65,500	450			
65,500	75,500	400			
75,500	85,500	350	82,500	92,500	900
85,500	95,500	300	92,500	102,500	800
95,500	105,500	250	102,500	112,500	700
105,500	115,500	200	112,500	122,500	600
115,500	125,500	150	122,500	132,500	500
125,500	135,500	100	132,500	142,500	400
135,500	145,500	50	142,500	152,500	300
Over $145,500		0	152,500	162,500	200
			162,500	172,500	100
			Over $172,500		0
Head of Household					
CT AGI Over	CT AGI Not Over	Maximum Credit	CT AGI Over	CT AGI Not Over	Maximum Credit
$0	$78,500	$500	$0	$117,000	$1,000
78,500	88,500	450			
88,500	98,500	400			
98,500	108,500	350			
108,500	118,500	300	117,000	127,000	900
118,500	128,500	250	127,000	137,000	800
128,500	138,500	200	137,000	147,000	700
138,500	148,500	150	147,000	157,000	600
148,500	158,500	100	157,000	167,000	500
158,500	168,500	50	167,000	177,000	400
Over $168,500		0	177,000	187,000	300
			187,000	197,000	200
			197,000	207,000	100
			Over $207,000		0
Married Filing Separately					
CT AGI Over	CT AGI Not Over	Maximum Credit	CT AGI Over	CT AGI Not Over	Maximum Credit
$0	*$50,250*	*$500*	*$0*	*$75,000*	*$1,000*
50,250	*55,250*	*450*			
55,250	*60,250*	*400*			
60,250	*65,250*	*350*			
65,250	*70,250*	*300*			

70,250	75,250	250			
75,250	80,250	200	75,000	80,000	900
80,250	85,250	150	80,000	85,000	800
85,250	90,250	100	85,000	90,000	700
95,250	100,250	50	90,000	95,000	600
Over $100,250		0	95,000	100,000	500
Over $100,250		0	100,000	105,000	400
Over $100,250		0	105,000	110,000	300
Over $100,250		0	110,000	115,000	200
Over $100,250		0	115,000	120,00	100
Over $100,250		0	Over $120,000		0

EFFECTIVE DATE: July 1, 2007 and applicable to tax years starting on or after January 1, 2007.

§ 26 – Earned Income Tax Credit

The act gives people who qualify for, and claim, the federal EITC a credit against their state income tax liability equal to 20% of their federal credit for the same income year. If the credit amount exceeds the taxpayer's state income tax liability for the year, the act requires the DRS commissioner to refund the difference to the taxpayer. Credit refunds must be treated as other income tax refunds, except that they are not subject to the 0.66% monthly interest payable on late tax refunds.

Under federal law and this act, people who work and earn incomes below certain levels qualify for income tax credits. Credit amounts vary according to a taxpayer's income and the number of children he or she has. Income limits and credit amounts are adjusted annually for inflation (26 USCA § 32).

For 2006, taxpayers received a federal EITC if they had (1) no children and incomes under $12,120 ($14,120 for joint filers); (2) one child, and an income under $32,001 ($34,001 for joint filers); and (3) two or more children, and an income under $36,348 ($38,348 for joint filers). A taxpayer could have no more than $2,800 in investment income.

EFFECTIVE DATE: July 1, 2007 and applicable to tax years starting on or after January 1, 2007.

SALES TAX

§§ 9 & 41 – Exemptions Eliminated

The act extends the 6% sales and use tax to:

1. clothing and footwear costing less than $50; and
2. property, other than caskets, sold by funeral homes and used directly in preparing and conducting burials and cremations, up to $2,500 per funeral.

It also repeals a provision allowing the DRS commissioner to adopt regulations concerning the clothing and footwear exemption.

EFFECTIVE DATE: July 1, 2007 and applicable to sales on or after that date.

§§ 7, 8, 11, & 41 – New Exemptions

The act exempts all computer and data processing services from the sales tax. Under prior law, such services were subject to a 1% sales tax. The services include programming and modifying existing programs; writing code; and studying the feasibility of, installing, or implementing a program or system in connection with canned or custom software or licensing custom software. Services for creating, maintaining, and hosting Internet websites were already exempt.

The act exempts all, rather than only some, health and athletic club services from the tax. Health and athletic club services were previously exempt if:

1. their charges were included in club dues or initiation fees subject to the dues tax,
2. they were provided by a municipality or a nonprofit organization, or
3. they were yoga instruction provided by a yoga studio.

The act exempts meals sold from both honor boxes and coin-operated vending machines. The vending machine exemption previously covered "food products." Although most food is not taxable, certain food products, such as soda, candy, cookies, and cakes, are subject to sales tax unless they are sold from a vending machine. In addition, meals are taxable. By law, a "meal" is food furnished, prepared, and served in a form and in a portion that is ready to eat, including take-out meals that are packaged and wrapped.

An "honor box" is typically an unattended box where customers deposit money for items they buy.

EFFECTIVE DATE: July 1, 2007. The honor box and computer and data processing exemptions apply to sales on or after that date.

§ 12 – Weatherization Products

The act extends a sales tax exemption for home weatherization products and energy efficient appliances, such as insulation, programmable thermostats, and furnaces that meet Energy Star standards, for three years until July 1, 2010. The exemption was scheduled to expire on July 1, 2007.

EFFECTIVE DATE: July 1, 2007 and applicable to sales on or after that date.

§ 10 – Streamlined Sales and Use Tax Agreement

By October 1, 2007, the act requires the state to apply to become a party to the Streamlined Sales and Use Tax Agreement (See BACKGROUND). It requires the DRS commissioner, in consultation with the Finance, Revenue and Bonding Committee, to take the steps needed to ensure state compliance with the agreement.

EFFECTIVE DATE: Upon passage

§§ 1 & 2 – BUSINESS TAX CREDIT LIMITS

The act increases the amount of corporation and insurance premium taxes companies must pay by limiting the total value of their tax credits for any income year to 60%, instead of 70%, of their total tax liability without credits. It thus requires each such company to pay at least 40%, rather than 30%, of its gross tax liability.
EFFECTIVE DATE: July 1, 2007 and applicable to income years starting on or after that date.

§§ 3 - 5 – CIGARETTE TAX INCREASE

The act increases the cigarette tax by 49 cents, from $1.51 to $2 per pack of 20, starting July 1, 2007.

It also imposes a 49-cent tax on each pack of cigarettes that dealers and distributors have in their inventories at the later of the close of business or 11:59 p.m. on June 30, 2007. By August 15, 2007, each dealer and distributor must report to DRS the number of cigarettes in inventory as of that time and date and pay the inventory tax. Failure to file the report by the due date is grounds for DRS to revoke a dealer's or distributor's license, and willful failure to file subjects the dealer or distributor to a fine of up to $1,000, one year in prison, or both. A dealer or distributor who willfully files a false report can be fined up to $5,000, sentenced to one to five years in prison, or both.
EFFECTIVE DATE: July 1, 2007 and applicable to cigarette sales and storage or use of unstamped cigarettes on or after that date.

§§ 6 & 16 – ESTATE AND GIFT TAXES

Tax Rates

The act (1) increases the range of tax rates on estates and gifts over $2.1 million from between 8% and 16% to between 10% and 20% and (2) eliminates the "cliff" in the tax affecting estates valued at over $2 million. Under prior law, an estate or gift valued at $2 million or less was not taxed while the full value of any estate or gift valued at more than $2 million was taxable. This structure produced a "cliff" in which a $1 increase in the value of a gift or estate from $2,000,000 to $2,000,001 increased its tax from zero to $101,700.

Old and new tax rates are shown in Table 3. The new rates apply to deaths occurring, and gifts made, on or after January 1, 2007.

Table 3: Estate And Gift Taxes

VALUE OF GIFT OR ESTATE		PRIOR TAX (Add cols. C & D)		NEW TAX (Add cols. E & F)	
Col. A: Over	Col. B: But not over	Col. C: Tax on Col. A	Col. D: Tax rate on excess over Col. A	Col.E: Tax on Col. A	Col. F: Tax rate on excess over Col. A
0	$2,000,000	NO TAX		NO TAX	
$2,000,000	2,100,000	5.085% of the total		5.085% of the excess over $2,000,000	
2,100,000	2,600,000	$106,800	8.0%	$5,100	10.0%
2,600,000	3,100,000	146,800	8.8%	55,100	11.0%
3,100,000	3,600,000	190,800	9.6%	110,100	12.0%
3,600,000	4,100,000	238,800	10.4%	170,100	13.0%
4,100,000	5,100,000	290,800	11.2%	235,100	14.0%
5,100,000	6,100,000	402,800	12.0%	375,000	15.0%
6,100,000	7,100,000	522,800	12.8%	525,100	16.0%
7,100,000	8,100,000	650,800	13.6%	685,100	17.0%
8,100,000	9,100,000	786,800	14.4%	855,100	18.0%
9,100,000	10,100,000	930,800	15.2%	1,035,000	19.0%
Over $10,100,000		1,082,800	16.0%	1,225,100	20.0%

Exclusion of Certain Gifts

The tax applies to gifts above the federal threshold gift tax exclusion made on or after January 1, 2005 that, in the aggregate over the donor's life after that date, exceeds $2 million. In tallying taxable gifts, the act excludes gifts that are includable in a decedent's gross taxable estate. (It appears that this adjustment is retroactive to gifts made on or after January 1, 2005.)

Tax Reduction for Out-of-State Property

Prior law gave resident estates a reduction in their Connecticut estate tax for property they own outside the state that is subject to inheritance taxes in another state or the District of Columbia. The reduction was the lesser of (1) the actual taxes paid in the other state or (2) the full Connecticut tax, excluding any gift tax credits that would otherwise be due, multiplied by the percentage of the gross estate that is under the jurisdiction of the other state.

The act eliminates the requirement that, to receive a reduction, the out-of-state property be subject to inheritance taxes in another state. Instead, it reduces the Connecticut tax on the estate by the percentage of its total property value that is under another state's jurisdiction.
EFFECTIVE DATE: July 1, 2007. The estate tax changes apply to deaths occurring on or after January 1, 2007. The gift tax changes apply to calendar years starting on or after January 1, 2007.

§§ 15-20 – TEMPORARY MOTOR FUELS TAX SUSPENSION

The act suspends collection of the 25-cent-per-gallon motor vehicle fuels tax from its date of passage through September 3, 2007 (Labor Day). The tax is paid by distributors. The act requires gasoline distributors and dealers to reduce their prices by the same amount.

It also requires petroleum distributors to report their prices and volumes to the attorney general and establishes a petroleum transparency and reporting oversight program in the attorney general's office.

It transfers $124.7 million from the FY 07 surplus to the Special Transportation Fund.

Tax Reduction (§§ 15-18)

The act requires motor fuel distributors to reduce their fuel prices commensurate with the tax reduction on the date the suspension takes effect. Retailers must reduce their fuel prices within two days after the tax suspension takes effect or as soon as their inventory of gasoline at the higher tax rate has been liquidated. The price reduction must be maintained while the tax is suspended.

A retailer who fails to lower prices is subject to the penalties for violating the gasoline dealer licensing law, which include a fine of up to $100 for a first offense and, for subsequent offenses, a fine of up to $500, six months in prison, or both. The consumer protection commissioner may also suspend or revoke the retailer's license. Such violations are deemed unfair or deceptive trade practices. The act requires the commissioner, when deciding whether to issue a new retail dealer license or renew an existing one, to consider whether the dealer has violated the price reduction law.

The act establishes the following as affirmative defenses to any actions or administrative proceedings brought against a retailer: (1) that the wholesale price of gasoline increased while the tax was suspended and (2) that an increase in any other bona fide business cost caused a retailer to decide not to reduce his gas prices or keep them reduced.

Petroleum Transparency and Reporting Oversight Program (§ 19)

The act requires the Attorney General's Office to develop and maintain an automated petroleum industry reporting system that meets the needs of government, industry, and the public while promoting sound policy-making and consumer information and protection. It must conduct and facilitate the efficient analysis and reporting of all information and data provided by the petroleum industry. The act requires the attorney general to develop the program in a way that results in greater market transparency and provides useful information to (1) the public and (2) agencies conducting petroleum industry oversight and ensuring compliance with relevant laws. It allows the attorney general to request additional information when needed to perform the analysis and reporting duties imposed by the act.

Distributor Registration and Reporting. The act requires all distributors to register with the Attorney General's Office, even though they must already register with the Department of Consumer Protection. It defines "distributor" as anyone who (1) imports or causes motor fuel to be imported for sale or use in the state or (2) produces, refines, blends, manufactures, or compounds motor fuel within the state for sale or use here. It includes affiliates of either who purchase motor fuel for sale, consignment, or distribution or receive motor fuel on consignment for consignment or distribution. It does not include employees or transporters. The act requires a person to register before acting as a distributor.

Beginning January 1, 2008, the act requires distributors to file certified weekly reports with the attorney general showing each transaction in the state in which fuel was sold or used, beginning on the act's effective date and for each weekly period after January 1, 2008. The act defines "fuel" as all products commonly or commercially known or sold as (1) gasoline, (2) any liquid for use in internal combustion engines, (3) gasohol, (4) diesel fuel, or (5) number two heating oil.

Specifically, the act requires distributors to report:

1. total number of gallons or other units of fuel (such as barrels), by type or grade, compounded by the distributor and the number of gallons or other units, by type or grade, sold, exchanged, or otherwise transferred or used by the distributor in each transaction;
2. total number of gallons or other units, by type or grade, imported or exported;
3. total volume of fuel, by type or grade, sold, exchanged, or otherwise transferred or used by the distributor;
4. number of gallons or other units, by type or grade, sold, exchanged, or otherwise transferred or used in each transaction;
5. total number of gallons or other units of fuel sold as fuel;
6. total number of gallons or other units, by type or grade, and their respective sales prices for all fuel sold to federal, state, or municipal agencies or to ships' stores (i.e., marinas), base exchanges, commercial agricultural accounts, commercial nonagricultural accounts, retail dealers, or other customers;
7. weekly weighted average acquisition cost per barrel and volume of foreign or domestic crude

oil or other liquid fuels, finished or unfinished, imported to this state, including information identifying the source of the crude oil or other fuels;
8. effective date and time, and the amount in cents per gallon, of any increase or decrease in wholesale price occurring during the week and the weekly weighted average wholesale prices and sales volume of finished unleaded regular and premium motor gasoline, and of each other grade of gasoline sold, by transaction, to retail outlets, by classes of retail trade, and to wholesale distributors;
9. weekly weighted average retail prices and sales volumes of finished unleaded regular and premium motor gasoline, and of each other grade of gasoline sold, by transaction, by retail distributor outlets of all classes of retail trade, and by any distributor to other end-users;
10. effective date and time, and the amount in cents per gallon, of any increase or decrease in wholesale price occurring during the week and the weekly weighted average wholesale prices and sales volume of diesel fuel and number two heating oil, by transaction, to retail distributor outlets, by classes of retail trade, and to all other wholesale distributors (the weighted average wholesale prices and sales volumes must be reported by type of wholesale fuel price);
11. weekly weighted average retail prices, and sales volumes of diesel fuel and number two heating oil sold, by transaction, by retail distributor outlets of all classes of retail trade and by any distributor to other end-users; and
12. for each distributor, gross margins or spreads between the distributor's average weighted price for each gallon or unit of fuel acquired by the distributor and the average weighted prices for each gallon or unit of fuel sold, by transaction, to another distributor, a retail dealer, end-user, or consumer.

The act authorizes the attorney general to purchase retail price data from data service companies to substitute for some or all of the data to meet the reporting requirement for retail price data. It requires the attorney general to prescribe reporting standards and practices to facilitate uniformity, consistency, and comparability of the submitted data. Distributors must keep and report all required data.

The act defines “classes of retail trade” as the separate parts of retail trade, including:

1. company-operated stations permitted by the law that generally prohibits such stations,
2. lessee dealer-operated stations owned by a distributor and operated by a qualified retail dealer other than a franchisee, and
3. owner-operated stations not owned by a distributor and operated by a qualified retail dealer.

Major Marketers. Under the act, a “major marketer” is anyone who sells fuel in amounts that the attorney general determines have a major effect on energy supplies. It requires major marketers to submit to the attorney general, at the times and in the form the attorney general prescribes, information including petroleum and petroleum product receipts, exchanges, inventories, and distributions.

Major Oil Producers, Marketers, Transporters, and Storers. The act requires major oil producers, marketers, transporters, and storers to report to the attorney general at times and in a form he prescribes. As is the case for major marketers, the attorney general determines whether oil producers, transporters, and storers are “major” based on whether they have a major effect on oil supplies.

Specifically, the act requires:

1. major oil transporters to report on the capacity and inventory of each major transportation system and the amount each transported;
2. major oil storers to report their storage capacity, inventories, receipts and distributions, and methods of transporting receipts and distributions; and
3. major oil marketers to report facility capacity and methods of transporting receipts and distributions.

Attorney General Analysis and Report. The act requires the attorney general, with the office’s staff and other staff with expertise and experience in, or with, the petroleum industry, to gather, analyze, and interpret both the information submitted to it, and other information relating to the supply, prices, margins, and profits on petroleum products, with particular emphasis on motor vehicle fuels. The analysis must include:

1. the nature, cause, and extent of any petroleum or petroleum product situation or condition affecting supply, price, margins, or profits;
2. the prices, with particular emphasis on wholesale and retail motor vehicle fuel prices, and any significant price changes of petroleum or petroleum products sold and the reasons for the changes;
3. the income, expenses, margins, and profits in the state, both before and after taxes, of each distributor and the income, expenses, margins and profits, both before and after taxes, of major oil companies in other regions of the United States and other countries; and
4. the emerging trends relating to supply, demand, price, margins, and profits.

The attorney general must also analyze the effects of state and federal policies, rules, and regulations on the supply and pricing of petroleum products.

The attorney general must submit annually to the governor and the General Assembly 20 days before the first day of each regular legislative session a summary, including any analysis and interpretation of the information submitted under the act and any other activities taken by his or her office, including civil penalties imposed and violation notices issued.

Purpose of Data Collection. The act requires information submitted in the distributors' weekly reports and by major producers, marketers, transporters, and storers to be collected and kept for the purpose of facilitating the attorney general's analysis. It requires the attorney general to make public the information contained in the reports, but prohibits him from making the reports themselves public.

Confidentiality. The act requires confidential commercial information provided to the attorney general to be held in confidence or aggregated to the extent required to ensure its confidentiality, unless the person submitting it has already made it public. Unless otherwise provided by law, the attorney general and his employees may not, with respect to data that the office obtains or is provided, do any of the following:

1. publish the data so as to identify the person who provided it; or
2. allow anyone other than the Attorney General's Office, DRS, the consumer protection commissioner, or the Chief State's Attorney and their authorized representatives and employees to examine the individual reports or statements.

Confidential Information Obtained by Other Agencies. The act requires that any confidential information another agency or department obtains and provides to the attorney general in accordance with its provisions to be kept confidential.

Relationship of Confidentiality Requirements and Publishing Submitted Information and Analysis. The act requires the attorney general, using the best readily available technology, to disclose to the public the information contained in the statements, but not the statements themselves, within 14 days after the reporting dates. It also provides that none of its provisions may be construed to prohibit the implementation of the petroleum transparency and reporting oversight program or the public disclosure of the analysis and reports.

Penalty for Failure to Report. The act requires the attorney general to notify those who have failed to report on time. A person who fails to provide the information within five business days after being notified is subject to a civil penalty of between $50,000 and $100,000 per day for each day the information is refused or delayed. Anyone who wilfully makes a false statement, representation, or certification in any record, report, plan, or other document filed with the attorney general is subject to a civil penalty of up to $500,000 and deemed to have committed an unfair or deceptive trade practice (see BACKGROUND).

Relationship to Federal Law. The act provides that it must not be applied in a way that is preempted by the federal Petroleum Marketing Practices Act (15 USC 2801, et seq.) or other applicable federal law.

Penalty for Violating Confidentiality Provision. The act subjects any employee or agent of the attorney general's office or another office who discloses confidential information to a fine of up to $5,000, up to five years imprisonment, or both.

Transfer of Funds (§ 20)

The act authorizes the comptroller to transfer up to $124.7 million from the FY 07 General Fund surplus to the Special Transportation Fund. Of that sum, $1.37 million for each day in June that the motor vehicle fuels tax is suspended must be transferred for FY 07 and $83.7 million must be transferred for FY 08.
EFFECTIVE DATE: Upon passage

§ 21 – PETROLEUM PRODUCTS GROSS EARNINGS TAX

The act postpones each of the three scheduled increases in the petroleum products gross earnings taxes by one year. It extends the 6.3% tax rate until July 1, 2008 instead of only until July 1, 2007 and correspondingly delays subsequent increases as shown in Table 4.

Table 4: Petroleum Products Gross Earning Tax Increases

TAX RATES	IN EFFECT	
	Prior Law	The Act
6.3%	*7/1/06 – 6/30/07*	*7/1/06 – 6/30/08*
7.0%	*7/1/07 – 6/30/08*	*7/1/08 – 6/30/09*
7.5%	*7/1/08 – 6/30/13*	*7/1/09 – 6/30/14*
8.1%	*7/1/13 and after*	*7/1/14 and after*

The petroleum products gross earnings tax applies to petroleum products distributors and covers earnings from their first sales into Connecticut of taxable petroleum, petroleum products, and products made from petroleum and petroleum derivatives. The tax is payable quarterly. Certain types of products or products used for certain things are exempt, including home heating fuels, certain fuel used by manufacturers, certain kinds of marine fuels, and specified types of petroleum-based alternative fuels.
EFFECTIVE DATE: July 1, 2007

§ 14 – REAL ESTATE CONVEYANCE TAX

The act makes the basic 0.25% municipal real estate conveyance tax rate permanent. Under prior law, the rate was scheduled to drop from 0.25% to 0.11% on July 1, 2007.
EFFECTIVE DATE: July 1, 2007

§ 13 – MOTOR BOAT FUEL TAXES AND THE CONSERVATION FUND

Starting with FY 08, the act increases the amount of motor boat fuel tax revenue the DRS commissioner must annually deposit into the Conservation Fund by $500,000, from $3 million to $3.5 million. It also increases the annual amounts from the Conservation Fund going to:

1. the boating account from $ 250,000 to $295,000;
2. the fisheries account from $2 million to $2.33 million; and
3. the University of Connecticut for the Long Island Sound councils from at least $75,000 to at least $125,000.

The Conservation Fund pays for various Department of Environmental Protection programs.
EFFECTIVE DATE: July 1, 2007

§§ 27- 40 – DEPARTMENT OF PUBLIC SAFETY FEES

The act increases numerous Department of Public Safety fees and makes technical and conforming changes. Old and new fees are shown in Table 5.

Table 5: DPS Fees

*License, Permit, Registration, Inspection, Approval, etc. **	*Prior Law*	*The Act*
Movie theater inspection and approval fee (§ 29-112)	$35	$50
Movie theater projection room approval and inspection fee (§ 29-112)	10	25
Movie theater and projection room plan review fee (§ 29-112)	10	25
Movie theatre license (§ 29-117)	35	50
Amusement park license (§ 29-130)	35	50
Open-air or tent carnival, circus or show license (§ 29-134)	50	100
New elevator or escalator installation plan review fee (§ 29-193)	150	200
Elevator or escalator operating certificate (§ 29-196)	150	200
Elevator or escalator operating certificate (§ 29-196) (renewal)	40**	120**
New tramway plan review (§ 29-204)	100	200
Tramway operating certificate (§ 29-206)	150	200
Tramway operating certificate (§ 29-206) (renewal)	80	100
Explosives license (for blaster) (§ 29-349(b))	50	100
Explosives license (for blaster) (§ 29-349(b)) (renewal)	30	75
Explosives permit (for business) (§ 29-349(d))	25	50
Explosives truck inspection (§ 29-349(e))	25	50
Explosives transport permit (§ 29-349(e))	20	30
Fireworks certificate of competency permit (§ 29-357)	50	100
Fireworks user certificate of competency (§ 29-357) (renewal)	30	150
Fireworks use permit (§ 29-357)	35	50
Fireworks manufacturing license (§ 29-365)	100	200
Fireworks dealer, wholesaler, jobber license (§ 29-365)	50	200
Demolition registration – Class B certificate (§ 29-402)	300	350

* Unless otherwise stated, renewals are annual
** Renewal cycle changed from annual to every two years

The act replaces the multiple boiler fees, previously assessed based on capacity, with a flat $40 fee as shown in Table 6. It also makes conforming and technical changes.

Table 6: Boiler Fees

Boilers	Prior Law	The Act
Boiler operating fee (up to 50 sq. ft. of heating surface)	$30	$40
Boiler operating fee (over 50 sq ft up to 1,000 sq. ft. of heating surface)	40	40
Boiler operating fee (over 1,000 sq. ft. and less than 4,000 sq. ft. of heating surface)	60	40
Boiler operating fee (at least 4,000 sq. ft. and less than 10,000 sq. ft. of heating surface)	80	40
Boiler operating fee (at least 10,000 sq. ft. of heating surface)	100	40
Boiler external inspection (50 sq. ft. or less of heating surface)	20	40
Boiler external inspection (more than 50 sq. ft. heating surface)	25	40
Inspection of heating boilers without a manhole	30	40
Inspection of heating boilers with a manhole	50	40
Inspection of hot water supply boilers and hot water heaters	30	40

EFFECTIVE DATE: July 1, 2007

BACKGROUND

Streamlined Sales and Use Tax Agreement (SSUTA)

The SSUTA is an agreement among member states to simplify their state and local sales and use tax laws and administrative procedures to encourage better and less expensive tax collection, particularly on electronic and other cross-border transactions by remote sellers. It requires member states to, among other things, adopt uniform definitions for taxable and exempt products and services, simplify tax rates by limiting themselves generally to one sales tax rate for all taxable products and services, administer both state and local sales and use taxes at the state level, and adopt uniform rules for sourcing transactions based on where items or services are delivered or used. It also establishes three types of certified technology systems for sellers to use to collect and remit sales taxes to all jurisdictions. Finally, the agreement establishes a multistate organization and mechanisms to administer the agreement and settle tax disputes.

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 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.

Related Acts

PA 07-1, June Special Session also (1) includes a 49-cent-per-pack cigarette tax increase; (2) extends the higher municipal real estate conveyance tax rate for one year, to July 1, 2008; and (3) includes the same DPS fee increases and changes as this act. That act also requires the revenue services commissioner, in consultation with the Office of Policy and Management secretary, to study the estate tax and the Office of Legislative Research to study the earned income tax credit.

PA 07-4, June Special Session (1) also enacts the sales tax exemption for meals sold from honor boxes and (2) establishes a 16-member commission to study the possibility of the state becoming a full member of the SSUTA governing board.

PA 07-242 and PAs 07-1 and 07-4, June Special Session enact and extend sales tax exemptions for various energy efficient products and vehicles.

PA 07-250—SB 1435
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE FILING DEADLINE FOR CERTAIN TAX CREDITS OR PROPERTY TAX EXEMPTIONS, AN EXEMPTION FROM THE ADMISSIONS TAX, VALIDATION OF A TOWN REFERENDUM AND AN EXECUTIVE OR LEGISLATIVE NOMINATION, THE PROCEDURE FOR EXECUTIVE OR LEGISLATIVE NOMINATIONS, ELIGIBILITY FOR A REFUND OF THE MOTOR VEHICLE FUELS TAX, THE JOB CREATION TAX CREDIT PROGRAM, AND CREATION OF A MIXED-USE HISTORIC STRUCTURE REHABILITATION TAX CREDIT

SUMMARY: This act:

1. starting in FY 09, authorizes up to $50 million over three years in business tax credits for rehabilitating historic property for mixed residential and commercial use;
2. extends an existing job creation tax credit to any company, not just out-of-state companies relocating here, that creates new full-time jobs in the state;
3. reduces the number of new jobs that qualify for a credit from 50 to 10 and increases the credit amount from 25% to 60% of the state income tax withheld from new employees' wages;
4. eliminates the deadline for the House or Senate to vote on nominations for state agency department heads after they are reported by the Executive and Legislative Nominations Committee and validates any nominations approved in 2007 after the deadline;
5. makes waste haulers for the Connecticut Resources Recovery Authority's Mid-Connecticut Project eligible for motor fuels tax refunds on fuel used exclusively for that job;
6. extends deadlines for certain taxpayers to file for property tax exemptions and a corporation tax refund based on a tax credit;
7. exempts admission charges to the Hartford Convention Center on specified dates from the admission tax; and
8. validates the results of a particular referendum that was held in Clinton after the statutory time limit for doing so.

EFFECTIVE DATE: Various, see below.

§§ 19 - 22 — HISTORIC PRESERVATION TAX CREDITS FOR MIXED USE STRUCTURES

Credit

The law already authorizes business tax credits for rehabilitating certified historic commercial and industrial property for residential uses only. This act authorizes business tax credits for rehabilitating historic property to be used for both residential and commercial purposes. It authorizes up to $50 million in credits per three-year cycle, beginning with FYs 09-11. Total tax credits for any single project are limited to 10% of the aggregate limit for all such tax credits for each three-year period.

The credit equals 25% of the qualified rehabilitation expenditures or 30%, if a portion of the units are affordable to low- and moderate-income people. A project is considered affordable if (1) at least 20% of the units are affordable rental units or (2) 10% are affordable homeownership units. A unit is affordable if it costs a moderate-income household no more than 30% of its income. A household falls into this category if it earns no more than the median income of the town where the unit is located.

Eligibility

Individuals, limited liability companies, nonprofit and for-profit corporations, and other business entities are eligible for the credit if they have title to the property and rehabilitate it. They qualify for credits based on the property's historic status and how the property will be used after rehabilitation.

The property must be an historic commercial or industrial property (1) individually listed on the national or state Register of Historic Places or (2) located in an historic district listed on the national or state Register of Historic Places. In addition, the Connecticut Commission on Culture and Tourism (CCCT) must certify that the property contributes to the district's historic character.

The rehabilitated property must be used for both residential and commercial purposes and the residential portion must comprise at least 33% of its total floor area.

Reserving the Credits

The act establishes a two-step process for accessing the credits. The first step occurs when an owner asks CCCT to reserve credits on his behalf. The owner must do this before he starts rehabilitating the property. In requesting a credit reservation, the owner must submit the construction plans and specifications.

The owner must also provide an estimate of the project's qualified rehabilitation expenditures. These 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. The qualified expenditures must exceed 25% of the property's assessed value. CCCT must reserve the credits if the rehabilitation plan meets its standards.

For projects that include affordable housing, the owner must specify the number of affordable units, their proposed rents or sale prices, and the median income of the town where the property is located. He must submit this data to the Department of Economic and Community Development (DECD). The DECD commissioner must review the affordable housing applications and issue a certificate to those she approves. CCCT cannot reserve the affordable housing credits unless the owner submits the DECD certificate.

CCCT can charge the owner up to $10,000 to process applications and monitor rehabilitation. DECD can charge up to $2,000 to cover its costs for determining eligibility and monitoring compliance after

the project is completed (see below).

Claiming Credits

The second step in claiming credits begins when the owner notifies CCCT that he or she has finished rehabilitating the property. The owner must show that the work was completed and certify the costs incurred. CCCT must review the owner's documents and verify whether the work complies with the rehabilitation plan. After completing its review, the commission must issue a credit voucher granting a credit equal to the lesser of (1) the amount CCCT reserved when it certified the rehabilitation plan or (2) 25% or 30% of the qualified rehabilitation expenses, as appropriate.

Owners may claim the credit themselves or transfer them to others. Credit holders may claim the credit in the tax year when the property receives its certificate of occupancy. For multiphase projects, credit holders may claim a part of the credit in proportion to the part of the project that received a certificate of occupancy.

A credit holder claims the credit by attaching the voucher to its tax return. The credit can be used against the corporation tax or similar taxes on air carriers and insurers, or the taxes on railroad, cable and satellite TV, and utility companies. It can be used in the tax year when the substantially rehabilitated certified property is placed in service. This happens when the qualified rehabilitation expenditures exceed 25% of the property'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 property must pass the 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 Regulations

The act requires CCCT to adopt implementing regulations, which must include application procedures, criteria for rating projects, and timeframes for approving requests.

Suspending Credit Reservations

The act requires CCCT to stop reserving credits in the first year of any three-year cycle when the aggregate credits reserved reach 65% of the $50 million credit allocation for the cycle (i.e., $32.5 million). It can continue to reserve credits only if the Commerce and Finance, Revenue and Bonding committees each allow it. Likewise, if credit reservations reach 90% in the second year, CCCT must suspend the reservations, unless the committees vote to allow it to continue. Suspensions do not affect previously reserved credits.

Monitoring Affordable Units

The act requires DECD to monitor projects to insure that the affordable units remain affordable to low- and moderate-income people for at least 10 years. It allows the DECD commissioner to require deed restrictions or other fiscal mechanisms to ensure compliance. The act allows DECD to adopt regulations, in consultation with CCCT, that implement its application review and monitoring requirements. The regulations can allow DECD to monitor the affordable housing requirements itself or designate local housing authorities, municipalities, or public or quasi-public agencies to do so.

Reporting Requirements

The act requires CCCT to report annually on the credits it reserved during the previous fiscal year to the Commerce and Finance, Revenue and Bonding committees. Reports are due annually starting by October 1, 2009. Each report must include the following information for each project for which credits are reserved:

1. total project costs;
2. value of reserved tax credits for historic preservation;
3. whether the project is mixed-use, and the proportion that is nonresidential;
4. number of residential units; and
5. for affordable housing reservations, the value of the credit reserved and the percentage of the residential units that qualify as affordable.

EFFECTIVE DATE: Upon passage and applicable to income years starting on or after January 1, 2008, except for the DECD monitoring requirement, which is effective July 1, 2007.

§ 18 — JOB CREATION TAX CREDIT

Tax Credit

The act (1) extends the job creation business tax credit enacted in 2006 to any company that creates at least 10 new full-time jobs in the state and (2) increases the maximum credit from 25% to 60% of the state income tax withheld from the new employees' wages for up to five successive years. Under prior law, companies were eligible only if they (1) were not conducting business in Connecticut, (2) relocated to Connecticut, and (3) created at least 50 new full-time jobs in the state.

As under prior law, companies must apply to the DECD commissioner for the credits. The act makes it a condition of DECD's approval that the proposed job growth conform to the State Plan of Conservation and Development.

Under prior law and the act, the credit applies against the corporation, utility company, and insurance premium taxes. Total credits for all eligible companies are still limited to $10 million per year.

The act makes minor adjustments in credit eligibility, application, and approval requirements.

Under the act, a tax credit application must contain enough information to show that the job growth will provide net benefits for the economy of the host municipality and the state. As under prior law, applicants must provide a detailed description of the number of jobs to be created, feasibility studies or business plans, projections of the state and local revenue that could result, and any other information needed to evaluate the credit. Under the act, an applicant is no longer required to show that relocation is financially viable or provide details about the type of business the applicant engages in.

The commissioner may approve full or partial credits only if the proposed increase in jobs (1) is not economically viable without the credits and (2) provides a net benefit to economic development and employment in the state.

The requirement that the commissioner impose an appropriate application fee is unchanged. The act also retains the existing procedure for claiming credits and the recapture provision.

EFFECTIVE DATE: July 1, 2007 and applicable to income years starting on or after January 1, 2007.

§ 15 — MOTOR FUELS TAX REFUND

The act makes waste haulers eligible for a refund of the motor vehicle fuels taxes they paid on fuel used exclusively for hauling waste for the Connecticut Resources Recovery Authority's Mid-Connecticut Project. The refund is already available to, among others, federal, state, and municipal vehicles used for government purposes.

EFFECTIVE DATE: July 1, 2007 and applicable to refund claims filed on or after that date.

§§ 16 & 17 — EXECUTIVE AND LEGISLATIVE NOMINATIONS DEADLINE

The act eliminates a requirement that the House or Senate act on gubernatorial nominations for department heads within 10 calendar days after they are reported by the Executive and Legislative Nominations Committee. It also confirms otherwise valid legislative and executive nominations approved during the 2007 session on which the House or Senate failed to act within 10 days of the committee's report.

EFFECTIVE DATE: Upon passage

§§ 2-9 & 12-14 — PROPERTY TAX EXEMPTION DEADLINE EXTENSIONS

The act allows certain taxpayers to receive property tax exemptions for particular assessment or grand list years even though they missed the filing deadlines for the exemption or credit.

Machinery and Equipment, Manufacturing and Service Facilities, and Commercial Trucks

The law grants state-reimbursed property tax exemptions for:

1. machinery and equipment used for manufacturing, biotechnology, or recycling (MME);
2. manufacturing and service facilities located in targeted investment communities or enterprise zones;
3. new and newly acquired MME and service facility equipment in distressed municipalities, targeted investment communities, or enterprise zones; and
4. commercial trucks.

Property owners must apply to local assessors for these exemptions by November 1 annually.

This act waives this filing deadline for property owners in the towns and for one or more of the above property categories and the grand lists shown in Table 1, if the property owners apply within 30 days of the act's passage and pay the statutory late fee. In each case, the act requires the local assessor to (1) verify eligibility for the exemption and approve the exemption, (2) refund any taxes paid on the property, and (3) submit the request for a tax loss reimbursement to the Office of Policy and Management secretary. Subject to the secretary's review and approval, the act requires the state to reimburse the town for the tax loss under the applicable statute.

Table 1: Exemption Application Deadline Waivers

§	*Town*	*Grand List(s) or Assessment Year(s)*	*Type of Property*
2	East Hartford	2006	MME
3	Milford	2004, 2005	MME
4	Stafford	2005, 2006	Trucks
5	Chester	2006	MME
6	Bridgeport	2003, 2004	Manufacturing and service facilities & equipment
8	Norwalk	2006	Manufacturing and

			service facilities & equipment
9	South Windsor	1999	MME
12	Stafford	2003, 2004	Trucks
13	East Hartford	2005	Manufacturing and service facilities & equipment
14	Bridgeport	2005	Manufacturing and service facilities & equipment

Property Leased to Exempt Organization

The law allows a municipality, by ordinance, to give property tax exemptions to real or personal property leased to federally tax-exempt charitable, religious, or nonprofit organizations, if the property is used exclusively for the purposes of the tax-exempt entity. This act waives the exemption filing deadline for a property owner who is otherwise eligible for the exemption on Norwalk's 2005 grand list, if he or she files an exemption application within 30 days after the act's effective date. It requires Norwalk to refund any taxes paid on the property.
EFFECTIVE DATE: Upon passage

§ 1 — CORPORATION TAX CREDIT REFUND

Despite the expiration of the three-year deadline for filing an amended corporation tax return and claiming a refund, the act allows a Trumbull company to receive a tax refund if it (1) was otherwise eligible for the research and experimentation expenses tax credit for 2002 and (2) files an amended return within 30 days of the act's effective date. The credit is 20% of a company's annual research and experimentation spending.
EFFECTIVE DATE: Upon passage

§ 10 — ADMISSION TAX EXEMPTION

The act exempts a person charging admission to the Hartford Convention Center on June 9th or 10th, 2007 from the 10% admission tax. (PA 07-1, June Special Session, exempts all events at the convention center from the tax, effective July 1, 2007.)
EFFECTIVE DATE: Upon passage

§ 11 — REFERENDUM VALIDATION

The act validates a referendum held in Clinton on February 28, 2007 that approved $6,372,500 in bonding for infrastructure improvements, despite its having been held 21 days, rather than the statutorily required seven to 14 days, after it was discussed at a town meeting. It also validates all acts, proceedings, and votes town officials take in regard to, or reliance on, the referendum as of the date taken.

EFFECTIVE DATE: Upon passage

PA 07-254—sHB 7282
Finance, Revenue and Bonding Committee

AN ACT CONCERNING PROPERTY TAX DELINQUENCIES OF TELECOMMUNICATIONS COMPANIES, MUNICIPAL BROADBAND NETWORKS, MACHINERY SURCHARGES AND CERTAIN TAX EXEMPTIONS

SUMMARY: This act:

1. allows tax collectors for boroughs and cities to impose interest on unpaid telecommunications property taxes;
2. makes planning for municipal broadband networks that meet certain criteria eligible for Local Capital Improvement Program grants;
3. establishes a permanent 10-member broadband internet coordinating council;
4. specifies the equipment rental period for the 1.5% state daily rental equipment surcharge; and
5. expands property tax exemptions for certain property owned by, or held in trust for, nonprofit and charitable organizations.

EFFECTIVE DATE: Various, see below.

§ 1 – TELECOMMUNICATIONS PROPERTY TAX DELINQUENCIES

This act allows tax collectors for boroughs and cities to impose an interest penalty on delinquent telecommunications property tax payments. Under prior law, only town tax collectors could do so. The penalty is 1.5% of the delinquent tax for each month or part of a month from the tax due date until it is paid. The act applies to telecommunications companies that pay property taxes at the statewide rate of 47 mills on the personal property they use to provide telecommunications services.
EFFECTIVE DATE: Upon passage and applicable to assessment years starting on or after October 1, 2006.

§ 2 – MUNICIPAL BROADBAND NETWORKS

The act makes activities related to planning municipal broadband networks an eligible use of Local Capital Improvement Program (LOCIP) grant funds, provided the network has a speed of at least 384,000 bits (384 kB) per second.

By law, LOCIP grants, which are funded by state general obligation bonds, can be used for a variety of

municipal capital projects, including constructing roads, public buildings other than schools, and sewage and solid waste facilities. The grants can also be used for preparing and revising local conservation plans and developing floodplain management activities.
EFFECTIVE DATE: October 1, 2007

§ 3 – BROADBAND INTERNET COORDINATING COUNCIL

The act establishes the 10-member Broadband Internet Coordinating Council and specifies its members. It requires the council to (1) monitor trends and developments in the state's effort to develop a statewide, world-class communications infrastructure and (2) report as necessary to the Energy and Technology Committee. The council must meet at least quarterly, starting by September 1, 2008. A majority of the members in office constitutes a quorum.

The council consists of two members each appointed by the governor, the Senate president pro tempore, and the House speaker, and one each appointed by the Senate and House majority and minority leaders. One each of the governor's, Senate president pro tempore's, and House speaker's appointees must have specific expertise in telecommunications. The council must include members from the public and private sectors. The chairperson of the Public Utilities Control Authority and the Office of Policy and Management secretary, or their designees, are ex-officio, non-voting council members and must attend its meetings.

Members serve without compensation, except for necessary expenses incurred in performing their duties. They serve two-year terms and cannot serve more than two consecutive terms. Any member who fails to attend three consecutive meetings or half of all meetings during a calendar year is considered to have resigned. The Senate president pro tempore and the House speaker must jointly choose the council's chairperson as well as a vice-chairperson to act in the chairperson's absence.
EFFECTIVE DATE: July 1, 2007

§ 4 – DAILY RENTAL MACHINERY SURCHARGE

The state imposes a 1.5% surcharge on the total cost of renting heavy construction, mining, and forestry equipment without an operator for 30 days or less. The act specifies that, for purposes of the surcharge, the rental period for the equipment runs from the date the machinery is rented to the date it is returned to the rental company.
EFFECTIVE DATE: July 1, 2007

§§ 5-7 – PROPERTY TAX EXEMPTIONS FOR CHARITABLE & NONPROFIT ORGANIZATION PROPERTY

By law, real or personal property owned by or held in trust for a corporation organized exclusively for one or a combination of scientific, educational, literary, historical, or charitable purposes is exempt from property tax as long as none of its officers, employees, or members receives a (1) pecuniary profit from the property and (2) the corporation files a statement with the local assessor every four years. This act specifies that the real property such a corporation owns, or that is held in trust for it, is eligible for a property tax exemption "regardless of whether" another such corporation uses it.

The act also specifically exempts from property taxes, real property and equipment owned by, or held in trust for, a religious organization and used exclusively as a daycare facility. Such property is already exempt when used exclusively as a school, Connecticut nonprofit camp or recreational facility for religious purposes, or for various other specified purposes.

The new exemptions are subject to an existing law that makes such property taxable or partly taxable when (1) it is not used exclusively for carrying out one or more of the corporation's purposes or (2) rent, profit, or income is derived from it.

Finally, the act makes a conforming change to exclude property covered by the new exemptions from a law giving municipalities the option of exempting real or personal property leased to a federally tax-exempt charitable, religious, or nonprofit organization from property taxes.
EFFECTIVE DATE: October 1, 2007 and applicable to assessment years starting on or after that date.

PA 07-255—sHB 7332
Finance, Revenue and Bonding Committee

AN ACT ELIMINATING THE SUNSET DATE ON THE PROPERTY TAX EXEMPTION FOR SOLAR ENERGY SYSTEMS AND AUTHORIZING MUNICIPAL TAXATION OF CERTAIN CONNECTICUT RESOURCES RECOVERY AUTHORITY PROPERTY

SUMMARY: Municipalities by ordinance, may exempt active, passive, and hybrid solar energy heating and cooling systems from property taxes for 15 years after they are installed. Such exemptions were formerly allowed only for (1) active systems installed on or after October 1, 1976 and before October 1, 2006 and (2) passive and hybrid systems installed on or after April 20, 1977 and before October 1, 2006. The act

eliminates the October 1, 2006 expiration dates, thus allowing more recently installed systems to be eligible for exemptions. (PA 07-242 makes the exemption mandatory for systems installed on or after October 1, 2007. It also extends the exemption to passive and active solar water or space heating systems and geothermal systems installed on or after that date in any type of building.) The exemption applies to the difference between what the assessed valuation of the property would be with a conventional heating and cooling system and what it is when equipped with a solar system.

The act also allows a municipality to tax certain property owned by the Connecticut Resources Recovery Authority (CRRA) and leased to someone else. It requires the lessee to pay the tax. Under prior law, all CRRA property was exempt from local property taxes.

EFFECTIVE DATE: July 1, 2007

CRRA PROPERTY

The act allows a municipality to tax CRRA property leased to any lessee or operator as of July 1, 2007 under an initial site lease entered into on or before December 31, 1985. If the property secures any CRRA bonds outstanding on July 1, 2007, the act does not apply until the bonds are paid off. In addition, if the lease was in effect on January 1, 2007, the act does not apply until the lease term in effect on that date expires and there is a new lease or the lease is amended, renewed, or extended. Finally, the act does not apply in any municipal fiscal year in which the property is covered by an agreement between CRRA or CRRA's lessee and the municipality for payments in lieu of taxes on the property.

The act requires CRRA's lessee to pay any taxes imposed under its provisions. It gives the lessee the right to appeal the property assessment in the year it becomes taxable to the municipality's board of assessment appeals and the Superior Court according to the regular procedure. It requires an assessor to follow the same procedure for adding the property to the grand list and notifying and billing the property's lessee as the assessor must use for any other formerly tax-exempt property that comes onto the tax rolls.

PA 07-4—sHB 7140
General Law Committee

AN ACT CONCERNING NOT-FOR-PROFIT ENTITIES AND CHARITABLE FUNDRAISING EVENTS AT WHICH ALCOHOLIC LIQUOR IS SOLD

SUMMARY: This act increases, from four to eight, the number of one-day liquor permits a charitable organization may obtain in a calendar year. The permit allows the retail sale of all four types of alcoholic liquor (alcohol, beer, wine, and spirits) for consumption on the premises during the same hours as a restaurant may sell liquor.
EFFECTIVE DATE: October 1, 2007

PA 07-35—SB 140
General Law Committee

AN ACT CONCERNING MASSAGE THERAPY

SUMMARY: This act (1) replaces the title “Connecticut licensed massage therapist” with “massage therapist” and (2) prohibits anyone other than a licensed massage therapist or a holder of another applicable license from using the titles “massage therapist,” “licensed message therapist,” “massage practitioner,” “massagist,” “masseur,” or “masseuse.”

The act also prohibits advertising any of the services that comprise massage therapy in any manner using the term “massage,” unless the services are to be provided by a licensed massage therapist. It specifies that “advertising” includes (1) giving a card, sign, or device to anyone; (2) causing or allowing a sign or marking on a vehicle, building, or other structure; (3) advertising in a newspaper or magazine; and (4) placing a listing or advertisement in a directory under a heading or classification that includes the words “massage,” “massage therapist,” “massage therapy,” or “massage therapy establishment.” It requires licensed massage therapists to include their license numbers in advertisements in newspapers, telephone directories, or other media.

It prohibits people who are not licensed massage therapists from advertising massage therapy services in either a public or private publication or communication by using “massage” or any term that implies a massage service activity.
EFFECTIVE DATE: January 1, 2008

BACKGROUND

Massage Therapy

The law defines “massage therapy” as the systematic and scientific manipulation and treatment of the soft tissues of the body by use of pressure, friction, stroking, percussion, kneading, vibration by manual or mechanical means, range of motion, and nonspecific stretching. It may include using oil, ice, or hot and cold packs, or tub, shower, steam, dry heat, or cabinet baths. It does not include diagnosis, prescribing drugs or medicines, spinal or joint manipulations, or any service or procedure for which a license to practice medicine, chiropractic, natureopathy, physical therapy, or podiatry is required.

Related Act

PA 07-252 directs the commissioner of the Department of Public Health, within available appropriations, to enforce the provisions of the massage therapy law, including provisions concerning the use of the titles restricted by this act and the advertising of massage therapy services.

PA 07-39—SB 1204
General Law Committee

AN ACT CONCERNING ALCOHOL SHIPPING PERMITS

SUMMARY: This act prohibits shippers of wine from shipping more than five gallons in a two-month, rather than a 60-day, period directly to any one consumer in Connecticut. State law classifies shippers as in-state farm wineries and out-of-state shippers and wineries.
EFFECTIVE DATE: October 1, 2007

BACKGROUND

Direct Shipment of Wine to Consumers

By law, Connecticut farm wineries, and out-of-state shippers and wineries may ship wine directly to Connecticut consumers. To do so they must, among other things:

1. make certain that all packages of wine shipped to Connecticut consumers bear a label stating, “CONTAINS ALCOHOL—SIGNATURE OF A PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY; ”

2. obtain the signature of a person age 21 or older before delivering, after requiring the signer to prove his or her age by showing a valid driver's license or Connecticut identity card;
3. pay all sales and alcoholic beverage taxes due on the sales to the Department of Revenue Services and file related tax returns; and
4. hold an in-state transporter's permit or ship to Connecticut consumers using a delivery company that holds such a permit.

PA 07-41—SB 878
General Law Committee

AN ACT CONCERNING ALCOHOL SERVER AND SELLER TRAINING

SUMMARY: This act authorizes the Department of Consumer Protection (DCP) to require a liquor permittee whose permit was suspended or revoked to have his or her employees participate in an alcohol server training program approved by the commissioner. The commissioner may require proof that the program has been completed before reinstating or reissuing the permit. The act also allows the commissioner to require such training in lieu of suspending or revoking a permit.
EFFECTIVE DATE: January 1, 2008

BACKGROUND

Suspending or Revoking Liquor Permits

The law authorizes DCP to suspend, revoke, or refuse to grant or renew a permit to sell liquor if it has reasonable cause to believe, among other things, that the applicant or permittee violated the Liquor Control Act or its implementing regulations and for certain other acts. These include (1) financial irresponsibility, (2) taking money from a manufacturer or distributor, (3) habitually over-indulging, (4) willfully making a false statement to DCP in a material matter, or (5) conviction for a federal or state liquor law violation.

PA 07-43—sSB 1236
General Law Committee
Planning and Development Committee

AN ACT CONCERNING THE UPGRADING OF EXISTING MOBILE MANUFACTURED HOME PARKS

SUMMARY: Under this act, replacing a mobile manufactured home in a mobile manufactured home park with one that has the same or different dimensions does not constitute an expansion of a nonconforming use, if the home is built in compliance with federal mobile manufactured home construction and safety standards. By law, zoning regulations cannot prohibit the continuation of a land use that was legal when the regulations were adopted, but they often prohibit the expansion of such legal nonconforming uses.
EFFECTIVE DATE: Upon passage

BACKGROUND

Wiltzius v. Zoning Board of Appeals of New Milford (2006 WL 463380)

The suit involved a mobile manufactured home park located in an area that was subsequently zoned for single house lots with a 60,000 or 80,000 square-foot minimum lot size. Neither zone allows mobile manufactured home parks. An abutting property owner challenged the zoning board of appeal's decision to issue permits allowing mobile manufactured homes to be replaced with larger ones. The Superior Court held that the board could not issue zoning permits for mobile manufactured homes larger and taller than the homes they were replacing. The court did so even after noting that many of the homes in the park predated federal manufactured home standards which, although they did not require homes to be larger, include requirements setting minimum room sizes, ceiling heights, roof truss standards, and roof load tests that effectively ended the manufacture of smaller, 10-foot wide homes.

PA 07-145—sHB 7138
General Law Committee
Finance, Revenue and Bonding Committee
Environment Committee

AN ACT CONCERNING MANUFACTURER PERMITS FOR BREW PUBS

SUMMARY: This act allows brew pubs to sell sealed bottles and containers of beer brewed on their premises to wholesalers holding wholesaler beer permits.
EFFECTIVE DATE: Upon passage

BACKGROUND

Related Act

PA 07-165 allows brew pubs to sell to a wholesaler holding any type of wholesale liquor permit.

PA 07-146—HB 7141
General Law Committee

AN ACT CONCERNING UNIVERSITY BEER, WINE AND LIQUOR PERMITS

SUMMARY: This act revises the requirements for obtaining university liquor permits, university beer permits, and university beer and wine permits.

It allows a holder of a university liquor permit, which allows the sale of all four types of alcoholic liquor (alcohol, beer, wine, and spirits), to sell in a building on or abutting a golf course under the care and control of an institution offering a program of higher learning that has been (1) accredited by the Board of Governors of Higher Education or (2) otherwise authorized to award a degree according to state law. Under prior law, a university liquor permit allowed sales only in a room under the care and control of the University of Connecticut Board of Trustees.

The act revises the requirements for university beer and university beer and wine permits. Under prior law, these permits could be obtained by institutions (1) offering a program of higher learning as defined by state law and (2) that have been accredited by the board of governors. The act also allows institutions that have been otherwise authorized to award a degree according to state law to obtain the permits.
EFFECTIVE DATE: October 1, 2007

PA 07-150—sSB 1227
General Law Committee

AN ACT CONCERNING THE RETURN POLICY OF RETAIL STORES

SUMMARY: The law requires a retailer that uses an electronic system to record, monitor, and limit the number or dollar amount of a consumer's returns to (1) state the fact clearly in its posted policy on refunds and exchanges and (2) notify consumers before terminating their right to return goods. Prior law provided that a termination notice did not affect a consumer's right to return goods purchased before the notice date. This act instead provides that a consumer's right to return goods purchased before the notice date is unaffected only if the consumer has a valid receipt showing that the purchase was made before he or she received the termination notice.
EFFECTIVE DATE: July 1, 2007

PA 07-175—sHB 7139
General Law Committee
Judiciary Committee
Public Health Committee

AN ACT INCREASING PENALTIES FOR THE SALE OF CIGARETTES OR TOBACCO PRODUCTS TO MINORS

SUMMARY: This act increases the civil penalties for (1) minors who purchase cigarette or tobacco products and (2) people who sell, give, or deliver the products to them. By law, the Department of Revenue Services (DRS) commissioner assesses the penalties following a hearing.

The act also authorizes the Department of Consumer Protection (DCP) commissioner to investigate allegations of noncompliance with certain notice requirements by dealers and distributors. After doing so, it allows him to refer the case to the state's attorney or impose a civil penalty.
EFFECTIVE DATE: October 1, 2007

PENALTIES FOR SELLING TOBACCO PRODUCTS TO MINORS

Minors

For minors (people under age 18) who purchase cigarettes or tobacco products, the act increases the maximum penalty from (1) $50 to $100 for a first violation and (2) $100 to $150 for any subsequent violation.

Dealers, Distributors, Employees, and Vending Machine Owners

The act increases the penalties for certain people who sell, give, or deliver cigarettes or tobacco products to minors, other than minors acting in their capacity as employees. They are (1) dealers and distributors; (2) their employees; and (3) owners of establishments with cigarette vending machines, whether coin-operated or restricted (see BACKGROUND).

For dealers and distributors, the act increases the penalty from (1) $250 to $300 for a first violation and (2) $500 to $750 for any subsequent violation within 18 months. By law, a third violation within that period also results in a minimum 30-day license suspension.

For employees of dealers and distributors, the act increases the penalty from (1) $100 to $200 for a first violation and (2) $150 to $250 for any subsequent violation within 18 months.

Finally, for owners of establishments with cigarette vending machines or restricted cigarette vending machines, the act increases the penalty from (1) $250 to $500 for a first violation and (2) $500 to $750 for any

subsequent violation within 18 months. By law, a third violation within 18 months also results in the immediate removal of any machines and a one-year ban on their replacement.

PENALTIES FOR NONCOMPLIANCE WITH THE NOTICE REQUIREMENT

The law requires dealers and distributors to post notices where cigarettes are sold. The notices must state (1) that it is illegal to sell, give, or deliver cigarettes to minors and for minors to purchase them and (2) the penalties for noncompliance. Violators are subject to a criminal fine of up to $100.

The act authorizes the DCP commissioner to investigate allegations of noncompliance with the notice requirement. If he determines that reasonable cause exists, he may (1) refer a case to the state's attorney or (2) impose a $100 civil penalty per violation. In either case, he must provide notice to the accused. To impose a civil penalty, he must also provide an opportunity for a hearing. Each day a dealer or distributor fails to post the notice constitutes a separate violation.

BACKGROUND

Vending Machines

The law distinguishes between two types of machines that it authorizes to dispense cigarettes. One is the traditional coin-operated vending machine. The other is the "restricted cigarette vending machine," which (1) automatically deactivates and cannot be operated after each sale and (2) requires a face-to-face interaction or display of identification between the purchaser and employee of the business where the machine is located.

PA 07-176—sHB 7210
General Law Committee
Judiciary Committee

AN ACT CONCERNING THE PREVENTION OF ABUSIVE AND DECEPTIVE DEBT COLLECTION PRACTICES

SUMMARY: This act makes a creditor who, in violation of state law on creditors' collection practices, uses abusive, harassing, fraudulent, deceptive, or misleading representations, devices, or practices to collect or attempt to collect a debt liable for (1) actual damages; (2) additional damages up to $1,000, if the debtor is an individual; and (3) if the suit is successful, court costs and, at the court's discretion, reasonable attorney's fees. The act requires the trier of fact to consider the frequency and persistence of the creditor's noncompliance, its nature, the extent to which the noncompliance was intentional, and other relevant factors when determining the amount of liability.

A creditor may not be held liable under the act if it can show by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid the error.

By law, a creditor is a person or his or her assignee to whom a consumer owes a debt resulting from a transaction that occurred in the ordinary course of the person's business. A creditor is not a consumer collection agency or a federal, state, or municipal department.

Suits must be brought within one year after the date of the violation.

EFFECTIVE DATE: July 1, 2007, and applicable to causes of action arising on or after that date.

BACKGROUND

Creditors' Collection Practices Regulations

State regulations prohibit creditors from (1) engaging in any conduct that would result in the harassment or abuse of a reasonable person when collecting a debt and (2) intentionally harassing or abusing a person. The regulations specifically prohibit 16 different practices, including:

1. using or threatening to use violence or other criminal means to harm a person or his or her reputation or property;
2. using obscene or profane language;
3. publicly disseminating lists identifying consumers who allegedly refuse to pay a debt; and
4. repeatedly or continuously calling a telephone number or engaging in a telephone conversation if the natural consequence is annoyance, abuse, or harassment.

PA 07-183—sSB 1301
General Law Committee

AN ACT CONCERNING LICENSURE FOR HEATING, PIPING, AND COOLING WORK

SUMMARY: This act prohibits individuals without a heating, piping, and cooling work license from performing the on-site operation of (1) heating systems with a steam or water boiler maximum operating pressure of 15-pounds-per-square-inch gauge or greater or (2) air conditioning or refrigeration systems with an

aggregate of more than 50 horsepower (or its kilowatt equivalent) or 200 pounds of refrigerant. The act applies to individuals operating these systems by manipulating, adjusting, or controlling them with sufficient technical knowledge and expertise, as determined by the consumer protection commissioner. The act exempts the passive monitoring of heating, air conditioning, or refrigeration systems from the licensing requirement. The law exempts certain categories of individuals from licensing requirements, including the one established by this act.
EFFECTIVE DATE: July 1, 2007

BACKGROUND

Occupational Licensing System

State law establishes a licensing system for several trades overseen by different licensing boards, including the Examining Board for Heating, Piping, and Cooling Work. The boards determine who qualifies for licenses and enforce standards by disciplining licensees. Each trade has three levels of expertise—apprentice, journeyman, and contractor. Workers must meet education, training, and experience requirements to qualify for each level. Boards may create limited licenses authorizing their holders to work in a specific area of a trade. The boards establish less extensive requirements for workers attempting to qualify for a limited license. The licensing boards are within the Department of Consumer Protection. Its duties to the boards include receiving complaints; carrying out investigations; and performing administrative tasks, such as physically issuing licenses and renewals. The law exempts many categories of individuals from the licensing requirements, including a homeowner working on his or her own single-family residence and certain employees of industrial firms.

PA 07-198—SB 1172
General Law Committee

AN ACT CONCERNING WHOLESALE BEER PRICE POSTING AND MODIFYING BEER PACKAGING FOR CONSUMPTION ON AND OFF PREMISES

SUMMARY: The law prohibits manufacturers and wholesalers of alcoholic beverages from discriminating in any way in the price discounts they offer their customers on products of the same brand, age, size, and quality. This act provides that this prohibition must not be construed to prohibit beer manufacturers and wholesalers from changing how they package their products based on whether their customer holds a permit to sell for off-premises or on-premises consumption.

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 the Department of Consumer Protection by the 27th of the month. 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. The act requires beer wholesalers to provide their price postings for the following month to retailers by the 20th of the month rather than the 27th.
EFFECTIVE DATE: Upon passage

PA 07-206—sSB 1043
General Law Committee
Judiciary Committee
Energy and Technology Committee

AN ACT CONCERNING THE PROTECTION OF CONSUMERS FROM UNLICENSED CONTRACTORS, CRIMINAL SIMULATION AND THE RESALE OF TICKETS TO ENTERTAINMENT EVENTS

SUMMARY: This act (1) eliminates the prohibition against reselling tickets (“scalping”); (2) requires ticket resellers to provide refunds if (a) the event is cancelled or (b) the ticket does not grant admission to the event or is not as advertised; and (3) generally prohibits reselling tickets within 1,500 feet of an event on the day of the event. In addition, the act increases the penalty for criminal simulation.

The act also increases the criminal penalty for violating the licensing law overseen by the occupational licensing boards.
EFFECTIVE DATE: October 1, 2007

TICKET RESELLING

Eliminated Service Charge Cap

The act eliminates the prohibition against selling, offering to sell, or attempting to sell tickets to sporting or entertainment events to be held in Connecticut at a price greater than $3 above the price, including tax, printed on the face of the ticket.

A violator of the prohibition was guilty of ticket scalping. A first offense was a class C misdemeanor (see Table on Penalties). A second offense was a class A misdemeanor. Any subsequent offense was a class D felony. The sale of each ticket constituted a separate

offense. Prior law allowed an owner to authorize someone to sell tickets at a price above the cap.

Refunds

The act requires a reseller of a ticket to an entertainment event to refund the purchase price if (1) the event is cancelled, (2) the ticket the purchaser receives does not grant admission to the event the ticket describes, or (3) the ticket fails to conform to the reseller's advertisement of it. It defines "entertainment event" to include sporting events, concerts, or theatrical or operatic performances. The refunded amount must include all service fees and delivery charges the purchaser paid. The act requires resellers to provide each purchaser with the reseller's name, address, telephone number, or other information needed to allow the purchaser contact the reseller to obtain a refund, if necessary. Someone who fails to give a refund if the event is cancelled or the ticket does not grant admission to the event commits a class B misdemeanor.

Reselling Restrictions

The act prohibits reselling, offering to resell, or soliciting the resale of a ticket to an entertainment event on the day of the event within 1,500 feet of the physical structure in which the entertainment event takes place. But it allows the owner or operator of the structure or the event, or a duly authorized agent, to authorize such resales in writing. The restriction also does not apply to a ticket reseller who (1) resells a ticket for no more than face value or (2) has a permanent office within 1,500 feet of the structure, if the reseller sells, offers to resell or solicits the resale only within the office in person, by mail or telephone, or over the Internet. Someone who violates these restrictions commits a class A misdemeanor.

CRIMINAL SIMULATION

The act increases the penalty for criminal simulation by reclassifying it from a class A misdemeanor to a class D felony. Criminal simulation occurs when (1) with intent to defraud, someone makes or alters an object in a way to make it appear to have an antiquity, rarity, source, or authorship that it does not have or (2) with knowledge of its true character and with intent to defraud, someone issues or possesses such an object.

OCCUPATIONAL LICENSING LAW VIOLATIONS

Under prior law, the penalty for violating the licensing law overseen by the occupational licensing boards was a fine of $200 per violation for:

1. working without a license or apprentice permit;
2. willfully employing, or supplying for employment, someone who does not have a license or apprentice permit;
3. willfully pretending to qualify for a license or permit;
4. working after the expiration of a license or permit; or
5. violating any other provision of the licensing law.

The act's provision (eliminated by PA 07-4, June Special Session (see BACKGROUND)) instead makes anyone who engages in any of the prohibited acts guilty of a class B misdemeanor (see Table on Penalties). If the court imposes restitution and determines that a contractor cannot fully repay a victim within the normal probationary period (up to two years for a class B misdemeanor), the law authorizes the court to impose a probationary period of up to five years.

The occupational licensing boards are the examining boards for Electrical Work; Plumbing and Piping Work; Heating, Piping, Cooling, and Sheet Metal Work; Elevator Installation, Repair, and Maintenance Work; Fire Protection Sprinkler Systems Work; and Automotive Glasswork and Flat Glasswork.

BACKGROUND

Related Acts

PA 07-188 has a substantially similar but slightly different provision increasing the penalty for violating the occupational licensing laws. PA 07-4, June Special Session, eliminates the occupational licensing provision in this act.

PA 07-214—HB 6992
General Law Committee
Insurance and Real Estate Committee

AN ACT CONCERNING REAL ESTATE LICENSURE AND MAINTENANCE OF LISTS OF PRIVATE HUNTING GROUNDS BY TOWN CLERKS

SUMMARY: This act (1) requires the Real Estate Commission to authorize the renewal of a real estate broker license under certain circumstances, (2) establishes a means by which certain residential property sellers and real estate licensees may notify buyers how to discover if hunting or shooting sports regularly take place in the area, (3) allows third-party testing services administering examinations to applicants for a certificate as certified public

accountants to set their own fees, and (4) eliminates certain fees paid by real estate brokers or salespersons.
EFFECTIVE DATE: July 1, 2007

REAL ESTATE BROKER LICENSE RENEWAL

The act requires the Real Estate Commission to authorize, and the Consumer Protection Department to issue, an annual renewal of a real estate broker's license if one of two conditions are met. One is that the brokerage was licensed on September 30, 2005, even if it did not meet the requirements for a publicly traded corporation "required by subdivision (3) of subsection (b) of section 20-312." The meaning of the provision is unclear because the subdivision establishes requirements for four types of entities that are not publicly traded and does not establish any requirements for corporations that are publicly traded. The other is that the brokerage changes the designated real estate broker. The law requires corporations, limited liability companies, or partnerships that apply for a broker's license to designate a licensed real estate broker who must be in charge of the real estate brokerage business.

NOTICE OF PROPERTY ON WHICH HUNTING OR SHOOTING SPORTS REGULARLY TAKE PLACE

The act allows an owner of property on which hunting or shooting sports regularly take place to enter the property location on a list kept by the town clerk, but provides that it may not be construed to impose liability on the property owner for failing to enter the property on the list. Each entry must include the property owner's name and signature; address; the corresponding map, block, and lot number; and the entry date. The act requires town clerks to keep the list available to the public for inspection and post a notice of its availability in the clerk's office in the area where land records are kept.

The act provides, in connection with the sale of a one-to-four family residential property, that if a seller provides written notice to the purchaser, before or on entering into the contract, that a list of local properties on which hunting or shooting sports regularly takes place may be available in the town clerk's office, then the seller and the real estate licensee are deemed to have fully satisfied any duty to disclose the presence of such properties, even if (1) the list is not available in the town clerk's office or (2) there is an error, omission, or inaccuracy in the list.

It provides that it (1) must not be construed to impose liability on a seller or real estate licensee for failing to disclose the existence of such properties on which hunting or shooting sports regularly take place and (2) does not require sellers or real estate licensees to compile, or contribute to the compilation of, in whole or part, the list of such properties.

REAL ESTATE LICENSING FEES

The act eliminates the $5 annual fee imposed on real estate broker or salesperson applicants for licensure to maintain eligibility to retake the licensing examination. It also eliminates the $25 fee for a duplicate license.

ACCOUNTANCY EXAMINATION FEES

Prior law allowed the State Board of Accountancy or a testing service to charge a fee, set by the board in regulation, for each part of the licensing examination taken by an applicant for a certificate as a certified public accountant. The act allows the testing service to set its own fees for taking each part of the examination or reexamination.

PA 07-215—sHB 7204
General Law Committee
Judiciary Committee

AN ACT CONCERNING THE ENFORCEABILITY OF AUTOMATIC CONTRACT RENEWAL PROVISIONS

SUMMARY: This act (1) establishes requirements relating to contract renewal provisions in certain refuse removal contracts and (2) revises requirements relating to automatic renewal provisions in consumer contracts.

It makes provisions in certain commercial refuse removal or disposal contracts that renew a contract for a specified amount of time unenforceable in court unless the person against whom the contract is to be enforced initialed or signed a conspicuous statement immediately following the renewal provision stating, "I acknowledge that this contract contains an AUTOMATIC RENEWAL provision." The statement must be in 12-point boldface type. The requirement applies to written contracts and to electronic contracts that comply with the Connecticut Uniform Electronic Transactions Act, which establishes a legal foundation to use electronic communications in transactions in which the parties have agreed to conduct business electronically. The act exempts from these requirements (1) contracts in which the automatic renewal period is less than 32 days and can be cancelled without penalty or damages at any time and (2) consumer contracts.

By law, anyone who sells or offers to sell consumer goods or services under a written contract that (1) will last longer than 180 days (six months) and (2) includes a provision automatically renewing it for more than 31 days, must provide a clear and conspicuous written

notice informing the purchaser that he or she can cancel the contract. The notice must include the cancellation procedure and under prior law had to be provided at least 15, but not more than 60, days before the end of the contract term. The act instead requires the notice to be sent between 15 and 60 days before (1) the renewal date or (2) the end of the time for cancellation, whichever is earlier. The act allows the notice requirement to be satisfied by sending a written notice by U.S. mail; and if the consumer entered the contract electronically or agreed to receive notices electronically, the notice may be transmitted electronically.
EFFECTIVE DATE: October 1, 2007 and applicable to contracts entered into on and after that date.

BACKGROUND

Renewal Clauses in Shorter Consumer Contracts

The law also requires anyone who sells or offers to sell consumer goods or services under a written contract that (1) will last up to 180 days and (2) includes a provision automatically renewing it for more than 31 days, to include in the contract a clear and conspicuous notice that the recipient may cancel the contract and the cancellation procedure. It prohibits requiring the consumer to exercise his or her cancellation right more than 60 days before the scheduled end of the contract term.

If contracts with automatic renewal clauses do not contain the required notices, the law deems any product or service provided to the consumer after the scheduled end of the contract to be an unconditional gift without any obligation on the recipient's part. A violation of the law's requirements is deemed to be an unfair trade practice. The law exempts certain types of consumer contracts from the renewal provision requirements.

PA 07-1—SB 1112
Emergency Certification

AN ACT CONCERNING THE STATE CONTRACTOR CONTRIBUTION BAN AND GIFTS TO STATE AND QUASI-PUBLIC AGENCIES

SUMMARY: This act changes the ban on making and soliciting political contributions by state contractors and certain people associated with them, and to the similar ban that applies to investment services firms and people associated with them. In both cases it (1) excludes children under 18 from the ban and (2) includes any vice president, not just a "senior vice president," among other things. It also allows an individual covered by the ban, but who runs for office, to contribute to or solicit for a town committee or political action committee (PAC) if it is his or her campaign's sole funding source.

Concerning the contractor ban, the act eliminates the requirement that the State Elections Enforcement Commission (SEEC) collect and maintain a master list of principals of state and prospective state contractors. "Principals" include certain board members, officers, and other high-ranking employees. The act also (1) expands the ban to cover contractors with state contract solicitations and (2) exempts the Judicial Branch.

The act raises, from 16 to 18, the minimum age for making most political contributions over $30. It decreases, from $100 to $50, the threshold at which individual contributors must certify that they are not a contractor, and additionally requires them to certify that they are not a communicator lobbyist or the immediate family member of such a lobbyist.

It changes the definition of "solicit" to allow a communicator lobbyist or a principal of a state or prospective state contractor to serve as an officer of a candidate or exploratory committee, PAC, or party committee as long as he or she is not its chairperson, treasurer, or deputy treasurer. Under prior law, "solicit" meant serving as any officer of such a committee, among other things.

The act makes several changes to the State Ethics Code, principally to the exception to the ban on gifts for goods and services provided to the state. It allows certain groups of individuals, who were previously banned from doing so, to give gifts to the state. It creates a gift exception for training purposes and allows foundations and alumni associations to give gifts to public higher education institutions or vocational-technical schools.

Finally, the act makes conforming and technical changes.

EFFECTIVE DATE: Upon passage

CONTRIBUTION AND SOLICITATION BANS

The ban on political contributions by state and prospective state contractors is modeled after the ban that applies to investment services firms. In both cases, the law prohibits principals of the contracting or investment firm from making or soliciting political contributions. It likewise prohibits certain public officials, candidates, and their agents from soliciting contributions from these principals. The act makes changes to both bans to make them uniform.

The act expands the investment services ban and the contractor ban to cover principals of corporations that are not publicly traded. The law already covers principals of publicly traded corporations.

It excludes from both bans the minor children of people who are prohibited from making or soliciting contributions. Instead, it limits the bans to dependent children who are at least age 18 and defines "dependent child" as a child who resides in an individual's house and who that individual may legally claim as dependent on his or her federal income tax return. It also excludes from the bans board members of all nonprofit organizations, not only those of nonprofits that are qualified under § 501(c) (3) of the Internal Revenue Code.

The act applies the bans to PACs controlled by a person prohibited from making contributions (e.g., a director or employee with managerial responsibilities). It excludes PACs that are only established on behalf of such an individual. Both bans continue to apply to PACs established directly by anyone prohibited from making contributions. The act also extends the contractor ban to PACs established or controlled by state or prospective state contractors, whether business entities or nonprofit organizations.

By law, an individual may establish an exploratory or candidate committee for his or her own campaign, even if otherwise prohibited from soliciting or making contributions. The act specifies that the bans do not prohibit such an individual from soliciting or making contributions to a town committee or PAC (formed for a single election or primary) that he or she designates as the sole funding source for his or her campaign.

Soliciting Principals of Investment Services Firms and Contractors

By law, the state treasurer, deputy treasurer, candidates for treasurer, members of the Investment Advisory Council, and unclassified employees of the State Treasurer's Office acting on the state treasurer's or deputy treasurer's behalf cannot solicit contributions from principals of investment firms. Similarly, statewide officers, legislators, candidates for these

offices, and their agents cannot solicit contributions from principals of state or prospective state contractors.

The act expands the contractor ban to prohibit statewide officers, legislators, candidates for these offices, and their agents from soliciting anyone they know the law bans from making contributions. Under prior law, this ban covered only the solicitation of principals.

The act also raises the standard for determining when violations occur under both bans by specifying that individuals must knowingly, willfully, or intentionally solicit an improper contribution to be considered in violation. Prior law required only an improper solicitation to occur for an individual to be considered in violation.

State and Prospective State Contractors and their Principals

The law bans principals of state contractors, prospective state contractors, and prequalified contractors from making or soliciting contributions to or on behalf of (1) exploratory or candidate committees for statewide or legislative office candidates, (2) PACs authorized to make contributions to or spend on behalf of candidates for statewide or legislative office, or (3) party committees. For contractors with executive state agency or quasi-public agency contracts or responding to such bid solicitations or request for proposals (RFPs), the ban applies to statewide office candidates. For those with General Assembly contracts or responding to such bid solicitations or RFPs, the ban applies to legislative candidates.

The act expands the ban to cover any contractor with a state contract solicitation. Under the act, a "state contract solicitation" means a request by a state or quasi-public agency, in whatever form issued, including an invitation to bid, requests for information or quotes, or inviting quotes or other submittals. The ban continues to cover RFPs and bid solicitations and remains applicable to statewide office or legislative candidates, depending on the contracting agency. The definition includes requests made within or outside the competitive procurement process as authorized by law.

Judicial Branch

The act exempts the Judicial Branch from the definition of state agency. Since state contract means, among other things, an agreement or contract with a state agency, the act thereby exempts Judicial Branch candidates (i.e., probate judges) and contractors from the contractor contribution and solicitation ban.

Determining Violations and Imposing Penalties

The act authorizes the SEEC to determine when mitigating circumstances exist concerning a contractor ban violation. If the SEEC makes such a determination, the contracting agency cannot void the existing contract, as under prior law, nor can it automatically deny the contractor a new state contract or an extension or amendment to an existing contract, whichever is applicable, for one year after the election during which the improper contribution was made or solicited. The act does not specify the activities or actions that constitute "mitigating circumstances."

Under the act, no violation occurs if a committee treasurer returns an improper contribution to the principal (1) within 30 days after receiving it or (2) by the campaign finance filing date for the reporting period in which the contribution is made, whichever is later.

The act requires contractors to make reasonable efforts to comply with the ban. If the SEEC determines that one has failed to do so, it may impose a civil penalty of up to $2,000 per offense or twice the amount of any improper contribution, whichever is greater.

Notice Requirements

The act alters the process for notifying contractors of the contribution and solicitation ban and the penalties for violating it. Specifically, it:

1. requires the SEEC to draft and make available to state and quasi-public agencies a notice advising contractors of the contribution and solicitation ban;
2. specifies language that must appear in the notice;
3. requires each state and quasi-public agency to distribute the notice to the chief executive officer, or an authorized signatory, of its contractors and prospective contractors and obtain written acknowledgement of receipt; and
4. removes a requirement that each prospective state contractor's chief executive officer certify in a sworn statement that none of the company's principals will make or solicit a prohibited contribution.

Under prior law, each agency prepared the notice and included it in its bid solicitations, RFPs, or prequalification certificates, whichever was applicable.

The notice must contain language advising contractors and prospective contractors of the prohibitions under the ban and direct them to inform their principals of the same. It must also advise the contractors that:

1. civil and criminal penalties exist for violating the prohibitions and what they are;
2. in the case of a state contractor, the contract may be voided;
3. in the case of a prospective state contractor, the company will not be awarded the contract described in a state contract solicitation unless the SEEC determines mitigating circumstances exist; and
4. the state will not award any other contract to anyone the SEEC finds violates the prohibition, unless mitigating circumstances exist, for a period of one year after the election during which the improper contribution was made or solicited.

List of Contractors and Prospective Contractors

The act eliminates the requirement that the SEEC collect and maintain a master list of principals of state and prospective state contractors. But the SEEC must continue to maintain a list of contractors and prospective state contractors.

For state and quasi-public agencies, the act expands the reporting requirement by requiring them to provide the SEEC with any state contract solicitations, in addition to prequalification certificates, they issue. Under prior law, they reported only bid solicitations, RFPs, and prequalification certificates.

The act extends, from July 1, 2006 to within 30 days after its passage, the deadline by which state and quasi-public agencies must submit to the SEEC a list of the (1) names of the state and prospective state contractors with which they have or could have a contract and (2) state contract solicitations or prequalification certificates they issued. It similarly extends, from December 31, 2006 to within 60 days after its passage, the deadline by which the SEEC must compile the master list, publish that list on its website, and provide copies to campaign treasurers upon request.

The act requires the SEEC to update the master list every month rather than every three months. By law, agencies must already submit monthly updates indicating any changes. The act specifies that they must make those submissions by the 15th of each month. It also removes an agency's authority to transfer to the SEEC its responsibility for compiling an initial list and keeping it current.

Finally, the act removes a protection that campaign treasurers who rely on the list in good faith have a complete defense in any action against them for illegally depositing contributions.

Definitions

In addition to those mentioned above, the act changes several other definitions. It specifies that a "state contract" may be let through a procurement process or otherwise, and changes from fiscal to calendar year the period during which the contract's value is counted to determine whether it meets the minimum dollar threshold ($50,000 for one and $100,000 for a series). It also specifies that a "state contract" does not include an agreement or contract paid for entirely with federal funds, a student loan, or a loan to an individual that is not for commercial purposes.

Under prior law, a state contract meant an agreement or contract for, among other things, the rendition of personal services. The act changes this provision to the "rendition of services," which means delivering any service to a state or quasi-public agency in exchange for a fee, remuneration, or compensation from the state through an arrangement. The act also specifies that a contract may furnish "goods" or "items of any kind," in addition to materials, supplies, and equipment as under prior law.

Under the act, a "state contractor" retains that designation until December 31 of the year in which the contract terminates, not just until the termination date as under prior law. The act exempts from the definition, entities or associations that municipalities or political subdivisions of the state create among themselves to further any purpose authorized by statute or charter. It makes the same change to the definition of "prospective state contractor."

If a contractor does not have a chief executive officer, then an officer who has comparable duties and responsibilities is considered a "principal of a state or prospective state contractor" under the act. The act also adds to this definition an officer, not just an employee, who has managerial or discretionary responsibilities with respect to the contract. It defines "managerial or discretionary responsibilities with respect to a state contract" as having direct, extensive, and substantive responsibilities with respect to the negotiation of the contract; not peripheral, clerical, or ministerial responsibilities.

CAMPAIGN CONTRIBUTIONS FROM MINORS

The act increases, from 16 to 18, the minimum age for making a contribution over $30 to:

1. a candidate or committee formed to support or oppose a candidate for nomination or election to office,
2. an exploratory committee, or
3. a PAC or party committee in a calendar year.

Under the act, as under prior law, violators of these provisions are exempt from SEEC penalties.

CONTRIBUTOR CERTIFICATION

Under prior law, individuals who made contributions to certain committees that separately or in the aggregate exceeded $100 certified that they were not a principal of a state or prospective state contractor. The act reduces this amount to $50. It also adds the requirement that such an individual certify that he or she is not a communicator lobbyist or an immediate family member of such a lobbyist.

The committees to which contributors must make this certification are those prohibited from accepting contributions from contractors and lobbyists. They are (1) candidate and exploratory committees for statewide and legislative candidates, (2) PACs authorized to contribute to those candidates, and (3) party committees.

The act requires the SEEC to prepare a sample certification form and make it available to campaign treasurers and contributors. The form must explain the terms "communicator lobbyist" and "principal of a state contractor or principal of a prospective state contractor." Each type of committee referenced above must include in its written solicitation the information contained in the sample form.

The act removes the provision offering a complete defense to a campaign treasurer who deposits a contribution based on a false certification and instead specifies that such a treasurer is not considered in violation of the provision. Under prior law, if a campaign treasurer deposited a contribution based on a false certification and did not know and should not have known that it was false, his or her lack of knowledge was a complete defense in any action for depositing a contribution in violation of the law.

GIFTS TO THE STATE

The act allows certain groups of individuals, who were previously banned from doing so, to give gifts to the state. They are (1) registered lobbyists, (2) people doing or seeking to do business with an agency that employs a public official or state employee, (3) people engaged in activities regulated by the official's or employee's employer, and (4) prequalified contractors.

Under prior law, gifts to the state were goods or services that (1) were for use on state property or to support an event or a public official's or state employee's participation at an event and (2) facilitated state action or functions.

The act makes several changes to the law on gifts to the state. It:

1. makes the law applicable to gifts to a "state agency" rather than the "state," a term not currently defined in the ethics code;
2. defines a "state agency" as any executive, judicial, or legislative office, department, board, council, commission, institution, vocational-technical school, constituent unit of higher education, or other agency;
3. expands the law to include gifts provided to quasi-public agencies for the same purposes as gifts to state agencies;
4. removes as an acceptable gift under the law goods and services that support a public official's or state employee's participation at an event; and
5. expands the acceptable gifts under the law to include goods and services provided for use on property leased to a legislative agency.

Prior law covered only goods and services to be used on leased executive and judicial agency property.

The act also specifies that nothing in the ethics code prohibits anyone from making gifts to the state or donating the use of facilities to assist state or quasi-public agency functions or actions.

GIFTS TO THE STATE AND STATE CONTRACTS

The act prohibits certain people from providing or directing someone else to provide information on a gift to a state agency or quasi-public agency, the agency's procurement staff, or a member of a bid selection committee. The ban applies only if the person providing the information does so intentionally to unduly influence the award of a state contract. The ban applies to prequalified contractors, large state construction or procurement contractors, consultants on state contracts, and people seeking those positions with a state agency, board, commission, or institution or a quasi-public agency. A state agency, board, commission, or institution or a quasi-public agency may deem violators to be nonresponsible bidders and thus, ineligible to win a contract.

GIFT EXCEPTION FOR TRAINING

The act allows public officials and state employees to accept training from a vendor after a state or quasi-public agency purchases a product if the training is offered to all of the vendor's customers. Under prior law, the training would constitute a gift to the recipients and as such, could not exceed $10 in value.

GIFTS FROM FOUNDATIONS AND ALUMNI ASSOCIATIONS

The act specifies that alumni associations and foundations established for the benefit of public higher education institutions or public vocational-technical schools are not doing, or seeking to do, business with those institutions or schools for purposes of the State Ethics Code. This means that they can give gifts to the institutions and schools without violating the ethics code.

BACKGROUND

Ethics Advisory Opinion

In a 2006 advisory opinion (2006-3), the Office of State Ethics' Citizen's Ethics Advisory Board concluded that goods and services provided to the state, other than necessary expenses for public officials' and state employees' active participation in an event, cannot be accepted from regulated donors. The board uses the term "regulated donors" to refer to (1) registered lobbyists, (2) people doing or seeking to do business with the agency that employs the official or employee, (3) people engaged in activities regulated by the official's or employee's employer, and (4) prequalified contractors.

PA 07-132—sSB 1184
Government Administration and Elections Committee

AN ACT CONCERNING THE PRESIDENTIAL PREFERENCE PRIMARY

SUMMARY: This act changes the date of Connecticut's presidential preference primary from the first Tuesday in March to the first Tuesday in February. It makes conforming changes by increasing the number of days before the presidential preference primary when:

1. the secretary of the state must announce publicly the list of candidates whose names will appear on the ballot (from 74 to 78 days);
2. a candidate may ask the secretary to remove his or her name from the ballot (from 36 to 40 days);
3. petitioning candidates may begin circulating nominating petitions and must file them with the registrar of voters (from 74 to 78 days and 46 to 50 days, respectively); and
4. registrars must verify the signatures and forward the petitions to the secretary (from 42 to 46 days).

The act also changes, from 4 p.m. to 12 p.m., the time of day on the deadline by which a candidate who wants the secretary to remove his or her name from the ballot must submit a written request. As noted above, this deadline is 40 days, rather than 36 days, before the primary.

It removes a requirement that the secretary provide petitioning candidates with the number of petition pages that would allow them to collect at least twice the number of required signatures. By law, a candidate must obtain the signatures of at least 1% of enrolled party members in the state for his or her name to appear on the ballot. Under the act, the secretary must provide one petition page suitable for duplication, unless a candidate is indigent. In that case she must provide the candidate with the number of pages the person requests or she thinks is sufficient.

The act removes an obsolete provision concerning lever voting machines.

EFFECTIVE DATE: Upon passage

PA 07-194—sSB 1311
Government Administration and Elections Committee
Appropriations Committee
Planning and Development Committee

AN ACT CONCERNING THE INTEGRITY AND SECURITY OF THE VOTING PROCESS

SUMMARY: This act requires registrars of voters to randomly audit votes after any election or primary; permits expanded audits when discrepancies are found; and permits the secretary of the state to adopt regulations to implement random, manual auditing and establish guidelines for expanded audits when there are differences between manual and machine counts.

The act requires a recount when there is a discrepancy in the votes for a federal, state, or local office that could affect the outcome of the election or primary.

It gives candidates or electors the right to file a complaint in response to an audit within seven days after the audit closes. It does not preclude them from seeking additional remedies.

The act makes changes to state election laws affecting voter registration, nominations and certifications, election officials, voting methods, election procedures, and minor parties.

It generally makes registrars of voters responsible for conducting elections by removing duties from other municipal officials, particularly town clerks. It also eliminates a requirement for registrars to be stationed at the polling place during polling hours.

The act allows the secretary of the state to bind engrossed acts after each session of the General Assembly in suitable volumes, rather than requiring her to bind them into one volume. It also requires the

secretary to establish a code of ethics for poll workers and authorizes her to establish two training programs: one on ethics and the other on polling-place accessibility for people with disabilities.

It establishes a new procedure for resolving a tie vote in a primary for state and local office.

It adds a notice requirement for minor party meetings held to nominate candidates and requires certain minor parties to file their party rules with the secretary of the state.

The act repeals the statute concerning damaged voting machines whereby the registrars of voters either replaced such a machine or authorized the use of emergency paper ballots.

Finally, the act makes several procedural, conforming, and technical changes, including those that reflect the change from lever voting machines to optical scan voting tabulators.

EFFECTIVE DATE: Upon passage, except the provisions addressing (1) cross endorsement, (2) challenge ballots, (3) registrars' duties, (4) optical scan voting machines and election procedures, (5) paper ballot elections, (6) the political activities of individuals who change their party affiliation or apply for transfer or removal from a party's list, (7) bona fide residence, (8) minor party notice requirements, and (9) a tie vote in a primary, which are effective October 1, 2007.

§§ 1 & 6 — RANDOM AUDITS

The act requires the registrars of voters to conduct a manual audit of at least 10% of the state's voting districts, selected through a random drawing. The registrars must give advance notice of the audit and conduct it between the 15th day after any federal, state, or local election or primary and the second business day before the canvass of votes. The audit must be open for public observation.

The canvass deadlines differ for various offices and are prescribed by law as Table 1 shows.

Table 1: Canvass Deadlines By Office

Office	*Canvass Deadline*	*CGS §*
Federal office	The last Wednesday of November	9-315
Statewide office	Within 30 days of the election	9-318
Legislator and judge of probate	During the month of November	9-319
Municipal office	Within 10 days after the election	9-320

The act requires municipalities to compensate election officials who administer or conduct the audits at the standard rate of pay established for elections or primaries, as appropriate. For the 2007 municipal election, it permits the secretary of the state to use Help America Vote Act (HAVA) funds, to the extent allowed under federal law, to reimburse the municipalities up to the standard rate of pay for each poll worker assisting in each audit.

Selecting the Districts to Audit

The act requires the secretary of the state to select the districts subject to the audit at a random drawing that is open to the public. The elective offices subject to the audit in the selected districts are:

1. in a presidential or gubernatorial election, all offices required to be audited by federal law, plus one additional office selected in a random drawing by the secretary of the state, but in no case fewer than three offices;
2. in a municipal election, three offices or 20% of the offices on the ballot, whichever is greater, selected at random by the town clerk; and
3. in a primary election, all offices required to be audited by federal law, plus one additional office, if any, but at least 20% of the offices on the ballot, selected in a random drawing by the town clerk.

If a selected district has an office that is subject to recanvass (recount) or an election or primary contest, the secretary must select an alternate district following the same selection process.

Conducting the Audit and Audit Report

The audit consists of a manual tally of the paper ballots cast and counted by each voting machine subject to the audit. The registrars must carefully preserve the individual paper ballots used at an election or primary and return them in their designated receptacle in accordance with the law. This means the ballots must be returned to the ballot box, securely sealed, and locked. The secretary of the state has access to the code in any voting machine whenever any problem is discovered as a result of the audit.

The registrars must compare their results to those reported by the machine. The registrars must report the audit results on a form prescribed by the secretary of the state that includes the total number of ballots counted, the total votes each candidate for the audited offices received, and the total number of votes broken down by whether the ballot was properly completed. For the purpose of the act, a ballot is not properly completed if (1) the voter marks outside the vote targets; (2) the voter uses a manual marking device that the voting system cannot read; or (3) in the registrars' judgment, the voter marked the ballot in a way that the voting machine may not have read the mark as a vote.

The registrars must file the report with the secretary, who must immediately forward it to the University of Connecticut (UConn) for analysis. The university must describe any discrepancies it finds in a written report to the secretary. The secretary must file the report with the State Elections Enforcement Commission (SEEC).

The audit report is open to public inspection and may be used as prima facie evidence (1) of a discrepancy in any challenge to the conduct of an election or (2) for any other cause of action arising from the election or primary. No audit precludes or inhibits a candidate's or elector's right to contest an election or primary, or to file a complaint.

Expanded Audits

The act requires the secretary of the state to have a machine examined and recertified if the (1) UConn report indicates that a system failed to record votes accurately and in the manner provided by law or (2) registrars are unable to reconcile any discrepancies between their manual count and the electronic tabulation. The act specifies that it does not prohibit the secretary from requiring a machine to be examined or recertified. Any recertification resulting from audit discrepancies must be preceded by an investigation of the voting machine. The secretary or her designee conducts the examination and recertification. The secretary must file a report of any investigation conducted to determine whether to order a machine examined or recertified with SEEC, which may initiate additional investigations to determine any election law violations.

§ 1— RECOUNTS IN THE CASE OF DISCREPANCIES

The act requires the secretary to order a recount if there is a (1) discrepancy in the votes for a federal, state, or local office that could affect the outcome of the election or primary and (2) difference between the machine and manual counts greater than 0.5% that cannot be resolved by adding or subtracting ballots that were not properly marked. However, if the secretary of the state is a candidate on the ballot that is subject to an audit, the SEEC must order the recount. Under existing law and the act, election moderators may recount results within three days after an election if it appears that there is a discrepancy in the returns.

§ 1 — MACHINE AUDITS

By law, voting machines must be locked for 14 days after an election or primary unless a court or SEEC orders them locked for a longer period. Similarly, the act allows them to be locked for a longer period when the secretary of the state orders it. It permits either the court or the secretary to designate someone to audit the machines, except during a recanvass when only SEEC may order an audit. If the machines are optical scan voting systems, any order to lock them includes the tabulator, memory card, and all other components and processes used to program them.

§7 — AGREEMENTS WITH UCONN OR OTHER STATE UNIVERSITIES ON VOTING

The act permits the secretary to enter into an agreement with UConn or a member of the Connecticut State University System, solely or with others, to:

1. complete any technical review, testing, or research associated with certifying or decertifying voting equipment;
2. develop standards for using voting equipment during any election, primary, or referenda;
3. develop standards to ensure the (a) accuracy of voting equipment and (b) accuracy and reliability of recanvass procedures;
4. develop standards and procedures for (a) securing, setting-up, and storing voting equipment; (b) testing, securing, and using an election management system; and (c) programming ballots and voting equipment;
5. develop standards, procedures, and oversight of post-election audits;
6. research and analyze data formats for programming ballots and election-related electronic data; and
7. develop any other standards necessary to protect the integrity of voting equipment.

§§ 8 & 11 — CENTRALIZED VOTER REGISTRATION SYSTEM (CVRS)

The act changes registrars of voters' reporting requirements with respect to voter registration statistics because of the CVRS. It removes a requirement for them to submit to the secretary of the state the total number of electors, affiliated electors for each party, and unaffiliated electors on the active and inactive registry lists. Instead, it requires the secretary to issue a report based on the same information the registrars report on the CVRS within one week after the last voter registration session before an election. The secretary must continue to omit electors who died and include those who registered to vote since the last-completed registry list.

The act also requires registrars to update voter history on the CVRS promptly after each election or primary, indicating whether eligible voters voted and, if so, whether in person or by absentee ballot.

NOMINATIONS

§ 12 — Minor Parties

The act requires minor parties nominating candidates for elective office to make the nominations and certify the list of candidates by the 62nd, rather than the 55th, day before the election. It also requires minor parties to file nominations for single-town district legislative candidates and probate judges with the secretary of the state, instead of the town clerk. The law already requires them to file nominations for state and multi-town district legislative candidates with the secretary.

§ 13 — Vacancies

The act changes the period of time during which political parties may fill vacancies for nominated candidates before an election. Under prior law, a primary could be held if a candidate withdrew or became disqualified to hold office up to 10 days before the election. The act extends this period to 24 days before an election. The act requires vacancy nominations to be certified with the secretary or town clerk by the 21st, rather than the 7th, day before the election. (The law requires state and district office candidates, including all candidates for state senator or state representative, to file with the secretary. Other municipal office candidates file with their town clerk.)

Similarly, under prior law, if a candidate died between 10 days and 24 hours before an election, the party could fill the vacancy. The act extends this period to between 24 days and 24 hours beforehand. By law, if a candidate dies within 24 hours of an election, his or her name remains on the ballot. If the candidate wins, a vacancy exists in the office and the party fills it in the manner prescribed by law.

§ 15 — Noticing Municipal Candidate Endorsements for Primaries

The act establishes an earlier deadline for town clerks to publish notice of candidate endorsements for municipal primaries held during state election years (for legislative candidates in single-town districts). Under prior law, the deadline for parties to endorse municipal office candidates and town committee members was the same day that petitions are available, the 49th day before the primary, thereby precluding would-be candidates from petitioning onto the ballot.

During any state election year, the act requires town clerks to notice the candidate endorsements by the 76th day preceding the primary to allow candidates time to circulate petitions. The notice must indicate that party endorsements can be made for the primary and that a list of endorsed candidates will be on file in the clerk's office after that occurs. Prior law required a clerk who did not receive a party endorsement by the specified deadline to publish this information in the notice. Given the earlier schedule, the act specifies that this requirement does not apply.

§ 16 — Cross-Endorsements

Prior law prohibited a nominated major or minor party candidate from appearing on the ballot as a petitioning candidate for the same office. The act lifts this prohibition under certain circumstances. Under the act, a party that has not attained minor party status for the office in question, but has for at least one other office on that ballot, may cross-endorse a nominated major or minor party candidate by petitioning that candidate's name onto the ballot.

ELECTION OFFICIALS

The act makes changes to the number of election officials and other individuals who may be lawfully present at a polling place during voting hours. It accomplishes this by (1) requiring the secretary of the state to appoint election and primary day polling place observers under certain circumstances, (2) giving the registrars of voters the option to appoint one or two individuals for certain positions, and (3) authorizing registrars to appoint additional election officials.

Table 2 shows the changes to the number of election officials and other individuals who may be present at a polling place under prior law and the act.

Table 2: Changes To The Number Of Election Officials And Other Individuals Allowed At Polling Places

Position	*Required Number Under Prior Law*	*Permissible Number Under the Act*
Official checkers	2	1 or 2
Ballot clerks †	2	1 or 2
Ballot clerks	N/A	1 or 2
Voting tabulator tenders (voting machine tenders under prior law)*	2	1 or 2
Booth tenders	2	1 or 2
Box tenders †	1	1 or 2
Substitute box tenders †	1 or 2	none
Election and primary day polling place observers	N/A	Unspecified
Additional election officials, as needed	N/A	As both registrars deem appropriate

N/A means not applicable.
† Applies to paper ballot elections
*Applies when the registrars determine there is a need for an additional line of electors

With respect to election officials, the act also:

1. eliminates the requirement that the two ballot clerks be from different political parties;
2. replaces voting machine tenders with voting tabulator tenders;
3. prohibits an election official from appearing at any political party's headquarters before 8:00 p.m. on Election Day; and
4. allows a municipality with more than one voting district to hire poll workers who do not reside there, as long as they are state electors (it retains the in-town residency requirement for poll workers, other than voting tabulator technicians, for single-town districts).

In addition, the act prohibits candidates from serving as election officials or at the polls on Election Day in any capacity, other than incumbents running for town clerk or registrar of voters who may perform their official duties. For purposes of this ban, it specifies that appointed head moderators, central counting moderators, absentee ballot counters, and voting tabulator technicians are considered election officials.

§ 9 — Polling Place Observers and Additional Election Officials

The act authorizes the registrars of voters to appoint additional election officials on the day of a primary or election, or any day thereafter, if they both agree it is necessary (1) because a poll worker is unable to serve, (2) to accommodate the public, or (3) to improve a primary's or election's administration. If they do, they must file their reasons with the town clerk.

In addition, the act establishes election and primary day polling place observers and specifies that they must be state electors. It requires the secretary of the state, upon receiving a written request from a certified candidate in any election or primary and after consultation with the registrars of voters, to appoint the observers. The written request must be received no later than 30 days before the election or primary.

One polling place observer must be allowed to accompany and observe the moderator, without limitation. During a primary or election, the observers must record the names and other identifying information of individuals involved in any voting irregularities or violations and report this information to the secretary of the state or her designee. The secretary must forward the observers' information, together with the names of the candidates who appear on the ballot, to the SEEC. The observers also must immediately report to the secretary, or her designee, when the irregularity or violation involves someone prohibited from voting. The secretary must (1) inform the relevant registrar of voters and the moderator and (2) require immediate and appropriate corrective action.

The act requires the secretary to establish duties and responsibilities, and a curriculum, training program, and certification process for the observers. The training program and certification process must cover (1) procedures for counting and recording absentee ballots, (2) voting machines, (3) voting when a name does not appear on a voting list, and (4) the moderator's duties. The secretary may adopt regulations to administer the program.

Under the act, the secretary assigns each polling place observer to a specific polling place or places. The observers can enter and leave their assigned polling places freely during an election or primary. However, the moderator has the ability to remove any observer who disrupts the voting process. An observer who willfully, knowingly, or recklessly interferes with the orderly process of voting is subject to a penalty of up to five years imprisonment. The act prohibits a candidate and his or her immediate family members from being observers at a polling place where the candidate's name may appear on the ballot.

§§ 18-19, 21-24, 27-33, & 40 — Registrars of Voters

The act generally makes registrars of voters responsible for conducting elections by removing several responsibilities from town clerks and, in some cases, boards of selectmen or other municipal officials. For example, it makes the registrars, or assistant registrars, responsible for:

1. disseminating the necessary supplies to the moderator the day before an election, including the official checklist, the Moderator's Return, and keys for each voting tabulator that will be used;
2. determining if an additional line for electors is needed at a polling place;
3. establishing two shifts of election officials for polling places;
4. authorizing the use of paper ballots in an election when there are insufficient voting tabulators;
5. providing necessary items for a paper ballot election, including (a) the ballot box, lock, and keys; (b) a location and voting booths; and (c) an additional box for voting stubs;
6. receiving the moderators' returns, together with the voting tabulator keys, after the polls close; and
7. ensuring that the voting tabulators remain locked for 14 days following an election, unless a court or the SEEC orders them open.

The act eliminates a requirement for registrars to be stationed at the polling place during polling hours. If they are at the polling place, it requires them to (1) be

available by telephone and notify all registrars of voters' offices in the state of their phone number, (2) be connected to the CVRS, and (3) have all voter-card files in the polling place for reference.

The act also eliminates references to towns that have a pair of registrars for each voting district. It is unclear how this would affect a town that has registrars for each district.

§ 10 — Town Clerks

By law, town clerks must file nominating petitions with the secretary of the state within two weeks after receiving them. The act establishes a $50 late fee for town clerks who fail to file these petitions on time.

§ 39 — Absentee Ballot Counters and Moderators

The law requires individuals who are appointed to count absentee ballots to participate in a training session. For municipalities with both an absentee ballot moderator and a polling place moderator, the act specifies that the absentee moderator participates in the training session during which the registrars and the moderator review the instructional manual that the secretary of the state provides. It also eliminates a requirement for town clerks to participate.

§ 9 — Training on the Code of Ethics and Accessibility for People with Disabilities

The act requires the secretary of the state to establish a code of ethics by September 1, 2007 for polling place observers, registrars of voters, and poll workers. The code must be conspicuously posted in each polling place and in registrars of voters' offices.

In addition, the act authorizes the secretary to establish two training programs: one on the code of ethics and another on polling-place accessibility for people with disabilities.

VOTING METHODS AND ELECTION PROCEDURES

§§ 18-21, 23-27, 36-38, & 40 — Voting Tabulators

The act makes several technical and procedural changes to reflect the change from lever voting machines to optical scan voting tabulators. For example, it eliminates provisions requiring:

1. three sets of ballot labels for each voting machine;
2. separate voting booths at primaries where unaffiliated voters are authorized to vote for some, but not all, of the offices and thus cast partial ballots; and
3. a paper roll for write-in votes in a regular election and a depository envelope entitled "Write-in Ballots," since voting tabulators' regular ballots have a space for write-in candidates.

The act also changes polling place configuration in light of the new voting tabulators. It changes the required number of voting tabulators (voting machines under prior law) for each polling place from one that is based on the number of registered voters to one that the secretary of the state approves. It (1) eliminates a requirement for railings to separate the election officials and voting machines ("voting area") from the rest of the polling place; (2) places the table for ballot clerks at least four feet from the voting tabulator, rather than beside the entrance to the voting machine, and makes the clerks responsible for electors submitting their ballots properly; and (3) allows more than one elector to be in the voting area at a time (since polling places have multiple voting booths).

In addition, the act prohibits the use of voting machines that the secretary of the state determines do not comply with the voluntary performance and test standards for voting systems that the Election Assistance Commission (EAC) adopts pursuant to HAVA. This prohibition may effectively ban the use of lever voting machines in this state (see BACKGROUND).

§§ 23, 27, & 36 — Moderator's Duties

The law requires moderators and other election officials to examine the voting machines before the polls open and canvass the votes after they close. With respect to these duties, the act eliminates most procedures associated with lever voting machines and replaces them with procedures for optical scan voting tabulators. For example, the act:

1. requires the moderator and registrars or assistant registrars of voters to examine the number on the seal of the tabulator and indicate on the moderator's return the tabulator's delivery and the number on its seal before the polls open;
2. requires the moderator and the registrars or assistant registrars of voters to produce a zero tape indicating the counter is set at zero before the polls open;
3. specifies that the tabulator's seal must remain unbroken but that if it breaks, the registrars of voters must be notified immediately and the tabulator tape must be produced;
4. bans the use of a tabulator if its tape does not show all zeros; and

5. requires the moderator to seal the tabulator after the canvass of the vote, place it in a tabulator bag, and seal the bag.

In addition, the act increases, from at least two to three, the number of election officials who must meet before opening the polls to examine the numbers on the seal of the tabulator (formerly the voting machine's seal, protective counter, and envelope containing the keys). Under prior law, one election official from each of two political parties had to be present. Under the act, the moderator and either the registrars or the assistant registrars must be present.

In addition, the act reduces from three to one the number of sample ballots and accompanying instructions moderators must post in polling places. Since voting tabulators' regular ballots are paper, it eliminates the requirement for moderators to receive before an election extra paper ballots for use by certain voters with disabilities or because a voting machine is damaged.

It eliminates a requirement that checkers certify on the moderator's return the total number of votes cast for each office, nominated candidate, and write-in candidate. It retains the requirement for the registrars or assistant registrars of voters, whichever is applicable, and the moderator.

Finally, the act eliminates the requirement for moderators to produce a duplicate return and the reference to a storage compartment for the duplicate at the back of the voting machine. It requires moderators to file their original returns with the registrars of voters, rather than the town clerk.

§ 24 — Voter Instruction

If an individual asks for instruction on how to vote after entering the voting machine, prior law required two election officials from different political parties to provide it while standing outside the machine. The act lifts the requirement for officials from different parties to provide the instruction. It specifies that an official who provides instruction may not look at the ballot in such a way so as to see the voter's ballot markings.

§ 17 — Challenge Ballot

The act changes the procedure election officials must follow when an elector votes by challenge ballot. By law, individuals may vote by challenge ballot when their names appear on the registry list but someone challenges their qualifications to vote.

Under prior law, official checkers crossed off the voter registry list the names of people voting by challenge ballot and added them, together with their addresses, to the end of the list with the designation "Challenged Ballot" and a serial number. The act eliminates the requirement for checkers to cross the voter's name off the list. Instead, it requires the registrars of voters or their assistants to write in front of the voter's name in red ink "CB."

The act also requires challenge ballots to be regular, not absentee, ballots that a voter casts and delivers to the head moderator in a serially-numbered envelope. The act eliminates the requirement for the secretary of the state to prescribe, and the town clerks to provide, the larger envelope in which each voter's individual envelope is stored. It instead specifies that the registrars of voters provide the envelope that holds the individual envelopes. Finally, it requires the head moderator to file those envelopes with the town clerk and the town clerk to retain them until they may be destroyed, which by law is 180 days after the election.

§ 24 — Incapacitated Elector

The act authorizes the registrars or assistant registrars of voters to bring a ballot to an elector who requests one because he or she becomes temporarily incapacitated at the polling place. The registrar or assistant registrar must take the ballot together with a privacy sleeve to the elector and allow that person to mark the ballot, in private, after he or she shows appropriate identification. The elector must place the ballot in the privacy sleeve. The election officials must indicate on the official voter list that the elector voted, deliver the privacy sleeve to the voting tabulator, and insert the ballot. The act requires the moderator to keep a record of the incident in his or her diary.

§§ 28-34 — Paper Ballot Elections

In addition to making the registrars of voters, not the board of selectmen, responsible for an election that uses paper ballots due to insufficient voting tabulators, the act specifies that the municipality must cover associated costs including the room, booths, ballot boxes, and their locks and keys. It makes it illegal to tamper with votes in the ballot box at any point after such an election, not just for 180 days. By law, a person who is guilty of tampering with such votes is subject to a penalty of up to $500, between six months and two years imprisonment, and disenfranchisement. The act also removes a $500 maximum penalty against a candidate who acts as a moderator or box tender, or counts ballots, in an election when paper ballots are used.

§ 22 — Two Shifts of Election Officials

If the registrars or assistant registrars establish a second shift of election officials, the act specifies that all of the second shift's members, but none of the first's, must remain until the polls close and the paperwork is

complete. Prior law required the members of both shifts who sign returns at the end of the night to remain.

VOTER REGISTRATION

§ 41 – Bona Fide Resident

By law, citizens must be bona fide residents of the town in which they apply to vote in order to be admitted as electors. The act specifies that for voter registration purposes, individuals are "bona fide" residents if their dwelling unit is located within the boundaries of the town in which they apply for admission.

§ 42 — Late Mail-In Voter Registration Applications

The act allows registrars of voters to contact, by telephone or mail, people whose mail-in voter registration applications are not received by the deadline for admission to vote in the next election or primary. Under the act, registrars may notify such people of the later deadline for applying in person. By law, an applicant may be eligible to vote by applying in person up to seven days before an election or, with one exception, 12:00 p.m. on the last business day before a primary (see BACKGROUND). The law prohibits an affiliated voter who erases his or her name from one party's registration list or transfers to another's during the three months preceding a primary from voting for any party's candidate in that primary.

§ 43 — Changing Political Party Status

The act restricts the permissible political activities of individuals who (1) transfer from one political party to another or (2) apply for transfer or removal from a party's enrollment list. For a period of three months after transferring or making an application for removal, it prohibits such individuals from participating in any party's caucus or primary. It also bans them from (1) appointing members to any political board or commission or (2) accepting such an appointment. The law, unchanged by the act, specifies that these individuals are not entitled to the privileges accompanying party enrollment in any political party during the three-month period; it specifically prohibits voting in a party's caucus or primary.

§§ 44 & 45 — MINOR PARTIES

The act adds a publication requirement for minor party meetings held to nominate candidates for public office in addition to the notice the party must give to the secretary of the state or the town clerk, depending on the office, under existing law. It requires the presiding officer to publish a notice, at least five days before the meeting, in a general circulation newspaper serving the municipality for the office.

It also requires any minor party that changed its party designation with the secretary of the state on or before January 1, 1988 to file a copy of its party rules regulating (1) candidate nominations and (2) the selection of town committee members and convention delegates. A minor party subject to this requirement must submit to the secretary the applicable rules within 60 days after the act's passage.

The law already requires minor parties to submit these rules, but only (1) to have a candidate's name appear on the general election ballot or (2) for their selection of town committee members and convention delegates to be valid.

§ 46 — TIE VOTE IN A PRIMARY

The act changes the procedure for resolving a tie vote in a primary between (1) two or more candidates for statewide, legislative, or municipal office or town committee, or (2) slates of candidates for justice of the peace. If any such candidates or slates of candidates tied in a primary under prior law, the secretary of the state or registrar of voters, depending on the office, chose the nominee by drawing lots. Under the act, the primary stands adjourned and a run-off primary between the candidates or slates of candidates who tied is held three weeks later.

The run-off primary must be conducted in the same manner, and begin at the same hour, as the first primary. The act requires the ballot labels for the run-off to be in the same format as the original ballot labels, listing every candidate's name (even though only the candidates who tied may be voted on). For offices with multiple openings, however, it specifies that only the names' of candidates who tied may be listed.

The act requires the town clerk for any municipality in which the run-off will occur to immediately after the first primary provide the secretary of the state with (1) ballot labels and (2) an accurate list of the candidates who tied and will be voted on. The clerk must also publish notice of the run-off at least three days before, providing its day, hours, place, and purpose, in a general circulation newspaper serving the municipality.

Under the act, the run-off primary is not held if all but one of the candidates die, withdraw, or become disqualified to hold office. In that case, the remaining candidate becomes the party's lawful nominee and the secretary of the state immediately notifies the town clerk in any municipality where the run-off would have occurred that it is no longer necessary. A candidate who withdraws from the run-off must file a signed letter with the secretary or town clerk, depending on the office, in order for the withdrawal to be valid. The act requires single-town district legislative candidates to file their letter of withdrawal with the clerk even though the law

requires them to submit their filings to the secretary of the state.

If the run-off primary results in a tie, the secretary of the state or the registrar of voters, depending on the office, must choose the nominee by drawing lots, following the procedure under prior law for resolving a tied primary. Afterwards, he or she must certify the dissolution of the tie and the winning candidate or slate of candidates.

BACKGROUND

Use of Lever Machines

Congress passed HAVA in 2002 as a package of federally ordered election improvements. Under HAVA (P.L.107-252, § 301), the technology and administration of every voting system used in federal elections must meet uniform and nondiscriminatory requirements. Beginning January 1, 2006, all voting systems must:

1. produce a permanent paper record for the voting system that can be manually audited and is available as an official record for recounts;
2. provide individuals with disabilities accessibility to voting while maintaining voter privacy and ballot confidentiality;
3. provide alternative language accessibility, as required by the Voting Rights Act of 1965; and
4. comply with the error rate standards in the federal voting system standards in effect on October 29, 2002.

The EAC has concluded that lever voting systems have significant barriers that make HAVA compliance difficult and unlikely (EAC Advisory Opinion 2005-005).

Mail-In Voter Registration Deadlines

By law, a mail-in voter registration application must be postmarked or hand-delivered to the office of the registrars no later than the 14th day before an election or the 5th day before a primary for the applicant to be eligible to vote in the next election or primary, whichever is applicable.

PA 07-201—sSB 145
Government Administration and Elections Committee
Legislative Management Committee
Planning and Development Committee

AN ACT CONCERNING THE FILING OF CERTAIN STATEMENTS OF FINANCIAL INTERESTS AND ESTABLISHING A TASK FORCE TO STUDY THE RECOMMENDATIONS OF THE OFFICE OF STATE ETHICS CONCERNING MUNICIPAL ETHICS

SUMMARY: This act requires certain public officials and state employees to include in their annual statements of financial interests the names of outside employers who provide them with income in excess of $1,000 and a description of the income's source rather than its category or type. It requires those officials and employees required to file a statement on or before May 1, 2007 to file a supplemental statement by August 1, 2007 that states the names of their employers. The Office of State Ethics (OSE) must prescribe the form for the supplemental statement by June 15, 2007 and notify each person subject to the filing requirement of the need to file the supplemental statement.

The act establishes an eight-member task force to study OSE's recommendations for implementing a municipal ethics code. The study must, at a minimum, consist of hearings on OSE's preliminary recommendations included in an October 31, 2006 report to the Government Administration and Elections (GAE) Committee. The task force must report its findings and recommendations to the GAE Committee by January 1, 2009. It terminates on that date or the date it submits the report.

The task force must consist of two members each appointed by the Senate president pro tempore and House speaker and one member each appointed by the Senate and House majority and minority leaders. Legislators may serve as members. The appointing authorities must make their appointments within 30 days after the act's passage.

The Senate president pro tempore and House speaker select the task force's chairpersons from among the members. The chairpersons must schedule the first meeting, which must be held within 60 days after the act's passage. The GAE Committee's administrative staff staffs the task force.

EFFECTIVE DATE: Upon passage

BACKGROUND

Statement of Financial Interest

Certain officials must file a statement of financial interest for the preceding calendar year with OSE annually, by May 1. The law applies to statewide elected officials, legislators, department heads and their deputies, Gaming Policy Board members, the Division of Special Revenue's executive director, quasi-public agency directors and members, Investment Advisory Council members, state marshals, and any executive branch members or quasi-public agency employees the governor specifies.

The statement must generally include information on the business relationships, sources of income, debts, and real estate holdings of the official, his spouse, and any dependent children living in his household.

OSE's Preliminary Recommendations

After researching the regulation of municipal ethics in various other states, OSE issued a report on October 31, 2006 that recommends (1) public hearings on the issue of state regulation of municipal ethics and (2) the office develop a best practices ethics code.

PA 07-213—sSB 1182
Government Administration and Elections Committee
Environment Committee
Appropriations Committee
Energy and Technology Committee
Finance, Revenue and Bonding Committee
Planning and Development Committee

AN ACT CONCERNING ADMINISTRATIVE PROCEDURES OF THE DEPARTMENT OF PUBLIC WORKS, AUDITING OF LARGE CONSTRUCTION CONTRACTS, ENVIRONMENTAL REVIEW OF CERTAIN LAND TRANSFERS, GRANT PAYMENTS TO MUNICIPALITIES, ADVERTISING ON STATE BUILDINGS AND CERTAIN EXEMPTIONS TO THE FREEDOM OF INFORMATION ACT

SUMMARY: This act makes several unrelated changes affecting:

1. state construction and contracts,
2. state real property,
3. the Freedom of Information Act (FOIA),
4. certain state grant payments to municipalities and neighborhood revitalization zones (NRZs), and
5. the comptroller.

Regarding state construction, the act (1) expands the role of the Connecticut Mental Health Center's oversight committee, (2) establishes rotating construction services selection panels for contractors and consultants, and (3) alters the consultant selection process. It authorizes the Department of Public Works (DPW) commissioner to provide New Haven with design and construction services for a tunnel roadway.

With respect to contracts, it increases, from 60 to 90, the number of days the public works commissioner, constituent units of higher education, and the Joint Committee on Legislative Management have to award contracts after they open bids.

Concerning state real property, the act (1) removes the DPW commissioner's 20-year limit on leases of state property to municipalities; (2) establishes a procedure to review proposed sales and transfers of state property to determine if it has significant natural and recreational resources that should be preserved; and (3) specifies to which facilities certain energy and environmental standards apply. It also requires the DPW commissioner to make recommendations to the Government Administration and Elections (GAE) Committee concerning the placement of commercial advertisements on certain state properties.

It exempts from disclosure under FOIA certain documents concerning (1) minors and (2) contract negotiations. It requires state and local agencies, other than the General Assembly, to file their regular meetings agendas with the secretary of the state or appropriate town clerk.

The act authorizes the comptroller to appoint assistant comptrollers as necessary to conduct business. Any assistant comptroller she hires will be in unclassified service and serve at her pleasure.

Finally, the act makes conforming and technical changes.

EFFECTIVE DATE: Upon passage, except the DPW commissioner's authority to contract with consultants is effective July 1, 2007 and the provisions addressing (1) labor and material bonds, (2) the review of state property and the related account, and (3) FOIA are effective October 1, 2007.

CONSTRUCTION AND CONTRACTS §§ 4, 6, 15-21, & 24

Connecticut Mental Health Center

The act expands the role of the committee overseeing the design and construction of the addition to the Connecticut Mental Health Center in New Haven by a nonprofit organization. It requires the committee to:

1. approve all legal and related documents concerning the project's design, construction, and budget;

2. have access to all documents and materials, including project budgets, that the nonprofit organization or any of its agents, contractors, or consultants possess or control;
3. be fully informed of the project's progress by the nonprofit; and
4. meet at least once a month.

The act specifies that the nonprofit organization is solely responsible for selecting design consultants and construction contractors.

Bonds

The act increases the maximum exemption for labor and material bonds on state or municipal construction contracts valued at more than $100,000. Under prior law, contractors and subcontractors did not have to furnish the bond when estimated labor and material costs were $50,000 or less. The act raises the exemption to $100,000 or less. These bonds guarantee payment to labor or material suppliers.

Construction Services Selection Panels

By law, DPW panels review and recommend to the commissioner the most qualified consultants to work on certain state construction and Connecticut Health and Education Facilities Authority (CHEFA) projects. The head of the agency requesting the project and the DPW commissioner appoint the panel members.

Prior law required a panel on all state building construction contracts. The act conforms law to practice by limiting the use of construction services panels to the awarding of consultant services contracts, design-build contracts, and "fast-track" projects.

The act also changes the terms of panel members the DPW commissioner appoints from one year to a single project. Since members serve on a project-by-project basis, it removes the commissioner's authority to fill vacancies. The terms of agency head appointees, unchanged by the act, are likewise a single project.

By law, the commissioner appoints four of the five members on the panel that recommends consultants for state construction projects, three of the five members on the CHEFA panel, and three of the six members on the contractor awards panel.

Consultant Selections by the DPW Commissioner

Under prior law, the DPW commissioner selected consultants to work on state building construction contracts or state programs without going through the competitive bidding process if the (1) consultant fees did not exceed $50,000 or $300,000 in the case of a construction project for a constituent unit of higher education and (2) construction costs did not exceed $500,000 or $2 million in the case of a construction project for a constituent unit of higher education, other than UConn. The act makes the dollar limit for selecting consultants without competitive bidding consistent by setting it at $300,000 for all state programs and removes the limit based on construction costs.

The act changes the process for choosing consultants. As under prior law, the commissioner solicits the consultants. However under the act, the consultants' responses are received by a selection panel that the act establishes. The panel, rather the commissioner, establishes a list of the most qualified consultants. The commissioner can only select consultants from this list. The act requires the panel to consider a consultant's knowledge of the state building and fire codes in determining his or her qualifications. It also specifies the tasks that consultants may perform on state construction projects.

Selection Panel. The act establishes within DPW a separate State Construction Services Selection Panel to recommend consultants for the alteration, repair, or addition to certain real assets. Under the act, the panel consists of five members whom the commissioner appoints. Members must be current employees of DPW or any state agency that contracts for consultant services. Just as it does with construction services panels, the act limits to a single project the terms of panel members the commissioner appoints. The act specifies that the panel is not considered a board or commission.

Consultant Selection and Duties. The act authorizes the DPW commissioner to enter into a contract with any consultant on the list to perform (1) a range of services or (2) tasks pursuant to a task letter detailing the terms of the contract. Any contract the commissioner enters into for services or tasks (when the task letter states the consultant will provide services over $100,000) is subject to approval by the State Properties Review Board (SPRB).

Reviews by the State Properties Review Board. Under prior law, most projects under the state facility plan required SPRB approval if the (1) estimated cost of consultant services was $50,000 or more or (2) construction costs were estimated to exceed $500,000 or $2 million in the case of a constituent unit of higher education, other the UConn, and include consultant services of $20,000 or more.

With respect to the first requirement, the act increases to $100,000 the threshold for the estimated cost of consultant services on projects requiring SPRB approval. It eliminates the second requirement.

New Haven's Tunnel Roadway

The act authorizes the DPW commissioner to provide New Haven with design and construction

services for the design, construction, renovation, repair, or improvement of a municipal tunnel roadway. DPW may only render these services in connection with the construction of Gateway Community College's consolidated campus. Under the act, the commissioner may accept funds from the city to cover the cost of the services and any related administrative costs the state incurs.

STATE REAL PROPERTY §§ 5, 7-8, & 14

Energy and Environmental Building Standards

Prior law required most state facility construction projects approved and funded on or after January 1, 2007 to meet certain energy and environmental standards. The act specifies that the requirement applies to facilities for which the State Bond Commission allocates all bonds on or after January 1, 2007. It also specifies that it does not require the redesign of a facility if it was designed in accordance with the standards and before the implementing regulations are adopted.

By law, the energy and environmental standards apply to new facilities costing $5 million or more, other than school construction projects, salt sheds, parking garages, or maintenance facilities. The standards require state facilities to meet or exceed the silver building rating of the Leadership in Energy and Environmental Design's 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.

Review for Natural and Recreational Resources

This act requires state agencies, departments, and institutions to notify the Council on Environmental Quality, Office of Policy and Management (OPM) secretary, and Department of Environmental Protection (DEP) commissioner before selling or transferring state land. The notices (to be on a form the council approves) must be published for 30 days in the *Environmental Monitor*, allowing the public and other state agencies to submit comments to OPM on the land's significant natural and recreational resources and recommended preservation measures, among other things. The OPM secretary, in consultation with the DEP commissioner, must (1) respond to each comment received and (2) publish the comments and responses in the *Environmental Monitor* for at least 15 days before selling or transferring the land.

The act requires the DEP commissioner to develop a policy for reviewing the notices and making a draft recommendation to OPM as to whether all or a portion of the land or land interest should be preserved by (1) transferring or granting a conservation easement to DEP; (2) imposing restrictions or conditions on the transfer; or (3) transferring all or a portion, or granting a conservation easement, to an appropriate third party. When DEP recommends preserving land using one of the methods described above, it must include a report explaining the basis for its recommendation that includes a natural resource inventory, if appropriate. Following the publication of the initial notice from the agency, department, or institution, DEP's recommendation and its accompanying report must be published in the *Environmental Monitor*, allowing for a 30-day public comment period. The commissioner must (1) respond to each comment, (2) make a final recommendation to the OPM secretary, and (3) publish the public's comments and DEP's responses and final recommendation to OPM in the *Environmental Monitor*.

After the OPM secretary receives DEP's recommendation, he must make a final determination concerning the land. The act requires the secretary's decision to be published in the *Environmental Monitor* for at least 15 days before selling or transferring the land or land interest.

The act states that its provisions concerning the review of state land for natural and recreational resources must not be construed to:

1. affect any (a) purchase or sale agreement between the state and any prospective purchaser in effect before October 1, 2007 or (b) any subsequent sale, transfer, easement, lease, or other agreement made from such a purchase and agreement;
2. apply to General Assembly land conveyances;
3. apply to the sale or transfer of state land between state agencies;
4. apply to any easement granted to a municipality or regulated utility that (a) primarily benefits the state or a state agency or institution, (b) results from a state or federal regulatory process, or (c) is necessitated by the construction or reconstruction of any Department of Transportation (DOT) highway or facility;
5. apply to the sale or transfer of state land that an agency designated as surplus before October 1, 2007, provided the agency complied with the act's provisions concerning the review for natural and recreational resources at the time of the designation;
6. apply to the transfer of 10 acres or less by DOT or the Department of Education;
7. limit state agency or public comments to a particular subject matter;
8. limit the publication of its required notifications, comments, or reports solely to the *Environmental Monitor*; or

9. limit the solicitation of public comments solely to the *Environmental Monitor*.

Further, the act states that it does not limit the applicability of the Connecticut Environmental Policy Act. In addition, it exempts state agencies, departments, and institutions from its notice and public comment requirements if they prepared an (1) environmental impact evaluation pursuant to the Connecticut Environmental Policy Act or (2) environmental statement pursuant to certain other state or federal laws.

Environmental Review Account. The act establishes the "environmental review account" as a separate, nonlapsing account in the General Fund to support the notice and other requirements described above. The account may contain any money required or allowed by law including proceeds from the sale of state property that are not otherwise designated. If it has a balance at the end of a fiscal year, the balance must be carried forward for the next fiscal year, but the account cannot exceed $100,000.

The account may only be used to (1) prepare or implement the recommendations or reports required by the act or (2) prepare or review environmental impact evaluations required by the Connecticut Environmental Policy Act (see BACKGROUND). (PA 07-4, June Special Session, repeals the account.)

Commercial Advertisements

The act requires the DPW commissioner, within available resources, to make recommendations to the GAE Committee by February 1, 2008 concerning (1) placing commercial advertisements on state buildings, facilities, stadiums, arenas, or theaters, by advertisers or sponsors and (2) granting naming rights to such advertisers or sponsors for the state property.

FREEDOM OF INFORMATION ACT §§ 22 & 23

Exempt Records

The act makes changes to the public's access to records. It exempts from disclosure under FOIA (1) the name and address of any minor enrolled in any parks and recreation program administered or sponsored by a public agency and (2) certain documents created during the contract award process.

Concerning contract awards, the act exempts responses to public agency requests for proposals or bid solicitations, and any related record or file the agency creates, if the agency's chief executive officer certifies that the public interest in confidentiality outweighs the public interest in disclosure. The documents may remain confidential only until the contract is executed or negotiations have ended, whichever occurs first.

Public Meeting Notices

The act requires state agencies, other than the General Assembly, to file their regular meeting agendas with the secretary of the state. It requires local agencies to file their agendas with the town clerk or the clerk of a multi-town district or agency, whichever is applicable. By law, agencies must file notices at least 24 hours before the meetings.

The act requires state agencies and the secretary of the state to post the agendas on their websites but does not specify when the postings must occur.

The law, unchanged by the act, requires state and local agencies to file the agendas in their respective offices. Under prior law, they filed their agendas with the secretary of the state or the appropriate clerk only if they had no regular office or place of business. The General Assembly is exempt from the filing requirement.

GRANT PAYMENTS §§ 9-12

The act shortens the time the comptroller and the treasurer have to process certain grant payments to municipalities and NRZs. Under prior law, the comptroller had 15 days after the time the OPM secretary certified the amount payable to draw an order on the treasurer. The treasurer then had 15 days to pay the grant.

The act requires the comptroller to draw an order on the treasurer within five days of receiving the certification, and the treasurer to then pay the grant. (Under the CORE-CT system, these checks are issued almost immediately.)

The payments to municipalities are from the (1) local emergency relief account, (2) local capital improvement fund, and (3) grant-in-aid program for computer-assisted mass appraisal systems. The NRZ payment is from the neighborhood revitalization zone grant-in-aid program.

BACKGROUND

Connecticut Environmental Policy Act

The Connecticut Environmental Policy Act requires state agencies to evaluate, in writing, the impact a proposed action would have on the environment. Among other things, these environmental impact evaluations, or EIEs, must examine the direct, indirect, and cumulative environmental consequences of the proposed action, and any reasonable alternatives to it. OPM reviews EIEs, determining if the agency has taken all practicable steps to avoid or minimize environmental harm.

HIGHER EDUCATION AND EMPLOYMENT ADVANCEMENT COMMITTEE

PA 07-7—SB 1141
Higher Education and Employment Advancement Committee

AN ACT CONCERNING THE EDUCATIONAL REQUIREMENTS FOR APPLYING TO TAKE THE CERTIFIED PUBLIC ACCOUNTANT EXAMINATION

SUMMARY: This act allows people to apply to take the certified public accountant (CPA) examination before meeting all of the educational requirements to become a CPA. Under the act, they may apply to take the examination when they hold a bachelor's degree, or its equivalent, with an accounting concentration or equivalent. However, they must complete at least 150 semester hours of college education to become a CPA.

Prior law required applicants to complete 150 semester hours, including a bachelor's degree or higher, with an accounting concentration or equivalent before applying to take the examination. By law, the State Board of Accountancy determines whether an applicant's educational concentration and the college or university he or she attended are acceptable.

EFFECTIVE DATE: Upon passage

PA 07-19—sSB 1219
Higher Education and Employment Advancement Committee

AN ACT CONCERNING TECHNICAL CHANGES TO THE STATUTES FOR THE CONNECTICUT STATE UNIVERSITY SYSTEM

SUMMARY: This act changes the terms of the four student members on the Connecticut State University system (CSU) board of trustees. It changes, from November to July, the month when a student member of the board can be seated. Under prior law, if a student board member graduated in May, the universities were not able to seat a new student representative until November, leaving the position vacant for six months.

To effect the change in students' terms, the act also:

1. terminates the term of any student member elected during 2005 or 2006 on June 30, 2007 or 2008, depending on the year in which their two-year term is due to expire;
2. requires that students at Central and Eastern Connecticut State University elect a student representative to the board biennially by July 1st beginning in 2008; and
3. requires that students at Southern and Western Connecticut State University elect a student representative to the board biennially by July 1st beginning in 2007.

By law, student members must leave the board if they cease to be matriculating, full-time undergraduate or full or part-time graduate students in good standing at the university they represent. The act sets a deadline for students to fill a vacancy created under this circumstance. They must hold the special election, required under existing law, within 30 days after the departing student's membership terminates.

The act also changes the head of the CSU system's title from "executive secretary" to "chancellor," which conforms to existing practice.

EFFECTIVE DATE: Upon passage

PA 07-90—sSB 1139
Higher Education and Employment Advancement Committee
Judiciary Committee

AN ACT CONCERNING ENHANCED ENFORCEMENT AUTHORITY BY THE DEPARTMENT OF HIGHER EDUCATION

SUMMARY: By law, higher education institutions cannot operate a higher education program or confer academic degrees without a license or accreditation from the Board of Governors of Higher Education. The act eliminates a criminal penalty of $1,000 per violation, in most cases, assessed by the board and establishes an administrative penalty of $500 per day assessed by the higher education commissioner for institutions operating in violation of licensure and accreditation law. The act establishes procedures under which the commissioner imposes the penalty and enforces the licensure and accreditation law. The act also requires the board of governors to adopt implementing regulations.

The act expands the commissioner's and board of governors' enforcement powers.

EFFECTIVE DATE: January 1, 2008, except for the requirement to adopt regulations, which is effective July 1, 2007.

INSTITUTIONS OPERATING WITHOUT A LICENSE OR ACCREDITATION

The act eliminates a criminal penalty of $1,000 per violation and establishes an administrative penalty of $500 per day for any higher education institution operating or conferring academic degrees without proper licensure or accreditation by the Board of Governors of Higher Education.

By law, unchanged by the act, any higher education institution authorized to confer degrees prior to July 1, 1935, which did not confer degrees prior to that date, is not authorized to confer degrees until the board of governors determines that its organization and

equipment meet the degree standards set by similar institutions. Violations of this provision are subject to a criminal penalty of $1,000 per violation. The act establishes an additional $500 per day administrative penalty for any violation of this provision.

PENALTY PROCESS

The act requires the commissioner to notify the institution in writing that the penalty is being considered and why. The commissioner or her designee must hold a compliance conference with the institution within 45 calendar days of the penalty notice.

If, after the compliance conference, the commissioner decides to impose an administrative penalty, the commissioner may issue an order and notify the institution by certified mail, return receipt requested. The school then has 15 calendar days to ask the board of governors for a hearing on the penalty, which must be held in accordance with the Uniform Administrative Procedure Act.

ENFORCEMENT OF LICENSURE AND ACCREDITATION LAW

The act authorizes the commissioner, acting through the attorney general, to ask the Hartford Superior Court to issue an injunction to prevent violations of the licensure and accreditation law and the act's provisions.

The act also authorizes the commissioner or her designee to:

1. review, inspect, or investigate, as needed, applications for licensure or accreditation for possible violations of licensure and accreditation law or any applicable agency regulations;
2. investigate and, through the attorney general, seek a court order to restrain or prevent the establishment or operation of an institution that is not licensed, accredited, or authorized by the board of governors to issue degrees; and
3. issue subpoenas, place people under oath, compel testimony, and order the production of records and documents.

It also permits the commissioner to ask the attorney general to seek a court order if anyone refuses to appear, testify, or produce documents.

EXPANSION OF GENERAL ENFORCEMENT POWERS

The act allows the board of governors and the commissioner, through the attorney general, to ask the Hartford Superior Court to enforce any order they issue and for other appropriate relief. It permits the court to issue other orders as appropriate.

PA 07-108—sSB 1074
Higher Education and Employment Advancement Committee
Finance, Revenue and Bonding Committee
Judiciary Committee

AN ACT CONCERNING THE CONNECTICUT HIGHER EDUCATION SUPPLEMENTAL LOAN AUTHORITY AND THE SCHEDULE OF ESTIMATED COSTS OF UCONN 2000 PROJECTS

SUMMARY: This act makes several changes to the Connecticut Higher Education Supplemental Loan Authority's (CHESLA) operations and authority. It requires the state to withhold the state income tax refund of any taxpayer who has defaulted on a CHESLA-made or -guaranteed student loan. The act permits the authority, with approval of the state treasurer, or the treasurer's deputy, to enter into interest rate swap agreements and credit enhancement or liquidity agreements, or any other appropriate agreements in connection with its debt obligations. It allows CHESLA to develop and require the use of master promissory notes for education loans. And it allows more than one of the three members of CHESLA's board of directors representing Connecticut higher education institutions to be from a public higher education institution.

The act also (1) adds a new project in Phase III of the UConn 2000 infrastructure improvement program and (2) reduces the cost estimates of certain projects in the program.

EFFECTIVE DATE: July 1, 2007

§ 4 — WITHHOLDING INCOME TAX REFUNDS

The act requires CHESLA to notify the Department of Administrative Services (DAS) commissioner when a person or entity entitled to a state income tax refund is in default of a CHESLA-made or -guaranteed student loan. It requires the Department of Revenue Services (DRS) commissioner to withhold the defaulter's state income tax refund up to the default amount when notified by the DAS commissioner.

The DRS commissioner must notify the taxpayer that he or she has a right to a hearing before an officer designated by the DAS commissioner if he or she contests the validity or amount of the DAS commissioner's claim. Unless the person asks for a hearing within 60 days after the DRS commissioner issues the withholding notice, the commissioner must send the withheld money to the DAS commissioner who must, in turn, send it to CHESLA. If the defaulter requests a hearing, the DRS commissioner must remit the tax refund according to the hearing officer's decision or, if the decision is appealed to court,

according to the court decision.

Any debts the taxpayer owes to the state take priority over the defaulted student loans, and tax refunds must be credited first against such debts.

The act requires the commissioners and CHESLA's executive director to make an agreement to credit income tax refunds against a taxpayer's defaulted student loans. The agreement must include procedures for CHESLA to notify the DAS commissioner of defaults and the default amounts and to reimburse DRS and DAS for their administrative costs in carrying out the act.

§ 3 — INTEREST RATE SWAP, CREDIT ENHANCEMENT, AND LIQUIDITY AGREEMENTS

The act allows CHESLA, with the approval of the state treasurer or the treasurer's deputy, to enter into arrangements to manage interest rate and cash flow fluctuations in connection with issuing, carrying, or securing its bonds. It also allows CHESLA to enter into credit enhancement, liquidity agreements, or any other appropriate agreements in connection with certain arrangements or in issuing, carrying, or securing its bonds or notes. Under the act, such arrangements can include interest rate swap agreements, futures contracts, interest rate floors or caps, options, puts, or calls.

The act:

1. requires CHESLA, in selecting the other parties to such agreements, to consider (a) the party's ability to meet its obligations, including its ratings by nationally recognized rating agencies, (b) the agreement's impact on the ratings of any of the authority's outstanding bonds or notes, and (c) any other criteria it considers appropriate;
2. requires the other party's unsecured long-term debt to be rated the same or higher than CHESLA's by at least one nationally recognized rating agency;
3. authorizes CHESLA to enter into credit enhancements or liquidity agreements containing whatever payment, interest rate, security, default, remedy, or other terms and conditions CHESLA thinks appropriate; and
4. allows those holding the agreements to bring suits, actions, or other proceedings to enforce their rights under law and compel CHESLA to perform its duties.

The act allows CHESLA to pledge all or any part of the collateral securing its debt obligations to secure its payment obligations under these agreements. Any pledge CHESLA makes concerning these agreements is binding from the time it is made and the interest received on the notes is immediately subject to the pledge's lien without physical delivery of the money. It is binding on all parties with any claim against CHESLA or any participating higher education institutions and has priority over all other liens, including those of people who do business with CHESLA. Regardless of Uniform Commercial Code (UCC) requirements, neither the bond resolution nor any financing statements need be recorded or filed for the lien to be perfected.

§ 2 — MASTER PROMISSORY NOTES

Under prior practice, CHESLA issued a separate promissory note for each education loan. The act allows CHESLA to issue a master promissory note to cover all of one borrower's education loans for the same or subsequent periods of enrollment. The note must include a provision stating that it is governed by and construed pursuant to Connecticut law.

Regardless of existing law or regulations, each loan made under a master promissory note (1) may be sold or assigned independently of any other loan made under the same note and (2) is separately enforceable, according to the note's terms, based on an original or copy of the note. Each note is fully negotiable within the meaning and purposes of the UCC, regardless of the code's requirements.

The act allows CHESLA to pledge all or any part of its interest in its master promissory notes, or the loans covered by the notes, to secure its debt obligations. Any pledge CHESLA makes concerning these master promissory notes is binding from the time it is made and the interest received on the notes is immediately subject to the pledge's lien without physical delivery of the money. It is binding on all parties with any claim against CHESLA or any participating higher education institutions and has priority over all other liens, including those of people who do business with CHESLA. Regardless of UCC requirements, the lien need not be recorded or filed. CHESLA's sale of any loan covered by a master promissory note is automatically effective and perfected upon attachment.

§ 5 — UCONN 2000 PROJECTS

The act (1) adds a new $18 million project, renovations to the Old Central Warehouse, to Phase III of the UConn 2000 infrastructure improvement program and (2) reduces the cost estimates of certain projects in Phase III by $18 million, as shown in Table 1.

Table 1: Project Cost Reductions

Project	*Prior Cost (in millions)*	*Current Cost (in millions)*
Engineering Building (with Environmental Research Institute)	$42.7	$36.7
Gant Building Renovations	40.0	34.0
Torrey Renovation Completion and Biology Expansion	48.0	42.0

PA 07-109—sSB 1075
Higher Education and Employment Advancement Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE CONNECTICUT STUDENT LOAN FOUNDATION

SUMMARY: This act extends the Connecticut Student Loan Foundation's (CSLF) bonding authority to a nonprofit subsidiary of the foundation. The act (1) authorizes CSLF or its subsidiary to issue federal tax-exempt bonds, notes, or other obligations, subject to the private activity bond cap and (2) requires CSLF or its subsidiary to fund borrower benefits with the savings it achieves by issuing these bonds. It also exempts any bonds issued by CSLF or its subsidiaries, and any transfer of or income generated by the bonds, from any state and local taxes, except for state estate and succession taxes.

The act adds the state treasurer, or the deputy treasurer if designated by the treasurer, to CSLF's board of directors. The act explicitly allows CSLF to make, guarantee, and acquire loans not governed by federal law (i.e., alternative loans), as well as federal loans. The act also makes various technical and conforming changes.

EFFECTIVE DATE: July 1, 2007

TAX EXEMPTION

By law, CSLF may issue taxable bonds. The act allows CSLF, or its nonprofit subsidiary, to issue federal tax-exempt bonds subject to the private activity bond cap, if so designated in a resolution adopted by the corporation. Prior law allocated up to 27.5% of private activity bonds to municipalities, the Connecticut Higher Education Supplemental Loan Authority (CHESLA), and for contingencies. The act includes CSLF under this cap and requires that CHESLA have priority over CSLF in its allocation of private activity bonds and CSLF's allocation have priority over any allocation for contingencies.

Under the act, CSLF or its subsidiary must fund borrower fee reductions, interest rate reductions, rebates, loan forgiveness, or other borrower benefits authorized by law, using the annual net reduction in program financing costs achieved through issuing private activity bonds, to the extent federal law permits.

The act also exempts any bonds issued by CSLF or its subsidiary, and any transfer of or income generated by the bonds, from any state and local taxes, except for estate and succession taxes.

CSLF SUBSIDIARY

By law, CSLF can create, and conduct its affairs through, a subsidiary or division. The act specifies that CSLF can conduct one or more of its purposes through a subsidiary. The act extends CSLF's bonding authority to a nonprofit subsidiary of the foundation, subject to the same standard bond issuance procedures, repayment requirements, and bondholders' rights as CSLF. Under the act, only a nonprofit subsidiary can issue bonds, notes, or other obligations, but a for-profit subsidiary can incur other types of debt to carry out its purposes.

The act permits a subsidiary to buy, hold, resell, and refund CSLF's bonds and it explicitly allows CSLF to hold its subsidiary's bonds. It provides that CSLF and its subsidiary are not liable for each other's debt obligations, unless designated by a resolution of the corporation or the subsidiary. The act specifies that the members of the subsidiary's board of directors are not liable for the subsidiary's debt obligations. And it permits the subsidiary to include in its bond resolutions provisions to indemnify board members with respect to the debt obligations.

The act specifies that any subsidiary created to finance student loans under the Federal Family Education Loan Program, governed by Title IV, Part B of the 1965 Higher Education Act, that issues tax-exempt bonds, is deemed to have been organized by the state to issue qualified scholarship funding bonds.

PA 07-135—sHB 5656 **(VETOED)**
Human Services Committee
Higher Education and Employment Advancement Committee
Appropriations Committee

AN ACT CONCERNING ACCESS TO POSTSECONDARY EDUCATION

SUMMARY: This act extends in-state tuition status to undocumented immigrants residing in Connecticut who meet certain criteria. By law, with limited exceptions, determination of in-state tuition status is based on an applicant's domicile, that is, his "true, fixed and permanent home" and the place where he intends to remain and return to when he leaves. Undocumented

immigrants are not considered to be domiciled in Connecticut.

Under the act, anyone qualifies for in-state tuition, except a nonimmigrant alien (someone with a visa permitting temporary entrance to the country for a specific purpose), if he or she:

1. resides in Connecticut;
2. attended any educational institution in the state and completed at least four years of high school here;
3. graduated from a high school in Connecticut, or the equivalent; and
4. is registered as an entering student, or is currently a student at, UConn, a Connecticut State University, a community-technical college, or Charter Oak State College.

By law, "resides" means continuous and permanent physical presence within the state. The establishment of residence is not affected by temporary absence for short periods of time.

If the individual is an undocumented immigrant, he or she must file an affidavit with the college stating that he or she has applied to legalize his or her immigration status or will do so as soon as he or she is eligible to apply. (Currently, undocumented immigrants who apply for student visas or lawful permanent resident status are subject to deportation. Thus, they are not eligible to apply until federal law is amended to allow them to do so.)

EFFECTIVE DATE: July 1, 2007

BACKGROUND

In-State Tuition Status

With limited exceptions, anyone whose domicile is outside Connecticut is not eligible for in-state tuition. An unemancipated person's domicile is that of his or her parent, except in limited situations. An emancipated person must live in Connecticut for at least one year before his or her domicile here is established. By law, the spouse of anyone eligible for in-state tuition status is also eligible for it.

PA 07-164—sSB 1140
Higher Education and Employment Advancement Committee
Judiciary Committee

AN ACT CONCERNING PRIVATE OCCUPATIONAL SCHOOLS

SUMMARY: This act authorizes the Department of Higher Education to deny a refund from the Student Protection Account to a student in a private occupational school who falsifies information on a tuition reimbursement application.

The act also revises the information schools must provide in their applications for authorization to operate private occupational schools. By law, schools must submit to the higher education commissioner, or designee, their proposed student enrollment agreement and school catalog when applying for authorization. The act requires that the proposed school enrollment agreement and school catalog include, for each occupational instruction program, a description of (1) requirements for employment in the occupation or (2) statutory or regulatory barriers to such employment. It specifies that the descriptions of requirements or barriers included in the school enrollment agreements be in plain language.

EFFECTIVE DATE: October 1, 2007

BACKGROUND

Private Occupational School Student Protection Account

The Student Protection Account is funded by quarterly assessments on private occupational schools' tuition revenues from Connecticut students and other fees related to the schools' operations. It is used to refund tuition to students unable to complete a course at a private occupational school because the school becomes insolvent or stops operating.

PA 07-166—sSB 1315
Higher Education and Employment Advancement Committee
Government Administration and Elections Committee
Banks Committee

AN ACT CONCERNING THE FACULTY AT PUBLIC INSTITUTIONS OF HIGHER EDUCATION AND REVISIONS TO VARIOUS HIGHER EDUCATION STATUTES

SUMMARY: This act expands the types of state contracts that individuals covered under the State Ethics Code can enter into without violating the code.

The act allows higher education constituent units' faculty or faculty bargaining unit members to enter into consulting agreements or engage in research projects with public or private entities. It specifies that these agreements and projects do not violate the State Ethics Code's prohibitions against public officials and state employees accepting certain outside employment or disclosing confidential information. It requires each constituent unit's board of trustees to establish policies on such agreements or projects and establishes committees to monitor each unit's compliance with the policies.

The act exempts from creditors' claims interests in or amounts payable to participants and beneficiaries of any qualified state college savings plan.

The act also revises the independent audit requirements for UConn 2000 projects and makes numerous technical changes.

EFFECTIVE DATE: Upon passage, except for the provisions on the UConn 2000 audits, which are effective July 1, 2007, and the qualified state college savings plans, which are effective October 1, 2007.

STATE CONTRACTS

With two exceptions, the law prohibits public officials, state employees, their immediate family members, and businesses with which they are associated from entering into state contracts worth $100 or more unless it is awarded through an open and public process. The exceptions are for employment contracts and contracts resulting from court appointments. The act allows these individuals and associated businesses to contract with public higher education institutions for the development and commercialization of inventions and discoveries without going through an open and public process.

CONSULTING AGREEMENTS AND RESEARCH PROJECTS

The act allows higher education constituent units' faculty or faculty bargaining unit members to consult or perform research projects with public or private entities that do not conflict with their employment with the institution as determined by institutional policies. It specifies that public officials or state employees who consult or perform research projects with public or private entities and comply with these institutional policies do not violate the State Ethics Code.

Under the State Ethics Code, public officials or state employees cannot (1) accept jobs that impair their independent judgment or require them to disclose confidential information or (2) use confidential information or their offices for their financial gain or that of others.

Policies Governing Faculty Members' Consulting Agreements and Research Projects

Under the act, each constituent unit's board of trustees must establish policies to ensure that faculty or faculty bargaining unit members, in connection with the consulting agreements or projects, do not (1) inappropriately use the institution's proprietary information, (2) have an interest that interferes with the proper discharge of their employment, and (3) inappropriately use their association with the institution.

The policies must:

1. establish procedures for disclosing, reviewing, and managing conflicts of interest relating to the agreements or projects;
2. require that all consulting agreements or research projects receive the prior approval of the constituent unit's chief academic officer or his or her designee; and
3. include procedures that impose sanctions and penalties on any member for failing to comply with the policies.

Each constituent unit's internal audit office must audit the unit's compliance with such policies and semiannually report its findings to the constituent unit's compliance committee (see below).

The act defines "consulting" as the provision of services for compensation to a public or private entity by a faculty or faculty bargaining unit member of a constituent unit of the state higher education system, when (1) the provision of services is based on the member's expertise or prominence in a field and (2) the member is not acting in his or her capacity as a state employee. It defines "research" as a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to general knowledge in a field of study.

Compliance Committees

The act establishes a nine-member committee for each constituent unit to (1) monitor the unit's compliance with its policies and procedures, (2) review the semiannual audit reports of the unit's internal audit office, and (3) annually recommend any policy and procedural changes to the unit's trustees. The committees must submit a copy of their recommendations to the Higher Education and Employment Advancement and Government Administration and Elections committees.

Three members serve on all of the constituent unit compliance committees. These members are jointly appointed by the governor; House speaker and majority and minority leaders; and the Senate president pro tempore and majority and minority leaders. The other committee members are:

1. one member of the constituent unit's board of trustees, appointed by its chairperson;
2. the constituent unit's chief academic officer, or his or her designee;
3. three members appointed by the constituent unit's chief executive officer; and
4. one member of the Citizen's Ethics Advisory Board, appointed by the board's chairperson.

Members serve for two years. The appointing authority must fill any vacancies.

QUALIFIED STATE COLLEGE SAVINGS PLANS

The act exempts from creditors' claims interests in or amounts payable to participants and beneficiaries of any qualified state college savings plan, also known as "529 plans." By law, creditors cannot claim interests in and payments from specified accounts, including certain retirement accounts, simplified employee pension plans, and medical savings accounts.

UCONN 2000 AUDITS

Under prior law, the independent auditors appointed by UConn's Board of Trustees to conduct annual audits of UConn 2000 projects were required to review all invoices, expenditures, cost allocations, and other appropriate documentation to verify their conformance to all budgets, cost allocation agreements, and applicable contracts. The act revises this requirement by allowing the auditors to review a sample of invoices, expenditures, and cost allocations rather than all of the documentation.

The act also requires the auditors to submit an annual report on their findings to the General Assembly. By law, UConn's Board of Trustees must review the auditors' reports annually.

PA 07-234—sSB 581
Select Committee on Housing
Planning and Development Committee
Commerce Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE ALLOCATION OF PRIVATE ACTIVITY BONDS FOR RESIDENTIAL HOUSING AND REQUIRING THE CONNECTICUT HOUSING FINANCE PROGRAM TO STUDY PRODUCTION AND PRESERVATION OF MULTIFAMILY HOUSING

SUMMARY: This act requires the Connecticut Housing Finance Authority (CHFA) to use at least 10% of its annual private activity bond allocation for multifamily residential housing in calendar year 2008 and at least 15% in each subsequent year. By law, 60% of the private activity bonds that are issued must be allocated to CHFA.

The act also requires CHFA's board of directors to review and analyze the authority's multifamily housing goals and programs to determine how it can increase production and promote preservation of multifamily housing, including housing for households with incomes (1) less than 50% of the area median and (2) less than 25% of the area median. The board must also review the use of private activity bonds in conjunction with 4% federal tax credits and report its findings and recommendations to the Planning and Development and Housing committees by January 1, 2008.
EFFECTIVE DATE: July 1, 2007

BACKGROUND

Private Activity Bonds

Private activity bonds (also known as industrial development bonds) are issued by quasi-public authorities and municipalities. They are backed by the credit of private borrowers or pools of borrowers, who pay the bond debt service. Federal law exempts these bonds from federal tax if they are issued for tax-exempt sewage disposal, water, solid waste disposal, or local district heating and cooling facilities; qualified nonprofit corporation projects; manufacturing projects; or as qualified redevelopment bonds for tax-exempt facilities.

Federal law limits the volume of tax-exempt private activity bonds that can be issued each year. Each state has its own cap. Originally, Connecticut's cap was $150 million. Since 2002, the amount increases annually with inflation.

By law, 12.5% of the private activity bonds issued must be allocated to the Connecticut Development Authority, and 27.5% must be allocated to municipalities and political subdivisions, departments, agencies, authorities and other municipal bodies, the Connecticut Higher Education Supplemental Loan Authority, and for contingencies.

PA 07-251—HB 5222
Select Committee on Housing
Planning and Development Committee
Judiciary Committee
Banks Committee

AN ACT CONCERNING THE SALE, LEASE OR TRANSFER OF MUNICIPAL PROPERTY AND LIENS FILED UNDER THE MUNICIPAL PROPERTY TAX RELIEF PROGRAM FOR SENIORS

SUMMARY: This act broadens the exceptions to a public hearing requirement for towns, established in PA 07-218, before giving final approval to the sale, lease, or transfer of town land or buildings. It excepts the sale, lease, or transfer of real property the municipality acquires by foreclosure from the requirement. PA 07-218 already excepts the following situations from the hearing requirement: (1) sales of property, other than parkland, open space, or a playground, whose fair market value is $10,000 or less and (2) lease renewals when the property's use does not change.

This act also reduces the lien amount a town can place on a property receiving local-option property tax relief for property owners over age 65 or permanently disabled. By law, the town providing the property tax relief may file a lien on the property if the owner is receiving (1) the optional property tax relief, (2) tax relief from two other programs for the elderly and disabled, and (3) the combined relief exceeds 75% of the owner's property tax liability. Prior law required the lien to be equal to the total amount of tax relief. Under the act, the lien must be equal to the amount of the tax relief that exceeds 75% of the property tax liability.
EFFECTIVE DATE: October 1, 2007

BACKGROUND

PA 07-218

This act requires towns to hold a public hearing before they give final approval to the sale, lease, or transfer of town land or buildings. Notice of the hearing must be published twice, at least two days apart, in a newspaper with general circulation in the town. The first notice must be published between 10 and 15 days before the hearing; the second must be at least two days before the hearing. The town also must conspicuously post a sign on the property.

PA 07-15—HB 7109
Human Services Committee

AN ACT CONCERNING CERTIFICATION STANDARDS FOR PERSONS PROVIDING INTERPRETER SERVICES

SUMMARY: This act broadens the law governing accreditation for individuals who are paid for providing interpreter services to deaf and hearing-impaired people. It adds interpreters who hold only a National Association of the Deaf-National Registry of Interpreters for the Deaf (NAD/RID) national interpreting certificate to those able to provide such services. And it changes the testing requirement for interpreters who use other credentials to become interpreters.

The act also makes technical changes.

EFFECTIVE DATE: October 1, 2007

CREDENTIALS FOR INTERPRETERS

Interpreting in Non-Legal or –Medical Settings

By law, a person registered with the Commission on Deaf and Hearing Impaired (CDHI) may provide interpreting services in any setting to deaf and hearing-impaired individuals. In non-legal or –medical settings, the individual also must have passed a national exam and obtain continuing education credits or meet one of several other accreditation standards. For interpreters choosing the national test as part of their accreditation, the act changes the requirements as follows:

Minimum Level Certification/ Continuing Education	*National Test— Prior Law*	*National Test— The Act*
Level III certification from National Association of the Deaf (NAD) or graduate of accredited interpreter training program; five years of continuing education units	National Registry of Interpreters for the Deaf (NRID), written generalist test	NRID generalist test or National Association of the Deaf-National Registry of Interpreters for the Deaf (NRID) Certification Knowledge Exam; Pass NRID performance examination or NAD-NRID Interpreter certification exam within five years of passing first test

Apparently, under prior practice, once the five years were up, the interpreter could no longer legally provide interpreter services unless he or she obtained another type of accreditation.

The act also allows people who hold only the NAD-NRID interpreting certificate to be interpreters.

Medical and Legal Settings

The accreditation requirements for interpreters working in medical or legal settings are slightly different from those required in other settings. Like the other settings, interpreters can legally interpret in medical or legal settings if they meet one of several standards, such as maintaining skills certificates. The act allows individuals to hold a NAD-NRID national interpreting certificate to satisfy the accreditation requirement in medical or legal settings.

The act also allows someone interpreting in a medical setting to have a NAD certification level higher than IV. Prior law required medical interpreters to have a level IV certification. (To interpret in legal settings, a Level V certification is required if the interpreter wishes to use this accreditation.)

Finally, the act changes the definition of medical setting for interpreter services purposes. Previously, these settings had to require the presence of a doctor or nurse. The act allows other health care professionals to be present. It also changes the definition of legal setting to include any court of competent jurisdiction, not just the Superior Court.

BACKGROUND

Merging of National Testing

In 2005, the NRID and NAD merged their certification test for interpreters, to create the NAD-RID certification.

PA 07-16—HB 7127
Human Services Committee

AN ACT CONCERNING TRANSITIONARY RENTAL ASSISTANCE

SUMMARY: This act permits the social services commissioner to establish priorities for allocating transitional rental assistance. By law, the transitionary rental assistance program provides up to 12 months of rental assistance for private housing to people leaving the Temporary Family Assistance (TFA) program who either (1) have income that exceeds the TFA benefit ($560 per month in most parts of the state for a family of three) or (2) work at least 12 hours per week. The act permits the commissioner to establish priorities based

on these factors. The program is administered within available appropriations.
EFFECTIVE DATE: Upon passage

PA 07-24—SB 1343
Human Services Committee
Public Health Committee

AN ACT CONCERNING COMPASSIONATE CARE FOR VICTIMS OF SEXUAL ASSAULT

SUMMARY: This act establishes standard-of-care requirements for licensed health care facilities providing emergency treatment to female sexual assault victims. Each facility must promptly:

1. provide a victim with medically and factually accurate and objective information about emergency contraception;
2. inform her of emergency contraception's availability, use, and efficacy; and
3. provide her emergency contraception at the facility at her request, unless she is determined pregnant based on a U.S. Food and Drug Administration (FDA)-approved pregnancy test.

The act prohibits a facility from determining its protocol for standard-of-care compliance on any basis other than an FDA-approved pregnancy test.

The act allows a facility to contract with one or more independent providers to (1) ensure compliance at the facility with the standard-of-care requirements and (2) conduct forensic exams of victims at the facility. These exams must be conducted in accordance with the State of Connecticut Technical Guidelines for Health Care Response to Victims of Sexual Assault, published by the Commission on the Standardization of the Collection of Evidence in Sexual Assault Investigations.
EFFECTIVE DATE: October 1, 2007

EMERGENCY CONTRACEPTION

Under the act, "emergency contraception" means one or more prescription drugs used separately or in combination and administered to or self-administered by a patient to prevent pregnancy. It must be administered within a medically recommended time frame after intercourse, dispensed for that purpose, consistent with professional standards of practice, and determined safe by the FDA.

MEDICALLY AND FACTUALLY ACCURATE AND OBJECTIVE

The act defines "medically and factually accurate and objective" as verified or supported by the weight of research conducted in compliance with accepted scientific methods and published in peer-reviewed journals where applicable.

INDEPENDENT PROVIDER

Under the act, an "independent provider" means a licensed physician, physician assistant, advanced practice registered nurse, registered nurse, or nurse-midwife, all of whom are trained to conduct forensic exams in accordance with the State of Connecticut Technical Guidelines for Health Care Response to Victims of Sexual Assault, published by the Commission on the Standardization of the Collection of Evidence in Sexual Assault Investigations.

VICTIM OF SEXUAL ASSAULT

The act defines "victim of sexual assault" as any female person who alleges or is alleged to have suffered an injury as a result of a sexual offense. It defines "sexual offense" as:

1. 1st, 2nd, or 3rd degree sexual assault;
2. 1st degree aggravated sexual assault;
3. sexual assault in a spousal or cohabiting relationship;
4. 3rd degree sexual assault with a firearm;
5. 1st degree promoting prostitution of a person less than 16 years old;
6. 2nd degree promoting prostitution of a person less than 18 years old;
7. enticing a minor under age 16 to engage in prostitution or sexual activity using a computer service; or
8. employing or promoting a child under age 18 in an obscene performance.

BACKGROUND

Emergency Contraception

Plan B (levonorgestrel) tablets, approved by the FDA for emergency contraception after intercourse, is now an over-the-counter drug for women age 18 and over, but remains prescription-only for those under age 18. Another similar drug called Preven remains a prescription drug.

PA 07-44—SB 1337
Human Services Committee
Government Administration and Elections Committee
Judiciary Committee

AN ACT CONCERNING DISCRIMINATION AWARDS RECEIVED BY PERSONS WHO HAVE BEEN SUPPORTED BY STATE HUMANE INSTITUTIONS

SUMMARY: This act prohibits the state from claiming or applying a lien against certain lump-sum payments received by people who have been supported wholly or in part by the state in a humane institution. The law defines a "humane institution" as a state mental hospital, community health center, treatment facility for children and adolescents, or any other facility or program administered by the departments of Mental Health and Addiction Services, Mental Retardation, or Children and Families.

The act also prohibits towns from claiming or applying liens against any money received as a settlement or award in a housing or employment discrimination case by a beneficiary of (1) the former town General Assistance program, (2) state aid in a state humane institution, or (3) several other assistance programs.

EFFECTIVE DATE: July 1, 2007

PA 07-63—SB 1156
Human Services Committee
Appropriations Committee

AN ACT ALIGNING THE FOOD STAMP PROGRAM MOTOR VEHICLE RULE WITH THE CARE4KIDS MOTOR VEHICLE RULE

SUMMARY: This act effectively permits the Department of Social Services (DSS) to exclude all of a household's motor vehicles from being counted as assets in determining the household's eligibility for the food stamp program. It does this by requiring the DSS commissioner to use alternative motor vehicle evaluation provisions allowed in federal regulations in determining eligibility. These provisions allow the state to use the same motor vehicle asset rules in the food stamp program as apply to any of its programs that are funded by federal Temporary Assistance for Needy Families (TANF) money (7 CFR 273.8(f)(4)).

Prior state law required DSS to use the Temporary Family Assistance (TFA) program rules. Those rules allow an applicant to exempt one vehicle with a value of up to $9,500 and also allow an exemption for vehicles used to transport people with disabilities. But the combination of the TFA program's dollar limit on the exempt vehicle and the federal requirements made the calculation more complex for the food stamp program if a household had several vehicles.

While the act does not specify to which TANF-funded program DSS must tie the food stamp vehicle rules, it in effect allows DSS to apply the Care4Kids rules, which do not count any vehicles as assets in a family's eligibility calculations. Care4Kids provides child care subsidies to people on welfare and low-income workers.

EFFECTIVE DATE: July 1, 2007

PA 07-83—HB 7065 **(VETOED; OVERRIDDEN)**
Human Services Committee
Legislative Management Committee

AN ACT CONCERNING LEGISLATIVE REVIEW AND APPROVAL OF WAIVER APPLICATIONS SUBMITTED BY THE COMMISSIONER OF SOCIAL SERVICES TO THE FEDERAL GOVERNMENT

SUMMARY: This act strengthens legislative oversight of the Department of Social Services' (DSS) federal waiver applications. By law, whenever DSS applies to the federal government to waive certain federal program requirements, it must first submit the waiver application to the Human Services and Appropriations committees. Previously, the committees could advise the DSS commissioner of their opinion of the application, which, in practice, had not been binding on him.

The act (1) requires, rather than allows, the committees to advise the DSS commissioner of their approval, rejection, or modification of the application within 30 days of receiving it; (2) requires the committees to hold a public hearing on the application after they receive it and before they advise the commissioner; and (3) makes the committees' failure to advise an approval.

If the committees reject the waiver application, the commissioner may not submit it to the federal government. He must modify the application when the committees advise him to do so.

If the committees disagree, the act requires their chairmen to appoint a six-member conference committee composed of three members from each committee. At least one member from each committee must be from the minority party. The conference committee must report to the standing committees, which must in turn vote to accept or reject, but not amend, the report. The Appropriations Committee must advise the commissioner if both committees accept the report, and he must act in accordance with it. If either committee rejects the conference report, the waiver

application is considered approved, and the committee rejecting it must notify the commissioner.

When submitting the application to the federal government, the act requires the commissioner to include (1) a complete transcript of the joint committees' proceedings along with the written comments submitted to the committees at the proceedings, which the act directs the committees to send to him and (2) any written comments he receives during the public comment period, which he must, by law, provide before submitting the application to the General Assembly.

EFFECTIVE DATE: July 1, 2007

BACKGROUND

Public Comment Period for Federal Waiver Applications

By law, DSS must publish a notice in the *Connecticut Law Journal* whenever it intends to seek a federal waiver. The commissioner must allow 15 days for written comments on the application before submitting it to the legislative committees for their review and must include the comments with the waiver application when he submits them.

PA 07-86—HB 7191
Human Services Committee
Appropriations Committee

AN ACT CONCERNING REVISIONS TO THE STATE-WIDE RESPITE CARE PROGRAM

SUMMARY: The State-Wide Respite Care Program provides respite care for people with Alzheimer's disease or related disorders, regardless of age, who have annual incomes up to $30,000 and liquid assets up to $80,000. Prior law also required that they not be covered by Medicaid.

This act allows people under age 65 receiving community Medicaid, which does not provide respite care, to participate in the State-Wide Respite Program. It does this by changing the people ineligible for this program from those covered by Medicaid to those covered by the Connecticut Home Care Program for Elders (CHCPE). CHCPE is a Medicaid waiver and state-funded program that provides respite services, as well as other home- and community-based care, to people aged 65 and over who meet its eligibility requirements.

Respite care services are support services that provide short-term relief for family caregivers from the demands of continual care for an individual with Alzheimer's or related diseases.

EFFECTIVE DATE: July 1, 2007

PA 07-101—sHB 6646
Human Services Committee
Appropriations Committee

AN ACT CONCERNING MEDICAID BILLING PRACTICES FOR FEDERALLY QUALIFIED HEALTH CENTERS

SUMMARY: This act allows the Department of Social Services (DSS) commissioner, to the extent permitted by federal law, to reimburse federally qualified health centers (FQHCs) under the Medicaid program for multiple medical, behavioral health, or dental services provided to a patient in the same day, regardless of the type of service provided. In practice, DSS has reimbursed for one medical, one mental health, and one dental visit per day.

The law directed the DSS commissioner to (1) make changes in the Medicaid reimbursement methodology for FQHCs and (2) file a status report with the Appropriations and Human Services committees by March 1, 2004. The act extends the deadline to January 1, 2008.

EFFECTIVE DATE: July 1, 2007

BACKGROUND

FQHCs

FQHCs are federally designated public or nonprofit consumer-directed corporations that provide comprehensive primary and preventive care to the uninsured and underserved. In Connecticut, they also serve enrollees in the state-funded State-Administered General Assistance medical program. FQHCs can receive federal and state funding and are qualified to receive Medicaid and Medicare reimbursement as well as federal Public Health Service grants. They must meet federal standards relating to quality of care, services, and costs.

PA 07-155—HB 6893
Human Services Committee
Appropriations Committee

AN ACT CONCERNING EXPANDED OUTREACH AND COMMUNICATION ACTIVITIES BY THE CHOICES HEALTH INSURANCE ASSISTANCE PROGRAM

SUMMARY: This act expands the statutory role of the Department of Social Services' CHOICES health insurance assistance program in disseminating

information (including preparing and distributing written material) and providing advice to Medicare beneficiaries. Under the act, the program must provide information on the federal Medicare Part D prescription drug program and long-term care options in the state. The act includes the Medicare Part D program in the list of mandatory Medicare-related information in the Connecticut Medicare consumer guide. CHOICES develops and distributes this guide after consulting with the insurance commissioner and other organizations.

The act also requires CHOICES to collaborate with other state agencies and entities in developing consumer-oriented websites that provide information on Medicare plans, including Medicare Part D plans and available long-term care options. It adds CHOICES personnel designated by the social services commissioner to the group charged with developing the state's long-term care website, which began operating in 2006. (The other entities are the Office of Policy and Management, Select Committee on Aging, Commission on Aging, and Long-term Care Advisory Council.)

EFFECTIVE DATE: July 1, 2007

PA 07-195—sSB 1396
Human Services Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE STATE PURCHASE OF SERVICE CONTRACTS FOR HEALTH AND HUMAN SERVICES

SUMMARY: This act codifies existing practice by expanding the Office of Policy and Management (OPM) secretary's authority to waive the competitive procurement requirements set out in the personal service agreement (PSA) statute for any purchase of service (POS) contract between a state agency and a human services private provider. By law, he can waive these requirements under certain circumstances for PSAs. The act also allows him to waive them for POS contracts between a state agency and a private provider organization or municipality for ongoing direct health and human services for agency clients.

The act requires the secretary, to ensure continuity of care in health and human services delivery, to develop a plan for the competitive procurement of health and human services by January 1, 2008, in consultation with the Connecticut Nonprofit Human Services Cabinet and representatives of state agencies that provide health and human services. It requires the secretary to submit the plan, by February 1, 2008, to the Human Services and Public Health committees. In developing the plan, the secretary must consider a number of factors specified in the act. The act allows the secretary to implement the plan on or after July 1, 2008.

By law, the OPM secretary is responsible for establishing uniform policies and procedures for obtaining, managing, and evaluating the quality and cost-effectiveness of human services purchased from private providers. The act adds health services to this provision and specifies that it applies to direct health and human services. It requires the secretary to report to the General Assembly on the system for purchasing such services in the state every two years, starting by January 1, 2008.

EFFECTIVE DATE: July 1, 2007

FACTORS TO BE CONSIDERED IN PLAN DEVELOPMENT

In developing the competitive procurement plan for health and human services, the OPM secretary must consider:

1. current market rates for the services provided;
2. whether a new private provider's services assure recipients' health, safety, and well-being;
3. whether a new private provider's services assure that community-based services are conveniently located and readily accessible for recipients;
4. whether selecting a new private provider can avoid unnecessary local zoning law challenges; and
5. whether selecting a new private provider can avoid creating a conflict with the current service provider's existing bonding contracts or placing the current service provider at risk for losing bonding investment.

BACKGROUND

Personal Service Agreements and Purchase of Service Contracts

Contracts with private providers for human services are usually considered POS contracts. A POS contract is an agreement between a state agency and an organization for the purchase of direct services to agency clients. POS contracts are used to contract with partnerships, as well as corporations, but not with individuals. A PSA, on the other hand, is generally used to provide services to the state agency itself. Neither type of contract is generally used for the sole purpose of purchasing administrative or clerical services, material goods, training, or consulting services.

Attorney General Opinion

According to a 2005 attorney general's opinion, there is no legal distinction between a PSA and a POS contract, so both are subject to the PSA statute (Chapter 55a). But, according to the opinion, OPM may choose to treat them differently (AG Opinions 2005-031 and 2004-020).

PA 07-209—sHB 5639
Human Services Committee
Appropriations Committee

AN ACT CONCERNING THE CLOSING OF A LONG-TERM CARE FACILITY

SUMMARY: This act requires the Department of Social Services (DSS) commissioner to hold a public hearing at a nursing home, rest home, residential care home, or intermediate care facility for the mentally retarded within 30 days after the facility submits a letter of intent or applies for a certificate of need (CON), whichever happens first, to close the facility or substantially decrease its bed capacity. Prior law (which continues to apply to other types of applications such as increases in beds or purchases of capital equipment) allowed the commissioner to hold a hearing on an application, at his discretion, in Hartford or the area served and had no deadline for holding the hearing.

The act specifically prohibits any such facility from closing or decreasing substantially its total bed capacity until a public hearing has been held and the commissioner approves the facility's request, unless the decrease in beds is associated with a census reduction.

It also allows the commissioner to impose up to a $5,000 fine on any facility that fails to comply with these provisions. It requires the commissioner to deposit the fines in an existing special fund to be used, in DSS's discretion, for the protection of the health or property of nursing home residents, including (1) relocation costs, (2) payment for continuing operation of a facility pending correction of deficiencies or closure, and (3) reimbursement of residents for personal funds lost.

The act modifies some of the duties of a court-appointed receiver of a nursing home or residential care home and extends the timeframes for accomplishing these duties. It also modifies the DSS commissioner's authority to set a higher interim rate for Medicaid payments to nursing homes sold after being in receivership.

Finally, the act extends the moratorium on new nursing homes and nursing home beds from June 30, 2007 to June 30, 2012.

EFFECTIVE DATE: July 1, 2007, except for the nursing home moratorium extension, which is effective upon passage.

MODIFICATION OF RECEIVER'S DUTIES

The law prescribes certain actions a court-appointed receiver of a nursing home or residential care home must take. The act adds that, within 90 days after his or her appointment, the receiver must take all necessary steps to stabilize the facility's operation to ensure the residents' health, safety, and welfare. The act extends the deadline, from 90 days to a reasonable time period not to exceed six months, for the receiver to (1) determine whether the facility can continue to operate and provide adequate care to residents in substantial compliance with federal and state laws within its revenues from state payments, self-pay residents, Medicare, and other current sources and to report the conclusion to the court and (2) seek facility purchase proposals.

Prior law required the receiver, if he or she determined that the facility could not continue to operate in compliance with the above requirements, to request an immediate court order to close the facility and make arrangements for residents' orderly transfer to other facilities, unless the receiver determined that the facility was likely to be sold within 90 days. The act changes the requirement that the receiver request an immediate court order for closure to a requirement that the receiver promptly request an order. It also changes the timing of the facility sale exception, from within 90 days of the date on which the receiver determines that the facility's income is insufficient to within six months of the date on which the receiver was appointed. It specifies that all purchase and sale proposal efforts must be exhausted before the receiver can request an immediate court order to close the facility. Prior law did not authorize receivers to delay seeking closures once a 180-day period had passed.

DSS COMMISSIONER'S AUTHORITY TO APPROVE INTERIM RATES

The act requires Office of Policy and Management (OPM) approval for all interim rate increases for Medicaid payments to nursing homes sold after being in receivership. It allows the DSS commissioner, in his or her discretion and after consulting with the receiver, to increase these rates if he or she determines, with the OPM secretary's approval, that the higher rate is needed to keep the facility open and to ensure residents' health, safety, and welfare.

Prior law allowed the commissioner to approve interim rate increases that did not exceed a specified median rate, but required OPM approval to exceed the median.

PA 07-247—sHB 7361
Human Services Committee
Judiciary Committee
Appropriations Committee
Finance, Revenue and Bonding Committee
Transportation Committee

AN ACT CONCERNING CHILD SUPPORT ENFORCEMENT PROGRAM COMPLIANCE AND IMPROVEMENTS

SUMMARY: This act makes changes in state law to conform with child support provisions in the federal Deficit Reduction Act of 2005. First, it allows the state in IV-D child support cases to collect arrearages through state and federal income tax refund offsets for children who have reached the age of majority. A IV-D support case is one in which the child has received state assistance under Temporary Family Assistance (TFA), HUSKY A, or certain other state programs or the custodial parent asks the state's designated IV-D agency, which is the Bureau of Child Support Enforcement (BCSE), for help to collect child support. These offsets were formerly allowed only for minors. Second, it limits the amount of support the state can require applicants for TFA to assign to the state as a condition of qualifying for assistance. Third, it requires the BCSE to impose a $25 annual fee on certain individuals receiving support enforcement services. Finally, it allows the use of National Medical Support Notices to enforce medical support orders of custodial, as well as noncustodial, parents.

The act creates a reasonable cost standard for medical insurance that a court can use in deciding whether to require a parent to pay for the insurance. It also allows a court to require both parents, instead of either parent, to provide or contribute to the cost of health insurance.

It makes two conforming changes consistent with prior state legislation. It:

1. extends to all Superior Court family relations matters an existing requirement that if the Superior Court transfers custody in a juvenile matter, but fails to address support, the prior support order is automatically either suspended or the order's payee is changed and
2. requires continuation of support payments for children who are the subject of support orders resulting from marriage dissolution beyond age 18 under certain circumstances, even if they do not live with a parent.

It removes the requirement for the chief court administrator's office to approve various forms used for support petitions and support orders.

The act makes substantial changes to Connecticut's Uniform Interstate Family Support Act (UIFSA) to conform with 1991 amendments adopted by the National Council of Commissioners of Uniform State Laws. UIFSA generally governs the establishment, enforcement, and modification of support orders and paternity determinations when the laws of two or more states could apply and the person requesting enforcement does not live in the state that has jurisdiction to enforce the order.

The act also extends many UIFSA procedures to income withholding orders and eliminates a provision in prior law prohibiting any employer from withholding income from an employee's paycheck when notified of a pending contest to the underlying income withholding order.

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: January 1, 2008 for the UIFSA changes. Various, as indicated for other provisions.

COMPLIANCE WITH FEDERAL DEFICIT REDUCTION ACT

§§ 64 & 65 — Allowing Income Tax Offsets for Adult Children in IV-D Cases

The law requires the state to withhold state and federal income tax refunds from child support obligors who owe past-due support. (For federal refunds, the state submits requests to the Internal Revenue Service (IRS) through the federal child support agency.) This withholding is for obligors owing $150 or more in cases in which the custodial parent is a TFA recipient, or $500 or more in non-TFA cases. The amount withheld is paid to the state for TFA cases. It is distributed to the child or children's custodial parent or guardian in non-TFA cases. Under prior law, these "offsets" could be taken only as long as the child for whom the support was due was a minor. The act allows it to also occur even after a child turns age 18.

By law, obligors have the right to a hearing to contest the offsets.

The act explicitly requires that the fee collected to pay for the offset costs be sufficient to reimburse the state, as well as the IRS, for offset collection-related costs. In practice, the state already collects an offset fee.

Federal law allows states to use the offset to collect support arrearages when the child is a minor, but under prior law, once the child turned age 18, states could use the offset only when the money to be offset would be owed to the state (i.e., a TFA case). The 2005 Deficit Reduction Act (DRA) allows this to be applied in all IV-D cases starting October 1, 2007.

EFFECTIVE DATE: October 1, 2007

§ 1 — Limiting the Amount of Support Assigned to State

Under prior state law, as a condition of receiving TFA, program applicants had to assign to the state any right to any past, present, or future child support that the noncustodial parent might provide. Starting October 1, 2008, the act limits the assignment so that (1) it applies only to support rights that accrue during the time the family receives TFA and (2) the amount assigned can be no more than the amount of TFA the family receives.

The DRA requirement is effective October 1, 2009 but its implementation can occur anytime between October 1, 2008 and October 1, 2009.

EFFECTIVE DATE: October 1, 2008

§ 2 — Support Enforcement Annual Fee for Non-TANF Families

The act requires the BCSE, in the case of an individual who never received Temporary Assistance for Needy Families (TANF) and for whom the state has collected at least $500 of support in a one-year period, to impose a $25 annual fee for each case in which the bureau provides services. (It is not clear whether the annual fee would be payable if collections were less than $500 in a particular year.) TANF is a federal block grant which, in Connecticut, pays for TFA and a number of other programs, including child care assistance.

The fee can be collected in any of four ways: (1) the state retains the excess of the first $500, (2) the applicant for support enforcement pays it, (3) the state recovers if from the absent parent, or (4) the state pays it.

The DRA requires states to impose the annual fee (and establishes the four payment options) on individuals who have never received TANF-funded assistance.

EFFECTIVE DATE: October 1, 2007

§§ 5, 8, 61 — Use of National Medical Support Notice to Enforce Medical Support Orders of Custodial Parents in IV-D Cases

Federal law requires all states to use a standardized form to notify an employer to withhold premiums from an employee's income when a parent is ordered to provide health care coverage for his or her children. This form is called the National Medical Support Notice (NMSN).

The act provides that an NMSN operates to enroll a child in the custodial, as well as noncustodial parent's health care plan, making it an enforceable order. By law, this occurs only when the portion of either parent's income subject to withholding is sufficient to cover both the current child support order and health care coverage available to either parent. The act permits each parent, not just the noncustodial one, to contest these orders.

The act conforms law to practice by making it clear that the Judicial Department's Support Enforcement Services (SES), as well as BCSE, can use the NMSN to enforce medical support orders for noncustodial parents, and it extends this authority to orders for custodial parents. SES is primarily responsible for court-based enforcement of support orders.

The DRA requires that IV-D support orders include a provision for either or both parents to provide medical support, but does not require enforcement against the custodial parent. State law already authorizes medical support orders against either or both parents.

EFFECTIVE DATE: October 1, 2007

§§ 3, 7, 9, 11, 57, 62, 63 — Medical Insurance Requirement and Reasonable Cost Standards

By law, a court ordering child support must include health insurance coverage orders for the children. Under prior law, the court could order either parent to cover the child on his or her health insurance. The act specifically allows the court to require either or both parents to provide this coverage and contribute to the cost of the insurance, consistent with the new DRA requirement (although in practice the courts had already interpreted Connecticut's existing law as covering either or both parents).

Under prior law, parents had to provide this insurance only if it was available at a reasonable cost. If it was not available privately at reasonable cost, the court could require either parent to apply for the state's HUSKY B program; but it could only require noncustodial parents to do so if they could pay the appropriate premium. The act replaces the ability to pay requirement with the reasonable cost standard for either parent. It also gives the court the ability to alternatively order reasonable cash medical support.

The act specifies that the cost of health care coverage must be deemed reasonable if, under the child support guidelines (1) the obligated parent qualifies as low-income, based solely on the parent's income, and the cost does not exceed 5% of the parent's net income or (2) the obligated parent does not qualify as low-income and the cost does not exceed 7.5% of the parent's net income. The act requires net income to be determined according to the child support guidelines. (According to Connecticut's child support guidelines, noncustodial parents are counted as low-income if their net weekly income is, for instance, under $250 and they are responsible for one child's support, $300 for two children, and gradually higher amounts for more children.) The act requires that, if the obligated parent must obtain coverage for himself or herself to comply with the order to provide coverage for the child,

reasonable cost must be determined based on the combined cost of coverage for the parent and child.

Under prior law, if the noncustodial parent in a IV-D support case was not financially able to provide health insurance and the custodial parent was the HUSKY Plan Part A or B applicant, the court could order the noncustodial parent to pay an amount the court specified. The act replaces this provision with authority for the court to order either parent to provide "cash medical support" but allows an order under this provision only if the cost to the parent obligated to maintain the insurance is reasonable as described above.

The act defines "cash medical support" as an amount (1) ordered to be paid toward the cost of premiums for health insurance provided by a public entity, including HUSKY A or B, or by another parent through employment or otherwise (the order is effective only as long as the health insurance is maintained) or (2) paid directly to a medical provider or to the person obligated to pay the provider for any of the child's ongoing extraordinary medical and dental expenses that are not covered by insurance or reimbursed in any other manner but are documented and identified specifically on the record. The act allows cash medical support to be ordered in place of an order for health insurance, effective until health insurance that is reasonable in cost and accessible to the child becomes available, or in addition to a health insurance order, as long as the combined cost of insurance and cash medical support is reasonable. As under prior law, noncustodial parents who qualify as low-income under the child support guidelines do not have to pay cash medical support to offset the cost of HUSKY A or B. The act also exempts custodial parents of children under HUSKY A or B from paying cash medical support.

The act specifies that an order for payment of the child's medical and dental expenses (other than those ongoing extraordinary expenses described above) that are not covered by insurance or reimbursed in some other way is still treated the usual way under the child support guidelines.

The act updates the definition of "support order" by adding (1) cash medical support and (2) a specific dollar amount of child care costs. (Courts already have the authority to specify the dollar amount of child care costs under the child support guidelines.)

The act requires employers to give priority to an order to withhold part of an employee's pay for medical support obligations over all support obligations, other than current child and spousal support, when a child support enforcement agency issues an NMSN to inform an employer about the medical support order and the employer's obligation under it, including the obligation to withhold funds from the employee's pay for the health insurance ordered.

It also makes conforming changes in other sections of statute.

EFFECTIVE DATE: October 1, 2007

§ 60 — EXTENSION OF AUTOMATIC SUSPENSION OF PRIOR SUPPORT ORDER OR CHANGE OF PAYEE WHEN COURT TRANSFERS CUSTODY IN FAMILY RELATIONS MATTERS BUT FAILS TO ADDRESS SUPPORT

The law requires that if a probate court in a guardianship matter or the Superior Court in a juvenile matter changes the custody of a child who is subject to a pre-existing support order but fails to address a change in support, the custody change operates to (1) automatically suspend the pre-existing support order if custody is transferred to the obligor under the support order or (2) modify the payee of the support order to be the person the court awards custody to, if that person is someone other than the obligor.

The act extends this requirement to all types of Superior Court family relations matters, not just juvenile matters.

EFFECTIVE DATE: October 1, 2007

§ 6 — POST-MAJORITY SUPPORT FOR CHILD OF DIVORCED OR SEPARATED PARENTS NOT LIVING WITH A PARENT

The act requires continuation of support payments for children who are subject to support orders in marriage dissolution cases, even if they do not live with a parent, beyond age 18. The continuation lasts up to the age of 19 or until the child completes the 12th grade, whichever occurs first. Last year, PA 06-149 made this same change for various other types of support orders to include children living with a caretaker other than their parent.

EFFECTIVE DATE: October 1, 2007

§§ 4, 10, 12, 13, 58, 59 — PROMULGATION OF AGREEMENT AND PETITION FORMS FOR IV-D CASES

The act removes the requirement for the Office of the Chief Court Administrator to prescribe various IV-D and non-IV-D forms for paternity and support petitions, orders, and agreements.

EFFECTIVE DATE: October 1, 2007

§§ 14 - 56 — UIFSA CHANGES

The act makes many changes to Connecticut's Uniform Interstate Family Support Act (UIFSA) so that it more closely matches the 1991 version of the model law adopted by the National Council of Commissioners

of Uniform State Laws. Participating states generally follow UIFSA rules when support orders involve more than one state's jurisdiction. All U.S. states have enacted laws modeled on UIFSA.

The act's major changes include (1) limiting a Connecticut court's authority to modify child and spousal support orders, (2) bringing more foreign countries under UIFSA rules, (3) modifying choice of law rules, and (4) simplifying procedures for enforcing or modifying income withholding orders (such as wage garnishments) issued by other states.

Responding and Initiating Tribunals

The law authorizes state tribunals (defined as courts, administrative agencies, or quasi-judicial authorities both in the United States and, when certain conditions are met, abroad) to act as either initiating or responding tribunals in proceedings to establish, enforce, or modify support orders or to determine paternity. The tribunal that requests another state's assistance is the initiating tribunal. The tribunal that provides the assistance is the responding tribunal. Connecticut's tribunals are the Superior Court and its Family Support Magistrate (FSM) Division.

§§ 17, 18, 21, 22, 50, & 5 — Rules for Court Jurisdiction: Support Orders

The law generally prohibits any tribunal from issuing, enforcing, or modifying support orders unless it has the authority to make its action legally binding on both (1) the party entitled to or seeking support (the obligee) and (2) the party responsible, or claimed to be responsible, for paying support (the obligor). In most cases, this requirement is met when the court has established personal jurisdiction over the parties.

UIFSA has its own rules governing personal jurisdiction and also recognizes personal jurisdiction based on any other constitutionally acceptable means. The act specifies that once the court has established personal jurisdiction in a UIFSA support matter, it has continuing, exclusive jurisdiction to modify and enforce its order until another court's order supersedes it.

Residency Rules. In addition to rules for establishing personal jurisdiction, UIFSA also has residency rules that the parties must satisfy in order to pursue claims in Connecticut courts. These rules vary depending on whether the action involves (1) establishing a support order or (2) modifying or enforcing an existing order.

The act revises the residency rules governing modification and enforcement actions when the original order was issued in another jurisdiction. Under the law, a Connecticut court can act only if one of the following tests is met:

1. (a) neither the child nor parents live in the issuing state, (b) the parent seeking the modification does not live in Connecticut, and (c) the Connecticut court has personal jurisdiction over the other parent or
2. (a) the child lives in Connecticut or the court has personal jurisdiction over at least one parent and (b) both parents have consented in the court that issued the original order to the Connecticut court exercising jurisdiction over the proceedings.

The act limits the circumstances under which an FSM can exercise its personal jurisdiction over people who live out-of-state.

The act specifies that UIFSA procedures for establishing or enforcing support orders are not exclusive and do not override other methods for doing so under Connecticut law. But it prohibits Connecticut courts from including child custody or visitation disputes in matters governed exclusively by UIFSA.

§§ 15, 28, 29, & 31— Foreign Governments

The act expands UIFSA's applicability to foreign governments. Prior law applied only in foreign jurisdictions with laws similar to UIFSA or its predecessors. The act instead makes it applicable to foreign countries or their political subdivisions with (1) reciprocal child support arrangements with this state, as determined by the attorney general; (2) reciprocating country status, as determined by federal law; or (3) comity doctrines entitling the foreign government's court orders to recognition by Connecticut courts.

The act also allows FSMs to modify a foreign entity's child support order when the entity will not, or cannot, act. It may do so regardless of whether the party seeking modification is (1) a Connecticut resident or (2) all of the parties have consented to the FSM issuing a modification order. The act makes the Connecticut order controlling.

Currency Conversions. When an action involves a foreign country, the act requires Connecticut tribunals and support enforcement agencies to convert monetary demands into that country's currency, if requested. The act also requires Connecticut tribunals registering or enforcing orders issued by foreign countries to convert foreign currency calculations into U.S. dollars. In either case, they must use the country's publicly reported official or market exchange rate.

§ 21 — Continuing, Exclusive Jurisdiction

The act modifies the rules for determining when Connecticut courts have continuing, exclusive jurisdiction to modify their own child support orders.

They may do so if the order is the controlling order (see below) and either:

1. the child or either parent lived in Connecticut when the action was filed or
2. if neither of the parents nor the child lived in Connecticut, the parties consented in a record or in open court to the Connecticut court continuing to exercise jurisdiction over the modification.

Under prior law, at least one party or the child had to maintain continuous Connecticut residence while the matter was before the court. And the parties' consent had to be given in a Connecticut court.

Under UIFSA, Connecticut courts lose continuing, exclusive jurisdiction to modify child support orders when notified that the parties agreed to another court's jurisdiction. The act specifies that the notice must indicate that the new tribunal has established personal jurisdiction over at least one of the parents or is located in the state where the child lives.

The act also specifies that Connecticut courts that lack continuing, exclusive jurisdiction may serve as initiating tribunals, requesting that another state modify a Connecticut support order.

And, unlike under prior law, they may serve as responding tribunals when their continuing jurisdiction is not exclusive.

§§ 19, 27 & 45 — Choice of Law

By law, Connecticut applies its own procedural and substantive laws in enforcement and modification actions when both parents live in Connecticut and the child does not live in the state that issued the order (i.e., UIFSA's special choice of law rules do not apply).

The act modifies UIFSA's choice of law rules. It restricts the general rule that the law of the state that issued the order controls (1) the nature, extent, amount, and duration of current support; (2) the existence and satisfaction of other support obligations; and (3) payment of arrearages. The act creates an exception for matters in which a court has already determined which support order is controlling and issued an order consolidating any arrears. In that situation, the act directs Connecticut courts to apply the law of the state that issued the controlling order, including its law on interest, arrears, current and future support, and on consolidated arrears.

It adds that the law of the issuing state controls how arrearage amounts and interest are calculated. It also specifies that when a Connecticut court is acting as a responding tribunal, it must apply this state's laws concerning procedures and remedies to enforce current support and collect arrears and interest due.

Prior law directed Connecticut courts to apply their own conflict of law rules when acting as responding tribunals unless UIFSA provided otherwise. The act eliminates this directive. It retains the requirement that Connecticut's responding tribunals base their rulings on support obligations and amounts on Connecticut law and the state child support guidelines.

§ 23 — Determining Which Order Is Controlling

Prior law permitted only individuals (i.e., parents) to seek court rulings on which of two or more child support orders was controlling (i.e., entitled to legal recognition). The act allows state child support enforcement agencies to seek these rulings.

By law, FSMs must issue written rulings identifying which order is controlling and how they reached this conclusion. The act also requires that they state (1) prospective support amounts and (2) consolidated arrearage and accrued interest amounts. The latter calculation must be based on all orders after all payments have been credited according to UIFSA rules.

UIFSA requires the party that requested the court ruling on which order was controlling to file a certified copy of the court's decision with each tribunal that issued or registered an earlier order. If the party fails to do so, the act authorizes any tribunal affected by the inaction to impose appropriate sanctions.

§ 28 — Duties of Initiating Tribunal

Prior law authorized Connecticut courts, when acting as the initiating tribunal, to comply with a responding tribunal's request for documentation only when the responding tribunal had not enacted the UIFSA. The act requires the Connecticut court to provide these materials to any responding state that requests them.

§ 50 — Modifying Child Support Orders Issued by Other Tribunals

The law prohibits an FSM from modifying any aspect of other states' support orders (different rules apply to foreign orders) that could not be modified under the law of the issuing state. The act specifies that this includes aspects that govern the duration of the support obligations. The law of the state that issued the initial controlling order governs the nature and duration of the support obligation and Connecticut courts cannot expand the terms of a support obligation.

§ 51 — Limiting Connecticut's Ability to Enforce Portions of its Own Orders

After another state has modified a child support order issued in Connecticut, FSMs retained authority under prior law to enforce (1) non-modifiable aspects of the order and (2) arrearages owed before its order was modified. The act eliminates the FSM's ability to enforce non-modifiable aspects of its order. But it allows an FSM to bring proceedings to collect the interest that had accrued on its order.

§ 31 — Duties of Support Enforcement Agency

The act requires the Judicial Department's Support Enforcement Services Division (SES) to make reasonable efforts to ensure that any Connecticut child support order it registers for enforcement or modification be either:

1. the controlling order or
2. if two or more orders exist and the controlling order has not been determined, to ensure that a request for such a determination is made in the appropriate tribunal.

The act also requires SES to issue, or ask a magistrate to issue, child support and income withholding orders redirecting current support, arrears, and interest payments to another state's SES on request.

§ 40 — Receipts and Disbursements

The law requires the Connecticut Bureau of Child Support Enforcement (the administrative enforcement division of the Department of Social Services) or the FSM Division to promptly disburse child support payments it collects in the manner specified by the applicable support order. These entities must also send payment records to other tribunals on request. When neither the obligor, obligee, nor child lives in Connecticut, the act requires these entities to respond to requests from child support enforcement agencies or tribunals by:

1. directing that the support payment be made to the support enforcement agency in the state where the obligee is receiving services and
2. issue and send the obligor's employer a conforming income withholding order to an administrative notice of change of payee, reflecting the redirected payments.

The act requires that, when Connecticut's child support enforcement agency receives redirected UIFSA payments from another state, it furnish a requesting party or other state tribunal a certified statement of the amount of all payments received.

§ 35 — Confidentiality of Personally Identifying Information

The act automatically seals personally identifying information in child support case files when a party submits a sworn statement indicating that disclosure would jeopardize the child or parent's health, safety, or liberty. The information cannot be disclosed to the other party or the public unless the court holds a hearing on the issue and determines that it is in the interest of justice to release some or all of the information.

Prior law permitted disclosure unless (1) a court found that disclosure would unnecessarily put a child or party at risk or (2) an existing order mandated nondisclosure.

§ 38 — Rules of Evidence and Procedure

The act modifies UIFSA's special physical presence rules. Prior law permitted Connecticut courts, when acting as responding tribunals, to (1) establish, enforce, or modify support orders or (2) make paternity determinations, without the petitioner being physically present. The act allows responding courts to issue these rulings when the respondent is not physically present. It also makes these rules applicable in UIFSA cases where the Connecticut court is acting as the issuing tribunal. (As under existing law, the court's rulings will only be binding on those over whom it has established personal jurisdiction.)

The act allows certified copies of voluntary paternity acknowledgments to be used as evidence, creating an exception to the general rule that out-of-court statements cannot be used to establish the truth of the factual matters they contain (the hearsay rule).

The act also requires FSMs to allow out-of-state parties and witnesses to be deposed or testify in their home states. Prior law gave the FSM the discretion to approve or deny such requests. Connecticut courts must cooperate with other tribunals in designating appropriate locations.

§ 41 — Temporary Support Orders

The act changes the standards for issuing temporary child support orders. Under prior law, FSMs could issue such orders if the respondent:

1. signed a verified paternity acknowledgment;
2. had been legally determined to be the parent; or
3. was found, by clear and convincing evidence, to be the parent (genetic test results indicating at least 99% probability of paternity is sufficient evidence).

The act adds a requirement that the FSM make a finding that the support order is appropriate. It expands the factual bases justifying its action to include when the respondent is:

1. a presumed father of the child,
2. alleged to be the father but refusing genetic testing,
3. the child's mother, or
4. an individual subject to an existing child support order that has not been reversed or vacated.

As under existing law, the court must give the person alleged to owe support notice and the opportunity to be heard before issuing its order.

§§ 44 & 56 — Procedure to Register an Order for Enforcement

Existing UIFSA law establishes procedures and document filing requirements for registering support and income withholding orders issued in other states in order to obtain SES enforcement services. When more than one order is in effect, the person seeking to register it must also provide copies; identify which order, if any, is claimed to be controlling; and specify the amount of consolidated arrears.

The act also specifies that a request for a determination of which order is controlling may be filed separately or in conjunction with requests to enforce or register and modify an order. The requestor must notify each party whose rights might be affected.

The act also allows an obligor to contest the validity or enforcement of an income withholding order by registering it with SES and filing a legal challenge.

§ 46 — Notice of Registration of Order

UIFSA directs SES or the FSM Division to notify the nonregistering party when a support or withholding order from another state is registered in Connecticut. It specifies information that must be in the notice, including that failing to contest the order's validity will result in its automatic confirmation and enforcement. The act requires that, when the registering party claims that two or more orders are in effect, the notice also:

1. identify the multiple orders and which one, if any, the registrant claims is controlling and the amount of consolidated arrears being sought;
2. inform the nonregistrant of the right to obtain a determination of which order is controlling and time limits for requesting the enforcement order's validity; and
3. specify that the same automatic confirmation and enforcement rules apply to orders involving controlling order determinations.

§§ 21 & 22—Alimony

Under prior law, Connecticut courts had continuing, exclusive jurisdiction over alimony (spousal support) orders throughout the entire period of the obligation. The act limits this rule to matters concerning the order's modification. It authorizes the court to serve as (1) an initiating tribunal, asking another tribunal to enforce the order or (2) a responding tribunal, to enforce or modify it at another tribunal's request.

PA 07-5—SB 109
Insurance and Real Estate Committee
Transportation Committee

AN ACT REQUIRING AUTOMOBILE INSURANCE DISCOUNTS FOR DRIVERS SIXTY YEARS OF AGE AND OVER WHO COMPLETE AN ACCIDENT PREVENTION COURSE

SUMMARY: This act decreases, from 62 to 60, the age at which a driver is eligible for an automobile insurance policy premium discount for successfully completing a Department of Motor Vehicles-approved accident prevention course.

By law, the premium discount must be at least 5% and apply for at least 24 months. The driver must complete the course within one year before applying for an initial discount. For any future discount, the driver must complete a course within one year before the current discount expires. The premium discount is effective at the policy's next renewal.
EFFECTIVE DATE: October 1, 2007

PA 07-18—sSB 229
Insurance and Real Estate Committee

AN ACT CONCERNING LISTS OF PROVIDERS AND NOTIFICATION OF TERMINATION OR WITHDRAWAL OF PRIMARY CARE PHYSICIANS

SUMMARY: By law, managed care organizations (MCOs) must annually provide people enrolled in a health plan a list of health care providers participating in the plan. This act specifies that the list must be provided in writing or through the Internet at the enrollee's option.

Prior law required an MCO to notify an enrollee as soon as possible when his or her primary care physician left the MCO's provider network. The act limits this requirement to managed care plans that require an enrollee to select a primary care physician.
EFFECTIVE DATE: October 1, 2007

BACKGROUND

MCO

An MCO is an insurer, HMO, hospital or medical service corporation, or other organization delivering, issuing for delivery, renewing, or amending an individual or group managed care plan in Connecticut.

Managed Care Plan

A managed care plan is a product an MCO offers that finances or delivers health care services to plan enrollees through a panel of health care providers selected based on explicit standards. The plan offers incentives to encourage enrollees to use these providers (e.g., lower copayments).

PA 07-21—sSB 1212
Insurance and Real Estate Committee

AN ACT CONCERNING COVERAGE BY THE CONNECTICUT INSURANCE GUARANTY ASSOCIATION

SUMMARY: This act increases the coverage limit for the Connecticut Insurance Guaranty Association from $300,000 to $400,000 for claims arising under policies of property and casualty insurers determined insolvent on or after October 1, 2007. By law, the association pays the full amount of workers' compensation claims.

The association, which is funded by assessments against insurers licensed to write property and casualty insurance in Connecticut, is required by law to process and pay qualifying claims filed by state residents against an insolvent insurance company.
EFFECTIVE DATE: October 1, 2007

PA 07-25—sSB 249
Insurance and Real Estate Committee
Appropriations Committee

AN ACT CONCERNING MEDICAL MALPRACTICE DATA REGARDING MEDICAL PROFESSIONALS

SUMMARY: This act extends to insurers of any "medical professional," instead of just insurers of physicians, advanced practice registered nurses, or physician assistants, the requirement to provide to the insurance commissioner a closed claim report. A "closed claim" is one that has been settled, or otherwise disposed of, and for which the insurer has paid all claims. By law, the insurer must submit the report on a form the commissioner prescribes within 10 days after the last day of the calendar quarter in which a claim is closed. The report includes information only about claims settled under Connecticut law.

The act defines "medical professional" as any person licensed or certified to provide health care services to individuals, including chiropractors, clinical dietitians, clinical psychologists, dentists, nurses, occupational speech and physical therapists,

optometrists, pharmacists, physicians, podiatrists, and psychiatric social workers. By law, a closed claim report contains details about the insured and the insurer, the injury or loss, the claims process, and the amount paid on each claim.
EFFECTIVE DATE: October 1, 2007

BACKGROUND

Closed Claim Reports

By law, the insurance commissioner must aggregate the individual closed claim report data into a summary and annual report. The summary must include (1) an analysis of the trend of direct losses, incurred losses, earned premiums, and investment income as compared to prior years and (2) base premiums medical malpractice insurers charge for each specialty and the number of providers insured by specialty for each insurer. By law, the commissioner must annually submit the report to the Insurance and Real Estate Committee. He must also (1) make the report available to the public, (2) post it on the department's Internet site, and (3) provide public access to the electronic database after establishing that individually identifiable information about claimants and practitioners has been removed.

Claims Process

The report must contain details about the claims process including:

1. whether a lawsuit was filed and, if so, in which court;
2. its outcome;
3. the number of other defendants, if any;
4. the stage in the process when the claim was closed;
5. the trial dates;
6. the date of any judgment or settlement;
7. whether an appeal was filed and, if so, the date filed;
8. the resolution of the appeal and the date it was decided;
9. the date the claim was closed; and
10. the initial and final indemnity and expense reserve for the claim.

Amount Paid on the Claim

The report must include:

1. the total amount of the initial judgment rendered by a jury or awarded by the court;
2. the total amount of the settlement if no judgment was rendered or awarded or the claim was settled after judgment was rendered or awarded;
3. the amount of economic and noneconomic damages, or the insurer's estimate of these amounts in a settlement;
4. the amount of any interest awarded due to failure to accept an offer of compromise;
5. the amount of any reduction or addition and the amount of final judgment after such reductions or additions;
6. the amount the insurer paid;
7. the amount the defendant paid due to a deductible or a judgment or settlement in excess of policy limits;
8. the amount other insurers or defendants paid;
9. whether a structured settlement was used;
10. the expense assigned to and recorded with the claim, including defense and investigation costs but not including the actual claim payment; and
11. any other information the commissioner determines necessary to regulate the medical malpractice insurance industry, ensure its solvency, and ensure that such liability insurance is available and affordable.

PA 07-27—sSB 1102
Insurance and Real Estate Committee
Labor and Public Employees Committee

AN ACT REQUIRING THE USE OF GENERALLY ACCEPTED ACCOUNTING PRINCIPLES FOR CERTAIN AUDITS

SUMMARY: This act permits the insurance commissioner to accept from certain "employers' mutual associations" financial statements that use generally accepted accounting procedures (GAAP) if the statement includes a conversion to statutory accounting procedures (SAP). The association must submit the financial statements quarterly and annually.
EFFECTIVE DATE: October 1, 2007

EMPLOYERS' MUTUAL ASSOCIATION FINANCIAL STATEMENTS

The act permits the insurance commissioner to accept financial statements prepared using GAAP if the statements include a conversion to SAP from an employers' mutual association that (1) was organized before June 6, 1996, (2) is composed exclusively of health care providers, and (3) derives its premiums entirely from health care organizations.

Annually by March 1, the association must submit to the commissioner a financial statement covering the preceding calendar year that:

1. is audited by an independent certified public accountant;
2. is prepared in a manner the commissioner prescribes;
3. is signed and sworn to by the association's president or vice president and secretary or assistant secretary; and
4. includes an actuary's or reserve specialist's certification of reserve liabilities prepared in accordance with Insurance Department regulations.

The association must also submit quarterly, unaudited financial statements using GAAP if the statements include a conversion to SAP.

BACKGROUND

Employers' Mutual Associations

An employers' mutual association is a mutual association formed by a group of employers in the same or similar trade or business with substantially similar degrees of risk of injury to employees to insure the employers' liabilities under the state Workers' Compensation Act. This is an alternative to the employers purchasing commercial insurance.

By law, the insurance commissioner has financial oversight of these associations and periodically conducts a financial examination of them following the statutorily prescribed standards applicable to licensed insurance companies.

Statutory Accounting Principles

Insurance companies prepare their financial statements using SAP, a set of accounting regulations the National Association of Insurance Commissioners developed. The SAP method of preparing financial statements is regarded as more conservative than the GAAP method.

PA 07-28—sSB 1103
Insurance and Real Estate Committee

AN ACT CONCERNING NONFORFEITURE BENEFIT REQUIREMENTS WITH RESPECT TO LONG-TERM CARE POLICIES

SUMMARY: This act prohibits an insurer from issuing or delivering a long-term care policy on or after July 1, 2008 unless it had offered the prospective insured an optional nonforfeiture benefit during the policy solicitation or application process. The offer may form a rider to the policy. If the nonforfeiture option is declined, the insurer must give the insured a contingent benefit if the policy lapses (i.e., terminates because the insured stops paying the premium). The contingent benefit must be available to the insured for a period of time after any substantial premium increase.

The act requires the insurance commissioner to adopt regulations by July 1, 2008 to implement the nonforfeiture option and contingent benefit requirements. The regulations must specify (1) the nonforfeiture benefit standards and type, (2) the time period a contingent benefit must be available, and (3) what constitutes a substantial premium increase. They must also be in accord with the National Association of Insurance Commissioners' long-term care insurance model regulation.

The act's requirements apply to insurance companies, fraternal benefit societies, hospital or medical service corporations, and HMOs.

EFFECTIVE DATE: July 1, 2007

BACKGROUND

Nonforfeiture and Contingent Benefits

A nonforfeiture benefit is an insurance policy provision specifying that an insured's equity in the policy cannot be forfeited. It offers the insured options for receiving the cash value of a policy that lapses. Some common types of nonforfeiture benefits are the policy's cash surrender value, other insurance, or a loan. If the insured does not elect a nonforfeiture option, a policy specifies one that is automatically effective (i.e., a contingent benefit upon lapse).

Long-Term Care Policy

Connecticut law defines a long-term care policy as an individual health insurance policy that provides expense-incurred, indemnity, or pre-paid benefits for the necessary care or treatment of an injury, illness, or loss of functional capacity provided by a certified or licensed health care provider in a setting other than an acute hospital, including a nursing home and an insured's own home. Benefits are effective for at least one year following an elimination period (i.e., a time period after the onset of the injury, illness, or function loss during which no benefits are payable). It excludes policies that provide Medicare supplement, basic medical-surgical expense, hospital confinement indemnity, major medical expense, disability income protection, accident only, specified accident, and limited benefit health coverage.

Related Act

PA 07-226 requires a long-term care policy elimination period of (1) no more than 100 days of confinement or (2) between 100 days and two years of confinement if an irrevocable trust is in place that is

estimated to be sufficient to cover the person's confinement costs during that period.

PA 07-48—HB 5259
Insurance and Real Estate Committee

AN ACT CONCERNING REFUNDS OF PREPAID PREMIUMS MADE BY SENIOR CITIZENS TO HEALTH INSURANCE PROVIDERS FOR MEDICARE SUPPLEMENT POLICIES

SUMMARY: This act requires insurers to refund to a person who cancels his or her Medicare supplement policy before the policy's coverage period ends any prepaid premium. The requirement applies to insurance companies, fraternal benefit societies, hospital or medical service corporations, HMOs, and other entities that deliver, issue, continue, or renew a Medicare supplement policy or certificate in Connecticut.

A Medicare supplement policy (also referred to as "Medigap") is a health insurance policy that covers some of the health care costs that Medicare does not cover. It must meet minimum standards set in federal law.
EFFECTIVE DATE: October 1, 2007

PA 07-54—HB 6982
Insurance and Real Estate Committee

AN ACT MAKING MINOR AND TECHNICAL CHANGES TO THE INSURANCE STATUTES

SUMMARY: This act makes technical revisions to the insurance statutes.
EFFECTIVE DATE: Upon passage

PA 07-67—sSB 389
Insurance and Real Estate Committee

AN ACT CONCERNING HOSPITALIZATION AT AN OUT-OF-NETWORK FACILITY DURING TREATMENT IN CANCER CLINICAL TRIALS

SUMMARY: By law, individual and group health insurance policies and HMO contracts must cover medically necessary hospitalization services and other routine patient care costs associated with certain cancer clinical trials. This act specifies that the required hospitalization coverage includes treatment at an out-of-network facility if (1) it is unavailable at an in-network facility and (2) the clinical trial sponsors are not paying for it. (An out-of-network facility is one that has not contracted with the insurer or HMO to provide health care services to enrollees. An in-network facility has contracted.)

Prior law subjected the required coverage to the policy's or contract's terms and limitations, including out-of-network limitations. The act instead requires the out-of-network hospital and insurer or HMO to make the out-of-network hospital treatment available at no greater cost to the patient than if treatment was available at an in-network facility. Thus, the patient is only responsible to pay any copayment, coinsurance, or deductible required under the policy or contract for in-network services.
EFFECTIVE DATE: Upon passage

BACKGROUND

Coverage for Cancer Clinical Trials

By law, health insurers and HMOs must cover routine patient care costs associated with certain cancer clinical trials. A "cancer clinical trial" is an organized, systematic, scientific study of interventions for cancer (1) treatment or palliation or (2) prevention. If the trial is for cancer prevention, it must be a Phase III trial conducted at multiple institutions. (Phase III clinical trials compare a new drug or surgical procedure to the current standard of treatment.)

The law applies to trials conducted under an independent, peer-reviewed protocol approved by (1) one of the National Institutes of Health, (2) a National Cancer Institute-affiliated cooperative group, (3) the Food and Drug Administration as part of an investigational new drug or device exemption, or (4) the U.S. Departments of Defense or Veterans' Affairs.

Payment to Out-of-Network Providers

By law, an insurer or HMO must pay out-of-network providers (including hospitals) the lesser of (1) the lowest contracted daily fee schedule or case rate it pays its Connecticut in-network providers for similar services or (2) billed charges. Out-of-network providers are prohibited from collecting more than the total of the amount paid by the insurer or HMO and the insured's deductible and copayment.

PA 07-68—HB 5286
Insurance and Real Estate Committee

AN ACT CONCERNING INSURANCE ON RESIDENTIAL CONDOMINIUMS AND FLOOD INSURANCE FOR CONDOMINIUMS LOCATED IN FLOOD HAZARD AREAS

SUMMARY: For condominiums and other common interest communities governed by the Common Interest Ownership Act (CIOA), this act requires the association of unit owners to maintain flood insurance if (1) the property is located in a flood hazard area, as defined and determined by the National Flood Insurance Act and (2) the unit owners, by vote, require it. By law, common expenses for these common interest communities include the cost of repairing and replacing any portion of the common interest community that exceeds the insurance proceeds from the insurance the association must provide by law. The act specifies that common expenses also include any excess resulting from any applicable insurance deductible.

The act imposes similar requirements for condominiums governed by the Condominium Act. For these condominiums, the requirement applies only if the condominium instruments or unit owners' vote requires it. The act imposes this requirement on the association acting through its board of directors, managing agent, or other authorized agent. The act requires, instead of authorizes, them to provide other types of insurance, including workers' compensation, directors' indemnity, and specialized policies covering lands or improvements in which the unit owners' association has or shares ownership or other rights, if the condominium instruments or unit owners' vote requires it.

Under prior law, premiums for insurance that the law requires the condominium associations governed by the Condominium Act to provide had to be treated as common expenses. This act allows the condominium instruments to instead assess the cost of the insurance coverage against the units in proportion to risk.

EFFECTIVE DATE: October 1, 2007

BACKGROUND

CIOA, the Condominium Act, and the Unit Ownership Act

Three different sets of laws govern condominiums, depending on when they were created. CIOA governs the creation, alteration, management, termination, and sale of condominiums and other common interest communities formed in Connecticut after January 1, 1984 (CGS § 47-200 et seq.). The Condominium Act governs condominiums created from 1977 through 1983. (PA 76-308; CGS §§ 47-68a to 47-90c). Condominiums created before the Condominium Act was adopted are governed by the Unit Ownership Act (PA 1963, No. 605, July 10, 1963; CGS §§ 47-67 to 47-115 Revised to 1975).

Certain CIOA provisions automatically apply to condominiums created in Connecticut before January 1, 1984, but only with respect to events and circumstances that occur after December 31, 1983. The CIOA insurance provisions amended by this act do not automatically apply to pre-CIOA condominiums (CGS § 47-216).

The law permits condominiums created before January 1, 1984 to amend their governing instruments (declaration, bylaws, survey, or plans) to conform to portions of CIOA that do not automatically apply. Thus, a pre-CIOA condominium may adopt any of these CIOA provisions it wishes and does not have to adopt all of CIOA. Any amendment must be adopted in accordance with the law that applied when the condominium was created and with the procedures and requirements specified by the condominium's declaration and bylaws (CGS § 47-218).

Common Interest Community

"Common interest community" means real property described in a declaration on which a person, by virtue of his ownership of a unit, is obligated to make payments for (1) real property taxes, (2) insurance premiums, (3) maintenance, or (4) improvement of any other real property other than the unit described in the declaration (CGS § 47-202 (7)).

Related Law

For condominiums governed by CIOA, to the extent required by the declaration, associations must assess the costs of insurance in proportion to risk (CGS § 47-257 (c)).

PA 07-75—sHB 7055
Insurance and Real Estate Committee

AN ACT CONCERNING MEDICAL NECESSITY AND EXTERNAL APPEALS

SUMMARY: This act requires insurers, HMOs, and other entities to include a particular definition of "medically necessary" or "medical necessity" in individual and group health insurance policies and contracts. For insurers and HMOs that have entered into a federal court-approved class action settlement with physicians, the requirement does not apply until the settlement's expiration date.

The act extends the timeframe for appealing to the insurance commissioner (i.e., filing an external appeal) after a person has exhausted a company's internal grievance procedures. Under prior law, after receiving a final written claim denial based on a lack of medical necessity or determination not to certify an admission, service, procedure, or extension of hospital stay, a person had 30 days to file an external appeal. The act extends this to 60 days. It also makes a conforming change.

EFFECTIVE DATE: January 1, 2008, except for the appeal provision, which is effective upon passage.

REQUIRED DEFINITION

The act prohibits insurers and HMOs from delivering or issuing for delivery any individual or group health insurance policy in Connecticut unless it contains the following definition:

> "Medically necessary" or "medical necessity" means health care services that a physician, exercising prudent clinical judgment, would provide to a patient for the purpose of preventing, evaluating, diagnosing, or treating an illness, injury, disease, or its symptoms, and that are (1) in accordance with generally accepted standards of medical practice; (2) clinically appropriate, in terms of type, frequency, extent, site, and duration and considered effective for the patient's illness, injury, or disease; and (3) not primarily for the convenience of the patient, physician, or other health care provider and not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of that patient's illness, injury, or disease. "Generally accepted standards of medical practice" means standards that are based on credible scientific evidence published in peer-reviewed medical literature generally recognized by the relevant medical community or otherwise consistent with the standards set forth in policy issues involving clinical judgment.

APPLICATION

Medically Necessary Provisions

The act's medical necessity provisions apply to insurers, HMOs, hospital and medical service corporations, and other entities delivering, issuing, renewing, continuing, or amending individual or group health insurance policies in Connecticut beginning January 1, 2008 that cover (1) basic hospital expenses, (2) basic medical-surgical expenses, (3) major medical expenses, (4) accidents only, (5) limited benefits, or (6) hospital or medical services.

Appeal Provision

The act's appeal provision applies to any entity delivering, issuing, renewing, or amending individual or group health insurance policies in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; (4) limited benefits; (5) specified diseases; or (6) hospital or medical services, including those issued by HMOs.

BACKGROUND

Class Action Settlements

Aetna, CIGNA, Health Net, Prudential, Anthem/WellPoint, and Humana entered into settlement agreements that apply nationally with over 900,000 physicians and state and county medical societies in the class action lawsuits consolidated as *In re Managed Care Litigation* in the U.S. District Court for the Southern District of Florida. The settlements were approved at various times between 2003 and 2006. Other defendants, including PacifiCare, United, and Coventry, did not enter into settlement agreements with the physicians.

The lawsuits alleged that since 1990, these companies engaged in a conspiracy to improperly deny, delay, or reduce payment to physicians by engaging in several types of allegedly improper conduct, including failing to pay for medically necessary services in accordance with member plan documents. Under the settlement terms, each company has agreed to use a specified "medical necessity" definition. The settlements have expiration dates that vary by company. When they expire, the companies will no longer be bound to follow the definition contained in the settlements, at which time they are required to use the act's definition.

PA 07-77—sHB 7300
Insurance and Real Estate Committee
Finance, Revenue and Bonding Committee

AN ACT ESTABLISHING MEASURES TO MITIGATE CATASTROPHIC LOSSES DUE TO HURRICANES AND SEVERE STORMS

SUMMARY: Beginning January 1, 2008, this act prohibits an insurer from refusing to issue or renew a homeowners insurance policy solely because a person has not installed permanent storm shutters on his or her home to mitigate loss from hurricanes and severe storms. It requires an insurer to offer an actuarially sound premium discount to homeowners who install permanent storm shutters or impact-resistant glass for loss mitigation purposes.

The act authorizes the insurance commissioner to (1) establish and adopt regulations for a Coastal Market Assistance Program (CMAP) to help coastal-area residents obtain homeowners insurance and (2) require an insurer that does not issue or renew a homeowners policy to tell the homeowner about CMAP in writing. (The act does not define what it means to be "in proximity to the coastal area.")

The act includes certain owners of mobile homes as homeowners.

EFFECTIVE DATE: Upon passage, except for the insurer prohibition and premium discount provisions, which are effective January 1, 2008. (PA 07-4, June Special Session changes the effective date of the insurer prohibition to July 1, 2007.)

MOBILE HOMEOWNER

In applying its requirements, the act includes as a homeowner a person who owns and occupies a mobile dwelling that is (1) equipped for year-round living, (2) permanently attached to a foundation on property the person owns or leases, (3) connected to utilities, (4) assessed as real property for tax purposes, and (5) in conformance with state and local laws and ordinances.

CMAP

According to the act, CMAP's purpose is to help homeowners find insurance for residential dwellings located near the state's coastal area. The act permits CMAP to consist of a voluntary network of participating insurers and insurance producers that operates under the insurance commissioner's guidance. It permits the commissioner to adopt implementing regulations.

BACKGROUND

Coastal Area

In January 2007, the Insurance Department published administrative guidelines for underwriting coastal homeowners insurance policies. The guidelines differ if the insured property is within or over 2,600 feet of the coast. The department's publication, which is available on its web site, notes that there is no generally accepted definition of "coast" for property and casualty insurance purposes. In the guidelines, coast refers "only to a salt-water ocean, sound, bay, or inlet with the distance as measured from the median high water mark."

PA 07-96—HB 5496
Insurance and Real Estate Committee

AN ACT REGULATING LIMITED BENEFIT MEDICAL PLANS

SUMMARY: Beginning January 1, 2008, this act requires each individual and group health insurance policy, contract, or certificate issued in Connecticut that provides limited coverage, and any related advertising, marketing, and enrollment material, to include a conspicuous statement disclosing that the plan does not provide comprehensive medical coverage.

It also prohibits, as of that date, an insurer, HMO, or other entity from replacing an employer-sponsored comprehensive health insurance plan with a policy that provides limited coverage.

EFFECTIVE DATE: July 1, 2007

LIMITED COVERAGE

Definition

The act defines "limited coverage" as a health insurance policy that includes an annual maximum benefit of less than $100,000 or a per-service or -condition benefit limit of less than $20,000. The policy covers basic hospital expenses, basic medical-surgical expenses, major medical expenses, or hospital or medical services, including an HMO contract.

Conspicuous Statement

Beginning January 1, 2008, each individual and group health insurance policy, contract, and certificate providing limited coverage and any related advertising, marketing, and enrollment material must include a conspicuous statement printed in capital letters and at least 12-point bold face type that says:

This limited health benefits plan does not provide comprehensive medical coverage. It is a basic or limited benefits policy and is not intended to cover all medical expenses. This plan is not designed to cover the costs of serious or chronic illness. It contains specific dollar limits that will be paid for medical services which may not be exceeded. If the cost of services exceeds those limits, the beneficiary and not the insurer is responsible for payment of the excess amounts. The specific dollar limits are as follows: (The insurer is to specify the limits.)

PA 07-113—sSB 1214
Insurance and Real Estate Committee
Judiciary Committee

AN ACT CONCERNING POSTCLAIMS UNDERWRITING

SUMMARY: This act prohibits certain health insurers and HMOs from rescinding, canceling, or limiting coverage based on information a person submitted with or omitted from an insurance application if, before issuing the policy, contract, or certificate, the insurer or HMO did not perform a thorough medical underwriting process. This includes resolving all reasonable medical questions based on the written application.

However, the act allows a rescission, cancellation, or limitation based on the application when the insurance commissioner approves it. It requires insurers and HMOs to apply for approval using a process it specifies. It permits the commissioner to approve the action if the enrollee, or the enrollee's representative, knew or should have known that information material to the insurer's or HMO's risk assumption was (1) false when included with the application or (2) omitted from the application. Regardless, it prohibits an insurer or HMO from rescinding, canceling, or limiting any coverage that has been effective for more than two years. The act permits the commissioner to adopt implementing regulations.

The act exempts the commissioner's decision from the administrative procedure law that permits a person aggrieved by the decision to request a hearing. Instead, it permits an aggrieved person to file an appeal with Hartford Superior Court within 30 days of when the decision is mailed to the affected parties. The court may grant equitable relief.

The act removes from the preexisting condition definition that applies to individual health insurance policies, excluding short-term policies, a physical or mental condition that manifested itself during the 12 months before coverage became effective. Thus, it defines a preexisting condition as a physical or mental condition for which medical advice, diagnosis, care, or treatment was recommended or received during the 12 months before coverage became effective.

Under prior law, a short-term health insurance policy issued on a nonrenewable basis for six months or less was exempt from preexisting condition coverage requirements if it disclosed in plan materials that preexisting conditions are not covered. The act imposes preexisting condition exclusion limitations on these short-term policies and requires insurers and HMOs to use specific disclosure language.

EFFECTIVE DATE: October 1, 2007

APPROVAL PROCESS

The act requires an insurer or HMO to apply for the insurance commissioner's approval to rescind, cancel, or limit benefits under a health insurance policy, contract, or certificate based on information the enrollee provided or omitted from the insurance application. The commissioner must prescribe the approval application form.

The insurer or HMO must provide a copy of the completed approval application to the enrollee, or enrollee's representative, who then has seven business days to submit relevant information to the commissioner. Within 15 days of receiving the enrollee's submission, the commissioner must mail a written decision to the enrollee; the enrollee's representative, if any; and the insurer or HMO.

APPLICATION OF REQUIREMENTS

The rescission, cancellation, and limitation requirements apply to health insurers and HMOs issuing policies or contracts that cover:

1. basic hospital expenses,
2. basic medical-surgical expenses,
3. major medical expenses,
4. accidents,
5. limited benefits, and
6. hospital or medical services.

SHORT-TERM POLICY PREEXISTING CONDITION EXCLUSION

The act prohibits a short-term health insurance policy issued on a nonrenewable basis for six months or less from excluding coverage of a preexisting condition for more than 12 months from the policy effective date. It defines "preexisting condition" as a physical or mental condition for which medical advice, diagnosis, care, or treatment was recommended or received during the 24 months before coverage became effective.

The act requires the policy, coverage application, and sales brochure for the short-term coverage to conspicuously include the following statement in at least 14-point bold face type:

THIS POLICY EXCLUDES COVERAGE FOR CONDITIONS FOR WHICH MEDICAL ADVICE, DIAGNOSIS, CARE, OR TREATMENT WAS RECOMMENDED OR RECEIVED DURING THE TWENTY-FOUR MONTHS IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF COVERAGE.

If an insurer or HMO issues consecutive short-term policies to the same person, it must subtract the time the person was covered by the former policy or policies from any subsequent policy's preexisting condition exclusion period. The act specifies that it does not require a short-term policy to be issued or renewed.

BACKGROUND

Preexisting Condition Coverage Requirement

State law prohibits health insurance policies from excluding coverage for preexisting conditions for more than 12 months from the insured's policy effective date. It requires policies (excluding short-term policies) to provide coverage for preexisting conditions to a newly insured individual previously covered for the condition under a former plan if the former plan terminated no more than 120 days before the new policy's effective date. In the case of a new group member, coverage for a preexisting condition is required if (1) the former plan terminated because of an involuntary loss of employment within 150 days before the effective date of the new plan and (2) the member applies for the succeeding policy within 30 days of initial eligibility. If the person was not covered for the preexisting condition under the former policy, the new policy must subtract from the subsequent policy's preexisting condition exclusion period the time the person was covered by the former policy.

Related Law – Insurance Fraud

A person is guilty of insurance fraud when he or she, with the intent to injure, defraud, or deceive any insurance company, knowingly gives, or assists in giving, the insurer any false, incomplete, or misleading written or oral statement as part of, or in support of, any insurance application or claim, that is material to the application or claim. Insurance fraud is a class D felony (see Table on Penalties).

PA 07-178—sHB 7263
Insurance and Real Estate Committee
Judiciary Committee
Finance, Revenue and Bonding Committee
Public Health Committee

AN ACT CONCERNING HEALTH CARE CENTERS AND INSOLVENCY PROTECTION

SUMMARY: This act makes several changes to laws affecting health care centers (i.e., HMOs). It requires an HMO to deposit $500,000 with the insurance commissioner or designated trustee. The commissioner must use the deposit to provide health care services to the HMO's enrollees if the HMO is placed in receivership (i.e., rehabilitation or conservation) and may use them for related administrative costs.

By law, an HMO may provide out-of-network (OON) benefits to its enrollees, subject to certain financial requirements. Prior law prohibited an HMO's OON benefits from exceeding 10% of its total quarterly health care expenditures (i.e., claims and expenses). The act instead permits OON benefits to exceed 10% of total expenditures if the HMO first (1) obtains the insurance commissioner's approval and (2) deposits an amount equal to at least 120% of its uncovered expenditures with the commissioner or designated trustee.

Prior law required contracts between an HMO and a contracted health care provider to specify that if the HMO failed to pay the provider, the enrollee would not be liable for the amount the HMO owed. The act instead requires the contract to include language it specifies that holds enrollees harmless (i.e., not liable) for amounts the HMO owes. It also requires the contract to inform the provider that it is an unfair trade practice to (1) ask an enrollee for more than his or her copayment or deductible or (2) report an enrollee to a credit agency for not paying a bill for which the HMO is liable.

EFFECTIVE DATE: October 1, 2007

RECEIVERSHIP DEPOSIT

The act requires each HMO to deposit with the commissioner cash, securities, any combination of these, or other measures acceptable to the commissioner. At the commissioner's discretion, deposits may be given to any acceptable organization or trustee through which a custodian or controlled account is used. The deposit must be worth at least $500,000 at all times. An HMO in operation on October 1, 2007 must deposit $250,000 (presumably in 2007) and another $250,000 in the second year (presumably 2008) to meet the requirement.

The act specifies that an HMO's deposits and all income from them are the HMO's admitted assets when determining its net worth. An HMO that has made a

securities deposit may withdraw all or part of it after making a substitute deposit of equal amount and value. The insurance commissioner must approve any securities before they are deposited.

The act requires that the deposits be used to protect the interests of the HMO's enrollees and to assure continuation of health care services to them when the HMO is in rehabilitation or conservation. It permits the commissioner to use the deposits for administrative costs directly related to a receivership or liquidation. If the HMO is placed in rehabilitation or liquidation, the deposit is considered an asset subject to the provisions of the Insurers Rehabilitation and Liquidation Act.

UNCOVERED EXPENDITURES DEPOSIT

The act requires an HMO to place an uncovered expenditures insolvency deposit with the insurance commissioner, or with an acceptable organization or trustee through which a custodial or controlled account is maintained, whenever uncovered expenditures exceed 10% of its total health care expenditures.

The deposit must be in cash or securities acceptable to the commissioner and must at all times have a fair market value equal to 120% of the HMO's uncovered expenditures liability for enrollees in Connecticut, including claims incurred but not yet reported to the HMO. The HMO must calculate the deposit amount as of a month's first day and maintain that amount for the rest of the month. The act requires the HMO to file with the insurance commissioner, within 45 days after each quarter ends, a financial report demonstrating compliance.

Under the act, the uncovered expenditures insolvency deposit is in addition to the $500,000 receivership deposit. It and all income from it are the HMO's admitted assets when determining net worth, and may be withdrawn quarterly with the commissioner's approval.

The act permits an HMO to withdraw all or part of the deposit if (1) a substitute deposit of equal amount and value is made, (2) the fair market value exceeds the amount of the required deposit, or (3) the required deposit is reduced or eliminated. Deposits, substitutions, or withdrawals require the commissioner's prior written approval.

The act requires that the deposit be held in trust separate and apart from all other money, funds, and accounts and it may be used only as provided. It permits the commissioner to use the deposit for paying enrollees' claims for uncovered expenditures and related administrative costs. The commissioner must pay claims on a prorated basis based on available assets. Partial distribution may be made pending final distribution. Any deposit remaining must be paid into the HMO's liquidation or receivership.

The act permits the commissioner to adopt regulations that set the time, manner, and form for filing uncovered expenditure claims. The commissioner may also adopt regulations or issue an order requiring an HMO to file annual, quarterly, or more frequent reports deemed necessary to demonstrate compliance. The commissioner may require that the reports include liability for uncovered expenditures as well as an audit opinion.

PROVIDER CONTRACT HOLD HARMLESS PROVISION

The act requires a contract between an HMO and a participating provider to contain the language it includes or a variation the insurance commissioner approves. The language specifies that the provider and HMO agree that if the HMO does not pay the provider, becomes insolvent, or breaches the contract, the provider will not collect or attempt to collect the amount the HMO owes from the HMO's enrollee or take any recourse against him or her. It also specifies that the provider will continue to render health care services to the enrollee for the period of time for which the enrollee's premiums were paid or until he or she is discharged from an inpatient facility, whichever is longer.

BACKGROUND

Uncovered Expenditures

"Uncovered expenditures" are health care costs an HMO is obligated to pay, but for which an enrollee may be liable if the HMO is insolvent. Uncovered expenditures do not include (1) expenses for which a provider has agreed not to bill the enrollee even if the HMO does not pay the provider or (2) services another person or organization, other than the HMO, guarantees, insures, or assumes.

Insurers Rehabilitation and Liquidation Act

The Insurers Rehabilitation and Liquidation Act gives the insurance commissioner broad authority to supervise, rehabilitate, or liquidate a financially impaired or insolvent HMO to protect the interests of enrollees, claimants, creditors, and the general public. Among other actions, the commissioner can void fraudulent transfers, preferences, and liens; seek recovery of premiums; dispute claims; prohibit certain financial transactions; and distribute an insolvent HMO's remaining assets to enrollees and other claimants.

Unfair Trade Practice

The Connecticut Unfair Trade Practices Act (CUTPA) prohibits businesses from engaging in unfair and deceptive acts or practices. It allows the Department of Consumer Protection commissioner to define "unfair trade practice" in regulations, 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 violation of a restraining order.

PA 07-182—sSB 1100
Insurance and Real Estate Committee
Planning and Development Committee
Judiciary Committee

AN ACT CONCERNING THE PURCHASE OF SUBDIVISION LOTS.

SUMMARY: Prior law subjected anyone who "sells or offers for sale" any lot subdivided based on a planning commission's conditional subdivision approval before receiving its final approval to a fine of up to $500 for each lot sold or offered for sale. The act instead subjects anyone who "transfers title" to such a lot before receiving final approval to a $1,000 fine for each title transferred. Thus, it permits a person to sell such a lot or offer it for sale, but not close on the sale until receiving final approval.

The act also gives the buyer of a lot that is subject to conditional subdivision approval a limited right to rescind the sale contract within three days of receiving notice of the planning commission's final approval. The buyer may rescind the contract if the final approval includes new amendments or conditions that he or she finds unacceptable. Both the final approval and the rescission must be in writing.

The act specifies that it does not authorize marketing a lot before conditional approval is granted or renewed for it.

EFFECTIVE DATE: July 1, 2007

PA 07-191—sSB 1213
Insurance and Real Estate Committee

AN ACT CONCERNING THE FINANCIAL SECURITY REQUIREMENT FOR PREFERRED PROVIDER NETWORKS

SUMMARY: The act revises the formula that determines the amount of financial security preferred provider networks (PPNs) and managed care organizations (MCOs) that contract with PPNs must post, maintain, or arrange for by letter of credit, bond, surety, reinsurance, reserve, or other means. In case of insolvency or nonpayment, the PPN, or another entity the insurance commissioner designates, must use the security to pay the network's health care providers.

Under prior law, the security amount required was the greater of (1) an amount calculated based on the two quarters in the past year in which the largest amounts were owed to network providers, (2) the actual outstanding debt owed them, or (3) another amount the commissioner determined. The act changes the formula's first prong to an amount sufficient for the PPN to pay the providers for two months based on the two months in the past year in which the PPN owed the largest amount to them. It leaves the two other prongs unchanged.

By law, the financial security amount maintained may be credited against the network's minimum net worth requirement. The commissioner must review the amount and the calculation on a quarterly basis.

EFFECTIVE DATE: July 1, 2007

BACKGROUND

PPN Definition

By law, a PPN is an entity that pays health care claims and accepts the financial risk for the delivery of health care services. It establishes, operates, or maintains an arrangement or contract with health care providers relating to (1) health care services the providers render and (2) compensation for such services. It excludes MCOs; workers' compensation preferred provider organizations; individual practice associations or physician hospital associations whose primary function is to contract with insurers and provide services to providers; and licensed clinical laboratories whose primary payments are made to other licensed laboratories or for associated pathology services.

Related Act

PA 07-200 excludes from the PPN definition a pharmacy benefits manager that processes pharmacy claims primarily to administer a health benefit plan's pharmacy benefit.

PA 07-197—SB 66
Insurance and Real Estate Committee
Public Health Committee
Appropriations Committee

AN ACT EXPANDING INSURANCE COVERAGE FOR SPECIALIZED FORMULAS FOR CHILDREN

SUMMARY: This act requires health insurance policies to cover medically necessary specialized formulas administered under a physician's direction for children up to age 12, instead of age eight.

The act applies to group and individual insurance policies delivered, issued for delivery, or renewed in Connecticut after September 30, 2007 that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; (4) accidents only; and (5) hospital or medical services, including HMO contracts. It does not apply to self-insured benefit plans, which are regulated under the federal Employee Retirement Income Security Act (ERISA).
EFFECTIVE DATE: October 1, 2007

BACKGROUND

Specialized Formulas

"Specialized formula" is a nutritional formula that is exempt from the federal Food and Drug Administration's general nutritional labeling requirements and is intended for use solely under medical supervision in the dietary management of specific diseases.

Related Act

PA 07-75 requires insurers and HMOs to include a specified "medically necessary" definition in health insurance policies.

PA 07-200—SB 74
Insurance and Real Estate Committee
Finance, Revenue and Bonding Committee
General Law Committee

AN ACT REQUIRING THE REGISTRATION OF PHARMACY BENEFITS MANAGERS

SUMMARY: This act requires pharmacy benefit managers (PBMs), with exceptions, to obtain a certificate of registration from the Insurance Department before operating in Connecticut. It requires PBMs already operating in the state on January 1, 2008 to obtain one by April 1, 2008 to continue operating here.

PBMs must apply for registration by giving the department (1) a completed application form that contains information on the people running the PBM; (2) a nonrefundable $50 fee; and (3) evidence of a surety bond that is between $25,000 and $1 million. The PBM may request a hearing if the department denies registration. The act permits the insurance commissioner to suspend, revoke, or deny registration for specified causes after notice and hearing. PBMs must apply annually for registration renewal.

The act also excludes a PBM that processes pharmacy claims primarily to administer a health benefit plan's pharmacy benefit from the "preferred provider network" (PPN) definition; thus, the PBM does not have to obtain a PPN license or comply with state PPN requirements.
EFFECTIVE DATE: January 1, 2008

PHARMACY BENEFIT MANAGER

Under the act, a PBM is a person that administers the prescription drug, prescription device, or pharmacist services portion of a health benefit plan on behalf of plan sponsors (e.g., self-insured employers, insurers, labor unions, or HMOs).

REGISTRATION

Application

The act requires a PBM, unless it meets a specified exception (see below), to apply for a certificate of registration from the Insurance Department on a form the department develops. The application must include the name, address, official position, and professional qualifications of each person responsible for running the PBM. Such people include (1) the principal officers, partners, or association members; (2) all members of the boards of directors, trustees, and executive and governing committees; and (3) any other person exercising control or influence over the PBM. The application must also include the name and address of the PBM's agent for service of process in Connecticut.

Fee and Bond

The PBM must pay a $50 nonrefundable application fee. It must also provide evidence of a surety bond equal to 10% of one month of claims in Connecticut over a 12-month average, except the bond must be at least $25,000 and no more than $1 million.

Issuance, Renewal, Suspension, Revocation, or Denial

Once the insurance commissioner receives a PBM's completed application, fee, and bond evidence, he must either issue the PBM a certificate of registration or deny registration.

Expiration and Renewal. Registration expires annually on December 31. The PBM may apply for renewal by completing a renewal form that the commissioner prescribes and paying a $50 nonrefundable renewal fee, plus a $50 penalty fee if paid late. (The act does not specify when a renewal is due or when payment is considered late.)

Suspension, Revocation, and Denial. The commissioner may suspend, revoke, or deny a registration for (1) conduct likely to mislead, deceive, or defraud the public or commissioner; (2) unfair or deceptive business practices; or (3) not paying the renewal fee.

The act specifies that the commissioner may suspend or revoke a registration only after providing notice and hearing in accordance with the Uniform Administrative Procedure Act (UAPA). Upon denying a registration, the commissioner must notify the PBM of the (1) decision and (2) PBM's right to request a hearing within 10 days of receiving notice. If the PBM requests a hearing, the commissioner must (1) give notice of the grounds for denying the registration and (2) hold a UAPA hearing. If after the hearing the denial is upheld, the PBM may reapply for registration, but it must wait at least one year from the hearing decision to do so.

Investigations

The act permits the commissioner to investigate and hold hearings on any matter covered by the registration requirements; issue subpoenas; administer oaths; compel testimony; and order the production of books, records, and documents. If anyone refuses to comply with the commissioner's orders, the commissioner may apply to Superior Court for a judge to order compliance.

Appeal to Court

The act permits anyone aggrieved by the commissioner's orders or decisions to appeal to Superior Court in accordance with the UAPA.

Regulations

The act requires the commissioner to adopt regulations to implement the registration requirements. The regulations must include the application form and any other required forms and reports.

EXCEPTIONS

The act exempts from the registration requirement a PBM that is a line of business or affiliate of a Connecticut-licensed health insurer, HMO, hospital or medical service corporation, or fraternal benefit society. It requires the insurer or other entity to annually notify the insurance commissioner in writing on a department form that it is affiliated with or operating a PBM.

BACKGROUND

Preferred Provider Network

A PPN enters into contracts with health care providers who agree to deliver health care services to people covered under certain health care plans in exchange for payment. The PPN pays health care claims, taking on the financial risk for the delivery of services.

The law excludes from the PPN definition (1) managed care organizations, (2) workers compensation preferred provider organizations, (3) independent practice associations and physician hospital associations that primarily contract with insurers and provide services to providers, and (4) licensed clinical laboratories whose primary payments for contracted or referred services are to other licensed laboratories or for associated pathology services.

PA 07-225—sHB 7262
Insurance and Real Estate Committee

AN ACT CONCERNING ELECTRONIC INSURANCE FILINGS

SUMMARY: This act makes various changes in insurance company financial reporting requirements. Prior law required all insurers, HMOs, and fraternal benefit societies doing business in Connecticut to annually file financial statements by March 1 and audited financial reports by June 1 with the insurance commissioner. The act (1) limits the annual reporting requirements to domestic and foreign companies, (2) requires the financial statements to be complete when filed, and (3) requires the companies to electronically file the statements and reports with the National Association of Insurance Commissioners (NAIC).

Domestic companies that file on time with NAIC must still submit paper copies to the commissioner, but foreign companies do not.

By law, the commissioner may require an insurer, HMO, or fraternal benefit society to file quarterly financial statements. Under the act, if the company electronically files the reports with NAIC on time, then it does not have to give the commissioner paper copies.

By law, a company that fails to report as required must pay a $100 fine for each day a report is late. In addition, a fraternal benefit society, upon notice from the commissioner, loses its authority to operate in Connecticut while in default.

EFFECTIVE DATE: October 1, 2007

BACKGROUND

Domestic, Foreign, Alien, and Unauthorized Companies

The Insurance Department licenses and regulates domestic, foreign, and alien companies to transact insurance in the state. A domestic company is formed under Connecticut laws. A foreign company is formed under the laws of another state or U.S. territory. An alien company is formed under another country's laws. An unauthorized company is not licensed or admitted to transact insurance business in the state.

PA 07-226—HB 7283

Insurance and Real Estate Committee

AN ACT ESTABLISHING A LONG-TERM CARE INITIATIVE

SUMMARY: This act changes the elimination period under a long-term care (LTC) insurance policy. Prior law required an LTC policy to contain a "reasonable" elimination period (i.e., a waiting period after the onset of the injury, illness, or function loss during which no benefits are payable). The act instead requires an elimination period that is (1) up to 100 days of confinement or (2) between 100 days and two years of confinement if an irrevocable trust is in place that is estimated to be sufficient to cover the person's confinement costs during this period.

The act requires that the trust (1) pay the health care provider directly and (2) create an unconditional duty to pay only confinement costs during the elimination period. It specifies that the (1) state, grantor, or person acting on the grantor's behalf may enforce this duty and (2) trust remains subject to taxes and any trustee charges allowed by law.

For LTC policies that offer the elimination period trust option, the act requires an insurer to include, (1) in rate filings it submits to the insurance commissioner, how it estimated trust values and (2) on the policy application and face page, a clear and conspicuous statement that the trust may be insufficient to cover all costs incurred during the elimination period.

EFFECTIVE DATE: October 1, 2007

BACKGROUND

Long-Term Care Policy

An LTC policy is an individual health insurance policy that provides expense-incurred, indemnity, or pre-paid benefits for the necessary care or treatment of an injury, illness, or loss of functional capacity provided by a certified or licensed health care provider in a setting other than an acute care hospital, including a nursing home and an insured's own home, for at least one year after an elimination period. It excludes policies that primarily provide Medicare supplement, basic medical-surgical expense, hospital confinement indemnity, major medical expense, disability income protection, accident only, specified accident, and limited benefit health coverage.

Related Act

PA 07-28 requires an insurer to offer an optional nonforfeiture benefit during the long-term care policy solicitation or application process.

PA 07-12—HB 6392
Judiciary Committee

AN ACT CONFIRMING AND ADOPTING VOLUMES 1 TO 13, INCLUSIVE, OF THE GENERAL STATUTES, REVISED TO 2007

SUMMARY: This act formally adopts, ratifies, confirms, and enacts the General Statutes revised to 2007.
EFFECTIVE DATE: Upon passage

PA 07-29—SB 1108
Judiciary Committee

AN ACT CONCERNING THE INTERIM APPOINTMENT OF WORKERS' COMPENSATION COMMISSIONERS

SUMMARY: By law, when the General Assembly is not in session, the governor must submit an appointment to fill a workers' compensation commissioner vacancy to the Judiciary Committee for its approval. This act increases, from 10 to 45 days, the time the committee has to hold a meeting to vote on such a nomination. It also allows the committee to extend this period by 15 days if it cannot complete its investigation and act within the 45-day period. The committee must give the governor written notice of an extension.

By law, the committee's failure to act on the appointee is deemed approval.

The act prohibits the governor from swearing in an appointee until the committee approves the appointee.
EFFECTIVE DATE: July 1, 2007

PA 07-32—SB 1454
Judiciary Committee

AN ACT CONCERNING THE REQUIREMENTS FOR FILING AN AFFIDAVIT IN LIEU OF ADMINISTRATION IN THE PROBATE OF A SMALL ESTATE

SUMMARY: This act raises from $20,000 to $40,000 the threshold of the value of decedent's estates that are eligible for expedited probate proceedings.
EFFECTIVE DATE: October 1, 2007

ESTATES THAT CAN USE AN AFFIDAVIT IN LIEU OF ADMINISTRATION

Instead of filing an application for admission of a will to probate or letters of administration, the law allows certain people to file an affidavit with probate court. The affidavit must state that all the decedent's debts have been paid as prescribed by law, at least to the extent of the fair value of the decedent's assets. Prior law allowed this affidavit when (1) the decedent left certain types of property and (2) the property's aggregate value did not exceed $20,000. The act increases the aggregate value to $40,000.

BACKGROUND

Affidavits in Lieu of Administration

By law, an affidavit must also state that a decedent either did, or did not, receive aid or care from the state, including aid or care from the Department of Veterans' Affairs.

The types of property covered by this law include:

1. bank deposits;
2. equity in shares in any savings and loan association or federal savings and loan association or credit union doing business in Connecticut;
3. corporate stock or bonds;
4. any unpaid wages due from any corporation, firm, individual, association, or partnership located in Connecticut;
5. any death benefit payable from any fraternal order or shop society or under any insurance policy for which the decedent failed to name a beneficiary;
6. other personal property, tangible or intangible, including any motor vehicle or motor boat registered in the decedent's name; or
7. an unreleased interest in a mortgage.

PA 07-37—sSB 1095
Judiciary Committee

AN ACT UPDATING THE VALUE OF A MOTOR VEHICLE EXEMPT FROM EXECUTION ON A JUDGMENT

SUMMARY: By law, certain types and amounts of property are exempt from debt collection. This act increases the exemption for a motor vehicle from $1,500 to $3,500. By law, the value of the motor vehicle is determined by its fair market value minus all liens and security interests (such as a car loan) on it.
EFFECTIVE DATE: July 1, 2007

PA 07-46—SB 1388
Judiciary Committee

AN ACT CONCERNING ATTORNEYS ADMITTED PRO HAC VICE

SUMMARY: By law, an attorney who is licensed in another state and temporarily admitted to practice law in Connecticut for a particular case is subject to the state's occupational tax on attorneys. This act specifies that this requirement only applies to attorneys who are temporarily admitted to practice by a state Superior Court, Appellate Court, or Supreme Court judge. Thus, the act makes it clear that the tax does not apply to attorneys temporarily admitted to practice in federal court in Connecticut by a federal judge. The temporary admission to practice law is called "pro hac vice."
EFFECTIVE DATE: October 1, 2007

BACKGROUND

Occupational Tax

Connecticut licensed attorneys engaged in the practice of law must pay an occupational tax of $450 each year by January 15th. Attorneys admitted to practice pro hac vice in Connecticut must file the return and pay the tax for any year in which they were admitted (CGS § 51-81b(a)).

PA 07-57—sSB 170
Judiciary Committee

AN ACT CONCERNING PARDONS

SUMMARY: This act specifies that the Board of Pardons and Paroles can grant a pardon to someone convicted of a violation that carries a prison term in the same manner as it can for someone convicted of an offense.

The act also allows the board to accept pardon applications (1) three years after a person's conviction of a misdemeanor or violation and (2) five years after a person's felony conviction. The act allows the board to accept an application before these dates in extraordinary circumstances. Under board policy, the board does not accept applications until five years after a person completes the sentence for the crime.
EFFECTIVE DATE: October 1, 2007

PA 07-62—sSB 1109
Judiciary Committee

AN ACT CONCERNING THE DEPRIVATION OF RIGHTS ON ACCOUNT OF SEXUAL ORIENTATION

SUMMARY: This act makes it a class A misdemeanor (see Table on Penalties) to deprive someone of rights, privileges, and immunities secured or protected by state or federal laws or constitutions because of his sexual orientation.

It makes it a class D felony (see Table on Penalties) if (1) property is damaged as a consequence of a violation in an amount exceeding $1,000 or (2) the violator wears a mask, hood, or other device designed to conceal his identity.

The act also gives the Commission on Human Rights and Opportunities (CHRO) jurisdiction to investigate complaints of deprivations of rights, privileges, and immunities secured or protected by any state or federal law or constitution on the basis of sexual orientation. Thus, for example, it gives CHRO jurisdiction to investigate complaints of discrimination on the basis of sexual orientation against students by public schools.
EFFECTIVE DATE: October 1, 2007

BACKGROUND

Related Statutes

The law requires that public schools be open to all children five years of age and over and that each such child have an equal opportunity to participate in the activities, programs, and courses of study offered in the public schools without discrimination on account of sexual orientation (CGS §10-15c(a)). The law defines "sexual orientation" as having a preference for heterosexuality, homosexuality, or bisexuality; having a history of such a preference; or being identified with such preference (CGS § 46a-81a). But this statute does not refer to the laws this act amends.

Related Case

The state Supreme Court held that CHRO has jurisdiction to investigate claims of racial discrimination filed by students against a public school because CGS § 46a-58 prohibits racial discrimination, and CGS § 10-15c makes public schools open to all students without discrimination on the basis of race (*Commission on Human Rights and Opportunities v. Board of Education,* 270 Conn. 665 (2004)).

PA 07-65—SB 1384
Judiciary Committee

AN ACT CONCERNING THE TOLLING OF THE STATUTE OF LIMITATIONS IN WRONGFUL DEATH CASES

SUMMARY: This act specifies that the automatic 90-day extension for filing a medical malpractice lawsuit applies to lawsuits where the alleged victim died as a result of the alleged malpractice. By law, the extension is granted to allow the petitioner to make a reasonable inquiry to determine whether there are grounds for a good faith belief that medical malpractice has occurred.
EFFECTIVE DATE: October 1, 2007

BACKGROUND

Related Cases

In at least three cases, defendants challenged on constitutional and statutory construction grounds whether the 90-day extension provision that applies to medical malpractice injury claims also apply to a medical malpractice wrongful death claim. In each case, the court has ruled that the 90-day extension applies to wrongful death cases and that no constitutional violations occurred (*Plourde v. Hartford Hospital*, 40 Conn. L. Rptr. 807 (2006); *Desmini v. Bristol Hospital, Inc.,* Docket No. CV 05 4003250 (January 12, 2006, Domnarski, J.); and *Sneath v. Roche*, Docket No. CV 98 0585453 (March 2, 2004, Hessessey, J.T.R.)). Because these are Superior Court rulings, as opposed to an Appellate Court or Supreme Court rulings, they do not set a binding precedent for other cases.

PA 07-69—sHB 6057
Judiciary Committee

AN ACT CONCERNING THE INDEMNIFICATION OF AND THE IMPOSITION OF FEES ON STATE MARSHALS

SUMMARY: This act requires the state to indemnify a state marshal for financial loss and expense, including court costs and reasonable attorney's fees, from any personal or property injury claim that (1) is caused by or based on the actions of someone lawfully taken into custody under a court order (specifically a capias) from the Superior Court's Support Enforcement Services and (2) occurs while the person is in custody and is transported in a private motor vehicle operated by the state marshal.

If the marshal is subject to a judgment because of his or her malicious, wanton, or willful act, the act requires the marshal to reimburse the state for any expenses incurred in defending the state marshal and the state is not liable to the marshal for any financial loss or expenses.

The act prohibits a private entity from charging a state marshal a fee to perform the marshal's statutory duties.
EFFECTIVE DATE: October 1, 2007

BACKGROUND

State Marshals, Liability Insurance, and Bond

By law, state marshals are independent contractors compensated on a fee-for-service basis. They provide legal execution and service of process.

The law requires state marshals to carry personal liability insurance for damages caused by the following conduct: negligent acts, errors, or omissions on which the state marshal becomes legally obligated for damages, false arrest, erroneous service of civil papers, false imprisonment, malicious prosecution, libel, slander, defamation, violation of property rights, or assault and battery committed while making or attempting an arrest or against an arrested person. The conduct must occur during the performance of official duties. The insurance must cover at least $100,000 for damage to one person or his property and $300,000 for damage to more than one person or more than one person's property.

The law also requires the state to pay the premium on a bond state marshals must give the State Marshal Commission. The bond must be $10,000 for the faithful performance of duties and for damages based on unfaithfulness or neglect and $100,000 if the marshal collects tax warrants for the state or municipalities.

PA 07-71—sHB 6391
Judiciary Committee
Public Health Committee

AN ACT CONCERNING INVOLUNTARY ADMINISTRATION OF PSYCHIATRIC MEDICATION FOR PURPOSES OF COMPETENCY TO STAND TRIAL

SUMMARY: This act establishes a procedure and legal standard by which criminal courts may order that mentally ill defendants charged with serious crimes be involuntarily given psychiatric medication in order to maintain their mental competence throughout their trials. By law, court orders for involuntary medication expire as soon as competency is restored; judges can

order that medication be resumed if the defendant relapses into incompetence.

The act applies to cases in which the court has already found that (1) the defendant's mental illness makes him or her unable to give consent to the medication and (2) the state's interest in determining the defendant's guilt or innocence overrides the defendant's interest in making his or her own medical decisions.

The act establishes procedures and legal standards for making this determination. They mirror existing laws governing involuntary medication of defendants in order to restore them to competency.
EFFECTIVE DATE: October 1, 2007

PROCEDURE

The law requires the court to appoint a health care guardian to examine the defendant and make a court report with recommendations concerning the appropriateness of involuntarily medicating an incompetent defendant. The report must include the guardian's findings on the (1) risks and benefits of the medication, (2) likelihood and seriousness of its side effects, and (3) defendant's prognosis with and without medication.

The guardian must also notify the court when the defendant's competency has been restored. The court must then hold a hearing within 10 days to determine whether to resume the trial. The act permits the court also to determine at the hearing whether it is appropriate to order that an existing involuntary medication order remain in place. It requires the court to obtain a supplemental report from the health care guardian before any hearing in which this issue is likely to arise. The supplemental report must update prior reports and address the same medical issues.

LEGAL STANDARD

The act sets the same legal standard for continuing medication orders as already applies to involuntary orders intended to restore competency. The court must consider the health care guardian's supplemental report and recommendations and find, by clear and convincing evidence, that:

1. the seriousness of the criminal charges are such that the state's interest in fairly and accurately determining the defendant's guilt or innocence outweighs the defendant's interest in self-determination;
2. to a reasonable degree of medical certainty, the defendant will remain competent to stand trial if involuntarily medicated;
3. there is no less intrusive way to adjudicate the defendant's guilt or innocence;
4. the proposed medication regimen is narrowly tailored to minimize intrusion on the defendant's liberty and privacy interests; and
5. the regimen will not unnecessarily risk the defendant's health.

The court must obtain supplemental reports and conduct hearings every 180 days for as long as the order is in place. It may extend an involuntary medication order so long as there is clear and convincing evidence to support the five required findings described above.

BACKGROUND

Competency

The law recognizes two types of competency in criminal cases: competency to stand trial and competency to consent, or withhold consent, to psychiatric treatment, including medication. Different standards apply to each.

A defendant is competent to stand trial if he understands the court proceedings and can participate or assist in his defense. The law presumes that all defendants are competent, but requires hearings if this comes into question.

A defendant may be competent to stand trial but too mentally ill to make medical decisions independently (i.e., incompetent to give or withhold consent knowingly and voluntarily). When a court is considering whether to order the defendant to take psychiatric medication, the law requires it to first appoint a health care guardian to represent the defendant's medical interests. The guardian must be a licensed health care provider with specialized training in treating people with psychiatric disabilities.

PA 07-78—SB 284
Judiciary Committee

AN ACT CONCERNING THE PROTECTION OF PETS IN DOMESTIC VIOLENCE CASES

SUMMARY: This act permits courts to issue protective orders for animals owned or kept by victims of family violence, stalking, or harassment. The orders may, at a minimum, prohibit respondents or defendants from injuring or threatening to injure the animals. In family violence cases, the order may be in the form of a civil restraining, or criminal protective, order.
EFFECTIVE DATE: October 1, 2007

BACKGROUND

Restraining and Protective Orders

Courts typically issue restraining and protective orders to protect victims of family violence crimes from threatened or further harm. Courts may issue protective orders for victims of stalking or victims of 1st or 2nd degree harassment who reasonably fear for their safety. Restraining and protective orders may, among other things, prohibit the respondents (or defendants in criminal cases) from restraining, threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the victim, or entering the victim's home. Restraining orders are generally effective for six months. Protective orders are a condition of bail or other release from incarceration.

Criminal violation of a restraining or protective order is a class D felony (see Table on Penalties).

PA 07-93—SB 1430
Judiciary Committee
Public Health Committee

AN ACT CONCERNING ARTIFICIAL INSEMINATION BY DONOR

SUMMARY: This act updates the state's artificial insemination laws, reflecting current assisted reproduction practices. It defines "artificial insemination" as a medical procedure in which a human egg is fertilized assisted by artificial means, including intrauterine insemination and in vitro fertilization. It also redefines AID (which, under prior law, was "artificial insemination with the semen of a donor") as "artificial insemination with donor eggs or sperm." It makes a conforming change in the law specifying that donors or their relatives and heirs do not acquire legal rights or interests in children born as a result of AID.
EFFECTIVE DATE: October 1, 2007

PA 07-95—sHB 5069
Judiciary Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE COLLECTION OF MUNICIPAL WATER AND SANITATION CHARGES THROUGH THE USE OF TAX WARRANTS

SUMMARY: This act authorizes tax collectors to use alias tax warrants to collect unpaid municipal water or sanitation charges in the same manner as for collecting unpaid taxes. It applies to rates or charges by a municipal waterworks system or for collecting and disposing of garbage, trash, rubbish, waste material, or ashes. The act prohibits a tax collector from issuing an alias tax warrant against real estate to sell the real estate solely to collect water or sanitation charges.

Under the act, if municipal waterworks rates or charges are not paid within 30 days after their due date, the tax collector can demand payment in the same manner as with unpaid taxes and can then issue an alias tax warrant for them. By law, these rates and charges are a lien on the premises served and a charge against the owner when they are not paid.
EFFECTIVE DATE: July 1, 2007

PA 07-98—HB 6060
Judiciary Committee

AN ACT CONCERNING DISRUPTION OF A FUNERAL

SUMMARY: This act prohibits certain activities at certain locations from 60 minutes before to 60 minutes after a funeral, which is defined as a ceremony or memorial service connected to burying or cremating an individual. It subjects to punishment anyone who:

1. (a) willfully makes or assists in making a noise or diversion that is not part of the funeral; (b) intentionally disturbs the funeral's peace or good order; and (c) is within the "boundary of the location" of the funeral or within 150 feet of the boundary's intersection with a road, pathway, or other entrance or exit from the location or
2. (a) is within 300 feet of the boundary and (b) intentionally, willfully, and without authorization impedes the entrance or exit from the location.

The "boundary of the location" is the property line of a cemetery, mortuary, or house of worship or the reasonable property line of another location used for the funeral.

The act makes this conduct a class A misdemeanor (see Table on Penalties).
EFFECTIVE DATE: October 1, 2007, but PA 07-187 makes it effective upon passage.

PA 07-107—SB 398
Judiciary Committee
Government Administration and Elections Committee
Public Safety and Security Committee

AN ACT ESTABLISHING A TRAFFICKING IN PERSONS COUNCIL

SUMMARY: This act creates a 26-member Trafficking in Persons Council to:

1. consult with government and non-government organizations in developing recommendations to strengthen state and local efforts to prevent trafficking, protect and assist victims, and prosecute traffickers;
2. identify criteria for providing services to adult trafficking victims and their children; and
3. hold meetings to provide updates and progress reports.

The council can request information from state and local agencies to carry out its duties.

The act requires the council to meet at least three times per year, and annually report to the General Assembly on its activities and recommended legislation, beginning January 1, 2008.

The act places the council in the Permanent Commission on the Status of Women (PCSW) for administrative purposes only.

EFFECTIVE DATE: Upon passage

MEMBERS

The council consists of the following government officials or people they designate in writing to represent them:

1. the attorney general;
2. the chief state's attorney;
3. the chief public defender;
4. the commissioners of children and families, labor, mental health and addiction services, public health, public safety, and social services;
5. the child advocate;
6. the victim advocate;
7. the chairpersons of the commissions on Children, Latino and Puerto Rican Affairs, African-American Affairs, and PCSW;
8. three Judicial Branch representatives appointed by the chief court administrator, with one representing the Office of Victim Services and one the Court Support Services Division; and
9. a municipal police chief appointed by the Connecticut Police Chiefs Association.

The council also has seven public members chosen as follows:

Appointing Authority	*Appointee Representing*
Governor	Connecticut Sexual Assault Crisis Services, Inc.
Senate president pro tempore	Organization providing civil legal services to low-income individuals
House speaker	Connecticut Coalition Against Domestic Violence
Senate majority leader	Organization that deals with behavioral health needs of women and children
House majority leader	Organization that advocates social justice and human rights issues
Senate minority leader	Connecticut Immigrant and Refugee Coalition
House minority leader	Asian-American community

The PCSW chairwoman serves as the council's chairperson. Members are not compensated but are reimbursed for necessary expenses in performing their duties.

TRAFFICKING

The act 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.

PA 07-115—SB 1437
Judiciary Committee
Planning and Development Committee
Public Health Committee

AN ACT CONCERNING THE DATE OF BIRTH OF ADOPTED PERSONS BORN OUTSIDE OF THE COUNTRY AND NOTICE PROVIDED BY THE COUNCIL ON PROBATE JUDICIAL CONDUCT

SUMMARY: This act permits people (1) born outside the United States and (2) adopted by Connecticut residents to obtain a probate court ruling to establish their biological age and date of birth. It requires the Department of Public Health (DPH) to conform its records to the court decree.

The act also extends, from three to seven business days, the time within which the Council on Probate Judicial Conduct must notify the complaining party and

judge of the completion of its investigation of a complaint alleging judicial misconduct. By law, the notice must indicate whether the council found probable cause that the judge engaged in misconduct.
EFFECTIVE DATE: October 1, 2007

AGE DETERMINATIONS

The act permits an adoptive parent or adoptee age 18 or older to ask the probate court where the adoptee lives to determine the adoptee's birth date and biological age. The court must hold a hearing and accept medical and other relevant evidence.

It must send a certified copy of its decree to DPH when it conflicts with the agency's official birth record. The act directs the department to use the birth date set by decree in all future birth records.

PA 07-116—sSB 1439
Judiciary Committee
Public Health Committee

AN ACT CONCERNING CONSERVATORS AND APPEALS OF CONSERVATORSHIPS AND GUARDIANSHIPS

SUMMARY: The law allows the probate court to appoint a conservator of the estate for someone who cannot manage his or her affairs and a conservator of the person for someone incapable of caring for himself or herself. This act changes procedures for appointing conservators and designating their powers, and sets procedures for appealing probate court decisions and filing habeas corpus petitions.

Among the act's most important changes, it:

1. requires the probate court to record proceedings on appointing conservators, setting their powers and duties, and terminating conservatorships;
2. requires appeals of hearings appointing a conservator to be on the record and sets the standard for court review;
3. changes the definitions of incapacity, which is required for the court to find appointment of a conservator necessary;
4. includes specific language for a notice to the person who is the subject of a petition for appointment of a conservator;
5. adds specific provisions about the right to an attorney and to choose an attorney, for a person who has a conservator appointed for him or her or is the subject of a petition for the appointment of one;
6. requires the probate court to consider certain factors and changes the standard the court must apply before deciding to appoint a conservator, including requiring a finding that appointing the conservator is the least restrictive intervention available to assist the person;
7. requires the probate court to give a conservator only the least restrictive duties and authority necessary to meet the person's needs, and the court to make specific findings on the need for each duty or authority;
8. requires a conservator to carry out the duties and authority assigned by the court in a manner that is the "least restrictive means of intervention" (§§ 19-20);
9. makes a number of similar changes to provisions on appointing a temporary conservator;
10. imposes specific requirements on the conservator of the person, including assisting in removing obstacles to the conserved person's independence, ascertaining the person's views, and making decisions that conform with the person's reasonable and informed preferences;
11. creates a procedure for the probate court to hold a hearing on changing a conserved person's residence similar to provisions in existing law for a conservator placing a person in a long-term care institution;
12. allows a conserved person to petition the probate court to terminate the conservatorship at any time; and
13. provides that a person under involuntary conservatorship and minors or people with mental retardation under guardianship can use a writ of habeas corpus to challenge the legality of the conservatorship or guardianship, without exhausting other available remedies.

The act defines "least restrictive means of intervention" as intervention for a conserved person that is sufficient to provide, within the available resources of the person's estate or public or private assistance, for the person's personal needs or property management while allowing the greatest amount of independence and self-determination (§ 10).

The act also changes the term of someone who is subject to involuntary representation by a conservator from ward to a conserved person (§ 10). It makes numerous technical and conforming changes (§§ 7-9, 12, 26-32).
EFFECTIVE DATE: October 1, 2007

§ 1 — REFUSING MEDICAL EXAMS

By law, the probate court can order an examination by a physician, psychiatrist, or psychologist in any matter where a party's capacity is at issue. The act

allows someone who is under involuntary representation by a conservator to refuse an examination. It specifies that someone who is the subject of an application for involuntary representation by a conservator or temporary conservator can refuse an examination. Prior law already allowed them to refuse as part of the court proceedings on the application.

§§ 2-6, 33 — APPEALING PROBATE ORDERS

§ 2 — Time for Appeal

The act imposes new requirements on appeals to the Superior Court from probate orders, denials, or decrees when another law does not specify otherwise. It requires the appeal within 45 days after mailing the order, denial, or decree if it concerns:

1. appointing a guardian or conservator for a veteran or beneficiary of veterans' benefits;
2. compensation of a guardian or conservator of a social services beneficiary or veteran;
3. investment of funds in insurance and annuity contracts by a conservator or guardian of the estate of a ward, conserved person, or incapable person;
4. payment by a guardian or conservator of administrative expenses of a deceased protected person;
5. many provisions regarding conservators such as naming a conservator for future incapacity, applying for and release from voluntary representation, appointment of involuntary representation, appointing temporary conservators, duties of conservators, and terminating conservatorship;
6. appointing guardians of people with mental retardation, their powers and duties;
7. sterilization; and
8. a guardian's or conservator's petition on competency to vote.

For other matters, unless another statute applies, the act requires the appeal within 30 days of mailing the order, denial, or decree.

§ 2 — Service

Under the act, someone who files an appeal under these provisions must have a state marshal, constable, or indifferent person serve a copy of the complaint on the relevant probate court and all interested parties. Failure to do so does not deprive the Superior Court of jurisdiction. Service must be in hand but a copy can be left at the probate court or at an interested party's residence or address on file at the probate court. Service must be in hand for a conserved person or someone who is subject to a petition for conservatorship for matters relating to conservators.

Within 15 days of filing the appeal, the act requires the person who filed the appeal to file with the Superior Court clerk a document with the name, address, and signature of the person who served the complaint and the date and manner of service. If an interested party has not been served, on motion, the Superior Court must require notice reasonably calculated to notify them.

§ 2 — Hearings

The act requires a hearing on an appeal in the following matters to begin within 90 days of its filing unless a stay is issued:

1. commitment of a mentally ill child and status review of a voluntarily committed mentally ill child;
2. commitment of a person with psychiatric disabilities; their release or transfer; their medication, treatment, psychotherapy, or shock therapy; and medication of criminal defendants in Department of Mental Heath and Addiction Services' (DMHAS) custody;
3. involuntary commitment for alcohol or drug dependency;
4. appointing a conservator, appointing a temporary conservator, and terminating conservatorship;
5. appointing a guardian, plenary guardian, limited guardian, temporary limited guardian for a mentally retarded person, and court review of guardians or limited guardians;
6. hearings on sterilization;
7. a guardian's or conservator's petition on competency to vote; and
8. termination of parental rights.

§ 2 — Effect of Appeal

Under the act, filing the appeal does not stay enforcement of an order, denial, or decree. The act allows an appealing party to file a motion for a stay with the probate court or Superior Court, and filing with the probate court does not prevent action by the Superior Court.

The act provides that these procedures do not prevent someone aggrieved by the order, denial, or decree from filing a petition for habeas corpus, terminating involuntary conservatorship, or any other remedy, unless a law provides otherwise.

§§ 2-3 — Appeals on the Record

Under prior law, an appeal in a probate case where the parties agreed to have a record made was based on the record and not a new trial. The act requires appeals on the record if a recording is made of proceedings (1)

appointing conservators (the act requires these proceedings to be recorded) and (2) committing someone with psychiatric disabilities or for drug or alcohol treatment.

When the appeal is based on a hearing that was on the record, the act requires the probate court to transcribe any portion that has not been transcribed within 30 days of service, unless the Superior Court allows additional time. The person filing the appeal is charged the expense. If the person is unable to pay and files an affidavit showing it, the probate court administrator pays the expenses from the probate court administration fund.

The act requires the probate court to send the original or a certified copy of the entire record (including the probate court's separately stated findings of fact and conclusions of law) to the Superior Court.

Under the act, the appeals are heard by the Superior Court without a jury and can be referred to a state referee (a judge past the mandatory retirement age of 70 who continues to serve).

Under the act, the scope of the appeal is limited to the materials in the probate court record. The court can accept proof about alleged irregularities in procedure if the alleged irregularities or necessary facts to show them are not in the record. The Superior Court must hear oral argument and accept written briefs on a party's request.

§ 4 — Standard of Review When Proceedings are on the Record

When the appeal is based on a hearing that was on the record, the act prohibits the Superior Court from substituting its judgment for the probate court's on the weight of evidence on a question of fact. It requires the Superior Court to affirm the probate court's decision unless the substantial rights of the person appealing were prejudiced because the probate judge's findings, inferences, conclusions, or decisions:

1. violate the state or federal constitution or state statutes;
2. exceed the probate court's statutory authority;
3. were based on illegal procedures;
4. were affected by legal errors;
5. were clearly erroneous based on the reliable, probative, and substantial evidence on the whole record; or
6. were arbitrary, capricious, an abuse of discretion, or a clearly unwarranted exercise of discretion.

If prejudice is found, the Superior Court can return the case to the probate court for further proceedings or modify the probate court order, denial, or decree. A remand is a final judgment.

§ 5 — Costs of Appeals

The act allows a prevailing party to receive costs as in other Superior Court judgments.

If the person appealing cannot pay the costs of the appeal, he or she can (within the time allowed for the appeal) file an application with the court clerk to waive costs, including bond. The application must conform with Superior Court rules. The court can hold a hearing if necessary and rule on the application, stating its findings of fact and conclusions.

The waiver application tolls the time for filing the appeal until the court renders judgment.

A fiduciary acting on a court order made after the appeal period expires is not liable for good faith actions unless the fiduciary has actual notice of the tolling of the appeal period. A fiduciary includes a conservator or guardian.

§ 33 — Repealed Provisions

The act deletes provisions requiring (1) an appeal from probate or the actions of commissioners to state the appellant's interest in the motion unless the interest is apparent from the probate court's proceedings and records and (2) the probate court to order notice of appeal to an interested person as reasonable and the court to hear the appeal without further notice.

§ 10 — DEFINING INCAPACITY

For purposes of the provisions on conservators, prior law defined a person as "incapable of caring for himself or herself" if the person had a mental, emotional, or physical condition:

1. resulting from mental illness, mental deficiency, physical illness or disability, chronic drug or alcohol use, or confinement;
2. that made the person unable to provide medical care for physical or mental health needs, nutritious meals, clothing, safe and adequately heated and ventilated shelter, personal hygiene, and protection from physical abuse or harm; and
3. endangered the person's health.

The act changes this and defines a person as "incapable of caring for himself or herself" if the person has a mental, emotional, or physical condition that makes him or her unable to receive and evaluate information or make or communicate decisions so that he or she cannot, even with appropriate assistance, meet essential requirements for personal needs. "Personal needs" include the need for food, clothing, shelter, health care, and safety.

The act makes a similar change to the definition of a person who is "incapable of managing his or her affairs." Under prior law, this was when a person had a

mental, emotional, or physical condition (1) resulting from mental illness, mental deficiency, physical illness or disability, chronic drug or alcohol use, or confinement and (2) that prevented the person from managing his or her affairs regarding property. The act instead defines it as when the person has a mental, emotional, or physical condition that results in being unable to receive and evaluate information or make or communicate decisions to an extent that he or she is unable, even with appropriate assistance, to manage his or her affairs regarding property.

It defines "property management" as actions to (1) obtain, administer, manage, protect, and dispose of real and personal property, intangible property, business property, benefits, and income and (2) deal with financial affairs.

§ 11 — RECORDING PROCEEDINGS

The act requires the probate court to record all proceedings regarding appointing and paying conservators, setting their powers and duties, and terminating conservatorships. The recording is part of the court record and must be made and maintained in the manner set by the probate court administrator.

§ 13 — APPLICATIONS REGARDING A PERSON NOT DOMICILED IN CONNECTICUT

Prior law required an application for involuntary representation by a conservator to be filed in the probate district where the person resided or had his domicile. The act also allows an application in the district where the person is located at the time of filing.

The act prohibits granting an application regarding someone who does not have a domicile in Connecticut unless:

1. the person is presently in the probate district where the application is filed;
2. the applicant made a reasonable effort to notify (a) the person and any of his or her relatives who may be required by law to receive notice, (b) state agencies providing aid to the person, (c) a hospital or institution if the person is in one, and (d) others who the court orders to receive notice because they have an interest or the person requests it;
3. (a) the person had an opportunity to return to his or her domicile and was given the financial means to do so (within his or her resources) but refused or (b) the applicant made reasonable but unsuccessful efforts to return the person to his or her domicile; and
4. the statutory requirements for appointing a conservator are met.

If involuntary representation is granted, the act requires the court to review it every 60 days. Involuntary representation expires 60 days after the order or latest review unless the court makes the same findings as above, but the person must be located in Connecticut and the conservator is responsible for the required notice and efforts to return the person to his or her domicile. The act requires the court to consider reports from the conservator and the conserved person's attorney regarding these requirements.

If the person becomes domiciled in Connecticut after a conservator is appointed, these provisions no longer apply.

§ 13 — PENALTIES FOR FRAUD OR FALSE TESTIMONY IN APPLICATIONS

The act increases the penalties for fraudulent or malicious applications or false testimony under the provisions on applying for involuntary representation. Prior law punished this conduct with up to one year in prison, a fine of up to $1,000, or both. The act makes it a class D felony (see Table on Penalties). The act also extends this penalty to fraudulent or malicious applications or false testimony under the statute on compensation of a conservator when the conserved person cannot pay.

§ 14 — NOTICE REQUIREMENTS FOR INVOLUNTARY REPRESENTATION APPLICATIONS

The act requires that the court-issued citation to appear at a hearing on an application for involuntary representation be served at least 10 rather than seven days before the hearing. But the act retains the seven-day limit for applications regarding people with psychiatric disabilities requesting medication, treatment, psychotherapy, and shock therapy, and medication of criminal defendants under DMHAS custody.

The law requires personal service on the person who is the subject of the petition and certain relatives. The act deletes an exception allowing the court to find that personal service is detrimental to the subject's health and welfare and to instead order service on counsel or an appointed attorney. The act provides that if personal service is not made on the person and required relatives, the court does not have jurisdiction over the application, and any action it takes has no legal effect.

By law, the notice to the subject of the petition and any relatives required to receive notice must describe the involuntary representation sought and its consequences, the facts alleged in the application, the time of the hearing, the right to appear, and the subject's right to hire and be represented by an attorney. The act

requires the notice to include a statement, in bold type with 12-point print, about the hearing and the person's rights. The act includes sample language that states, among other things:

1. if you are not able to access the court where the hearing will be held, you may request that the hearing be moved to a convenient location, even to your place of residence;
2. you should have an attorney represent you at the hearing, the court will appoint one if you cannot obtain one, the court will pay attorney fees if you cannot pay, and you may choose an attorney if the attorney will accept the fees permitted by court rules;
3. the court may review any alternative plans you have to get assistance to handle your own affairs that do not require appointing a conservator;
4. the court may appoint a conservator and among the areas that may be affected are (a) accessing your money and paying bills, (b) deciding where you live, (c) medical decisions, and (d) managing your real and personal property; and
5. you may participate in selecting the conservator.

§ 14 — INABILITY TO ATTEND THE HEARING

The act requires the court to relocate the hearing to a place where the subject of the hearing can attend if the person notifies the court that he or she wants to attend but is unable to do so. Under prior law, the court could only do this if the person could not attend because of physical incapacity. It eliminates the requirement that the court visit the person before the hearing if he or she was in Connecticut and it was impractical to relocate the hearing.

§ 15 — APPOINTING ATTORNEYS

The law gives a person a right to an attorney as the subject of a petition for involuntary representation and in proceedings involving temporary conservators and for terminating conservatorships. The law provides that the court will (1) appoint counsel if the person cannot ask for or obtain counsel and (2) pay reasonable compensation, if the person is unable to, from Judicial Branch funds, if appropriated, and, if not available, from the probate court administration fund.

The act expands the right to legal representation by applying it to petitions for voluntary or involuntary representation and to all proceedings involving people under involuntary conservatorships. The act provides that the person has the right to choose that attorney.

The act provides that the court is not required to appoint an attorney if the person refuses representation and the court finds that he or she understands the nature of the refusal. If the court appoints the attorney, the act requires it to do so from a panel provided by the probate court administrator, according to regulations.

The act requires an appointed attorney to (1) represent the person in conservatorship proceedings; (2) consult with a conserved person about appealing adverse probate court rulings to the Superior Court; and (3) assist in filing and starting an appeal to the Superior Court if requested by the conserved person, without an obligation to participate in the appeal. The act prohibits a conservator from denying a conserved person access to his or her resources that are needed for an appeal.

Under the act, the person retains the right to replace his or her attorney with a different attorney of his or her choosing under these provisions. The fees of an attorney chosen by the person are subject to probate court approval or, if appealed, the Superior Court.

The act applies the same requirements in prior law for paying attorneys for indigent people but requires the Office of Probate Court Administrator to set reasonable rates of compensation for appointed attorneys.

The act prohibits an attorney representing someone in conservatorship proceedings from becoming the person's guardian ad litem or conservator unless the person (1) executed a legal document naming the attorney as conservator in the event of future incapacity or names the attorney in a similar document such as a trust or advance health care directive or (2) requests it during a conservator appointment hearing.

The act gives an attorney access to all information pertinent to the probate proceedings on presenting proof of authority. This includes immediate access to all medical records available to the client's treating physician.

§ 16 — HEARINGS ON INVOLUNTARY CONSERVATOR APPOINTMENTS

The act requires certain conditions to be met before the court can hear evidence about the condition of the person or the person's finances in hearings on applications for involuntary representation. Under the act, the court must find, by clear and convincing evidence, that (1) it has jurisdiction and (2) the person who is the subject of the application must have (a) notice, and (b) been advised of the right to an attorney and either be represented by an attorney or waived the right to one. The person who is the subject of the application has the right to attend all hearings.

Prior law required the applicant to submit a written report or testimony by at least one licensed physician who examined the person within 30 days of the hearing, including information about the person's disability and its incapacitating effect. The act changes these requirements by (1) extending the examination period to

45 days before the hearing and (2) allowing the court to waive the evaluation.

The law permits probate court judges to consider other forms of evidence at these hearings. The act requires the probate court to use the Superior Court rules of evidence and requires testimony under oath or affirmation.

The act eliminates a specific provision requiring the court, on the Department of Social Services' request, to order an examination of an elderly person subject to a protective supervision petition by a physician, psychologist, or psychiatrist regardless of reports submitted by the elderly person or his or her caretaker.

The act requires, rather than permits as under prior law, the court to order all required medical information disclosed. Under the act, disclosure is to the attorney for the person who is the subject of the application or, on request, to the person. The act allows the court to order disclosure to anyone else it deems necessary.

Factors in Decisions on Appointing Conservators

The law requires the court to consider any previous alternative arrangements for care for the person or his or her affairs, including a durable power of attorney, health care agents, or similar documents. The act requires the court to consider the adequacy of these arrangements and also requires considering any springing power of attorney (one that takes effect on a specific date or when a specified event occurs), health care representative, living will, or trust.

The act requires the court to consider certain factors before making a decision on whether to appoint a conservator. The act deletes a specific provision that the court is guided by the person's best interests when making this decision and in selecting the conservator. The act adds consideration of the following factors:

1. the person's abilities;
2. the person's capacity to understand and articulate an informed preference about his or her care or affairs;
3. any relevant and material information from the person;
4. evidence of the person's past preferences, lifestyle choices, and cultural background;
5. the desirability of continuity in the person's life and environment;
6. any relevant and material evidence from the person's family or anyone else about the person's past practices and preferences; and
7. any supportive services, technologies, or other means available to assist the person in meeting his or her needs.

Standard in Decision-Making

The act prohibits appointing a conservator if the person's personal needs and property management are adequately cared for by an agency or individual appointed under a power of attorney or health care directive.

Conservator of the Estate. Under prior law, the court had to appoint a conservator of the estate if (1) clear and convincing evidence showed that the person was incapable of managing his or her affairs and (2) it did not appear that the affairs were being managed properly without a conservator.

The act instead allows the court to appoint a conservator after considering the factors listed in the section above if it finds by clear and convincing evidence that (1) the person cannot manage his or her affairs, (2) the person's affairs cannot be managed adequately without appointing a conservator, and (3) appointing a conservator is the least restrictive intervention available to assist the person in managing his or her affairs.

Conservator of the Person. Under prior law, the court had to appoint a conservator of the person if (1) clear and convincing evidence showed that the person was incapable of caring for himself or herself and (2) it did not appear that the person was being properly cared for without a conservator.

The act instead allows the court to appoint a conservator after considering the factors listed in the section above if it finds by clear and convincing evidence that (1) the person is incapable of caring for himself or herself, (2) the person cannot be adequately cared for without appointing a conservator, and (3) appointing a conservator is the least restrictive intervention available to assist the person in caring for himself or herself.

Naming a Conservator

The law allows a person to request, if capable of forming an intelligent preference, someone to act as his or her conservator. The act also allows a person to name a conservator in a legal document to take effect in the event of future incapacity or in an advance health care directive. Under prior law, the court accepted an appointment unless it was not in the person's best interests. The act instead requires the court to accept the appointment unless the nominee is unwilling or unable to serve or there is substantial evidence to disqualify the person.

The law allows the appointment as conservator of any qualified person or an authorized public official or corporation. The act adds the following considerations when deciding who to appoint as conservator:

1. the proposed conservator's knowledge of the person's preferences regarding care or management of the affairs;
2. the proposed conservator's ability to carry out a conservator's duties, responsibilities, and powers;
3. the costs of the proposed conservatorship to the estate or the person;
4. the proposed conservator's commitment to promoting the person's welfare and independence; and
5. any existing or potential conflicts of interest.

The act eliminates a provision requiring the court to make and furnish findings of fact to support its conclusion within 30 days if it is requested by the person who is the subject of the hearing or his or her counsel.

Powers of Conservators

Under prior law, the court could limit the powers and duties given to a conservator but it was required to make specific findings to justify any limitation. Prior law required the court to consider the conserved person's abilities; the prior appointment of an attorney, health care representative, trustee, or other fiduciary to act for the person; available support services; and other relevant evidence.

The act requires the court to give a conservator only the duties and authority that are the least restrictive intervention necessary to meet the person's needs and the management must be provided in an appropriate manner. The act requires the court to find by clear and convincing evidence that the duties and authority restrict the person's decision-making only to the extent necessary to provide for personal needs or property management. The court must make a finding of the clear and convincing evidence that supports the need for each duty and authority. The act provides that the person retains all rights and authority not expressly given to the conservator.

The act requires a conservator to follow all health care decisions by a person's health care representative, based on an advance health care directive, unless the court or the law provides otherwise.

The act provides that nothing in the statutory provisions about conservators limits a conserved person's right to an attorney or to seek redress in a court or agency, including using a habeas corpus petition to challenge limits the court imposed on the person under the provisions on conservatorships, people with psychiatric disabilities, and treatment for addictions. In any other proceeding where the conservator retains counsel for the conserved person, the person can request that the probate court direct the conservator to substitute an attorney of the person's choosing.

§ 17 — NOTICE OF PENDING APPLICATION FOR CONSERVATOR

While an application to appoint a conservator is pending, the law allows the person who filed it to:

1. record notice of the application with the clerk in any town where the alleged incapable person resides or has property in order to invalidate any contracts or conveyances of real property without court approval, until the application is adjudicated and
2. file notice of the application with a bank to prevent withdrawal of the alleged incapable person's funds without court approval, until the application is adjudicated.

The act requires these notices to be copies certified by the court. It requires the original to be filed with the court.

§ 18 — APPOINTING A TEMPORARY CONSERVATOR

Standard for Appointment

As under prior law, a probate court can appoint a temporary conservator if a person is incapable of managing his or her affairs or caring for himself or herself and immediate or irreparable injury to mental or physical health or financial or legal affairs will otherwise result. But the act additionally requires the appointment to be the least restrictive intervention available to prevent the harm and the court to make all of these findings by clear and convincing evidence.

The act requires, instead of allows as under prior law, the temporary conservator to give a probate bond.

Prior law required the court to make specific findings to justify limitations on the temporary conservator's powers. The act instead requires specific findings, supported by clear and convincing evidence, (1) of the immediate and irreparable harm that will be prevented by appointing a conservator and (2) that support appointing the temporary conservator. It also requires the court to list each duty or authority given the temporary conservator.

Term

By law, a temporary conservator is appointed for up to 30 days unless an application for a conservator is filed during that period, in which case the court can extend the term for up to 30 days or until the application is decided, whichever occurred first. The act specifies that a temporary conservator's appointment cannot exceed 60 days from the initial appointment date.

Application, Notice, and Hearing

Unless excused, the law requires a physician's report before appointing a temporary conservator. The act requires the report to be filed with the application. Prior law allowed the court to order this medical information disclosed. The act requires disclosure to the subject of the application on request, his or her attorney, and other parties the court considers appropriate.

The act requires the court, on receiving an application, to notify the subject of the application, appoint counsel for the person, and hold a hearing in the same manner as for other involuntary conservators.

The act requires notice to the subject of the application at least five days before the hearing and the hearing must be within seven days of the application's filing (excluding weekends and holidays). If the application is made ex parte (without holding a hearing or giving advance notice to other parties), this notice must be made within 48 hours after the ex parte appointment of a temporary conservator and the hearing must be held within three days of the ex parte appointment (excluding weekends and holidays). Prior law required a hearing within 72 hours of the application (excluding weekends and holidays) unless continued for cause and notice to the next of kin and the person's attorney.

The act requires the notice to be served in hand by a state marshal, constable, or indifferent person. By law, it must include:

1. a copy of the application and accompanying physician's report;
2. a copy of the ex parte order, if any; and
3. the time and place of the hearing.

The act prohibits the court from appointing a temporary conservator until it makes the required findings and holds a hearing, except under the ex parte appointment provisions.

If notice is given to the next of kin, the act prohibits the court from disclosing the physician's report to that person without a court order.

Ex Parte Appointments

Prior law allowed a court to appoint a temporary conservator ex parte and then hold a hearing within 72 hours of the appointment. The act requires the hearing within three days and provides that the ex parte order expires within three days of its issuance unless the hearing begins during that period and is continued for cause.

Medical Examination

By law, the court can waive the medical examination requirement if the person refuses an examination. The act provides that if the court waives the requirement, it cannot appoint a temporary conservator unless clear and convincing evidence shows that (1) the person is incapable of managing his or her affairs or caring for himself or herself or (2) immediate and irreparable harm to the person's mental or physical health or financial or legal affairs will result without appointing a temporary conservator.

Changing Residence

The act removes a provision that a temporary conservator cannot change the person's residence without notifying the court and obtaining specific court findings after a hearing. It also eliminates procedures for placing a person in an institution for long-term care. Conservators of the person retain the ability to do so, although the act sets new standards they must use.

Final Accounting

The law requires a temporary conservator to file a written report with the court when the temporary conservatorship ends. The act also requires a final accounting if it is directed by the court.

§ 20 — DUTIES OF A CONSERVATOR OF THE PERSON

The act requires a conservator of the person to carry out the duties and authority expressly assigned by the court in a manner that is the least restrictive intervention. The conservator must also:

1. assists the person in removing obstacles to independence and achieving self-reliance,
2. ascertain the person's views,
3. make decisions conforming with the person's reasonable and informed expressed preferences,
4. make all reasonable efforts to ascertain the person's health care instructions and other wishes, and
5. make health care decisions conforming with (a) the person's expressed preferences including instructions and other wishes in an advanced health care directive or (b) a decision of a health care representative unless the law allows the conservator's decision to take precedence.

The act requires the conservator to give the person (1) the opportunity for meaningful participation in decision-making based on the person's abilities and (2) reasonable responsibility for decisions affecting his or her well-being.

The law requires a conservator to report at least annually to the probate court on the person's condition. The act also requires the report to address efforts made to encourage the person's independence and include a statement on whether appointing a conservator is the

least restrictive means of intervention for managing the person's needs.

§ 21 — CHANGING A PERSON'S RESIDENCE AND LONG-TERM CARE PLACEMENTS

The law gives a conservator of the person the power to change where the person lives. The act sets rules for doing so.

It prohibits a conservator from ending a person's tenancy or lease, selling or disposing of real property or household furnishings, or changing the person's residence unless a probate court holds a hearing and finds that (1) the termination, sale, disposal, or change is necessary or (2) the person agrees to it.

It creates a procedure for filing a report and holding a hearing on changing the person's residence that is similar to provisions in existing law for a conservator placing a person in a long-term care institution (such as a nursing home).

The act requires the conservator, when he or she determines it is necessary to change the person's residence, to file a report of the intended change with the probate court. The court must hold a hearing to consider the report and the conservator can make the change if the court grants permission after the hearing. The hearing must be at least five days after filing the report (excluding weekends and holidays) and at least 72 hours before the change of residence.

The person can waive the right to a hearing after consultation with an attorney if the attorney files a waiver with the court, but it is invalid if it does not represent the person's wishes.

The act also applies these procedures to placing the person in a long-term care institution. By doing so, it changes prior law by:

1. requiring the hearing rather than only requiring it on request of the person or an interested party or on the court's motion, but adds the provision on waiving the hearing;
2. eliminating provisions allowing placement before filing a report based on avoiding irreparable harm;
3. requiring notice to the person's attorney, in addition to the person and interested parties as under prior law, and requires service by first-class mail with the conservator certifying that service was made;
4. allowing the person to request a hearing at any time, following the procedures described above; and
5. expanding the definition of an "institution for long-term care" to include a residential care home, extended care facility, nursing home, rest home, or rehabilitation hospital or facility (as under prior law, it also includes a federally-certified skilled nursing facility or intermediate care facility).

As under prior law, the act still allows placement in a long-term care institution on discharge from a hospital before filing a report and requires filing the report within five days. The act also requires the report to include related circumstances requiring the placement. It prohibits such a placement from continuing unless the probate court orders it after a hearing.

§ 22 — PROPERTY OF NON-RESIDENTS

The law sets procedures for the probate court to appoint a conservator of the estate for a person who is not domiciled in Connecticut but has real or personal property in this state. The act prohibits the court from acting on an application for this purpose until an attorney is appointed under the act's provisions to represent the person.

The law allows the proceeds from the sale of the real or personal property to be transferred to the conservator or similar individual who is in charge of the incapable person or his or her estate in the other state. The act also allows transfer of the tangible personal property itself.

§ 23 — TERMINATING CONSERVATORSHIP

The act allows a conserved person to petition the probate court to terminate the conservatorship at any time. The petition is determined based on the preponderance of the evidence and the person does not need to present medical evidence. The court must hold a hearing within 30 days of the petition's filing except for good cause. The conservatorship terminates if the hearing is not held within the 30 days or any extended period granted for good cause.

Prior law required the court to review the conservatorship at least every three years. The act instead requires a review within one year of ordering the conservatorship and at least every three years after that. Prior law required the conservator, the person's attorney, and a physician to submit written reports within 45 days of the court's request. The act deletes the requirement for the attorney's report and requires the court to provide copies of the other reports to the conserved person and his or her attorney.

The act requires the conserved person's attorney, within 30 days of receiving the reports of the conservator and physician, to notify the court (1) that he or she has met with the conserved person and (2) whether a hearing is requested, although it does not prohibit either the person or the attorney from requesting one at any other time the law permits.

The law allows the court to order disclosure of medical information and the act requires disclosure to the conserved person's attorney.

Under prior law, the court was not required to hold a hearing if the person's condition did not change since the court's last review based on the filed reports, unless requested by the attorney, physician, or conservator. The act instead requires the court to find by clear and convincing evidence that the conserved person continues to be incapable of managing his or her affairs or caring for himself or herself and there is no less restrictive means available to assist the person. The act then allows the court to continue or modify the conservatorship but requires it to terminate the conservatorship if it does not make these findings. The court retains discretion to hold a hearing and it is required to do so if, as under prior law, the conserved person, his or her attorney, or the conservator requests it.

§§ 24-25 — HABEAS CORPUS PETITIONS

The act provides that a person under involuntary conservatorship and minors or mentally retarded people under guardianship can use a writ of habeas corpus without exhausting other available remedies such as appealing the court order of guardianship or conservatorship. The court must then determine the legality of the guardianship or conservatorship. The writ must be directed to the guardian or conservator and, if alleging that the guardianship or conservatorship is illegal or invalid, to the court that issued the order.

The application for habeas corpus can be brought in the Superior Court or probate court. If brought to the probate court, the probate court administrator must appoint three probate judges to hear the application from a list of those approved to hear these cases by the chief justice. The probate judge who issued the order cannot sit on the panel. The judges choose a chief judge. All proceedings are recorded, the recording is part of the record, and it is retained in the probate court that appointed the conservator or guardian in a manner set by the probate court administrator. Applications cannot be denied unless two of the three judges vote to do so.

Hearings are held within 10 days (excluding weekends and holidays) after return of service of the writ. If the representation or guardianship is determined legal, the decision (1) is a final judgment subject to appeal and (2) does not bar another writ if it is claimed that (a) the person is no longer subject to the condition for which the person was under conservatorship or (b) the application is based on a different ground. The individual subject to the guardianship or conservatorship or a relative, friend, or person interested in his or her welfare can apply for the writ.

An appeal to the Superior Court from a probate judge panel is filed in the judicial district for the probate court that appointed the guardian or conservator. The appeal is heard within 30 days of return of service of the appeal.

Alcohol or Drug Treatment Facilities

Under the act, someone confined in a hospital or inpatient treatment facility for alcohol or drug dependency treatment can seek a writ of habeas corpus in Superior Court. The court or judge issuing the writ determines the legality of confinement. The writ is directed to the facility's superintendent or director and the judge of the committing court, if commitment is allegedly illegal or invalid. The act requires the state's attorney for the relevant judicial district to represent the judge. If the confinement is determined legal, it does not bar another writ if it claims the individual is no longer subject to the condition for which the individual was confined. The confined person, a relative, a friend, or person interested in the individual's welfare can bring the writ.

The act prohibits charging court fees to the judge or hospital superintendent or director.

PA 07-117—HB 7067
Judiciary Committee
Human Services Committee

AN ACT CONCERNING THE APPOINTMENT AND POWERS OF CONSERVATORS AND SPECIAL LIMITED CONSERVATORS WITH RESPECT TO PSYCHIATRIC TREATMENT

SUMMARY: This act specifies that "clear and convincing evidence" is the legal standard probate courts must apply when deciding motions to allow:

1. conservators and special limited conservators to consent to the administration of psychiatric medication on behalf of incompetent patients or criminal defendants;
2. psychiatric facilities to administer psychiatric medication to patients or criminal defendants who have refused to take it and pose a direct threat of harm to themselves or others; or
3. special limited conservators to consent to release a criminal defendant's medical records to the psychiatric facility that is treating him or her.

Prior law had no explicit legal standard for making these decisions and no provision allowing representatives to consent to the release of a defendant's medical records.

The act also establishes legal process and notice provisions for probate court hearings involving special limited conservator appointments. In most respects they mirror existing laws governing conservator appointments.
EFFECTIVE DATE: October 1, 2007

HEARING NOTICES

The act's provisions concerning service of legal process and notices are the same as existing requirements for conservator appointment hearings except:

1. family members and designated state and local officials, who must be given advance notice of conservatorship hearings, need not be notified of special limited conservatorship hearings, and
2. the court has discretion to notify other people, including those the defendant requests, and to prescribe the notification methods to be used.

BACKGROUND

Special Limited Conservators

PA 04-160 creates a civil procedure for involuntarily administering psychiatric medication to criminal defendants with serious mental illnesses committed to the Department of Mental Health and Addiction Services for treatment to restore their competency to stand trial. It authorizes probate courts to appoint special limited conservators with the power to give or withhold consent to the administration of suggested medication.

PA 07-120—sHB 7236
Judiciary Committee

AN ACT CONCERNING COSTS AND ATTORNEY'S FEES IN AN ACTION UPON A BOND SUBSTITUTED FOR A MECHANIC'S LIEN

SUMMARY: This act specifies that a plaintiff who prevails in any action upon a bond that has been substituted for a mechanic's lien must be allowed costs and reasonable attorney's fees.
EFFECTIVE DATE: October 1, 2007

BACKGROUND

Related Law and Case

The mechanic's lien statute allows for the substitution of a bond for a lien (CGS § 49-35b). In a recent decision the Superior Court concluded that the law did not require courts to award costs and attorney's fees when a bond was substituted for a lien and the claimant succeeds in a claim against the bond (*A & A Mason, LLC v. Montagno Construction, 46 Conn. Supp. 405 (May 10, 2005)).*

PA 07-121—HB 7239
Judiciary Committee
Planning and Development Committee
Transportation Committee

AN ACT CONCERNING SCRAP METAL PROCESSORS

SUMMARY: This act, with some exceptions, subjects scrap metal processors to the laws that apply to junk dealers, including record keeping for property they receive and municipal licensing. By law, a junk dealer is someone in the business of dealing and trading in junk, old metal, scrap, rags, waste, paper, or other secondhand articles. By law, anyone illegally engaging in the junk dealer business is subject to a sentence of up to three months in prison, a fine of up to $50, or both.

The law requires junk dealers to (1) keep a record book that describes property they receive, when they receive it, and who they receive it from; (2) make weekly sworn statements of transactions; and (3) keep goods for at least five days after filing the statement. The act only requires a scrap metal processor to separate scrap metal it receives from other material on its property and hold it for five days if it is wire used for transmitting telecommunications or data.

The act also requires the scrap metal processor to take a picture of a motor vehicle delivering scrap metal and imposes different documentation requirements when receiving wire that could be used for transmitting telecommunications or data.
EFFECTIVE DATE: October 1, 2007

PROPERTY RECEIVED

By law, a junk dealer's record book, property, and place of business can be examined at any time by town officials. Dealers must make weekly sworn statements of transactions to the chief of police or town clerk (depending on the circumstances) describing the goods received and the person from whom the dealer received them. Dealers must keep goods for at least five days

after filing the statement. These provisions do not apply to motor vehicle dealers or dealers in antique household furniture, china, or glassware (CGS § 21-9 et seq.).

The act provides that a scrap metal processor is not required to separate scrap metal it receives from other material on its property and is not required to hold it for five days unless it is wire for transmitting telecommunications or data. The requirement regarding wire does not apply if it is bought from someone (1) registered as a business that demolishes buildings or (2) who has already separated the wire as required by the act's provisions or those regarding junk dealers, and provides a written statement affirming it.

The act requires a scrap metal processor who receives a load of scrap metal to take a picture of the motor vehicle delivering it. It must show the license plate and the load of scrap metal. On receiving wire that could be used for transmitting telecommunications or data, the act requires the scrap metal processor to (1) copy the person's registration, (2) record a description of the material received, and (3) record where the material came from.

The act requires a scrap metal processor to maintain the required documents and pictures in good condition for at least two years. They must be open to inspection by law enforcement officials during normal business hours.

JUNK DEALERS, LICENSING, AND ORDINANCES

By law, a town can make reasonable ordinances on licensing junk dealers, including imposing a license fee of $2 to $10 for each team or vehicle. Junk dealers must register with the Department of Motor Vehicles and show their registration certificate when applying for a town license. Town ordinances can regulate the establishment, location, or conduct of a junk yard unless the town has a zoning and planning commission or a special act provides otherwise.

By law, anyone in the business of dealing and trading in secondhand bicycles, junk, metals, or other secondhand articles must apply for a license to conduct business in a town. Towns set licensing fees between $2 and $10, with a $10 annual renewal fee. Licenses may be revoked for cause.

BACKGROUND

Scrap Metal Processors

By law, a scrap metal processor includes any place of business and place of deposit that (1) has facilities for preparing and processing iron, steel, and nonferrous metals into a form suitable for remelting by a foundry, steel mill, or other remelter; (2) does not buy or receive motor vehicles except from licensed motor vehicle recyclers, public agencies, or certain intermediate processors; and (3) does not sell automobile parts for reuse as parts.

A processor is considered a motor vehicle recycler's business or motor vehicle recycler's yard if motor vehicle junk is retained on the premises for over 30 days without being processed into a suitable form for remelting (CGS § 14-67w). Motor vehicle recycler businesses and yards are subject to laws on licensing, location, and record keeping (CGS §§ 14-67g et seq.).

Scrap metal processors receiving motor vehicles must obtain, keep, and have open to inspection certain information about the vehicle and the person they receive it from. These provisions do not apply to a licensed motor vehicle recycler's business or motor vehicle recycler's yard that is delivering a motor vehicle that has been dismantled, crushed, or conditioned for scrap metal processing to a scrap metal processor (CGS § 14-67w).

PA 07-123—sHB 7313
Judiciary Committee
Public Safety and Security Committee

AN ACT CONCERNING DOMESTIC VIOLENCE

SUMMARY: This act establishes three new crimes of strangulation.

It expands the circumstances under which a court may issue a standing criminal restraining order.

It establishes release procedures for police officers to follow when someone is arrested for committing a family violence crime. The act absolves police officers of liability in any civil action for personal or property injuries resulting from the release conditions.

It makes family violence arrestees guilty of a crime if they intentionally violate a nonfinancial condition of release set by a police officer. It increases the penalty for violation of release conditions for anyone who is arrested for committing a felony and intentionally violates a nonfinancial condition of release set by a bail commissioner or court.

The act allows law enforcement officers to seize any electronic defense weapon that is in plain view or possessed by the arrestee at a family violence crime site. They already can seize firearms. Just as with firearms, the act requires the officers to return the weapons within seven days to their lawful owners if they are eligible to possess them and a court has not ordered otherwise.

Lastly, the act specifies that stun guns and other conductive energy devices are types of electronic defense weapons. By law, it is illegal for anyone, other than a peace officer on official duty, to carry these weapons in a motor vehicle or on his or her person.
EFFECTIVE DATE: October 1, 2007

STRANGULATION

The act makes a person guilty of 2nd degree strangulation when he or she intentionally and actually impedes another person's breathing or blood circulation by restraining the person by the throat or neck. The crime is a class D felony (see Table on Penalties).

A person commits 1st degree strangulation, a class C felony, if he or she (1) is a repeat offender of 2nd degree strangulation or (2) commits 2nd degree strangulation and either causes serious physical injury or uses or attempts to use a dangerous instrument.

A person commits 3rd degree strangulation, a class A misdemeanor, if he or she recklessly restrains another person by the throat or neck and impedes the person's breathing or blood circulation.

Under the act, no one can be found guilty of strangulation and 1st or 2nd degree unlawful restraint or assault for the same incident; however, the person may be charged with all three crimes in the same information (charging document). "Assault" means:

1. 1st, 2nd, and 3rd degree assault;
2. 1st and 2nd degree assault of a person who is aged, blind, disabled, pregnant, or mentally retarded;
3. 2nd degree assault with a firearm;
4. 1st degree assault of a Department of Correction employee;
5. assault of a pregnant woman; or
6. assault with a motor vehicle.

STANDING CRIMINAL RESTRAINING ORDER

By law, courts can issue these orders, in addition to the sentence authorized by law, in certain criminal cases to protect crime victims from future harm. The orders may, among other things, prohibit the offender from restraining, threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the victim, or entering the victim's home. The criminal cases covered are those involving the commission of, or attempt or conspiracy to commit:

1. murder;
2. 1st and 2nd degree assault;
3. 1st and 2nd degree assault of an aged, blind, disabled, pregnant, or mentally retarded person;
4. 2nd and 3rd degree assault with a firearm;
5. 2nd degree assault with a firearm of an aged, blind, disabled, pregnant, or mentally retarded person;
6. 1st, 2nd, and 3rd degree sexual assault;
7. aggravated 1st degree sexual assault;
8. sexual assault in a spousal or cohabitating relationship;
9. stalking; and
10. criminal violation of a protective order.

Before issuing the order, the court must find that the (1) victim is a member of the offender's family or household member and (2) order will best serve the victim's and the public's interest given the history, character, nature, and circumstances of the crime. The orders are effective until a court modifies or revokes them for good cause. Violation of a standing criminal restraining order is punishable by up to five years in prison, a $5,000 fine, or both.

The act permits the court to issue the order under the same conditions stated above when a person is convicted of attempting or conspiring to commit:

1. 1st or 2nd degree harassment,
2. criminal violation of a restraining order,
3. criminal violation of a standing criminal restraining order, or
4. a family violence crime (see BACKGROUND).

The act also permits a court to issue a standing criminal restraining order when a person is convicted of any crime against a family or household member, rather than just the ones listed. In these cases, the court may issue the order for good cause shown and does not have to find the order to be in the best interest of the victim or the public. "Family or household members" are spouses, former spouses, parents and their children, people age 18 or older related by blood or marriage, people age 16 or older either living together or who have lived together, people who have a child together, and people in, or who once were in, a dating relationship.

RELEASE OF FAMILY VIOLENCE CRIME ARRESTEES

By law, when a person is taken into custody for a bailable family violence offense and a court has not ordered otherwise, a police officer must interview the person and then determine the terms and conditions of release and release anyone who posts a bond in an amount the officer sets. If the person cannot post bail, the officer notifies the bail commissioner, who determines the appropriate bail.

Bail Statements

The act prohibits any statement an arrestee makes in a bail interview from being admitted as evidence in any proceeding related to the incident for which bail was set.

Release Procedure

If a person is arrested for a family violence offense and the police officer does not intend to impose certain specified conditions of release (see below), the act

requires the police officer to (1) release the arrestee on a written promise to appear or (2) set a bond amount and release any arrestee who posts it.

If the arrestee is not released, the act requires the police officer to make reasonable efforts to immediately contact a bail commissioner to set the conditions of release. If the officer is unable to contact a bail commissioner or the commissioner is unavailable to promptly perform his duties, the police officer must (1) release the arrestee on a written promise to appear or (2) set a bond amount and release any arrestee who posts it. The officer may set nonfinancial release conditions that require an arrestee to:

1. avoid all contact with the alleged victim;
2. comply with any restrictions on travel, associations, or living accommodations that directly relate to the victim's protection; or
3. refrain from using or possessing a dangerous weapon, intoxicant, or controlled substance.

Each officer must state, and swear to, these nonfinancial conditions of release on a form prescribed by the Judicial Branch. The form also must state (1) the officer's efforts to contact a bail commissioner, (2) the officer's basis for imposing specific conditions, and (3) whether a translation service or an interpreter was used to communicate with an arrestee who does not speak English.

The arrestee must immediately receive a copy of the bail conditions and a copy of the entire form must be provided to his or her attorney at arraignment. The conditions are effective until the arrestee is arraigned, at which time the court must determine whether to issue a protective order after conducting a hearing at which defendants have a right to be heard.

Penalties for Violating Bail Conditions

The act broadens the acts that constitute violations of release conditions and increases the penalty for the more serious offenses. Under prior law, a person charged with a felony, misdemeanor, or certain motor vehicle offenses violated a condition of release when he or she intentionally contacted a crime victim or used or possessed a dangerous weapon in violation of his or her release conditions. The crime covered motor vehicle violations that subject offenders to a term of imprisonment. The crime was a class A misdemeanor.

The act makes it 2nd degree violation of release conditions for a person (1) charged with a misdemeanor or motor vehicle violation that carries a term of imprisonment and (2) released on nonfinancial conditions set by a bail commissioner, court, or police officer in family violence cases to intentionally violate one or more of the conditions. The crime is a class A misdemeanor. The act makes it 1st degree violation of release conditions when an arrestee is charged with a felony and increases the penalty by changing the classification to a D felony.

BACKGROUND

Family Violence Crime

A "family violence crime" is an incident between family or household members that either causes physical injury or creates fear that physical injury is about to occur, but does not include verbal abuse or arguments.

Electronic Defense Weapon

An electronic defense weapon is one capable of immobilizing, but not killing or seriously injuring, a person through the use of an electronic impulse or current.

Restraining and Protective Orders

Restraining and protective orders are court-issued, civil and criminal orders, respectively, typically issued to protect victims of family violence crimes from threatened or further harm. These orders may, among other things, prohibit the respondents from restraining, threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the victim, or entering the victim's home. Restraining orders are generally effective for six months. Protective orders are a condition of bail or other release from custody.

PA 07-137—sHB 6715 **(VETOED)**
Judiciary Committee
General Law Committee
Public Health Committee
Finance, Revenue and Bonding Committee
Appropriations Committee

AN ACT CONCERNING THE PALLIATIVE USE OF MARIJUANA

SUMMARY: This act allows a physician to certify an adult patient's use of marijuana after determining that the patient has a debilitating condition and could potentially benefit from the palliative use of marijuana. It establishes a procedure for certifying patients. The act does not require health insurers to cover the palliative use of marijuana.

It allows people suffering from these conditions and their primary caregivers to possess a quantity of marijuana that the act sets to treat the conditions.

The act requires the patients and their primary caregivers to register with the Department of Consumer Protection (DCP) and authorizes the department to

impose a $25 registration fee and other fees. The fees must be deposited in a separate, nonlapsing palliative marijuana administration account the act establishes.

The act prohibits physicians, qualifying patients, and their caregivers who comply with its provisions from being arrested, prosecuted, or otherwise punished for certifying, using, or possessing palliative marijuana.

The act requires law enforcement agencies to return marijuana, marijuana paraphernalia, or other property seized from a patient or primary caregiver who complies with its provisions.

EFFECTIVE DATE: October 1, 2007, except for the provision establishing the palliative marijuana administration account, which is effective July 1, 2007.

USE OF MARIJUANA FOR PALLIATIVE PURPOSES

The act allows adult patients to use marijuana to treat cancer, glaucoma, HIV, AIDS, Parkinson's disease, multiple sclerosis, damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity, epilepsy, cachexia, or wasting syndrome. It allows people with these debilitating conditions to possess marijuana, up to the amount permitted for palliative use under the act.

The act allows a patient or his primary caregiver to possess the usable amount. The caregiver must be at least age 18 and someone other than the patient's doctor who assists the patient in his palliative use of marijuana. If the patient lacks legal capacity, the caregiver must be his parent, guardian, or legal custodian. A person convicted of marijuana possession or drug dealing cannot serve as a primary caregiver. The qualifying patient's physician must determine the patient's need for a primary caregiver and document the need in a certification of palliative use. The act limits patients to one caregiver at a time and limits caregivers to only one patient.

CERTIFICATION OF MARIJUANA USE

Under the act, a physician may certify a patient's use of marijuana only after determining that the patient is over 18, has a debilitating condition (i.e., the patient is a qualifying patient), and the potential benefits of the palliative use of marijuana would likely outweigh its health risks. The act makes the certification valid for one year from the date it is signed. It requires the patient or the primary caregiver to destroy all marijuana plants and usable marijuana (i.e., dried marijuana leaves and flowers or preparation or mixture of flowers and leaves, minus the seeds, stalks, and roots) that the patient or caregiver possesses for palliative use (1) within 10 days after the certification expires or (2) at any time before that if the patient no longer wishes to possess marijuana for palliative use.

The act permits DCP to establish in regulations a form physicians must use to certify a patient's palliative use of marijuana. "Palliative use" means the acquisition and distribution, possession, growth, use, or transportation of marijuana or marijuana paraphernalia to treat the qualifying patient's symptoms or their effects. "Acquisition and distribution" means the transfer of marijuana and marijuana paraphernalia from the primary caregiver to the qualifying patient.

REGISTRATION

The act requires certified patients and their primary caregivers to register with DCP within five business days after the certificate is issued. They must give the department information that sufficiently and personally identifies them and report any change in the information within five business days after it occurs.

The act requires DCP to issue the patient and the primary caregiver a registration certificate that is valid for the same period as the written certification from the physician, up to one year. DCP may charge a reasonable registration fee, up to $25. It must turn over any registration fees it collects to the state treasurer for deposit in a palliative marijuana administration account (see below).

The act makes registration information confidential and not subject to disclosure under the Freedom of Information Act. But DCP can verify for any law enforcement agency that asks whether a patient or primary caregiver is registered and provide the agency with reasonable access to registry information for law enforcement purposes.

The act requires DCP to establish registration procedures in regulations. The regulations must include a reasonable fee that offsets direct and indirect costs associated with administering the palliative use of marijuana. When they register, patients must pay this fee and any registration fee to the state treasurer for deposit into the palliative marijuana administration account.

PALLIATIVE MARIJUANA ADMINISTRATION ACCOUNT

The act establishes a separate, nonlapsing palliative marijuana administration account in the General Fund. The account consists of the fees DCP collects for palliative marijuana registration and administration, investment earnings, and any other moneys the law requires to be deposited in it. The legislature can appropriate money in the account only for palliative marijuana administration. Any money remaining in the

account at the end of a fiscal year must be carried forward to the next year.

PUNISHMENT FOR MARIJUANA CERTIFICATION, USE, AND POSSESSION

Physician

The act prohibits any physician from being arrested, prosecuted, or otherwise punished, including being denied any right or privilege, or being disciplined by the Connecticut Medical Examining Board or any other professional licensing board, for writing a certification for marijuana if he:

1. diagnosed a qualifying patient with a debilitating condition;
2. explained the risks and benefits of using marijuana for palliative purposes to any such patient or the parent, guardian, or legal custodian of any such patient who lacks legal capacity; and
3. based his written certification on his professional opinion after fully assessing the patient's medical history and current medical condition in the course of a physician-patient relationship.

Qualifying Patients

The act prohibits qualified patients from being arrested, prosecuted, denied any right or privilege, or otherwise punished for using marijuana if:

1. a physician diagnoses them with a debilitating condition;
2. their physician has issued a written certification for their palliative use of marijuana after prescribing, or determining it is against their best interest to prescribe, prescription drugs to address the symptoms or effects the marijuana is supposed to treat;
3. the combined amount possessed by the patient and his primary caregiver does not exceed four marijuana plants, each having a maximum height of four feet, and one ounce of usable marijuana; and
4. the marijuana is cultivated in a secure indoor facility.

The protection against punishment does not apply if a patient uses marijuana:

1. in a way that endangers another person's health or well-being;
2. on a motor or school bus; in any moving vehicle; at work; on school grounds or college or university property; in a public or private school or dormitory; or at a public park, beach, recreation or youth center, or any other public place; or
3. within the direct line of sight of anyone under age 18 or in any way that exposes that person to second-hand marijuana smoke, or both.

Primary Caregiver

The act prohibits registered primary caregivers from being arrested, prosecuted, denied any right or privilege, or otherwise punished for acquiring, distributing, possessing, growing, or transporting a small amount of marijuana or marijuana paraphernalia for a qualifying patient. The amount of marijuana cannot exceed four plants, each having a maximum height of four feet, and one ounce of usable marijuana.

The protection against punishment for distribution applies only when the drug or paraphernalia is transferred from the caregiver to the patient.

PALLIATIVE USE OF MARIJUANA AND CRIMINAL PROCEDURE

The act permits patients and primary caregivers who comply with its requirements to assert that fact as an affirmative defense to (i.e., a way to avoid) any state prosecution involving marijuana or marijuana paraphernalia. The act prohibits anyone from being arrested or prosecuted solely for being present or in the vicinity as marijuana or marijuana paraphernalia is acquired, possessed, cultivated, used, distributed, or transported for palliative use.

The act requires law enforcement agencies to return marijuana, marijuana paraphernalia, or other property seized from a patient or primary caregiver who complies with its provisions immediately after a court determines that they were entitled to have it. Under the act, entitlement is evidenced by a prosecutor's decision to dismiss the charges or not to prosecute, or the patient or caregiver's acquittal.

The law absolves law enforcement officials of any responsibility for the care and maintenance of live marijuana plants seized as evidence.

The act makes anyone who lies to a law enforcement officer about acquiring, possessing, cultivating, using, distributing, or transporting marijuana for palliative use in order to avoid arrest or prosecution for a drug-related offense guilty of a class C misdemeanor (see Table on Penalties). It makes anyone who lies to the officer about the issuance, contents, or validity of a (1) written certification for the palliative use of marijuana or (2) document purporting to be a written certification guilty of a class A misdemeanor.

BACKGROUND

Marijuana is a Controlled Substance

Federal law classifies marijuana as a Schedule I controlled substance. With one exception, the law prohibits anyone from knowingly or intentionally manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, or dispense Schedule I drugs. Licensed practitioners, including pharmacies, can use Schedule I substances in government-approved research projects. The penalty for violations varies depending on the amount of drugs involved (21 USCA §§ 812, 823, and 841(a)(1)).

PA 07-141—sSB 167
Judiciary Committee
Planning and Development Committee
Appropriations Committee

AN ACT REVISING THE PROCESS FOR THE TAKING OF REAL PROPERTY BY MUNICIPALITIES FOR REDEVELOPMENT AND ECONOMIC DEVELOPMENT AND REVISING THE PROCESS FOR PROVIDING RELOCATION ASSISTANCE FOR OUTDOOR ADVERTISING STRUCTURES ACQUIRED BY THE COMMISSIONER OF TRANSPORTATION

SUMMARY: This act makes many changes to the laws towns must follow when taking property to be developed and used for roads, parks, and schools (i.e., public uses) or apartments, stores, and factories (i.e., economic development). Most of these laws are contained in three chapters that authorize economic development takings to achieve different goals. Chapter 130 authorizes takings to eliminate blight and prepare an area for redevelopment; Chapter 132, to facilitate new commercial and industrial development; and Chapter 588*l*, to help manufacturers and other key industries expand or relocate in Connecticut.

Accomplishing these goals benefits towns in different ways. For example, providing parks, playgrounds, and other amenities improves quality of life, and stimulating new business creates jobs and generates tax revenue to fund municipal services. The act prohibits towns from taking property if the goal is primarily to increase tax revenue. It also eliminates their authority to take property for economic development under the municipal powers statutes (Chapter 98).

The three development chapters require towns to prepare plans showing how they intend to develop the property they plan to acquire or take. The act requires these plans to include more information, analyses, and findings about the need to take specific properties. It also requires towns to review and approve plans every 10 years and adds more steps to the planning process.

The chapters allow towns to implement the plans by acquiring, preparing, assembling, and transferring parcels. The act adds more steps to the taking process. It requires towns to hold a public hearing on each taking and state why it is necessary. It requires town legislative bodies to approve each taking under a Chapter 132 or 588*l* plan by a two-thirds vote. The act allows property owners to ask the Superior Court to enjoin takings under any of the three chapters if the town or agency failed to follow the correct statutory procedure. It gives towns a minimum of 10 years to complete a taking.

The act specifies how towns must compensate owners when taking their property for economic development. Prior law did not specify how towns had to determine compensation, but most based it on a property's fair market value as determined by an appraisal. The act explicitly requires them to determine value based on two independent appraisals when taking property under the three chapters. The compensation must equal the average of the two appraisals for takings under Chapter 130 and 125% of that value for takings under Chapters 132 and 588*l*.

The act also changes the procedure the court must follow when reviewing a town's offer of compensation for economic development and other takings. The changes include allowing a tax judge, in addition to a judge trial referee, to review the statement of compensation and allowing the parties to use the offer of compromise statute, which provides a procedure to offer to settle a case.

Besides compensating owners for taking their property, the law requires towns to compensate them and their tenants for being displaced from the property. In most instances, the act increases these relocation benefits when towns take property for economic development.

The act establishes a right of first refusal for owners whose property was taken for this purpose. If a town decides that it cannot use the property as intended or for a public purpose, it must offer the property for sale back to the original owner. The town must do this before offering to sell the property to anyone else.

The act makes it an unfair trade practice for anyone to represent they have eminent domain power when negotiating to acquire a property unless they are an appointed or elected official of a public agency with that power (§ 17).

Lastly, the act requires the Department of Transportation (DOT) commissioner to pay relocation benefits when acquiring a billboard and specifies how to determine the benefit amounts. (PA 07-5, June Special Session modified the method the commissioner must use to determine the benefit amounts.) It allows

billboard owners and others receiving relocation benefits from DOT to appeal the benefit amounts to the State Property Review Board.

The act makes technical and conforming changes (§§ 20-22).

EFFECTIVE DATE: Upon passage and applicable to property acquired starting on that date, except:

1. the changes to Chapter 588*l* plans are effective upon passage and applicable to property acquired on or that date and to development plans adopted on or after that date (§ 3);
2. the changes to Chapter 130 and 132 plans and how long they remain in effect are effective October 1, 2007 and applicable to plans adopted on or after that date (§§ 5-6, 10-11);
3. the changes to relocation benefits other than for DOT and billboards are effective October 1, 2007 and applicable to property acquired on or after that date (§§ 13-15);
4. the offer of compromise provisions are effective upon passage and applicable to applications filed on or after that date (§ 16);
5. the unfair trade practice violation is effective upon passage (§ 17);
6. a technical change is effective October 1, 2007 (§ 21); and
7. a technical change is effective upon passage (§ 22).

STATUTORY AUTHORITY TO TAKE PROPERTY FOR ECONOMIC DEVELOPMENT

The authority to take property is contained in many laws, each specifying different reasons for using this power. The act amends those laws that allow towns to take property for economic development. These laws are divided into four chapters. Chapter 98 specifies towns' general powers, which includes acquiring or taking property for different purposes. Unlike the other chapters, it does not specify the procedure towns must follow when taking property.

The other chapters require towns to prepare plans under which they may take property and specify the procedure when doing so. Chapter 130 allows towns to acquire or take property to redevelop blighted areas. The property can be used for public and private purposes. Chapter 132 allows towns to acquire or take property to stimulate private commercial and industrial development in any area regardless of its condition. Similarly, Chapter 588*l* allows them to take property on behalf of manufacturers and other key industries seeking to expand or relocate in Connecticut.

Although these chapters authorize takings for different purposes, each imposes similar planning and procedural requirements. Each requires towns to prepare plans showing how property will be developed and used. Chapter 130's procedure for taking property and compensating owners also applies to takings under Chapters 132 and 588*l* and those other chapters that authorize takings for public purposes. Chapter 135 requires towns to pay relocation benefits to property's owner and tenants.

§ 4 — Takings under the Municipal Powers Chapter

Chapter 98 lists towns' general governmental powers, including acquiring or taking property for specified purposes. Under prior law, those purposes included a wide range of public uses and encouraging private commercial development (CGS § 7-148(c) (3) (A)). The act eliminates takings for private commercial development and, consequently, allows towns take property for this purpose only under the three development chapters.

PLANNING REQUIREMENTS

The development chapters allow towns to take property for public uses and economic development under a development plan. The act makes many similar changes to the process for preparing and approving these plans.

§§ 3, 5, & 10 — Plan Contents

Under Chapter 130, a town can designate an area for redevelopment if it is deteriorated, deteriorating, substandard, or detrimental. Under the act, an area is detrimental only if the conditions there are detrimental to the community's safety, health, morals, or welfare. The act requires the area's development plan to describe how it is deteriorated, deteriorating, or detrimental to the community's safety, health, morals, or welfare. (PA 07-207 defines "deteriorated" and "deteriorating.") The plan must also identify each parcel the agency intends to acquire or take.

The act makes identical changes to the contents of Chapter 132 and 588*l* plans. It expands the kind of information and analyses these plans must contain. The plan must describe how it was prepared and the alternatives the agency considered to achieve its goals. It must also identify the public need being addressed.

By law, the plans must describe the project's economic benefits, including the number of jobs and housing units the project will create. Chapter 588*l* plans must also estimate the amount of local tax revenue the project will generate. The act imposes this requirement on Chapter 132 plans.

The act requires Chapters 132 and 588*l* plans to describe how they will:

1. improve infrastructure, including public access, facilities, or use;
2. clean up blight or the environment;

3. improve the area's aesthetic quality;
4. help increase or sustain land market values;
5. improve residents' living standards; and
6. make the town more competitive.

Besides requiring Chapter 132 and 588*l* plans to provide more information, the act changes a finding these plans must contain and requires new ones. Under prior law, the plan had to include a finding that it did not harm statewide planning objectives. Under the act, it must be prepared with due consideration of the five-year State Plan of Conservation and Development.

The act requires Chapter 132 and 588*l* plans to include a preliminary statement describing how the town or agency will acquire property and a finding that:

1. the plan's public benefits outweigh any private benefits,
2. the property's existing use cannot be feasibly integrated into the project's overall development plan,
3. taking the property is reasonably necessary to successfully achieve the plan's objectives, and
4. the plan's primary purpose is not to increase local tax revenues.

The act prohibits agencies from approving a Chapter 130 plan unless they make this four-point finding, but does not require the plan to include them.

§§ 3, 6, 10, & 11 — Approving the Plan

The act makes the procedures for approving Chapter 130 plans consistent with those under the other chapters. By law, an agency that prepared a Chapter 130 plan must ask the town's planning commission for its written opinion about the plan. In stating its opinion, the act requires the commission to indicate if the plan is consistent with the town's plan of conservation and development (plan of C&D).

The act requires the agency to make more findings before it can approve the plan. By law, the agency must find that the area qualifies as a redevelopment area and that the plan will materially improve conditions there. The act prohibits the agency from approving the plan unless the planning commission indicated that it was consistent with the town's C&D plan. The law already imposes these requirements on Chapter 132 and 588*l* plans. As mentioned above, the act also prohibits the agency from approving the plan unless it makes the four-point finding about the plan's overall effects and the need to take property.

Under prior law, the town's legislative body or an agency it designated to act on its behalf had to decide whether to approve a Chapter 130 plan. Under the act, only the legislative body can approve the plan. By law, the legislative body must approve Chapter 132 and 588*l* plans before the development agency can implement them.

The act's other changes affect the process for approving plans under the three chapters. The law requires an agency to hold a hearing on the plan before adopting it. The act requires an agency to post a draft of the plan on its website, if it has one, at least 35 days before the hearing.

If the town's legislative body approves the plan, the agency must publish a newspaper notice to that effect. The approval is good for 10 years, after which the agency must review and readopt the plan at least once every 10 years. If the agency chooses to readopt or amend the plan, it must follow the same procedures for adopting the initial one. These provisions do not apply if the agency prepared the plan with federal funds and the rules governing these funds prohibit imposing a 10-year renewal deadline.

TAKING PROCESS

The act establishes similar processes for taking property under Chapters 130, 132, and 588*l*. As discussed below, the only difference is the entity that must approve each taking.

§§ 1, 2, & 3 — Public Hearing

The act requires the agency to hold a public hearing on any proposed taking. The agency must publish a newspaper notice about the hearing within 10 days of holding it. It must also send the notice by first class mail to the property's record owners and property owners within 100 feet of the property to be taken, at least 10 days before the hearing date. The newspaper and mail notices must indicate the hearing's time, place, and subject.

§§ 1, 2, & 3 — Approving a Taking

The act requires different entities to approve takings under Chapter 130 and Chapters 132 and 588*l*. The development agency's governing board must approve each taking under Chapter 130 and the town's legislative body must approve each one under the other two chapters. But neither entity can do so under the act unless they:

1. consider how the project will benefit the public and any private entity and determine if the public benefits outweigh the private ones,
2. determine that the agency cannot feasibly integrate the property's current use into the overall development plan, and
3. determine that acquiring the property by eminent domain is reasonably necessary to successfully achieve the plan's objectives.

The voting requirements for takings under Chapter 130 are different than those for takings under Chapter 132 and 588*l*. The development agency's governing

board must approve each proposed taking by a majority vote of its members. It can do this by voting separately on each taking or group of takings. The agency may do the latter if each property in the group is identified.

If the agency is acting under Chapter 132 or 588*l*, the legislative body must approve each taking by a two-thirds vote. In towns with a town meeting or representative town meeting form of government, the board of selectmen acts in place of the legislative body. In either case, the deciding body can vote separately on each taking or on groups of takings. As with takings under a redevelopment plan, the body may vote on groups of takings if each parcel is individually identified. After the deciding body approves a taking, the town or agency must publish a newspaper notice to that effect within 10 days.

§§ 1, 2, & 3 — Five-Year Deadline for Taking Property

The act gives the agency five years to complete the taking of a property the plan slates for acquisition. The five-year clock begins when the agency takes its first property. The agency can extend the deadline for up to an additional five years, but it cannot take any property 10 years after the date of the first taking. These deadlines do not apply if the project involves federal funds and the rules governing these funds prohibit imposing deadlines for completing takings.

§§ 1, 2, & 3 — Enjoining a Taking

The act allows owner-occupants to apply to the Superior Court to enjoin a taking, which the court may do if it finds that the agency or town failed to comply with the statutory requirements for preparing and approving plans. The owner's application stops the five-year or 10-year clock for completing the taking until the court enters final judgment or until there is an appeal of such a judgement, whichever happens later.

§ 8 — Appraisals and Compensation

By law, local and state agencies must compensate property owners when taking their property. Prior law did not specify how to determine compensation, but most agencies did so based on the property's value, as determined by a real estate appraisal. The act explicitly requires agencies to base compensation on appraised value when they take property under the development chapters.

It also specifies how they must determine value. An agency must have the property appraised by two state-certified appraisers who must work independently of each other and use generally accepted professional standards as described in the Uniform Standards of Professional Appraisal Practice issued by the Appraisal Standards Board of the Appraisal Foundation pursuant to federal and state law. Each appraiser must provide a copy of the appraisal to the property owner and the agency.

The act bases compensation on the average of the two appraisal amounts. Compensation must equal that average for takings under Chapter 130, and 125% of that average for takings under the other two chapters. In both cases, the agency must increase the compensation if it takes more than five years to acquire the property. The five-year clock starts after the agency acquires another property under the plan that is within 1,000 feet of the subject property. In these cases, the agency must increase the compensation by 5% per year from the 6th to the 10th year.

These compensation requirements do not apply if the project uses federal funds and the rules governing the use of those funds set a different compensation standard.

§§ 8 & 9 — Court Review of Statement of Compensation

The process for compensating owners is contained in Chapter 130 and must be followed when taking property under many other chapters, including the other two development chapters and those authorizing takings for widening roads, building schools, and other public purposes. The act does not change the steps in the process but increases the time to complete certain ones.

The process begins when the agency files a statement of compensation with the Superior Court specifying, among other things, the amount of compensation for taking the property. The property owner can accept the amount offered or ask the Superior Court to review it. Prior law required the agency to wait 12 days after it filed the statement of compensation before it actually took the property. The act increases the waiting period to 35 days. The maximum period between filing the statement and taking the property remains 90 days.

Prior law allowed the court to appoint a judge trial referee to review the statement. The act allows it to do so if the property owner and the agency or their attorneys ask the court to appoint one. A judge trail referee is a retired judge who continues to serve and is designated to hear certain cases.

The act gives both parties the option of asking a tax judge to review the statement instead. If either party or their attorneys make a motion to that effect, the court must refer the application to a judge appointed to hear tax appeals. By law, the chief court administrator appoints two Superior Court judges for that purpose.

The act also makes the property owner (applicant) the counterclaim plaintiff for purposes of the application, review, appeal, and offers of compromise.

§ 16 — Offers of Compromise

The act makes a property owner who applies to the Superior Court for review of a statement of compensation the counterclaim plaintiff for purposes of offers of compromise, which is a statutory procedure to offer to settle the case for a specified amount.

Under the offer of compromise law, a plaintiff can file an offer with the court after 180 days have passed since service of process on the defendant and up to 30 days before trial. A defendant has 30 days to file an acceptance of the offer with the court clerk. If the defendant accepts, the plaintiff, after receiving the amount specified in the offer, files a withdrawal of the lawsuit, which the clerk records.

Under prior law, which applied only to contract and money damage cases, if the defendant did not accept the offer and, after a trial, the plaintiff recovered an amount equal to or greater than the sum stated in the offer, the court added 8% annual interest on the amount recovered. For eminent domain cases using the Chapter 130 procedures, the act requires the court to add 8% interest on the difference between the amount recovered and the amount specified in the plaintiff's offer.

Defendants can also file an offer of compromise, and the act subjects these takings to this procedure as well. By law, a defendant can file an offer with the court clerk up to 30 days before trial. The plaintiff has 60 days after being notified of the offer to accept it. If the plaintiff accepts it, he must, after receiving the amount specified in the offer, file a withdrawal of the lawsuit, which the clerk records. If the plaintiff does not accept the offer and later recovers less than the offer of judgment, he or she must pay the defendant's costs accrued after the offer, including reasonable attorney's fees up to $350.

§§ 1, 2, 3, & 12 — Offer of Sale

The act gives owners the right to buy back property taken under the plans and specifies how they may exercise that right. An owner may exercise his or her right if the agency or town decides that it cannot use the property as intended or for a public purpose and the agency or towns wants to sell it. The act provides a method for notifying the owner about this right.

When the agency takes the property, it must give the owner a form on which to write his or her name and address, the name and address of his or her agent, and the names and addresses of those heirs he or she designates to purchase the property. The owner or his or her agent can update the form in writing.

The agency must mail the notice of sale to the listed parties only if it was properly completed or updated and provides the information the town needs to mail the form. In notifying the parties about the property, the agency must offer it for sale at a price that is no more than the lesser of the amount the agency paid for the property or its fair market value at the time the agency offers it for sale. The town must give the parties six months to notify it if they want to purchase the property and another six months to finalize the sale. It may sell the property to a third party if the parties fail to notify the town within six months after the town sends the notice.

The act makes a conforming change to the provision under which an agency may abandon a Chapter 132 plan by specifying that it must comply with the act's offer of sale requirements when selling property.

The act's provisions governing the right of first refusal do not apply if the project involves federal funds and the rules governing those funds prohibit the agency from offering the property to its original owners or designated heirs.

RELOCATION BENEFITS

§§ 13-15 — Benefits Under the Development Chapters

State and federal law requires agencies to pay relocation benefits whenever they displace people from their homes, farms, and businesses. The benefits under federal law tend to be greater, and agencies must pay these when acquiring or condemning property with federal funds. The act requires an agency to pay the higher of the benefits under the state or federal relocation laws when it acquires or takes property under the three development chapters. It must do this regardless of the funding source.

§§ 18-19 — Benefits to Billboard Owners

The act requires the Department of Transportation (DOT) commissioner to pay relocation benefits to billboard owners when he acquires their structures. The benefit amount depends on whether the owners find another site in the area within one year after the commissioner acquired the structure. (PA 07-4, June Special Session allows this period to be extended if the commissioner and the owner agree.)

If a billboard owner obtains all necessary state and local permits for a new site within one year after the commissioner acquired the structure, the commissioner must pay a sum that equals the replacement cost and fair market value of the structure minus the fair market value of the new site, which must be determined according to the income capitalization method. (PA 07-4, June Special Session changes the second component

to fair market value of the structure at the new site.) The site must be in the same Standard Metropolitan Statistical Area, as determined in the federal census, as the prior site and not have been previously offered for sale or lease to the owner.

If the owner cannot obtain the necessary permits within one year after the commissioner acquired the site or chooses a site that was previously offered to him or her for sale or lease, the commissioner must pay a sum that equals the combined value of the structure's replacement cost and fair market value. (PA 07-4, June Special Session drops the requirement that the commissioner pay the replacement cost.) The owner must document that he or she cannot obtain the permits within one year or that the only available sites are those that he or she had been previously offered.

(PA 07-207 specifies that these relocation benefit requirements do not apply if they violate federal laws and regulations governing outdoor advertising structures along interstate and federally assisted highways. PA 07-4, June Special Session requires the commissioner to pay relocation costs or the amounts described above.)

§§ 18-19 — Appeal DOT Relocation Benefits

Billboard owners and others receiving relocation benefits from DOT may appeal the amount of the relocation benefit to the State Properties Review Board, which must hear and decide the appeal within 30 days after receiving it. The board's decision is final.

BACKGROUND

Related Act

PA 07-207 also amended some of the laws under which towns can take property for economic development and other purposes. It specifies criteria for determining if an area is deteriorated or deteriorating under Chapter 130. It requires the Superior Court to refer a statement of compensation to the property rights ombudsman for review if both parties request it. The act requires the ombudsman to study the feasibility of basing relocation benefits for businesses on the good will they lose or gain after being displaced from their property. The ombudsman must report his findings to the legislature by January 1, 2008. Lastly, the act specifies that this act's provisions regarding DOT relocation benefits apply only if they do not violate federal highway laws or agreements between the DOT commissioner and the federal commerce secretary.

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 07-142—sSB 1106
Judiciary Committee
Government Administration and Elections Committee

AN ACT CONCERNING PROCEDURES FOR THE HEARING OF COMPLAINTS AGAINST STATE CONTRACTORS AND SUBCONTRACTORS BY THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES AND THE DOCUMENTATION OF NONDISCRIMINATION POLICIES ADOPTED BY STATE CONTRACTORS

SUMMARY: This act establishes a separate process for the Commission on Human Rights and Opportunities (CHRO) to hear and remedy complaints against contractors and subcontractors for noncompliance with (1) state antidiscrimination laws, (2) mandatory antidiscrimination provisions in state and certain political subdivision contracts, and (3) the set-aside law. It does so by allowing CHRO to bring a matter to a public hearing based on its monitoring and compliance process instead of going through its normal complaint process.

The act appears to eliminate certain procedural requirements concerning complaints filed by CHRO against state agencies concerning affirmative action plans required by law.

If, after the hearing, a presiding hearing officer finds noncompliance, the act authorizes the officer, instead of CHRO, to impose certain penalties and take other actions. It also eliminates certain automatic sanctions and instead gives the presiding officer discretion to impose them.

The act authorizes the chief human rights referee, instead of CHRO's executive director or designee, to appoint a hearing officer or human rights referee to hear complaints against contractors and subcontractors filed by CHRO under the act.

The act requires that before entering into a contract with the state or any political subdivision other than a municipality, the contractor must provide documentation to support the nondiscrimination

agreement and warranty the law requires for such contracts. The documentation must be a company or corporate policy adopted by resolution of the contractor's board of directors, shareholders, managers, members, or other governing body. The act specifies that "contract" includes any extension or modification of the contract, and "contractor" includes any successors or assigns of the contractor.

EFFECTIVE DATE: July 1, 2007, except for the provisions dealing with documentation of company or corporate policy, which are effective upon passage.

NEW CHRO PROCEDURE TO HEAR AND REMEDY COMPLAINTS AGAINST CONTRACTORS

The act authorizes CHRO to issue a discrimination complaint against a contractor or subcontractor if it determines through its monitoring and compliance process, instead of through its complaint process, that a contractor or subcontractor has not complied with antidiscrimination laws and contract provisions. Under its normal complaint process, CHRO assigns a complaint to an investigator who must follow normal CHRO procedures and deadlines for investigating it. If after the investigation, the investigator finds reason to believe that a violation has occurred, he must attempt to eliminate it, and if that fails, to certify it to a pubic hearing. The act instead authorizes CHRO, based on its monitoring and compliance process, to schedule a public hearing within 20 days after notice of the complaint before a hearing officer or a human rights referee appointed to act as presiding hearing officer.

PENALTIES, SANCTIONS, AND OTHER ENFORCEMENT ACTIONS

Under prior law, if CHRO determined through its complaint procedure that a contractor or subcontractor was not complying with antidiscrimination statutes or contract antidiscrimination provisions, (1) the state retained 2% of the total contract price per month on any existing contract and (2) the contractor was prohibited from participating in any further contracts with state agencies until (a) two years from the date of the finding of noncompliance or (b) CHRO determined that the contractor had adopted policies consistent with these antidiscrimination statutes.

The act instead:

1. eliminates the mandatory 2% monthly retention requirement and authorizes the presiding hearing officer to order retainage,
2. eliminates the mandatory debarment and authorizes the presiding officer to bar the contractor from future contracts for two years or until the officer determines compliance, and
3. authorizes the presiding officer instead of CHRO to make the compliance determination.

By law, unchanged by the act, the compliance determination must be made within 45 days of the noncompliance determination.

The act transfers from CHRO to the presiding hearing officer CHRO's authority to:

1. publish, or cause to be published, the names of contractors or unions found in noncompliance;
2. notify the attorney general when there is a substantial or material violation or the threat of such a violation of the contractual provisions on antidiscrimination laws;
3. recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964, when necessary;
4. ask prosecutors to bring criminal actions against contractors who give false information to any contracting agency or to CHRO; or
5. order the contracting agency not to enter another contract or extend or modify an existing contract with a noncomplying contractor until the contractor has satisfied CHRO that it has established and will implement personnel and employment policies that comply with state antidiscrimination laws.

The act also authorizes the presiding officer to order the contractor to comply with antidiscrimination statutes or contract provisions required by state law within 30 days or, for good cause shown, within an additional 30 days. If the contractor fails to comply within that time period and the noncompliance is substantial or material, or there is a pattern of noncompliance, the presiding officer must recommend to the contracting agency that it declare the contractor to be in breach of the contract and pursue all available remedies.

CHRO COMPLAINTS AGAINST STATE AGENCIES REGARDING AFFIRMATIVE ACTION PLANS

By law, CHRO may issue a complaint if (1) a state agency, department, board, or commission fails to submit an affirmative action plan required by law or (2) the affirmative action plan violates state law. Under prior law, such a complaint apparently had to follow certain procedures. This act eliminates the explicit requirement that these procedures be followed but does not explicitly establish any new procedures.

The required procedures under prior law included:

1. serving the complaint on the agency within 20 days after filing it together with a notice (a) identifying the alleged discriminatory practice,

and (b) advising of the procedural rights and obligations and
2. time frames for filing an answer, investigating the complaint, and beginning the hearing.

PA 07-143—sSB 1458
Judiciary Committee

AN ACT CONCERNING JESSICA'S LAW AND CONSENSUAL SEXUAL ACTIVITY BETWEEN ADOLESCENTS CLOSE IN AGE TO EACH OTHER

SUMMARY: This act:
1. decriminalizes consensual sexual activity between children and teenagers close in age;
2. establishes a new crime of aggravated sexual assault of a minor;
3. enhances the penalty for enticing children under age 13;
4. imposes mandatory minimum terms of imprisonment for enticing a child under age 13, having sexual or indecent contact with a child under age 13, employing a minor in an obscene performance, and importing or possessing child pornography;
5. creates an exception to the hearsay rule for statements of victims of sexual or physical assault who are under age 13; and
6. permits courts to set the same conditions for special parole that they may already set for probation or conditional discharge and allows the Board of Pardons and Paroles to set conditions that are not inconsistent with those set by courts (PA 07-217 repeals this authority, see BACKGROUND).

EFFECTIVE DATE: July 1, 2007, except for the provisions on special parole and decriminalization of consensual sexual activity, which are effective on October 1, 2007.

CONSENSUAL SEXUAL ACTIVITY BETWEEN ADOLESCENTS CLOSE IN AGE

The act decriminalizes consensual sexual activity between teenagers close in age by increasing, from two to three years, the age difference between the two before the older teen is guilty of second-degree sexual assault (i.e., statutory rape). Just as under existing law, the act applies when the younger teen is at least age 13 but under age 16.

The act also decriminalizes consensual sexual contact between children and teenagers close in age. Under prior law, anyone who had sexual contact with a person under age 15 was guilty of fourth-degree sexual assault. Under the act, the actor is guilty of this crime only if he or she is more than (1) two years older than a victim under age 13 or (2) three years older than a victim between ages 13 and 15.

AGGRAVATED SEXUAL ASSAULT OF A MINOR

Under the act, a person commits this crime when he or she commits certain crimes against a child under age 13 and:
1. kidnaps, illegally restrains, stalks, disfigures, causes serious injury to, or uses violence against the victim;
2. commits the same offense against more than one victim under age 13;
3. does not know the victim; or
4. has been previously convicted of a violent sexual assault.

The covered crimes are contact with the intimate parts of a child under age 13 in a sexual or indecent manner likely to impair the child's health or morals, 1st or 2nd degree sexual assault, 1st degree aggravated sexual assault, 1st or 2nd degree promoting prostitution, and employing a minor in an obscene performance.

Aggravated sexual assault of a minor is a class A felony (see Table on Penalties). For first offenders, the mandatory minimum prison term is 25 years. For subsequent offenders, it is 50 years.

ENHANCED PENALTIES

The act enhances penalties, including imposing mandatory minimum sentences for certain crimes against children. Table 1 shows the crimes, the existing penalties for violations, and the act's enhancements.

Offense	*Existing Penalty*	*Additional Penalty Under the Act*
Risk of Injury/Impairing Morals: Sexual contact with intimate parts of a victim under age 13 CGS § 53-21(a)(2)	B Felony (see Table on Penalties)	Mandatory minimum term of 5 years
Employing Minor in Obscene Performance: Actor employs minor to promote any material or performance that is obscene as to minors CGS § 53a-196a	A Felony	Mandatory minimum term of 10 years

Offense	*Existing Penalty*	*Additional Penalty Under the Act*
Enticing a Minor: Actor uses interactive computer service to knowingly persuade or entice victim under age 13 to engage in prostitution or other sexual activity which would subject the actor to criminal prosecution CGS § 53a-90a	D Felony	B Felony, punishable by 1-20 years in prison, a fine of up to $15,000, or both. The sentence includes a 5-year mandatory minimum sentence for a first offense and a 10-year mandatory minimum for each subsequent offense.
Importing Child Pornography: Intentionally and knowingly imports or causes to be imported into this state three or more visual depictions of child pornography CGS § 53a-196c	B Felony	Mandatory minimum term of 5 years
1st Degree Possession of Child Pornography: Actor knowingly possesses 50 or more visual depictions of child pornography CGS § 53a-196d	B Felony	Mandatory minimum term of 5 years
2nd Degree Possession of Child Pornography: Actor knowingly possesses 20 to 49 visual depictions of child pornography CGS § 53a-196e	C Felony	Mandatory minimum term of 2 years
3rd Degree Possession of Child Pornography: Actor knowingly possesses fewer than 20 visual depictions of child pornography CGS § 53a-196f	D Felony	Mandatory minimum term of 1 year

ADMISSIBILITY OF EVIDENCE

The act creates an exception to Connecticut's hearsay rule for statements of young children's statements about sexual or physical assault committed against them by someone with authority or apparent authority over them. It requires courts to accept these statements as evidence in criminal, juvenile, or civil proceedings under certain circumstances. PA 07-5, June Special Session eliminates the requirement for courts to accept these statements in civil proceedings.

The statements may be accepted in criminal or juvenile proceedings if:

1. the court finds, in a hearing conducted outside of the presence of any jury, that the circumstances of the statement, including its timing and contents, provide particularized guarantees of its trustworthiness;
2. the statement was not made in preparation for a legal proceeding;
3. the proponent of the statement (a) tells the adverse party what the statement contains, including when, where, and to whom it was made and under what circumstances that indicate its trustworthiness; (b) tells the adverse party that he or she intends to offer it as evidence; and (c) gives the adverse party fair opportunity to counter it; and
4. the child (a) testifies and is subject to cross-examination at the proceeding or (b) is unavailable as a witness and (i) there is independent nontestimonial corroborative evidence of the alleged act and (ii) the statement was made before the defendant's arrest or institution of juvenile proceedings in connection with the act described in the statement.

The act does not (1) prevent the admission of any statement under another hearsay exception, (2) allow broader definitions in other hearsay exceptions for statements made by children under age 13 about sexual or physical assault by someone with authority or apparent authority over them than are allowed for other declarants, or (3) allow the admission pursuant to the residual hearsay exception.

SPECIAL PAROLE

By law, a court can suspend a portion of a prison sentence and order the defendant to spend it on probation or special parole (parole ordered by the court as part of the sentence). Anyone on special parole is subject to the rules and conditions of the Board of Pardons and Paroles.

The act permits a court that orders special parole to impose the same conditions that it may impose for probation or conditional discharge (see BACKGROUND). The court must have a copy of the order delivered to the defendant and the Department of Correction. The Board of Pardons and Paroles may require the person to comply with conditions that the court could have imposed; however, these conditions cannot be inconsistent with any the court imposed.

BACKGROUND

Hearsay Rule

"Hearsay" is a statement made out of court that is offered in court to establish the truth of the facts contained in the statement (§ 8-1, Ct. Evidence Code). The general rule is that hearsay is inadmissible in a court of law unless the evidence code, the General Statutes, or the Practice Book provide otherwise (§ 8-2, Ct. Evidence Code). Previously, there was no so-called "tender age" exception to the hearsay rule.

PA 07-217

PA 07-217 repeals the authority under this act for (1) courts to order the same conditions on people sentenced to special parole that it imposes as conditions of probation or conditional discharge and (2) the Board of Pardons and Paroles to require the person to comply with conditions that the court could have imposed that are not inconsistent with any the court imposed. It also repeals a requirement for courts to have a copy of the order delivered to the defendant and the Department of Correction.

Instead, PA 07-217 (1) permits a court to recommend that people sentenced to special parole comply with any or all of the requirements imposed as conditions for probation or conditional discharge, (2) requires the court to have a copy of the recommendation delivered to the defendant and the Department of Correction, and (3) permits the Board of Pardons and Paroles to require the person to comply with the recommendations.

Conditions of Probation or Conditional Discharge

As a condition of probation or conditional discharge, a court may order a defendant to:

1. work faithfully at a suitable employment or faithfully pursue a course of study or vocational training that will equip him or her for suitable employment;
2. undergo medical or psychiatric treatment and remain in a specified institution, when required for that purpose;
3. support his or her dependents and meet other family obligations;
4. make restitution in an amount he or she can afford to pay, or provide in some other way, for the loss or damage caused;
5. refrain from violating any criminal law;
6. post a bond or other surety for performing any conditions;
7. reside in a residential community center or halfway house the parole board's chairperson approves and contribute to the cost of his or her residence;
8. participate in a program of community service;
9. if convicted of a violation of specified sexual assault offenses, undergo specialized sexual offender treatment and register as a sex offender;
10. be electronically monitored;
11. participate in anti-bias crime or animal cruelty prevention education programs if convicted on hate crimes or crimes against animals; or
12. satisfy any other conditions reasonably related to his rehabilitation.

PA 07-153—HB 6390
Judiciary Committee
Public Health Committee

AN ACT CONCERNING TREATMENT OPTIONS FOR DEFENDANTS FOUND NOT COMPETENT TO STAND TRIAL

SUMMARY: This act authorizes criminal courts to order the Department of Mental Health and Addiction Services (DMHAS) to treat some mentally ill criminal defendants in community settings when this is more clinically appropriate than seeking a civil commitment order. Prior law gave DMHAS this authority only after the Probate Court had (1) civilly committed a criminal defendant to the department's custody and (2) determined that inpatient treatment was unnecessary.

The act applies to defendants who are (1) charged with specified nonviolent crimes whose mental illnesses render them unable to stand trial and (2) unlikely to become competent within the period in which they can lawfully be detained (18 months or the maximum prison sentence they could serve, whichever is shorter). This population is already eligible to be considered for civil commitment rather than subjected to further criminal proceedings.
EFFECTIVE DATE: October 1, 2007

CIVIL COMMITMENT RECOMMENDATIONS

By law, courts must appoint medical panels to conduct psychiatric examinations and make findings and recommendations when there is a question about a criminal defendant's mental competency (i.e., ability to understand the court proceedings and aid in presenting his or her defense). Courts take these reports into consideration in deciding what further legal proceedings are appropriate. Among other things, the reports must contain findings about whether a defendant appears to meet the clinical standards for civil commitment. The act requires the examiners also to give their opinions and recommend whether civil commitment would be appropriate for defendants who will not regain competency within the period in which they can lawfully be detained. This opinion must be updated in all subsequent progress reports the panel or the hospital administrator files with the court. The act requires courts to consider these opinions when determining the appropriateness of civil commitment.

COURT OPTIONS

When a panel's report indicates that an incompetent defendant is not likely to be restored to competency but appears to be eligible for civil commitment, the criminal court previously could order that the defendant be:

1. treated in a DMHAS facility to restore his or her competency, if this was likely to be successful within the permissible statutory period;
2. released; or
3. placed in the custody of DMHAS or the departments of Children and Families or Mental Retardation and directing the agencies to file a Probate Court civil commitment application.

The act gives the court the additional option of ordering the defendant into DMHAS custody for treatment in a less restrictive setting. It permits this only when the examiners' written report or court testimony indicates that services are available and appropriate.

BACKGROUND

Civil Commitment Instead of Criminal Prosecution

PA 03-3, June Special Session created a civil commitment option for incompetent people charged with certain non-violent crimes. It allows them to be treated for their underlying illness rather than for the purpose of restoring their competency to stand trial. Defendants who successfully complete treatment have the criminal charges dropped or nolled (not prosecuted).

Defendants cannot participate if they have been charged with:

1. class A or B felonies, except first-degree larceny;
2. drunk driving or a crime or motor vehicle violation in which another person was killed;
3. sexual contact with a child under age 16;
4. manslaughter;
5. third-degree sexual assault; or
6. second-degree assault with a motor vehicle.

Those charged with class C felonies, other than the sex and drunk driving crimes listed above, can participate if they can show good cause for doing so.

PA 07-158—sHB 7217
Judiciary Committee
Labor and Public Employees Committee
Public Health Committee

AN ACT CONCERNING DISCHARGE SAVINGS ACCOUNTS FOR INMATES, RESPONSIBILITY FOR OBTAINING BIOLOGICAL SAMPLES FROM CERTAIN PAROLEES AND DISCHARGE OF MENTALLY ILL PRISONERS

SUMMARY: This act requires the Department of Correction (DOC) to create a discharge savings account for each inmate to accumulate up to $1,000 payable to the inmate on discharge.

By law, someone convicted of a felony or a crime requiring registration as a sex offender must submit to a DNA test before being released on parole, unless the person was already tested. The act makes DOC instead of the Board of Pardons and Paroles responsible for collecting the sample. By law, DOC is responsible for supervising offenders on parole.

The act specifically authorizes the DOC commissioner to appoint and remove wardens to oversee a district, parole and community services, population management, programs and treatment, security and academy training, and staff development. Under the act, these wardens serve at the commissioner's pleasure and are exempt from the

classified service. By law, wardens of institutions are already subject to these provisions.

The act eliminates a provision requiring referral to the Connecticut Prison Association of a mentally ill male prisoner transferred to a state mental hospital when he is to be released at the end of his sentence. The eliminated provision required the association to return the prisoner to his residence or, if none, a place to best accomplish his reinstatement into society.

EFFECTIVE DATE: July 1, 2007, except for the provisions on collecting DNA samples and referrals of mentally ill male prisoners, which are effective on October 1, 2007.

DISCHARGE SAVINGS ACCOUNT

The act requires placing the money an inmate receives for jobs he or she performs in an individual bank account for the inmate and authorizes funds to be transferred from it to the inmate's discharge savings account.

The act allows DOC to deduct up to 10% of any deposit into an inmate's individual account for transfer to the inmate's discharge savings account. Once the account reaches $1,000, the act requires DOC to deduct 10% from any deposits to reimburse the state for the inmate's cost of incarceration, as necessary.

The act excludes money in the discharge savings account from the state's claim for the inmate's costs of incarceration. But it reduces the amount payable to the inmate due to required payments under other statutes, including:

1. paying taxes;
2. supporting dependents;
3. court-ordered restitution or compensation of victims, civil judgments in favor of a victim, or victim compensation through the criminal injuries account;
4. necessary travel and incidental expenses for work;
5. payments to the court clerk if the inmate is held only for not paying a fine;
6. attorneys' fees and expenses in a lawsuit and associated hospitalization costs and physicians' fees not paid by other benefits; and
7. certain expenses if the inmate dies, such as burial expenses.

The act authorizes DOC to adopt regulations to implement these provisions.

BACKGROUND

Costs of Incarceration

The law requires DOC to adopt regulations to assess inmates for the costs of their incarceration. The regulations require charging inmates for their use of various services and programs. An inmate is a person confined or formerly confined in a correctional facility under a sentence imposed by a Connecticut state court.

The regulations define the per-inmate, per-day cost of incarceration at DOC facilities as the amount computed using the same accounting procedures the comptroller uses to calculate such costs for state humane institutions. The regulations also make inmates responsible for the costs of certain services and programs such as sick calls; dental procedures; eyeglasses; elective and vocational educational programs; extended family visits; and lab tests to detect illegal drugs, if the results are positive.

The law gives the state a claim for the costs of incarceration against an inmate's property but it excludes certain types of property.

PA 07-159—sHB 7238
Judiciary Committee
Appropriations Committee

AN ACT CONCERNING THE COMMISSION ON CHILD PROTECTION AND THE CHIEF CHILD PROTECTION ATTORNEY

SUMMARY: This act modifies a number of the laws governing the Commission on Child Protection and its executive director, the chief child protection attorney (CCPA). By law, the commission hires and supervises contract attorneys who provide legal representation for children and indigent families, primarily in abuse and neglect cases.

The changes generally (1) affect the commission and CCPA's responsibilities and (2) expressly limit types of court proceedings in which counsel for indigent parents must be provided. The latter changes are generally consistent with prior practice.

EFFECTIVE DATE: July 1, 2007

COMMISSION ON CHILD PROTECTION

The act permits the commission to establish billing procedures and documentation requirements for its contractors. It also (1) authorizes the commission to accept state, federal, and donated funds and (2) transfers the responsibility for rate-setting and paying contract attorneys from the Judicial Department to the commission.

The law requires courts to appoint attorneys to represent children, guardians, and parents in juvenile court proceedings and appeals when justice requires it. The act requires the commission to set attorney compensation rates when the court appoints an attorney other than a public defender or CCPA contractor.

CHIEF CHILD PROTECTION ATTORNEY

Contract Provisions

The CCPA contracts with non-profit legal services agencies and private attorneys to obtain legal services for children and, in some circumstances, indigent parents and guardians. The act allows its contracts to include provisions encouraging or requiring the use of a multidisciplinary model of legal representation. This model teams child protection attorneys with other professionals, including social workers and education specialists.

Training and Practice Standards

Prior law required the CCPA to provide initial and in-service training for attorneys and guardians ad litem (people the court appoints to represent a child's best interests). The act eliminates this obligation. But the CCPA retains the obligation to establish training, practice, and caseload standards to ensure high quality representation.

Appointing Attorneys in Family Relations and Juvenile Matters

Under prior law, judges appointed the CCPA to represent children and indigent parties and she, in turn, assigned one of her contract attorneys to handle the case. The act requires judges to notify the CCPA, not appoint her to represent indigent parties in abuse and neglect cases. She then assigns the case to a contract attorney, as under prior practice. In family relations matters such as child custody and support disputes, the act directs the judge to make appointments from a list of qualified attorneys the CCPA provides.

RESTRICTIONS ON COURT APPOINTMENT AUTHORITY

Family Relations Matters

The law requires the commission to establish a system to provide legal services and guardians ad litem to children and indigent respondents in family relations matters when the state has been ordered to pay the individual's legal costs. The act expressly restricts the court's authority to direct the commission to provide legal services to indigent respondents only in paternity and contempt proceedings, which is generally consistent with prior practice.

Delinquency Matters

The act also expressly limits parents' and guardians' rights to court-appointed representation in delinquency matters. Under the act, they are entitled to representation only when the delinquency proceeding involves a claim that they violated an order the court issued in the best interests of their child which may result in their being sentenced to prison. This also reflects prior practice.

PA 07-165—sSB 1270
Judiciary Committee
General Law Committee

AN ACT CONCERNING NOTICE IN DRAM SHOP ACTIONS INVOLVING DEATH OR INCAPACITY AND MANUFACTURER PERMITS FOR BREW PUBS

SUMMARY: The Dram Shop Act makes a liquor seller liable if the seller or his or her employee sells liquor to an already intoxicated person who injures a person or property. An injured party has 120 days to notify the seller of an incident and his or her intention to sue for damages.

This act extends the deadline for filing the notice to 180 days if the injured person dies or is incapacitated.

It also allows brew pubs to sell sealed bottles and containers of beer brewed on their premises to all types of liquor wholesalers.

EFFECTIVE DATE: The Dram Shop Act provisions take effect July 1, 2007 and apply to causes of action arising on or after that date. The provision on brew pubs is effective upon passage.

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 or in aggregate for injuries to more than one person. The court determines the actual amount of liability in a particular case.

Brew Pubs

The law allows a brew pub to manufacture, store, and bottle beer and to sell alcoholic liquor (alcohol, beer, spirits, and wine) at retail for on-premises consumption and to sell limited amounts (eight liters per person per day) for off-premises consumption. To hold a permit, a brew pub must make at least 5,000 gallons of beer on the premises each year. It may sell for on-

premises consumption on the same days and during the same hours that a restaurant may sell liquor. A brew pub may sell at retail for off-premises consumption on the same days and during the same hours that a package store may sell. The annual permit fee is $240.

Liquor Wholesalers and Beer Wholesalers

A wholesale permit for liquor allows its holder to sell all types of liquor, including beer, at wholesale to retail permit holders in the state and in other states as allowed by law. Beer wholesalers may do the same for beer (CGS § 30-17).

Related Act

PA 07-145 allows brew pubs to sell sealed bottles and containers of beer brewed on their premises to wholesalers holding a wholesale beer permit.

PA 07-169—sSB 1047
Judiciary Committee

AN ACT CONCERNING THE CONNECTICUT UNIFORM TRANSFERS TO MINORS ACT

SUMMARY: The Uniform Transfers to Minors Act allows a person to transfer property to a custodian for the benefit of a minor. The custodian manages the property and can distribute money to or for the benefit of the minor.

Prior law required the custodian to transfer the property to the minor when the minor turned 21. This act gives the custodian the option to distribute all or part of the property to a trust, at any time before the minor turns 21 and without court order, under certain conditions. The conditions are that:

1. the custodian believes in good faith that the distribution to the trust is in the minor's best interest;
2. the trust makes the minor the sole beneficiary during the minor's life;
3. it meets federal tax requirements that (a) the trust authorize the property to be expended by or for the benefit of the minor before age 21 and (b) the property pass to the minor at age 21 or the minor's estate if he or she dies before age 21, but the minor can extend the trust on turning 21; and
4. if the trust's terms give the minor the right to withdraw the assets at age 21, the trust must also give the minor the right to withdraw remaining assets at age 25 and the trustee must give the minor written notice of the withdrawal right by certified mail or similar means on or before age 21 and, if assets remain, on or before age 25.

The act provides that the right of withdrawal does not lapse unless the minor receives notice and the time allowed for withdrawal is at least 30 days after the minor turns the applicable age or receives notice, whichever is later.

The act provides that a distribution to a trust in this manner terminates the custodianship for the distributed property.

As for deliveries, payments, or expenditures under existing law, the act provides that a distribution is in addition to and does not substitute for or affect anyone's obligation to support a minor.

EFFECTIVE DATE: October 1, 2007

PA 07-184—sSB 1438
Judiciary Committee
Human Services Committee

AN ACT CONCERNING NOTICE OF CERTAIN PROBATE COURT HEARINGS AND THE FILING OF CERTAIN REPORTS, THE ADMINISTRATION OF THE COURTS OF PROBATE AND THE DUTIES OF THE PROBATE COURT ADMINISTRATOR

SUMMARY: This act gives the probate court administrator additional powers over probate courts and probate court judges. Specifically, it authorizes him to enforce statutes dealing with probate court administration and regulations he issues. It requires probate court regulations to be submitted to the Judiciary Committee for approval. Also, under certain circumstances, it authorizes him to reassign pending cases to a special assignment probate judge or another probate judge and designate a special assignment probate judge to help the judge conduct his or her business. These circumstances involve courts where (1) court facilities do not meet statutory minimum standards or (2) court business has not been conducted properly, with expeditious dispatch, or in accordance with statutes or regulations.

The act increases the minimum requirements for probate court facilities, requires the probate court administrator to notify a town if the court does not comply with minimum standards, and gives the town the chance to submit a compliance plan.

The act changes the method for notifying parties in connection with various probate court proceedings. In the following proceedings, it (1) allows service at an individual's usual place of abode ("abode service") in those instances where prior law required personal service and (2) requires first class mail, instead of regular mail or certified mail, return receipt requested,

for those instances that previously required notice by certified mail or regular mail:

1. temporary custody of a minor pending an application to probate court for removing a guardian or terminating parental rights;
2. application for removal of a parent as guardian;
3. appointment of guardians or co-guardians for a minor;
4. application for guardianship of a mentally retarded person;
5. petition to terminate parental rights;
6. Department of Children and Families (DCF) petition to determine if continuing to care for a child or youth voluntarily admitted to DCF is in the child's or youth's best interest and, if so, whether there is an appropriate case service or permanency plan; and
7. emancipation of a minor.

The act requires personal or abode service instead of notice by certified mail in one instance and notice by first class mail instead of certified mail in another instance regarding filing a claim for paternity by a putative father.

Finally, the act delays from March 1 to April 1 of the following year, the date by which probate judges must file a statement of the actual gross receipts and itemized costs of his or her office and the net income for each such calendar year. It also delays from March 1 to April 1 the date by which a probate judge who ceases to hold office must file on the second and third years following the year he ceased to hold office a statement showing his or her net probate court income from the two years. The statements must be filed with the probate court administrator and signed under penalty of false statement.

EFFECTIVE DATE: October 1, 2007, except for the provisions relating to probate court administration, which are effective July 1, 2007.

§ 10 — MINIMUM STANDARDS FOR PROBATE COURT FACILITIES

The law requires the town or towns comprising each probate district to provide court facilities meeting minimum standards specified by statute. The law also requires them to provide the use and maintenance of microfilming equipment and the necessary supplies, including record books, or the equipment to produce records. The act expands this duty to include electronic, digital, microfilming, or similar systems required to maintain, provide access to, and produce court records, and the necessary supplies for such systems, equipment, and records.

The act requires that probate courts be open to the public for the conduct of court business not less than 20 hours a week, Monday through Friday, excluding holidays, on a regular schedule between 8:00 a.m. and 5:00 p.m. The judge may close a court temporarily for inclement weather, an emergency, or other good cause. The judge must immediately notify the probate court administrator of a temporary closing, the reason for the closing, and the date and time when the court will reopen. The act authorizes the probate court administrator, for good cause shown, to modify these requirements.

§ 10 — ADDITIONAL POWERS OF PROBATE COURT ADMINISTRATOR

By law, if a town does not provide the court facilities required by law, the probate court administrator must offer in writing to meet with the judge and the responsible local officials. The probate court administrator may subsequently waive or modify the application of a particular requirement for the court.

The act requires the probate court administrator to provide written notice, by first class mail, to the probate judge of the district and the chief executive officer of the town in which the court is located, by October first of any year in which a town fails to provide suitable court facilities. The notice must specify the statutory requirements that are not met and require a plan to meet them. By January first of the following year, the town's chief executive officer, or his or her representative, must file the plan and implementation schedule with the probate court administrator.

By law, if court facilities do not comply with the minimum standards, the probate court administrator must also either (1) submit a report to the Judiciary Committee with a recommendation that the probate district be abolished as a separate district and consolidated with a contiguous district where suitable court facilities can be provided, or (2), if in the probate court administrator's opinion abolition is not in the public interest and judicial action is necessary to provide suitable court facilities, bring an action in the Superior Court to enforce the requirement to provide such facilities. The act requires the probate court administrator to do so by February first of the year after he first provides notice to the town.

§ 11 — RULE MAKING AND ENFORCEMENT AUTHORITY

The act gives the probate court administrator the authority to administer and enforce the statutes dealing with probate court administration, the act's provisions, and the regulations he issues to ensure performance of the duties of probate judges and clerks.

The law gives the probate court administrator two types of regulation making authority. One authorizes him to issue regulations for certain purposes following

certain procedures. The other authorizes him to adopt regulations for other purposes following the procedures in the Uniform Administrative Procedures Act, which governs the adoption of regulations by all administrative agencies (see BACKGROUND).

Power to Issue Regulations

The act expands the probate court administrator's authority to issue regulations for the administration of probate court to include:

1. reassignment and transfer of cases;
2. training court personnel and continuing education programs for probate judges and court personnel; and
3. enforcing the probate administration provisions of the statutes, the act, and regulations, including recovery of expenses associated with any such enforcement, as the regulations permit.

The act gives the probate court administrator the authority to issue, instead of adopt, regulations concerning (1) the annual weighted-workload, which is used to determine the maximum amount of net income for probate judges; (2) payments to the state treasurer; (3) the penalty for a deficiency in connection with the compensation of probate court judges; and (4) group hospitalization and medical and surgical insurance for probate court judges and employees (see BACKGROUND).

By law, the probate court administrator may adopt regulations that concern (1) the availability of judges; (2) court facilities, personnel, and records; (3) hours of court operations; and (4) telephone service.

§ 11(c)(2) — Referral to the Judiciary Committee for Approval

The act requires that any proposed new regulation and any change in an existing regulation issued or adopted on or after July 1, 2007 must be submitted to the Judiciary Committee for approval or disapproval in its entirety. But if more than one proposed new regulation or change in an existing regulation is submitted at the same time, the committee must approve or disapprove all of them together in their entirety. Unless the committee disapproves them within 90 days after submission, each regulation becomes effective on the date specified in such regulation, as long as it is at least 90 days after promulgation.

§ 11(d) — Probate Court Administrator's Oversight

The law gives the probate court administrator the duty and authority to regularly review the auditing, accounting, statistical, billing, recording, filing, and other procedures of the probate courts. The act also requires him to review their administrative procedures.

The law requires the probate court administrator, or his designee, to visit each probate court at least once every two years to examine their records and files. It also authorizes him to make any additional inquiries to ascertain whether the business of the court has been conducted in accordance with law, rules of the probate courts, and the canons of judicial ethics. The act also authorizes him to determine whether the courts are complying with regulations the administrator issued.

§ 12 — ENFORCEMENT OF STATUTES AND COURT RULES

§ 12(b)(1) — Notice

The act allows the probate court administrator to meet with probate judges to correct any deficiencies if the administrator determines that:

1. the business of the judge's court has not been conducted properly, expeditiously, or in accordance with law and the regulations the administrator issued; or
2. suitable court facilities are not being provided for a probate court in accordance with legal requirements.

If the probate court administrator determines that additional action is warranted, he must give the judge written notice. The notice must include the administrator's reasons and a proposed disposition, which may include one or more of the following actions:

1. reassignment of any case pending before the court to a special assignment probate judge or another probate judge by means of a citation as provided in law,
2. designation of a special assignment probate judge to assist the judge to conduct business, or
3. recovery of expenses from the judge of such court as permitted by regulation.

§ 12(b)(1) — Hearing

Under the act, within 10 business days after receiving this notice, the probate judge may file with the probate court administrator a request for a hearing before a review panel. The review panel must consist of (1) a probate judge selected by the administrator, (2) one selected by the judge who received the notice, and (3) one jointly selected by the judges already selected. If the selected judges are unable to make a joint selection, the Supreme Court chief justice will select the third judge.

Within 15 business days after the filing of a request for a hearing, the review panel must hold a hearing on the probate court administrator's determination and

proposed disposition of the matter. The probate court administrator and the probate judge who is the subject of the action have a right to be heard and present evidence at the hearing. The probate court administrator has the burden of proving that the probate judge received written notice from him.

After the hearing, a majority of the members of the review panel may affirm, dismiss, or modify the probate court administrator's determination and proposed disposition. The act gives the probate court administrator and the judge the right to request that the matter be heard on the record.

If the notified judge does not request a hearing, the probate court administrator's proposed disposition takes effect once the 10 business day period expires.

§ 12(c)(2) — Emergency Action

If the probate court administrator, in consultation with the chief court administrator, determines that an emergency exists in a pending case because it has not been conducted within the required time frames, the probate court administrator's proposed disposition takes effect when the probate judge receives notice. The proposed disposition is subject to the judge's right to a hearing and the decision of the review panel. But the validity of any order or decree made, proceeding held, or other action taken by a special assignment probate judge or another probate judge pursuant to such proposed disposition in such a matter is not affected by any review panel's subsequent decision.

§ 12(e) — Right to Appeal

The act gives any probate judge who is aggrieved by any decision to appeal to the superior court for the judicial district in which the judge's probate district is located. The appeal must be taken within 30 days after the decision. Appeals from any decision rendered in a case after a record is made must be on the record and not a new trial. In any such appeal, the court may grant whatever relief it determines appropriate.

§ 12(d) — Regulations

The act requires the probate court administrator to issue regulations concerning rules of procedure for review panel hearings. The rules must address:

1. notice of the probate court administrator's determination and the reasons for it;
2. the content of a request for a hearing and notice of the hearing;
3. hearing procedure;
4. evidence, subpoenas, productions of documents, continuances, intervenors, and the hearing record; and
5. the right to cross-examine, present arguments, and inspect and copy relevant materials.

§ 13 — SPECIAL ASSIGNMENT PROBATE JUDGES

Nomination and Appointment

The act requires the Supreme Court's chief justice to appoint special assignment probate judges nominated by the probate court administrator from among current probate judges. A nominee must have demonstrated the special skill, experience, or expertise necessary to serve as a special assignment probate judge. A special assignment probate judge shall serve at the chief justice's pleasure.

The act requires the probate court administrator to issue regulations to establish requirements concerning the responsibilities of special assignment probate judges and the number, geographic distribution, and expertise of such judges.

§ 13 — Compensation

The act authorizes the probate court administrator, subject to the chief court administrator's approval, to fix the compensation of special assignment probate judges. The compensation is paid from the Probate Court Administration Fund on the probate court administrator's order. The act specifies that the compensation, including compensation that a special assignment probate judge receives as a probate judge of the district to which he or she was elected, may not exceed the maximum compensation for probate judges in a high volume court. (The maximum compensation for a high volume court is 75% of the salary of a Superior Court judge. Currently, a Superior Court judge is paid $146,780. Thus, the maximum a probate judge can earn is $110,085.)

The act specifies that a special assignment probate judge is only entitled to benefits due him or her as a probate judge and cannot receive additional benefits, except compensation specified by the act.

§ 1 — TEMPORARY CUSTODY OF A MINOR PENDING AN APPLICATION TO PROBATE COURT FOR THE REMOVAL OF A GUARDIAN OR TERMINATION OF PARENTAL RIGHTS

Under prior law, in a hearing for temporary custody of a minor, the court had to order notice by regular mail to the DCF commissioner and by personal service by a state marshal, a constable, or other legally authorized officer to both parents and to the minor child, if over 12 years of age, at least five days before the hearing date.

The act instead requires notice by first class mail to the DCF commissioner and allows abode service at the parent's usual place of abode or the minor's usual place of abode, as the case may be.

Under prior law, if a parent or the father of a minor child born out of wedlock was either an applicant or signed under penalty of false statement a written waiver of personal service on a form provided by the probate court administrator, the court could have ordered notice by certified mail, return receipt requested, deliverable to addressee only, at least five days before the hearing date.

The act instead allows notice to be given by first class mail if personal or abode service is waived.

§ 2 — APPLICATION FOR REMOVAL OF PARENT AS GUARDIAN

In a hearing on an application to remove a parent or guardian, prior law required the court to order notice by regular mail to the DCF commissioner and personal service to both parents and the minor, if over 12 years of age, at least 10 days before the hearing. The act instead requires notice by personal service or service at the parent's or minor's usual place of abode as the case may be.

Under prior law, instead of personal service on a parent or the father of a child born out of wedlock who was either a petitioner or who signed under oath a written waiver of personal service on a form provided by the probate court administrator, the court could order notice to be given by certified mail, return receipt requested, at least 10 days before the hearing date. The act instead allows notice to be given if personal or abode service is waived by first class mail.

Under prior law, if the parents resided out of or were absent from the state, the court could order notice to be given by certified mail, return receipt requested at least 10 days before the date of the hearing. The act allows notice by first class mail instead.

§ 3 — APPOINTMENT OF GUARDIAN OR CO-GUARDIANS FOR A MINOR

The act requires the court to order notice of the hearing to be given to the minor, if over 12 years of age, by first class mail instead of by certified mail, return receipt requested, deliverable to the addressee only. By law the notice must be mailed at least 10 days before the date of the hearing.

§ 4 — APPLICATION FOR GUARDIANSHIP OF A MENTALLY RETARDED PERSON

The act requires the probate court to order notice by first class mail, instead of certified mail, regarding the appointment of a guardian of a mentally retarded person to the following:

1. the respondent's parents, if they are not the applicants;
2. the respondent's spouse, if the spouse is not the applicant;
3. the respondent's children, if any; and
4. the person in charge of the hospital, nursing home, residential facility, or other institution in which the respondent may reside.

§ 5 — PETITION TO TERMINATE PARENTAL RIGHTS

Regarding petitions to terminate parental rights, the act requires that notice of the hearing and a copy of the petition, certified by the petitioner, the petitioner's agent or attorney, or the court clerk must be served by personal service or abode service on the following people who are within Connecticut:

1. the minor child's parent or parents, including any parent removed as guardian;
2. the father of any minor child born out of wedlock, if at the time of the filing of the petition (a) he was adjudicated the father by a court of competent jurisdiction, (b) he has acknowledged in writing that he is the father, (c) he has contributed child support regularly, (d) his name appears on the child's birth certificate, (e) he has filed a paternity claim, or (f) he has been named in the petition as the father of the child by the mother; and
3. the guardian or any other person whom the court deems appropriate.

By law, the notice must be served at least 10 days before the hearing.

The act requires notice by first class mail, instead of certified mail, return receipt requested, on the DCF commissioner and the attorney general.

Under prior law, the court could order notice to be given by certified mail return receipt requested, deliverable to addressee only to a parent or the father of a child born out of wedlock who (1) is either a petitioner or (2) signs under penalty of false statement a waiver of personal service. The act instead allows service by first class mail if personal or abode service is waived.

§ 6 — DCF PETITION TO DETERMINE IF CONTINUATION OF CARE FOR A CHILD VOLUNTARILY ADMITTED TO DCF IS IN THE CHILD'S BEST INTEREST

The act requires the court to order notice of the hearing to be given by first class, instead of regular, mail at least five days before the hearing to the DCF commissioner, and by first class mail, instead of

certified mail, return receipt requested, at least five days before the hearing to the parents or guardian of the child and the minor, if over age 12.

§ 7 — EMANCIPATION OF A MINOR

The law requires the court to cause notice of an emancipation hearing to be served on the minor and the minor's parent, if the parent is not the petitioner, at least seven days before the hearing date, by a state marshal, constable, or indifferent person. The act specifies that this may be by either personal service or service at the minor's place of abode and the parent's place of abode. The act requires the court to direct notice by first class mail instead of certified mail to the parent, if the parent is the petitioner.

By law, the court may order whatever notice it directs to the DCF commissioner, the attorney general, and other persons having an interest in the minor.

§ 8 — FILING A CLAIM FOR PATERNITY BY A PUTATIVE FATHER

Prior law required that in paternity cases the judge order a certified copy of the claim to be mailed by certified mail to the mother or prospective mother of such child at the last-known address shown on the claim for paternity and to the attorney general. The act instead requires personal or abode service on the mother or prospective mother and service by first class mail on the attorney general.

BACKGROUND

Probate Court Administrator's Regulation Making Authority

By law the probate court administrator has two types of regulation making authority. One way authorizes him to issue regulations for certain purposes following certain procedures. The other authorizes him to adopt regulations for other purposes following the procedures in the Uniform Administrative Procedure Act (UAPA), which governs the adoption of regulations by all administrative agencies.

The probate court administrator may adopt regulations, in accordance with the UAPA, concerning the availability of judges, court facilities, court personnel and records, hours of court operation, and telephone service. Among other things, this process requires proposed regulations to be presented to the Legislative Regulation Review Committee for approval.

By law, the process to issue or adopt regulations requires either the probate court administrator or the Probate Assembly's executive assembly to propose them. Any regulation proposed by the probate court administrator must be submitted to the executive committee for approval. Any regulation proposed by the executive committee must be submitted to the probate court administrator for approval. If either fails to approve a proposed regulation, it may be submitted to a panel of three Superior Court judges the Supreme Court's chief justice appoints. The panel may either approve or reject the proposed regulation.

PA 07-188—sHB 6983
Judiciary Committee
General Law Committee

AN ACT CONCERNING THE ENFORCEMENT OF CERTAIN PROFESSIONAL AND OCCUPATIONAL LICENSING, CERTIFICATION AND REGISTRATION LAWS

SUMMARY: This act gives the Department of Consumer Protection (DCP) commissioner the same power already held by the DCP professional and occupational licensing boards to hold disciplinary hearings, issue disciplinary orders, impose civil fines, and in other ways discipline holders of certain occupational and professional licenses. Under the act, discipline may be administered by either the commissioner or a licensing board or commission.

In addition to changes that affect all trade and professional boards and commissions within DCP, the act increases the penalties for violating the occupational licensing law governing certain trades. It (1) requires the commissioner, as the law already required the occupational licensing boards, to refer certain matters for criminal prosecution and requires the commissioner to make a written determination before referral that the matter is not a bona fide dispute; (2) increases the criminal penalty for certain violations of the licensing law but eliminates one of the grounds and narrows two others; and (3) makes any violation of the occupational licensing law an unfair trade practice.
EFFECTIVE DATE: October 1, 2007

BOARDS AND COMMISSIONS AFFECTED

The act affects the following boards and commissions:

1. Architectural Licensing Board;
2. Examining Boards for Electrical Work; Plumbing and Piping Work; Heating, Piping, Cooling, and Sheet Metal Work; Elevator Installation, Repair and Maintenance Work; Fire Protection Sprinkler Systems Work; and Automotive Glasswork and Flat Glasswork;
3. Commission of Pharmacy;
4. State Board of Landscape Architects;

5. State Board of Examiners for Professional Engineers and Land Surveyors;
6. Connecticut Real Estate Commission;
7. Connecticut Real Estate Appraisal Commission;
8. State Board of Examiners of Shorthand Reporters;
9. Liquor Control Commission; and
10. Home Inspection Licensing Board.

DISCIPLINE

Previously, only the licensing boards and commissions could discipline credential holders. They already have all of the same powers the act gives to the DCP commissioner. The act empowers the commissioner to impose discipline without referring cases to the boards.

Grounds for Discipline

The act authorizes the commissioner to enforce licensing requirements by imposing sanctions if a credential holder has:

1. engaged in fraud or material deception to obtain a credential or help another to obtain one;
2. worked outside of the scope of a credential;
3. illegally used or transferred a credential;
4. performed incompetent or negligent work;
5. made false, misleading, or deceptive representations about work to be done;
6. has been the subject of a disciplinary action in another jurisdiction; or
7. violated any statute or regulation related to the credential holder's trade or profession.

Hearings

The act requires the DCP commissioner to adopt regulations establishing uniform procedural rules for the hearings he or she holds on matters within the jurisdiction of a licensing board or commission. The law prohibits adopting regulations until the appropriate licensing board or commission has had reasonable opportunity to review them and to offer comments. The act authorizes the commissioner to hold hearings on matters within the jurisdiction of a licensing board or commission. The hearings must be held in accordance with the Uniform Administrative Procedure Act. The act authorizes the commissioner to administer oaths; issue subpoenas; compel testimony; and order the production of books, records, and other documents. It authorizes the court to issue enforcement orders compelling compliance.

DCP Enforcement Orders

The act authorizes the DCP commissioner to order anyone found violating a law within the jurisdiction of a licensing board or commission to stop immediately, to require the violator to pay restitution for damage caused by the violation, or both. It allows the commissioner, through the attorney general, to seek temporary or permanent enforcement orders in court. It requires the commissioner to certify and file a complete transcript of the entire record of the hearing, including testimony, findings, and orders. The act authorizes the court to grant relief, including temporary relief, as it deems equitable and to issue a decree enforcing, modifying, or setting aside all or part of the commissioner's order.

Disciplinary Powers

The act authorizes the DCP commissioner, after a hearing, to:

1. revoke or suspend a license, registration, or permit;
2. issue letters of reprimand; and
3. place licensees, registrants, or permittees on probation and (a) require them to report regularly, (b) restrict the types of work they may perform, or (c) require them to continue their education.

OCCUPATIONAL LICENSING BOARDS

The act increases the penalties for violating the laws overseen by the occupational licensing boards. They are the: Examining Boards for Electrical Work; Plumbing and Piping Work; Heating, Piping, Cooling, and Sheet Metal Work; Elevator Installation, Repair and Maintenance Work; Fire Protection Sprinkler Systems Work; and Automotive Glasswork and Flat Glasswork.

Criminal Penalties for Violating the Occupational Licensing Law

The act requires the commissioner, as the law already requires the occupational licensing boards, to refer matters for criminal prosecution if, after hearing, it appears that the licensing law has been violated. It prohibits criminal charges from being instituted unless the DCP commissioner or his agent has reviewed the work activity and specifically determined, in writing, that (1) the activity must be done by a licensed individual and (2) the issue is not a bona fide dispute between people engaged in a trade or craft, whether or not they hold a license.

It also increases the criminal penalty for violating the licensing law overseen by these boards. Under prior law, the penalty was a fine of $200 per violation for:

1. working without a license or apprentice permit;
2. willfully employing, or supplying for employment, someone who does not have a license or apprentice permit;
3. willfully pretending to qualify for a license or permit;
4. working after the expiration of a license or permit; or
5. violating any other provision of the licensing law.

The act (1) eliminates the penalty for violating "any other provision" of the occupational licensing law and (2) narrows two of the grounds by making someone who works without a license or apprentice permit or after the expiration of a license or permit subject to penalties only for willful violations. In addition, it increases the penalty by eliminating the $200 fine and instead making violators guilty of a class B misdemeanor (see Table on Penalties). If the court imposes restitution and determines that a contractor cannot fully repay a victim within the normal probationary period (up to two years for a class B misdemeanor), the law authorizes the court to impose a probationary period of up to five years. The act provides that this criminal penalty is in addition to any other administrative penalties that may be imposed by the DCP commissioner or the licensing boards.

Administrative Penalties for Violating the Occupational Licensing Law

The law authorizes the licensing boards to impose civil fines on the same grounds that a criminal fine may be imposed. The fines are (1) up to $1,000 for a first offense, (2) up to $1,500 for a second violation, and (3) up to $3,000 for subsequent violations occurring less than three years after the previous violation. The law exempts improperly registered apprentices from a penalty for a first offense. The act gives the DCP commissioner the same power to impose the fines. It requires him, as the law requires the licensing boards, to send to a municipality half the amount of a civil penalty imposed on a licensee as a result of a violation initially reported by a municipality.

Violations Deemed to Be Unfair Trade Practices

The act makes it an unfair trade practice to violate any of the occupational licensing laws.

Exemptions

The act exempts from the penalty provisions anyone who:

1. holds a license issued by one of the occupational licensing boards as (a) a television or radio service dealer or electronics technician or (b) as a well driller, and performs work that is incidentally, directly, and immediately appropriate to performing the trade if the work begins at an outlet, receptacle, or connection previously installed by someone holding the proper license or
2. is not engaged in work requiring an occupational license, a television or radio license, or a well driller license.

BACKGROUND

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 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.

Relationship between DCP and its Boards and Commissions

State law establishes a uniform system for DCP and its boards and commissions, which have the power to determine who qualifies for a license and to enforce standards by disciplining licensees. The law establishes DCP's duties to the boards, which include receiving complaints, carrying out investigations, and performing administrative tasks, such as physically issuing licenses and renewals.

Related Acts

PA 07-206 has a substantially similar but slightly different provision increasing the criminal penalty for violating the occupational licensing laws. PA 07-4, June Special Session eliminates the provision in PA 07-206.

PA 07-210—sHB 6897
Judiciary Committee

AN ACT CONCERNING LIQUIDATED DAMAGES PROVISIONS IN CONTRACTS AND REQUESTS FOR MORTGAGE PAYOFF STATEMENTS

SUMMARY: Under this act, no provision in a contract to purchase or lease goods or services entered into, renewed, or extended on or after July 1, 2008 primarily for personal, family, or household purposes that provides for the payment of liquidated damages in the event of a breach is enforceable unless:

1. the contract contains a statement in boldface type at least 12 points in size immediately following the provision stating "I ACKNOWLEDGE THAT THIS CONTRACT CONTAINS A LIQUIDATED DAMAGES PROVISION" and
2. the person against whom the provision is to be enforced signs his or her name or writes his or her initials next to the statement.

This requirement does not apply to (1) contracts between a consumer and an agency of the federal government, the state or any political subdivision of the state; (2) negotiable instruments; and (3) contract provisions for late fees, prepayment penalties, or default interest rates.

The act specifies that it does not validate a clause that is a penalty clause or is otherwise invalid under state law.

The law requires the mortgagee, upon written request of the mortgagor or the mortgagor's attorney or other authorized agent, to provide a payoff statement in writing to the person requesting the payoff statement on or before the date specified in such request, if the request date is at least 10 business days after the date the mortgagee received the written request. If the request for a payoff statement is made in connection with a default on the mortgage, the act authorizes the mortgagor's attorney to make the written request directly to the mortgagee, if it contains a representation that the person requesting the payoff statement is the mortgagor's attorney and that the mortgagor has authorized the request.

EFFECTIVE DATE: October 1, 2007, except for the liquidated damages provision, which is effective on July 1, 2008.

BACKGROUND

Liquidated Damages

"Liquidated damages" is an amount of money agreed upon by both parties to a contract that one will pay to the other upon breaching (breaking or backing out of) the contract or if a lawsuit arises due to the breach.

Common Law

Currently, there is both common law (judge-made) law and statutory law in Connecticut that affects the enforceability of liquidated damages contract clauses. Under Connecticut common law, a contract provision that fixes liquidated damages for breach of contract is enforceable if (1) the damage that was to be expected as a result of a breach was uncertain in amount or difficult to prove; (2) the parties had the intent to liquidate damages in advance; and (3) the amount stipulated was reasonable because it was not greatly disproportionate to the amount of the damage which, as the parties looked forward, seemed to be the presumable loss that would be sustained in the event of a contract breach (*American Car Rental, Inc. v. Comm'r of Consumer Protection*, 273 Conn. 296, 306-307, 869 A.2d 1198 (2005)).

Related Statutes

Under Connecticut's commercial code provisions dealing with the sale of goods, damages for breach by either party may be liquidated in the contract but only at an amount that is reasonable in the light of (1) the anticipated or actual harm caused by the breach, (2) the difficulties of proving loss, and (3) the inconvenience or nonfeasibility of otherwise obtaining an adequate remedy (CGS § 42a-2-718). A similar statute exists for the leasing of goods (CGS § 42a-2A-710(a)).

Other statutes impose certain limits or requirements on liquidated damages provisions in funeral service contracts, the involuntary liquidations of the businesses and property of foreign banks, and transfers of structured settlements (CGS §§ 33-213, 36a-428n, 42-202(e), 52-225 (13) and (19), and 52-225h).

PA 07-216—sHB 7407
Judiciary Committee
Legislative Management Committee
Government Administration and Elections Committee
Appropriations Committee

AN ACT CONCERNING THE RIGHTS OF INMATES WITH MENTAL ILLNESS.

SUMMARY: This act requires the Department of Correction (DOC), when assessing and providing mental health services to certain inmates confined in a DOC facility, to consider a licensed psychiatrist's diagnosis to appropriately assess the inmate and provide individualized, clinically appropriate, and culturally competent mental health services to treat the inmate's condition. This applies if the psychiatrist diagnosed the inmate (1) with a mental illness and (2) as dangerous to himself or herself or others and informed DOC of this current diagnosis.

The act requires DOC, before a planned release of such an inmate from a correctional facility, to collaborate with the Judicial Branch and departments of Social Services and Mental Health and Addiction Services, as necessary and within available appropriations, to help the inmate in obtaining housing, mental health treatment services, public benefits, and employment counseling on release.

The act requires DOC to develop a four- to eight-hour per year mental health training program for custodial staff, within available appropriations.

The act requires the DOC commissioner to report to the Appropriations, Judiciary, and Public Health committees by February 1 annually (1) the number of inmates requiring mental health services in the previous calendar year and (2) a description of the services provided by DOC and contracted health care providers, if applicable.

EFFECTIVE DATE: October 1, 2007

MENTAL HEALTH TRAINING FOR DOC CUSTODIAL STAFF

The act requires the training to include classroom instruction and written materials provided by a qualified mental health professional in conjunction with a training academy accredited by the American Correctional Association. It must at least include the following topics:

1. preventing suicide and self-injury,
2. recognizing signs of mental illness,
3. communication skills for interacting with inmates with mental illness, and
4. alternatives to discipline and use of force when dealing with inmates with mental illness.

The act requires offering the program to all custodial staff (1) in at least one facility designated by the DOC commissioner starting on July 1, 2009, (2) in at least one additional facility designated by the commissioner starting on July 1, 2010, and (3) in at least one additional facility designated by the commissioner starting on July 1, 2011. The act ends the program on July 1, 2012.

The act also authorizes custodial staff at a facility where female inmates are confined to receive between four and eight hours of training on mental health issues during FY 08, within available appropriations. The training must include gender specific and trauma related mental health issues faced by female inmates.

PA 07-217—HB 7409
Judiciary Committee

AN ACT CONCERNING THE REVISOR'S TECHNICAL CORRECTIONS TO THE GENERAL STATUTES, EXPANDING THE MEMBERSHIP OF THE SENTENCING TASK FORCE AND REVISING CERTAIN REPORTING DEADLINES

SUMMARY: This act repeals §14 of PA 07-143 that (1) permits a court to order the same conditions on people sentenced to special parole that it currently imposes as conditions of probation or conditional discharge, (2) requires the court to have a copy of the order delivered to the defendant and the Department of Correction (DOC), and (3) allows the Board of Pardons and Paroles to require the person to comply with conditions that the court could have imposed that are not inconsistent with any the court imposed.

Instead, this act (1) permits a court to recommend that someone sentenced to special parole comply with any or all of the requirements that could be imposed as conditions for probation or conditional discharge, (2) requires the court to have a copy of the recommendation delivered to the defendant and DOC, and (3) permits the Board of Pardons and Paroles to require the person to comply with the recommendations (§ 196).

By law, a court can suspend a portion of a prison sentence and order the defendant to spend it on probation or special parole (parole ordered by the court as part of the sentence). Anyone on special parole is subject to the rules and conditions of the Board of Pardons and Paroles.

The act adds four members to the Connecticut Sentencing Task Force, which is charged with reviewing the state's criminal justice and sentencing policies and laws to create a more just, effective, and efficient system of sentencing. The new members are the chief state's attorney or his designee, the chief

public defender or her designee, DOC's director of parole and community services, and a representative of Connecticut Sexual Assault Crisis Services, Inc. (§ 195). This brings the task force membership to 32 members.

The act extends the deadline, from January 1 to February 15, for five reporting requirements for the Office of Policy and Management's Criminal Justice Policy and Planning Division. This applies to:

1. biennial updates to the plan to promote a more effective and cohesive state criminal justice system;
2. annual reports on the corrections population;
3. annual reports on outcomes for major programs;
4. annual reports on the success of the reentry strategy (the comprehensive plan to provide a continuum of custody, care, and control of offenders who are supervised in the community); and
5. annual reports and presentations to the Appropriations and Judiciary committees on the division's activities, recommendations, and actions to promote an effective and cohesive criminal justice system (It also delays, until February 15, 2008 instead of January 1, 2008, the requirement that this report and presentation include an assessment of the reentry strategy.) (§§ 197- 201).

The act makes numerous technical changes to the statutes.

EFFECTIVE DATE: Upon passage except the provision on special parole takes effect October 1, 2007 (§ 196).

BACKGROUND

Sentencing Task Force

The Sentencing Task Force's other members are:

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 DOC 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.

PA 07-230—sHB 7392
Judiciary Committee
Public Safety and Security Committee
Environment Committee
Planning and Development Committee

AN ACT CONCERNING SEIZURE AND CUSTODY OF NEGLECTED OR CRUELLY TREATED ANIMALS

SUMMARY: This act allows a state or local animal control officer (ACO) to take custody of a neglected or cruelly treated animal without a warrant if the officer reasonably believes it faces imminent harm. It requires the ACO to obtain a warrant if the animal is not in imminent harm. It also establishes a procedure for an ACO to petition the court to act when the ACO has not taken custody of the animal. The act makes other changes in the procedures for an ACO to deal with a neglected or abused animal.

The act eliminates a program established in 2004 under which the agriculture commissioner must, within available appropriations, promote as "Connecticut Farm Fresh Schools," schools and colleges where at least 20% of the food they serve consists of farm products grown or produced in the state. PA 06-135 established a farm-

to-school program within the agriculture department (see BACKGROUND).

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2007

HANDLING CASES OF NEGLECTED OR CRUELLY TREATED ANIMALS

Procedure When an ACO Takes Custody of an Animal

The act allows a state or local ACO to take custody of a neglected or cruelly treated animal without a warrant if the ACO reasonably believes that it faces imminent harm. By law, animal cruelty includes various violations, from illegally cropping a dog's ears to torturing an animal. Under prior law, an ACO could lawfully take charge of any animal he or she found neglected or cruelly treated. The law did not define "lawful," but practice and case law (see BACKGROUND) required the ACO to obtain a warrant to seize such animals. The act requires the ACO to obtain a warrant to obtain custody of an animal that is not in imminent harm.

By law, the ACO must file a petition in Superior Court when taking an animal into custody, except when in the opinion of a licensed veterinarian the animal is so injured or diseased that it must be destroyed. The act specifies that the petition must be filed within 96 hours of taking custody of an animal without a warrant. It also specifically allows the State Veterinarian to give the opinion that the animal must be destroyed.

By law, the ACO must file a petition in Superior Court stating why the animal is in the court's jurisdiction. The act allows the petition to be filed with the Hartford Superior Court as an alternative to the Superior Court that has venue over the matter. Under prior law, the court had to issue a summons to the animal's owner or keeper, or if this person was unknown, publish a notice in the local newspaper, in either case at least 14 days before the hearing date. The act eliminates the (1) obligation to publish a newspaper notice and (2) 14-day deadline for issuing the summons. It also eliminates a requirement that the court notify the petitioner of the time and place of the hearing at least 14 days before it occurs.

Under prior law, the court could issue an order (1) vesting custody and temporary care of an animal in a suitable agency or person or (2) to the animal's owner or keeper, requiring him or her to show cause as to why the court should not transfer custody and care. The act eliminates a specific requirement that the latter order be addressed to the animal's owner or keeper. It requires that the hearing on the order be held within 14, rather 10, days after its issuance. It requires that the order be served at least 48 hours before the date and time of the hearing and that a newspaper notice of the time and place of the hearing be published at least 48 hours before the hearing if the identity of the owner or keeper is unknown.

Procedure When an ACO Does Not Take Custody of an Animal

The act establishes parallel procedures when an ACO reasonably believes that an animal has been neglected or cruelly treated but has not taken custody of the animal. In this case, the ACO can petition the Superior Court that has venue or Hartford Superior Court to take appropriate action. This can include the physical removal and temporary care and custody of the animal, the authorization of an ACO or licensed veterinarian to care for the animal on site, vesting of ownership of the animal, and the posting of a bond and assessment of costs as described below.

Upon the filing of such petition, the court must issue an order to show cause requiring the animal's owner or keeper, if known, to appear in court. If the owner or keeper is not known, a notice of the time and place of the hearing must be published in a local newspaper at least 48 hours before the hearing. If it appears from the allegations of the petition and other facts accompanying the petition or provided subsequently that there is reason to find that the animal's condition or the circumstances surrounding its care require its immediate removal to safeguard its welfare, the court must issue an order vesting the animal's temporary care and custody in a suitable state, municipal or other public or private agency or person pending a hearing on the petition. The hearing must be held at least 10 days after the issuance of the order. The order must be served at least 48 hours before the hearing.

Bonds

By law, if the court orders the animal's temporary care and custody vested in a suitable agency or person, the owner or keeper must either (1) give up ownership of the animal or (2) post a surety or cash bond with the agency or person in whom the court vested the animal's temporary care and custody. The act increases the bond amount from $450 to $500. Under prior law, the bond covered the costs of caring for the animal until the court issued its decision, or 30 days, whichever was first. The act eliminates the 30-day limit.

COURT ORDERS AND ASSESSMENT OF COSTS

The act requires, rather than allows, the court to vest ownership of the animal found to be neglected or cruelly treated (1) in a public or private agency that is permitted by law to care for neglected or cruelly treated

animals or (2) with any person the court finds suitable or worthy of the responsibility.

By law, the agency or person holding the bond must return a portion of the bond to the animal's owner if the court finds, within 30 days after issuing the temporary care and custody order, that ownership should be permanently vested in someone else's care or the animal should be destroyed. Under prior law, the amount to be returned was $15 dollars for each day during this 30 day period that the agency or person was not responsible for the animal's care. Thus, if the court made its decision on the 20th day, the owner would receive $150 back. (Thirty days minus 20 days times $15 per day.) The act (1) increases the payment to $25 per day for a horse or other large animal and (2) subtracts from the amount returned, in all cases, any veterinary costs and expenses incurred for the animal's welfare.

Under prior law, unless the court found that the animal was not neglected or cruelly treated, the owner or keeper had to pay for its care at the rate of $15 per day to cover (1) the state or municipal expense for providing proper food, shelter, and care and (2) any expense of a state, municipal, or other public or private agency or person in providing temporary care and custody to an animal if the court orders it. The act specifies that (1) this payment is pursuant to an order vesting temporary care and custody, (2) the $15 per day fee is per animal and establishes a $25 per day fee for horses or other large livestock, and (3) payments are made until the date the court vests ownership having found the animal neglected or cruelly treated. The act further provides that the owner or keeper must pay all veterinary costs and expenses incurred for the welfare of the animal that are not covered by the per diem rate must be paid by the owner or keeper.

By law, if the court vests ownership in the agriculture commissioner, having found the animal neglected or cruelly treated, he may (1) publicly auction the animal under conditions he deems necessary or (2) consign the animal to a livestock auction. The act specifies that these provisions apply if the court vests ownership to a municipality, giving the municipality the same rights as the commissioner. The act specifies that the commissioner or municipality may participate in a public auction, in addition to holding one or consigning it to an auction. Additionally, the act allows the commissioner or municipality to sell the animal through an open advertised bid process in which the bid price and the demonstration of sufficient knowledge and ability to care for such an animal are factors for the commissioner's or municipality's consideration.

The act specifies that all funds collected from the sale of animals sold by the agriculture commissioner through an open advertised bid process must be deposited in the existing "animal abuse cost recovery account." All funds a municipality collects from selling an animal through an open advertised bid process must be deposited by the town treasurer or other fiscal officer in the town's general fund.

The act requires that all funds collected from sales at public auction of all, rather than just domestic, animals seized by the agriculture department for neglect and cruelty must be deposited into the animal abuse cost recovery account. It allows the commissioner to use the account to cover the costs of housing, care, and welfare of any animal seized by the department, rather than just domestic animals, until the animal's final disposition. Similarly, it allows the commissioner to obtain or use funds from sources other than the account for the housing, care, and welfare of any, rather than just domestic, animal the department seizes.

The act eliminates the requirement that the commissioner annually report to the Environment and Appropriations committees concerning the activities and status of the animal abuse cost recovery account.

BACKGROUND

Farm-to-School

PA 06-135 established a farm-to-school program within the agriculture department and provided that the program be run in consultation with State Department of Education (SDE). Its goal is 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 (CGS § 22-38d).

Case Law

A 2006 Superior Court decision found the statute concerning taking charge of neglected or cruelly treated animals unclear (*Connecticut, ex rel, Maureen Griffin, Chief Animal Control Officer v. Thirteen Horses*, Superior Court WESTLAW HHD-CV-06-4019747S, June 16, 2006).

Animal Cruelty Criminal Charges

Connecticut has several laws that prohibit cruelty to animals, ranging from broad anti-cruelty prohibitions that make it a crime to overwork or beat an animal to specific laws against particular acts, such as illegally cropping a dog's ears. The penalties for violating the anti-cruelty laws range from a fine of $50 for cropping a dog's ears to a fine of up to $10,000 and up to 10 years in prison for killing a police animal.

Certain acts of animal cruelty are criminal acts. Judges have the same sentencing discretion as they do with other criminal acts that do not carry mandatory minimum sentences. This includes the discretion to

sentence an offender to probation or grant him or her conditional discharge.

By law, ACOs may act to prevent acts of cruelty upon any animal and may arrest people for violating any law relating to dogs or domestic animals (CGS §§ 22-329 and 22-330).

PA 07-235—SB 974
Judiciary Committee
Public Safety and Security Committee
Transportation Committee

AN ACT CONCERNING ACCESS TO RECORDED INFORMATION IN "BLACK BOX" EVENT DATA RECORDERS IN MOTOR VEHICLES.

SUMMARY: This act prohibits anyone other than the registered motor vehicle's owner or owner's representative, from retrieving, obtaining, or using data stored on or transmitted from the vehicle's event data recorder (EDR) unless:

1. the registered owner or lessee of the vehicle when the data is recorded, retrieved, retained, or used or his or her representative, consents in writing;
2. the data is retrieved or obtained by a peace officer under a search warrant issued by a Superior Court judge or a judge trial referee, or by any other court that has jurisdiction;
3. the data is retrieved, obtained, and used by a subscription service provider under a subscription agreement if the agreement "discloses" that the data may be stored and transmitted;
4. the data is retrieved or obtained by a licensed new car dealer, repairer, or the vehicle manufacturer and used to diagnose, service, or repair the motor vehicle;
5. the data is retrieved or obtained under a legally proper discovery request or order in a civil action; or
6. the data is used to improve motor vehicle safety, security, or traffic management, including medical research on physical reactions to motor vehicle accidents, if the identity of the registered owner, lessee, operator, or other occupant is not disclosed with respect to the data.

The act specifies that the disclosure of a vehicle identification number with the last six numbers deleted does not constitute disclosure of the identity of the registered owner, lessee, operator, or other occupants.

It defines "lessee" as an individual who leases or rents a passenger motor vehicle for personal use under a written agreement for a term of more than one year.

The act prohibits anyone who retrieves or obtains such data, except a peace officer under a warrant, from further disclosing it. The prohibition also does not apply as long as the identity of the registered owner, lessee, operator, or other occupant is not disclosed and the data is (1) retrieved by the dealer, repairer, or manufacturer to diagnose, service, or repair the vehicle, or (2) used to improve safety, security, or traffic management including medical research on physical reactions to motor vehicle accidents.

The act also prohibits anyone from knowingly altering or deleting EDR data, or knowingly destroying an EDR, after a crash that resulted in a death or a serious physical injury, as defined by law, within a reasonable amount of time sufficient for a peace officer to obtain a search warrant.

EFFECTIVE DATE: October 1, 2007

EVENT DATA RECORDER

The act defines an "event data recorder" as a device or function in a passenger motor vehicle that records the vehicle's dynamic, time-series data (1) during the time period just before a crash, including, vehicle speed versus time data, or (2) during a crash including, change in velocity (delta-V) versus time data, intended for retrieval after the crash (see BACKGROUND). The act specifies that "event data" does not include audio or video data.

BACKGROUND

Peace Officer

In addition to state and local police officers, "peace officer" includes inspectors of the Division of Criminal Justice; state and judicial marshals performing their duties; conservation or special conservation officers; constables who perform criminal law enforcement duties; certain special police officers (for state property, public assistance fraud investigation, or public utility or transportation companies); adult probation officers; Department of Correction personnel authorized by the commissioner to make arrests in correctional facilities; investigators from the State Treasurer's Office; and special federal agents authorized to enforce federal food and drug laws.

EDRs and Delta-V

EDRs now being installed as standard equipment by several automakers are designed to record data elements before and during a collision that may be useful for crash reconstruction. One data element, the vehicle's change in velocity or delta-V, is a widely

accepted measure of crash severity. By directly measuring vehicle delta-V, EDRs can provide an independent measurement of crash severity, which avoids many of the difficulties of crash reconstruction techniques ("Evaluation Of Event Data Recorders In Full Systems Crash Tests", Niehoff, Gabler, Brophy, Chidester, Hinch, Ragland, (National Highway Traffic Safety Administration, Paper No: 05-0271.)

Serious Physical Injury

The law defines a "serious physical injury" as a physical injury that (1) creates a substantial risk of death, or (2) causes serious disfigurement, serious impairment of health, or serious loss or impairment of the function of any bodily organ (CGS § 53a-3(4)).

PA 07-243—sSB 1089
Banks Committee
General Law Committee
Judiciary Committee

AN ACT CONCERNING THE RELEASE, SALE AND ACCURACY OF CONVICTION INFORMATION, THE ISSUANCE OF A REARREST WARRANT OR CAPIAS FOR FAILURE TO APPEAR, THE DUTIES OF BOARDS OF DIRECTORS AND EXECUTIVE BOARDS OF CONDOMINIUMS AND OTHER COMMON INTEREST COMMUNITIES, AND THE DEFINITION OF COMMUNITY ASSOCIATION MANAGER

SUMMARY: This act generally requires consumer reporting agencies to (1) inform consumers when they are providing reports for employment purposes that include certain "matters of public record," such as arrest and conviction records; (2) verify any criminal matters of public record with the Judicial Department to ensure that information reported is complete and up-to-date; and (3) maintain procedures designed to ensure that any criminal matter of public record reported is complete and up-to-date.

The act requires each person or agency holding conviction information or non-conviction information to update it promptly whenever related criminal history record information is erased, modified, or corrected, or when a pardon is granted.

The act prohibits a court from issuing a rearrest warrant or a capias for failure to appear in the second degree before 4:00 p.m. of the day of the alleged failure to appear, unless good cause is shown.

The act ensures that condominium unit owners have the right to receive information concerning, and to comment on, proposed association budgets and loan transactions and gives unit owners the right to access certain condominium records.

EFFECTIVE DATE: October 1, 2007, except for the provisions dealing with consumer reporting agencies, which become effective February 1, 2008.

DEFINITIONS

The act defines "consumer reporting agency" as any person who regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a fee, whose reports compile and report items of information on consumers that are matters of public record and are likely to have an adverse effect on a consumer's ability to obtain employment, but does not include any public agency.

The act defines "consumer report" as any written, oral, or other communication of information bearing on an individual's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

The act defines "criminal matters of public record" as information obtained from the Judicial Department relating to arrests, indictments, convictions, erased records, pardons and outstanding judgments, and any other conviction information, as defined by law. "Conviction information" is criminal history record information that (1) has not been erased and (2) discloses that a person has pleaded guilty or no contest, or was convicted of, any criminal offense, and the terms of the sentence.

§ 1 — CONSUMER REPORTING AGENCY REQUIREMENTS

The act requires each consumer reporting agency that issues a consumer report that is used or is expected to be used for employment purposes and that includes criminal matters of public record to:

1. notify the consumer who is the subject of the report that it is reporting criminal matters of public record, and specify the name and address of the person receiving it;
2. access the conviction information available to the public on the Internet web site of the Judicial Department to verify, as of the date the consumer report is issued, the accuracy of any criminal matters of public record contained in the consumer report; and
3. maintain procedures designed to ensure that any criminal matter of public record reported is complete and up-to-date as of the date the consumer report is issued.

The act specifies that it does not apply in the case of a U.S. government agency or department seeking to obtain and use a consumer report for employment

purposes if the head of the agency or department makes a written finding pursuant to related federal law (see BACKGROUND).

§ 2 — AGENCIES HOLDING CONVICTION AND NON-CONVICTION INFORMATION

The act requires that each person or agency holding conviction or non-conviction information update it promptly whenever related criminal history record information is erased, modified, or corrected or when a pardon is granted.

"Conviction information" means criminal history record information that (1) has not been erased and (2) discloses that a person has pleaded guilty or no contest to, or was convicted of, any criminal offense, and the terms of the sentence. "Nonconviction information" means (1) criminal history record information that has been "erased," (2) information relating to persons granted youthful offender status, and (3) continuances that are more than 13 months old.

The act also requires them to post on any conviction information or nonconviction information available to the public a notice that the criminal history record information may change daily due to erasures, corrections, pardons, and other modifications, and that the person or agency cannot guarantee the accuracy of the information except on the date the information is disclosed or obtained.

ADOPTION OF CONDOMINIUM BUDGET

The act affects the adoption of budgets, loans, and records of condominiums governed by the Condominium Act or by the Common Interest Ownership Act.

§ 4 — Condominiums Governed by the Condominium Act

The act requires that, notwithstanding any provision of the condominium instruments to the contrary, the board of directors give unit owners a reasonable opportunity to express their views concerning the proposed budget before its adoption or ratification. The act requires the board to do so either at the meeting of unit owners to adopt or ratify it, or on a day before the meeting. The act requires that at least one copy of the proposed budget be available for inspection at the meeting. (Apparently, this requirement only applies to the budget adoption or ratification meeting.)

§ 6 —Condominiums Governed by Common Interest Ownership Act (CIOA)

By law, within 30 days after adoption of any proposed budget for the common interest community, the executive board must provide a summary of the budget to all unit owners and set a date for a meeting of unit owners to consider ratification of the budget not less than 14 days nor more than 30 days after mailing of the summary. (By law, "executive board" means the body, regardless of name, designated in the declaration to act on the association's behalf.)

The act specifies that this duty applies notwithstanding any provision of the declaration or bylaws to the contrary. It also specifies that this is the proposed budget and allows the summary to be hand-delivered.

The act requires that at the meeting, or on any day before it, the board must provide a reasonable opportunity for all unit owners to express their views before the budget is ratified. It also requires that at least one copy of the proposed budget be available for inspection at the meeting.

As required by law, the budget is ratified unless at the meeting a majority of all unit owners, or any larger vote the declaration specifies, rejects the proposed budget, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the unit owners must be continued until the unit owners ratify a subsequent budget proposed by the executive board as the act requires.

§§ 5 & 7 — LOANS AND RECORDS OF CONDOMINIUMS

Condominiums Governed by CIOA

The act requires the executive boards of condominiums and other common interest communities governed by CIOA, at least 14 days before entering into any loan agreement on the association's behalf, to (1) disclose in writing to all unit owners the amount and terms of the loan and its effect on any common expense assessment and (2) give the unit owners a reasonable opportunity to submit written comments about the loan to the executive board. The act specifies that this requirement applies notwithstanding any provisions of the declaration or bylaws to the contrary. This applies to all condominiums and other common interest communities regardless of when they were created.

By law, the association must make all financial and other records reasonably available for examination by any unit owner and his or her authorized agents. The act also requires associations to make all association accounts and books available, including minutes of executive board meetings and executive board voting

records. It imposes this duty on the association's executive board or managing agent and specifies that this duty also includes permitting copying of such records and books. Finally, it specifies that this duty to allow an examination and copying arises on a request by the unit owner or agent.

Condominiums Governed by the Condominium Act

The act requires that, notwithstanding any contrary provision in the condominium instruments, at least 14 days before entering into any loan agreement on the association's behalf the board of directors of a condominium governed by the Condominium Act must:

1. disclose in writing to all unit owners the amount and terms of the loan and its effect on any assessment for common expenses and
2. afford the unit owners a reasonable opportunity to submit written comments to the board of directors regarding the loan.

By law, records the association or its manager maintains must be available for examination and copying by any unit owner, or his or her duly authorized agents or attorneys, at the unit owner's expense, during normal business hours. The act specifies that these records must include minutes of the board of directors' meetings and their voting records. Also, it eliminates the requirement that the unit owner give reasonable notice and instead makes the duty apply on the unit owner's or his or her agent's request.

BACKGROUND

Capias

A "capias" is a court order directing a law enforcement official to take someone into custody and bring them before the court.

Erased Records

The law prohibits an employer from requiring an employee or prospective employee to disclose records and from denying employment or discharging an employee solely because of records of erased arrest, criminal charges, or convictions. It requires an employment application form asking for criminal history information to contain a clear notice that the applicant does not need to disclose erased information and that the applicant is considered never to have been arrested and can so swear under oath. The erased records covered by the law include those relating to delinquency; families with service needs; youthful offender status; criminal charges that have been dismissed, nolled, or resulted in a not guilty finding; and absolute pardons.

Exemption in Federal Law from Federal Consumer Notification Requirement

Federal law on consumer reporting agencies restricts the permissible uses of consumer reports (15 USC § 1681b). It requires credit reporting agencies to notify consumers before a report about them is provided for employment purposes. The law prohibits a person using a credit report for employment purposes from taking an adverse action based on it unless the person has given the consumer a copy of the report and a description of the consumer's rights under federal law. It creates an exemption for federal agencies in matters related to national security investigations.

PA 07-245—SB 1447
Judiciary Committee
Planning and Development Committee
Appropriations Committee

AN ACT CONCERNING FAMILY AND MEDICAL LEAVE FOR MUNICIPAL EMPLOYEES AND THE APPLICABILITY OF CERTAIN STATUTORY PROVISIONS TO CIVIL UNION STATUS

SUMMARY: This act requires political subdivisions to provide employees who (1) are parties to a civil union and (2) have worked for the political subdivision for at least 12 months and 1,250 hours during the past 12 months, with the same Family and Medical Leave Act (FMLA) benefits that federal law provides to parties to a marriage.

For all employees who have worked for political subdivisions for at least 12 months and 1,250 hours during the past 12 months, the act allows the employees to request leave to serve as an organ or bone marrow donor. The act allows the employer to require, prior to the leave, sufficient written certification from the employee's physician of the proposed donation and the probable duration of the employee's recovery from it.

Political subdivisions include any town, city, borough, school district, fire district, improvement association, and other districts or associations.

The act provides that it cannot be construed to authorize leave in addition to the 12 weeks allowed within a 12-month period under the federal FMLA. Political subdivision employees are covered by the federal FMLA. Federal regulations state that the federal FMLA does not supersede any provision of state law that provides greater rights. The regulations state that if leave is taken for a purpose covered by state law but not federal law, it does not count toward the 12 weeks allowed under the federal FMLA (29 CFR 825.701). It is unclear how the provisions of this act and federal law

will be interpreted. The act requires the labor department to enforce compliance with these provisions.

The act specifies that wherever in the general statutes the term “marital status” is used or defined, civil union status must be included in that use or definition. The act excludes from the requirement four anti-discrimination laws, but it adds civil union status as a protected class under four parallel anti-discrimination laws involving employment, public accommodations, housing, and credit transactions, thus explicitly making discrimination on this basis in these contexts illegal.

EFFECTIVE DATE: October 1, 2007 except the provisions on “marital status” and anti-discrimination laws are effective upon passage.

FMLA

Employees of political subdivisions are covered by the federal FMLA. The act adds benefits for parties to a civil union and organ or bone marrow donation that are not covered by the federal FMLA. Table 1 shows the federal FMLA provisions.

Table 1: Federal FMLA Provisions

	Federal Law (as applied to political subdivisions)
Political subdivisions covered	All
Employees eligible	Those who have worked (1) at least 12 months for the employer and (2) at least 1,250 hours in the previous 12 months
Leave amount	Up to 12 weeks in one year
Types of leave	For birth; adoption or foster care; to provide care for employee's own parent, child, or spouse with serious health condition; or employee’s own serious health condition
Serious health condition or illness	Illness, injury, impairment, or physical or mental condition involving incapacity or treatment connected with inpatient care in a hospital, hospice, or residential medical-care facility; or continuing treatment by a health care provider
Health benefits during leave	Employee health insurance must be continued under same conditions as prior to leave, including any required employee contribution
Job reinstatement rights	Must be restored to same position or equivalent in all benefits and other terms and conditions of employment

MARITAL STATUS

The term “marital status” is used in the following statutes and thus must be interpreted under the act to include civil unions.

Table 2: Use of the Term “Marital Status” in the General Statutes

Statute	***Topic***
§ 4a-60	Nondiscrimination and affirmative action provisions in contracts of the state and political subdivisions other than municipalities
§ 7-50	Restrictions on content of birth certificates
§ 8-2g	Special exemption from density limits for construction of affordable housing
§ 10-153	Discrimination by local and regional boards of education on account of marital status
§ 10a-167	Scholarships for Vietnam era veterans
§ 16-245r	Discrimination by electric suppliers
§ 16-247r	Discrimination by telephone companies and certified telecommunications providers
§ 17b-27a	John S. Martinez Fatherhood Initiative
§ 31-57e	Contracts between the state and federally recognized Indian tribes
§ 32-204	Purposes and powers of the lower Fairfield County Conference or Exhibition Authority
§ 38a-358	Declination, cancellation, or nonrenewal of private passenger nonfleet auto insurance policies for certain reasons
§ 42-297	Required disclosures for sweepstakes advertising
§ 45a-438	Inheritance by children born out of wedlock
§ 45a-727	Application and agreement for adoption
§ 46a-70	Guarantee of equal employment in state agencies
§ 46a-71	Discriminatory practices by state agencies
§ 46a-72	Discrimination in job placement by state agencies
§ 46a-73	Discrimination in state licensing

Statute	***Topic***
	and charter procedures
§ 46a-75	Discrimination in educational and vocational programs
§ 46a-76	Discrimination in allocation of state benefits
§ 47-12a	Affidavit of facts relating to title or interest in real estate
§ 52-571d	Action for discrimination by golf country club in membership or access to facilities or services

As noted, the term "marital status" is also used in four anti-discrimination laws regarding employment, public accommodations, housing, and credit transactions (CGS §§ 46a-60, 46a-64, 46a-64c and 46a-66). But the act explicitly adds civil union status to four parallel laws that make it illegal to discriminate in these areas on the basis of sexual orientation (CGS §§ 46a-81c, 46a-81d, 46a-81e, and 46a-81f).

PA 07-3—HB 5706
Labor and Public Employees Committee

AN ACT CONCERNING LEAVE FOR STATE EMPLOYEES PROVIDING DISASTER RELIEF SERVICES

SUMMARY: This act gives a state employee who is a certified American Red Cross disaster service volunteer up to 15 working days each year, rather than 14 calendar days, to participate in Red Cross specialized disaster relief services without loss of pay or accrued leave time (vacation, sick, or earned overtime). By law, the leave must be (1) approved by the employee's supervisor and (2) requested by the Red Cross.
EFFECTIVE DATE: October 1, 2007

PA 07-31—sSB 1378
Labor and Public Employees Committee
Insurance and Real Estate Committee

AN ACT CONCERNING THE WORKERS' COMPENSATION MEDICAL PRACTITIONERS' FEE SCHEDULE AND TIME FOR FILING A WORKERS' COMPENSATION APPEAL

SUMMARY: This act requires the Workers' Compensation Commission chairman, by April 1, 2008, to develop, implement, and annually update a new medical practitioners' fee schedule using values from the Medicare resource-based relative value scale (RBRVS). The Medicare RBRVS conversion must be revenue neutral to the workers' compensation system. The fee schedule is used as a basis for physician and other practitioner fees for services provided under the Workers' Compensation Act. The chairman must also implement coding guidelines that conform to the federal Centers for Medicare and Medicaid Services' Correct Coding Initiative.

For services rendered under workers' compensation in cases where there is no established Medicare RBRVS, the act authorizes the chairman to make necessary adjustments to the fee schedule.

The act expands the list of people who can receive fees for service to include "other persons." By law, approved physicians, surgeons, podiatrists, optometrists, and dentists can receive fees under workers' compensation, but, in practice, other medical professionals also receive fees.

The act also delays the start of the 20-day deadline to file an appeal of a workers' compensation award or order to the Compensation Review Board in situations when a ruling is pending on a subsequently filed motion. Under the act, the 20-day period to file an appeal with the board begins when a compensation commissioner rules on the motion. Under prior law, the 20-day period began when a commissioner issued an award or order, regardless of any subsequent motions.
EFFECTIVE DATE: October 1, 2007

BACKGROUND

Medicare Resource-Based Relative Value Scale (RBRVS)

This scale ranks medical services according to the relative costs of resources needed to produce the services. Medicare uses three components to calculate resource costs (and therefore the relative value) of each medical service: (1) physician (or other provider) work, 55%; (2) practice expense, 42%; and (3) liability insurance, 3%. The total relative value of a particular medical service is multiplied by a conversion factor to determine the Medicare fee. The RBRVS method is familiar to and accepted by all physician practices because Medicare is the nation's largest medical services payer.

PA 07-80—sSB 1036
Labor and Public Employees Committee
Judiciary Committee

AN ACT CONCERNING NOTIFICATION TO INJURED EMPLOYEES OF THE DISCONTINUATION OR REDUCTION OF WORKERS' COMPENSATION BENEFITS

SUMMARY: This act extends, from 10 to 15 days, the period during which an employee can request a hearing after receiving a workers' compensation benefit reduction or discontinuation notice. By law, the employee has the right to request such a hearing. If there is no request, benefits are automatically reduced or discontinued. The act also requires that certain additional information be included in the form notifying an employee of the pending reduction or discontinuation.

It also increases the maximum penalty, from $500 to $1,000, for an employer's or insurer's undue delay of a compensation payment due to such party's fault or neglect. The act permits the compensation commissioner hearing the claim to assess the penalty for each delay.

The act requires the penalty be paid to the claimant, but existing law requires all fines and penalties collected under this provision be paid to the treasurer and deposited in the Second Injury Fund.

It also makes a conforming change.
EFFECTIVE DATE: October 1, 2007

NEW NOTIFICATION REQUIREMENTS

In addition to the existing notification requirements (such as stating the employee's name and employer) the act requires the notice to identify:

1. the employee's attorney or other representative;
2. the insurer;
3. the injury, its nature, and the date it occurred; and
4. the city or town in which the injury occurred.

(In practice, the prior form used by the Workers' Compensation Commission required this information.)

The notice must also include medical documentation that establishes the basis for discontinuing or reducing benefits and identifies the employee's attending physician. Under prior law, the employer had to state the reason for the reduction or discontinuation of benefits, and the "attending surgeon" had to sign the form and indicate what kind of work the employee could perform.

NEW REQUIRED LANGUAGE

The act requires that the notice form include the following statement:

"If you object to the reduction or discontinuation of benefits as stated in this notice, YOU MUST REQUEST A HEARING NOT LATER THAN 15 DAYS after your receipt of this notice, or this notice will automatically be approved."

Under prior law, the form had to state: "The employee may request a hearing by the compensation commissioner on the discontinuance or reduction set forth in this notice within 10 days of receipt of this notice."

In addition, the new required language specifies that the employee (1) must call the workers' compensation district office handling the claim to request a hearing, (2) must be prepared to provide medical and other documentation to support the claim, and (3) should note the date the notice was received. This language was not required under prior law, although in practice the prior form advised employees to be prepared to provide medical documentation at the hearing to support their claim.

PA 07-89—sSB 931
Labor and Public Employees Committee
Judiciary Committee

AN ACT CONCERNING PENALTIES FOR CONCEALING EMPLOYMENT OR OTHER INFORMATION RELATED TO WORKERS' COMPENSATION PREMIUMS

SUMMARY: This act authorizes the labor commissioner to issue a stop-work order to an employer who:

1. fails to obtain insurance or provide satisfactory proof of self-insurance for the employer's workers' compensation liability or
2. intends to injure, defraud, or deceive the employer's workers' compensation insurer by knowingly (a) misrepresenting an employee as an independent contractor (and thus not required to be covered by workers' compensation insurance) or (b) providing false, incomplete, or misleading information to the insurance company on the number of its employees in order to pay a lower premium.

By law, an employer who misrepresents the number of employees or provides misleading information is subject to (1) a class D felony (see Table on Penalties) and (2) a civil penalty from the Labor Department of $300 for each violation. The act subjects an employer who fails to obtain insurance or self-insurance to these penalties. The law also subjects an employer who knowingly and willfully fails to obtain insurance or self-insurance to the penalties for a class D felony and civil penalties (see BACKGROUND for other penalties for these violations).

The act includes procedures for issuing and terminating stop-work orders, imposes penalties for violating stop-work orders, and requires the labor commissioner to adopt regulations to implement the act's stop-work order provisions.
EFFECTIVE DATE: October 1, 2007

INVESTIGATIONS AND STOP-WORK ORDERS

Investigations

The law authorizes the labor commissioner to investigate complaints that an employer misrepresented an employee as an independent contractor or provided misleading information to the insurance company on the number of its employees in order to pay a lower premium. The law allows the commissioner to subpoena witnesses and records and fine an employer or any officer or agent who hinders an investigation. Each day of a violation is a separate offense. The act increases the fine from between $25 and $100 to

between $100 and $250.

The act applies these provisions to investigations of an employer's failure to obtain workers' compensation insurance or provide satisfactory proof of self-insurance.

Stop-Work Orders

The act requires the commissioner to issue a stop-work order within 72 hours after an investigation determines that the employer committed one of these violations. The stop-work order must require stopping all business operations but only for the specific place of business or employment for which the violation exists. The stop-work order is effective when served on the employer or at the place of business or employment. It can be served at a place of business or employment by posting a copy conspicuously at the location.

The act requires the order to remain in effect until the commissioner orders it released on finding that the employer has complied with the workers' compensation requirement or after a hearing requested by the employer. The act allows the employer to request a hearing in writing within 10 days after the order is issued. The hearing is conducted according to the Uniform Administrative Procedures Act.

The act provides that the stop-work order and any penalties imposed under these provisions against a corporation, partnership, or sole proprietorship are effective against any successor entity that (1) is engaged in the same or an equivalent trade or activity and (2) has at least one of the same principals or officers.

Under the act, an employer who violates a stop-work order is liable to the Labor Department for a civil penalty of $1,000 for each day of the violation.

BACKGROUND

Other Provisions on Investigations and Penalties for Violating Workers' Compensation Insurance and Self-Insurance Requirements

The law requires the state treasurer's investigations unit to investigate an employer for not complying with the insurance or self-insurance requirements at the request of the Second Injury Fund's custodian, the Workers' Compensation Commission, or a workers' compensation commissioner. The investigator issues a citation to require an employer in violation to meet the requirements and provide notice of a hearing and possible penalties. The commissioner conducts a hearing and if the employer is not in compliance, assesses a civil penalty. The commissioner assesses an additional penalty for each day the employer continues in non-compliance. Failure to pay within 90 days can result in a civil action to double the penalty.

An employer who knowingly and willfully fails to comply with the insurance and self-insurance requirements commits a class D felony. This applies to an owner of a sole proprietorship, a partner in a partnership, a principal in a limited liability company, or a corporate officer (CGS § 31-288(c) to (f)).

PA 07-124—sSB 1051
Labor and Public Employees Committee
Environment Committee
Government Administration and Elections Committee
Appropriations Committee

AN ACT CONCERNING THE INSPECTION AND EVALUATION OF AIR QUALITY IN STATE BUILDINGS

SUMMARY: This act requires state departments to follow certain guidelines for indoor air quality before they can accept all or part of a building to be occupied by state employees or others under a lease, lease renewal, or purchase. Each department must (1) provide for an inspection of the premises and (2) develop a protocol for the periodic assessment and remediation of indoor air quality issues. The protocol must include (1) the best practices for commercial office space and (2) all applicable provisions of the Environmental Protection Agency's (EPA) Indoor Air Quality "Tools for Schools" Program. It is not clear how commercial space and school guidelines can be combined into a single protocol.

The act also requires that each lease agreement any state department signs on or after July 1, 2007 contain a provision requiring the lessor to make all necessary efforts to maintain the structure and its mechanical systems to keep the indoor air quality at the same level as when the premises were accepted. The lessor must also agree to carry out the air quality protocol the department is required to establish under the act.

It is not clear how the act's requirements will function in concert with existing statutory requirements that give, with some exceptions, the Department of Public Works (DPW) commissioner the responsibility to negotiate property leases and purchases for state agencies.
EFFECTIVE DATE: July 1, 2007

BACKGROUND

Tools for Schools

The EPA created the Indoor Air Quality Tools for Schools Program to help schools identify and address indoor air quality issues. Schools and districts throughout Connecticut have implemented the program

through the efforts of the Connecticut School Indoor Environment Resource Team. In Connecticut, more than 100 schools use the program in some form.

Public Works Commissioner

Except for certain agencies (mentioned below), the DPW commissioner is solely authorized to represent the state in its dealings with third parties to acquire, construct, or lease office or equipment space for state agencies. At the commissioner's request, the attorney general can assist in contract negotiations. The State Properties Review Board reviews all real estate acquisitions, leases, and subleases that DPW proposes (CGS § 4b-3).

The attorney general is responsible for determining the legal sufficiency, both as to substance and form, of all contracts and leases. He must enforce all terms including the obligations of landlords to meet lease terms (CGS § 4b-26).

The Joint Committee on Legislative Management, boards of trustees for higher education, the commissioners of labor and mental retardation, and the Connecticut Marketing Authority all have statutory authority to negotiate real estate contracts.

PA 07-125—SB 1293
Labor and Public Employees Committee
Government Administration and Elections Committee
Judiciary Committee
Appropriations Committee

AN ACT CONCERNING DATA UNDER THE FEDERAL TRADE ADJUSTMENT ASSISTANCE ACT

SUMMARY: This act requires authorized users of the CTWorks Business System (the Labor Department's database of displaced workers and others seeking work) to agree in writing to confidentiality safeguards in order to access federal Trade Adjustment Assistance (TAA) information added to the system. It requires each authorized user to reimburse the department for all costs incurred for disclosing the information. The act also prohibits the disclosure of system information, except that aggregate reports that do not reveal identifiable individual data may be disclosed to unauthorized users.

Violators are (1) subject to a fine of up to $200, imprisonment for up to six months, or both and (2) prohibited from any further access to the system's information.

The act's safeguards allow federal TAA data to be added into the system while satisfying federal confidentiality requirements.

EFFECTIVE DATE: October 1, 2007

BACKGROUND

CTWorks Business System

The Labor Department merged data on individuals looking for work from several programs (including the federal Workforce Investment Act and Connecticut Jobs First Employment Services) into one database.

Federal Trade Adjustment Assistance (TAA)

This program provides various forms of employment assistance to individuals who lose their jobs or experience a loss of work hours due to increased foreign imports or production shifts to certain countries. For example, a layoff at a factory can be designated TAA- eligible, which allows the individuals who lost their jobs to apply individually for assistance with retraining, education, and job-search activities.

PA 07-136—HB 6404
Labor and Public Employees Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE OPERATION OF HYDRAULIC LOADING OR UNLOADING EQUIPMENT AT CERTAIN SOLID WASTE FACILITIES

SUMMARY: This act requires each owner or operator of a solid waste, recycling, or resources recovery facility that uses a floor level system to load solid waste into combustion units to have at least two employees present in the work area whenever waste is being moved with hydraulic loading or unloading equipment. The employees must be familiar with how the equipment operates. The act applies to solid waste, recycling, or resources recovery facilities that (1) do not use overhead cranes to load solid waste into feed hoppers and (2) serve at least five municipalities.

The requirement does not apply if the facility has (1) a properly working camera that is trained on and has an unobstructed view of the feed hopper area or (2) a device that stops the feeder from operating when someone enters the hopper.

EFFECTIVE DATE: October 1, 2007

BACKGROUND

Waste Facility Definitions

The statutes define these terms as follows:

1. A "solid waste facility" is any solid waste disposal area, volume reduction plant, transfer station, wood-burning facility, or biomedical

waste treatment facility (CGS § 22a-260).

2. A "recycling facility" or "recycling center" means land, equipment, and structures where recycling is conducted, including an intermediate processing center (CGS § 22a-260).
3. A "resources recovery facility" means a facility using processes to reclaim energy from municipal solid waste (CGS § 22a-207).

PA 07-161—SB 845
Labor and Public Employees Committee
Appropriations Committee

AN ACT CONCERNING SURVIVOR BENEFITS.

SUMMARY: This act requires a municipality that provides survivor pension benefits for paid police and firefighters who die in the line of duty to continue to provide the benefits after the surviving spouse remarries. By law, total survivor benefits for paid police and firefighters include the workers' compensation survivor benefit plus the municipality's survivor benefit. The combined benefits cannot exceed 100% of the weekly pay that employees in the same position as the deceased employee receive during the compensable period. The act specifies that the combined weekly benefit cannot exceed 100% of the maximum rate for the same position.

By law, workers' compensation survivor benefits end when the surviving spouse remarries or the dependent children reach 18.

EFFECTIVE DATE: October 1, 2007

PA 07-181—sSB 1048
Labor and Public Employees Committee
Government Administration and Elections Committee
Judiciary Committee
Appropriations Committee

AN ACT CONCERNING THE INVESTIGATION OF A DISCRIMINATION COMPLAINT AGAINST OR BY AN AGENCY HEAD OR STATE COMMISSION OR BOARD MEMBER

SUMMARY: This act requires investigations of discrimination complaints made against or by a state agency head, a board or commission member, or an affirmative action officer (AAO) to be shifted to another agency.

By law, each state agency, department, board, or commission must designate an AAO. Prior law required the AAO to (1) investigate all discrimination complaints made against the entity and (2) report all the findings and recommendations to the entity's commissioner or director for proper action. Under the act, complaints against or by an agency head, board or commission member, or AAO must be referred to the Commission on Human Rights and Opportunities (CHRO) for review and, if appropriate, to the Department of Administrative Services (DAS) for investigation. Also, it requires that a discrimination complaint against CHRO be handled by DAS and a complaint against DAS be handled by CHRO.

EFFECTIVE DATE: Upon passage

COMPLAINTS AGAINST OR BY AN AGENCY HEAD

The act requires all discrimination complaints made against or by an agency head, board or commission member, or AAO to be reviewed by CHRO and, if appropriate, referred to DAS for investigation.

CHRO must refer the complaint to DAS for review and, if appropriate, investigation, when the complaint is made against or by CHRO's executive head, commission member, or AAO.

If the discrimination complaint is made against or by the DAS commissioner or AAO, the act requires CHRO to review and investigate, if appropriate.

It also requires the person or entity investigating the complaint against an agency head, board or commission member, or AAO to report any findings to the entity or person that appointed the agency head or member. For example, when the complaint is against an agency commissioner, the findings must be reported to the governor.

The act specifies that the new complaint provision applies to complaints pending on or after the act's passage.

NOTIFYING AGENCIES OF COMPLAINTS TO CHRO OR EEOC

By law, an AAO is barred from representing his or her own agency before CHRO or the federal Equal Employment Opportunities Commission in a complaint against the agency. The attorney general must handle the complaint. The act also requires the attorney general, or his designee, to provide the agency AAO with a copy of the complaint. The AAO must investigate the complaint as required by law.

The act requires the attorney general's designee to complete state and federal discrimination law and investigation training that CHRO and the Permanent Commission on the Status of Women conduct for all AAOs pursuant to law. The law requires a minimum of 10 hours of training the first year and a minimum of five hours each following year.

PA 07-193—SB 1292
Labor and Public Employees Committee
Appropriations Committee
Judiciary Committee

AN ACT CONCERNING THE ALTERNATIVE BASE PERIOD FOR PURPOSES OF UNEMPLOYMENT COMPENSATION

SUMMARY: This act removes the sunset date of December 31, 2007 from the law establishing an alternative base period to calculate unemployment compensation benefit eligibility, thus making the alternative permanent. The alternative base period is used to determine the eligibility of unemployment compensation claimants who do not qualify under the standard base period.

The act also specifies that an appeal to Superior Court of an Employment Security Review Board decision may be based on a claim that the decision violated statutory or constitutional provisions.
EFFECTIVE DATE: October 1, 2007

BACKGROUND

Standard and Alternative Base Periods

The standard base period is the first four of the five most recently completed quarters prior to the quarter during which a claimant files for unemployment benefits. When determining a claimant's eligibility under the alternative period, the Department of Labor (DOL) can use the four most recently completed quarters prior to the quarter in which the person filed the claim. But if the claimant was (1) receiving or eligible for workers' compensation or (2) properly absent from work under his or her employer's sick or disability leave policy before becoming unemployed, the alternative base period is the four most recent quarters in which he or she worked, as long as they were not previously used to claim unemployment compensation.

Employment Security Board of Review

The Employment Security Board of Review is the highest level of administrative appeal within DOL for unemployment compensation eligibility. If either a claimant or an employer is dissatisfied with an unemployment examiner's decision, he or she may appeal it first to an unemployment compensation referee, then to the board of review, and finally to Superior Court.

PA 07-204—sSB 848
Labor and Public Employees Committee
Finance, Revenue and Bonding Committee
Appropriations Committee

AN ACT CONCERNING LOANS TO MUNICIPALITIES TO FULLY FUND PENSION SYSTEMS

SUMMARY: This act creates a municipal pension solvency loan program to lend money to municipalities for their unfunded employee pension liabilities. Loans carry the same interest rate the state pays on the bonds, notes, or obligations it issues to fund the program. The act permits the bonds to be either general obligation or revenue bonds.

Loan agreements must contain penalty provisions for municipalities that fail to (1) repay the loan on time or (2) contribute to their pension funds as required under the agreement. The agreements must also require repayment of the administrative costs associated with the loan program. The act authorizes the state treasurer or the Office of Police and Management (OPM) secretary to require credit enhancement provisions, as they deem necessary, to be included in the loan agreement.

The treasurer and the secretary must establish a priority list of eligible towns and a ranking system for making the loans. They must consider, among other things, the amount of a municipality's unfunded pension liability and whether the loan can eliminate or substantially eliminate the liability.

The act states, among other requirements, that if a municipality fails to appropriate the required actuarially recommended pension contribution, such an amount will be deemed appropriated by the municipality, regardless of any other state law, charter, special act charter, or local ordinance.

The act does not include a bond authorization dollar amount. The treasurer, in consultation with the secretary, must adopt implementing regulations.
EFFECTIVE DATE: July 1, 2007

MUNICIPALITY DEFINED

The act defines municipality as any town, city, borough, village, or consolidated form of these; fire and sewer, sewer, or metropolitan district; or public authority and each municipal organization authorized to levy and collect taxes or charge for its function.

MUNICIPAL PENSION SOLVENCY ACCOUNT

The act establishes a municipal pension solvency account as a nonlapsing General Fund account.

The proceeds of state bonds, notes, or other obligations issued for use under the act must be

deposited in the account and used in accordance with the act's provisions. The account also includes:

1. payments from any municipality to repay a municipal pension solvency loan;
2. interest or other income earned on account investments; and
3. any additional money from other public or private sources.

The act requires that funds in the account from state bonds, notes, or other obligations be kept in a separate subaccount from funds coming from other sources, which are deposited in an additional money receipts subaccount. It also permits the treasurer to create additional subaccounts, as necessary, to segregate (1) a portion of the funds as security for revenue bonds or (2) money that has been previously expended from new deposits. The act requires investment earnings credited to any subaccount to remain part of that subaccount.

MUNICIPAL PENSION LOANS

Required Loan Terms

The act makes the funds in the solvency account available to the treasurer to establish the program to provide loans for municipal employee pension funds. The pension loans must (1) be at the same interest rate the state paid on the debt issued to raise the loan funding; (2) not exceed a 20-year term; and (3) require principal and interest payments to begin within one year after the loan is issued.

The loans must be made pursuant to an agreement between the treasurer, acting for the state, and the municipality seeking the loan. The treasurer and the OPM secretary prescribe the agreement's form, which must contain penalty provisions for municipalities that fail to (1) repay the loan on time or (2) contribute to their pension funds as required under the agreement. The agreements must also require repayment of the administrative costs associated with the loan program.

The act authorizes the state treasurer or the OPM secretary to require, as they deem necessary, credit enhancement provisions to be included in the loan agreement. These include: (1) a general obligation pledge from the municipality, (2) a tax revenue intercept, (3) reserve funds requirements, or (4) other credit enhancement.

Priority List

The act requires the treasurer and secretary to establish a priority list of eligible towns and a ranking system for making the loans. They must, at a minimum, consider:

1. the amount of a municipality's unfunded pension liability,
2. whether a loan can eliminate or substantially eliminate the liability,
3. the state's interest in assisting the maximum number of communities with the loan funds available, and
4. the financial management factors that caused the municipality's unfunded pension liability and the likelihood that such practices will continue.

Other Uses of Funds

In addition to making loans, the act permits the treasurer to use funds in the solvency account for certain things. The treasurer may use the funds:

1. for program administration and management costs,
2. to earn interest for deposit in the fund,
3. to pay debt service on state bonds issued to fund the solvency account or to purchase or redeem these bonds (provided the funds used are not required for other lawful purposes of the solvency account), and
4. for any other purpose of the solvency account and the loan program.

MUNCIPAL REQUIREMENTS

Application Requirements and Documents

The act specifies a number of requirements that municipalities applying for a loan must meet, including documentation that the town passed an ordinance requiring it to appropriate sufficient funds each year to make its actuarially recommended pension contribution.

Other documents that applying municipalities must submit include:

1. an actuarial valuation, certified by an enrolled actuary, of the municipality's pension fund no more than 30 months prior to the loan, with an actuarial update within three months before the date of the loan;
2. an actuarial analysis of the method the municipality proposes to fund any unfunded past benefit obligation not covered by the municipal pension solvency loan;
3. an explanation of the municipality's investment strategic plan for the pension fund, including an asset allocation plan;
4. a three-year financial plan, including the major assumptions and finance plan for the pension solvency loan;
5. a comparison, prepared as the secretary prescribes, of the anticipated effects of (a) funding the unfunded liability with the solvency loan and (b) funding it with the

actuarially recommended annual contribution;
6. documentation of the municipality's authorization to apply for a solvency loan, including a certified copy of the resolution or ordinance authorizing the loan application;
7. the methodology and actuarial assumptions used to calculate the actuarially recommended contribution under the act's application requirements; and
8. other information and documentation the secretary or the treasurer requires.

The secretary and the treasurer may hire an independent actuary or other professionals to review the information submitted by the municipality.

Required Actuarially Recommended Pension Contribution

As long as the municipal pension solvency loan is outstanding, the municipality must, for each fiscal year starting when the loan is made, appropriate the necessary funds to meet the actuarially recommended pension contribution and contribute that amount to the pension fund. The town must annually notify the secretary of this payment; the secretary must then notify the treasurer.

If the municipality fails to appropriate sufficient funds to meet the pension contribution the act requires, an amount sufficient to meet that requirement is deemed appropriated, notwithstanding the provisions of any other general statute, special act, charter, special act charter, home-rule ordinance, or local law. The act does not indicate how this provision would be enforced.

Annual Requirements

The act requires municipalities to submit certain annual documentation for as long as the loan is outstanding, including:

1. the actuarial valuation of the pension fund;
2. specific identification, in a format the secretary determines, of any changes made in the actuarial assumptions or methods compared to the previous valuation;
3. footnote disclosure and required supplementary disclosure required under Governmental Accounting Standards Board Statement Number 27; and
4. a review of the pension investments, including a statement of the current asset allocation and an analysis of investment performance by asset class.

AMORTIZATION SCHEDULE

The amortization schedule, used to determine the actuarially recommended contribution, must be fixed and have a term not greater than (1) 10 years or (2) 20 years from the date the loan is issued. If the funding ratio of the pension fund, as determined just after the loan proceeds are deposited, is reduced by 30% or more, the maximum permitted term of the amortization schedule must be reduced by the same percentage.

LOAN PROCEEDS DEPOSITED IN PENSION FUNDS

The pension solvency loan, minus the payment of administrative costs related to the loan, must be deposited in the municipality's pension fund to fund the unfunded liability. It may be invested in accordance with the terms of the pension fund.

BOND AUTHORIZATIONS

Bonds authorized under the act may be general obligation bonds or revenue bonds, but the act does not include a bond dollar amount. The bonds, whatever their type, are subject to the standard statutory bond issuance procedures and repayment requirements.

PA 07-211—HB 6988
Labor and Public Employees Committee
Appropriations Committee

AN ACT UPDATING THE SOCIAL SECURITY RETIREMENT AGE TO REFLECT FEDERAL CHANGES AND CONCERNING A RETIREMENT ANNUITY PROGRAM FOR MUNICIPAL EMPLOYEES

SUMMARY: This act increases the age, from 65 to the eligibility age for full Social Security retirement benefits, after which a Tier I state retiree no longer receives the additional temporary retirement benefit. This ties the cut-off for the additional benefits to the age at which people are eligible for full Social Security benefits.

Under federal law, the age that a person is eligible for full Social Security retirement benefits is increasing each year in two-month increments until it reaches age 66 in 2008 (e.g., if someone turns 65 in 2007, he or she would not be eligible for full federal benefits until reaching age 65 and 10 months). It will stay at age 66 for 11 years, then gradually increase again until reaching age 67 in 2025.

The act also requires the comptroller, if asked by a political subdivision of the state, to allow employees of the subdivision to join the state's 403(b) deferred compensation program for state education employees. It permits the comptroller to set additional terms and conditions for employees to join the program. This annuity program is authorized under federal tax law. Political subdivisions of the state include towns, cities, boroughs, special tax districts, fire districts, water districts, and similar entities.
EFFECTIVE DATE: October 1, 2007, except the provision on the deferred compensation program takes effect upon passage.

BACKGROUND

Retirement Tiers

The state employee retirement system has three tiers. Generally, employees hired before July 1, 1984 are in Tier I. Those hired on or after July 1, 1984 and before July 1, 1997 are in Tier II. Those hired on or after July 1, 1997 are in Tier IIA.

403(b) Deferred Compensation Plans

Section 403(b) of the Internal Revenue Code allows employees of public educational institutions to elect to defer a portion of their current earnings and invest those earnings, tax-free, until withdrawn, usually at retirement. The 403(b) plans are similar to plans the code authorizes for private-sector employees (401(k) plans) and noneducational public employees (457 plans).

PA 07-221—sHB 5707
Labor and Public Employees Committee
Planning and Development Committee

AN ACT PROHIBITING THE DIMINISHMENT OR ELIMINATION OF MUNICIPAL RETIREE BENEFITS

SUMMARY: This act bans a municipality or special taxing district from reducing or eliminating a pension or retirement system right or benefit granted to a retiree at the time the employee retires. The act is similar to an existing law that prohibits any reduction or elimination of rights or benefits granted to an individual under any municipal retirement or pension system (CGS § 7-450) except that the act specifically supersedes the law creating the Waterbury Financial Planning and Assistance Board (SA 01-1).

The act permits a municipality or special taxing district to change the retirement plan administration if the rights and benefits provided after the change are at least equivalent to those previously provided.
EFFECTIVE DATE: Upon passage

BACKGROUND

Waterbury Financial Planning and Assistance Board

SA 01-1 created a state board to oversee Waterbury's finances and gave the board broad power over the city's budgets, union contracts, and other financial matters. Under SA 01-1, the board ceased its oversight when, for four consecutive years, the city did not run a budget deficit, made proper debt service payments, and met other goals. But the law also requires the board to reassert control over the city if in the future financial goals are not met.

PA 07-237—sHB 6989
Labor and Public Employees Committee
Judiciary Committee

AN ACT CONCERNING NONCOMPETE AGREEMENTS

SUMMARY: This act establishes prohibitions regarding non-competition agreements in employment agreements with broadcast employees and, under certain circumstances, security guards. A non-competition agreement is an agreement between an employer and an employee that bars the employee from working in a particular occupation, business, or geographic area for a certain time after ending employment with the employer. Courts have upheld non-competition agreements if their restrictions are reasonable.

The act prohibits a contract for services between a broadcasting industry employer and a broadcast employee from containing a provision that the broadcast employee:

1. refrain from working in a specified geographic area for a specified period after ending employment;
2. disclose the terms or conditions of an employment offer, or the existence of one, from another broadcasting industry employer following the expiration of the employment contract; or
3. agree to a subsequent contract or an extension or renewal of the existing one on the same terms and conditions offered by a prospective employer.

The act applies to agreements between (1) "broadcast industry employers," defined as owners or operators of broadcast television or radio stations, including associated broadcast entities but excluding

cable stations and networks and (2) their employees other than those primarily performing sales and management functions.

The act allows someone to sue in Superior Court for damages, court costs, and reasonable attorney's fees for a violation.

The act also prohibits an employer from requiring an employee who is a security guard to agree to a non-competition agreement if (1) it prohibits the employee from having the same or a similar job at the same location and (2) the job is for another employer or as a self-employed person. This prohibition does not apply if the employer proves that the employee has obtained the employer's trade secrets.

The act allows someone to sue under this provision in Superior Court for damages, an injunction, and equitable relief, as the court deems appropriate, for violations. It also allows the labor commissioner to ask the attorney general to sue in the Hartford Superior Court for restitution on behalf of an injured person, injunctions, and equitable relief, as the court deems appropriate.

EFFECTIVE DATE: For agreements regarding security guards, October 1, 2007 and applicable to agreements entered into, renewed, or extended on and after that date. For agreements regarding broadcast industry employees, July 1, 2007 and applicable to agreements entered into, renewed, or extended on and after that date.

DEFINITIONS

The act defines "associated broadcast entities" as entities providing reporting services to broadcast television or radio stations, including subcontractors that provide weather, sports, traffic, and other reports for broadcast or cablecast.

A "broadcast television or radio station" is an entity owned or operated by holding a Federal Communications Commission television or radio license or by operating a station through a local service, sales, marketing, or outsourcing agreement.

A "cable network" is an entity distributing programming to at least two local cable systems.

A "cable station" is an entity that produces or transmits programming to at least one local cable system.

A "local cable system" is a cable system, as defined in federal law, operating in the state.

BACKGROUND

Security Guards

The act refers to Bureau of Labor Statistics standard occupational class 33-9032. This is the security guards classification, which is described as someone who "guards, patrols, or monitors premises to prevent theft, violence, or infractions of rules."

Case Law on Non-Competition Agreements

Courts uphold non-competition agreements if they are reasonable in terms of:

1. length of time,
2. geographic area covered,
3. fairness of protection given the employer,
4. extent of restraint on the employee's opportunity to pursue his or her occupation, and
5. extent of interference with the public's interests (*Robert S. Weiss & Associates, Inc. v. Wiederlight*, 208 Conn. 525 (1988)).

Trade Secrets

The law defines a trade secret as information, such as a formula, device, process, or customer list, that (1) has economic value because it is not generally known and not readily ascertainable by others who could benefit from it and (2) is the subject of reasonable efforts to keep it secret (CGS § 35-51(d)).

PA 07-26—sSB 618
Planning and Development Committee

AN ACT CONCERNING DEMOLITION OF BUILDINGS

SUMMARY: This act increases, from 90 to 180 days, the maximum waiting period a municipality may impose by ordinance before a demolition permit can be issued for a building or structure.
EFFECTIVE DATE: October 1, 2007

PA 07-50—HB 5722
Planning and Development Committee
Appropriations Committee

AN ACT CONCERNING REIMBURSEMENT OF MARSHAL COSTS WHERE THERE IS AN ERROR BY THE TAX ASSESSOR OR TAX COLLECTOR

SUMMARY: By law, a municipality can recover the court costs and reasonable appraisers' and attorneys' fees it incurs as a result of any tax foreclosure action from anyone having title to affected property. This act requires the municipality to reimburse a taxpayer for the costs of state marshal fees on any property seized if the court finds that such costs were incurred because of a tax assessor or tax collector error and not because of any action or failure on the taxpayer's part.
EFFECTIVE DATE: October 1, 2007

PA 07-51—sHB 5728
Planning and Development Committee
Finance, Revenue and Bonding Committee
Government Administration and Elections Committee

AN ACT CONCERNING BONDS OF MUNICIPAL WATER POLLUTION CONTROL AUTHORITIES

SUMMARY: This act makes it easier for towns to finance relatively small sewer and water system projects with bonds that combine the elements of general obligation (GO) and revenue bonds (i.e., hybrid bonds). It does this by establishing a separate procedure for issuing these bonds without a referendum. That procedure supersedes any contrary statutory, special act, or charter provision.

Towns can use the procedure to issue no more than $3 million in hybrid bonds, which must be backed by the revenue the system generates, including charges imposed specifically on its users to repay the bonds. As with other bonds, the procedure requires a town to repay the hybrid bonds according to a set schedule. But it also allows the town to vary that schedule over the repayment period as long as the agency repays the town the full amount. The act specifies the town's rights and remedies for securing the payments.
EFFECTIVE DATE: Upon passage

OPERATING AGENCY

The act's procedure for approving hybrid bonds for small sewer and water system projects varies depending on the entity that maintains and operates the system. If a town elects its legislative body (as distinct from the unelected town meeting), then that body can designate itself as the sewer system's operating agency or designate an existing board or commission as such. Alternatively, it can, by ordinance create a quasi-public water pollution control authority (WPCA) to operate the system (CGS § 7-246). With respect to a water system, the legislative body can designate an existing department to operate and maintain the system or create a department or a water company for that purpose (CGS § 7-148ee).

APPROVAL PROCEDURE

If a WPCA or water company operates and maintains the system, its governing board and the town's legislative body must approve the bonds before the town can issue them. The board must act first by holding a public hearing on the bonds, notice of which must be published in a newspaper at least five days before the hearing. It may hold this hearing in conjunction with any other hearing the law requires for approving sewer and water projects.

The next step depends on whether the town has a board of finance. If it does, the legislative body may vote on the bonds only if the board recommends issuing them. In towns operating under the statutes, the legislative body is usually the town meeting and the executive body is the board of selectmen. But the act designates the board of selectmen as the legislative body for deciding whether to approve the bonds. If the town is operating under a charter, special act, or home rule ordinance (i.e., home rule town), then the town's elected legislative body must vote on whether to issue the bonds.

(Here, the act is referring to the fact that home rule towns can (1) choose between several different types of legislative bodies, such as the unelected town meeting or the elected board of alderman or (2) create a hybrid in which the town meeting and an elected body share the duties of the legislative body. These options are also available to cities, consolidated cities and towns, and consolidated towns and boroughs, where the legislative body is the board of burgesses or other elected body.)

The town may issue the bonds if the legislative body and the sewer or water system's governing board each approve the issuance by a two-thirds vote.

AGREEMENT BETWEEN TOWN AND OPERATING AGENCY

The act allows the town and the WPCA or water company to execute an agreement specifying terms and conditions for issuing the hybrid bonds, including pledging or imposing a lien on the system's revenues. Any member, director, or agent of these entities may execute the agreement, which may be evidenced by any document or agreement. This agreement has the same effect as if it were made with the bond holders.

ISSUING AND REPAYING BONDS

The town can issue the hybrid bonds with the same terms, conditions, and provisions the law allows for GO and revenue bonds issued for sewer and water system projects.

The act allows the town to issue a GO bond for system improvements, but requires the WPCA or water company to repay them with its own revenue. The town can secure the bond (1) by pledging the revenue the system generates from its users or (2) with money the agency agrees to levy, collect, and pay to the town.

If the town uses the second method, the agreement may allow the town to vary the amount the WPCA or water company must pay during the period for repaying the bonds, but not the total amount they must pay. In other words, the town may allow these entities to pay less than the scheduled amount one month and recover the difference by requiring the agency to pay more the next month.

The act gives the town the same statutory rights as bond holders to secure payment from the WPCA and water company, which are for all costs the town incurred to secure the payment. These costs include attorney fees.

ELIGIBLE PROJECTS

The act specifies the range of sewer and water system projects towns may finance with hybrid bonds issued under the act's procedure. The bond proceeds can be used to acquire, purchase, construct, reconstruct, improve, or extend a sewer or water system or system facility. These activities include related road, water, and drainage improvements. The law already allowed towns to issue bonds for acquiring and constructing sewer systems. It also allows them to issue bonds to acquire, construct, extend, enlarge, or maintain water systems.

PA 07-60—SB 1085
Planning and Development Committee
Judiciary Committee

AN ACT CONCERNING ZONING APPEALS

SUMMARY: This act allows an appeal of a zoning decision on a special permit or special exception to go to the Superior Court for the judicial district where the property is located, notwithstanding any right to appeal the decision to the local zoning board of appeals (ZBA). By law, zoning regulations can require a special permit or special exception for certain classes or kinds of buildings or land uses in a zone.
EFFECTIVE DATE: October 1, 2007

BACKGROUND

Related Court Case

In *Jewett City Savings Bank v. Town of Franklin*, 280 Conn. 274 (2006), the Supreme Court held that special exception review constituted "enforcement" of zoning regulations. As a result, if local zoning regulations allowed an appeal of a special exemption to the ZBA, it must be appealed there before an appeal can be taken to the Superior Court.

PA 07-99—HB 6080
Planning and Development Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING CLARIFICATION OF THE PERIOD OF TIME BETWEEN THE REAL ESTATE PROPERTY TAX DUE DATE AND THE LAPSING OF THE SILENT LIEN PROVIDED IN STATUTE

SUMMARY: This act increases, from one to two years after property tax becomes due on real property, the time period that a municipality has a "silent (unrecorded) lien" on the property under CGS § 12-172 for the taxes. It thus makes this provision consistent with CGS § 12-175, which gives a tax collector two years from the tax due date to file a certificate on the land records to continue the lien.
EFFECTIVE DATE: October 1, 2007, and applicable to liens filed on or after that date.

PA 07-102—sHB 7040
Planning and Development Committee

AN ACT CONCERNING RESUBDIVISIONS AND CLARIFYING CONSIDERATIONS OF INLAND WETLANDS DECISIONS BY PLANNING AND ZONING COMMISSIONS

SUMMARY: This act requires a planning commission to accept an application it has received to subdivide or resubdivide land regulated as an inland wetland or watercourse by a local wetland agency, and process it on the commission's schedule set in existing law. By law, the commission must consider the wetland agency's report in making its decision. The act requires the commission, if it imposes terms and conditions that are not consistent with the wetland agency's final decision, to state its reasons for being so on the record.

The act imposes the same requirements on zoning commissions when they act on site plan applications that are also subject to a wetlands agency jurisdiction.
EFFECTIVE DATE: October 1, 2007

PA 07-170—sSB 1249
Planning and Development Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING TAX ABATEMENTS FOR PROPERTY CONVEYED TO A NONPROFIT LAND CONSERVATION ORGANIZATION

SUMMARY: The law exempts nonprofit land conservation organizations from paying taxes on their real and personal property. But if an organization acquires a property, it must pay any taxes or interest on delinquent taxes that were due and unpaid before it acquired the property. This act allows towns to abate these payments, with their legislative bodies' approval.
EFFECTIVE DATE: Upon passage and applicable to assessment years beginning October 1, 2007.

PA 07-207—sSB 1054
Planning and Development Committee
Judiciary Committee
Transportation Committee
Appropriations Committee

AN ACT CONCERNING THE DEFINITION OF DETERIORATING AND DETERIORATED PROPERTY IN REDEVELOPMENT AREAS, REFERRAL OF STATEMENTS OF COMPENSATION TO THE OMBUDSMAN FOR PROPERTY RIGHTS, A STUDY OF THE CALCULATION OF LOST GOOD WILL FOR RELOCATION ASSISTANCE FOR DISPLACED BUSINESSES AND COMPENSATION FOR OUTDOOR ADVERTISING STRUCTURES

SUMMARY: The law allows towns to designate an area for redevelopment if it is deteriorated, deteriorating, substandard, or detrimental to the community's safety, health, morals, or welfare. The designation allows them to prepare and implement plans for acquiring and improving land so that it can be developed for public or private purposes. This act specifies the criteria towns must use to determine if an area is deteriorated or deteriorating.

The redevelopment law also allows towns to acquire property by eminent domain and specifies the procedures for doing so. It requires a town to notify the court about the amount it offered for the property (i.e., statement of compensation) and allows the owner to appeal that offer. The act specifies conditions under which the court must refer the town's offer to the property rights ombudsman, who must review it and report back to the court. The law already allows the court to refer the statement to a trial judge referee.

PA 07-141 requires the transportation commissioner to pay relocation benefits to billboard owners when he acquires their structures and specifies how he must calculate the benefit amounts. This act requires him to do so only if it does not conflict with federal law.

Lastly, the act requires the ombudsman to study whether it is feasible to base relocation benefits on the unique gains or losses of operating a business at a specific location (i.e., good will). It limits the study's scope to situations when a town takes a property for private economic development. The ombudsman must report his findings and recommendations to the legislature by January 1, 2008.
EFFECTIVE DATE: Upon passage for the business good will study and the provisions governing billboard relocation benefits, except that the latter apply only to property acquired on or after that date; October 1, 2007 for the remaining provisions and applicable to plans prepared and appeals started on or after that date.

CRITERIA FOR DESIGNATING REDEVELOPMENT AREAS

The law allows towns to designate an area for redevelopment if it is deteriorated, deteriorating, substandard, or detrimental to the community's safety, health, morals, or welfare. The designation allows a town to acquire and prepare property for public uses, such as schools and playgrounds, and private purposes, such as shopping malls and office towers. The town can acquire property by negotiating a sale with the owner or

taking it by eminent domain.

The act specifies criteria for determining if an area is deteriorated or deteriorating. An area meets these standards if at least 25% of buildings there contain at least one of the following deficiencies:

1. defects that need to be cleared or removed;
2. conditions resulting from a defect that normal maintenance cannot correct;
3. extensive minor defects that collectively harm the surrounding area;
4. property that was inadequately constructed or altered;
5. inadequate or unsafe plumbing, heating, or electrical facilities;
6. overcrowded or improperly sited structures;
7. too many dwelling units close together;
8. properties converted into incompatible uses, such as homes converted into rooming houses;
9. underused or improperly maintained obsolete buildings that depress an area's physical appearance;
10. detrimental land uses or conditions, structures used for different purposes, or the adverse effects of noise, smoke, or fumes;
11. unsafe, congested, poorly designed, or deficient streets;
12. inadequate public utilities or community facilities that diminish living conditions or hinder economic growth; and
13. other equally significant building or environmental deficiencies.

STATEMENT OF COMPENSATION

The act specifies when the property rights ombudsman must review the statement of compensation. Municipal agencies must prepare the statement when they take property by eminent domain under the redevelopment statutes. The statement describes the property and the amount the agency offers to pay for it. It goes to the property's owner, who can appeal the agency's description and offer to Superior Court. Under prior law, the court could only review the statement or assign it to a trial judge referee, who had to view the property, revise the statement if necessary, and report back to the court.

The act allows the court to refer the statement to the ombudsman at two points in the appeals process. The court must do so if the parties to the appeal—the owner and the agency or their attorneys—file a motion to that effect. The second point arises if the court refers the case to a judge trial referee. By law the court can reject the referee's report if the referee did not perform his duties properly. Under prior law, the court could only appoint another referee or review the statement itself. The act additionally allows the court to refer the statement to the ombudsman.

The ombudsman's duties are the same as those of the trial judge referee. He must hold a hearing on the statement, notifying the parties at least 10 days before about the place and time. He must listen to both parties, view the property, take relevant testimony, and submit a report to the court. In preparing the report, the ombudsman must consider evidence about the property's fair market value, including its environmental condition.

In determining the property's environmental condition, the ombudsman, like the referee, must determine if the property is contaminated and, if it is, how much it would cost to clean it up. As is the case when the referee determines the clean-up costs, the owner may deduct the ombudsman's determination of that cost from the actual clean-up cost if he is subsequently sued for this expense.

The report must provide enough information so that the court can determine the basis for his findings about the property. It becomes part of the proceedings and its statement of compensation is conclusive upon the owner and the agency.

RELOCATION BENEFITS

Relocation Benefits for Billboard Owners

PA 07-141 requires the transportation commissioner to pay relocation benefits to billboard owners when he acquires their structures. The benefit amount depends on whether they find another site in the area within one year after the commissioner acquired the structure. Under this act, these requirements apply only if they do not conflict with federal laws and regulations governing outdoor advertising signs or agreements made under these rules between the transportation commissioner and the federal commerce secretary.

Business Good Will

The act requires the property rights ombudsman to study whether it is feasible to base relocation benefits on the good will a business gains or loses when it moves to a new location. Good will generally refers to the unique advantages a business receives from operating at a specific location. The study is limited to situations where a town acquires business property by eminent domain mainly for private economic development.

The law requires state and local agencies to pay relocation benefits whenever they displace people from their homes, farms, and businesses for economic development or public purposes, such as widening a road or building a school. The benefits cover moving expenses and, for homeowners and renters, the cost of acquiring or renting a new dwelling. They do not

consider how the move affects the business' good will.

The study must examine different way to calculate the change in good will resulting from the move, the advantages and disadvantages of basing relocation benefits on that change, the experience of other states that base the benefits on good will, and how towns can finance benefits based on the loss of good will.

The ombudsman must submit the report to the Judiciary and Planning and Development committees by January 1, 2008. The report must contain the ombudsman's finding and recommendations. If the report recommends compensating owners for the loss of good will, it must also recommend how that amount should be determined.

BACKGROUND

Property Rights Ombudsman

PA 06-187 established to Office of Ombudsman for Property Rights to develop expertise in eminent domain law, help public agencies and property owners in eminent domain proceedings, mediate disputes about takings and relocation benefits, and recommend changes to the legislature.

Related Act

PA 07-141 makes many changes to the laws towns must follow when taking property for economic development. The changes affect the procedures for preparing plans to redevelop physically and economically distressed areas, filing the statement of compensation, and determining the amount of relocation benefits towns must pay when taking property for economic development. And, as noted above, the act requires the transportation commissioner to pay relocation benefits when he acquires billboards.

PA 07-218—sHB 5729
Planning and Development Committee
Appropriations Committee

AN ACT CONCERNING THE SALE, LEASE OR TRANSFER OF MUNICIPAL PROPERTY

SUMMARY: This act requires towns to hold a public hearing on the proposed sale, lease, or transfer of town land or buildings. A town must hold the hearing before giving final approval to any of these transactions. This requirement applies to property whose fair market value exceeds $10,000 or lease renewals that would change how a property is used. It also applies whenever the town proposes to sell parkland, open spaces, or playgrounds, regardless of the land's fair market value.

The town must publish at least two hearing notices in a newspaper serving the town. It must publish them at least two days apart, the first one between 10 and 15 days before the hearing and the second at least two days before the hearing. The town must also conspicuously post a sign on the subject property (presumably advertising the hearing's place and time).
EFFECTIVE DATE: October 1, 2007

PA 07-239—sHB 7090
Planning and Development Committee
Appropriations Committee
Government Administration and Elections Committee
Commerce Committee

AN ACT CONCERNING RESPONSIBLE GROWTH

SUMMARY: This act establishes an incentive grant program to encourage the provision of municipal services on a regional basis. It requires the Office of Policy and Management (OPM) secretary to review, within available appropriations, (1) regional tax-based revenue sharing programs and (2) the establishment of regional asset districts.

The act establishes a Responsible Growth Task Force and specifies its membership. It requires the task force to (1) identify responsible growth criteria and standards to guide the state's future investment decisions and (2) study transfer of development rights laws, policies, and programs. The task force must report its recommendations to the governor by February 15, 2008. It will terminate on the day it submits the report.

The act raises the threshold of capital projects undertaken by state agencies that must be consistent with the State Plan of Conservation and Development. It imposes sanctions on municipalities that fail to amend their local plans of conservation and development every 10 years, as required by law.

The act requires the commissioner of Economic and Community Development (DECD) to prepare a state economic development strategic plan by July 1, 2009 and every five years thereafter. The commissioner must do this within available appropriations.

By law, Regional Planning Agencies (RPAs) must prepare regional plans of development every 10 years. The act requires that these plans include a finding as to whether they are consistent with the state economic development strategic plan.

The act explicitly makes transportation one of the issues that regional councils of governments must address.
EFFECTIVE DATE: July 1, 2007, except the task force and economic development plan provisions are effective upon passage and the sanctions for failing to amend

local plans of conservation and development are effective July 1, 2010.

REGIONAL PERFORMANCE INCENTIVE GRANT PROGRAM

The act establishes this program and requires OPM to administer it. By December annually, it allows RPAs, regional councils of elected officials, and regional councils of governments, or combinations of these entities to submit a proposal to the OPM secretary for the joint provision of one or more services that are currently provided by municipalities in or contiguous to the region. The proposal must include services that may increase the participating municipalities' purchasing power or reduce their expenses and thus lower property taxes. A copy of the proposal must be sent to the legislators representing the participating municipalities.

The proposal must (1) describe at least one service currently provided on a municipal rather than regional basis; (2) describe how the service would be delivered regionally, including which entity would deliver the service and how the population would continue to be served; (3) describe how the service would achieve economies of scale and how much would be saved; (4) describe the amount of the reduction in the mill rate due to the resulting savings and how this reduction would be implemented; (5) include a cost/benefit analysis of providing the service on a regional versus municipal basis; (6) set out an implementation plan for providing the service regionally; (7) estimate the savings for each municipality; and (8) include other information requested by the OPM secretary. The proposal must have the following attachments: (1) a resolution by the legislative body of each participating municipality endorsing the proposal and (2) a certification by each municipality that there are no legal obstacles to providing the service regionally, such as binding arbitration. The proposal must be submitted on a form prescribed by OPM.

The OPM secretary must review all of the proposals and award grants to those that he determines best meet the act's requirements. In making the grants, the secretary must give priority to proposals presented by regional councils of government that include participation by at least half of the council's member municipalities.

By February 1, annually, the secretary must report to the governor and the Finance, Revenue and Bonding Committee regarding the grants. The report must include information on the amount of the grants and the potential of the grants for leveraging other public and private investments.

OPM REVIEWS

The act requires the OPM secretary to review, within available appropriations, (1) regional tax-based revenue sharing programs and (2) the establishment of regional asset districts. The reviews must study available models of these types of measures, the adaptations that might be needed to use these models in Connecticut, and other possible effects on municipal and regional finances. The revenue sharing review must also address the effect on property taxes and grand lists. By July 1, 2008, the secretary must report the results of the reviews and his recommendations regarding revenue sharing and regional asset districts to the Planning and Development and Finance, Revenue and Bonding committees.

RESPONSIBLE GROWTH TASK FORCE MEMBERS

Under the act, the 19-member task force consists of agency heads or their designees, two members appointed by the governor, and six legislatively appointed members. The agencies are OPM, the Connecticut Housing Finance Authority, Connecticut Development Authority, Connecticut Innovations, Inc., the Commission on Culture and Tourism, the Office of Workforce Competitiveness, and the departments of Agriculture, Economic and Community Development, Environmental Protection, Public Health, and Transportation. The governor must appoint two people, each of whom is or was the chief elected official or city or town manager of a municipality, one from a municipality with more than 25,000 people and one from a smaller town. The top six legislative leaders each appoint one task force member. The OPM secretary or his designee serves as the chairperson.

CONSISTENCY WITH THE STATE PLAN OF CONSERVATION AND DEVELOPMENT

By law, certain state agency actions must be consistent with the State Plan of Conservation and Development when they are funded by the state or federal government. Under prior law, these actions were: (1) the acquisition of real property or public transportation equipment or facilities costing over $100,000, (2) the development or improvement of real property costing over $100,000, and (3) state grants exceeding $100,000 for such acquisitions or developments. The act increases these thresholds to $200,000.

SANCTIONS FOR FAILING TO AMEND LOCAL PLANS OF CONSERVATION AND DEVELOPMENT

By law, municipalities must amend their plans of conservation and development at least once every 10 years. If they do not, the municipality's chief elected official must send a letter to the OPM secretary and the transportation, economic and community development, and environmental protection commissioners explaining why the plan was not amended.

By law, a copy of this letter must be included with any application submitted to these state officials for funding the conservation or development of real property. The act expands this provision to require that a copy of this letter be included in each municipal application for discretionary funding submitted to any state agency. (PA 07-5, June Special Session limits this provision to applications for state funding.) It makes the municipality ineligible for such funding unless the OPM secretary expressly waives this provision.

ECONOMIC DEVELOPMENT STRATEGIC PLAN

The act requires the DECD commissioner by July 1, 2009, and every five years thereafter, to prepare an economic strategic plan for the state. The commissioner must consult with the OPM secretary; the environmental protection, transportation, and labor commissioners; the executive directors of the Connecticut Housing Finance Authority, the Connecticut Development Authority, the Connecticut Innovations, Inc., the Commission on Culture and Tourism, and the Connecticut Health and Educational Facilities Authority; and the president of the Office of Workforce Competitiveness, or their respective designees, and other agencies the DECD commissioner considers appropriate.

In developing the plan, the DECD commissioner must:

1. ensure that the plan is consistent with the (a) text and locational guide map of the State Plan of Conservation and Development, (b) the long-range state housing plan, and (c) state transportation strategy;
2. consult regional councils of governments, RPAs, regional economic development agencies, interested state and local officials, entities involved in economic and community development, stakeholders, and business, economic, labor, community and housing organizations;
3. consider (a) regional economic, community, and housing development plans and (b) applicable state and local workforce investment strategies;
4. assess and evaluate the state's economic development challenges and opportunities against the economic development competitiveness of other states and regions; and
5. host regional forums to involve the public in the planning process.

The plan must include:

1. a review and evaluation of the state's economy, which must include a sectoral analysis, housing market and housing affordability analysis, labor market and labor quality analysis, and demographic analysis including historic trend analysis and projections;
2. a review and analysis of factors, issues, and forces that affect or impede economic development and responsible growth in Connecticut and its regions, including transportation (such as commuter transit, rail, and barge freight), technology transfer, brownfield remediation and development, health care delivery and costs, early education, primary education, secondary and post secondary education systems and student performance, business regulation, labor force quality and sustainability, social services costs and delivery systems, affordable and workforce housing cost and availability, land use policy, emergency preparedness, taxation, availability of capital, and energy costs and supply;
3. an identification and analysis of economic clusters that are growing or declining within the state;
4. an analysis of targeted industry sectors in the state that identifies (a) sectors that are or will be important to the growth of the state's economy and to its global competitive position, (b) what these sectors need for continued growth, and (c) these sectors' current and potential impediments to growth;
5. a review and evaluation of the state's economic development structure including (a) a review and analysis of the past and current economic, community, and housing development structures, budgets and policies, efforts and responsibilities of its constituent parts in Connecticut; and (b) an analysis of the performance of the current economic, community, and housing development structure, and its individual constituent parts, in meeting its statutory obligations, responsibilities, and mandates and their impact on economic development and responsible growth in Connecticut;

6. the establishment and articulation of a vision for Connecticut that identifies where the state should be in five, 10, 15, and 20 years;
7. the establishment of clear and measurable goals and objectives for the state and regions, to meet the short- and long-term goals established under the act and provide clear steps and strategies to achieve these goals and objectives, including: (a) promoting economic development and opportunity, (b) fostering effective transportation access and choice including the use of airports and ports for economic development, (c) enhancing and protecting the environment, (d) maximizing the effective development and use of the workforce consistent with applicable state or local workforce investment strategy, (e) promoting the use of technology in economic development including access to high-speed telecommunications, and (f) balancing resources through sound management of physical development;
8. ranking goals and objectives established under this provision;
9. the establishment of relevant measures that clearly identify and quantify (a) whether a goal and objective is being met at the state, regional, local, and private sector level, and (b) cause and effect relationships, and provides a clear and replicable measurement methodology;
10. recommendations on how the state can best achieve goals under the strategic plan and provide cost estimates for implementation of the plan and the projected return on investment for those areas; and
11. other responsible growth information that the DECD commissioner considers appropriate.

By July 1, 2009, and every five years thereafter, the DECD commissioner must submit the plan to the governor for approval. The governor must review and approve or disapprove the plan within 60 days after submission. The plan is effective upon approval by the governor or 60 days after the date of submission.

Once approved, the commissioner must submit the plan to the Appropriations; Commerce; Finance, Revenue and Bonding; and Planning and Development committees. Within 30 days of this submission, the DECD commissioner must post the plan on DECD's web site.

The DECD commissioner may periodically revise and update the plan with the governor's approval. The commissioner must post any revisions on the DECD web site.

PA 07-33—HB 6997
Program Review and Investigations Committee

AN ACT CONCERNING THE SUNSET LAW

SUMMARY: This act delays for two years the review of all agencies and programs subject to termination under the sunset law. The act also requires the Legislative Program Review and Investigations Committee to study the sunset law, addressing its needs and merits, alternatives, and other methods to measure performance. The committee must report its findings and recommendations by January 15, 2008.
EFFECTIVE DATE: Upon passage

SUNSET REVIEW

Under the sunset law, 78 licensing, regulatory, and other state agencies and programs terminate on set dates unless the General Assembly reestablishes them after the Legislative Program Review and Investigations Committee conducts a performance audit of each. The committee must review the public need for each entity according to established criteria and report to the legislature its recommendations for the entity's abolition, reestablishment, modification, or consolidation. The act delays the termination dates as follows:

Prior Termination Date	***New Termination Date***
July 1, 2008	July 1, 2010
July 1, 2009	July 1, 2011
July 1, 2010	July 1, 2012
July 1, 2011	July 1, 2013
July 1, 2012	July 1, 2014

PA 07-160—sHB 7240
Program Review and Investigations Committee
Human Services Committee
Appropriations Committee
Labor and Public Employees Committee
Judiciary Committee

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE CONCERNING THE STATE'S WELFARE REFORM INITIATIVE

SUMMARY: This act makes changes in the state's welfare-to-work program. It allows the Department of Social Services (DSS) commissioner to run parts of the cash welfare program, Temporary Family Assistance (TFA), using state funds only to help the state avoid federal work participation rate-related penalties.

The act expands the Safety Net program to include families who have complied with the Jobs First program rules.

The act makes certain Department of Labor records available for review by the state's regional workforce investment boards provided the records' confidentiality is protected.

Finally, the act conforms law to practice by requiring the labor commissioner, instead of the DSS commissioner, to collect data from the job training and placement services it funds. Generally, under the Jobs First program, DSS determines eligibility for and grants TFA, while the labor department develops, implements, and funds the program's work component.
EFFECTIVE DATE: July 1, 2007

WELFARE TO WORK

TFA—Federal Versus State Funding

The act permits the DSS commissioner to operate portions of the TFA program as a solely state-funded program, separate from the federal TANF program, if he determines that doing so will enable the state to avoid federal fiscal penalties. But it provides that families receiving state-funded TFA are subject to the same eligibility conditions as those receiving TANF-funded assistance (presumably cash assistance).

Safety Net Services

The act requires DSS to offer safety net services to additional families identified as having significant barriers to employment. These include families who:

1. a DSS caseworker identifies during an initial assessment, or that a labor department employment services case manager identifies during the first 12 months of employment services;
2. have made good faith efforts to find and keep jobs but have been unable to do so or are at risk of failing to complete the employment services program; or
3. have exhausted their TFA eligibility (presumably this means they have received benefits for at least 21 months, or more if they qualified for extensions).

Under prior law, safety net services were available only to families who were at risk of losing TFA benefits because they were ineligible for a six-month TFA extension, either because they had received two noncompliance sanctions or had not made a good faith effort to find and keep a job. These families continue to qualify for safety net services under the act.

The act also adds an in-depth family needs assessment to the list of potential safety net services a family can receive. And it specifies that case

management services, already a service option, must include home visits. By law, these services can include food, shelter, clothing, and employment assistance.

Release of Certain Unemployment Compensation Records

By law, employers must keep accurate employment records. These records, which contain information that the unemployment compensation administrator prescribes, must be open for the administrator's inspection. In general, the administrator cannot publish the information or open it to public inspection if it will reveal the employee's or employer's identity.

The act allows disclosure with the identifying information to a regional workforce development board (in practice called regional workforce investment board) to the extent that it is necessary to effectively administer the federal Trade Adjustment Assistance Program of the Trade Act of 1974, the federal Workforce Investment Act, and the Jobs First Employment Services program.

Before it may receive the information, the board must enter into written agreements with the administrator concerning the confidentiality of the information. Each agreement must contain safeguards to protect the information's confidentiality. The safeguards must include:

1. a statement from the board of the purposes and specific use of the information along with a statement that it will only be used for these purposes;
2. a requirement that the board store the information in a location that is physically secure from unauthorized access and, when the information is maintained electronically, in a way that prevents this access;
3. a requirement that the board establish safeguards to ensure that only authorized individuals, including its agents, have access to information stored in computers;
4. a requirement that the board also enter into written agreements, which the administrator must approve, with its authorized agents containing the "requisite" safeguards contained in its agreement with the administrator;
5. a requirement that the board instruct all people with access to the information about the legal sanctions (presumably for unauthorized disclosure) and require each board employee and agent authorized to "review" the disclosed information to acknowledge in writing that they have been advised of the sanctions;
6. a statement that re-disclosure of the information is prohibited unless the administrator approves it in writing;
7. a requirement that the board dispose of the information, including copies the board makes, after it has served its purpose either by returning it to the administrator or verifying to him or her that the information has been destroyed;
8. a statement that the board must permit the administrator's representatives to conduct periodic audits, including on-site inspections, to review the board's adherence to these provisions; and
9. a statement that the board will reimburse the administrator for costs the administrator incurs in making the information available and conducting the audits.

Under the act, board employees or agents violating these provisions may be fined up to $200, imprisoned for up to six months, or both. And they are banned from any further access to confidential information.

The law, which is unchanged by the act, allows the administrator to make disclosures to public employees in the performance of their duties and subjects violators to identical penalties.

BACKGROUND

TANF and Jobs First

The 1996 federal TANF legislation changed the nation's welfare-to-work program from an entitlement to a block grant. Connecticut receives a set amount of federal funds each year and is expected to spend the funds on the purposes the federal law enumerates. All states must meet federally prescribed work participation rates (e.g., 50% of adults in single-parent families must work at least 30 hours per week) or face financial penalties (reduction in the block grant).

Connecticut's main TANF-funded program, Jobs First, consists of two parts: TFA, which is cash assistance for families, and Jobs First Employment Services. DSS administers TFA and performs an initial employability assessment, while the labor department helps clients develop and carry out employment plans.

Families receiving TFA must participate in work-related activities unless they are exempt. Among others, exempt families include those in which the caretaker relative is incapacitated. TFA recipients who can work are referred to the labor department's Jobs First Employment Services program.

Deficit Reduction Act and TANF Changes

The federal Deficit Reduction Act of 2005 re-authorized TANF and included provisions requiring states to place more of their cash welfare caseload in jobs.

Specifically, it moved up the base year for the caseload reduction credit (states that reduce their cash welfare caseload can make a corresponding reduction in the number of families who must be engaged in work activities), essentially eliminating the credit in Connecticut, where caseloads have remained fairly steady.

It also required states that had created separate state programs to help families, using state funds only, to include these families in the work participation rate calculation, if the state claimed these expenditures towards their maintenance of effort (MOE) requirement. (The TANF law requires states to spend a minimum of state funds to show that TANF funding does not supplant previous state funding.)

States can provide assistance to families who would otherwise qualify for TANF-funded cash assistance using state funds, provided they do not claim them as MOE.

Workforce Investment Boards (WIB) and Jobs First

The state's five WIBs are an integral part of the welfare-to-work system. The labor department provides funding to the boards, which in turn pay subcontractors to provide work-related services to TFA recipients.

Federal Trade Adjustment Assistance (TAA)

This program provides various forms of employment assistance to individuals who lost their jobs, or experienced a loss of work hours, due to increased foreign imports or production shifts to certain countries. For example, a layoff at a factory can be designated TAA-eligible, which allows the individuals who lost their jobs to apply for assistance with retraining, education, and job-search activities.

Workforce Investment Act

The federal Workforce Investment Act (WIA) establishes a framework for states to coordinate roughly 60 federal job training and welfare-to-work programs. These programs each have unique rules and have traditionally been administered by different state agencies.

The act requires each state to establish a state WIB to develop overall job training policy and help designate local workforce boards to design and oversee service delivery.

PA 07-9—sSB 1195
Public Health Committee

AN ACT CONCERNING ADMINISTRATION OF INFLUENZA AND PNEUMOCOCCAL POLYSACCHARIDE VACCINES BY LICENSED HOME HEALTH CARE AGENCY STAFF

SUMMARY: Beginning October 1, 2007, this act allows nurses employed by licensed home health care or homemaker-home health aide agencies to administer flu and pneumococcal vaccines to patients in their homes. The vaccines may be administered without a physician's order, but must be done according to a physician-approved agency policy. The nurse must assess the patient for contraindications before administering the vaccine.

Under the act, a nurse means a registered nurse, licensed practical nurse, or an advanced practice registered nurse.
EFFECTIVE DATE: Upon passage

PA 07-22—sSB 695
Public Health Committee

AN ACT CONCERNING LICENSURE OF CHILD DAY CARE CENTERS

SUMMARY: The Department of Public Health requires a separate license for each building in which a child day care center operator provides services. This act specifies that a center operating in two or more buildings needs only one license if (1) the same licensee provides services in each building and (2) all buildings are contiguous to a common playground that is governed by the one license.
EFFECTIVE DATE: Upon passage

PA 07-23—sHB 7156
Public Health Committee

AN ACT CONCERNING HOSPICE SERVICES

SUMMARY: This act (1) requires newly licensed hospices to provide hospice services in all settings and (2) sets conditions on the use of hospice-related titles and terms.

Under the act, an organization seeking an initial hospice license from the Department of Public Health (DPH) beginning January 1, 2008 must agree to provide hospice care services for terminally ill people on a 24-hour basis in all settings, including private homes, nursing homes, residential care homes, or specialized residences providing supportive services. It must also provide DPH with satisfactory evidence that it has the necessary qualified personnel to provide the services.

The act prohibits an organization from using the title "hospice" or "hospice care program" or any titles, words, letters, or abbreviations indicating or implying hospice licensure unless it is licensed to provide hospice services by DPH and certified as a hospice by Medicare.
EFFECTIVE DATE: October 1, 2007

PA 07-34—sHB 7157
Public Health Committee

AN ACT CONCERNING STAFF TRAINING REQUIREMENTS FOR ALZHEIMER'S SPECIAL CARE UNITS AND PROGRAMS

SUMMARY: This act requires Alzheimer's special care units or programs annually to provide at least one hour of Alzheimer's and dementia-specific training to all unlicensed and unregistered staff providing care and services to residents in these programs or units. For staff hired on or after October 1, 2007, the training must be completed within six months of the date of employment. PA 07-252 changes these training requirements as they apply to nurse's aides.
EFFECTIVE DATE: October 1, 2007

BACKGROUND

Related Act

PA 07-252, § 61 requires each Alzheimer's special care unit or program to annually provide nurse's aides who are involved in direct patient care of residents with the same training required for licensed and registered direct care staff (see next section). For staff hired on or after October 1, 2007, the training must be completed within six months of the date of employment.

Training for Licensed and Registered Direct Care Staff

Existing law requires each Alzheimer's special care unit or program annually to 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 at least three hours of such training annually and (2) at least two hours per year of training in pain recognition and administration of pain management techniques for direct care staff.

Alzheimer's Special Care Unit or Program

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.

PA 07-49—sHB 5508
Public Health Committee
Judiciary Committee

AN ACT AUTHORIZING COMMITMENT TO A CHRONIC DISEASE HOSPITAL UNDER A PHYSICIAN'S EMERGENCY CERTIFICATE

SUMMARY: This act permits a physician to place a person for psychiatric treatment in a chronic disease hospital under a 15-day emergency certificate if the hospital has a separate psychiatric unit. Prior law permitted such a placement only in a "hospital for persons with psychiatric disabilities," that is any public or private hospital that accepts psychiatric patients.

The act permits an emergency psychiatric admission to a chronic disease hospital regardless of the law that requires the hospital's medical director to determine that the hospital and its staff can adequately care for and treat the patient. But it prohibits admission if the placing physician believes the person is actively suicidal or homicidal.

The act requires a psychiatrist to examine anyone admitted to a chronic disease hospital under a 15-day certificate within 24 hours of admission. (PA 07-252 extends the exam requirement to within 36 hours.) Patients admitted under a certificate to an acute care or psychiatric hospital must, by law, be examined within 48 hours.

Before placing someone in a chronic disease hospital under an emergency certificate a physician must find the person to (1) have psychiatric disabilities, (2) be a danger to himself or others or gravely disabled (i.e., in danger of serious harm because the person cannot care for his or her own basic needs), and (3) be in need of immediate care and treatment in a hospital. The law applies the same requirements to people admitted under emergency certificates to psychiatric and acute care hospitals.

EFFECTIVE DATE: October 1, 2007

BACKGROUND

Chronic Disease Hospitals

A chronic disease hospital is a long-term hospital that has facilities, medical staff, and all necessary personnel to diagnose, care for, and treat chronic diseases (CGS § 19a-535b(a)). The Department of Public Health currently licenses five chronic disease hospitals: Gaylord Hospital, Hospital for Special Care, the state Veterans' Home and Hospital, Hebrew Home and Hospital, and Mt. Sinai Rehabilitation Hospital.

PA 07-53—HB 6840
Public Health Committee

AN ACT CONCERNING SCREENING FOR KIDNEY DISEASE

SUMMARY: This act exempts gynecologists from the requirement that a physician screen for kidney disease as part of a patient's routine general medical examination.

Under prior law, physicians had to order a serum creatinine test as part of each patient's annual physical examination if the patient had not had such a test within the preceding 12 months. The act instead requires that this test be done as part of each patient's routine general medical examination, if not performed within the past 12 months. It also specifies that these medical examinations do not include annual gynecological examinations.

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.

EFFECTIVE DATE: October 1, 2007

PA 07-58—SB 260
Public Health Committee
Education Committee
Appropriations Committee

AN ACT CONCERNING HEALTH ASSESSMENTS FOR ADOLESCENTS

SUMMARY: This act requires public school students to have health assessments in either grade nine or 10, instead of grade 10 or 11. Under existing law, unchanged by the act, students must also have health assessments in either grade six or seven.

The law requires such assessments to include (1) a physical examination and a chronic disease assessment, including asthma; (2) an updating of required

immunizations; (3) vision, hearing, postural, and dental screenings; and (4) other information, including a health history, that the physician feels is necessary and appropriate. In certain situations, the assessment must also include other tests such as for tuberculosis and sickle cell anemia or Cooley's anemia.
EFFECTIVE DATE: July 1, 2008

PA 07-73—HB 7007
Public Health Committee
Government Administration and Elections Committee
Appropriations Committee

AN ACT RENAMING THE DEPARTMENT OF MENTAL RETARDATION

SUMMARY: This act renames the Department of Mental Retardation as the Department of Developmental Services (DDS). It specifies that the name change does not change the criteria for determining eligibility for the department's services. To be eligible for services, a person must (1) function at a significantly subaverage general intellectual level (usually this means an IQ score of 69 or lower) and (2) at the same time, exhibit deficits in adaptive behavior. These characteristics must manifest themselves before the person's 18th birthday.

The act authorizes the DDS commissioner to determine how and when related administrative changes, such as revisions to business cards, stationery, and signage, occur. It also makes a number of technical, conforming changes.
EFFECTIVE DATE: October 1, 2007

PA 07-76—sHB 7222
Public Health Committee

AN ACT CONCERNING USE OF UNLICENSED ASSISTIVE PERSONNEL IN RESIDENTIAL CARE HOMES

SUMMARY: This act allows unlicensed "assistive personnel" employed in residential care homes to perform limited health-related activities for residents. Under the act, they can obtain and record a resident's blood pressure and temperature with digital medical instruments if such instruments (1) have internal decision-making electronics, microcomputers, or software that interpret physiologic signals and (2) do not require the user's discretion or judgment.

The act also allows unlicensed assistive personnel to obtain and document a resident's weight and to assist residents in using glucose monitors for obtaining and documenting blood glucose levels.

A "residential care home" is an establishment furnishing, in single or multiple facilities, food and shelter to two or more persons unrelated to the proprietor. Also, it provides services that meet a need beyond the basic provisions of food, shelter, and laundry.
EFFECTIVE DATE: October 1, 2007

PA 07-79—sSB 1190
Public Health Committee
Public Safety and Security Committee
Judiciary Committee

AN ACT CONCERNING VITAL RECORDS

SUMMARY: This act makes a number of substantive and technical changes to statutes addressing vital records and related topics.

Under the act, the Department of Public Health (DPH) commissioner must require applicants seeking employment in, or transfer to, DPH's vital records unit to submit to state and national criminal history record checks. The checks must be done according to existing law (see BACKGROUND). The act also requires applicants to state whether they have ever been convicted of a crime or are facing pending criminal charges when they apply.

The act allows a nurse midwife who delivers a fetus born dead to sign the fetal death certificate. It also allows a nurse midwife to certify to the date of delivery and sign the fetal death certificate, provided the fetal death was anticipated, in cases in which the nurse midwife delivers a dead fetus and there is no physician present at the time of delivery. Prior law gave the nurse midwife the authority to certify to an infant death (a child born alive that dies shortly after birth), but not a fetal death (a fetus over 20 weeks gestation that is born dead).

The act specifies that a marriage or civil union ceremony is valid in Connecticut only if conducted by and in the physical presence of someone authorized to perform such a ceremony.

Finally, the act allows a town recording a vital record event relating to a nonresident to collect up to a $2 fee from that person's town of residence. A vital record is a birth, death, marriage, or fetal death.
EFFECTIVE DATE: October 1, 2007

BACKGROUND

Criminal History Record Checks

By law, a criminal history record check must be requested from the Department of Public Safety's (DPS) State Police Bureau of Identification and applies only to

the individual identified in the request. It (1) specifies that the "requesting party" must arrange for fingerprinting or conducting other methods of positive identification that the bureau or FBI may require; (2) directs the state bureau to conduct the state criminal history record check; and (3) if a national criminal history record check is requested, directs the bureau to submit the fingerprints or other positive identifying information to the FBI, unless the FBI permits the requesting party to submit them directly.

The law also authorizes the DPS commissioner to provide expedited service for people requesting criminal history record checks. It authorizes the commissioner to contract with any person or entity to establish and administer this service, which must include making the results of the check available to the requesting party through the Internet. It requires the commissioner to charge an additional $25 fee for each expedited check provided. It specifies that the requesting party must pay the fees for the checks in whatever manner the commissioner requires (CGS § 29-17a).

PA 07-82—sHB 6109
Public Health Committee
Finance, Revenue and Bonding Committee

AN ACT REDUCING LICENSE RENEWAL FEES FOR RETIRED DENTISTS AND PHYSICIANS

SUMMARY: This act allows (1) retired dentists to renew their licenses at a reduced fee and (2) certain physicians volunteering their services to renew their licenses at no charge.

Under the act, a dentist who has retired may renew a license for $45. The license issued by the Department of Public Health (DPH) must indicate that the dentist is retired. DPH must adopt regulations by January 1, 2008 that include (1) a definition of "retired from the profession" as it applies to dentists; (2) procedures for a retired dentist to return to active employment; and (3) appropriate restrictions on retired dentists' scope of practice, including restricting the license to providing volunteer services without monetary compensation.

The act allows a physician who (1) practices for no fee for at least 100 hours a year at a public health facility and (2) does not otherwise practice medicine, to renew a license without charge. Existing law defines a "public health facility" as a hospital, community health center, group home, school, preschool operated by a local board of education, Head Start program, rest home, health care facility for the handicapped, nursing home, residential care home, mental health facility, home health care agency, homemaker-home health aide agency, substance-abuse treatment facility, infirmary operated by an educational institution, and an intermediate-care facility for the mentally retarded.
EFFECTIVE DATE: October 1, 2007

PA 07-92—sHB 7159
Public Health Committee

AN ACT UPDATING THE SCOPE OF PRACTICE OF OPTOMETRY

SUMMARY: This act broadens the scope of practice of optometrists engaged in advanced optometric care by allowing them to remove superficial foreign bodies of the cornea. Prior law allowed them to only remove those bodies from the eye's outer layer (corneal epithelium) that had not perforated its second layer.

The act changes the conditions under which an optometrist must refer certain patients to an ophthalmologist. Finally, the act requires the Department of Public Health (DPH) to adopt regulations on continuing education for optometrists.
EFFECTIVE DATE: October 1, 2007, except for the continuing education provision, which takes effect upon passage.

REFERRAL TO AN OPTOMETRIST

The act changes the conditions under which an optometrist or an optometrist engaged in advanced optometric care must refer certain patients to an ophthalmologist.

Prior law required an optometrist to refer a patient with iritis (inflammation of the iris) or a corneal ulcer to an ophthalmologist within 72 hours after beginning initial treatment unless there was documented substantial improvement in the patient's condition within that time. Under the act, a patient showing "improvement" within that period does not have to be referred.

Prior law required an optometrist practicing advanced optometric care and involved in nonsurgical treatment of glaucoma to refer to an ophthalmologist or other physician a glaucoma patient who (1) had intraocular pressure over 35; (2) had pediatric glaucoma, closed angle glaucoma, or secondary glaucoma; or (3) did not have documented substantial improvement in response to treatment.

The act instead requires referral only when the patient (1) has pediatric glaucoma or closed angle glaucoma or (2) does not "improve" in response to treatment.

CONTINUING EDUCATION

The act requires DPH to adopt regulations requiring optometrists to complete a minimum of 20 hours of

continuing education during each registration period (12 months) for which a license is renewed.

Existing DPH regulations require optometrists to complete at least eight hours of post graduate study each year as a prerequisite for license renewal (Conn. Agencies Reg., § 20-128-8).

BACKGROUND

Advanced Optometric Care

The law recognizes a category of optometric practice known as "advanced optometric care." It allows optometrists a broader range of activities, including nonsurgical treatment of glaucoma patients. They must meet additional educational and testing requirements and be able to use certain drugs for diagnostic and therapeutic purposes in order to practice advanced optometric care. There is no separate DPH license for advanced optometric care.

As of January 1, 2005, the law requires an individual applying for initial licensure as an optometrist to meet the requirements to practice advanced optometric care. It does not apply to optometrists licensed in the state before January 1, 2005.

Related Acts

PA 07-252, § 79 makes a technical correction to the definition of "noninvasive procedure" by restoring 'treatment of iritis" to the definition which was inadvertently omitted in PA 07-92.

PA 07-252, § 30 makes both substantive and technical changes to the requirements for optometrist licensure.

PA 07-103—sHB 7155
Public Health Committee
Judiciary Committee
Government Administration and Elections Committee
Legislative Management Committee

AN ACT CONCERNING A PROFESSIONAL ASSISTANCE PROGRAM FOR HEALTH CARE PROFESSIONALS

SUMMARY: This act allows state or local health care professional societies and organizations to establish a single assistance program to serve all health care professionals. The assistance program must have one or more medical review committees. A "medical review committee" is a committee that reviews and monitors participation by health care professionals in the assistance program.

The assistance program is an alternative, voluntary, and confidential program to rehabilitate health care professionals. It must provide a variety of educational, rehabilitative, and supportive services to health care professionals with a chemical dependency, emotional or behavioral disorder, or physical or mental illness. It must include mandatory, periodic evaluations of each participant's ability to practice with skill and safety and without posing a threat to the health and safety of any person or patient in the health care setting.

The program must annually report certain information to the Department of Public Health (DPH), licensing boards, and the Public Health Committee.

The program is available to: physicians and surgeons, physician assistants, chiropractors, naturopaths, homeopathic physicians, podiatrists, athletic trainers, physical therapists, occupational therapists, alcohol and drug counselors, radiographers and radiologic technologists, nurse-midwives, nurses, dentists, dental hygienists, optometrists, opticians, respiratory care practitioners, psychologists, marital and family therapists, clinical social workers, professional counselors, veterinarians, massage therapists, dietitian-nutritionists, acupuncturists, paramedics, hearing instrument specialists, speech pathologists and audiologists, and embalmers and funeral directors.

A medical review committee must determine a person's appropriateness for the program before admittance. The act specifies various confidentiality provisions concerning the program and participation by health care professionals.

DPH must establish an oversight committee to monitor program quality. The oversight committee must meet with the assistance program on a regular basis; the program must also undergo an annual audit.

EFFECTIVE DATE: Upon passage

ESTABLISHING THE PROFESSIONAL ASSISTANCE PROGRAM

The act authorizes state or local professional societies or membership organizations of health care professionals to establish a single health care professional assistance program to provide education, prevention, intervention, referral assistance, and support services to any health care professional (and anyone who has applied to be one) with a chemical dependency, emotional or behavioral disorder, or physical or mental illness. "Chemical dependency" means abusive or excessive use of drugs, including alcohol, narcotics, or chemicals, that results in physical or psychological dependence.

The program must establish at least one medical review committee. The program and medical review committee must comply with the act.

The program must (1) be an alternative, voluntary, and confidential opportunity for rehabilitating health care professionals and licensure applicants and (2) include mandatory, periodic evaluations of each participant's ability to practice with skill and safety, and without threat to the health and safety of any person or patient in the health care setting.

Before admitting any health care professional into the program, a medical review committee must (1) determine if the professional is an appropriate candidate for rehabilitation and participation and (2) establish terms and conditions of participation. The act specifies that a committee's actions must not be construed as practicing medicine or mental health care.

HEALTH CARE PROFESSIONAL'S DISCIPLINARY AND CRIMINAL HISTORY AND PROGRAM PARTICIPATION

The act prohibits a medical review committee from referring to the assistance program any health care professional who has (1) pending disciplinary charges against him or her, a prior history of disciplinary action, or a consent order by a professional licensing body or (2) been charged with, or convicted of, a felony under Connecticut law or an offense that, if committed in Connecticut, would be a felony.

In such cases, the committee must refer the person to the Department of Public Health and provide the department with all records and files maintained by the assistance program on the individual. Upon the referral, DPH must determine if the person is eligible for the assistance program and whether participation should be confidential (see below). DPH can seek advice from professional health care societies and organizations and the assistance program to determine what intervention, referral assistance, rehabilitation program, or support services are appropriate.

The act requires a health care professional participating in the assistance program to immediately notify the program when he or she is (1) made aware of the filing of any disciplinary charges or any disciplinary action against him or her by a professional licensing or disciplinary body or (2) charged with, or convicted of, a felony under Connecticut law or an offense that would be a felony if committed in Connecticut. The assistance program must regularly review available sources to determine if disciplinary charges have been filed or taken against the individual, or felony charges have been filed or substantiated against a professional admitted into the program.

After notification, the program must refer the professional to DPH and provide the department with all records and files the program maintains on the person. DPH must then determine if the individual is eligible to continue participating in the program and whether participation should be treated as confidential. DPH can seek advice from professional societies and organizations on appropriate services and interventions.

If DPH determines that the health professional is an appropriate candidate for confidential participation in the assistance program, the entire record of the person's referral and investigation is confidential and cannot be disclosed, except if requested by the health care professional, for the duration of the professional's participation in, and after successful completion of, the program. Participation must be according to the terms agreed to by DPH, the program, and the individual.

FAILURE TO PARTICIPATE IN A PROGRAM

Under the act, if (1) the assistance program determines that a professional cannot practice with skill and safety or poses a threat to the health and safety of any person or patient and the professional does not stop practicing or fails to participate in a recommended program or (2) a health care professional referred to the program fails or refuses to participate, the assistance program must refer that professional to DPH and submit to the department all related program records and files.

DPH must then determine if the person is eligible to participate in the program and whether participation should be confidential. As discussed above, DPH can seek the advice of professional societies or organizations and the assistance program to determine the services appropriate for the individual. The same confidentiality provisions apply.

HARMING A PATIENT

The act prohibits a medical review committee from referring to the assistance program a health care professional who is alleged to have harmed a patient. After being made aware of such an allegation, the committee and the assistance program must refer the professional to DPH along with all maintained records and files. The referral may include recommendations for appropriate services, referrals, and interventions. DPH must then determine if the person is eligible for such assistance and if so, whether they should be provided confidentially. Again, DPH can seek outside advice. If DPH determines that the person is an appropriate candidate for confidential participation in the program, the confidentiality provisions discussed above apply.

REPORTS TO DPH AND LICENSING BOARDS

The act requires the assistance program to report on the program annually to the appropriate professional licensing board or commission, or to DPH. (Not every health care profession has a separate licensing board or commission; in some cases DPH is the licensing

authority.) The report must include the number of health care professionals participating in the program, the purpose for participating, and whether participants are practicing health care with skill and safety and without posing a threat to the health and safety of any person or patient. By December 31 annually, the program must also report this information to the Public Health Committee.

CONFIDENTIALITY PROVISIONS

Under the act, all information given or received about an intervention, rehabilitation, referral assistance, or support services provided, including a health care professional's identity, is confidential. The information cannot be disclosed to a third party or entity unless disclosure is reasonably necessary to (1) accomplish the purposes of the intervention, rehabilitation, referral assistance, or support services or (2) to complete an audit (see below). It cannot be requested or disclosed in any civil, criminal, legal, or administrative proceeding, unless the health care professional waives the privilege or disclosure is otherwise required by law.

Under the act, medical review committee proceedings are not subject to discovery and cannot be introduced as evidence in any civil action for or against a health care professional arising out of matters subject to evaluation and review by the committee. A person who attends such proceedings cannot be allowed or required to testify in any civil action about the content of the proceedings.

On the other hand, the act specifies that it should not be construed as precluding in any civil action:

1. use of any writing recorded independently of such proceedings;
2. anyone's testimony about his or her knowledge, acquired independently of the proceedings, of the facts that are the basis of the civil action;
3. arising out of allegations of patient harm caused by the professional who, at the time of providing services, had been requested to refrain from practicing or whose practice was restricted, disclosure of such request or restriction; or
4. against a professional, disclosure of the fact that the individual participated in the assistance program, dates of participation, reason for participation, and confirmation of successful completion.

The court must determine that good cause exists for the disclosure after (1) notifying the professional of the disclosure request; (2) holding a hearing concerning the disclosure, at the request of any party; and (3) imposing appropriate safeguards against unauthorized disclosure or publication of the information.

The act specifies that it should not be construed to prevent the assistance program from disclosing information about administrative proceedings related to disciplinary action taken against a professional whom the assistance program or oversight committee referred to DPH.

REQUIRED REPORTING

Existing law requires physicians, hospitals, and medical societies to report an impaired physician or physician assistant to DPH within 30 days of knowing of the impairment (CGS §§ 20-12e & 20-13d). Impairment means that the physician is or may be unable to practice medicine with reasonable skill or safety because of:

1. physical illness or loss of motor skill;
2. emotional disorder or mental illness;
3. drug abuse;
4. illegal, incompetent, or negligent conduct in the practice of medicine;
5. possession, use, or distribution of controlled substances or legend drugs (except for therapeutic purposes); or
6. misrepresentation or concealment of a material fact in obtaining or reinstating a medical license.

Under the act, any physician, physician assistant, hospital, or state or local professional society of health care professionals that refers a physician or physician assistant for intervention to the assistance program is deemed to have satisfied the obligations of the existing law described above.

AUDITS

By November 1, 2007 and annually thereafter, the assistance program must select an individual the program and DPH determine qualified to audit the assistance program. The audit's purpose is to examine the program's quality control and compliance with the act. By November 1, 2011, DPH, with the agreement of the professional assistance oversight committee (see below), may waive the audit requirement in writing.

An audit must be a random sampling of the greater of at least 20% of the assistance program's files or 10 files. Before auditing, the auditor must agree in writing not to:

1. copy any program files or records;
2. remove any program files or records from the premises;
3. disclose personally identifying information about professionals in the program to anyone other than a person or entity employed by the program and authorized to receive disclosure; or

4. disclose in any audit report any personally identifying information about professionals participating.

The auditor must also agree to destroy all personally identifying information about health care professionals participating in assistance programs after the audit is complete.

After completing the audit, the auditor must submit a written audit report to the assistance program, the oversight committee, and the Public Health Committee.

PROFESSIONAL ASSISTANCE OVERSIGHT COMMITTEE

Members and Responsibilities

The act requires DPH to establish a seven-member professional assistance oversight committee to oversee the program's quality assurance. The committee must include:

1. three members selected by DPH, who are health care professionals with training and experience in mental health or addiction services;
2. three members selected by the assistance program, who are not employees, board, or committee members of the assistance program and who are health care professionals with training and experience in mental health or addiction services; and
3. one member selected by the Department of Mental Health and Addiction Services, who is a health care professional.

The act requires the assistance program to provide administrative support to the committee.

Beginning January 1, 2008, the oversight committee must meet with the assistance program at least four times a year.

Under the act, the committee may request and is entitled to receive copies of files or other assistance program records it deems necessary, provided the program redacts all information about the identity of any professional. Oversight committee members cannot copy, retain, or maintain any redacted records. If the committee determines that a professional is unable to practice with skill and safety or poses a threat to the health and safety of any person or patient, and the professional has not stopped practicing or has failed to comply with the terms and conditions of participation in the assistance program, the oversight committee must notify the assistance program to refer the person to DPH. Upon notification, the assistance program must refer the professional to DPH, according to the procedures specified above.

Failure of the Assistance Program to Act According to Law; Corrective Action Plan

The act requires the oversight committee to notify the assistance program within 30 days of a determination that the assistance program (1) has not acted according to law or (2) requires remedial action based on an audit. The assistance program must develop a corrective action plan within 30 days of the notification. If the assistance program fails to comply with the corrective action plan, the oversight committee can amend it or direct the program to refer some or all of the records of persons in the program to DPH. DPH must then determine if each referred person is eligible for continued services and whether such participation should be treated as confidential.

DPH can refer health care professionals back to the program for continued intervention, rehabilitation, referral assistance, or support services after the oversight committee gives DPH written notice that the assistance program is in compliance with the corrective action plan. DPH must provide the assistance program with all records and files about the health care professionals.

Confidentiality of Committee Records

Under the act, oversight committee records are not public records and not subject to the Freedom of Information Act. They must be treated as confidential. Oversight committee proceedings are not subject to discovery or introduction into evidence in any civil action for or against a health care professional arising out of matters subject to evaluation and review by the committee. No person in attendance at committee proceedings is allowed or required to testify in any civil action about the proceedings. The act allows the same disclosures and uses of information in civil actions as described above in the "Confidentiality" section.

EXISTING PROGRAM FOR IMPAIRED PHYSICIANS

Under existing law, physicians, hospitals, and medical societies that know a physician is unable to practice skillfully or safely due to a variety of specified reasons must report the physician to DPH, by filing a petition. The Medical Examining Board and individuals may also make such reports. The mandatory reports must be made within 30 days of knowing of the impairment. Impairment basically means that the physician is or may be unable to practice with reasonable skill or safety because of:

1. physical illness or loss of motor skill;
2. emotional disorder or mental illness;
3. drug abuse;
4. illegal, incompetent, or negligent conduct in the practice of medicine;
5. possession, use, or distribution of controlled substances or legend drugs; or
6. misrepresentation or concealment of a material fact in obtaining or reinstating a license.

DPH must investigate each report to determine if probable cause exists to issue a statement of charges and institute proceedings against the physician. The investigation is confidential and must be concluded within 18 months. After that time, the record becomes public information.

Prior law allowed DPH to recommend that the physician participate in an appropriate rehabilitation program. DPH had to determine that the physician would pose no threat to the health and safety of any person in his practice during his participation in the program. Such a determination became part of the record of the investigation of the physician. Following completion of the rehabilitation program and during his continued participation in it according to the terms agreed upon by the physician and DPH, all records remained confidential.

Under the act, if DPH determines the physician is an appropriate candidate for rehabilitation, it can instead refer him or her to the assistance program established under the act. The act specifies that the petition and all records of a physician determined eligible for participation in the existing physician rehabilitation program before the act was enacted, must remain confidential during the physician's participation in, and upon successful completion of, the program, according to the terms and conditions agreed to by the physician and DPH.

PA 07-104—sHB 7160
Public Health Committee
General Law Committee

AN ACT CONCERNING FUNERALS

SUMMARY: This act:

1. establishes certain requirements for transporting, handling, and cleansing dead human bodies;
2. requires that two hours of the required continuing education for licensed funeral directors and embalmers address laws on funeral services;
3. amends the procedures for bodies brought into Connecticut for cremation;
4. changes the current "burial transit removal permit" to a "removal, transit and burial permit" and makes corresponding changes to applicable statutes; and
5. amends the duties of sextons.

EFFECTIVE DATE: Upon passage for the provisions on transporting and preparing a dead body; July 1, 2007 for the other provisions.

PREPARING AND TRANSPORTING DEAD BODIES

The act sets out a number of specific requirements addressing how a dead body must be transported, washed, embalmed, wrapped, and disinfected and defines these and related terms. It prohibits a licensed embalmer or funeral director from removing a dead body from the place of death to another location for preparation until the body has been temporarily wrapped. "Wrap," under the act, means placing a dead body in a burial or cremation pouch that consists of at least four millimeters of plastic.

Preparation of a Dead Body to be Transported

If the body will be transported by common carrier, the act requires the embalmer or funeral director in charge of the body to have it washed or embalmed and then enclosed in a casket or outside box. Alternatively, the body can be wrapped instead of being placed in the two containers. "Washing" means bathing or treating the entire surface of the dead body with a disinfecting and deodorizing solution or treating the entire surface with embalming powder. "Disinfecting solution" refers to an aqueous solution or spray containing at least five percent phenol by weight. (PA 07-252, § 85 amends this definition to include "or an equivalent in germicidal action.") "Embalming" means injecting the (1) circulatory system of a dead body with embalming fluid (fluid with at least four percent formaldehyde gas by weight) in an amount of at least five percent of the body weight or (2) body cavity with enough embalming fluid to properly preserve the body and make it sanitary.

Death from a Reportable Disease

If the death resulted from a reportable disease, the embalmer or funeral director in charge of the body must meet all the requirements above and must also prepare the body for burial or cremation by having it washed, embalmed, or wrapped as soon as practicable after it arrives at the embalmer's or funeral director's place of business. If the death is not due to a reportable disease, the embalmer or funeral director must still take appropriate measures to ensure that the body is not a public health threat.

Disposal and Cleansing of Materials

The act requires an embalmer or funeral director to dispose of any burial or cremation pouch used to wrap a dead body after each use or clean and wash it with a disinfecting solution. They are prohibited from using a disinfecting solution that does not meet the standard specified above unless it is approved in writing by the Department of Public Health (DPH).

CONTINUING EDUCATION

The act requires that two hours of the already required six hours of continuing education for funeral directors and embalmers be dedicated to state and federal law on funeral services, including applicable Federal Trade Commission regulations. Licensees must complete their initial continuing education on these laws and regulations within 12 months after they first apply for license renewal after July 1, 2007.

Currently, each licensee must obtain a certificate of completion from the continuing education provider for all continuing education hours successfully completed and keep a copy of the certificate for a minimum of three years after license renewal. The act requires each funeral home and licensee to keep a copy of the certificate for each licensee the funeral home employs. (Presumably, the licensee only has to keep a copy for himself, not for each employee of the funeral home.)

CREMATION

The act makes cremation procedures consistent with those for burial by specifying that a cremation certificate is not needed if the death occurred in another state and the permit for final disposition of the body is issued by the legally authorized entity from the state where the body came from. (PA 07-252, § 80 specifies that in such a case, the permit from the other state is sufficient authority to cremate the body and no additional certificate or permit is required; it also makes technical changes to this act.) When the death occurred in another state and cremation is desired, the out-of-state permit must be submitted to the registrar of vital statistics of the Connecticut town where the funeral director has charge of the body.

Removal, Transit and Burial Permit

The act changes the current "burial transit removal permit" to a "removal, transit and burial permit" and makes applicable changes to the relevant statutes. Under existing law, an embalmer or funeral director, or one licensed in a state with a reciprocal agreement with this state, who takes custody of a dead body, must obtain a burial transit removal permit from the registrar of the town in which the death occurred. This must be done within five calendar days after death and before final disposition or removal of the body from the state.

The act makes the embalmer or funeral director assuming custody and control of the body and obtaining a removal, transit and burial permit from the town registrar where he has his business, responsible for filing the death certificate in person, electronically, or by mail.

Duties of Sextons

The act amends the duties of a sexton (a person responsible for the operation and maintenance of a cemetery) by requiring him or her to send a copy of the endorsed removal, transit and burial permit, or permit for final disposition if the death occurred in another state, to the registrar of vital statistics who filed the death certificate for the body.

BACKGROUND

Reportable Diseases

The statutes (CGS § 19a-2a) and the Public Health Code (Conn. Agencies Reg., § 19a-36-A2) require the DPH commissioner to annually issue a list of reportable diseases and amend it as necessary. An advisory committee of public health officials, clinicians, and laboratory personnel contributes to this process.

PA 07-119—sHB 7089
Public Health Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING SUPERVISING PHYSICIANS FOR PHYSICIAN ASSISTANTS

SUMMARY: This act eliminates the requirement that licensed physicians who supervise physician assistants (PAs) register with the Department of Public Health (DPH) and pay a $37.50 registration fee. Each PA practicing in the state or participating in a resident PA program must continue to have a clearly identified supervising physician who has the final responsibility for patient care and the PA's performance. The act eliminates a requirement that a supervising physician notify DPH in writing within 30 days of terminating a physician-PA relationship.

The act also specifies that licensed PAs who are part of the Connecticut Disaster Medical Assistance Team, the Medical Reserve Corps, or the Connecticut Urban Search and Rescue Team may provide patient services under the supervision, control, responsibility, and direction of a licensed physician.
EFFECTIVE DATE: July 1, 2007

PA 07-129—sSB 1192
Public Health Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING CHILD DAY CARE SERVICES, YOUTH CAMPS AND THE EMERGENCY DISTRIBUTION OF POTASSIUM IODIDE TABLETS IN CERTAIN FACILITIES

SUMMARY: This act makes changes to day care and youth camp licensing laws and the law governing provision of potassium iodide at various facilities during a public health emergency. It revises (1) the types of recreational programs that are exempt from day care licensure and (2) licensure for day care operations serving six or fewer children outside of a private home. It doubles to four years the duration of a day care license and doubles the license fee, and makes anyone whose license is revoked ineligible for a new license for one year.

The act limits the programs that must be licensed as youth camps to those that (1) operate only during school vacations or on weekends and (2) serve children ages three through 15. And it excludes certain Boys and Girls Clubs' programs from licensure.

The act (1) requires nursing homes, day care providers, and youth camps to provide potassium iodide during a public health emergency to their residents, enrollees, staff, and others present, at the Department of Public Health (DPH) commissioner's direction, and (2) makes changes to related notice requirements.

EFFECTIVE DATE: October 1, 2007, except for the changes in youth camp licensing, which are effective September 1, 2007.

CHILD DAY CARE LICENSING

Licensing Exemption for Recreational Programs

The act changes the types of recreational programs that are exempt from day care license requirements. It adds exemptions for:

1. sports-only programs,
2. rehearsals,
3. academic tutoring programs,
4. 4-H programs (PA 07-252 repeals this exemption), and
5. programs exclusively for children age 13 and above.

It ends the exemptions for (1) creative art studios for children that offer parent-child recreational programs, (2) camping, (3) community-youth programs, and (4) church-related activities (a religious institution's educational activities for members' children continue to be exempt). It modifies the exemption for library programs by requiring them to be less than two hours long; prior law contained no time limit.

Small, Facility-Based Operations

The act requires day care operations that serve between six and nine children, depending on the time of year, and regularly provide between three and 12 hours of care a day in a facility other than a private home to be licensed as group, rather than family, day care homes. The act applies to operations that serve six or fewer children, including the provider's own children who are not in school full-time or, during the school year, serve up to nine children, three of whom, including the provider's children, attend school full-time. Group day care homes must meet essentially the same licensing requirements as day care centers, which are more stringent than family day care home licensing requirements.

License Duration and Fees

Beginning October 1, 2008, the act doubles, from two to four years, the duration of center, group, and family day care home licenses. It correspondingly doubles the licensing fees, from $200 to $400 for centers, from $100 to $200 for group day care homes, and from $20 to $40 for family day care homes.

The act specifies that family day care licenses are not transferable. It also eliminates the ability of centers and group day care homes to obtain a six-month, renewable temporary license.

Revoked Licenses

The act makes any day care provider whose license is revoked for failure to comply with DPH regulations ineligible to apply for a new license for one year from the revocation date.

YOUTH CAMPS

The act limits the programs that must be licensed as youth camps (which include resident and day camps) to those that (1) operate only during school vacations or on weekends and (2) serve children ages three through 15. Prior law covered children up to age 18. The act specifically exempts from licensing requirements (1) programs or parts of programs that serve children under age three or that operate on weekdays and outside of school vacations and (2) drop-in programs for children who are at least six years old that are administered by a nationally chartered boys' and girls' club. Boys' and Girls' Clubs' drop-in programs for three-to-five year olds that operate during school vacations or on weekends apparently must obtain a youth camp license. (PA 07-252 removes the exemption for programs operating on weekdays during the school year and

makes technical changes to other provisions.)

POTASSIUM IODIDE

Potassium iodide prevents or decreases the likelihood of developing thyroid cancer following exposure to radiation. The act requires nursing homes, day care providers (centers and group and family day care homes), and youth camps to provide potassium iodide to their residents, enrollees, staff, and others present at the DPH commissioner's direction during a public health emergency. Prior law allowed the commissioner to authorize these entities to provide potassium iodide during such an emergency.

By law, these covered entities must (1) advise people about potassium iodide's contraindications and potential side effects and that taking it is voluntary and (2) obtain prior written permission from the individual or his or her representative or a minor's parent or guardian. The act specifies that each entity must (1) provide the required notice about the medication before obtaining permission and (2) notify people of the permission requirement and obtain the permission when someone is admitted to a nursing home, enrolled in a day care program or youth camp, or hired as a new staff member. It also requires people who do not wish to receive the medication to object in writing.

PA 07-148—sSB 1066
Public Health Committee
Judiciary Committee

AN ACT CONCERNING THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

SUMMARY: This act requires the Department of Mental Health and Addiction Services (DMHAS) to develop a single affirmative action plan that covers its central office and each of its divisions and facilities regardless of Commission on Human Rights and Opportunities regulations that require separate plans for DMHAS' central office; Connecticut Valley and Cedarcrest hospitals; Connecticut, Capital Region, Southeastern, and Southwest Connecticut Mental Health centers; and Western Connecticut Mental Health Network.

The act requires that a copy of notices and other documents concerning any court action or proceeding that would otherwise be served personally on or mailed to the home of someone committed to a psychiatric facility be mailed directly to the person at the institution. It applies to anyone committed by court order, emergency certificate, or voluntarily. By law, the notice is also sent to (1) and served on the institution's superintendent or representative, who must deliver it to the individual, and (2) the Department of Administrative Services commissioner. Failure to send or serve documents does not abate the action or proceeding, although the court can order compliance. The notice must be sent by certified or registered mail.

The act also (1) changes the term "substance abuse disability" to "substance use disorder" and (2) repeals several obsolete statutes.
EFFECTIVE DATE: October 1, 2007

REPEALED LAWS

The act eliminates the task force on substance abusing women and their children (CGS § 17a-711) and a pilot research drug education program for parents or guardians of children in neglect cases (CGS § 17a-715). It also repeals obsolete laws related to closing Fairfield Hills and Norwich hospitals and consolidating Connecticut Valley Hospital (CGS §§ 17a-451a, 463, 471b, and 471c).

PA 07-149—SB 1145
Public Health Committee
Human Services Committee

AN ACT CONCERNING REVISIONS TO OFFICE OF HEALTH CARE ACCESS STATUTES

SUMMARY: This act redefines several terms the Office of Health Care Access (OHCA) uses in calculating uncompensated care for the disproportionate share hospital (UCC/DSH) payment system. It applies the law governing hospitals' negotiated rate discounts to John Dempsey Hospital. It substitutes the term "charity care" for "free care" in laws governing DSH calculations and hospital reporting requirements. And it redefines "primary payer" for purposes of annual hospital audits.

The act also deletes obsolete references and makes minor and technical changes.
EFFECTIVE DATE: October 1, 2007, except provisions (1) concerning charity care policy reporting, (2) making technical changes to the nursing home transfer law, (3) concerning negotiated agreements, and (4) redefining UCC/DSH terms, are effective July 1, 2007.

UNCOMPENSATED CARE

The Department of Social Services (DSS) determines the amount of UCC/DSH payments to short-term general hospitals based on information OHCA provides. OHCA's calculation is based on each hospital's ratio of its net and gross revenues and the amount of uncompensated care it provides. The act

changes the definitions of several of the terms used in OHCA's UCC/DSH calculations. It redefines:

1. "medical assistance" specifically to include HUSKY B;
2. "medical assistance underpayment" to reflect the way the OHCA currently calculates this figure;
3. "contractual allowances" (i.e., discounts) to make clear how the figure is calculated (the difference between a hospital's published charges and the amount it receives from payers with which it negotiates discounts), not just how it is reported (the discounts it provided);
4. "uncompensated care" to (a) exclude emergency assistance to families authorized by DSS that is not otherwise funded and (b) specify that it is based on the difference between hospitals' published and filed charges and the charity care they provide and bad debt they write off, not the actual costs of their free care and bad debt;
5. "hospital" to include the Connecticut Children's Medical Center (CCMC) and specify that the term refers only to acute care hospitals (the effect of adding CCMC is unclear since UCC/DSH payments go only to short-term general hospitals (CGS §19a-670), but it might require CCMC to submit its admission, billing, and collection protocols and procedures to OHCA for approval (CGS §19a-662));
6. "case mix index" as the average of Medicare diagnosis-related groups case weights for each inpatient discharge for a specific hospital for a given fiscal year, but it does not change the way the index is calculated; and
7. several other terms to add clarity and eliminate obsolete language.

NEGOTIATED DISCOUNTS

The law permits hospitals to negotiate agreements for rate discounts and reimbursement methods with insurers, HMOs, and other payers. These agreements are not effective until they are filed at the hospital. They must also be available for OHCA inspection. The hospital must total each payer's charges and payments and report it as OHCA requires. OHCA can also require the hospital's independent auditor to review these figures. The act applies these requirements to UConn's John Dempsey Hospital.

FREE CARE AND CHARITY CARE

The law requires each hospital that maintains or administers bed funds (donations dedicated to helping patients pay for hospital services) to make available to patients a one-page summary in English and Spanish that tells them how they can access these funds and about the hospital's policy concerning any other free or reduced cost care it provides. It also requires hospitals annually to file their free care policies with OHCA and makes free care one of the factors OHCA uses in calculating hospitals' uncompensated care for DSH purposes.

The act substitutes the term "charity care" for free care, but does not define the term. OHCA regulations define "free care" as the difference between the hospital's published charges and the amount of expected reimbursement for charity patients, as defined in the hospital's approved free care policy, for the services rendered.

PRIMARY PAYER

The act redefines the term "primary payer" as it relates to the independent audits hospitals must conduct and annually file with OHCA. Under prior law, this term meant the payer (e.g., HMO or insurer) responsible for 50% or more of the charges, or if no payer is responsible for this amount, then the payer responsible for the highest percentage of charges. The act drops the 50% component. This conforms the definition to the one used in UCC/DSH calculations. It also specifies that the term includes payers of both inpatient and outpatient services

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PA 07-185—SB 1484
Emergency Certification

AN ACT CONCERNING THE HEALTHFIRST CONNECTICUT AND HEALTHY KIDS INITIATIVES

SUMMARY: This act expands access to public health insurance by making a number of changes in the HUSKY program. Among other things it:

1. raises the income limits for HUSKY A (Medicaid) coverage for caretaker relatives and pregnant women;
2. expands HUSKY B coverage for children in higher income families, with premium assistance for families with access to employer-sponsored coverage (PA 07-2, June Special Session (JSS) repeals these changes);
3. requires automatic enrollment of uninsured newborns in HUSKY;
4. requires the Department of Social Services (DSS) and other entities to expand HUSKY outreach;

5. requires DSS to seek a federal waiver to convert the State-Administered General Assistance (SAGA) program from a fully state-funded program to a Medicaid-funded one and potentially raises the income limit for this coverage; and
6. requires DSS, within available appropriations, annually to increase the rates it pays Medicaid providers, including hospitals, beginning in FY 08 (PA 07-2, JSS repeals this increase).

The act creates two new health-related planning entities, (1) a HealthFirst Connecticut Authority to recommend alternatives for affordable quality health care coverage for un- and underinsured people, cost containment measures, and insurance financing mechanisms and (2) a Statewide Primary Care Access Authority to develop a universal system for providing primary care services, including prescription drugs, to all Connecticut residents.

It establishes a board to govern a network that integrates state and social services data within and across various departments. It requires the Department of Public Health (DPH) to develop standards to facilitate the development of a statewide, integrated electronic health information system for use by health care providers and institutions that are funded by the state. And it designates a nonprofit entity to act as the state's lead health information exchange organization for five years. (PA 07-2, JSS repeals these provisions.)

It requires the DSS commissioner to (1) develop and implement a plan for a preventive health services system for children covered by HUSKY A and B and (2) establish a child health quality improvement program to promote the implementation of evidence-based strategies by HUSKY providers to improve the delivery of and access to children's health services.

The act extends, from age 22 to 26, the age to which group comprehensive and individual health insurance policies that cover children must do so.

The act reinstates insurers' ability to again sell special health care plans to small employers, and it potentially makes these plans available to a wider range of employers by raising the income eligibility limit for their low-income employees from 200% to 300% of the federal poverty level (FPL).

It requires (1) DSS to inventory public disease management programs, (2) DPH to develop an electronic license renewal system for certain professions, and (3) the healthcare advocate to create a consumer health information website. It appropriates funds for various school- and community-based health center operations. And it makes technical changes.

EFFECTIVE DATE: Various, see below.

§ 1 — MEDICAID COVERAGE FOR FOREIGN LANGUAGE INTERPRETERS

The act requires the DSS commissioner to amend the Medicaid state plan to include foreign language interpreters as a covered service for beneficiaries with limited English proficiency.

EFFECTIVE DATE: July 1, 2007

§ 2 — MEDICAID COVERAGE FOR SAGA MEDICAL ASSISTANCE RECIPIENTS

The act requires DSS, by January 1, 2008, to seek a federal waiver to get Medicaid coverage for people enrolled in the SAGA medical assistance program. Currently, SAGA medical assistance is funded entirely with state dollars. Prior law required DSS to do this by March 1, 2004.

But the act also specifies that this coverage is for people who qualify for SAGA medical assistance and have income up to 100% of the FPL. The law, unchanged by the act, provides that the income limit for SAGA medical assistance recipients is the same as it is for people who are eligible for Medicaid as "medically needy" (currently $476 per month for a single resident living in most parts of the state), which is about 56% of the FPL. So the act appears to establish two different income limits for SAGA medical assistance if Medicaid coverage becomes available for this population. (PA 07-2, JSS indirectly increases the SAGA medical assistance limit by increasing cash welfare (Temporary Family Assistance) benefits.)

The act removes obsolete language pertaining to town-administered General Assistance medical assistance. And it eliminates the deadline (August 20, 2003) by which federally qualified health centers participating in the SAGA medical assistance program had to enroll in the federal Office of Pharmacy Affairs Section 340B drug discount program.

EFFECTIVE DATE: July 1, 2007

§ 3 — INCOME LIMIT FOR HUSKY A COVERAGE FOR ADULT CARETAKER RELATIVES

The act increases, from 150% to 185% of the FPL (from $25,755 to $31,764 annually for a family of three in 2007) the income limit for HUSKY A adult caretaker coverage. This higher limit already applies to children applying for or enrolled in HUSKY A.

The act requires the DSS commissioner, when individuals or families apply for Medicaid coverage, to advise them in writing of the (1) effect that having income over the limit has on program eligibility and (2) availability of HUSKY B for those ineligible for HUSKY A. (HUSKY B provides virtually identical subsidized medical coverage to children in families

whose income is between 185% and 300% of the FPL.) (PA 07-2, JSS requires that DSS provide information about HUSKY B only when children are determined ineligible for HUSKY A.)
EFFECTIVE DATE: July 1, 2007

§§ 4 & 12 — COVERAGE FOR PREGNANT WOMEN

The act requires DSS to increase the income limit for HUSKY A coverage for pregnant women from 185% to 250% of the FPL ($2,852 per month for a two-person household). It also requires DSS, by January 1, 2008, to seek a federal Health Insurance Flexibility and Accountability demonstration waiver to cover pregnant women who do not "otherwise have creditable coverage," as defined by federal law, with incomes between 185% and 250% of the FPL. The waiver must specify that the expanded coverage will be provided through a re-allocation of the state's unspent State Children's Health Insurance Program (SCHIP) block grant funds. (Federal Medicaid funds match the state's payments for the coverage for pregnant women with incomes under 185% of the FPL.)

PA 07-2, JSS repeals the waiver provision. Instead, it directs DSS, by September 30, 2007, to submit either a Medicaid state plan or a waiver request to cover these women, and once the plan amendment or waiver is approved, implement the expansion.
EFFECTIVE DATE: July 1, 2007

§§ 4 & 6 — HUSKY A AND B ENROLLMENT OF UNINSURED NEWBORNS

The act requires DSS to implement Medicaid presumptive eligibility (and therefore automatic enrollment) for any uninsured newborn born in a Connecticut or border state hospital when the parent or caretaker relative with whom the child resides (1) lives in Connecticut and (2) authorizes the enrollment. Presumptive eligibility allows the child to be determined immediately eligible for assistance. DSS verifies that the child is otherwise eligible once he or she is enrolled.

Currently, children are eligible for HUSKY A presumptively. The act also requires that any uninsured child born in a Connecticut hospital or border state hospital be enrolled in HUSKY B under an expedited process, provided the two conditions above are met.

It requires the DSS commissioner to pay to the HUSKY B managed care organization (MCO) that the parent or caretaker selects (HUSKY A and B services are provided through MCOs with which DSS contracts) the first two months of premiums that the family would otherwise have to pay. Currently, families with incomes between 235% and 300% of FPL pay $30 per month ($50 family maximum) in premiums. Lower-income families do not pay premiums.

By law, a newborn child who otherwise meets the HUSKY B eligibility criteria is eligible for benefits retroactive to the child's birth date, provided someone files an application on the child's behalf within 30 days of the birth.

PA 07-2, JSS increases, from two to four, the number of months DSS must pay the HUSKY B premiums.
EFFECTIVE DATE: July 1, 2007

§§ 6, 7, & 10 — INCREASING HUSKY B ELIGIBILITY TO HIGHER INCOME FAMILIES; PREMIUM ASSISTANCE

The act increases, from 300% to 400% of FPL, the income limit for children to be eligible for subsidized HUSKY B coverage. (It is not clear whether the federal government will allow the state to use State Children's Health Insurance Program funds to pay the federal share of this coverage (65%).) By extension, it increases the starting income level at which people can purchase unsubsidized coverage from 300% to 400% of the FPL.

Under prior law, children in families with income between 185% and 300% of the FPL were eligible for subsidized HUSKY B coverage. Families with incomes above 300% of the FPL could buy into HUSKY B by paying the full monthly premium, which is about $200 per month per child.

The act requires families with incomes between 300% and 400% of FPL and who have no access to employer-sponsored health insurance to pay monthly premiums of $50 per child, with a $75 maximum (presumably for the family). Currently, families with incomes below 235% of FPL pay no premiums and families with incomes between 235% and 300% of FPL pay $30 monthly, with a $50 family cap.

Premium Assistance. The act requires DSS to offer premium assistance to families in the 300% to 400% of FPL income range who have access to employer-sponsored coverage. Individuals choosing to participate in this program must enroll themselves and their dependent children in the employer-sponsored coverage to the maximum extent of available coverage, as long as DSS determines that the coverage is more cost effective than enrolling the child in HUSKY B.

The act requires DSS to do this regardless of the state law that generally prohibits HUSKY B coverage to children whose parents drop employer-sponsored coverage less than two months before HUSKY B eligibility is determined. (In general, the federal State Children's Health Insurance Program law prohibits states from providing coverage to children who are enrolled in employer-sponsored coverage.)

The state subsidy a person will receive is the portion of the premium payment attributable to the dependent children's coverage. The employer must verify this cost in a form and manner DSS prescribes. The act prohibits the employer from deducting the cost from weekly income. Instead, the employer must let DSS know the cost, which DSS must pay. DSS must provide HUSKY B coverage for services that are not covered by the employer's plan ("wrap around").

The act permits the DSS commissioner to implement policies and procedures necessary to administer the premium assistance while in the process of adopting them as regulations. He must print notice of intent to adopt the regulations in the *Connecticut Law Journal* no later than 20 days after implementing them. The policy and procedures are valid until final regulations are adopted.

PA 07-2, JSS eliminates the HUSKY B expansion and all related provisions, thus restoring prior law.
EFFECTIVE DATE: July 1, 2007

§ 6 — CENTRAL DSS UNIT FOR PROCESSING AND MARKETING APPLICATIONS

The act requires DSS, in consultation with the servicer (enrollment broker with which DSS contacts, currently ACS, Inc.), to establish a centralized unit to be responsible for processing all HUSKY applications. DSS, through its contract, must ensure that a child determined eligible for HUSKY has uninterrupted coverage for as long as the parent or guardian elects to enroll or re-enroll the child.

The act requires DSS in consultation with the servicer, instead of the servicer alone, to jointly market HUSKY A and B as the HUSKY Plan. And it requires the servicer to electronically send HUSKY A, as well as HUSKY B, enrollment and disenrollment data to DSS.

The act specifies that the servicer must send DSS all HUSKY applications, not just those for children with family income of 185% of FPL or less.

The act requires the commissioner or servicer to redetermine the child's eligibility for HUSKY no later than 10, instead of 12, months after determining initial eligibility. It requires them to send an electronic application if the participant requests. Prior law required mailing the application form. Under the act, either form of sending the application must be done within available appropriations. (PA 07-2, JSS eliminates the 10-month HUSKY eligibility redetermination requirement.)
EFFECTIVE DATE: July 1, 2007

§§ 8 & 9 — OUTREACH

The act requires DSS, in consultation with the Children's Health Council (now defunct), the Medicaid Managed Care Council, and 2-1-1 Infoline, to develop ways to increase outreach and maximize enrollment of children and adults in HUSKY. The law already requires them to develop outreach. The mechanisms they use must seek to maximize federal funds where appropriate for these activities.

The act requires the DSS commissioner, in consultation with the Latino and Puerto Rican Affairs Commission, the African-American Affairs Commission, representatives from minority community-based organizations, and any other state and local organization the commissioner deems appropriate, to develop and implement outreach efforts targeting medically underserved children and adults, in particular Latino and other minority children and adults, to increase their enrollment in HUSKY.

These efforts must include, at a minimum, developing culturally appropriate outreach materials; advertising through Latino and other minority media outlets; and the public education, outreach, and recruitment activities already required by law.
EFFECTIVE DATE: July 1, 2007

§ 11 — ONLINE DPH LICENSE RENEWAL

The act requires DPH to establish, by July 1, 2008, a secure online license renewal system for physicians, dentists, and nurses. Nurses include advanced practice, registered, and licensed practical nurses. DPH must allow those using the system to pay their fees by credit card or electronic funds transfer from a bank or credit union account and can charge a service fee of up to $5 for such payments.
EFFECTIVE DATE: Upon passage

§ 13 — HUSKY PREVENTIVE HEALTH SERVICES

The act requires the DSS commissioner to develop and implement a plan for a preventive health services system for children covered by HUSKY A and B. He must develop the plan by January 1, 2008 and implement it by July 1, 2008. He must do this in consultation with the DPH commissioner.

The system's goal must be to improve health outcomes for all children enrolled in HUSKY and to reduce racial and ethnic health disparities. The system must ensure that federal Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program services are provided to children enrolled in HUSKY A.

The plan must:

1. establish a coordinated preventive health services system for HUSKY beneficiaries including EPSDT services, oral health care, care coordination, chronic disease management, periodicity schedules based on American Academy of Pediatrics' standards, and vision care (PA 07-2, JSS specifies opthamological

and optometric services, rather than vision care);
2. require DSS to track electronically (PA 07-2, JSS removes the electronic requirement) (a) HUSKY beneficiaries' system usage to ensure that they receive all available services and (b) beneficiaries' health outcomes; and
3. include ways to create financial incentives and rewards for participating health care providers, such as case management fees, pay for performance, and payment for technical support and patient registry data entry.

By July 1, 2009, the DSS commissioner must report to the Human Services, Insurance, and Public Health committees on the system's implementation. The report must include information on health outcomes, quality of care, and methods used to improve children's quality of care and health outcomes.
EFFECTIVE DATE: July 1, 2007

§§ 14 & 35 — CHILDREN'S HEALTH QUALITY IMPROVEMENT PROGRAM

The act requires the DSS commissioner to establish a child health quality improvement program to promote HUSKY providers' implementation of evidence-based strategies to improve the delivery of and access to children's health services. He must do this in collaboration with the DPH and Department of Children and Families (DCF) commissioners.

The evidence-based strategies must focus on physical, dental, and mental health services. They must include: (1) ways for early identification of children with special health care needs; (2) integration of care coordination and planning into children's health services; (3) implementation of standardized data collection to measure performance improvement; and (4) implementation of family-centered services in patient care, including the development of parent-provider partnerships. The act defines "evidence-based strategies" as policies, procedures, and tools that are informed by research and supported by empirical evidence, including research developed by organizations like the American Academy of Pediatrics, American Academy of Family Physicians, National Association of Pediatric Nurse Practitioners, and Institute of Medicine.

The DSS commissioner must seek the participation of various public and private entities including medical, dental, and mental health providers; academic professionals with experience in health services research and performance measurement and improvement; and any other entity the commissioner deems appropriate to promote such strategies. The commissioner must ensure that the strategies reflect new developments and best practices in children's health services.

The commissioner must annually report to the Human Services, Public Health, and Appropriations committees and the Medicaid Managed Care Council beginning July 1, 2008. The report must address the implementation of any strategies developed and the extent to which they improved delivery of and access to care for HUSKY children.

The act appropriates $150,000 in FY 08 to DSS for this program. (PA 07-2, JSS repeals this appropriation.)
EFFECTIVE DATE: July 1, 2007

§§ 15-17 — DEPENDENT CHILDREN COVERAGE EXTENSION

The act raises, from age 23 to 26, the age to which group comprehensive and individual health insurance policies that cover children must do so. Prior law required coverage for unmarried, dependent children until they turn 19, or 23 for full-time students at an accredited school. The act eliminates the requirements that children be dependent or full-time students and limits the continuing coverage to those who live in Connecticut. (PA 07-2, JSS extends coverage for children who attend accredited out-of-state colleges or who live in another state with a custodial parent.)

The act applies to:
1. individual health insurance policies delivered, issued, amended, or renewed on or after October 1, 2007 that cover (a) basic hospital and medical surgical expenses; (b) major medical expenses; (c) accidents; (d) limited benefits; and (e) hospital or medical services, including HMO contracts; and
2. group comprehensive health care plans (a minimum plan all health insurers must offer) beginning July 1, 2007.

EFFECTIVE DATE: July 1, 2007 (PA 07-2, JSS makes these changes effective January 1, 2009)

§§ 18-21 — HEALTH REINSURANCE ASSOCIATION (HRA) PLANS

By removing a provision that prohibits the sale of special health care plans to small employers after January 1, 1995, the act permits such plans to be sold again. Small employers are those with 50 or fewer uninsured employees and self-employed people.

By law, each small-employer insurer must offer small employers a special health care plan. A small employer with 10 or fewer employees, most of whom are low-income, does not have to offer a plan. Instead, the insurer must refer the employer to the HRA. The act potentially makes these plans available to more employers by raising the income eligibility limit for a low-income individual or employee from 200% to 300% of FPL. HRA must develop premium rates and

administer the plans without profit or loss.
EFFECTIVE DATE: July 1, 2007

§ 22 — CONSUMER HEALTHCARE WEBSITE

The act requires the Healthcare Advocate's Office, by October 1, 2008 and within available appropriations, to create and maintain an Internet website for consumer health care information. At a minimum, the website must contain (1) information about wellness programs, such as disease prevention and health promotion, available in various regions; (2) hospital quality and experience data; and (3) a link to the Insurance Department's managed care consumer report card.
EFFECTIVE DATE: October 1, 2007

§ 23 — PRE-TAX HEALTH INSURANCE PREMIUM DEDUCTIONS

The act requires every employer that deducts health insurance premiums from its employees' pay to allow employees to make these payments with pre-tax earnings to the extent permitted under IRS Code section 125. That section allows employers to offer employees a choice between cash salary and a variety of nontaxable, qualified benefits such as health, disability, and group life insurance. Employee contributions are made before federal and most state income taxes and Social Security taxes are calculated.
EFFECTIVE DATE: October 1, 2007

§§ 24, 25, & 36 — ELECTRONIC HEALTH RECORDS STANDARDS

The act designates eHealth Connecticut, a nonprofit corporation, as the state's lead health information exchange organization from July 1, 2007 to July 1, 2012. It requires the DPH commissioner to contract with eHealth Connecticut to develop a statewide health information technology plan that includes standards, protocols, and pilot programs for health information exchange. Health information exchange organizations are typically geographically defined entities that arrange for ways to electronically exchange health information, develop and maintain standards for this process, and develop and manage a set of contractual conventions and terms for exchanges.

The act requires DPH to develop electronic data standards to facilitate the development of a statewide, integrated electronic health information system for use by state-funded health care providers and institutions. DPH must do this by July 1, 2008 in consultation with DSS, the Department of Information Technology (DOIT), and any other entity the DPH commissioner deems appropriate. DPH may contract for the standards' development through a request for proposal process.

The standards must (1) include provisions relating to security, privacy, data content, structures and format, and vocabulary and transmission protocols; (2) be compatible with any national data standards in order to allow for interstate "interoperability;" (3) permit the collection of health information in a "standard electronic format"; and (4) be compatible with the requirements for an electronic health information system (see below).

The act defines:

1. "electronic health information system" as computer hardware and software that includes (a) a patient electronic health record that can be accessed in real time; (b) a personal health record through which individuals and their representatives can manage the person's health information; (c) computerized order entry technology that allows a health care provider to order tests, treatments, and prescriptions; (d) electronic reminders to health care providers concerning screenings, other preventive measures, and best practices; (e) error notification procedures; and (f) tools to collect, analyze, and report adverse event data, quality of care measures, and patient satisfaction;
2. "interoperability" as the ability of separate systems to exchange information including (a) physically connecting to a network, (b) enabling a user who presents appropriate permission to conduct transactions over the network, and (c) enabling such a user to access, transmit, receive, and exchange information with other users; and
3. "standard electronic format" as one that (a) enables using health information technology for collecting clinically specific information, (b) promotes interoperability across health care settings, including government agencies at all levels, and (c) facilitates clinical decision support.

The act appropriate $250,000 to DPH in FY 08 to develop the standards. It must report to the Public Health, Human Services, Government Administration and Elections, and Appropriations committees by October 1, 2008 on their development.

PA 07-2, JSS repeals these provisions and instead requires DPH, within available appropriations, to contract for the development of a statewide health information technology plan. The entity awarded the contract must be designated as the lead health information exchange organization for the state between December 1, 2007 and June 30, 2009.
EFFECTIVE DATE: July 1, 2007

§§ 26-28, 37, & 38 — CONNECTICUT HEALTH INFORMATION NETWORK

Creation and Framework

The act establishes the Connecticut Health Information Network (CHIN) at the UConn Health Center. The network is to integrate state health and social services data within and across the UConn Health Center, Office of Health Care Access (OCHA), DPH, and the Mental Retardation (DMR) and Children and Families (DCF) departments. Data from other departments could be integrated into the network as federal law and funding permits. The CHIN must securely integrate all data consistent with state and federal privacy laws.

The act charges the Health Center's Center for Public Health and Health Policy to develop, implement, and administer the CHIN in collaboration with the above offices and departments and DOIT. The CHIN must develop a framework for creating a network access portal that can provide (1) access to publicly available data on Connecticut residents' health maintained by state and nongovernmental agencies and (2) a way to obtain aggregate data on key state health indicators. The portal must be designed to:

1. provide accurate, timely, and accessible health data to state and local, public and private leaders and policymakers;
2. inform citizens to improve community and individual health;
3. maintain strict confidentiality and privacy standards;
4. support efforts to reduce health disparities;
5. identify the best available data sources; and
6. coordinate the compilation of existing health-related data and statistics.

Confidentiality

The act permits the participating state agencies to disclose personally identifiable information in their databases to the CHIN administrator and network subcontractors. Any disclosure must be in accordance with federal restrictions. The act permits disclosure regardless of restrictions contained in state statutes and regulations governing freedom of information and records maintained by DCF, DMR, DPH, and DSS.

Disclosure of personally identifiable information can be made for two purposes: (1) network development and verification and (2) data integration and aggregation in response to network queries approved by the commissioner of the department primarily responsible for collecting or maintaining the disclosed information. The act prohibits a commissioner from denying approval unless disclosure to the network would violate federal law, including the Health Insurance Portability and Protection Act and the Family Educational Rights and Privacy Act and its regulations.

The act permits the CHIN to use personally identifiable information disclosed to it to (1) match data across and within participating agency databases, including select databases at the Health Center and (2) provide data without personal identification in response to queries approved by the network's governing board. (The act does not explicitly authorize the board to approve queries, but it is responsible for performing all functions facilitating the network's coordination and integration, which may encompass such approval.)

Under the act, the CHIN can redisclose personally identifiable information only when and as expressly permitted by written agreement with state agencies or other entities that contribute information, subject to applicable state and federal law. But neither the CHIN or anyone who receives data from it may redisclose that data in a way that discloses personally identifiable information or the identity of any individual to whom it pertains.

CHIN Governing Board

The act creates a 13-member board to govern the network. The board:

1. establishes and implements policies, procedures, and protocols governing access to, and dissemination of data through, the CHIN;
2. recommends legislation needed to implement, operate, and maintain the network;
3. performs all functions needed to facilitate the network's implementation, coordination, and integration; and
4. reports annually to the General Assembly and governor on the CHIN's status, operations, and funding needs.

The board may establish permanent and ad hoc committees to help implement, operate, and maintain the network.

The board consists of the following members: one appointed by the House speaker and one by the Senate president pro tempore; a local health director, appointed by the Senate majority leader; a consumer representative, appointed by the House majority leader; a data user representative, appointed by the House minority leader; a privacy advocate, appointed by the Senate minority leader; one person each appointed by the governor and the UConn Health center; and the DCF, DPH, DMR, and OHCA commissioners and the DOIT executive director. All initial appointments must be made by November 30, 2007. Members serve four-year terms. The appointing authority fills a vacancy.

The governor's appointee serves as chairperson and must schedule the first meeting, which must be held by December 31, 2007. The board must meet at least quarterly and more often as the chairperson deems needed. Six members constitute a quorum.

Funding

The act appropriates $1 million in each of FYs 08 and 09 to the UConn Health Center to establish and operate the CHIN.

PA 07-2, JSS replaces these provisions with (1) an authorization for DPH and the UConn Health Center, within available appropriations, to develop a CHIN plan and (2) a requirement for DPH and UConn Health Center's Center for Public Health and Health Policy to collaborate with DOIT, DMR, DCF, and OHCA in developing the CHIN plan.

EFFECTIVE DATE: October 1, 2007, except for the FY 08 and FY 09 appropriations, which are effective July 1, 2007 and 2008, respectively.

§ 29 — DISEASE MANAGEMENT

By January 1, 2008, the act requires DSS to inventory public disease management initiatives in the HUSKY, SAGA medical assistance, and other Medicaid programs implemented as of the date the act passes and report to the Human Services and Public Health committees. For each program, the report must include a summary, the total spent, and number of people served.

EFFECTIVE DATE: Upon passage

§§ 30 & 39 — HEALTHFIRST CONNECTICUT AUTHORITY

The act creates a 13-member HealthFirst Connecticut Authority to:

1. evaluate alternatives for providing quality, affordable, and sustainable health care for all state residents, including a single-payer system and employer-sponsored insurance;
2. recommend (a) ways to contain health care costs and improve health care quality, including health information technology; (b) disease management and other methods to improve care for people with chronic diseases; (c) monitoring and reporting on cost, quality, and care utilization; and (d) ways to encourage or require providing health care coverage to certain groups through participation in an insurance pool; and
3. recommend ways to finance insurance for state residents, including ways to maximize federal funding for subsidies; contributions from employers, employees, and individuals; and ways to pay the state's share of costs.

The panel must report its recommendations, including recommended strategies for increasing health care access, by December 1, 2008, to the Public Health, Human Services, and Insurance committees.

Legislative leaders and the governor appoint 10 members, some of whom must represent specific interests, as Table 1 shows. The DPH and DSS commissioners and the comptroller, or their designees, are ex-officio, nonvoting members. (PA 07-2, JSS adds the insurance commissioner and health care advocate as ex-officio, nonvoting members.) All members must be familiar with the Institute of Medicine's health care reform principles and be committed to making recommendations consistent with them.

Table 1: HealthFirst Connecticut Appointments

Appointing Authority (Number of Appointments)	*Appointees*
Governor (2)	Health quality or patient safety advocate Person with information technology experience
Senate president pro tempore (2)	Representative of businesses with fewer than 50 employees Person with community-based health experience
House speaker (2)	Health care provider Representative of businesses with 50 or more employees
Senate majority leader (1)	Labor representative
House majority leader (1)	Consumer representative
Senate minority leader (1)	Hospital representative
House minority leader (1)	Insurance company representative

All appointments must be made within 30 days after the act is enacted, and if a vacancy occurs, the appointing authority must fill it within 30 days. The speaker and president pro tempore each choose one chairperson, and the two must schedule the panel's first meeting no more than 60 day's after the act's enactment. If an appointing authority fails to make an initial or vacancy appointment within the 30-day period, the authority chairpeople must do so.

The authority can apply for grants or financial assistance from state and federal agencies, individuals, groups, and corporations. The act appropriates $500,000 to DPH in FY 09 for the authority (PA 07-2, JSS removes the appropriation).

EFFECTIVE DATE: Upon passage, except for the appropriation, which is effective July 1, 2008.

§§ 31 & 40 — STATEWIDE PRIMARY CARE ACCESS AUTHORITY

Developing a Universal Primary Care System

The act establishes an 11-member authority to develop a universal system for providing primary care services, including prescription drugs, to all Connecticut residents. It must develop the system by December 31, 2008 and a plan for implementing it by July 1, 2010. The system must be designed to maximize federal participation in Medicaid and Medicare.

In developing the system, the authority must define primary care services and inventory the state's existing primary care infrastructure, including:

1. the number of primary care providers practicing in the state (which it defines as physicians, dentists, nurses, people providing services to people with mental illness and mental retardation, and others providing primary medical, nursing, counseling, or other health care, substance abuse, or mental health services, including those providing services through an HMO or medical services plan);
2. the total amount spent on public and private primary care services during the last fiscal year; and
3. the number of public and private buildings and offices used primarily for primary care services, including hospitals, mental health facilities, dental offices, community- and school-based health centers, and academic health centers.

The committee must also:

1. estimate the cost of fully implementing a universal primary care system,
2. identify additional personnel or infrastructure needed to implement a system,
3. determine the state's and third parties' role in administering it,
4. identify system funding sources, and
5. determine private insurers' role in a universal system.

Implementation Plan

The authority's implementation plan must include (1) a timetable and (2) benchmarks to assess implementation progress and ways to assess the system's effectiveness once it begins operating.

Authority Composition, Powers, and Reporting Requirements

The authority is composed of (1) the chairpersons of the HealthFirst Connecticut Authority (see above), who also serve as this authority's chairpersons; (2) the DPH and DSS commissioners; (3) the comptroller; and (4) members appointed by the Connecticut Primary Care Association, State Medical Society, Chapter of the American Academy of Pediatrics, Nurses Association, and Association of School-Based Health Centers and the Weitzman Center for Innovation in Community Health and Primary Care (which is affiliated with Community Health Center, Inc.). All members must be familiar with the Institute of Medicine's health care reform principles and be committed to making recommendations consistent with them.

All initial appointments must be made by July 15, 2007, and members' four-year terms begin August 1, 2007. The chairpersons must convene the first meeting by October 1, 2007. Any member who fails to attend three consecutive meetings or 50% of all meetings during a calendar year is deemed to have resigned. Appointing authorities fill vacant positions. Members serve without pay but are reimbursed for their expenses.

The authority can hire consultants or assistants under contracts or other means to render professional, legal, financial, technical, or other assistance or advice.

The authority must report annually to the Public Health, Insurance, and Human Services committees on its progress in developing the universal primary care system and on the system's implementation. The first report is due by February 1, 2008; subsequent reports are due by January 1.

Funding

The act permits the authority to apply for grants or financial assistance from state and federal agencies, individuals, groups, and corporations. It appropriates $500,000 to DPH in FY 09 for the authority. (PA 07-2, JSS removes this appropriation.)

EFFECTIVE DATE: Upon passage, except the appropriation, which is effective July 1, 2008.

§§ 32-33, & 41 — SCHOOL-BASED HEALTH CENTER GRANTS

The act appropriates $2.5 million in FY 08 for DPH to fund expansion and operating costs of school-based health centers (SBHCs) in priority school districts and federally designated health professional shortage or medically underserved areas or those designated as having medically underserved populations. (PA 07-2 JSS repeals the appropriation and instead requires DPH, within available funding, to expand school-based health clinic services in FY 08 for (1) priority school districts and (2) health professional shortage areas and medically underserved areas.)

The act makes permanent the ad hoc committee established in 2006 to advise DPH on SBHCs. It requires the committee to meet at least quarterly and

annually report recommendations to the Public Health and Education committees for statutory and regulatory changes to improve health care access through SBHCs. And it requires any SBHC constructed on or after October 1, 2007 that is located in, or attached to, a school building, to have an entrance separate from the school.
EFFECTIVE DATE: July 1, 2007, except for the provision concerning the SBHC committee, which is effective upon passage.

§ 34 — MEDICAID PROVIDER RATES

Annually, beginning in FY 08, the act requires DSS, within available appropriations, to increase the rates it pays Medicaid providers, including hospitals. (PA 07-2, JSS repeals this requirement.)
EFFECTIVE DATE: July 1, 2007

§§ 42 & 43 — COMMUNITY-BASED HEALTH CENTER GRANTS

The act appropriates to DPH in FY 08 (1) $2 million for infrastructure improvement grants to community-based health centers, including health information technology and (2) $500,000 for grants to these centers to transport patients to medical appointments. In making the latter grants, DPH must give priority to Federally Qualified Health Centers in areas with limited public transportation options. (PA 07-2, JSS repeals these appropriations.)
EFFECTIVE DATE: July 1, 2007

BACKGROUND

Related Act

PA 07-2, JSS specifies that HUSKY A is provided to children who are living with caretaker relatives, some of whom also qualify for HUSKY A, as well as others who are not living with a caretaker relative, including those living independently who are under age 19.

PA 07-219—sHB 5751
Public Health Committee
Appropriations Committee
Higher Education and Employment Advancement Committee

AN ACT ESTABLISHING A PILOT FAMILY NURSE PRACTITIONER TRAINING PROGRAM

SUMMARY: This act requires the Department of Social Services (DSS), within available appropriations and in consultation with the Department of Public Health (DPH), to establish a pilot training program for nurse practitioners seeking to specialize in family practice. Under the program, the nurse practitioner receives one year of formal training at a community-based health center in a federally designated health professional shortage area, medically underserved area (MUA), or area with medically underserved populations (MUP).

The DSS commissioner, in consultation with the DPH commissioner, must establish program eligibility requirements. The pilot program must begin by October 1, 2008 and end by October 1, 2010.

DSS must report to the Social Services (PA 07-252, § 78 corrects this to the Human Services) and Public Health committees by January 1, 2011 on any increase in access to care at community-based health centers as a result of the pilot program.
EFFECTIVE DATE: October 1, 2007

BACKGROUND

Nurse Practitioners

A nurse practitioner is a registered nurse who has completed advanced education (generally a minimum of a master's degree) and training in the diagnosis and management of common medical conditions, including chronic illnesses. Nurse practitioners provide a broad range of health care services.

Health Professional Shortage Area (HPSA), MUA, and MUP

The federal Health Resources and Services Administration (HRSA) develops health workforce shortage designation criteria to help determine whether a geographic area or population group is an HPSA, MUA, or MUP.

HPSAs may have shortages of primary medical care, dental, or mental health providers and may be urban or rural areas, population groups, or medical or other public facilities.

MUAs may be a whole county or group of contiguous counties, a group of county or civil divisions, or a group of urban census tracts where residents have a shortage of personal health services.

MUPs may include a group of people who face economic, cultural, or linguistic barriers to health care.

PA 07-238—HB 7008
Public Health Committee
Judiciary Committee

AN ACT CONCERNING THE DEPARTMENT OF MENTAL RETARDATION

SUMMARY: This act prohibits a probate court from excluding people from being a plenary or limited guardian of a person with mental retardation solely because they (1) work for a private agency the Department of Mental Retardation (DMR) funds or licenses or (2) operate a DMR-licensed community training home.

It permits the Children and Families (DCF) and Mental Health and Addiction Services (DMHAS) departments to access DMR's abuse registry to check whether a job applicant is listed.

It increases, to $100,000 from $75,000, the cost allowance cap for executive director salaries in DMR's, DMHAS', and the Department of Social Services' calculations of grants to private agencies for residential or day services. And, beginning July 1, 2007, it permits the cap to rise annually up to any percentage cost-of-living increase provided in the departments' contracts with these agencies.

The act extends through June 30, 2009 the moratorium on the sale, lease, or transfer of state-owned or state-operated property used to house people with mental retardation. The moratorium is otherwise scheduled to expire on June 30, 2007. It does not apply to any agreement to sell, lease, or transfer property entered into before June 2, 2005.

Finally, the act repeals several reporting requirements, some of which are obsolete.

EFFECTIVE DATE: October 1, 2007, except for the executive director salary cap increase and the moratorium extension, which are effective upon passage.

PLENARY GUARDIANS

Probate courts appoint plenary and limited guardians for people with mental retardation. A plenary guardian acts for someone who cannot take care of his or her physical health or safety or make informed decisions about it; a limited guardian acts for those who can take care of or make informed decisions about some, but not all, aspects of their health or safety. The act prohibits a probate court from excluding someone from serving in these roles solely because he or she works for a private agency DMR licenses or funds or operates a DMR-licensed community training home. But it specifies that people:

1. cannot serve as guardians for individuals who live in the residential facilities in which they work or the community training homes they operate (this latter prohibition extends to a training home operator's relatives and household members) and
2. can be appointed only if no other suitable person can be found to serve.

The law already prohibits excluding DMR employees from serving in these roles, with similar exceptions.

REPEALED REPORTS

The act repeals requirements that:

1. DMR evaluate and annually report to the Public Health and Appropriations committees on how each of its regions adheres to its (the region's) written protocol for selecting service providers and determining which clients receive services;
2. DMR report annually to the Public Health and Appropriations committees on the status of its waiting list and its establishment of a Recreation and Respite Care Division;
3. DMR annually submit to the Public Health and Appropriations committees a proposed spending plan for residential and day services;
4. DMR, DMHAS, and DCF provide technical support to private providers in reducing work-related injuries and report annually on resulting cost savings;
5. DMR annually report to the education commissioner on its evaluation of Unified School District #3, which DMR operates as part of the Birth-to-Three system;
6. the Southbury Training School board of trustees annually review the school director's report and report to the Council on Mental Retardation on the school's status, operation, and administration; and
7. DMR report to the Public Health Committee by January 1, 1996 on criteria for placing Southbury Training School residents.

The act also eliminates the Advisory Commission on Services and Supports for People with Developmental Disabilities, which produced its final report in July 2002.

PA 07-244—sSB 1341
Public Health Committee
Planning and Development Committee
Energy and Technology Committee
Environment Committee

AN ACT CONCERNING APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, PROTECTING PUBLIC AND PRIVATE WATER SUPPLIES FROM CONTAMINATION AND AUTHORIZING THE LEASE OF CERTAIN WATER COMPANY OWNED CLASS I AND CLASS II LANDS

SUMMARY: This act amends the certificate of public convenience and necessity applicable to certain water company construction and expansion by (1) adding "state agency" to the definition of water company, (2) creating two distinct processes for issuing certificates to residential and non-residential water systems, (3) establishing ownership responsibilities for new water supplies, and (4) establishing clearer ties to the Water Utility Coordinating Committee (WUCC) drinking water supply planning process.

The act makes changes to the permit process for replacement wells and wells on residential properties.

The act prohibits an owner of a private residential well that (1) currently supplies or previously supplied water to another household and (2) provides or previously provided continuous water service to that household for at least 50 years, from discontinuing the water service without an alternative, available water source. Each household receiving water from the private residential well must contribute equally to the well's maintenance costs.

The act allows the city of New Britain to change the use of some of its water company owned lands to allow for extraction of stone or other materials from defined acreage in Plainville, through a leasing process that is part of a contract with New Britain as a party. (PA 07-05, JSS §§ 64 and 73 repeals this and instead requires DPH to commission and supervise an independent evaluation of the effects of allowing New Britain to change the use of some of its water company lands.)

Finally, the act requires notice to abutting property owners in certain cases of subsurface sewage disposal system (septic system) repair or new construction.

EFFECTIVE DATE: October 1, 2007, except the restriction on discontinuing service by a private residential well, the subsurface sewage disposal system provision, and the New Britain water company land lease and contract provisions are effective upon passage.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Certificate Process

The law requires water companies to get a certificate of public convenience and necessity from the Department of Public Utility Control (DPUC) and the Department of Public Health (DPH) before they begin the construction or expansion of their systems. Under the law, private companies, municipal water systems, and other entities serving between 15 service connections or 25 people and 250 connections or 1,000 people on a regular basis must get a certificate when beginning construction or expanding. The act applies these provisions to state agencies by amending the definition of water company to include a state agency. Rather than supplying water to the specified number of connections or people on a regular basis, the act applies the certificate requirement to entities that supply water for at least 60 days in any one year.

Conditions for Issuing a Certificate for Residential Systems

Under the law, DPUC and DPH have to issue a certificate if they find that:

1. no feasible interconnection with an existing system is available to the applicant;
2. the applicant plans to build or expand according to DPUC-established engineering standards;
3. the applicant has the financial, technical, and managerial resources to operate the proposed water supply system reliably and efficiently enough to provide continuous service;
4. the proposed construction or expansion would not result in a duplication of service in the applicable service area; and
5. the system meets all federal and state standards for water supply systems.

The act makes these conditions applicable specifically to water systems serving 25 or more residents ("residential systems") that are not the subject of DPUC proceedings concerning failure to comply with agency orders, economic viability, or a department order for a water company to acquire another water company. But the act changes conditions 1 and 3 above as follows:

1. no interconnection is feasible with a water system owned by, or made available through an arrangement with, the provider of the exclusive service area (ESA) or with another existing water system where no ESA has been assigned; and

2. the requirement that the applicant have the financial, managerial, and technical resources to reliably operate the system is eliminated and instead ownership of the system must be assigned to the ESA provider.

The other conditions remain the same.

The act requires that an application for a certificate include, when applicable, a signed agreement between the water company and ESA provider that details the terms and conditions under which the system will be built or expanded and for which the provider will assume service and ownership responsibilities.

An ESA, under the law, is an area where public water is supplied by one system. ESAs are determined by a process involving WUCCs, which DPH convenes for public water supply management areas. Such areas are regions determined by DPH to have similar water supply problems (CGS §§ 25-33d to 25-33j).

Exemption for Municipal Systems

The act eliminates an exemption for certain municipal water systems from the interconnection feasibility and the non-duplication requirements described above. This applies to any water system (1) owned and operated, or proposed to be owned and operated, by a municipality, municipal district, or regional water authority; (2) owned by a municipality, municipal district, or regional authority and operated, or proposed to be so, on its behalf by an operator that has obtained all required DPH certifications; or (3) owned or operated by a nonprofit corporation on behalf of one or more municipalities for providing water service to an elderly housing project with all required DPH certifications. It also eliminates a provision of law that allowed an existing municipality, municipal district, or regional water authority to voluntarily transfer ownership of a water supply system to another water company, municipal public service company, or regional water authority.

Regulations

The act requires DPUC and DPH to each adopt regulations on the certificate process for residential systems. Prior law only required DPUC, in consultation with DPH, to adopt such regulations.

Certificate Process for Non-Residential Systems

The act establishes a distinct and separate certificate process that DPH administers for water systems serving 25 or more persons, but not 25 or more residents, for at least 60 days in any one year (a "non-residential system") that parallels the system for residential systems described above. (This applies regardless of whether the system is in DPUC proceedings.) These systems serve entities such as certain schools, offices, restaurants, convenience stores, and similar entities. The conditions for obtaining the certificate are basically the same as for residential systems except that ownership of the system will be assigned to the ESA provider if agreeable to it and DPH, or may remain with the certificate applicant if agreeable to DPH. In the later case, the applicant must have the financial, managerial, and technical resources to (1) operate the proposed system in a reliable and efficient manner and (2) provide continuous and adequate service to consumers until such time as the water system for the ESA has made an extension of the water main. At that time, the applicant must get service from the ESA provider.

The act specifies that any construction or expansion requiring a certificate must be built, maintained, and operated according to the certificate and any of its terms, limits, or conditions.

The act exempts properties held by the Department of Environmental Protection (DEP) and used for or in support of fish culture, natural resources conservation, or outdoor recreation from the certificate requirements concerning interconnection feasibility, ownership assignment to the ESA provider, and the duplication of service.

The act requires DPH to adopt regulations implementing this process for non-residential systems. The regulations may include measures to encourage water conservation and proper maintenance.

WELL PERMITS

Replacement Wells

Existing law allows a local health director, regardless of DPH regulations, to authorize under certain conditions an existing well's use or its replacement at a single-family residence located within 200 feet of a community water supply system measured along a street, alley, or easement. This can occur:

1. for a replacement well used for domestic purposes if (a) the premises are not connected to the public water supply, (b) the water quality is tested at installation and at least every 10 years afterward or as requested by the health director, (c) the testing shows the well meets the Public Health Code's water quality standards for wells, and (d) all other regulatory requirements are met and
2. for a new or replacement well on a premises served by a public water supply if (a) it is used solely for irrigation or some other outdoor purpose, (b) it is permanently and physically separated from the home's internal plumbing,

and (c) a reduced pressure device is installed to protect against a cross-connection with the public water supply.

The act changes the 200-foot standard by specifying that this distance is measured from the property's boundary.

The act authorizes a local health director to issue an order requiring the immediate implementation of mitigation measures, up to and including permanent abandonment of the well, according to the Connecticut Well Drilling Code, if he or she determines that an irrigation well creates an unacceptable risk of injury to the health or safety of those using the water, the general public, or to any public water supply. The act allows the owner of the system to terminate service to the premises if a cross connection with the public water system is found.

Permits for Wells on Residential Property

DPH regulations generally prohibit private wells on residential property within 200 feet of a public water supply. Existing law allows local health directors to issue a permit for a new or replacement well only if:

1. the well water is used only for irrigation or other outdoor purpose, is not used for human consumption, and a reduced pressure device is installed to protect against a cross-connection with the public water supply;
2. the well replaces one that was used at the premises for domestic purposes and is subject to water quality testing when it is installed and at least every 10 years afterward or as requested by the health director; or
3. DPUC has ordered the public water system to reduce the demand on it, the well is not connected to the public water supply, and use of the well does not impair the purity or adequacy of the supply or service to the system's customers.

The act gives the local health director the same authority to issue an order requiring immediate mitigation measures concerning an irrigation well as described above in the previous section. It exempts irrigation wells from the water quality testing standards and uses the same 200-foot boundary standard described earlier.

Regulations

By law, the DPH commissioner must adopt regulations clarifying criteria under which a well permit exception may be granted and describing conditions that must be imposed when a well is permitted at premises that are connected to the public water supply. The act specifies that these regulations must also address the situation when a well is permitted when the premises' boundary is within 200 feet of an approved community water system.

SUBSURFACE SEWAGE DISPOSAL SYSTEMS

The act requires any person applying to DPH for authorization to repair or newly construct a subsurface sewage disposal system involving the waiver of the proximity requirement (the act does not describe nor further reference this requirement) as it relates to a private residential well, to notify all abutting property owners. Notice must be by certified mail, return receipt requested and must include a copy of the application. A DPH decision on the application constitutes a final decision for purposes of appeal to Superior Court.

The act specifies that approval of the application is not an affirmative defense for the system's owner concerning any liability claim for damages related to contamination caused by proximity of the system to a private residential well.

LEASE OF NEW BRITAIN WATER COMPANY LAND

This provision of the act is repealed by PA 04-5, JSS.

Contract Requirements

The law restricts the ability of a water company to change the use of its class I or II lands located close to water supply sources.

The act allows New Britain to change the use of its water company owned class I and II lands to allow for the lease of about 131.4 acres (the "0 Biddle Pass" in Plainville) if the lease is part of a contract to which New Britain is a party and includes provisions to do the following:

1. The lease and subsequent use of the land increases the future safe yield of a pure and adequate drinking water supply for New Britain and the surrounding area served by the city.
2. By the lease's conclusion, the entity leasing the land prepares the (a) site for a public drinking water reservoir capable of supplying an adequate safe yield of drinking water consistent with the most recently approved water supply plan, and (b) surrounding land for reforestation including sufficient tree plantings.
3. The extraction of stone or other material from the land or any adjacent land is a sufficient distance from residential homes to prevent unreasonable disruption of residential use.

4. The lease is for no more than 40 years.
5. Any conveyance of land immediately adjacent to the 131.4 acres must contain appropriate deed restrictions sufficient to maintain a forested buffer of at least 1,000 feet measured from the quarry zone line.

Environmental Evaluation and Other Conditions

The act requires the following before the contract can be executed by New Britain:

1. an environmental evaluation conducted by an independent third party approved by DPH to evaluate the potential impact of the purity and adequacy of the existing and future public water supply, and DPH review of the evaluation to provide the New Britain Water Department with guidance on the suitability of the best management practices identified in the evaluation for protecting the public water supply and public health;
2. a 90-day period following completion of the evaluation to give DEP and DPUC time to provide DPH with comments on the evaluation;
3. DPH approved the lease provisions relating to its jurisdiction over and duties concerning water supplies, water companies, and operators of water treatment plants and water distribution systems; but DPH cannot approve these lease provisions unless New Britain has demonstrated, to DPH's satisfaction, through the environmental evaluation, that the contract and lease will not have a significant adverse impact on present and future purity and adequacy of the public drinking water supply and will provide for an additional water source consistent with the city's water supply plan and projected future regional supply needs;
4. DPH held a public hearing on the environmental evaluation with in 30 days of receiving it, with at least 15 days' notice by publication in the Connecticut Law Journal;
5. New Britain's mayor proposed the lease and contract to the Common Council, and within 30 days prior to submitting them to the Common Council, the mayor held a public hearing, with appropriate notice by newspaper;
6. after the public hearing, the mayor recommends approval or disapproval of the lease and contract to the Common Council;
7. the mayor submitted the lease and contract proposal to the legislative bodies of New Britain and Plainville, the inland wetlands commissions of those municipalities, New Britain's city plan commission, and Plainville's planning and zoning commission;
8. all appropriate authorities in Plainville have approved the proposed use of the land;
9. New Britain's inland wetland commission and its city plan commission held a public hearing after receiving the mayor's proposal and voted to approve or reject it within 60 days after receiving it; and
10. New Britain's common council approved the mayor's proposal, including the lease and contract; but the council cannot consider the proposal until the inland wetland commission and the city plan commission have approved it, and cannot approve it after April 1, 2008.

Deed Restrictions

Under the act, before any activities on the parcel in question can begin, and subsequent to the lessee receiving all necessary federal, state, and municipal approvals to begin extraction or reservoir development activities on the site, the lessee must get deed restrictions for a minimum of twice the acreage that has been approved for extraction activities. These restrictions must (1) prohibit the use and development of acreage adjacent to the site for anything other than open space purposes; (2) permanently dedicate such acreage for land uses such as public parks, forests, or natural areas, including reservoirs; (3) require such acreage to be preserved predominantly in its natural scenic and open space condition that can allow for camping, hiking, forestry, fishing, and conservation activities; and (4) prohibit all other building or development except as may be required for source protection and to meet water quality standards if used as a public water supply.

If the maximum acreage amount on the site is approved for mineral extraction, such acreage restricted under the act must include a minimum of (1) 75 acres adjacent to the site and located in Southington and, if requested by Southington, it must be deeded to the town at no cost; (2) 94 acres adjacent to the site located in Plainville and, if so requested by Plainville, deeded to it at no cost; and (3) 94 acres adjacent to the site and located in New Britain, inclusive of the reservoir, and deeded to it at no cost if so requested.

BACKGROUND

Public Water Supply Coordination

PA 85-535 required DPH to coordinate the planning of public water supply systems. The law provides for a coordinated approach to long-range water supply planning by addressing water quality and quantity issues from an area-wide perspective. The

process is designed to bring together public water system representatives and regional planning organizations to discuss long-range water supply issues and develop a plan for dealing with them.

The state is divided into seven management areas based on factors such as similarity of supply problems, proliferation of small water systems, groundwater contamination, and over-allocated water resources. DPH convenes a WUCC for a particular management area to address these issues. A WUCC consists of one representative from each public water system with a source of supply or service area within the public water supply management area and one representative from each regional planning agency within the management area (CGS §§ 25-33d to 25-33j; DPH Regs. § 25-33h-1 et seq.).

PA 07-252—sHB 7163
Public Health Committee
Judiciary Committee
General Law Committee

AN ACT CONCERNING REVISIONS TO STATUTES RELATING TO THE DEPARTMENTS OF PUBLIC HEALTH AND SOCIAL SERVICES AND TOWN CLERKS

SUMMARY: This act expands the scope of practice of podiatric medicine to allow podiatrists to engage independently in standard and advanced ankle surgery procedures if they meet certain requirements and qualifications. Under the act, licensed podiatrists with additional qualifications beyond board qualification or certification may be permitted to perform surgical treatment of the ankle. Surgical treatment of the ankle does not include the performance of total ankle replacements or treatment of tibial pilon fractures.

Under the act, a podiatrist cannot engage in independent ankle surgery procedures without receiving a permit from the Department of Public Health (DPH). DPH must develop a process for issuing such permits.

The act requires the DPH commissioner to appoint a four-member advisory committee consisting of podiatrists and orthopedists to assist in evaluating permit applicants. The commissioner must also adopt regulations for evaluating an applicant's training and experience in various ankle procedures.

The act also makes numerous substantive and technical changes to DPH and related statutes concerning health care professionals; health care facilities, programs and activities; and health care decision-making. It also addresses recording of certain instruments by town clerks.

EFFECTIVE DATE: Various, see below.

§ 34 — PODIATRY: STANDARD AND ADVANCED ANKLE SURGERY PROCEDURES

Types of Surgery

Under the act, "standard ankle surgery procedures" include soft tissue and osseous (bone) procedures.

"Advanced ankle surgery procedures" include ankle fracture fixation, ankle fusion, ankle arthroscopy, insertion or removal of external fixation pins into or from the tibial diaphysis (shaft of a long bone) at or below the level of the myotendinous junction (junction formed by the skeletal muscles where they adhere to tendons) of the triceps surae, and insertion and removal of retrograde tibiotalocalcaneal intramedullary rods and locking screws up to the level of the myotendinous junction of the triceps surae. It does not include the surgical treatment of complications within the tibial diaphysis related to the use of such external fixation pins.

"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 heal bone via the Achilles tendon. The triceps surae makes up the superficial, posterior lower leg compartment.

Independent Ankle Surgery

Requirements for Standard Ankle Surgery. The act permits licensed podiatrists with the following qualifications to independently engage in standard ankle procedures:

1. those who graduated on or after June 1, 2006 from a three-year residency program in podiatric medicine and surgery accredited at the time of graduation by the Council on Podiatric Medical Education, or its successor, and who hold and maintain current board certification in reconstructive rearfoot ankle surgery by the American Board of Podiatric Surgery, or its successor;
2. those who graduated on or after June 1, 2006 from a three-year residency program in podiatric medicine and surgery accredited by the council or its successor, at the time of graduation, who are qualified, but not certified, in reconstructive rearfoot ankle surgery by the board or its successor, and who provide documentation satisfactory to DPH of their training and experience in standard or advanced midfoot, rearfoot, and ankle procedures, except that such applicants cannot perform osteotomies of the tibia and fibula until they hold and

maintain current board certification as described above; or

3. those who graduated before June 1, 2006 from a residency program of at least two years in podiatric medicine and surgery that was accredited by the council at the time of graduation, hold and maintain current board certification, and provide satisfactory documentation to DPH of their training and experience in standard or advanced midfoot, rearfoot, and ankle procedures.

Requirements for Advanced Ankle Surgery. Under the act, licensed podiatrists with the following qualifications can engage independently in advanced ankle surgery procedures:

1. those who graduated on or after June 1, 2006 from a three-year residency program in podiatric medicine and surgery accredited at the time of graduation by the Council on Podiatric Medical Education or its successor, hold and maintain current board certification in reconstructive rearfoot ankle surgery by the American Board of Podiatric Surgery or its successor, and provide satisfactory documentation to DPH of their training and experience in advanced midfoot, rearfoot, and ankle procedures; or
2. those who graduated before June 1, 2006 from a residency program of at least two years in podiatric medicine and surgery accredited by the council at the time of graduation, hold and maintain current board certification, and provide satisfactory documentation to DPH of their training and experience in advanced midfoot, rearfoot, and ankle procedures.

Ankle Surgery Under The Direct Supervision of a Physician or Surgeon

The act specifies conditions under which a licensed podiatrist may surgically treat the ankle, including using standard and advanced podiatric ankle surgery procedures, without a permit until the podiatrist meets the requirements for a permit for independent ankle surgery. The podiatrist must perform these procedures under the direct supervision of a licensed physician or surgeon who has hospital privileges in the procedure or of a licensed podiatrist who has a permit for independent ankle surgery. The podiatrist must also:

1. have graduated from a minimum two-year residency program in podiatric medicine and surgery accredited at the time of graduation by the Council on Podiatric Medical Education, or its successor and
2. hold and maintain current board certification in reconstructive rearfoot ankle surgery by the American Board of Podiatric Surgery, or its successor; be board qualified in such surgery by the board, or its successor; or be currently board certified in foot and ankle surgery by the board, or its successor.

DPH Permit Process

The act requires DPH to establish a process to issue permits to qualified licensed podiatrists to independently perform standard or advanced ankle surgery procedures as described above. No licensed podiatrist may independently engage in the surgical treatment of the ankle or the anatomical structures of the ankle, administer or prescribe drugs incidental to such treatment, or surgically treat manifestations of systemic diseases as they appear on the ankle, until the podiatrist has obtained a DPH permit.

DPH cannot issue a permit unless the applicant meets all of the requirements for independent ankle surgery as described above and pays a $100 fee.

The act specifies that “surgical treatment of the ankle” does not include performing total ankle replacements or treating tibial pilon fractures.

Advisory Committee

The act requires the DPH commissioner to appoint a four-member advisory committee to assist and advise him in evaluating each applicant’s training and experience in midfoot, rearfoot, and ankle procedures required for permit eligibility. Two committee members must be podiatrists recommended by the Connecticut Podiatric Medical Association and two must be orthopedists recommended by the Connecticut Orthopedic Society.

Regulations

The act requires DPH to adopt regulations on the permit issuance process, including evaluation of an applicant’s training and experience in the procedures required for a permit. The regulations must include the number and types of procedures required for an applicant to demonstrate training or experience in standard and advanced ankle procedures. DPH must seek the advisory committee’s advice and assistance and consider nationally recognized standards for accredited residency programs in podiatric medicine and surgery in developing the regulations.

The act specifies that DPH can issue permits to qualified licensed podiatrists to independently perform standard or advanced ankle surgery procedures before the effective date of the regulations DPH must adopt.

Podiatrist Privileges

The act specifies that DPH's permit issuance to a licensed podiatrist to independently engage in ankle surgery does not obligate a hospital or outpatient surgical facility to grant privileges to that podiatrist.
EFFECTIVE DATE: October 1, 2007

§ 35 — DISCIPLINARY ACTION AGAINST PODIATRISTS

The act adds engaging in surgical treatment of the ankle without the required permit to the grounds on which the Connecticut Board of Examiners in Podiatry can take disciplinary action against a podiatrist.
EFFECTIVE DATE: October 1, 2007

§ 5 — CIVIL PENALTIES AGAINST HEALTH CARE PROFESSIONALS

The act increases, from $10,000 to $25,000, the civil penalty DPH and various health professional regulatory boards can assess against a health care professional. By law, DPH and various health professional boards and commissions can, after finding good cause, take various disciplinary actions against licensed health professionals. These actions include license suspension or revocation, censure, letter of reprimand, probation, or assessment of a civil penalty.
EFFECTIVE DATE: October 1, 2007

§ 6 — LABORATORY FEES

The act allows, rather than requires, the DPH commissioner to set laboratory fees and to do so without basing them on nationally recognized standards and performance measures for analytic work effort for such services as previously required. By law, DPH can establish state laboratories to test for preventable disease, as well as to perform sanitation, environmental, and occupational testing.

Laboratory services are provided without charge for local health directors and local law enforcement officials. The law also allows for partial, as well as full, fee waivers for others if the commissioner determines the public health requires it. The act clarifies that the commissioner can waive the fees if he establishes a fee schedule.
EFFECTIVE DATE: October 1, 2007

§§ 7-9 — HIV AND AIDS SERVICES

The act revises funding provisions for HIV and AIDS services. It expands the types of organizations that can receive funds to provide such services and expands service recipients to include people with HIV and those at risk of contracting HIV or AIDS.

By law, DPH must establish a grant program to fund private agencies that provide services to persons suffering from AIDS and their families. Under the act, qualifying individuals and organizations, including local health departments, that serve people infected with, at risk of, or affected by HIV or AIDS are eligible for grants.

Under existing law, agencies receiving DPH funding to provide AIDS tests must give priority to persons in high-risk categories and must establish a fee schedule based on ability to pay. The act eliminates the fee schedule requirement and specifies that the testing is for HIV.

The act also specifies that DPH's existing public information program must address HIV as well as AIDS.

The act broadens the eligibility criteria for grant-in-aid applicants for programs to study or treat AIDS. Under the act, such grants are available to qualifying individuals or organizations instead of just any hospital, municipality, public independent college or university, or individual. It also provides that the grants are for studying or treating HIV, AIDS, or both.

The act eliminates a requirement that DPH adopt regulations concerning administration of the grant program.
EFFECTIVE DATE: October 1, 2007

§§ 11, 80 — CREMATORIES AND CREMATION

The act requires crematories to keep on their premises records, copies of cremation permits, cremation authorization documentation, and documentation of receipt of cremated remains for at least three years after final disposition of the cremated remains.
EFFECTIVE DATE: October 1, 2007

The act specifies that, if the body of a deceased person is brought into Connecticut from another state for cremation with a permit for final disposition indicating cremation issued by the legal authority of the other state, that permit is sufficient authority for cremation and no additional permit is needed. (This provision amends PA 07-104.)
EFFECTIVE DATE: July 1, 2007

§§ 32, 85 — FUNERALS AND FUNERAL SERVICE BUSINESSES

The act requires a person, firm, partnership, or corporation involved in the funeral service business to keep at the funeral business address of record (1) copies of all death certificates, burial permits, cremation authorizations, receipts for cremated remains, and

written agreements used in making arrangements for final disposition of dead bodies, including copies of the final bill and other written evidence of agreement or obligation given to consumers, for at least three years after final disposition and (2) copies of price lists, for at least three years from the last date they were distributed to consumers.
EFFECTIVE DATE: October 1, 2007

PA 07-104 defines "disinfecting solution," for purposes of preparing and transporting dead bodies, as an aqueous solution or spray containing at least 5% phenol by weight. This act amends this to include "or an equivalent in germicidal action."
EFFECTIVE DATE: Upon passage

§§ 12 & 13 — ASSISTED LIVING SERVICES AGENCY

The act adds assisted living services agencies to the statutory list of health care institutions and makes a technical change to the definition of such agencies.
EFFECTIVE DATE: October 1, 2007

§§ 1, 2, & 19-21 — APPOINTMENT OF HEALTH CARE REPRESENTATIVE, POWER OF ATTORNEY FOR HEALTH CARE DECISIONS, SHOCK THERAPY

The act specifies that a short-form power of attorney can no longer be used for health care decision purposes.

It specifies that an appointment of a (1) health care agent or (2) power of attorney for health care decisions, properly executed before October 1, 2006 under the law in effect at that time has the same legal force and effect as if it had been executed according to the law after October 1, 2006. PA 06-195 amended and updated Connecticut law on health care decision-making by, among other things, (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" and (2) authorizing the health care representative to make any and all health care decisions for a person incapable of expressing those wishes.

For purposes of the appointment of a health care representative and health care decision-making, the act specifies that "shock therapy" is as defined under the law on patients' rights for persons with psychiatric disabilities (CGS § 17a-540).
EFFECTIVE DATE: October 1, 2007

§§ 23 & 24 — ALCOHOL AND DRUG COUNSELORS

Existing law provides that the alcohol and drug abuse counselor licensure and certification statutes do not apply to the activities of various licensed professionals acting within the scope of their profession, doing work consistent with their training, and not holding themselves out as alcohol and drug counselors.

The act amends this exception by (1) removing chiropractors, acupuncturists, physical therapists, and occupational therapists from the exempt list; (2) adding professional counselors; and (3) specifying that "nurses" mean advanced practice registered nurses and registered nurses. It also specifies that the person must be working consistent with his or her license, rather than with his or her "training."
EFFECTIVE DATE: Upon passage

§ 25 — PODIATRY

The act eliminates a requirement that a podiatrist provide DPH with satisfactory evidence of a high school diploma or its equivalent in order to obtain a license.
EFFECTIVE DATE: October 1, 2007

§§ 26 & 27 — PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

The law allows DPH to license without examination physical therapists and physical therapist assistants licensed or registered in another state or nation with similar or higher requirements than Connecticut's. The act instead specifies that DPH must deem the other state's or nation's requirements to be equivalent to or higher than Connecticut's.
EFFECTIVE DATE: October 1, 2007

§§ 30, 79 — OPTOMETRISTS

The act deletes (1) requirements that an optometrist applying for a license present satisfactory evidence to DPH of graduating from an approved high school or its equivalent and (2) related provisions and examination fees concerning license applicants who have not graduated from an approved high school. It deletes a requirement that optometry schools have a minimum course of study of 1,000 attendance hours in order to be approved by the state optometry board. It also eliminates a provision that specifies that a school cannot be disapproved solely because it is located outside of the United States.

The act requires that optometric license applicants successfully complete an examination prescribed, rather than conducted, by DPH with the consent of, instead of under the supervision of, the Board of Examiners for Optometrists. It also specifies that the examination cover the treatment and management of ocular disease.

The act makes both technical and substantive changes to requirements for licensure by endorsement.

(Endorsement basically means that a licensee from another state may be eligible for licensure, without examination, in this state provided that the applicant has credentials and qualifications substantially equivalent to Connecticut's licensure requirements.) The act eliminates a requirement that the other state give a similar privilege to Connecticut licensees seeking licensure in that state in order for Connecticut to license someone from that state by endorsement. It allows DPH to license by endorsement an optometrist who holds a Council on Endorsed Licensure Mobility for Optometrists certificate issued by the Association of Regulatory Boards of Optometry, or its successor.

The act eliminates (1) a requirement that DPH annually inform the optometry board of the number of applications it receives for licensure without examination and (2) a provision that specifies that an otherwise qualified person cannot be denied the right to apply for or receive an optometrist's license solely because he or she is not a United States citizen. It also eliminates a $50 examination fee.

The act restores "treatment of iritis" to the definition of "noninvasive procedures" for optometrists, which was inadvertently dropped in PA 07-92.
EFFECTIVE DATE: October 1, 2007

§ 31 — RESPIRATORY CARE PRACTITIONERS

Existing law requires a respiratory care practitioner applying for license renewal to either (1) earn a minimum of six contact hours of continuing education within the preceding registration period or (2) maintain credentialing as a respiratory therapist from the National Board for Respiratory Care. The act eliminates the latter option. A registration period is the one-year period for which a renewed license is current and valid.
EFFECTIVE DATE: July 1, 2007

§ 33 — SANITARIANS

The act expands the grounds on which DPH may refuse to issue or renew, or suspend, a license or take other disciplinary action against a sanitarian as follows: (1) the sanitarian has been found guilty or convicted of an act which is a felony under Connecticut or federal law, or under the laws of another jurisdiction, which, if committed in Connecticut, would have been a felony or (2) the sanitarian has been subject to disciplinary action similar to that of Connecticut's by an authorized professional disciplinary agency in any state, the District of Columbia, a U.S. territory or possession, or a foreign country.
EFFECTIVE DATE: October 1, 2007

§ 36 — ADMINISTRATION OF MEDICATION IN SCHOOLS BASED ON OPTOMETRISTS' WRITTEN ORDERS

The act allows school nurses and others authorized to administer medications to students to administer them pursuant to an optometrist's written order.
EFFECTIVE DATE: July 1, 2007

§ 37 — BLOOD SAMPLE TAKING BY EMERGENCY MEDICAL TECHNICIANS (EMT)

The act deletes EMTs II from the list of those who can take a blood sample following a motor vehicle accident resulting in serious injury or death.
EFFECTIVE DATE: July 1, 2007

§ 38 — CHRONIC DISEASE HOSPITALS

The act increases, from 24 to 36 hours, the time within which a physician must examine a person admitted to a chronic disease hospital for psychiatric treatment on a 15-day emergency certificate. (PA 07-49 imposed the 24-hour period.)
EFFECTIVE DATE: October 1, 2007

§ 39 — DPH DISCIPLINARY ACTION AGAINST HEALTH PROFESSIONALS

The act adds to DPH's disciplinary authority over licensed health practitioners the ability to not renew or reinstate a license or permit by voluntary surrender or agreement.
EFFECTIVE DATE: Upon passage

§ 40 — STEM CELL RESEARCH PEER REVIEW COMMITTEE

Beginning July 1, 2007, the act allows the DPH commissioner to appoint additional members to the Stem Cell Peer Review Committee as he deems necessary to review grant applications. The total number of members cannot exceed 15. These additional members must be approved according to the requirements of existing law, but they serve two-year instead of four-year terms.
EFFECTIVE DATE: July 1, 2007

§ 41 — PHYSICIAN ASSISTANTS-USE OF TITLE, LICENSE FRAUD

The act establishes penalties for someone buying, selling, or fraudulently obtaining any diploma or license to practice as a physician assistant. It also applies to using titles or words that induce the belief that a person is practicing as a physician assistant without complying

with the law on physician assistant licensure. The act establishes a fine of up to $500 or imprisonment up to five years, or both. It specifies that failure to timely renew a license is not a violation for these purposes.
EFFECTIVE DATE: July 1, 2007

§ 42 — CONTINUING EDUCATION FOR PHYSICAL THERAPISTS

The act specifies that qualifying continuing education activities for physical therapists include courses offered or approved by the American Physical Therapy Association or any of its components; a hospital, or other licensed health care institution; or a regional accredited higher education institution.
EFFECTIVE DATE: July 1, 2007

§§ 43 & 44 — RADIOGRAPHERS, RADIOLOGIC TECHNOLOGISTS

The law allows licensed radiographers to operate a medical x-ray system under the supervision and upon the written order of a physician. The act also allows operation of such a system upon the verbal order of a physician. It also allows licensed radiologic technologists to administer any medications, not just intravenous ones, for diagnostic procedures in various health care settings, not just hospitals.
EFFECTIVE DATE: Upon passage

§ 45 — GRADUATE DENTAL TRAINING

Existing law allows applicants for dental licensure, in lieu of a practical examination, to submit evidence of successful completion of at least one year of graduate dental training in an accredited program. The supervising dentist must provide satisfactory documentation to DPH at the end of that year.

The act allows the dental residency program director at the training facility to provide the documentation at any time rather than at the end of the year of the graduate training.
EFFECTIVE DATE: Upon passage

§ 46 — OFFICE OF ORAL PUBLIC HEALTH

The act establishes, within DPH, an Office of Oral Public Health under the direction of an experienced public health dentist. The office must coordinate and direct state activities concerning state and national dental public health programs; serve as DPH's chief advisor on oral health; and plan, implement and evaluate all DPH oral health programs.
EFFECTIVE DATE: July 1, 2007

§ 47 — PROFESSIONAL COUNSELORS

For purposes of meeting graduate educational requirements for licensure as a professional counselor, the act recognizes coursework at a regionally accredited institution in the following areas: (1) human growth and development, (2) social and cultural foundations, (3) counseling theories and techniques or helping relationships, (4) group dynamics, (5) processing and counseling, (6) career and lifestyle development, (7) appraisals or tests and measurements for individuals and groups, (8) research and evaluation, and (9) professional orientation to counseling. These replace references in prior law to the core and clinical curriculum of the Council for Accreditation of Counseling and Related Educational Programs and preparation in principles of etiology, diagnosis, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior. The act also deletes a requirement that acceptable graduate semester hours must be deemed to be in or related to counseling by the National Board for Certified Counselors. (PA 07-5, JSS § 67 eliminates a requirement of current law that certain applicants for a counselor license have a sixth-year degree in the discipline of counseling).
EFFECTIVE DATE: Upon passage

§ 48 — VETERINARIANS

The act specifies that graduates of foreign veterinary schools must graduate from a program acceptable to the American Veterinary Medical Association as required to receive certification by the Educational Commission for Foreign Veterinary Graduates.
EFFECTIVE DATE: Upon passage

§ 49 — MASSAGE THERAPISTS

The act directs the DPH commissioner, within available appropriations, to enforce provisions of the law, including PA 07-35, concerning use of the title of "massage therapist" and related titles and advertising of massage therapy services.
EFFECTIVE DATE: Upon passage

§ 50 — REPLACEMENT BIRTH CERTIFICATES

The act requires DPH to create a replacement birth certificate according to a court order within 45 days of the order or 45 days after the child's birth, whichever is later. Prior law required DPH to do this within 45 days of the court order.
EFFECTIVE DATE: Upon passage

§§ 51-54 — RECORDING OF INSTRUMENTS BY TOWN CLERKS

Under prior law, a town clerk had to make a note on a recorded judgment lien indicating it has been released when a legally sufficient release is recorded on the land records. The act specifies that a manual notation of such release is not required if the town clerk notes the release electronically by means of a computerized notation that links the release to the recorded judgment lien.

By law, when a mortgage release or assignment is recorded, a town clerk must make a notation on the first page where a mortgage or lien is recorded, stating the book and page where the release, partial release, or assignment is recorded. The act eliminates a provision that if a town's land records are not maintained in a paper form, the town clerk may make the notation on the digitized image of the first page of the mortgage or lien in a form or manner the Public Records Administrator approves. The act instead specifies that a manual notation is not required if the town clerk notes the release or assignment electronically by means of a computerized notation that links the release to the recorded mortgage or lien.

The act requires that each instrument that is to be recorded in the land records have a return address and addressee at the top of the front side of its first page. It also requires that each page of such an instrument have a blank margin at least .75 inches wide.

But the act prohibits a town clerk from refusing to receive an instrument for recording that does not conform to these requirements. It specifies that the fact that the town clerk records a nonconforming instrument does not affect its priority or validity.
EFFECTIVE DATE: July 1, 2007, except for the format requirements, which are effective October 1, 2008.

§§ 55-56 — PRESERVATION OF HISTORIC DOCUMENTS; ELECTRONIC INDEXING AND PUBLIC ACCESS

Under existing law, town clerks must collect a $3 fee in addition to those the law already requires them to collect for recording land documents for the purpose of generating funds for preserving and managing historic documents. The town clerks must keep $1 and remit $2 to the state treasurer for deposit in a dedicated, nonlapsing General Fund account for historic document preservation.

The act amends the definition of “preservation and management of historic documents” to allow towns to use their portion of these funds to provide public access to an electronic indexing system combining the grantor index and grantee index of a town’s land records. The law already allows towns to use the funds to:

1. restore and conserve land records, land record indexes, maps, or other records;
2. microfilm these documents;
3. manage and track historic documents using information technology;
4. assess or upgrade facilities where records are retained;
5. recover documents after a disaster; and
6. train staff to maintain and track historic documents.

By January 1, 2009, the act requires each town to provide public access to an electronic indexing system combining the grantor and grantee indexes of a town’s land records.
EFFECTIVE DATE: July 1, 2007

§ 57 — ATHLETIC TRAINERS

The act allows DPH to issue a temporary permit to practice athletic training to those applicants who have met all of the license requirements except that they have not yet taken or received the results of the certification examination of the Board of Certification Inc., or its successor organization. The act establishes a $50 fee for this. The temporary permit allows athletic trainers to practice under the supervision of a licensed athletic trainer and is limited to settings where the supervisor is physically present and immediately available to give assistance and supervision as needed. The temporary permit is valid for 120 days and cannot be renewed. It becomes void and cannot be reissued if the permittee fails to pass the certification examination.

A permit cannot be issued to a person who has previously failed the certification examination or is the subject of an unresolved complaint or pending disciplinary action. Violating these restrictions can constitute a basis for denial of an athletic trainer license.
EFFECTIVE DATE: October 1, 2007

§ 58 — DENTISTS AND CONSCIOUS SEDATION

The act specifies that “conscious sedation” as used in the dentistry statutes does not include the administration of a single oral sedative or analgesic medication in a dose appropriate for the unsupervised treatment of insomnia, anxiety, or pain that does not exceed the maximum recommended therapeutic dose established by the federal Food and Drug Administration for unmonitored home use.
EFFECTIVE DATE: July 1, 2007

§ 59 — FARMERS' MARKET PRODUCE SALES TO RESTAURANTS

The act permits sellers at Department of Agriculture-certified farmers' markets to sell unprocessed fruits and vegetables directly to restaurants and other food service establishments. It requires food service establishments to ask for, and the farmer or person selling the produce to provide, an invoice indicating the source of the produce and the date it was sold.
EFFECTIVE DATE: Upon passage

§§ 60 & 61 — ALZHEIMER'S SPECIAL CARE UNITS - NURSE'S AIDE TRAINING

The act requires each Alzheimer's special care unit or program to annually provide at least eight hours of Alzheimer's- and dementia- specific training, including pain recognition and administration of pain management techniques, to all nurse's aides who provide direct patient care to residents in the special unit or program. For staff hired on or after October 1, 2007, the training must be completed within six months of their date of employment. Existing law requires such training for all licensed and registered direct care staff providing direct patient care to residents of Alzheimer's special care units or programs. (The act amends PA 07-34, which requires Alzheimer's special care units or programs annually to provide at least one hour of Alzheimer's- and dementia- specific training to all unlicensed and unregistered staff.)
EFFECTIVE DATE: October 1, 2007

§ 62 — "A BETTER CHANCE" HOUSING

The act exempts from DCF licensing requirements houses in which students participating in "A Better Chance" programs live. These programs bring academically talented minority students from other states to live and attend school in Connecticut.
EFFECTIVE DATE: July 1, 2007

§§ 63-72 — MOBILE FIELD HOSPITAL

The act changes the name of the facility the governor can deploy for public health emergencies from "critical access" to "mobile field" hospital. A "critical access hospital" is a facility that meets specified federal criteria (including rural location and provision of 24-hour emergency care), which Connecticut's facility does not.

The act adds providing medical services at mass gatherings and surge capacity during mass casualty events or infrastructure failures to the purposes for which the hospital can be used. The facility could already be used for isolation care and treatment during a public health or other emergency, triage and treatment during a mass casualty event, and training. The act also specifies that the facility must be modular and transportable.

The act specifies that licensed and certified ambulances can transport patients to the mobile field hospital (and be paid for doing so) when the governor or her designee has deployed it for an allowable purpose.
EFFECTIVE DATE: Upon passage

§§ 73-75 — PHARMACY PRACTICE

The act allows the consumer protection (DCP) and public health commissioners to (1) exchange information relating to a license or registration issued by their respective agencies or (2) exchange investigative information concerning violations of the law with each other, the Chief State's Attorney, and with law enforcement agencies.

The act increases the DCP commissioner's power to discipline controlled substance registrants, including placing a registration on probation, placing conditions on the registration, and assessing a civil penalty of up to $1,000 per violation. It adds fraudulent billing practices as a sufficient cause for taking action against a registration.

It allows certain businesses that are not licensed pharmacies to use "pharmacy," "drug," and similar words in signs and advertisements.
EFFECTIVE DATE: October 1, 2007

§ 76 — MARITAL AND FAMILY THERAPISTS

The act eliminates a requirement that a supervised practicum or internship for licensure as a marital and family therapist be a minimum of 12 months and completed within a 24-month period. The practicum or internship must still be completed in order to be licensed.
EFFECTIVE DATE: Upon passage

§ 77 — UMBILICAL CORD BLOOD BANK

The act requires the DPH commissioner, by October 1, 2007, to request information from umbilical cord blood banks concerning establishing a public cord blood collection operation in Connecticut for purposes of collecting, transporting, processing, and storing cord blood units from Connecticut residents for therapeutic and research purposes. The request for information must contain provisions inquiring about the ability of the cord blood bank to:

1. establish and operate one or more collection sites in the state;
2. implement collection procedures designed to collect cord blood units reflecting the state's racial and ethnic diversity;
3. set up collection operations within six months after contract execution with the state, provided the bank is able to negotiate any necessary contracts related to the collection sites within that time period;
4. participate in the National Cord Blood Coordinating Center or similar national inventory center by listing cord blood units in a way that assures maximum use opportunity;
5. have a program providing units for research and agree to provide units unsuitable for therapeutic use to state researchers at no charge; and
6. maintain national accreditation by an organization recognized by the federal Health Resources and Services Administration.

The act requires the commissioner to submit a summary of the responses and any recommendations to the governor and Public Health Committee by January 1, 2008.

EFFECTIVE DATE: Upon passage

§ 78 — PILOT FAMILY NURSE PRACTITIONER PROGRAM

The act makes a technical change to PA 07-219 concerning a Department of Social Services report to a legislative committee.

EFFECTIVE DATE: October 1, 2007

§ 81 — HISTORIC DISTRICT SWIMMING POOL

The act specifies that the restoration of an existing swimming pool in Manchester's National Landmark Historic District does not have to comply with the Public Health Code or State Building Code if Manchester enters into an agreement with DPH and the Department of Public Safety, before the project starts, holding the departments harmless from any liability associated with the pool restoration, including its public use. It does not prohibit Manchester from seeking, or either department from providing, technical assistance.

EFFECTIVE DATE: Upon passage

§ 83 — DAY CARE SERVICES IN PUBLIC SCHOOL BUILDINGS

The act allows day care centers and group day care homes that provide services exclusively to school-age children in a public school building to ask DPH for a variance from its regulations governing physical plant requirements. Before DPH can approve a variance, it requires the center or home to (1) document that it will satisfactorily meet the regulation's specific intent by other means and (2) enter a written agreement with DPH specifying the variance, its duration, and the terms under which it is granted. The variance is cancelled immediately if the home or center fails to comply with the agreement.

The day care operator must post the variance near its license and, when a child enrolls and annually thereafter, notify the child's parents or guardian of the variance. The notice must include the DPH requirements for which the variance was granted and an explanation of how the variance will achieve the requirements' intent in a way that protects the children's health and safety.

EFFECTIVE DATE: Upon passage

§ 84 — WOMEN, INFANTS AND CHILDREN (WIC) ADVISORY COUNCIL

The act creates an 11-member council to advise DPH on issues pertaining to increased participation in, and access to, WIC supplemental food services. The council consists of (1) the Public Health Committee chairpersons; (2) the DPH commissioner or designee; (3) the Children's Commission executive director or designee; (4) a nutrition educator, appointed by the governor; (5) two local directors of the WIC program, one appointed by the Senate president pro tempore and the other by the House speaker; (6) two WIC program recipients, one appointed by the Senate majority leader and the other by the House majority leader; and (7) two anti-hunger association representatives, one appointed by the Senate minority leader and the other by the House minority leader.

Members serve two-year terms, elect the chairperson and vice-chairperson, meet twice a year, and serve without compensation. Vacancies are filled by the appointing authority.

EFFECTIVE DATE: October 1, 2007

§ 86 — SALE OF WATER COMPANY LAND

Under the act, a public auction or other procedure for public sale is not required for the sale or other disposition of real property by a water company to the state, a municipality, or land conservation organization if (1) at least 70% of the area of the real property sold or disposed of is to be used for open space or recreational purposes and (2) the consideration received is not less than the appraised value of the property.

EFFECTIVE DATE: July 1, 2007

§§ 87 & 88 — YOUTH CAMPS AND DAY CARE PROVIDERS

The act amends PA 07-129 to (1) make clear that any regularly scheduled program or organized group activity that advertises itself as a camp or operates only during school vacations or on weekends must be licensed as a youth camp and (2) remove a licensure exemption for programs that operate at times other than during school vacations and weekends. And, by eliminating a prior exclusion, it requires 4-H programs that offer child care services to be licensed as child day care centers or group day care homes.
EFFECTIVE DATE: September 1, 2007 for the youth camp provision; October 1, 2007 for the day care provision.

§ 89 — TOBACCO AND HEALTH TRUST FUND

For FYs 08 and 09, the act allocates to the Department of Mental Health and Addiction Services (DMHAS) any balance remaining in the Tobacco and Health Trust Fund after transfers required by law have been made from the amount distributed to the fund from the Tobacco Settlement Fund. DMHAS must use the funds to provide grants for tobacco education programs designed to discourage smoking by minors in grades one through eight. DMHAS must ensure that these programs are funded state-wide and must establish reporting requirements. (PA 07-2, JSS repeales this provision.)
EFFECTIVE DATE: July 1, 2007

§ 90 — REPEALERS

The act eliminates a requirement that a clinical practice performing in-vitro fertilization, gamete intra-fallopian transfer, or zygote intra-fallopian transfer procedures covered by insurance report certain information to DPH. It repeals a statute concerning grants to municipalities for a one-time mass mailing of the U.S. Surgeon General's AIDS report. Finally, it repeals a statute requiring DPH to adopt regulations concerning medical test unit operations.
EFFECTIVE DATE: October 1, 2007

PA 07-6—SB 1111
Public Safety and Security Committee

AN ACT CONCERNING TECHNICAL CORRECTIONS TO THE PUBLIC SAFETY STATUTES

SUMMARY: This act makes technical and clarifying changes in various public safety statutes.
EFFECTIVE DATE: October 1, 2007

PA 07-11—sHB 5186
Public Safety and Security Committee
Planning and Development Committee

AN ACT CONCERNING THE EVACUATION OF PETS AND SERVICE ANIMALS AND APPROVAL OF THE LOCAL EMERGENCY PLAN OF OPERATIONS

SUMMARY: This act broadens the definition of "civil preparedness" to include measures addressing, where appropriate, the nonmilitary evacuation of pets and service animals. It prohibits the emergency management and homeland security commissioner from approving any local emergency operations plan that he determines does not address such evacuation and other civil preparedness activities and measures specified in existing law.
EFFECTIVE DATE: October 1, 2007

CIVIL PREPAREDNESS

By law, civil preparedness includes a range of activities and measures to be taken in anticipation of, during, and in response to an attack, major disaster, or emergency. When appropriate, the anticipatory measures must address the nonmilitary evacuation of civilians. The act requires, when appropriate, that they address the nonmilitary evacuation of pets and service animals as well.

BACKGROUND

Federal Law

Under the 2006 federal Pets Evacuation and Transportation Standards Act (PL 109-308), local and state emergency plans of states accepting Stafford Act funds for emergency assistance and disaster relief must "take into account the needs of individuals with household pets and service animals prior to, during, and following a major disaster or emergency."

Related Acts

PA 07-94 requires shoreline towns' emergency operation plans to address any emergency caused by an existing liquefied natural gas terminal on Long Island Sound.

PA 07-173 requires towns to consider whether to address the nonmilitary evacuation of livestock and horses in their emergency plans of operation.

PA 07-17—sHB 7265
Public Safety and Security Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE POLICE OFFICER STANDARDS AND TRAINING COUNCIL

SUMMARY: This act replaces the member of the Connecticut Coalition of Police and Corrections Officers on the Police Officer Standards and Training Council with a sworn municipal police officer ranked sergeant or lower. The coalition is defunct.
EFFECTIVE DATE: Upon passage

BACKGROUND

Council Membership

The council also consists of:

1. five public members,
2. one University of Connecticut faculty member,
3. eight Connecticut Police Chiefs Association members,
4. the chief state's attorney,
5. one municipality's chief administrative officer, and
6. the chief elected official or chief executive officer of a town or city with fewer that 12,000 people and without an organized police department.

The public safety commissioner and the Federal Bureau of Investigation's special agent-in-charge in the state or their designees are ex-officio voting members.

PA 07-36—SB 1071
Public Safety and Security Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING GAMING PRODUCTS AND RAFFLE PRIZES

SUMMARY: This act:

1. authorizes qualified organizations to conduct special tuition raffles, subject to Division of

Special Revenue (DSR) regulation, and offer tuition payments as prizes;
2. indirectly requires dealers and manufacturers who sell or rent bingo products, bingo equipment, or sealed ticket machines to register annually with DSR and pay a fee ($1,500 for bingo and $500 for sealed ticket applicants);
3. allows three classes of raffle permittees to award cash prizes, with a maximum allowable prize of $15,000 for class 1 raffles; and
4. allows the sale of sheet tickets in teacup raffles.

EFFECTIVE DATE: October 1, 2007, except for the provisions on bingo and sealed ticket dealers and manufacturers, which are effective January 1, 2008.

TUITION RAFFLES

Tuition Raffle Authorized

The act allows organizations qualified to conduct bazaars and raffles to conduct special tuition raffles once each calendar year. It defines a "tuition raffle" as one in which the prize is tuition payment at an educational institution for a student recipient the raffle winner designates.

Implementing Regulations for Tuition Raffles

The act requires the DSR executive director to adopt necessary implementing regulations for tuition raffles. The regulations must:

1. allow organizations to fund all or some of a student recipient's education each year for up to four years;
2. allow organizations to give the tuition award to the raffle winner, the winner's relative, or a student the winner chooses;
3. authorize the sponsoring organization to allow the raffle winner to designate several students to share the tuition prize;
4. provide that tuition prizes are paid each consecutive year, starting in the student's first year at an accredited private or parochial school, or public or independent college the student selects;
5. require that prizes be paid directly to the educational institution the student recipient designates and disallow redemption of prizes for cash; and
6. give raffle winners a maximum of four years to name a student recipient.

Accounting and Reporting Procedures for Tuition Raffles

The act requires special tuition raffle proceeds to be deposited in a special dedicated bank account to pay special tuition raffle expenses. The DSR executive director must approve the accounts, which are subject to DSR audit, and prescribe how sponsoring organizations maintain them. The executive director may require organizations to post a performance bond to fully fund prizes.

Organizations that conduct tuition raffles must file quarterly tuition raffle financial reports as the executive director prescribes. These are in addition to the verified financial reports raffle permittees file under existing law. The reports must detail the status of the tuition prize money or raffle and any other information the executive director requires. They are due in January, April, July, and October, until the organization makes all the tuition payments for each special raffle.

BINGO PRODUCT MANUFACTURERS AND EQUIPMENT DEALER REGISTRATION

The act defines "bingo products" as bingo ball equipment, bingo cards, and bingo paper. It indirectly requires bingo product manufacturers or equipment dealers to register with DSR. Anyone seeking to be registered must apply to the DSR executive director on a form he prescribes and include a $1,500 fee with the application, payable to the state treasurer. First-time applicants must undergo state and national criminal history record checks as a condition of registration. The registration is renewable annually for $1,500. DSR may revoke registrations for cause.

The act prohibits registered bingo product manufacturers and equipment dealers from renting or selling any type of bingo product not approved by DSR. It requires any organization authorized to operate bingo to use bingo products that it (1) owns, (2) uses for free, or (3) rents or buys from a registered manufacturer or dealer.

The act allows DSR to adopt implementing regulations.

SEALED TICKET MACHINE MANUFACTURER AND DEALER REGISTRATION

The act indirectly requires manufacturers or dealers in sealed ticket dispensing machines to register with DSR. It prohibits permittees authorized to sell sealed tickets from using mechanical or electronic sealed ticket dispensing machines unless they own them or rent or buy them from a registered manufacturer or dealer.

Anyone seeking to be registered as a manufacturer or dealer must apply to the DSR executive director on a form he prescribes and include a $500 fee with the application, payable to the state treasurer. First-time applicants must undergo state and national criminal history record checks. The registration is renewable annually for $500. DSR may revoke registrations for cause.

The act allows DSR to adopt implementing regulations.

CASH PRIZES FOR RAFFLES

Prior law prohibited awarding cash prizes for raffles, except cow-chip raffles. The act allows classes 1, 2, and 4 raffle permittees to award cash prizes for frog-race, duck race, and traditional raffles. Under existing law, the authorized maximum aggregate value of prizes for class 1 raffles is $15,000; class 2, $2,000; and class 4, $100.

The act requires an organization conducting a raffle to deposit the proceeds in a special checking account it establishes for this purpose. It must pay all cash prizes from the account, and it must pay incidental expenses from the gross raffle receipts on checks drawn on the account. The account is subject to DSR audits.

The act requires the DSR executive director to adopt any implementing regulations necessary.

TEACUP RAFFLES

The act allows qualified organizations conducting teacup raffles to sell "sheet tickets" as an alternative to single tickets. Sheet tickets may contain up to 25 coupons with the same number and include a hold stub for the buyer and a correspondingly numbered stub with the buyer's name, address, and telephone number. (Sheet tickets allow players to complete one stub that has multiple coupons, instead of multiple stubs, as is the case with single tickets.)

The act makes DSR the sole sheet ticket issuer. DSR must sell the tickets to permittees as fundraising items. It cannot sell them for more than 10% above what it paid for them.

PA 07-56—HB 7024
Public Safety and Security Committee
Planning and Development Committee

AN ACT CREATING AN INTRASTATE MUTUAL AID SYSTEM

SUMMARY: This act establishes the Intrastate Mutual Aid Compact (IMAC) and commits the state's political subdivisions (towns) to its terms. It provides a legal statewide mechanism for participating towns to request and provide mutual aid during a declared local civil preparedness emergency. IMAC is similar to the Emergency Management Assistance Compact for states, which Connecticut enacted in 2000.

Any town may withdraw from IMAC by adopting a resolution to that effect, and member towns may enter into or remain in supplementary or other interlocal mutual aid agreements.

The act describes the responsibilities of local civil preparedness organizations, compact activation procedures, permit and license reciprocity, compact rights and liabilities, and reimbursement issues.

Existing law already allows towns to establish mutual aid civil preparedness agreements and address some of the same issues this act addresses. It also requires towns, if properly ordered, to make their civil preparedness forces available to provide assistance.
EFFECTIVE DATE: October 1, 2007

COMPACT'S PURPOSE

The compact's stated purpose is to establish a statewide municipal mutual aid system for "participating political subdivisions," which it defines as any political subdivision whose legislative body has not adopted a resolution withdrawing from the compact. The compact creates a mechanism for towns to (1) provide mutual aid to prevent, respond to, or recover from any disaster resulting in a town declaring a local civil preparedness emergency, subject to the town's criteria for a declaration, and (2) participate in disaster-related exercises, testing, or training.

MEMBERSHIP

All towns are automatically members of the compact, once enacted; any town may withdraw by adopting a resolution indicating its intent to do so. The withdrawal takes effect when the resolution is adopted. The town's chief executive officer must submit a copy of the resolution to the Department of Emergency Management and Homeland Security (DEMHS) commissioner not later than 10 days after its adoption.

Compact membership does not preclude other inter-town mutual aid agreements or affect interlocal agreements to which towns are or may become parties.

DUTIES OF LOCAL CIVIL PREPAREDNESS ORGANIZATIONS

By law, every town (or towns acting jointly) must establish an organization to perform civil preparedness duties, in accordance with the state civil preparedness plan. The act requires that compact towns ensure that these duties include:

1. identifying potential hazards that may affect participating towns using a common identification system;
2. conducting joint planning, intelligence sharing, and threat assessment development with contiguous participating towns, and conducting joint training at least biennially;
3. identifying and inventorying current services, equipment, supplies, personnel, and other resources related to planning, prevention, mitigation, response, and recovery activities of participating towns; and
4. adopting and implementing DEMHS' approved standardized incident-management system.

COMPACT ACTIVATION

If a serious disaster affects any participating town, the act allows the chief executive officer to declare a civil preparedness emergency. For compact purposes, the chief executive officer is the elected or appointed town official authorized to declare a local civil preparedness emergency by town charter or ordinance. The chief executive officer must notify the DEMHS commissioner of the declaration within 24 hours after making it. The declaration activates the town's emergency plan of operations and authorizes the request or furnishing of aid and assistance.

A chief executive officer must direct the request for assistance to the town's chief executive officer. He or she may make requests verbally or in writing and must report them to the DEMHS commissioner within 24 hours after making them. Compact provisions apply only to requests made by and to chief executive officers. Verbal requests must be confirmed in writing within 48 hours.

CONDITIONS OF PARTICIPATION AND PERSONNEL DEPLOYMENT

A town's obligation to provide aid under the compact is subject to certain conditions. First, the town requesting aid must declare a local civil preparedness emergency. Secondly, any responding town may withhold or recall resources it deems necessary to provide reasonable protection and services in its own jurisdiction.

Thirdly, a responding town's personnel follows its own emergency medical treatment and other protocols and standard operating procedures. Responding towns' personnel, assets, and equipment are under the responding towns' command and control. But they are under the operational control of the appropriate officials within the incident-management system of the town receiving assistance.

RIGHTS AND LIABILITIES

Responding personnel, including police, firefighters, and public works and other assigned personnel, providing aid during a locally declared civil preparedness emergency have the same rights, duties, privileges, and immunities as they have in their own towns. Unauthorized responders have no immunities, rights, or privileges under the compact.

Responding personnel under the operational control of the receiving town are considered employees of the responding town for liability purposes. Neither the participating towns nor their employees are legally responsible for death, personal injury, or property damage when complying or attempting to comply with the compact. But they are not shielded from lawsuits involving claims of willful misconduct, gross negligence, or bad faith.

REIMBURSEMENTS AND DISPUTE RESOLUTION

Participating towns must document any assets they provide during civil preparedness emergencies. Responding towns that want reimbursement must give notice of intent to file reimbursement claims when they provide the aid or as soon as possible afterwards. They have 30 days after they provide assistance to file their claims in writing. Towns that receive federal reimbursements must provide an appropriate share of the reimbursement to responding towns.

The act requires towns to resolve any reimbursement dispute within 30 days after written notice of the dispute. If unable to do so, any party may request arbitration within 90 days of the date on the claim notice. Arbitrators must use the American Arbitration Association's commercial arbitration rules. (Existing law has no procedures for resolving reimbursement disputes.)

LICENSE RECIPROCITY

People licensed, permitted, or certified in responding towns are qualified to perform in their areas of expertise in towns requesting their assistance during the declared local civil preparedness emergency. But, the compact permits a participating town's chief executive officer or a person or entity's sponsor hospital to limit the activities a person may perform.

PA 07-84—sHB 7115
Public Safety and Security Committee
Planning and Development Committee

AN ACT CONCERNING THE OFFICE OF THE STATE FIRE MARSHAL

SUMMARY: This act makes several unrelated changes affecting fire code enforcement.

As an alternative to annual inspections, the act allows the state fire marshal to adopt a schedule for inspecting certain buildings subject to the State Fire Safety Code less often if it is in the interest of public safety.

The act streamlines fire incident reporting procedures and expands the kind of fire-related incidents that local fire marshals must report to the state fire marshal.

It extends the deadline for adopting the State Fire Prevention Code from January 1, 2005 to October 1, 2008. (PA 04-59 required the state fire marshal to adopt this code to (1) enhance the enforcement capabilities of local fire marshals and (2) prevent fire and other related emergencies.)

It requires (1) at least one member of the Fire Marshal Training Council to participate in hearings to revoke the certificate of local fire marshals unable to prove that they completed required training and (2) the council to advise the state fire marshal and Codes and Standards Committee on decertification hearings.

It authorizes the state fire marshal and Codes and Standards Committee to issue emeritus certificates to certain retired fire code officials.

Finally, the act makes technical changes.

EFFECTIVE DATE: Upon passage for the training council requirements; October 1, 2007 for the other provisions.

BUILDING INSPECTION

Prior law required local fire marshals to inspect buildings (except one- and two-family buildings) within their jurisdiction regulated by the State Fire Safety Code (1) at least annually and (2) as often as necessary in the interest of public safety.

The act eliminates the latter provision and instead allows, as an alternative to the annual inspections, inspections based on a schedule the state fire marshal prescribes. It allows the state fire marshal to establish in the fire safety and fire prevention codes an inspection schedule for regulated buildings, based on building use, except for residential buildings designed to be occupied by three or more families. (By law, such residential buildings will continue to be subject to annual inspections.) The schedule must allow for less-than-yearly inspections if in the interest of public safety.

In addition to the mandatory inspections for regulated buildings, prior law required local fire marshals to inspect other buildings or facilities within their jurisdictions on any "authentic" complaint that the building or facility posed a fire hazard. The act instead requires the state fire marshal, upon receiving any such authentic complaint, to conduct the inspections.

FIRE INCIDENT REPORTS

Prior law required the fire chief to report incidents of fire or explosion to the local fire marshal who reported them to the state fire marshal. It required the fire chief to make the report within five days, and the local fire marshal within 10 days, of the incident.

The act eliminates the two-step reporting process and reporting deadlines. It requires either the fire chief or local fire marshal to submit reports directly to the state fire marshal. In addition to fire or explosions, the act requires them to report other "fire emergencies" (which the act does not define).

The act also allows the fire chief or local fire marshal to submit reports of other significant fire department responses to fires or explosions. They may submit these reports monthly until December 31, 2007. Beginning January 1, 2008, they must submit them at least quarterly.

The act updates the law to reflect current technology and practice, allowing the officials to submit reports electronically instead of on magnetic tapes. It eliminates a requirement that local fire marshals certify and sign the reports.

EMERITUS CERTIFICATE

The act allows any appointed local fire marshal, deputy fire marshal, or other inspector or investigator to apply to the state fire marshal and the Codes and Standards Committee to retire his or her certificate and replace it with an emeritus certificate. It prohibits the retired official from describing himself or herself as a licensed or certified local fire official.

PA 07-94—sSB 1017
Public Safety and Security Committee
Planning and Development Committee
Appropriations Committee
Legislative Management Committee

AN ACT CONCERNING THE EMERGENCY PLANS OF OPERATIONS OF SHORELINE COMMUNITIES AND THE DESIGNATION OF LIQUEFIED NATURAL GAS HAZARD AND SECURITY ZONES

SUMMARY: This act requires:

1. the Connecticut attorney general to recommend to the U.S. Coast Guard that it designate a hazard zone around any liquefied natural gas (LNG) terminal located on or proposed for Long Island Sound that will affect Connecticut (e.g., the proposed Broadwater facility);
2. the attorney general to recommend to the federal government that it designate a security zone around any such facility;
3. state legislative and executive approval of any designation before it takes effect; and
4. any private security service operating in "state waters" to get prior state legislative and executive approval following specified procedures.

The act also requires each shoreline town's emergency operations plan to address any emergency caused by any existing LNG terminal on the Sound. It requires the Public Safety and Security Committee and Department of Emergency Management and Homeland Security commissioner (DEMHS) to approve the plans.
EFFECTIVE DATE: July 1, 2007 for the hazard and security zone designations; October 1, 2007 for the emergency plans and security service provisions.

HAZARD ZONE

The act requires the attorney general, in consultation with the DEMHS commissioner, to recommend to the U.S. Coast Guard that it designate a hazard zone around any LNG terminal located on, or proposed for, Long Island Sound that will affect Connecticut waters or land. He must make his recommendations in writing and submit them to the governor and the legislature.

The governor and the Environment and Public Safety and Security committees must approve the designation before it takes effect.

The attorney general must file a written notice of the Coast Guard's designation with the Governor's Office and House and Senate clerks. Within five days after getting the notice, the clerks must refer it to the Environment and Public Safety and Security committees. Within 30 days after getting it, the committees must hold a joint public hearing on it and, within five days after the hearing, each committee must approve or reject it by roll-call vote and forward it and the vote record to the entire legislature.

The legislature has 15 days after getting the notice to approve or reject it. It must be approved, in whole, by a majority vote of each chamber. It is considered rejected if (1) one chamber fails to approve it or (2) the legislature does not act on it during the 15 days. Any notice submitted to the legislature when it is not in session is deemed rejected if the legislature fails to convene and consider it by the 30th day after it gets it from the committees. The House and Senate clerks must inform the Coast Guard in writing, by registered mail, when the legislature rejects or approves the notice.

The governor must approve or reject the notice of the Coast Guard's designation of a hazard zone and notify the Coast Guard, in writing, by registered mail.

SECURITY ZONE DESIGNATION

The act requires the attorney general, in consultation with the DEMHS commissioner, to make written recommendations to the federal government to designate a security zone around any LNG terminal proposed for or located on the Sound that will affect Connecticut waters or land. He must submit the recommendations to the governor and legislature.

The governor and the Environment and Public Safety and Security committees must approve the designation before it takes effect. The attorney general must file a written notice of the federal government's designation with the House and Senate clerks and the Governor's Office. The approval process mirrors the hazard zone designation approval process, except that the approval or rejection notification goes to the federal government.

PRIVATE SECURITY SERVICES

The act requires any security service operating in state waters to get prior legislative and executive approval. By law, a security service operating anywhere in Connecticut must be licensed by the Department of Public Safety and meet specified criteria.

Under the act, any private security service wanting to operate on state waters must file a written notice of its intent with the Governor's Office and House and Senate clerks. Within five days after the clerks get the notice, they must refer it to the Public Safety and Security Committee, which must hold a hearing within 30 days after getting it. The balance of the process mirrors the hazard zone designation approval process, except that the rejection and approval notices must be sent to the security service.

The act defines "security service" as any person or entity that, for consideration, provides any of the following services on property the service is hired to protect:

1. protection of patrons and authorized people;
2. prevention or detection of intrusion, entry, larceny, vandalism, abuse, fire, or trespass; and
3. prevention, observation, or detection of unauthorized activity.

The act exempts from the security service definition any person, firm, association, or corporation that provides (1) private security within "the port" limits, including designated anchorage areas and "lightering zones," or (2) private security escort or watch services required for vessels crossing the Sound to go to a terminal, anchorage area, or lightering zone that handles refined petroleum products that are liquid at ambient temperatures. (The act does not define lightering, but the common definition is ship-to-shore or ship-to-ship transfer of goods.)

LOCAL EMERGENCY PLANS

The act requires the emergency operations plan of every shoreline town to contain provisions for addressing any emergency caused by any existing LNG terminal on the Sound. It requires towns to submit the plans to the Public Safety and Security Committee and DEMHS commissioner for approval. The committee must hold a hearing on the plan within 30 days after getting it and, within five days after the hearing, approve or reject it by roll call vote and forward it and the vote record to the entire legislature.

BACKGROUND

Liquefied Natural Gas Facility in Long Island Sound

Broadwater Energy has proposed developing a facility in Long Island Sound in New York State waters to regasify LNG shipped from other countries. The facility would be connected by a new pipeline to the existing Iroquois pipeline and the gas shipped to Long Island, Connecticut, and other markets.

Federal Law

Federal law gives the Federal Energy Regulatory Commission (FERC) exclusive jurisdiction over the siting of LNG terminals, although it retains states' rights under other federal laws, including the Coastal Zone Management Act. It designates FERC as the lead agency in obtaining federal authorizations and complying with the National Environmental Policy Act.

PA 07-106—sHB 7270
Public Safety and Security Committee
Energy and Technology Committee
Finance, Revenue and Bonding Committee
Judiciary Committee

AN ACT CONCERNING THE EMERGENCY 9-1-1 SURCHARGE, THE MISUSE OF THE E 9-1-1 SYSTEM AND THE EMERGENCY MANAGEMENT AND HOMELAND SECURITY COORDINATING COUNCIL

SUMMARY: This act establishes a crime of misusing the emergency 911 (E 911) system and makes violations a class B misdemeanor (see Table on Penalties). A person is guilty of this crime if he or she (1) dials E 911 or causes it to be dialed in order to make a false alarm or complaint or (2) purposely reports false information that could result in the dispatch of emergency services.

By law, telephone companies must forward the telephone number and street address from which a 911 call is made to a safety answering point. The companies and their agents are immune from liability to the person making the call over the E 911 system for the release of this information. The act extends these provisions to companies providing voice over internet protocol (VOIP) service (e.g., Vonage) and their agents but allows a VOIP provider to meet the forwarding requirement by complying with relevant federal law. It also requires VOIP providers and active prepaid wireless telephone service providers providing E 911 services to comply with federal law, and also to comply with state law, if the provisions in state law are not addressed in, or inconsistent with, federal law and regulations.

By law, the Department of Public Utility Control must determine the amount of the monthly fee assessed against each telephone and commercial mobile radio services subscriber to fund the development and administration of the E 911 program. (Commercial mobile radio services include personal communications services (PCS), among others.) The act extends this requirement to cover the VOIP and prepaid wireless service providers. It requires the VOIP and prepaid wireless telephone service providers to assess their subscribers the fee.

The act increases the number of emergency management officials on the State-wide Emergency Management and Homeland Security Coordinating Council from one to two.
EFFECTIVE DATE: July 1, 2007, except for the provisions making misuse of E 911 a crime and the monthly fee assessments, which are effective October 1, 2007; upon passage for the council membership change.

DEFINITIONS

Active Prepaid Wireless Telephone Service

Under the act, "active prepaid wireless telephone service" is a prepaid wireless telephone service that has an account balance that is at least equal to the E 911 charge imposed by the act. A "prepaid wireless telephone service" is one activated in advance by payment for a set amount of service or for a number of minutes that terminates (1) when the customer uses them, based on a dollar amount paid in advance, or (2) within a certain time after the initial purchase or activation, unless the customer makes additional payments.

VOIP

Under the act, VOIP is a service that allows real-time two-way voice communication, generally allowing subscribers to make and receive calls using the public switched telephone network. The service requires a broadband connection and Internet-compatible customer premises and equipment.

FEES

The act requires VOIP service providers to assess a monthly fee against each subscriber to fund the E 911 program in the same way as telephone companies. It requires that the fees be collected in any way consistent with the VOIP provider's existing operating or technological abilities and submitted to the state treasurer.

The act requires that each active prepaid wireless service provider pay a fee to the state treasurer for deposit in the Enhanced 9-1-1 Telecommunications Fund based on one of two schemes outlined in the act.

One requires that a prepaid wireless service provider pay a fee on each prepaid wireless telephone associated with Connecticut, for each wireless service customer that has a positive balance of minutes as of the last day of each month. The fee can be collected from subscribers in any way consistent with the provider's existing operating or technological abilities, such as customer address, location associated with the telephone number originally assigned to the telephone, or other reasonable allocation method based upon comparable relevant data. The fee or an equivalent number of minutes may be deducted from the prepaid subscriber's account if direct billing is not practicable. However, such deductions do not reduce the price of the service for the purposes of the sales tax.

As an alternative to the above, the act requires that, each month, an active prepaid wireless service provider remit an amount determined by dividing by 40 the total of earned prepaid wireless telephone services revenue received during the month from prepaid wireless telephone service accounts with an assigned telephone number associated with Connecticut and multiplying the result by the amount of the fee.

Both types of providers must remit their fees by the 15th of each month for deposit in the Enhanced 9-1-1 Telecommunications Fund.

EMERGENCY MANAGEMENT AND HOMELAND SECURITY COUNCIL

Under prior law, this council included one local or regional civil preparedness director appointed by the House speaker. The act adds another member and requires that the Connecticut Emergency Management Association designate this member by July 1, 2007. It replaces the term "civil preparedness director" with "emergency management director" to conform to other statutes. Members serve three years from the time of appointment or until a successor is appointed.

The council advises the departments of Emergency Management and Homeland Security and Public Safety on emergency management and homeland security preparedness, policies, and responses, among other things.

BACKGROUND

Related Law

By law, falsely reporting an incident is a crime. The crime ranges from a class A misdemeanor to a class C felony, depending on the actions taken and their results.

PA 07-110—SB 1093
Public Safety and Security Committee
Finance, Revenue and Bonding Committee
Planning and Development Committee

AN ACT CONCERNING THE STATE BUILDING CODE

SUMMARY: This act makes several unrelated changes in the statutes pertaining to the State Building Code.

It increases the fine for violating a building inspector's written order to provide exit facilities or to repair, alter, or remove part of a building and allows courts to impose both a fine and imprisonment for violations. Under prior law, the penalty was a fine of up to $500 or imprisonment for up to six months. Under the act, the penalty is a fine of $200 to $1,000, imprisonment for up to six months, or both.

The act also:

1. modifies the amount of the education fee that (a) the state may levy on building permit applications and (b) towns may withhold for the administrative costs of collecting such fees;
2. establishes a waiver and appeal process for boiler design, construction, installation, repair, use, and operation consistent with waivers for other building code activities;
3. eliminates a provision allowing the mayor, borough warden, or first selectman to serve as a building inspector in a jurisdiction that does not have a building inspector and makes conforming changes; and
4. makes a technical change, replacing references to the Building Officials and Code Administrators (BOCA) International, an organization that publishes national model building and related codes, with the International Code Council, which has replaced BOCA.

EFFECTIVE DATE: July 1, 2008 for the fee provisions; October 1, 2007 for the other provisions.

BUILDING CODE EDUCATION FEES

By law, the state building inspector and local building officials must levy an education fee on state and local building permit applications for providing education and training programs for code officials and other eligible people. Currently, the fee is 16 cents per $1,000 of construction value declared on the permit application. Prior law allowed the officials to increase the fee by up to 4% in any year to reflect actual changes in the cost of the programs. The act instead allows the fee to be adjusted by up to four cents per year. (Its apparent intent is to allow an adjustment of up to four cents per $1,000 of construction value.)

By law, local officials may retain part of the education fee for their administrative costs, in accordance with Department of Public Safety regulations. Under prior law, this amount could not be less than 1% nor more than 3% of the fee. The act instead sets the amount at one to three cents per $1,000 of the value of the construction declared on the building permit application.

BOILER WAIVER

The act allows people to apply to the state building inspector to grant variations or exemptions from, or approve equivalent or alternate compliance with, regulatory standards governing boilers. The state building inspector or a designee may approve applications if strict compliance would cause practical difficulty or unnecessary hardship.

An aggrieved party may appeal the official's decision to the public safety commissioner not later than 30 days after receiving it and may appeal the commissioner or designee's decision to the Superior Court.

PA 07-144—sHB 7043
Public Safety and Security Committee
Planning and Development Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING OFF-TRACK BETTING BRANCH FACILITIES AND BINGO PRIZES

SUMMARY: This act increases the number of off-track betting (OTB) facilities that may operate as simulcasting facilities (i.e., televise OTB programs) from eight to 10 of the 18 authorized OTB facilities and specifies the location of all 10. Prior law specified the location of four. The act eliminates the zone of protection, which restricted simulcasting within certain distances of other OTB or pari-mutuel facilities.

The act also increases the value of certain bingo prizes. With exceptions, prior law limited the value of bingo prizes to $50. One exception allowed a permittee to award prizes valued at $51 to $200 in one day if the total value of such prizes did not exceed $600. The act increases the base award from $50 to $100. It increases the award under the exception by allowing prizes valued at $101 to $300 in any day as long as the total value does not exceed $1,200.

EFFECTIVE DATE: Upon passage for the OTB provisions; October 1, 2007 for the bingo provision.

LOCATION OF SIMULCASTING FACILITIES

By law, simulcasting facilities are OTB facilities that provide live television coverage of OTB programs and jai alai games and have restaurants, concessions, and other amenities. Other OTB facilities have bench seating, public restrooms for patrons, and monitors for OTB information.

Prior law authorized eight simulcasting facilities and specified the location of four of them as follows: New Haven, Windsor Locks, Plainfield dog track, and Bridgeport fronton or dog track. The act expands the number of such facilities to 10. It eliminates the Plainfield location (which is closed) and the requirement that the Bridgeport facility be located in the jai alai fronton or dog track (which are closed), thereby allowing the facility to be located anywhere in Bridgeport. It specifies that the other facilities must be located in Bristol, East Haven, Hartford, New Britain, Norwalk, Torrington, and Waterbury. All 10 towns currently have OTB facilities, including six that have

simulcasting facilities.

ZONE OF PROTECTION

Prior law prohibited any facility from simulcasting within a zone of protection negotiated between the OTB system operator and another parimutuel facility. The OTB system licensee had to operate simulcasting facilities located at frontons or dog tracks (1) in conjunction with the fronton and dog track licensees and (2) in a substantially similar manner.

Under prior law, any operator planning to simulcast dog racing or jai alai events had to simulcast events being conducted by a Connecticut licensee. The operator could simulcast out-of-state events when no state licensee was conducting them. In either case, the operator had to get the written consent of the state licensee and any other licensee authorized to conduct the same activity within a 40-mile radius.

The act eliminates these zone-of-protection provisions because the OTB system is now owned by one entity (Autotote Enterprises, Inc.) and the dog track and fronton are closed.

BACKGROUND

The OTB System

By law, the location of any OTB facility must be approved by the Division of Special Revenue (DSR) and the legislative body of the town in which the facility will be located. Currently 10 of the 18 authorized facilities OTB facilities are operating, including six simulcasting facilities. They are located as follows:

1. Windsor Locks (Bradley), *
2. Bristol,*
3. Bridgeport,*
4. East Haven,
5. Hartford,*
6. New Britain,*
7. Norwalk,
8. New Haven,*
9. Torrington, and
10. Waterbury.

(*simulcasting facilities)

The OTB system also includes a telephone wagering operation. Autotote Enterprises, Inc. has owned and operated the system since buying it from DSR in 1993.

PA 07-151—sHB 5273
Public Safety and Security Committee
Judiciary Committee

AN ACT CONCERNING THE POLICE OFFICER STANDARDS AND TRAINING COUNCIL AND MISSING PERSONS

SUMMARY: By January 1, 2008, this act requires the Police Officer Standards and Training (POST) Council to develop and implement a policy governing the way law enforcement agencies take and respond to reports of missing persons.

The act also allows POST to employ an unclassified executive secretary. (Unclassified employees are not subject to state civil service merit hiring, promotion, or termination requirements.) Existing law allows POST to employ an executive director and other personnel necessary to perform its functions.

EFFECTIVE DATE: Upon passage for employment of the executive secretary; July 1, 2007 for the policy development.

POST MISSING PERSONS POLICY

The policy must include:

1. guidelines for accepting reports;
2. types of information an agency must collect and record;
3. circumstances that indicate that a missing person should be classified as high risk;
4. types of information the agency should provide to the person making a report, the missing person's relatives, or anyone who can help the agency find the person; and
5. agency responsibilities and procedures in responding to a report.

PA 07-163—sSB 938
Public Safety and Security Committee
Judiciary Committee

AN ACT CONCERNING THE REPORTING OF LOST OR STOLEN FIREARMS AND ILLEGAL FIREARMS TRAFFICKING

SUMMARY: This act establishes the crime of firearm trafficking and makes it a class B or C felony (see Table on Penalties), depending on the number of firearms involved. A person commits this crime if he or she knowingly and intentionally gives someone who cannot legally possess firearms access to his or her firearms.

The act requires anyone whose lawfully possessed firearm (except an antique firearm) is lost or stolen to file a police report within 72 hours after he or she discovers or should have discovered the loss or theft. It imposes penalties ranging from an infraction to a class C felony for failing to report within the deadline. Prior law required the reports only for the theft of assault weapons and contained no penalties.

The act also requires the Department of Public Safety (DPS) commissioner, when issuing permits to carry handguns (but not eligibility certificates to obtain them) to give permittees a copy of the law requiring the reports.

EFFECTIVE DATE: October 1, 2007

FIREARM TRAFFICKING CRIME

A person is guilty of this crime if he or she, knowingly and intentionally, directly or indirectly, causes firearms (except long guns or antique firearms) that he or she owns, possesses, or controls to come into the possession or control of anyone whom he or she knows or has reason to believe cannot legally own or possess firearms under state or federal law. A violation involving (1) more than five firearms is a class B felony and (2) five or fewer firearms is a class C felony.

LOST OR STOLEN FIREARM REPORTS

The act requires the lawful owners of any firearm, instead of just assault weapons, stolen from them to file a police report within 72 hours after they discover or should have discovered the theft. It also requires them to report any lost firearm, including an assault weapon, within the same deadlines.

Prior law required the assault weapon owner to report the theft to any law enforcement authority. The act requires theft and loss reports for all firearms, including assault weapons, to be made to the local police department for the town in which the theft or loss occurred or, if the town does not have a police department, the State Police troop having jurisdiction. It requires the department or troop to immediately forward a copy of the report to the DPS commissioner.

A first-time unintentional failure to report within the deadline is an infraction, punishable by a fine of up to $90; a subsequent unintentional failure is a class D felony. Any intentional failure to report is a class C felony.

The act specifies that a first-time violator does not lose the right to possess a gun permit.

BACKGROUND

Related Law

By law, it is illegal to buy a firearm intending to transfer it to anyone the transferor knows or has reason to believe cannot legally buy or possess such a firearm under state law. A violation is punishable by a fine of up to $1,000, imprisonment for up to five years, or both. A violator convicted of a felony within the previous five years is guilty of a class D felony.

PA 07-173—sHB 7025
Public Safety and Security Committee
Planning and Development Committee
Appropriations Committee
Judiciary Committee

AN ACT CONCERNING CIVIL PREPAREDNESS

SUMMARY: This act makes several changes in the civil preparedness statutes. It:

1. expands the governor's authority to deploy civil preparedness personnel out-of-state;
2. requires towns to (a) consider whether to address the nonmilitary evacuation of livestock and horses in their emergency plans of operation and (b) submit current plans annually for state approval;
3. requires people appointed to serve in civil preparedness organizations to take oaths annually, rather than only upon entering office;
4. requires officers administering oaths, except local civil preparedness officers, to be empowered to enlist volunteers by the Department of Emergency Management and Homeland Security (DEMHS) commissioner, instead of civil preparedness directors;
5. requires local civil preparedness officers to provide DEMHS with a roster of sworn volunteer civil preparedness personnel by August 15 each year; and
6. reduces the frequency of the Emergency Management and Homeland Security Coordinating Council meetings from monthly to quarterly.

EFFECTIVE DATE: October 1, 2007

OUT-OF-STATE DEPLOYMENT OF CIVIL PREPAREDNESS PERSONNEL

Prior law allowed the governor to deploy civil preparedness personnel out-of-state only if the other state's laws on the use of such personnel were substantially similar to Connecticut's. The act allows the governor to order them to operate in states that are members of the Emergency Management Assistance Compact as well.

LOCAL EMERGENCY OPERATIONS PLAN

In order to be eligible for certain state and federal homeland security and civil preparedness funds, a town must submit an emergency operations plan, approved by the local preparedness director and local chief executive, to the DEMHS commissioner for approval. The act requires towns to submit current plans by January 1, 2008 and annually thereafter. Any town that does not change its previous year's plan may include a notice to that effect.

BACKGROUND

Emergency Management and Homeland Coordinating Council

This council advises the Office of Emergency Management and Department of Public Safety on various emergency management and homeland security issues.

Emergency Management Assistance Compact

The state enacted this compact in 2000. It provides a mechanism for states to (1) help each other manage emergencies and disasters declared by any member state and (2) participate in emergency-related exercises, testing, or other training or activities when no emergency exists.

Related Act

PA 07-11 requires local civil preparedness plans to include provisions for evacuating pets and service animals during emergencies.

PA 07-180—sSB 703
Public Safety and Security Committee
Judiciary Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING FIRE SAFE CIGARETTES

SUMMARY: Beginning July 1, 2008, this act, with minor exceptions, requires cigarettes sold or offered for sale to consumers in Connecticut by cigarette manufacturers to be fire-safe. Fire-safe cigarettes have the same characteristics as conventional cigarettes but are designed to be self-extinguishing (i.e., they stop burning when left unattended).

The act:

1. requires cigarette manufacturers to (a) certify to the State Fire Marshal's Office that any cigarette they sell in Connecticut is tested in accordance with the act and meets a minimum fire-safe performance standard and (b) pay a $250 fee for each brand family listed in the certification;
2. allows the revenue services commissioner to revoke or suspend the license of manufacturers who sell cigarettes that are not fire-safe, certified, or marked in accordance with the act;
3. allows the attorney general to bring a civil action to recover up to $10,000 for certain manufacturer violations;
4. requires the State Fire Marshal's Office to administer the fire-safe cigarette program and dedicates certification fees and civil fines to the office to fund its processing, testing, and administrative activities; and
5. allows the state fire marshal to adopt implementing regulations consistent with the New York fire safety standards.

EFFECTIVE DATE: July 1, 2008

CIGARETTE SALES

Beginning July 1, 2008, the act prohibits cigarette manufacturers from selling or offering to sell any cigarette in Connecticut, either directly or through a distributor, dealer, or similar intermediary, unless the manufacturers:

1. test the cigarette as described below and it meets the act's minimum performance standard;
2. file a written certification with the State Fire Marshal's Office listing the cigarette; and
3. mark the cigarette package with the letters FSC, signifying that the cigarettes are "fire standards compliant."

The act allows the revenue services commissioner to suspend or revoke cigarette manufacturers' licenses for violations of the above provisions, according to existing procedures for suspending or revoking cigarette dealer and distributor licenses.

The act allows licensed manufacturers and distributors to sell or distribute non-fire-safe and non-certified cigarettes if they are or will be stamped for sale in another state or are packaged for sale outside of the United States.

TESTING STANDARD FOR FIRE-SAFE CIGARETTES

Any testing by or on behalf of a manufacturer or the State Fire Marshal's Office to determine cigarette performance compliance must be conducted in accordance with the following requirements.

1. Testing must be conducted according to the American Society of Testing and Materials (ASTM) standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes," or any subsequent ASTM standard test for measuring cigarette ignition strength that the state fire marshal finds does not change the percentage of full-length burns resulting from the ASTM E2187-04 test and the performance standard listed in number 3 below.
2. Testing must be conducted on 10 layers of filter paper.
3. No more than 25% of cigarettes in any test trial must show full-length burns, and 40 replicate tests must comprise a complete test for each cigarette tested.
4. The act's performance standard must be applied only to a complete test trial.
5. Written certifications must be based on testing conducted by a laboratory accredited under standard ISO or IEC 17025 of the International Organization for Standardization or other comparable accreditation standard the State Fire Marshal's Office may require in regulation.
6. Testing laboratories must implement a quality control and quality assurance program that includes a procedure to determine the repeatability of testing results (i.e., the range of values within which test results from a single laboratory will fall 95% of the time). The repeatability value cannot exceed 0.19 for any test certification trial. The program ensures that the testing repeatability remains within the required range for all test trials used to certify cigarettes under the act.
7. No additional testing is required if cigarettes are tested in a way that is consistent with the above procedures for another purpose.

Each cigarette that uses lowered permeability bands in the cigarette paper to meet the act's performance standard must have at least two nominally identical bands on the paper surrounding the cigarette column. At least one complete band must be located at least 15 millimeters (0.6 inches) from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, at least two bands must be fully located at least 15 millimeters from the lighting end and 10 millimeters from the filter end of the column, or 10 millimeters from the labeled end of the column for nonfiltered cigarettes.

Alternative Testing and Performance Standards

A manufacturer may propose an alternate test method and performance standard for a cigarette if the state fire marshal determines it cannot be tested in accordance with the specified ASTM test for measuring ignition strength. If the state fire marshal determines that the proposed standard will not result in more than 25% of tested cigarettes exhibiting full length burns, the manufacturer may use the test and standard to certify the cigarette (see CERTIFICATION below).

If the state fire marshal determines that another state has enacted reduced cigarette ignition propensity standards (RCIPS) that use the same test and standard as those in the act, and the officials responsible for implementing them have approved the proposed alternative test and standards for a particular cigarette under a legal provision comparable to the act, he or she must authorize the manufacturer to employ the alternative test and standard to certify that cigarette for sale in Connecticut, unless he or she can reasonably show why not. All of the act's other performance and testing requirements apply to the manufacturer.

EXCEPTIONS TO SALE OF FIRE-SAFE CIGARETTES

The act allows wholesale and retail dealers to sell their existing inventory of non-fire-safe cigarettes on or after July 1, 2008 if they can show that (1) state tax stamps were affixed to them before July 1 and (2) they bought the inventory before that date in comparable quantities to inventory bought during the same period the year before. The act also allows manufacturers, with the prior authorization of the revenue services commissioner, to distribute non-fire-safe cigarettes for consumer testing purposes.

"Consumer testing" means an assessment of cigarettes conducted by or under the control of a manufacturer to evaluate consumer acceptance in (1)

quantities reasonably necessary for such assessment and (2) a controlled setting where the cigarettes are either consumed on-site or returned to testing administrators when the testing ends.

STATE FIRE MARSHAL'S REVIEW AND REPORT

The state fire marshal must review the effectiveness of implementing the testing standards; report to the Public Safety and Security Committee on the findings; and, if appropriate, recommend legislation to improve the effectiveness of the standards. The first report is due by June 30, 2011; subsequent reports are due every three years.

CERTIFICATION

Every three years, each cigarette manufacturer must submit a written certification to the State Fire Marshal's Office attesting that each cigarette listed in a certification has been tested in accordance with the act and meets its performance standard.

The certification must list the following information for each cigarette listed:

1. brand or trade name on the package;
2. style, such as light or ultra light;
3. length and circumference in millimeters;
4. flavor, if applicable;
5. filter or nonfilter;
6. package description, such as soft package or box;
7. markings;
8. the name, address, and telephone number of the laboratory, if different from the manufacturer, that conducted the test; and
9. the test date.

Any manufacturer that changes a certified cigarette in a way likely to alter its compliance with the act's RCIP standards may not sell or offer to sell it to consumers in Connecticut until after it is retested and meets the act's standard. The manufacturer must maintain the test record.

Certification Fees

The manufacturer must pay the state fire marshal a $250 fee for each cigarette brand family listed. The state fire marshal may adjust the fee annually, in regulations, to ensure that it covers the office's actual costs of processing, testing, enforcement, and oversight activities.

FIRE-SAFE CIGARETTE DIRECTORY

By July 1, 2008, the State Fire Marshal's Office must develop and make available for public inspection on its web site, and in such other forms as the state fire marshal deems appropriate, a Connecticut Fire-Safe Cigarette Directory listing all manufacturers that have provided current certifications and all cigarettes listed in the certifications. The state fire marshal must update the directory, as necessary, correcting errors and adding or removing manufacturers or cigarettes to keep the directory current and in compliance with the act.

The act prohibits the state fire marshal from including or keeping in the directory the cigarette of any manufacturer that has (1) failed to provide the required certifications, (2) failed to provide copies of required reports within the 60-day deadline for providing them, or (3) provided any certifications that the state fire marshal determines are not in compliance with the act, unless the manufacturer corrects the violation to the state fire marshal's satisfaction.

A manufacturer aggrieved by the state fire marshal's determination not to include a cigarette in, or remove one from, the directory has 30 days after the determination to apply to the Hartford Superior Court for appropriate relief.

VIOLATIONS

The state fire marshal may refer manufacturer violations of the certification and related provisions to the attorney general, who may bring a civil action in the Hartford Superior Court to recover up to $10,000 for each violation and such injunctive and equitable relief as the court deems appropriate.

Manufacturers must keep copies of test reports on cigarettes for which they submitted certification and provide copies to the state fire marshal and attorney general, upon written request. Manufacturers who fail to provide the reports within 60 days after receiving a request are subject to a civil penalty of up to $10,000 for each day after the 60th day that they fail to provide the report.

CIGARETTE MARKINGS

The act prohibits manufacturers from selling cigarettes to consumers unless they mark each package with the letters FSC, signifying that the cigarettes are "fire standards compliant." The letters must be in eight-point type (like this) and permanently printed, stamped, engraved, or embossed on the package at or near the UPC code, if present.

STAMPED CIGARETTES

The law requires cigarette distributors and dealers to place tax stamps on each individual package of unstamped cigarettes but prohibits them from placing the stamps on packages that do not meet certain requirements (such as bearing the surgeon general's warning labels required by federal law) or are produced

by manufacturers that have not met certain requirements. The law prohibits retail sales of unstamped packages. The act also prohibits them from placing tax stamps on cigarettes not included in the Connecticut Fire-Safe Cigarette Directory.

Further, the act eliminates the revenue services commissioner's authority to disclose the names of anyone who violates the law requiring tobacco product manufacturers who sell cigarettes in Connecticut either to (1) enter into, and perform financial obligations under, the master settlement agreement between Connecticut and four leading tobacco companies or (2) pay into a qualified escrow account a specified amount for each cigarette they sell in the state.

REGULATIONS

The act requires the state fire marshal to implement all of the act's provisions, except those pertaining to stamped cigarettes, in accordance with the New York fire safety standards. It allows him to adopt regulations to implement the provisions on testing, certification, and inspections, consistent with the New York fire safety standards.

FIRE ACCOUNT AND PROGRAM FUNDING

The act establishes the fire safety standard and firefighter protection act enforcement account in which certification fees, civil fines collected for violations, and any other money required by law must be deposited. The state fire marshal must use the account proceeds solely to fund the office's processing, testing, and oversight activities pertaining to the fire-safe cigarette testing, certification, and directory creation. The account is a nonlapsing General Fund account.

PA 07-202—sSB 707
Public Safety and Security Committee
Government Administration and Elections Committee
Labor and Public Employees Committee
Appropriations Committee

AN ACT CONCERNING THE PAY SCALE OF THE STATE POLICE, THE PREQUALIFICATION PROGRAM ADMINISTERED BY THE DEPARTMENT OF ADMINISTRATIVE SERVICES AND CERTAIN REVISIONS TO THE FREEDOM OF INFORMATION ACT

SUMMARY: This act makes numerous substantive and technical changes in the laws regarding the prequalification of contractors and substantial subcontractors who work on state administrative services and state and municipal building construction contracts that are at least partially state-funded, including increasing, from two to five years, the maximum amount of time a contractor may be disqualified from bidding on a Department of Administrative Services (DAS) contract. It makes a public agency potentially ineligible for state funds if it accepts a contractor's bid without (1) proof that he or she is prequalified and (2) a statement of his or her qualifications.

It exempts state building construction contracts valued above $500,000 from the requirement that state and municipal agencies complete an evaluation of the contractor.

It requires all state public works projects, other than those administered by the Department of Transportation (DOT), to be awarded on the basis of competitive bidding to the lowest responsible prequalified contractor. The law already requires state building construction contracts, other than statutorily specified non-bid (fast-track) projects, to be awarded in this way.

The act requires surety contracts for public building construction contracts with the state or a municipality estimated to cost more than $500,000 to contain certain language.

The act broadens security-related exemptions under the Freedom of Information Act (FOIA). It narrows the Department of Public Works (DPW) commissioner's role in determining whether certain records should be exempt because disclosure could result in a safety risk.

It requires the Freedom of Information Commission to (1) take evidence and receive testimony from parties during preliminary hearings and (2) specify its findings of fact and conclusions of law in any decision it issues after a final hearing. It removes a requirement for the commission to make printed reports of its decisions and opinions available to the public for not less than $28.

Lastly, the act requires the administrative services commissioner, within available appropriations, to (1) study the pay scale for sworn state police officers to identify any pay inequities and (2) report her findings and recommendations to the Public Safety and Security Committee by February 1, 2008.
EFFECTIVE DATE: Upon passage, except that (1) changes to prequalification that by law are not effective until October 1, 2007 and (2) security-related FOIA provisions are effective on October 1, 2007.

PREQUALIFICATION

By law contractors and, beginning October 1, 2007, substantial subcontractors, must prequalify with DAS before they perform work on a state building construction project valued at over $500,000. The requirement applies to substantial subcontractors whose work on the project is estimated to cost more than

$500,000. The DAS commissioner gives contractors and substantial subcontractors a certificate, generally valid for one year, when they prequalify.

Prequalification Applicants

The act requires anyone who performs work on a state building construction project to prequalify, whether or not they actually bid on the contract. The requirement does not apply to DOT construction projects. DOT highway and bridge projects are already exempt. By law, DOT administers its own prequalification program.

The act requires the DAS commissioner to give people applying for, rather than those awarded, prequalification (1) notice of the ban against making or soliciting campaign contributions on behalf of political committees, party committees, or exploratory or candidate committees established by candidates for legislative or statewide offices and (2) the penalties for violations.

Prequalification Applications

The act eliminates a requirement for the commissioner to establish a schedule of application fees for subcontractors. By law, contractors and substantial subcontractors pay an application fee based on their aggregate work capacity rating. The fees range from $600 to $2,500.

The law requires the DAS commissioner to review the evaluations of each applicant's performance on public and private projects for at least the immediately preceding five years. Beginning October 1, 2007, the look-back period would have been reduced to the immediately preceding three years. The act removes the mandatory look-back period and instead allows the commissioner to review evaluations from any period.

The act allows the DAS commissioner to deny a person's prequalification if she finds that he or she included a materially false statement in his or her application, update statement, or update bid statement. It also allows her to revoke prequalification for a false statement in an update bid statement. She can already revoke a person's prequalification in the other two situations. She must send notice of any revocation to UConn's president. She must establish an update bid statement that bidders may use when submitting a bid.

Prequalification Renewal, Suspension, and Termination

The act prohibits the DAS commissioner from renewing a prequalification certificate for the same reasons that she cannot issue a new one. This means she cannot renew a certificate if the contractor or substantial subcontractor is disqualified because of labor law violations or because a principal or key employee was convicted or pled guilty or *nolo contendere* (no contest) during the past five years to an act or omission that could have caused his or her disqualification.

The act allows the commissioner to suspend, for up to three months, a contractor's, but not a subcontractor's, prequalification certificate during the revocation hearing process if she finds probable cause to believe the contractor engaged in conduct that significantly undermines his or her skill, ability, or integrity. She must send notice of the suspension by certified mail, return receipt requested, and include the reasons for it and its duration. The contractor may file a written response to the notice within 30 days after receipt, which the commissioner must review within the same 30 days.

The act allows an awarding authority to terminate a contract with a contractor if the authority has substantial evidence that the contractor used fraud to get or keep his or her prequalification or included materially false information in his or her update bid statement. Just as with a false statement in an update statement (statement of qualifications to work on a particular project), the act requires the authority to give the DAS commissioner written notice of the false update bid statement not later than 30 days after discovering it. The act requires the commissioner to give UConn's president and the commissioners of public works and consumer protection written notice of the false update bid statement. It also requires her to give the president notice of any false update statement.

DAS Contracts

The act increases, from two to five years, the maximum amount of time a contractor may be disqualified from bidding on a DAS contract. By law, the DAS commissioner may disqualify a contractor for any behavior that indicates he or she would be an irresponsible state contractor.

SURETY BOND

Whenever the law requires a contractor to post a surety bond on a state or municipal building construction project that is, at least, partially state-funded and estimated to cost more than $500,000, the act requires the contract between the surety company and the contractor to include certain language. The contract must state:

> In the event that the surety assumes the contract or obtains a bid or bids for completion of the contract, the surety shall ensure that the contractor chosen to complete the contract is prequalified pursuant to section 4a-100 of the Connecticut General Statutes in the

requisite classification and has the aggregate work capacity rating and single project limit necessary to complete the contract.

FREEDOM OF INFORMATION COMMISSION

Disclosure of Sensitive Records

The law exempts certain records from disclosure under FOIA, except to law enforcement agencies, if there are reasonable grounds to believe disclosure may result in a safety risk. Under prior law, the DPW commissioner determined reasonable grounds for municipal, district, regional, or executive branch agency records, after consulting with the pertinent agency's chief executive officer.

The act narrows the DPW commissioner's role, requiring him to make the determination for executive branch state agency records after he consults with the chief executive officer of the state agency. It requires the Department of Emergency Management and Homeland Security (DEMHS) to make the determination for all other municipal, district, and regional agency records, after consulting with the agency's chief executive officer.

Under existing law, agencies must notify the DPW commissioner of FOIA requests, in a manner the commissioner prescribes. The act requires them to notify the DEMHS commissioner, also as he prescribes. People denied access to security-related records may file an appeal with the Freedom of Information Commission against the chief executive officer of the agency that issued the directive to withhold the records. Under prior law, appeals against executive branch agencies were brought against the DPW commissioner.

The act broadens security-related exemptions under FOIA. By law, emergency plans and emergency recovery and response plans are exempt from disclosure. The act specifies that these emergency preparedness, response, recovery, and mitigation plans include plans provided by anyone to a state or local emergency management agency or official. The act also exempts all logs and other documents that contain information on the movement or assignment of security personnel. Prior law limited the exemption to logs and other documents at government-owned or -leased facilities.

Hearings on Complaints Regarding Executive Sessions

By law, public agencies can hold meetings in executive or closed sessions for a variety of different reasons. However, they must state the reason in public and a majority of the agency members present and voting must agree with the decision. Members of the public can appeal an agency's decision on a variety of different grounds.

During the preliminary hearing to determine whether probable cause exists that the agency violated the law, the act requires the commission to take evidence and receive testimony from the parties. It requires the commission's final decision to include its findings of fact and conclusions of law.

BACKGROUND

Update Statement

The DAS commissioner issues an update statement for prequalification certificates, renewals, and upgrades. The statement has space for information on:

1. all of the projects the contractor has completed since his or her prequalification certificate was issued or renewed;
2. all projects the contractor has under contract at that time, including the percentage incomplete;
3. the names and qualifications of personnel who will supervise the contract;
4. any significant change in the contractor's financial position or corporate structure since the certificate was issued or renewed; and
5. any other relevant information.

Safety Risk

"Safety risk" includes the risk of harm to anyone or any government-owned or -leased institution or facility or any fixture or appurtenance and equipment attached to, or contained in, them. "Government-owned or -leased institution or facility" includes facilities owned or leased by a public service company, certified telecommunications provider, water company, or municipal utility that furnishes electric, gas, or water service. It does not include an institution or facility owned or leased by the federal government.

Records exempt from disclosure when there are reasonable grounds to believe disclosure may result in a safety risk include:

1. security manuals or reports;
2. engineering and architectural drawings of government-owned or -leased institutions or facilities;
3. operational specifications of security systems used at any government-owned or -leased institution or facility, except for a general description and quality and cost of the system;
4. training manuals prepared for government-owned or -leased institutions or facilities that describe security procedures, emergency plans, or security equipment; and
5. internal security audits of government-owned or -leased institutions or facilities.

PA 07-205—sSB 937
Public Safety and Security Committee
Commerce Committee
Government Administration and Elections Committee
Finance, Revenue and Bonding Committee
Appropriations Committee

AN ACT ESTABLISHING AN OFFICE OF MILITARY AFFAIRS AND IMPLEMENTING RECOMMENDATIONS OF THE GOVERNOR'S COMMISSION FOR THE ECONOMIC DIVERSIFICATION OF SOUTHEASTERN CONNECTICUT

SUMMARY: This act increases, from $10 million to $50 million, the amount of bond funding for infrastructure improvements at the Groton submarine base to support long-term, ongoing naval operations. (PA 07-4, June Special Session, eliminates the additional funding but PA 07-7, June Special Session, restores it)). It establishes an Office of Military Affairs (OMA) to promote and coordinate statewide activities to (1) enhance the quality of life of military personnel and their families and (2) expand the military and homeland security presence in Connecticut. The act puts OMA within the Department of Economic and Community Development (DECD) for administrative purposes only.

EFFECTIVE DATE: July 1, 2007 for the submarine base funding; October 1, 2007 for OMA's establishment.

GRANT AWARD

Prior law required the DECD commissioner to use $10 million in bond funds for grants to the U.S. Navy or eligible applicants to pay for infrastructure improvements that will increase the military value of the U.S. Naval Submarine Base-New London in Groton. The act increases the amount of bond funds for this purpose by $40 million, to $50 million. It specifies that the infrastructure improvements may include piers; dry docks or facilities for maintenance, operations, and training; "ordinance"; or electric or water utilities. The proceeds are from Manufacturing Assistance Act bonds, which are used to finance industrial parks, facility expansions, and other large-scale development projects.

The act requires the commissioner to negotiate a multiyear lease with the U.S. Navy for any such improvements, at the end of which lease ownership of the improvements may be transferred to the Navy. If the Navy stops operating at the base before the lease ends, it must reimburse the state for the cost of constructing the improvements.

OFFICE OF MILITARY AFFAIRS

Executive Director's Appointment

The act requires the governor, in consultation with the DECD commissioner, to appoint an executive director to manage OMA; and it makes the executive director a department head. As such, the executive director has the same duties and authority as other department heads, including the duty to organize the office and the authority to adopt regulations and enter into contracts to carry out office duties. The legislature must approve the nomination, using the executive and legislative nomination and approval process for department heads.

Executive Director's Duties

Within available appropriations, the executive director must:

1. appoint, employ, and remove staff as deemed necessary to operate the office efficiently;
2. coordinate state and local efforts to prevent the closure or reduction in size of Connecticut military facilities, particularly the Groton submarine base;
3. maximize the state's role in the federal Base Realignment and Closure (BRAC) process, including acting as liaison to (a) the state's congressional delegation on defense, military, and BRAC issues and (b) consultant lobbyists the state hires to help monitor BRAC activities;
4. encourage the relocation of military missions to Connecticut;
5. coordinate state and local efforts to enhance the quality of life of military personnel and their families living or working in Connecticut;
6. review and make recommendations for state policies that affect Connecticut military facilities and the defense and homeland security industries;
7. coordinate state, regional, and local efforts to encourage the growth of Connecticut's defense and homeland security industry;
8. support the development of a defense and homeland security industry cluster;
9. establish and coordinate a Connecticut Military and Defense Advisory Council to provide technical advice and assistance;
10. oversee the implementation of recommendations of the Governor's Commission for the Economic Diversification of Southeastern Connecticut; and
11. prepare and submit a report of activities, findings, and recommendations annually to the governor and Commerce and Public Safety and

Security committees.

Executive Director's Qualifications

The executive director must have the necessary qualifications to perform the duties of the office. He or she must have served in the armed forces and attained the rank of officer. The governor must give preference to someone who has the necessary training and experience, served in the Navy, and knows about or has had experience with the federal BRAC process.

BACKGROUND

Related Acts

PA 07-4, June Special Session, requires the governor to appoint an OMA director who either has the necessary training, experience, and Navy service or knows about the BRAC process, instead of someone who meets both criteria (§ 22). It also eliminates the additional submarine base funding, the examples of projects that would qualify for funding, and related lease provision (§ 4). PA 07-7, June Special Session restores the additional funding.

PA 07-246—sHB 7269
Public Safety and Security Committee
Judiciary Committee

AN ACT CONCERNING CRIMINAL HISTORY BACKGROUND CHECKS, CHILD PORNOGRAPHY, REPEATED FALSE ALARMS, THE DESTRUCTION OF SEIZED FIREWORKS, AMUSEMENT PATRONS' SAFETY AND ASSESSOR'S DRAWINGS

SUMMARY: This act makes several unrelated changes affecting State Police response to false alarms, amusement rider safety, defendants' access to child pornography in criminal proceedings, criminal history record checks, disposal of seized fireworks, and information that property tax assessors may make publicly available.

The act:

1. establishes fines, with certain exceptions, for state police response to repeated false alarms in buildings where state police are expected to respond, ranging from $25 for the fourth offense in a calendar year to $100 for the seventh and subsequent offenses;
2. requires amusement patrons to obey patron safety regulations, requires amusement ride owners to post notices of the requirement, and allows security guards and law enforcement officers to detain patrons for violations;
3. limits the type of access defendants in criminal proceedings have to child pornography material in state custody;
4. allows the public safety commissioner to adopt regulations to implement the criminal history record check provisions of one state and three federal laws;
5. requires courts to order that seized illegal fireworks be photographed, inventoried, described in a sworn affidavit, and then destroyed, instead of being held pending final case disposition; and
6. specifies that the law requiring property tax assessors to make certain records available for public inspection does not authorize them to post on the Internet or otherwise publish the plans or drawings of a dwelling unit of a residential property's interior.

EFFECTIVE DATE: October 1, 2007

STATE POLICE RESPONSE TO FALSE ALARMS

Definitions

Alarm System. The act defines an "alarm system" as an assembly of equipment and devices arranged to signal the presence of a hazard, such as unauthorized entry, an attempted robbery, or fire or smoke, requiring urgent attention and to which state police are expected to respond. It includes holdup, burglar, audible, and fire alarms. It does not mean a system that monitors temperature or designed solely for medical emergency notification.

False Alarm. A false alarm means activation of any alarm system, including activations off the protected property and within the control of a subscriber, his or her alarm business, or his or her answering service, to which state police respond. It does not include activations caused by fire, criminal acts, emergencies, or acts of nature such as earthquakes, tornadoes, hurricanes, or storms.

Fines

The act imposes fines on alarm system subscribers for emergency police response to false alarms. It exempts state, municipal, and federal buildings from such fines.

It defines a "subscriber" as anyone who buys, leases, or otherwise acquires an alarm system and installs it or has it installed. This includes anyone who controls the premises where an operable system is located. If the subscriber is not the owner of the property where the alarm system is located, the police officer must notify the property owner of the second

false alarm.

The act requires that fines be automatically waived for the first three false alarms in a calendar year. After that, the fines for each calendar year are as follows: fourth alarm, $25; fifth alarm, $50; sixth alarm, $75; seventh and subsequent alarms, $100. The act gives a subscriber notified of a fine seven days to appeal to the State Police, which must (1) review the appeal to determine if the circumstances justify waiving the fines and (2) notify the subscriber of the decision in writing.

Fines are payable to the State Police and due within 30 days after the notification date or, in cases of appeal, 30 days after the date of the decision. The penalty for failing to pay by the deadline is a fine of up to $200.

The State Police must use the fines to pay for the administrative costs of administering the false alarm program and for training and educational material.

AMUSEMENT RIDES

Patron Safety Regulations

Existing law defines "amusement" as (1) any circus or carnival presented in the open, including a place where rides that normally require an operator's supervision are presented for amusement or entertainment and (2) any circus, carnival, or other portable show or exhibition presented under any single tent, air-supported plastic or fabric or other portable shelter, and involving the assembly of 100 or more people (excluding inflatable devices leased for private residential use).

Prior law authorized the public safety commissioner to adopt regulations pertaining to an amusement license. The act instead requires the commissioner to adopt regulations and implies that they must include patron safety regulations. It requires patrons of any amusement or public amusement park to obey patron safety regulations the commissioner adopts.

Posted Signs

The act requires owners of amusement rides or devices to post signs displaying the following written statement, at a minimum, in letters at least two inches high:

> State law requires patrons to obey all posted signs, warnings and instructions and to behave in a manner that will not cause or contribute to the injury of themselves or others. Injured patrons or their adult guardians must report all injuries to management before leaving. Disorderly conduct is punishable by up to a $500 fine and up to three months imprisonment.

The owner must post the signs, in accordance with the patron safety regulations, at any first aid or injury reporting stations and (1) at the facility's patron entrance or exit or (2) anywhere patrons buy admission tickets or get authorization to use an amusement ride or device.

Enforcement

The act allows security guards and law enforcement officers to detain patrons of an amusement (presumably of a public amusement park as well) for a reasonable time (which the act does not define) in order to summon a police officer if the guard or officer has reasonable cause to believe they violated the patron safety regulations.

Violators are subject to the penalties that apply under existing law to violations of the laws governing amusements, amusement parks, and amusement rides, which are a fine of up to $500, imprisonment for up to six months, or both.

Amusement Owner Liability

The act specifies that it must not be construed to limit or otherwise affect the liability of the owner of an amusement (presumably of a public amusement park as well) or relieve the owner of the responsibility to reasonably supervise patrons.

Amusement License

When anyone applies for an amusement license, the public safety commissioner must conduct certain inspections to determine that the rides and devices are safe for public use. The act requires the commissioner to conduct the inspections in accordance with the frequency schedule adopted in regulations. (But neither the law nor the act explicitly requires the commissioner to include a frequency schedule in the regulations.)

ACCESS TO CHILD PORNOGRAPHY

The act requires that, in any criminal proceedings, any property or material constituting child pornography must remain in the state's care, custody, and control. It requires the court to deny any request by a defendant to copy, photograph, duplicate, or otherwise reproduce the material. But the state's attorney must make the material reasonably available to the defendant by providing the defendant or defendant's attorney or anyone the defendant seeks to qualify as an expert witness ample opportunity to inspect, view, and examine the material at a state facility or other facility the attorney for the state and defendant agree on.

Under the act, "child pornography" means any visual depiction of sexually explicit conduct involving a person under age 16.

PUBLIC SAFETY REGULATIONS

The act allows the public safety commissioner to adopt regulations to implement provisions of one state and three federal laws to provide for national criminal history record checks to determine an employee's or volunteer's suitability and fitness to care for the safety and well-being of children, the elderly, and people with disabilities.

The state law is the National Crime Prevention and Privacy Compact. The federal laws are the 1993 National Child Protection Act, 1994 Violent Crime Control and Law Enforcement Act, and 1998 Volunteers for Children Act.

FIREWORKS

When a fire marshal seized illegal fireworks under prior law, the Superior Court had 48 hours to issue a summons to the owner to appear in court and show cause why the fireworks should not be judged a nuisance and destroyed. The act instead requires the court to issue the summons expeditiously.

By law, if the court finds that the fireworks are kept in violation of the laws governing fireworks, it must declare them a nuisance and order them destroyed along with any crates, boxes, or vessels containing the fireworks. The act prohibits a court from requiring storage of the seized fireworks pending final disposition of the case. It instead requires the court to order the fireworks destroyed after they are inventoried, photographed, and described in a sworn affidavit and makes the inventory, photographs, and affidavit sufficient evidence for purposes of identifying the seized items in any subsequent court proceeding.

ASSESSOR'S RECORDS AND PUBLIC INSPECTION

The law requires property tax assessors to make certain records available for public inspection in their offices. These include (1) criteria, guidelines, and price schedules or statement of procedures used in revaluation and (2) a compilation of all real property sales in each neighborhood for the 12 months preceding the date on which each revaluation is effective. The act specifies that this requirement must not be construed to permit assessors to post on the Internet or otherwise publish the plans or drawings of any dwelling unit of a residential property's interior.

PA 07-52—HB 6370
Transportation Committee
Judiciary Committee

AN ACT CONCERNING THE ILLEGAL USE OF HANDICAPPED PARKING SPACES

SUMMARY: This act increases the fine for violating laws relating to the provision and use of parking spaces designated for handicapped people. Previously, violations were infractions with a minimum fine of $85. The act eliminates the designation as an infraction and increases the fine to $150 for a first violation and $250 for a subsequent violation. However, it designates these fines as payable by mail to the Centralized Infractions Bureau so a court appearance is not required if the violator chooses to mail in the fine.

Under the prior law, a violator who mailed in the fine paid a total of $131. This included the base fine of $85 and, because violations were designated as infractions, additional assessments required by law bringing the total amount due to $131. Under the act, violators are no longer subject to the additional charges since the violation is no longer classified as an infraction. Therefore, for a first violation, the person will pay $150 instead of $131.

The violations of the handicapped parking law subject to the act's higher fine include:

1. parking in a space designated for a handicapped person,
2. unauthorized display of a special license plate or placard issued to a disabled person,
3. failure to return a plate or placard when required to do so by the motor vehicle commissioner, and
4. failure to provide the designated spaces for handicapped persons the law requires.

EFFECTIVE DATE: October 1, 2007

BACKGROUND

Remittance of Fines to Municipalities

The law requires the state to remit to the municipalities in which the violations occur all amounts received for certain parking related violations, including those related to the special parking places designated for use by those with disabilities.

PA 07-70—HB 6372
Transportation Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE LOCATION OF STATE FACILITIES

SUMMARY: This act requires the public works commissioner, when leasing, purchasing, or contracting for the purchase of any state facility, to (1) consider the proximity of state facilities to rail lines or bus routes and (2) consult with the Department of Transportation, transit districts, or regional planning agencies on the current and future status of rail and motor bus routes. These requirements apply to buildings or real property the state owns or leases.
EFFECTIVE DATE: Upon passage

PA 07-88—SB 224
Transportation Committee
Planning and Development Committee

AN ACT CONCERNING NOTICE OF PARKING VIOLATIONS ON THE OPERATOR OF A MOTOR VEHICLE

SUMMARY: When a municipality issues a ticket for a parking violation, the law requires that it be served personally on the vehicle operator, if present, and, if not, affixed to the vehicle in a conspicuous place. If the fine remains unpaid 30 days after the initial notice of violation is issued and the vehicle is leased or rented, the law requires that a second notice be mailed to the address of record of the vehicle owner. No fines or penalties may accrue to the owner of a rented or leased vehicle for the violation for 60 days after the second notice is mailed.

This act allows the owner of such a leased or rented motor vehicle who receives the second notice to notify the municipality of the identity of the person who leased or rented the vehicle when the ticket was issued, and the person's address, driver's license number, and license issuing state. The municipality must then issue the notice of violation to the person who leased or rented the vehicle.
EFFECTIVE DATE: July 1, 2007

PA 07-134—sHB 5537
Transportation Committee
Public Health Committee
Appropriations Committee

AN ACT CONCERNING WHEELCHAIR TRANSFER SAFETY

SUMMARY: This act requires anyone transporting someone being transferred into or out of a motor vehicle while in a wheelchair to provide and use a device designed to secure the person in the wheelchair while transferring him or her from the ground to the vehicle or the vehicle to the ground. The device must be in the vehicle at all times.

The act requires operators of certain specific types of newly registered vehicles to provide additional protection through the use of a device that secures the wheelchair to the motor vehicle's mechanical lift, or otherwise prevents or seeks to prevent the person from falling from the vehicle.

The act authorizes the Department of Motor Vehicle (DMV) commissioner to adopt regulations, in consultation with the departments of Transportation (DOT) and Public Health (DPH) commissioners, to implement these requirements.

It designates violations of the requirements as infractions.

EFFECTIVE DATE: October 1, 2007

VEHICLES IN WHICH WHEELCHAIR MUST BE SECURED TO LIFT

For certain types of lift-equipped vehicles registered for the first time after September 30, 2007, the act requires that the operator provide and use an additional device that secures the wheelchair to the vehicle's mechanical lift or otherwise prevents or seeks to prevent the person in the wheelchair from falling from the vehicle. These vehicles include:

1. livery vehicles;
2. service buses;
3. invalid coaches;
4. vanpool vehicles;
5. school buses;
6. motor buses;
7. student transportation vehicles;
8. camp vehicles; and
9. vehicles used by municipal, volunteer, and commercial ambulances, rescue services, and management services.

The act requires service buses, school buses, and student transportation vehicles to meet the restraint device requirement as a condition of their required periodic DMV safety inspections. Unless a vehicle meets the requirements, the act prohibits (1) DPH from issuing a license or certificate to a volunteer, municipal, or commercial ambulance service, rescue service, or management service and (2) DOT from issuing a permit to operate livery vehicles. Any entity holding a livery permit issued before October 1, 2007 must comply with the requirements by that date.

BACKGROUND

Definitions

A "motor vehicle in livery service" is a vehicle in the business of transporting passengers for hire, except for taxis, motor buses, school buses, and student transportation vehicles. Livery vehicles may operate only under DOT permits.

A "service bus" is a vehicle, other than a vanpool vehicle or school bus, designed and regularly used to carry 10 or more passengers in private transportation service without charge to the individual.

An "invalid coach" is a vehicle used exclusively to transport nonambulatory patients not confined to stretchers to or from medical facilities and their homes in nonemergency situations or used in emergencies as backup vehicles.

A "vanpool vehicle" primarily transports people between home and work on a prearranged nonprofit basis and is manufactured and equipped to provide seating for (1) seven to 15 people, if owned by or leased to an individual person, an employee of that person, or to an employee of a government entity in Connecticut or (2) six to 19 people, if owned by or leased to a DOT-recognized regional ridesharing organization in Connecticut.

A "motor bus" is a vehicle, other than a taxicab, operated on a highway and providing transportation by indiscriminately receiving or discharging passengers, or running on a regular route between fixed locations.

A "student transportation vehicle" is a vehicle, other than a registered school bus, used to transport students.

A "camp vehicle" is a vehicle regularly used to transport passengers under age 18 for DPH-licensed youth camp activities.

A "management service" is an employment organization that provides emergency medical technicians or paramedics to an emergency medical service organization, but does not own or lease ambulances or other emergency medical vehicles.

A "rescue service" is an organization that primarily searches for lost people or renders emergency services to people in dangerous or perilous circumstances.

PA 07-167—sSB 1400
Transportation Committee
Judiciary Committee
Finance, Revenue and Bonding Committee
Appropriations Committee
Government Administration and Elections Committee

AN ACT CONCERNING THE ADMINISTRATION OF THE DEPARTMENT OF MOTOR VEHICLES

SUMMARY: This act:

1. establishes higher penalties for (a) a commercial vehicle driver who causes a fatality while operating his vehicle negligently or recklessly, (b) repeat offenses of someone operating a motor vehicle while under license suspension, or operating when unlicensed or when in violation of the terms of licensure, and (c) drivers who fail to grant the right of way to a pedestrian in a crosswalk;
2. requires any prospective employee of the Department of Motor Vehicles (DMV) to provide pertinent information on prior arrests and to submit to a criminal history record check;
3. allows someone whose driver's license has been revoked following a third conviction for driving under the influence of alcohol or drugs to seek restoration of driving privileges after six years instead of 10, provided the commissioner determines it does not endanger public safety, certain requirements are met, and the person submits to installation and use of a vehicle ignition interlock device;
4. shortens the driver's license suspension periods for minors convicted of illegally possessing alcohol;
5. repeals vision screening requirements for renewing drivers' licenses that were scheduled to go into effect on July 1, 2007;
6. allows the registration and operation on roads of certain amphibious vehicles subject to restrictions state and local traffic authorities may establish in the interest of public safety;
7. eliminates the special driver's license endorsement required to operate a camp vehicle;
8. allows DMV to substitute the business addresses for the home addresses of certain judicial department employees, federal law enforcement officers, and state referees whose safety could be at risk if their home addresses are made public;
9. applies the same federal health and fitness requirements that currently apply to anyone who holds a commercial driver's license (CDL) to those who hold CDL instruction permits;
10. allows someone who holds a CDL to participate in the pretrial alcohol education program for certain alcohol or drug impaired driving offenders if the offense occurred in a noncommercial motor vehicle;
11. exempts motorcycles from the greenhouse gas labeling program for motor vehicles;
12. makes several changes with respect to the specific information DMV must put on drivers' licenses and establishes requirements for someone to renew a driver's license without personally appearing to renew it;
13. applies the same passenger carrying restrictions to 16- and 17-year-olds receiving instruction from relatives under a home training certificate as apply for the first six months after these drivers receive their licenses;
14. authorizes issuance of a "Gold Star Family" license plate to certain relatives of an armed forces member killed in the line of duty;
15. expands the list of those to whom DMV may provide personal information from its records to include private detectives investigating motor vehicle matters;
16. increases the fee for a duplicate marine vessel certificate of number or registration and eliminates fees for vanpool vehicle registration and license plate confiscation from vehicles with registrations suspended for failure to maintain insurance;
17. exempts composite motor vehicles from exhaust emissions inspections;
18. authorizes DMV-licensed automobile clubs to charge a $2 convenience fee when they renew a driver's license on behalf of DMV;
19. allows motor vehicle dealers to maintain required records in an electronic form the commissioner approves;
20. specifies insurance coverage requirements for some types of motor carriers who may not now be subject to federal minimum financial responsibility requirements;
21. requires the main DMV office in Wethersfield to be named the "Biagio 'Billy' Ciotto Building;"
22. allows DMV to consider the Consumer Price Index (inflation) when assessing whether to approve changes in the rates towers may charge for nonconsensual towing;
23. allows towers to recover their towing charges as well as their storage charges when they dispose of a vehicle they have held for the periods required by law;

24. modifies the requirement for the maximum height of motorcycle handlebars;
25. eliminates several requirements, some of which are obsolete, for operating commercial vehicles with tandem trailers;
26. establishes an abandoned vehicle task force to study the problem of abandoned vehicles in Connecticut and report its findings and recommendations to the Transportation Committee by February 1, 2008; and
27. requires DMV to study the possible effects various types of electronic devices installed in motor vehicles may have on their safe operation and report its findings and recommendations to the Transportation Committee by February 1, 2008.

The act also eliminates obsolete statutory references to public passenger transportation permits, "school bus only" driver's license endorsements, and performance of motor vehicle safety inspections by authorized emissions inspection stations, and makes several technical and minor conforming changes to laws.

EFFECTIVE DATE: Various, see below

§ 6 – PROTECTION OF RESIDENTIAL ADDRESSES OF CERTAIN OFFICIALS

By law, the DMV can withhold from public disclosure the home addresses of certain public officials for whom such disclosure could present a threat to their safety, if the officials request this in writing. Instead, DMV may disclose the official's business address. These officials include judges, police, corrections officers, prosecuting attorneys, and members of the Board of Pardons and Paroles. The act adds judicial branch employees regularly engaged in court ordered enforcement or investigatory activities, federal law enforcement officers who live and work in Connecticut, and state referees.

EFFECTIVE DATE: October 1, 2007

§ 8 – PASSENGER RESTRICTIONS FOR TEENAGE MOTORCYCLE OPERATORS

The act conforms the law governing motorcycle operation to the restrictions that already exist with respect to prohibiting any 16- or 17-year-old from carrying any passengers on a motorcycle for the first six months the teenager is licensed. It also makes a technical correction to reflect the fact that authority to operate a motorcycle is granted through a driver's license endorsement rather than through a separate license.

EFFECTIVE DATE: October 1, 2007

§ 9 – HEALTH AND FITNESS REQUIREMENTS FOR COMMERCIAL DRIVERS

The act applies the same health and fitness standards currently applicable to individuals who hold a commercial driver's license (CDL) to applicants for a commercial driver's instruction permit. It gives someone who is denied an instruction permit, or whose permit is suspended, revoked, or cancelled based on his or her inability to meet the physical standards the same right to a DMV hearing that license holders have. Individuals who want to get a CDL but who have not been previously licensed usually undergo training prior to licensure under an instruction permit.

Finally, it eliminates a reference in the law to separate standards for intrastate drivers. In practice, DMV applies the mandatory federal fitness standards to all CDL holders.

EFFECTIVE DATE: October 1, 2007

§ 10 – RECONSTRUCTED MOTOR VEHICLES

By law, certain motor vehicles must undergo a DMV safety inspection before they may be registered. These include vehicles (1) composed or assembled from parts of other vehicles, (2) the identification of which is so altered that they no longer bear the characteristics of any specific make of vehicle, and (3) declared a total loss by an insurance carrier and subsequently rebuilt. The act requires any vehicle that has been "reconstructed," whether or not it has been declared a total loss by an insurer, to be inspected before it can be registered. It defines "reconstructed" as every motor vehicle materially altered from its original construction by the removal, addition, or substitution of essential parts, whether the parts are new or used.

EFFECTIVE DATE: October 1, 2007

§ 11 – INSURANCE REQUIREMENTS FOR MOTOR CARRIERS

The act expands insurance requirements for certain motor carriers. By law, owners of certain commercial motor vehicles must file evidence with the DMV commissioner every six months that they have the insurance coverage or other security required by law for each vehicle they operate. For those carriers subject to federal financial responsibility coverage requirements, the commissioner has adopted the same coverage levels as state requirements. The minimum federal financial responsibility limits generally apply to (1) for-hire carriers with gross vehicle weight ratings over 10,000 pounds carrying non-hazardous cargo in interstate commerce, (2) for-hire and private carriers in interstate or intrastate commerce carrying hazardous materials requiring warning placards under federal law, and (3) any vehicles carrying passengers for hire in interstate

commerce.

The state applies the federal minimum levels of coverage for vehicles (1) engaged in intrastate commerce with gross vehicle weight ratings of 18,001 pounds or more; (2) engaged in interstate commerce with gross vehicle weight ratings of 10,001 pounds or more; (3) designed to transport more than 15 passengers, including the driver; and (4) used to transport hazardous materials requiring placards, regardless of vehicle size. Generally:

1. non-hazardous property carriers subject to federal limits must have a minimum of $750,000 liability coverage;
2. hazardous materials carriers must have either $1 million or $5 million in liability coverage depending on the classification of the hazardous material carried; and
3. passenger carriers must have $1.5 million if the vehicle seats fewer than 15 passengers and $5 million if it seats 16 or more.

The act requires that all for-hire carriers and private carriers of property or passengers, and the owner of any vehicle that transports hazardous material requiring warning placards under federal law show in their semiannual filings with DMV that they maintain the minimum level of financial responsibility the federal regulations specify. This appears to extend the higher federal, rather than state limits, to certain types of carriers (e.g., private carriers with over 10,000 pounds gross weight ratings carrying non-hazardous cargo in intrastate commerce or passenger carriers engaged in intrastate commerce, which, because they are not currently covered by the federal limits, may not have to show the same levels of financial responsibility as carriers that are explicitly under the federal regulations).
EFFECTIVE DATE: October 1, 2007

§§ 12 & 44 – REQUIREMENTS APPLICABLE TO OPERATION OF TANDEM TRAILERS

The act eliminates several requirements for operating tandem trailers, defined statutorily as commercial vehicle combinations. It eliminates requirements that an operator of tandem trailers (1) get a special DMV license endorsement; (2) have at least three years of prior experience operating commercial vehicle combinations elsewhere, or have previously held a Connecticut license for driving these vehicles; and (3) not have violated certain traffic laws prior to licensure. To some extent, these matters are now governed by federal law, which requires states to issue special endorsements on a CDL for operating certain types of commercial vehicles, including tandem trailers. States must refuse to license, or disqualify from continuing to operate a commercial motor vehicle for specified periods, drivers who have been convicted of certain traffic offenses. These requirements are similar to those in the prior state law. However, the federal licensing standards do not specify a prior experience requirement for tandem operators. Instead, states must have testing programs that adequately test an applicant's ability to operate these specialized vehicles.

The act eliminates the requirement that the DMV commissioner establish a special safety inspection program for commercial vehicle combinations consisting of an initial pre-registration inspection and a system of staggered subsequent inspections. It also eliminates the requirement that vehicles operated in Connecticut must display a currently valid inspection sticker issued by Connecticut or another state. Commercial motor vehicles, including tandem trailers, are subject to both state and federal safety regulations enforced by both the State Police and DMV inspectors.
EFFECTIVE DATE: October 1, 2007

§ 13 – CRIMINAL HISTORY CHECKS FOR PROSPECTIVE DMV EMPLOYEES

The act requires DMV to get from any prospective employee a statement of whether the applicant has ever been convicted of a crime or whether criminal charges are pending at the time of application. If so, the applicant must identify the charges and the court in which they are pending. If offered employment, the person must be fingerprinted and submit to a state and national criminal history records check in accordance with state law. DMV must conduct these inquiries subject to state law governing employer inquiries regarding erased criminal records and prohibiting discrimination on the basis of these records or provisional pardons.
EFFECTIVE DATE: October 1, 2007

§ 14 – FEE FOR DUPLICATE MARINE VESSEL CERTIFICATE OF NUMBER OR REGISTRATION

The act increases the fee for a duplicate marine vessel certificate of number or registration from $1 to $20. By law, DMV may issue these if a vessel's original certificate of number or registration has been lost, mutilated, or destroyed.
EFFECTIVE DATE: October 1, 2007

§ 15 – PLATE CONFISCATION FEE FOR UNINSURED VEHICLES

Under prior law, if a vehicle's registration had been suspended for failure to maintain insurance coverage, and its license plates were confiscated by a police officer or constable, the vehicle owner had to pay a $50 confiscation fee, along with any other applicable penalties, before registration was restored. The DMV commissioner was required to remit the fee to the

constable or municipality, as applicable. The act eliminates the confiscation fee.
EFFECTIVE DATE: October 1, 2007

§ 17 – MOTORCYCLES AND GREENHOUSE GAS LABELING SYSTEM

The act exempts motorcycles from the greenhouse gas labeling requirements established by the legislature in 2006. That law requires all new motor vehicles with gross vehicle weight ratings of 10,000 pounds or less sold or leased in Connecticut beginning with the 2009 model year to have greenhouse gas labels.
EFFECTIVE DATE: October 1, 2007

§§ 18, 19 & 45 – DRIVERS' LICENSES

The act requires every driver's license and non-driver photo identity card issued by DMV to contain certain information and features, some of which are already included under more general statutory authority or at the commissioner's discretion. It requires them to contain the person's (1) full legal name, (2) date of birth, (3) gender, (4) height and eye color, (5) license or identity card identification number, (6) address of principal Connecticut residence, (7) signature, and (8) color photograph or digital image. It defines someone's full legal name as the most complete version of the name as it appears on a birth certificate, official passport, or other document acceptable to the commissioner to verify identity, unless the applicant presents a marriage license, certificate of civil union, divorce decree, or court order pertaining to a permanent name change. Prior law specified that a driver's license contain a picture of the licensee, but left the remaining content of the license for the commissioner to determine.

The act also requires licenses and identity cards to have (1) physical security features designed to prevent tampering, counterfeiting, or duplication and (2) one or more machine-readable technology features including a bar code or magnetic strip. The act eliminates obsolete references to licenses issued to anyone under age 21 and temporary licenses issued without pictures, as all drivers' licenses are now issued in the same format with a picture or digital image of the applicant.

The act also authorizes the commissioner to renew licenses and identity cards without a personal appearance by the holder in certain circumstances. These are when the holder is (1) a member of the armed forces, (2) temporarily residing out of Connecticut for business or educational purposes, or (3) in other circumstances where the commissioner determines that personal appearance would be impractical or impose significant hardship. The commissioner must decline to renew without personal appearance if (1) he is not satisfied with the reasons why the person cannot appear in person, (2) he does not have the person's photograph or digital image on file, (3) he has reason to believe the person is no longer a state resident, or (4) the applicant has not presented satisfactory evidence of identity.

The act allows the commissioner to adopt regulations to provide for renewal without appearance by mail or electronic means of anyone not identified above.
EFFECTIVE DATE: October 1, 2007

§ 20 – LEARNERS' PERMIT RESTRICTIONS

By law, 16- and 17-year-olds must get a learner's permit and receive instruction from a qualified individual before they may take the driver's license examination. Teen drivers may receive training in three ways—through a commercial driving instruction school, a secondary school driver education program, or by a qualified relative (which is known as "home training"). The act establishes restrictions on the number of passengers a 16- or 17-year-old may have in the vehicle while being home trained. The restrictions do not apply if the teen is receiving training with a commercial driving school or driver education program.

The passenger restrictions are similar to the ones that apply during the first six months after a 16- or 17-year-old receives a driver's license. During the period they receive instruction under the permit, the home-trained 16- or 17-year-old may transport (1) during the first three months from the date the permit is issued, only (a) his parents or legal guardian, at least one of whom has a driver's license, or (b) one person who is providing instruction, is at least age 20, has been licensed to drive for at least the preceding four years, and has not had his license suspended during that period; and (2) during the fourth through six months, only those plus any additional passengers who are immediate family members.

The passenger restrictions do not apply to any 16- or 17-year-old who is an active member of a certified ambulance service, has begun an emergency vehicle operator's course conforming to national standards, and has had a state and national criminal history records check conducted by either the ambulance service or the municipality in which the service is provided.
EFFECTIVE DATE: October 1, 2007

§ 21 – WRECKER FEES FOR NONCONSENSUAL TOWING

By law, the motor vehicle commissioner must establish and publish a schedule of charges that tow truck operators may charge for nonconsensual towing and storage of motor vehicles. The commissioner must reconsider and adjust these rates as necessary, but not

more frequently that every two years, if petitioned by a licensed dealer or repairer operating wreckers. The act requires the commissioner to consider the Consumer Price Index as one of the possible factors during such a rate review.
EFFECTIVE DATE: October 1, 2007

§§ 22-23 & 40 – PENALTIES FOR REPEAT VIOLATIONS OF UNLICENSED DRIVING OR DRIVING WHILE UNDER SUSPENSION

Operating While Under Suspension or Unlicensed Operation

It is illegal for someone to operate a motor vehicle (1) without having a driver's license or in violation of the terms, classification, or conditions of licensure; or (2) when the driver's license or privilege to operate in Connecticut (if a nonresident) has been suspended or revoked.

In addition to the penalties that already apply under each of these laws individually, someone who has violated either of them before (e.g., operated under suspension or without a license or in violation of its terms) must be fined an additional amount up to $500 or sentenced to up to 100 hours of community service. Under prior law, someone who violated either of them at least twice before, or both at least once before, was given the additional mandatory sentence of 90 days in prison.

The act increases the penalty in the second instance above (two or more prior offenses for operating while under suspension or while unlicensed). It increases the imprisonment term to one year, 90 days of which may not be suspended or reduced.

Operating While under Suspension for an Alcohol-Related Offense

A higher penalty applies if someone is found to be operating while under suspension or revocation of license and the suspension was due to an alcohol-related driving offense of driving under the influence of alcohol or drugs, an administrative "per se" suspension, manslaughter in the second degree with a motor vehicle, or assault in the second degree with a motor vehicle. Under prior law, the penalty was a fine of $500 to $1,000 and imprisonment for up to one year, with a mandatory minimum of 30 days unless the court determined there were mitigating circumstances. The act establishes higher incarceration penalties for repeat violations of this law.

Specifically, the act subjects someone who commits a second violation for driving while under suspension for one of the alcohol-related offenses, to a term of imprisonment of up to two years, of which 120 consecutive days may not be suspended or reduced in the absence of mitigating circumstances determined by the court. For a third or subsequent violation, the term of imprisonment may be up to three years, one year of which may not be suspended or reduced in the absence of mitigating circumstances determined by the court.

The fine of $500 to $1,000 remains unchanged for repeat violations.
EFFECTIVE DATE: October 1, 2007

§ 24 – GOLD STAR FAMILY LICENSE PLATE

The act requires DMV to issue a special license plate, if requested by a spouse, mother, father, brother, sister, child, grandmother, or grandfather of any Connecticut service member killed in the line of duty. (PA 07-5, June Special Session specifies that a qualifying Connecticut service member must be a state resident who was killed in action). The plate must bear the words "Gold Star Family" and the design must be approved by a committee the commissioner establishes for this purpose. The special plates may be requested for any vehicle a qualifying family member owns or leases for a period of more than one year. The commissioner may charge a fee for the plates that covers the cost of their manufacture, which must be in addition to the normal registration fee for the vehicle.
EFFECTIVE DATE: Upon passage

§ 25 – MOTORCYCLE HANDLEBAR HEIGHT

Under prior law, the handlebars of a motorcycle could be no higher than 15 inches above the uppermost portion of the seat when it is depressed by the weight of the operator. The act changes this standard to a height that is not above the operator's shoulders.
EFFECTIVE DATE: July 1, 2007

§ 26 – CROSSWALK VIOLATIONS

Under prior law, except if driving an emergency vehicle responding to an emergency call, a driver had to grant the right of way to a pedestrian crossing the road within the crosswalk, whether or not the person is in the half of the road in which the vehicle is traveling, or if the person steps to the curb at the entrance to the crosswalk on either side of the road. The penalty was an infraction for which the total amount a violator must pay was set at $93, including the fine and other mandatory fees and assessments.

The act (1) increases the penalty by specifying that the fine has to be at least $90 and (2) requires a driver to grant the right of way to a pedestrian if the pedestrian steps off the curb or into the crosswalk, rather than just to the curb. With the higher fine specified for violations, the total amount a violator will have to pay increases from $93 to $182.
EFFECTIVE DATE: July 1, 2007

§ 27 – DMV STUDY OF POTENTIALLY DISTRACTING ELECTRONIC EQUIPMENT INSTALLED IN MOTOR VEHICLES

The act requires DMV to study issues relating to driver use of electronic equipment installed in motor vehicles that is unrelated to vehicle operation. This includes word processors, computer video monitors, devices that provide Internet access, and similar equipment. The study must examine, at least, (1) the extent to which such equipment is being offered as original equipment in vehicles sold in Connecticut, (2) federal laws and regulations that govern manufacturers and such equipment, (3) the extent to which such equipment is offered for aftermarket installation, (4) recent studies or other information concerning the use of such equipment and its effect on vehicle operation, and (5) any U.S. or foreign laws that govern the installation and use of such equipment. DMV must submit its findings and recommendations to the Transportation Committee by February 1, 2008.
EFFECTIVE DATE: Upon passage

§ 28 – VANPOOL VEHICLE REGISTRATION FEE

The act eliminates the $70 registration fee for vanpool vehicles. A vanpool vehicle is any vehicle whose primary purpose is daily transportation of people between home and work on a prearranged nonprofit basis and which is manufactured and equipped to provide seating capacity for (1) seven to 15 people, if owned by or leased to an individual person, an employee of that person, or to an employee of a governmental entity in Connecticut or (2) six to 19 people, if owned by or leased to a regional ridesharing organization in Connecticut that is recognized by the Department of Transportation.
EFFECTIVE DATE: July 1, 2007

§ 29 – MOTOR VEHICLE DEALER RECORDS

The act authorizes the DMV commissioner to permit any licensed motor vehicle dealer to maintain any records, documents, and forms DMV requires in an electronic format the commissioner prescribes. It requires the dealers to produce these records, documents, and forms in written format within three business days of DMV's request for them.
EFFECTIVE DATE: July 1, 2007

§ 30 – LIVERY VEHICLES USE OF RESTRICTED HIGHWAYS

Under prior law, any restriction on the use of a highway only to passenger vehicles could not prohibit its use by livery vehicles as long as their maximum seating capacity did not exceed seven passengers. The act, instead, allows livery vehicles to legally use a restricted highway, regardless of their seating capacity, as long as they do not exceed the maximum length, width, and height limits established by the State Traffic Commission for vehicles authorized to use the Merritt and Wilbur Cross Parkways. The State Traffic Commission regulates the size and types of vehicles that may use the parkways in Connecticut. The regulations generally prohibit on the parkways any (1) commercial motor vehicles; (2) buses; (3) trailers; (4) towed vehicles; (5) hearses when in a cortege or procession; (6) vehicles bearing other than a passenger, camper, taxicab, vanpool, or hearse registration; (7) vehicles with combination registrations that have gross weights exceeding 7,500 pounds; and (8) any vehicle, including its load, that exceeds 24 feet in length, seven feet six inches in width, or eight feet in height.
EFFECTIVE DATE: July 1, 2007

§ 31 – RECOVERY OF TOWING CHARGES BY TOWERS

Under prior law, when a tower removed a motor vehicle from the highway or from private property and brought it to its storage facility, the tower was granted a lien upon the vehicle for storage charges. The act expands this lien authority to include the towing charges as well as the storage charges. The lien is usually satisfied either by (1) the vehicle's owner if he or she comes to claim the vehicle or (2) the proceeds of any sale of the vehicle pursuant to the statutory requirements governing how towers may dispose of unclaimed vehicles.
EFFECTIVE DATE: October 1, 2007

§ 32 – REPEAL OF VISION SCREENING REQUIREMENTS AND RENEWAL OF DRIVERS' LICENSES BY AUTOMOBILE CLUBS

The act repeals a requirement that, beginning July 1, 2007, the DMV commissioner screen the vision of every licensed driver before every second license renewal. This requirement allowed the commissioner, in lieu of conducting the screening, to accept the results of a vision screening within the 12 months preceding license renewal conducted by a licensed and qualified health care professional. PA 07-5, June Special Session restores the prior law on vision screening and changes the requirements' start date to July 1, 2009.

The act also allows the commissioner to authorize automobile clubs or associations licensed by DMV on or before July 1, 2007 to perform drivers' license renewals and to charge a convenience fee of up to $2 for the service. DMV already uses such clubs or associations to perform license renewals, but the statutes did not explicitly authorize this. They were not,

however, allowed to charge any additional fee for the service.
EFFECTIVE DATE: July 1, 2007

§§ 33-34 – ENHANCED PENALTIES FOR COMMERCIAL VEHICLE OPERATORS WHO CAUSE A FATALITY THROUGH NEGLIGENT OR RECKLESS OPERATION

Under prior law, anyone who caused someone else's death through the negligent operation of a motor vehicle was fined up to $1,000, imprisoned for up to six months, or both. In addition, someone driving a commercial motor vehicle (a vehicle for which a CDL is required) who caused a fatality through negligent or reckless operation of the commercial vehicle, as evidenced by a conviction for negligent homicide with a motor vehicle, manslaughter in the second degree with a motor vehicle, misconduct with a motor vehicle, or assault in the second degree with a motor vehicle, was disqualified from operating any commercial motor vehicle for one year.

The act increases the penalties for anyone operating a commercial motor vehicle as follows: for a conviction of negligent homicide with a motor vehicle, it increases (1) the maximum fine from $1,000 to $2,500 and (2) the period of disqualification from operating a commercial motor vehicle from one year to up to two years.
EFFECTIVE DATE: July 1, 2007

§ 35 – EMISSIONS INSPECTIONS FOR COMPOSITE MOTOR VEHICLES

The act exempts composite motor vehicles that have met the requirements for a DMV safety inspection from the emissions inspection program. A composite motor vehicle is one composed or assembled from several parts of other motor vehicles, or the identification and body contours of which are so altered that the vehicle no longer bears the characteristics of any specific make of motor vehicle. Any vehicle not assembled by a manufacturer licensed in Connecticut is classified as a composite motor vehicle.
EFFECTIVE DATE: July 1, 2007

§ 36 – PROVISION OF PERSONAL INFORMATION FROM DMV RECORDS TO PRIVATE INVESTIGATORS

By law, the motor vehicle commissioner may only disclose personal information from motor vehicle records to certain requestors and for designated purposes. Personal information is that which identifies an individual and includes a photograph or computerized image, Social Security number, operator's license number, name, address other than zip code, telephone number, or medical or disability information. It does not include driver history of accidents or violations or information relative to the status of an operator's license, registration, or insurance coverage. The act adds private detectives to the list of those who may request such information if the request is made in connection with an investigation involving motor vehicle matters.
EFFECTIVE DATE: October 1, 2007

§§ 37 & 47 – CAMP VEHICLE LICENSE ENDORSEMENTS

The act eliminates the requirement that anyone who operates a camp vehicle get a special license endorsement. A camp vehicle is a motor vehicle regularly used to transport passengers under age 18 in connection with the activities of any youth camp requiring licensure by the Department of Public Health.
EFFECTIVE DATE: July 1, 2007

§ 39 – REGISTRATION AND OPERATION OF WORLD WAR II ERA AMPHIBIOUS MOTOR VEHICLES

The act authorizes the commissioner to register a certain type of World War II era amphibious vehicle known as DUKW vehicles. It permits their use on highways subject to restrictions or prohibitions that local traffic authorities and the State Traffic Commission may impose.

To be registered, the vehicles must have been manufactured by the General Motors Corporation from 1942 through 1945. The commissioner may register the DUKW in the antique, rare, or special interest motor vehicle registration classification unless it has been modified by adding seats to transport passengers for hire, in which case the commissioner may register it as a motor bus. The DUKW must pass a DMV safety inspection before it can be registered.

The State Traffic Commission and local traffic authorities may restrict or prohibit their use as motor buses if this is determined to be necessary for the protection of passengers and highway users.
EFFECTIVE DATE: January 1, 2008

§ 41 – RESTORATION OF DRIVER'S LICENSE FOLLOWING THIRD CONVICTION FOR DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

By law, if someone is convicted of driving while under the influence of alcohol or drugs for a third or subsequent time within a 10-year period, the commissioner must permanently revoke his or her driver's license or nonresident operating privilege. Under prior law, after 10 years, the person could apply for a hearing to consider reversing or reducing the

license revocation. The act instead allows the person to request a DMV hearing after six years have passed since the date of license revocation. The person must provide evidence satisfactory to the commissioner that a revocation reversal or reduction would not endanger the public safety or welfare. The evidence must include proof that the person has successfully completed an alcohol education and treatment program and that he or she has not been convicted of any offense related to alcohol, controlled substances, or drugs in the preceding six years.

As a condition of granting a reversal or reduction, the commissioner must require the person to install and maintain an approved ignition interlock device on any vehicle he or she will operate. The device must be used from the date the reversal or reduction is granted until 10 years have passed since the original revocation. The commissioner may adopt regulations to establish standards to implement these requirements.

EFFECTIVE DATE: October 1, 2007

§ 42 – PRETRIAL ALCOHOL EDUCATION PROGRAM FOR CDL HOLDERS

The act makes someone who holds a CDL eligible for consideration for the pretrial alcohol education program if the charged offense of driving while under the influence of alcohol occurred while driving a vehicle other than a commercial vehicle. CDL holders remain ineligible for the program if the offense occurs in a commercial motor vehicle. By law, someone may apply for the pretrial alcohol education program if certain requirements are met and, if over age 21, the person has not previously participated in the program in 10 years. If the person successfully completes the program, which can include education, intervention, or treatment, he or she may return to court and, if satisfied, the court must dismiss the charge against him.

EFFECTIVE DATE: July 1, 2007

§ 46 – ABANDONED VEHICLE TASK FORCE AND STUDY

The act establishes a 12-member task force to study the issue of abandoned motor vehicles. The study must include an examination of (1) the magnitude of the abandoned vehicle problem, including vehicles that have been towed by state and municipal law enforcement agencies; (2) procedures for disposing of abandoned vehicles; (3) the cost of disposing of them; (4) the impact on municipal tax rolls; and (5) abandoned vehicle legislation in other states.

The task force must report its findings and recommendations to the Transportation Committee by February 1, 2008. It terminates on the date it submits its report or February 1, 2008, whichever is later.

The task force membership must include the DMV commissioner and Transportation Committee chairs and ranking members, or their designees, as well as a representative of:

1. a consumer advocacy group (House speaker appointee);
2. a consumer advocacy group (House minority leader appointee);
3. the Towing and Recovery Professionals of Connecticut (Senate president pro tempore appointee);
4. the Towing and Recovery “Profession” of Connecticut (Senate minority leader appointee) (this appears to mean the same professional association as above);
5. a property owners association (Senate majority leader appointee);
6. the Connecticut Tax Collectors Association (House majority leader appointee); and
7. the Connecticut Conference of Municipalities (governor appointee).

Except for the DMV commissioner and the representative of the Connecticut Conference of Municipalities, any of the appointed members may be state legislators. All appointments must be made within 30 days of the act’s effective date. Any vacancy must be filled by the appointing authority.

The House speaker and the Senate president pro tempore must select the task force chairpersons from its membership. The chairpersons must schedule the first meeting no later than 60 days after the act is effective. Members must provide administrative staff for the task force in a way that the chairpersons determine.

EFFECTIVE DATE: Upon passage (June 25, 2007)

§ 48 – DMV MAIN OFFICE COMMEMORATIVE NAMING

The act requires the main DMV office building located in Wethersfield to be named the “Biagio ‘Billy’ Ciotto Building.”

EFFECTIVE DATE: Upon passage

§§ 49 & 50– DRIVER’S LICENSE SUSPENSIONS FOR MINORS WHO ILLEGALLY POSSESS ALCOHOL

It is illegal for anyone under age 21 to possess alcohol on public or private property. Violations are punishable as infractions for a first offense and by a fine of $200 to $500 for a subsequent offense. Under prior law, when a minor was convicted of this offense, the motor vehicle commissioner was required to suspend the minor’s driver’s license for 150 days. The act reduces this mandatory suspension period to (1) 60 days if the minor’s possession of alcohol occurred on a

public street or highway and (2) 30 days if it occurred in any other public or private location. The act also requires the commissioner to modify any license suspension in effect when the act becomes effective to reflect the lower suspension periods.
EFFECTIVE DATE: Upon passage

§§ 16, 38 & 43 – ELIMINATION OF OBSOLETE STATUTORY LANGUAGE

The act eliminates statutory references to a "public passenger transportation permit" which DMV at one time issued to certain people who transported other people in motor vehicles. These activities are now covered through specific types of letter endorsements on the person's driver's license.

The act eliminates an obsolete reference for certain license test and permit fees for anyone who applies for a CDL with a "Z" (school bus only) restriction. The Z restriction was eliminated in 2004.

The act also eliminates references in the safety inspection law to inspections performed at official emissions inspection stations the DMV commissioner authorized. Emissions inspection stations are no longer authorized to perform them. All safety inspections are now performed at the DMV offices equipped to perform them.
EFFECTIVE DATE: July 1, 2007, except the "Z" endorsement provision is effective October 1, 2007.

PA 07-172—HB 5197
Transportation Committee
Judiciary Committee

AN ACT REQUIRING MARKETABLE TITLE BE PROVIDED FOR MOTOR VEHICLES SOLD AT AUCTION

SUMMARY: This act requires anyone selling a motor vehicle at a public or private auction to provide the buyer, at the time of sale, with (1) a valid certificate of title, (2) the assignment and warranty of the title by the seller, or (3) other evidence of title issued by another state or country. The evidence of title must disclose any lien, security interest in, or other encumbrance on the vehicle. Violators are subject to a civil penalty of up to $1,000.
EFFECTIVE DATE: July 1, 2007

PA 07-179—sSB 429
Transportation Committee
Public Safety and Security Committee
Judiciary Committee

AN ACT CONCERNING LAW ENFORCEMENT AND FIRE RESCUE VESSELS

SUMMARY: This act establishes responsibilities for vessel operators who are either being approached by a law enforcement or fire rescue vessel using an audible signal device and displaying appropriate flashing lights or are themselves approaching a stationary law enforcement or rescue vessel. (Law enforcement vessels use blue lights and rescue vessels use red or yellow.)

If approached by a law enforcement or fire rescue vessel using its lights and audible signal, the act requires a vessel operator to (1) immediately slow to a speed just sufficient to maintain control; (2) alter course within its ability to not inhibit or interfere with the law enforcement or fire rescue vessel; and (3) unless otherwise directed by an officer onboard such a vessel, proceed at a reduced speed until beyond the area of the law enforcement or fire rescue vessel's operation.

If someone willfully or negligently obstructs or retards a law enforcement or fire rescue vessel answering an emergency call or pursuing a fleeing law violator, the act subjects the offender to a fine of up to $200, imprisonment for up to seven days, or both.

If a vessel operator passes within 200 feet of a stationary law enforcement vessel using its lights and audible warning or a fire rescue vessel using its lights, the act requires the vessel operator to slow his vessel to "slow-no-wake" speed until it is more than 200 feet away from the law enforcement or fire rescue vessel. The act defines "slow-no-wake" speed as a speed that produces no more than a minimum wake and does not exceed six miles per hour over land, unless a higher speed is necessary to maintain steerage in a strong current. Someone who fails to slow as required is subject to a fine of $50 to $200.
EFFECTIVE DATE: July 1, 2007

PA 07-212—SB 739
Transportation Committee

AN ACT CONCERNING THE NEW MOTOR VEHICLE LEMON LAW

SUMMARY: This act replaces the three-member arbitration panels that hear new motor vehicle lemon law disputes with single arbitrators. It sets standards for arbitrators, allows the consumer protection commissioner to refer cases to more arbitration

organizations, and revises the conditions under which disputes may be settled solely based on written documents.

By law, licensed motor vehicle dealers and repairers may perform vehicle identification number (VIN) inspections. The act permits a dealer or repairer to charge up to $20 for each VIN inspection done when it is not in connection with an official emissions inspection, if the dealer or repairer provides the motor vehicle commissioner an affidavit concerning the inspection.

EFFECTIVE DATE: October 1, 2007

ARBITRATOR AND ARBITRATION ORGANIZATIONS

Under prior law, (1) the consumer protection commissioner had to appoint three-person arbitration panels, only one member of which could be directly involved in a product's production, sale, or service; (2) all three members had to serve without compensation and be interested in consumer disputes; and (3) appointments were for two years at the commissioner's discretion. The act instead requires the commissioner to appoint individuals as arbitrators. An appointed arbitrator must (1) be a member of an arbitration organization; (2) be paid; and (3) not be an employee or independent contractor of a business that manufactures, distributes, sells, or services motor vehicles.

Under prior law, the commissioner could refer disputes to the American Arbitration Association. The act allows him also to refer disputes to other arbitration organizations. It prohibits an arbitration organization and any arbitrators it appoints from being affiliated with a motor vehicle manufacturer, distributor, dealer, or repairer. It requires the organization to follow the lemon law's arbitration procedures.

ORAL OR WRITTEN TESTIMONY

By law, when a consumer requests lemon law arbitration, he or she must provide the Department of Consumer Protection any information relevant to the dispute on a complaint form the department makes available. Prior law required the complaint form to state that consumers may present additional oral or written testimony. The act eliminates this requirement.

The act instead allows the department to present a case to an arbitrator solely based on the parties' written documents, but only if the consumer and the motor vehicle manufacturer agree in writing and the agreement is signed after the customer has requested arbitration.

BACKGROUND

Lemon Law

The lemon law establishes a consumer's right to a refund or replacement vehicle if, after a reasonable number of repair attempts, a manufacturer cannot make the consumer's vehicle conform to applicable express warranties. A "reasonable number of repair attempts" have been made when the vehicle has a defect that substantially impairs its use, safety, or value, and the vehicle has been:

1. repaired four or more times during the first 24,000 miles or two years of service;
2. out of service for a total of 30 days during the same period and the defect remains; or
3. repaired two or more times during the first year or the warranty term, whichever is shorter, and the defect is likely to cause death or serious bodily injury if the vehicle is driven.

PA 07-232—sHB 7367
Transportation Committee
Government Administration and Elections Committee
Appropriations Committee

AN ACT CONCERNING THE ADMINISTRATION OF THE DEPARTMENT OF TRANSPORTATION

SUMMARY: This act:

1. requires the Department of Transportation (DOT) to develop criteria for leasing naming rights for transit stations and other transit-property;
2. extends the transportation commissioner's authority to declare transportation emergencies to cover state- or municipally owned airports;
3. establishes several initiatives for preserving licensed, privately owned public use airports, including a right of first refusal for the state to purchase them;
4. authorizes the operation of articulated and double deck buses on Connecticut roads;
5. authorizes the transportation commissioner to make loans to individuals, businesses, or organizations to finance the acquisition of vanpool vehicles;
6. repeals three previously enacted transfers of DOT property because the entity to whom the property was being transferred either does not want it or declined to purchase it;
7. requires DOT to notify, and consider recommendations from, state and local officials before any railroad line is reactivated in their

jurisdiction;

8. designates commemorative names for 19 road segments and 10 bridges and rewords or corrects several previous designations;
9. requires informational signs identifying five locations; and
10. requires DOT to modify the official state highway system map to establish the boundary between Danbury and Ridgefield as it is described in the Danbury land records.

The act requires DOT to suspend its plan to realign the section of Route 113 between Access Road and Dorne Drive in Stratford (Main Street) until April 15, 2008. If no agreement has been reached between Stratford and Bridgeport with respect to the disposition of Sikorsky Memorial Airport by that date, DOT must conduct at least one public hearing in both Stratford and Bridgeport on the proposed realignment.

The act also requires DOT to install crossing gates and electric signals at the Route 203 railroad-highway grade crossing in Windham.

EFFECTIVE DATE: Upon passage; except the articulated bus, transit property naming rights, vanpool loan, and private airport preservation provisions are effective July 1, 2007; and the double deck bus and rail crossing provisions are effective October 1, 2007.

NAMING RIGHTS FOR TRANSIT STATIONS AND PROPERTY

The act requires the transportation commissioner to develop procedures for leasing naming rights to transit stations and transit-owned property to private corporations and organizations. The commissioner must establish the criteria for leasing these rights and submit them to the Transportation Committee by January 30, 2008. The committee can approve the criteria by the close of the 2008 legislative session.

PA 07-4, June Special Session subsequently amended these requirements. It requires instead that the commissioner develop and recommend the criteria and procedures for leasing the naming rights and submit them to the committee, but eliminates the requirement regarding the committee's approval.

TRANSPORTATION EMERGENCY DECLARATIONS AT AIRPORTS

By law, the transportation commissioner may declare a state of emergency with regard to state- or municipally owned railroad and transit systems and facilities. If he does, he may employ, in any manner, any assistance he requires to restore the railroad or transit system, equipment, or service. A declaration may be made for any railroad system when an unsafe condition exists or there is an interruption of essential rail services, whether or not the system, its facilities, or its equipment is physically damaged. A declaration may be made with respect to a transit system when a transit facility is damaged as a result of a natural disaster or incurs substantial casualty loss which results in an unsafe condition or there is an interruption of essential services.

The act applies the commissioner's emergency authority to situations where a state- or municipally owned airport or its equipment is damaged by a natural disaster, incurs a substantial casualty loss that results in an unsafe condition, or when there is an interruption of essential services. The state owns and operates six airports (Bradley International, Brainard, Groton-New London, Waterbury-Oxford, Windham, and Danielson). There are four municipally owned airports in Connecticut (Tweed-New Haven, Sikorsky Memorial, Danbury, and Meriden Markham).

PRIVATE AIRPORT PRESERVATION INITIATIVES

The act establishes several initiatives for preserving licensed, privately owned airports open for public use. These initiatives apply to airports that have a paved runway and at least 5,000 operations per year. These initiatives include:

1. a right of first refusal for the state to purchase, for fair market value according to state property acquisition procedures, any airport that is threatened with sale or closure with the sole purpose of preserving the airport;
2. DOT acquiring development rights for fair market value, provided the airport remains a public use airport;
3. state funding of 90% of the eligible costs for capital improvements at private airports with the balance paid for by the project sponsor, with DOT determining all budget and project priorities and project engineering performed in accordance with Federal Aviation Administration (FAA) advisory circulars; and
4. establishing an airport zoning category for the airport's "imaginary surfaces" as defined by FAA regulations.

For development within the airport's imaginary surfaces, the act requires notices for proposed construction and a federal determination of obstructions to the airport's airspace. The act prohibits construction of obstructions deemed hazardous to navigation. Runway "imaginary surfaces" are established by FAA regulation for civil airports based on the airport's type and use. Construction within these imaginary surfaces, which extend upward and outward from the runway, must meet certain notice and review requirements in order for the FAA to determine if the construction represents a hazard to air navigation and what actions

are required to mitigate the hazard (14 CFR Part 77).

ARTICULATED AND DOUBLE DECK BUSES

The act defines an "articulated bus" as a motor vehicle designed to carry public transit passengers that has two separate passenger compartments connected by a kingpin or other similar joint. It may be composed of a tractor section and a trailer section or a forward unpowered unit and a powered trailer unit. By associating this definition with the maximum motor vehicle width and length law, an articulated bus can be legally operated under the statutory maximum 65-foot length limit without a special DOT permit.

The act also allows anyone who holds a DOT permit to operate interstate motor bus service to register and operate a double decked bus in Connecticut as long as it complies with federal manufacturing and safety standards. It requires the transportation commissioner to adopt regulations. This, in effect, overrides certain provisions of bus standards that were adopted by the former Connecticut Public Utilities Commission in 1952 that effectively precluded this style of bus from being legally operated in the state.

REACTIVATED RAIL LINES

The act requires the transportation commissioner to notify state and municipal officials within 45 days after receiving notification of a railroad line reactivation. It requires the commissioner, or a designee, to determine if a public hearing is required with respect to the safety of rail crossings along the reactivated line. The commissioner must hold a hearing if a state or municipal official requests one. The hearing must be held at least 90 days before the rail line is reactivated. The commissioner must review and incorporate, as deemed appropriate, any comments or recommendations the DOT hearing officer receives in order to address concerns raised at the hearing.

REPEAL OF PRIOR DOT PROPERTY TRANSFERS

The act repeals three transfers of DOT property previously authorized by the legislature, but not consummated because the designated recipient chose not to acquire the property. These involve:

1. a 1.65 acre parcel in Sprague (PA 05-279, § 4);
2. a parcel in Milford (PA 05-279, § 31); and
3. a 0.56 acre parcel in Meriden (SA 99-17, § 6).

COMMEMORATIVE ROAD AND BRIDGE NAMES AND DESTINATION SIGNS

Commemorative Names

The act designates commemorative names for 19 state road segments and 10 state bridges. The designations are shown below.

Location	***Commemorative Designation***
Roads	
Route 71 in New Britain from the intersection of South Main Street and Rockwell Avenue to the Berlin town line	"Marine Corps League Memorial Highway"
Route 66 in Middletown from State Road 545 to Route 17	"Charles E. Rau Memorial Highway"
Route 372 from the Plainville-New Britain line east to the intersection with Route 555	"Lieutenant Colonel Vincent J. Bracha Memorial Highway"
Route 16 in Colchester from Route 85 east to the Lebanon town line	"PFC William 'Jimmy' Johnston Congressional Medal of Honor Recipient Memorial Highway"
Route 10 in Avon from Route 44 north to the Avon-Simsbury town line	"Avon Veterans Memorial Highway"
The road segment from Memorial Field to the intersection of Route 37 to Overbrook Road in New Fairfield	"Veterans Way"
The road segment from Route 37 center from Sawmill Road to the intersection of Route 39 north and Spring Lake Road in Sherman	"Veterans Way"
The road segment from the intersection of Elizabeth Street and Route 341 to Route 7 to Cobble Lane in Kent	"Veterans Way"
Route 1 in West Haven east from the Orange-West Haven town line to the overpass of the Cove River	"AMVETS Post 1 Memorial Highway"
State Route 116 in Ridgefield from the intersection of Barlow Mountain Road to the New York state line	"Elizabeth M. Leonard Memorial Highway"
State Route 35 in Ridgefield from the intersection of Route 33 to Peter Parley Lane	"Richard E. Venus Memorial Highway"
Route 4 east from Brickyard Road to Route 10 in Farmington	"Lieutenant Colonel Warren Lane Memorial Highway"
Route 5 in Wallingford from Route 150 to the Meriden town line	"VFW CT Ladies Auxiliary Highway"
Route 190 east in Suffield	"Corporal Stephen R.

Location	*Commemorative Designation*
Roads	
from Route 75 to Route 159	Bixler Memorial Highway”
Route 4 east from State Road 508 to the University of Connecticut Health Center in Farmington	“Lawrence Robert Philippon Memorial Highway”
Route 77 in Durham	“Charles W. Wimler Highway”
A road segment (unspecified) in South Windsor	“Officer Harvey R. Young Memorial Highway”
Route 6 in Bethel from the Vail Road to the Danbury town line	“Trooper James W. Lambert Memorial Highway”
Route 73 at the intersection with Aurora Street in Waterbury	“Captain John Keane Memorial Highway”
Bridges	
Bridge No. 03405 over Route 372 in New Britain	“Lieutenant Sherrod E. Skinner Memorial Bridge”
Bridge No. 813 on I-91 over Route 15 in Hartford	“Sergeant Matthew D. Arace Memorial Bridge”
Bridge No. 06057 on Route 71 over Route 9 in New Britain	“Anthony Tercyak Memorial Bridge”
Bridge No. 05994 on I-91 southbound in Hartford	“Officers’ Club of Connecticut Memorial Bridge”
Bridge No. 05307 on I-84 eastbound in Danbury	“Association of the United States Army Memorial Bridge”
Bridge No. 06154 on Route 140 in Warehouse Point	“World War I Bridge”
Bridge No. 03149 on Route 136 over the Saugatuck River in Westport	“William F. Cribari Memorial Bridge”
Bridge No. 00882 on Route 20 over the Salmon Brook	“Vincent R. T. Arduini Memorial Bridge”
Bridge No. 00480 on I-91 over State Road 530	“Francis M. DeLucco Memorial Bridge”
Bridge No. 0057 on I-95 over West Avenue in Norwalk	“Wilfredo Perez Memorial Highway”

The act changes the designation of State Bridge Nos. 4320A and 4320B on I-84 over Washington Street in Waterbury which were named in 2006 “In Honor of the United States Army’s First Infantry Division” to the “United States Army’s First Infantry Division Bridge.” It also changes the 2005 designations of (1) the segment of Route 174 in Newington from the New Britain border to Maple Hill Avenue from the “Officer Peter Lavery Memorial Highway” to the “Master Police Officer Peter Lavery Memorial Highway” and (2) State Road 529 in West Hartford east from Route 173 to the West Hartford-Hartford town line from the “West Hartford Memorial Highway” to the “West Hartford Veteran’s (SIC) Memorial Highway.”

As a result of the naming of a segment of Route 16 in Colchester for PFC William ‘Jimmy” Johnston, the act repeals a 2005 designation of a bridge on Route 16 for him.

The act also corrects (1) the spelling of the designation of Route 53 in Bethel from the “John. L. Tiele Memorial Highway” to the “John L. Thiele Memorial Highway” and (2) the previous designation of Bridge No.6104A on Route 9 southbound over Route 175 for Donald H. Platt from a highway to a bridge.

Location Signs

The act requires DOT to erect signs identifying specific places in the following locations:

1. in Oakdale for The Dinosaur Place at Nature’s Art;
2. on the Metro North overpass in Milford for the Milford Fine Arts Council;
3. on Route 8 northbound in Watertown for the Watertown Business Park;
4. on both sides of I-95 at exit 74 for the Niantic Bay Boardwalk; and
5. on I-91 at exit 23 for the Employer Support of the Guard and Reserve Headquarters.

PA 07-13—HB 6952
Select Committee on Veterans' Affairs
Public Safety and Security Committee

AN ACT CONCERNING ELIGIBILITY FOR BURIAL IN A STATE VETERANS' CEMETERY

SUMMARY: This act expands the number of people eligible for burial in Connecticut veterans' cemeteries. Prior law limited burials to veterans honorably discharged or released from active service in, or any women's auxiliary branch of, the U.S. Armed Forces (Navy, Army, Marine Corps, Air Force, and Coast Guard). In practice, these included veterans killed in action or who died as a result of an accident sustained while performing active service. The act explicitly adds these veterans.

The act extends eligibility to any Connecticut National Guard member who (1) completed at least 20 years of guard service or (2) was killed in action or died as a result of an accident or illness sustained while performing active service in the guard.

By law and the act, one spouse of any qualified member is also eligible for burial in any of the cemeteries.

EFFECTIVE DATE: July 1, 2007

PA 07-97—sHB 5799
Select Committee on Veterans' Affairs
Public Safety and Security Committee
Government Administration and Elections Committee
Appropriations Committee

AN ACT REQUIRING A SERVICE OFFICER WITH PROFICIENCY IN ENGLISH AND SPANISH WITHIN THE DEPARTMENT OF VETERANS' AFFAIRS

SUMMARY: This act requires that at least one of the six veterans service officers (VSO) in the Veterans' Advocacy and Assistance Unit be proficient in both English and Spanish. The requirement takes effect on the next opening of a VSO position after June 30, 2007.

The unit is responsible for helping veterans and their eligible spouses and dependents obtain veterans' benefits.

EFFECTIVE DATE: July 1, 2007

PA 07-112—SB 1186
Select Committee on Veterans' Affairs
Labor and Public Employees Committee
Appropriations Committee

AN ACT CONCERNING STATE EMPLOYEES SERVING IN OPERATION JUMP START OR CERTAIN OTHER OPERATIONS

SUMMARY: This act extends (1) paid leave to state employees called by the president or governor to active service in "Operation Jump Start" at the border of the United States and Mexico and (2) health insurance coverage to such employees and their dependents. These employees get (1) full state pay for active-duty leave up to 30 days and (2) payment of the difference between their state pay (including longevity) and military pay after 30 days. These employees and their dependents continue to receive state health insurance coverage for the duration of the call-up as long as the employees continue to make their co-payments at pre-activation levels.

The law already provides these same benefits to state employees called to active service in (1) Operation Enduring Freedom (Afghanistan war), (2) Operation Noble Eagle (anti-terrorism activities within the United States), (3) any related military or emergency operation whose mission was substantially changed because of the September 11, 2001 terrorist attacks, (4) any federal or state action authorized by the governor to support Operation Liberty Shield or combat terrorism in the United States, and (5) military action authorized by the president against Iraq.

The act prohibits employers from denying benefits to state employees called to active service in the above conflicts solely because of any collective bargaining agreement classifying their leave as recess or other equivalent leave rather than vacation. These include bargaining agreements covering state employees in teaching, instructional, or professional positions in Unified School Districts 1, 2, or 3.

EFFECTIVE DATE: Upon passage

EMPLOYEES CALLED TO ACTIVE SERVICE

By law, state employees called to active service during various wars and conflicts continue to accrue vacation time to which they would have been entitled had they continued working in their state jobs. The act specifies that they must continue to accrue equivalent leave, which it defines as leave classified as other than vacation or sick time, including recess. It specifies that employees must be credited with their accrued vacation time, equivalent leave time, and sick time. But if the accrued time would cause an employee to exceed any limit placed on leave by statutes, regulations, or

collective bargaining agreement, the employer must waive the limit to allow the employee to use the excess leave before the last of the following:

1. from the date of the employee's discharge from active service until he or she returns to state employment,
2. not later than 120 calendar days after the employee returns to state employment, or
3. not later than 120 calendar days after the employee is credited with the excess leave time.

PA 07-128—sHB 6948
Select Committee on Veterans' Affairs
Judiciary Committee

AN ACT CONCERNING STOLEN MILITARY VALOR AND DISCRIMINATION AGAINST MEMBERS OF THE ARMED FORCES

SUMMARY: This act (1) increases civil penalties and establishes criminal penalties for discriminating against armed forces members based on their membership or uniform, (2) increases the criminal fine for wearing a military uniform without authorization, and (3) makes it a crime to falsely represent oneself as a recipient of a Congressional or armed forces service medal or badge.
EFFECTIVE DATE: October 1, 2007

DISCRIMINATION AGAINST ARMED FORCES MEMBERS

By law, it is illegal to deprive armed forces members of any rights, privileges, or immunities usually enjoyed by the public because of their membership or because they are in uniform. Under prior law, any such member deprived of, or charged more for, the full and equal enjoyment of advantages, facilities, accommodations, amusement, or transportation based on these considerations was entitled to double damages. The act increases the award to up to $1,000 or triple damages, whichever is more, plus costs and reasonable attorney's fees.

It establishes a criminal penalty of $25 to $100, imprisonment for up to 30 days, or both, for denying such members full and equal accommodation in any place of public accommodation, resort, or amusement. The provision is subject to any conditions and limitations in law that apply to everyone.

UNAUTHORIZED WEARING OF MILITARY UNIFORM

The act increases the criminal fine for wearing, without authorization, the uniform of any member of the armed forces, reserves, or military or naval school or college. Under prior law, the penalty was a fine of $100 to $500, imprisonment for up to six months, or both. The act increases the minimum fine to $500 and the maximum to $1,000.

MILITARY AWARDS

The act makes it illegal to falsely represent oneself, orally or in writing, as a recipient of any Congressional decoration or medal; armed forces service medal or badge; or the ribbon, button, rosette, or "colorable imitation" of any such decoration, medal, or badge. A violation carries a fine of $500 to $1,000, imprisonment for up to six months, or both.

PA 07-157—HB 7167
Select Committee on Veterans' Affairs
General Law Committee
Public Health Committee

AN ACT CONCERNING PROFESSIONAL LICENSES OF MEMBERS OF THE UNITED STATES ARMED FORCES AND THE CONNECTICUT NATIONAL GUARD

SUMMARY: This act extends, from six months to one year after discharge, the grace period during which the Department of Public Health (DPH) must renew certain DPH credentials that become void while the holders are on active duty in the armed forces. It establishes the same grace period for Connecticut National Guard members whose credentials lapsed while they were performing military service ordered by the governor.

The act establishes a grace period during which non-DPH executive branch agencies, departments, boards (except the State Board of Education (SBE)), commissions, or officials must renew the professional credentials of all such members in the same circumstances above. The renewal is valid for one year after discharge from such duty or service or until the member successfully renews the license, whichever comes first.

The act also requires the SBE to renew expired SBE certificates, authorizations, and permits if the member applies within one year after discharge from active duty or ordered military service. The renewal must be valid for at least the length of time the member was on active duty or ordered military service, but it cannot be valid for longer than the period for which the original credential was valid.

As under existing law, the act does not apply to reservists or guard members on active duty for regularly scheduled annual training that is not part of mobilization.

EFFECTIVE DATE: July 1, 2007

DPH LICENSE RENEWAL STANDARDS

By law, DPH must renew credentials (licenses, certificates, permits, and registrations) that lapse while their holders are serving on active duty in the armed forces. Under prior law, it had to renew any dentistry, medicine and surgery, or respiratory care license within one year after the member was discharged from active duty, and it had to renew credentials of almost all of the other health professionals within six months after the member's discharge. The act extends the grace period for renewing these latter credentials to one year after discharge. It also establishes the same one-year grace period for guard members whose credentials lapsed while they were performing military service ordered by the governor. But it does not establish this benefit for such guard members holding a license to practice dentistry or medicine and surgery.

By law, (1) DPH cannot renew the credential of anyone facing disciplinary action or an unresolved complaint, (2) members must complete any continuing education or refresher courses that other renewal applicants must complete, and (3) members must submit to the applicable entity or official any required application or other documentation.

HEALTH-RELATED PROFESSIONS AND PROFESSIONALS AFFECTED

The DPH professions and professionals affected by the act are as follows: emergency medical service; chiropractor; naturopathy; podiatrist; athletic trainer; physical therapist; occupational therapist; substance abuse counselor; radiographer and radiologic technologist; midwifery; nursing; dental hygienist; optometrist; optician; perfusionist; psychologist; marital and family therapist; clinical social worker; professional counselor; veterinarian; massage therapist; dietitian-nutritionist; acupuncturist; paramedic; barber; hairdresser and cosmetician; electrologist; subsurface sewage disposal system installer; sanitarian; hearing instrument specialist; speech and language pathologist and audiologist; asbestos contractor, consultant, and worker; and lead abatement consultant, contractor, and worker.

The act also includes embalmers and funeral directors and respiratory care licensees. But under CGS § 20-228, embalmers and funeral directors whose license or registration lapsed while they were on duty in the armed forces may already apply to DPH for reinstatement within one year after discharge. DPH must reinstate the credential, without an examination, if it approves the applicant's professional qualifications. And DPH must renew the respiratory care license of an armed forces member that lapsed while the member was on active duty within one year after discharge.

PA 07-187—sHB 6949
Select Committee on Veterans' Affairs
Appropriations Committee

AN ACT CONCERNING THE ADMINISTRATION OF THE SOLDIERS, SAILORS AND MARINES FUND, SERVICE BONUSES FOR CERTAIN MEMBERS OF THE CONNECTICUT NATIONAL GUARD ON ACTIVE SERVICE WITH THE ARMED FORCES, AND THE EFFECTIVE DATE OF PROVISIONS PROHIBITING DISRUPTION OF A FUNERAL

SUMMARY: This act increases, from $500 to $1,200, the maximum service bonus payable to current or former Connecticut National Guard members who serve or served in combat zones on or after September 11, 2001, and it establishes a maximum $500 bonus for current or former guard members whose active service during the same period is or was not in a combat zone.

The act transfers the administration of the Soldiers, Sailors and Marines Fund to the American Legion from the state treasurer and makes related changes.

The act changes the effective date of *An Act Concerning Disruption of a Funeral* (PA 07-98), making it effective upon passage (June 6), rather than October 1, 2007.

The act also makes conforming and technical changes.

EFFECTIVE DATE: July 1, 2007 for the service bonus; upon passage for the other provisions.

SERVICE BONUS

By law, current or former guard members called to active service on or after September 11, 2001 are entitled to a service bonus (1) if they are or were in active service for at least 90 consecutive days; (2) if while in such service, they are or were deployed in a combat zone designated by the president; and (3) if discharged, they were discharged honorably or because of a line-of-duty injury. Under prior law, the bonus was $50 for each month (or major part thereof) of active service after September 11, 2001, up to a maximum of $500.

Beginning July 1, 2007, the act increases the maximum bonus for these combat-zone, active-service guard members, by $700, to $1,200. It establishes a $500 maximum bonus for otherwise qualified current or former guard members whose active service is or was not in a combat zone.

By law and the act, applicants must submit bonus requests within three years after the end of the operation in which they served.

SOLDIERS, SAILORS AND MARINES FUND

The act transfers the administration of the Soldiers, Sailors and Marines Fund to the American Legion from the state treasurer, who retains custody of the fund and responsibility for investing money left over after the disbursements required by law.

The act eliminates the requirement that the state treasurer approve the Legion's bylaws governing fund disbursements. It requires the Legion's treasurer to report the disbursements to the governor and the legislature, instead of the state treasurer. The reports are due in January, April, July, and October each year.

Prior law required the state treasurer to give a copy of the fund's regulations and aid applications to each town clerk. The act instead allows the Legion's treasurer to make them available to the clerks.

BACKGROUND

Soldiers, Sailors and Marines Fund

This fund provides benefits such as food, clothing, medical, surgical, and funeral assistance to needy wartime veterans honorably discharged from active service in the U. S. Armed Forces, their spouses living with them or who lived with them when they died, and dependent children under age 18.

PA 07-1, June Special Session—HB 8001
Emergency Certification

AN ACT CONCERNING THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2009, AND MAKING APPROPRIATIONS THEREFOR

SUMMARY: This act appropriates funds for state agencies and programs and estimates state revenues for FYs 08 and 09. Among other things, it increases funding for Education Cost Sharing (ECS) grants to towns; healthcare and Medicaid provider payment rates; and municipal aid. It carries forward certain unspent appropriations from prior years and directs how the money must be spent in FY 08 and FY 09, appropriates money for deficiencies in FY 07 appropriations, allocates the FY 07 General Fund surplus for specified purposes in FY 08 and FY 09, and transfers revenue from FY 07 and FY 08 to help balance the FY 09 budget.

The act requires studies of the effects of legalized gambling, the earned income tax credit, and the estate tax. It requires accountability reporting for new and expanded state programs. It delays implementation of motor vehicle driver vision screening and use of generally accepted accounting principles for state finances until July 1, 2009. It authorizes the Department of Social Services (DSS) commissioner to provide payments to certain nursing homes in advance of normal bill payment processing. It appropriates funds for a 3% cost of living increase for private service providers for FY 08.

The act allocates money from the Tobacco and Health Trust Fund to various health-related programs and money for additional grants to certain towns from the Mashantucket Pequot and Mohegan Fund.

The act increases the cigarette tax from $1.51 to $2 per pack, extends the 0.25% municipal real estate conveyance tax rate for one year, reduces the duration of a temporary sales tax exemption for energy-efficient appliances, and appropriates funds to defease or buy back state electric rate reduction bonds maturing after December 30, 2007. It increases various Department of Public Safety fees and doubles renewal fees for nursing licenses.

EFFECTIVE DATE: Most provisions are effective July 1, 2007. The cigarette tax increase (§§ 124 & 125) applies to cigarette sales and storage or use of unstamped cigarettes on or after that date. The provision requiring the comptroller to transfer $1.1 million from the Environmental Quality Fund to the Environmental Conservation Fund for FY 09 (§ 51) takes effect on July 1, 2008.

The following provisions are effective upon passage:

1. appropriations from the FY 07 General Fund surplus (§ 21),
2. 124-position limit on the number of positions the Department of Administrative Services (DAS) may fill from the General Services Revolving Fund (§ 36),
3. $80 million appropriation from the FY 07 General Fund surplus to help balance the FY 09 General Fund budget (§ 92),
4. increase in the FY 08 revenue to the Citizen's Election Fund (§ 96),
5. authority for WACE Technical Training Center in Waterbury to spend $300,000 of adult education funding (§ 98),
6. Department of Social Services (DSS) commissioner's authority to provide payment advances to certain nursing homes (§ 119),
7. appropriations and transfers to fund FY 07 budget deficiencies (§ 123),
8. reduction in the duration of a temporary sales tax exemption for energy-efficient home appliances (§ 129),
9. rate reduction bond defeasance (§ 134), and
10. repeal of a $5 million appropriation in PA 07-242 for state-wide energy efficiency and outreach.

§§ 1 – 20 – FY 08 AND FY 09 APPROPRIATIONS

The act appropriates funds for state agencies and programs for FY 08 and FY 09. Annual appropriations for each state fund are shown in Table 1.

Table 1: FY 08 and FY 09 Appropriations by Fund

§§	*Fund*	*Total Appropriation*	
		FY 08	*FY 09*
1, 11	General Fund	$16,314,871,899	$17,072,323,475
2, 12	Special Transportation Fund	1,098,835,226	1,154,226,399
3, 13	Mashantucket Pequot and Mohegan Fund	86,250,000	86,250,000
4, 14	Solders, Sailors, and Marines' Fund	3,237,970	3,296,553
5, 15	Regional Market Operation Fund	1,038,060	1, 013,140
6, 16	Banking Fund	19,669,086	18,961,133
7, 17	Insurance Fund	23,410,652	24,086,076
8, 18	Consumer Counsel and Public Utility Control Fund	23,344,746	24,242,276
9, 19	Workers' Compensation Fund	23,702,379	24,005,496
10, 20	Criminal Injuries Compensation Fund	3,525,000	2,625,000

§ 21 – FY 07 SURPLUS

Appropriations

The act appropriates $613.71 million from the FY 07 General Fund surplus for various purposes as shown in Table 2. It carries the funds forward and makes them available to be spent in FY 08 and FY 09 as noted.

Table 2: FY 07 General Fund Surplus Appropriations by Agency

Agency	*For*	*Total Amount*	*Carry-Over Years*
Legislative Management	Other expenses	$150,000	$75,000 each year
	CT Academy of Science and Engineering	400,000	2008
Secretary of the State	Other expenses	1,500,000	2008
Office of Policy & Management (OPM)	Contingency	12,000,000	$6,000,000 each year
	Implement energy initiatives	5,000,000 (PA 07-5, June Special Session allocates the following amounts from this total: (1) $2.5 million for a utility bill arrearage program, (2) $1.75 million to expand Operation Fuel, and (3) $750,000 for Operation Fuel's infrastructure.)	2008
	Regional Performance Incentive program	10,000,000	2008
Office of Workforce Competitiveness (OWC)	Film industry equipment	500,000	2008
	Film industry study	250,000	2008
Administrative Services (DAS)	Other expenses	40,000	2009
Public Works (DPW)	Other expenses	850,000	2008
	Rents and moving	350,000	2009
	Permanent upgrades to	1,000,000	2008

Agency	*For*	*Total Amount*	*Carry-Over Years*
	61 Woodland St.		
Division of Criminal Justice	Other expenses	58,500	2008
Public Safety	Other expenses	150,000	2008
Public Utility Control (DPUC)	Statewide energy efficiency and outreach	5,000,000	2008
Agriculture	Dairy farmers	4,000,000	2008
Environmental Protection (DEP)	Clean diesel buses	10,000,000	$5,000,000 each year
	Griswold recreational fields	50,000	2008
	Tidal boundaries study	50,000	2008
Commission on Culture & Tourism (CCCT)	Nathan Hale Homestead	250,000	2008
	Bushnell Memorial	2,000,000	2008
	Fairfield Arts Council	150,000	2008
	Hartford arena study	250,000 (PA 07-5, June Special Session, transfers this appropriation to the Capital City Economic Development Authority.)	2008
Economic & Community Development (DECD)	Biofuels	5,100,000	2008
	Deferred maintenance for public housing	10,000,000	2008
	Home CT	4,000,000	2008
Public Health (DPH)	Personal services	500,000	2008
	Other expenses	4,561,325	2008
	Equipment	775,000	2008
Mental Retardation (DMR)	Other expenses	1,778,321	2008
Mental Health & Addiction Services (DMHAS)	Other expenses	170,000	2008
	Grants for substance abuse services	500,000	2008
Social Services (DSS)	Other expenses	3,200,000	2008
	Crisis hospital fund	30,000,000	2008
Education (SDE)	Personal services	208,836	2008
	Other expenses	150,000	2008
	DNA epicenter in New London	250,000	2008
	Distance learning initiative	850,000	2008
	Technical school supplies	500,000	2008
	Longitudinal data systems	6,400,000	$3,650,000 for FY 08 $2,750,00 for FY 09
	School safety grants	10,000,000	$5,000,000 each year
	Fuel cell projects	800,000	2008
Deaf & Hearing	Part-time interpreters	320,000	2008

Agency	*For*	*Total Amount*	*Carry-Over Years*
Impaired			
State Library	Arts inventory	150,000	$75,000 each year
Higher Education (DHE)	Other expenses	200,000	$100,000 each year
	Higher education state matching grant	4,185,000	2008
UConn	Operating expenses	400,000	2008
UConn Health Center	Operating expenses	200,000	2008
Teachers' Retirement Board (TRB)	Retirement contributions	300,000,000	$90,000,000 for FY 08 $210,000,000 for FY 09
Community-Technical Colleges (CTCs)	Operating expenses	520,000	2008
Correction	Cheshire prison effluence	500,000	2008
Children & Families (DCF)	Other expenses	300,000	2008
	Adolescent psychiatric services	300,000	2008
Transportation (DOT)	Bus operations	9,494,500	$2,200,000 for FY 08 $7,294,500 for FY 09
	Town Aid Road grants	16,000,000	2008
	Elderly & Disabled Demand Responsive Transportation Program	3,900,000	2008
State Treasurer – Debt Service	ECLM and Clean Energy bond defeasance	85,000,000	2008
	Supportive housing debt service	3,000,000	2009
Miscellaneous Appropriations Administered by the Comptroller	PILOT for state property	13,999,858	$6,999,929 each year
	Grants to towns	13,497,038	$6,748,519 each year
	PILOT for private tax-exempt property	13,997,038	$6,998,519 each year
State Comptroller – Fringe Benefits	State employees health service cost	4,000,000	2009
	Other post-employment benefits	10,000,000	2008
TOTAL		**$613,705,416**	

FUNDING AND EXPENDITURE DIRECTIVES

§ 22 - Transfers to Maximize Federal Funds

The act allows the governor, with the Finance Advisory Committee's (FAC) approval, to transfer all or part of an agency's General Fund appropriation, at its request, to another agency to take advantage of federal matching funds, as long as both agencies certify that the receiving agency will spend the money for the original purpose. Federal funds generated from transfers can be used to reimburse General Fund spending, expand services, or both as the governor, with FAC approval, determines.

§ 23- Expenditure Reduction Requirements

The act requires the OPM secretary to reduce spending for (1) personal services by $15 million for FY 08 and $14 million for FY 09 and (2) other expenses by $11 million in each year. It exempts the higher education constituent units from the reductions.

§ 24 - Collective Bargaining Savings

The act allows the governor, with FAC approval, to modify or reduce funding allotments from FY 08 and FY 09 appropriations to achieve collective bargaining savings required by this act, any other public or special act, or any collective bargaining agreement.

§ 25 – Transfers to Reserve for Salary Adjustments

The act allows the governor to recommend, and the FAC to approve, transfers of FY 08 and FY 09 General and Special Transportation Fund appropriations for personal services to the reserve for salary adjustments account to more accurately reflect the impact of collective bargaining and related costs. The governor can make transfers from the reserve and add amounts from special funds as needed to implement salary increases; other employee benefits; costs, including accrual payments, related to staff reductions; agency personal services reductions; or other personal services adjustments this act or any other law authorizes.

PRIOR APPROPRIATIONS CARRIED FORWARD

Funds Carried Forward for the Same Purpose

The act carries forward various unspent balances from prior years' appropriations and requires them to be used for the same purpose in FY 08 or in both FY 08 and FY 09, rather than lapsing at the end of FY 07 or 08 (see Table 3).

Table 3: Funds Carried Forward for the Same Purpose

§	*Agency*	*Purpose*	*Amount*	*To FY*
26	OPM	Collective bargaining agreements and related costs	Unspent balance	2008 2009
29	OPM	Other expenses for the health care and pension consulting contract	Unspent balance	2008
30	OPM	Other expenses to prevent potential base closures	Up to $750,000	2008
31	OPM	Other expenses for a contract to audit I-84 construction	Up to $396,000	2008
32	OPM	Other expenses for energy issues	Up to $565,000	2008
33	OPM	Licensing and permitting fees	Unspent balance	2008
34	OPM	Justice Assistance Grants	Up to $1.5 million	2008
35	Office of Workforce Competitiveness (OWC)	CT Employment & Training Commission (CETC) Workforce	Up to $350,000	2008
42	Motor Vehicles (DMV)	Commercial Vehicle Information Systems and Networks project	Unspent balance	2008 2009
43(a)	DMV	Upgrading registration and drivers' license data processing systems	Unspent balance	2008 2009
43(b)	DMV	Upgrading registration and drivers' license data processing systems	Up to $7 million	2008 2009
43(c)	DMV	Upgrading registration and drivers' license data processing systems	Up to $8.5 million	2008 2009
44(a) & (b)	Military Dept.	Veterans' service bonuses	Unspent balance	2008
45	Banking Dept.	Other expenses for information technology upgrades	Up to $100,000	2008
48	Human Rights & Opportunities	Other expenses for moving expenses	Up to $155,000	2008
52	DEP	Lobster restoration	Unspent balance	2008
53	DECD	Ct. Research Institute to develop a statewide economic development strategic plan	Up to $500,000	2008
54	DECD	Help the Ct. Center for Applied Technology (CCAT) to establish a fuel cell coalition and industry cluster	Up to $375,000	2008
55	DECD	Helping CCAT to draft a Fuel Cell Economic Development Plan	Up to $450,000	2008

§	*Agency*	*Purpose*	*Amount*	*To FY*
56(a)	DPH	Funds from the Tobacco & Health Trust Fund to establish a comprehensive cancer plan	Unspent balance	2008 2009
56(b)	DPH	Funds from the Tobacco & Health Trust Fund for cervical and breast cancer	Unspent balance	2008 2009
57(a), (b), & (c)	DPH	Breast and cervical cancer detection and treatment	Unspent balance	2008 2009
60	DOT	Increased motorist assistance services recommended by the Transportation Strategy Board (TSB)	Unspent balance	2008
61	DOT	TSB programs and purposes	Unspent balance	2008 2009
63	DSS	Hospital hardship	Unspent balance	2008
64	DSS	Medicaid	$33.2 million	2008
71(a)	SDE	Early Childhood Advisory Cabinet	Unspent balance	2008 2009
71(b)	SDE	Development of mastery exams	Unspent balance	2008 2009
71(c)	SDE	Magnet schools – Pathways to Technology lease	Up to $360,000	2008
72	Board of Education & Services for the Blind (BESB)	Special training for the deaf and blind	Unspent balance	2008
74	State Treasurer	Debt Service-State Treasurer	Up to $36 million	2008
75	Teachers' Retirement Board (TRB)	Retiree health service costs	$200,000	2008
76	State Comptroller - Fringe Benefit Account	State employee health service costs	$20 million	2008
78(a)	CCCT	Other expenses for office consolidations and moving	Up to $600,000	2008
86	Freedom of Information Commission	Equipment	Up to $20,000	2008
88	OPM	Contingency needs	Unspent balance	2008
102	None	Energy Continency Account	Unspent balance	2008
106	DPS	Other expenses for fingerprint backlog cards	$75,000	2008
109	DPH	Loan Repayment Program	Unspent balance	2008
110	DSS-Ct. Children's Medical Center	Pilot child and adolescent rapid emergency stabilization services under	Up to $395,000	2008

§	Agency	Purpose	Amount	To FY
		Medicaid account		
112	DSS	State Administered General Assistance	Unspent balance	2008
113 (a)	DCF	Other expenses for automating the Title IV-E eligibility system	Up to $1 million	2008
113 (b)	DCF	Other expenses for automating the Title IV-E eligibility system	Up to $300,000	2008
114	DCF	Other expenses for moving	Up to $1,060,500	2008
115	DCF	Board and care for children – foster care	Up to $500,000	2008
116	Criminal Justice	Other expenses for developing an electronic case management system	Up to $20,000	2008
118	OPM	Other expenses for economic consulting services	Up to $33,500	2008

Funds Carried Forward for a Different Purpose

The act carries forward appropriations from prior years to FY 08 and transfers them to other purposes in the same agency, as shown in Table 4.

Table 4: Funds Carried Forward and Rellaocated

§	Agency	Original Purpose	New Purpose	Amount
38	Information Technology (DOIT)	Personal services	Portal upgrade and disaster recovery and risk management	Up to $413,738
40	DPS	Personal services	Helicopter maintenance	$535,000
46(a)	Insurance	Personal services	New phone system	Up to $225,000
46(b)	Insurance	Personal services	Information technology upgrade	Up to $125,000
46(c)	Insurance	Personal services	Credit card fees	Up to $50,000
49	Workers' Compensation Commission	Rehabilitative services	Information technology consultant services and software upgrade	Up to $560,000
78(b)	CCCT	Personal services	Other expenses for office consolidations and moving	Up to $200,000
99	OPM	PILOT – New manufacturing machinery and equipment	Litigation expense account	Up to $1 million
100	OPM	Personal services	Litigation expense account	Up to $1.9 million
103	Veterans' Affairs	Personal services	Security improvements	Up to $550,000
104	DAS	Personal services	Correctional	$30,000

§	Agency	Original Purpose	New Purpose	Amount
			ombudsman account	
105	DAS	Personal services	Other expenses	Up to $250,000
107	DMV	Personal services	Benchmark comparison study of DMV vs. national standards of other state motor vehicle departments	Up to $50,000
122	OPM	Personal services	OPM - Capital City Economic Development account for Greater Hartford Convention and Visitors Bureau	Up to $100,000

FUNDING DIRECTIVES, EARMARKS, AND SET-ASIDES

§ 28 – Transfers from Reserve for Salary Adjustments

The act authorizes OPM to transfer funds appropriated to the reserve for salary adjustments to the following agencies for employee accrual costs stemming from the Early Retirement Incentive Program: (1) the departments of Banking, Insurance, and Public Utility Control; (2) the Office of Consumer Counsel; (3) the Soldiers, Sailors, and Marines' Fund; and (4) the Workers' Compensation Commission.

§ 39 – Department of Information Technology Rate Structure

The act allows the governor, with FAC approval and without following statutory procedures, to modify or reduce allotments to state agencies in FYs 08 and 09 to reallocate funding to implement a revised rate structure for DOIT's services.

§ 41 – Emissions Inspection Fund Transfer

The act transfers the balance of the emissions safety account within the Emissions Inspection Fund to the emissions inspection account within the fund.

§ 47 – Unemployment Trust Fund

The act appropriates $28 million from Connecticut's account in the federal Unemployment Trust Fund to the Labor Department. The money must be spent in accordance with the federal unemployment compensation law. The act allocates up to $15 million of that amount for FY 08 to the department's administrative infrastructure with a maximum of $3 million earmarked for improving its information technology systems. For FY 09, the act allocates up to $13 million for the department's administrative infrastructure.

§ 50 – Emergency Spill Response Account

For FY 08 and FY 09, the act allocates $12.5 million per year in petroleum products gross earnings tax revenue to DEP's Emergency Spill Response account.

§ 51 – Environmental Conservation Fund

The act requires the comptroller to transfer $1.1 million from the Environmental Quality Fund to the Environmental Conservation Fund for FY 09.

§ 58 – Stem Cell Research Fund

For FY 08 and FY 09, the act allows the DPH commissioner to use up to $200,000 per year from the Stem Cell Research Fund for administrative expenses.

§ 59 – Tobacco and Health Trust Fund Allocations

The act allocates money from the Tobacco and Health Trust Fund for the programs and purposes shown in Table 5.

Table 5: Tobacco and Health Trust Fund Allocations

Agency	***Program/Purpose***	***FY 08***	***FY 09***
DPH	Easy Breathing Program	$500,000	$500,000
	Adult asthma program, within the Easy Breathing Program, at Norwalk Hospital	150,000	150,000
	Adult asthma program, within the Easy Breathing Program, at Bridgeport Hospital	150,000	150,000
	Children's Health Initiative – statewide asthma awareness and prevention education program	150,000	150,000
	Women's Healthy Heart program – competitive grants, with 50% match, to municipalities to promote healthy lifestyles. For FY 09, grants range from $5,000 to $50,000.	500,000	500,000
	Physical fitness and nutrition programs for children aged 8-18 who are or could become overweight	500,000	0
DSS	Planning and development of a request for proposals for the Charter Oak Health Plan	2,000,000	0
	Implementation and administration of Charter Oak Health Plan	0	11,000,000
UConn Health Center	Connecticut Health Information Network	500,000	500,000
DSS	CHOICES Program	1,000,000	1,000,000
DMHAS	Grants for tobacco education programs	300,000	0

§ 62 – DOT Other Expenses Earmarks

The act carries forward $650,000 of DOT's FY 07 appropriation for Other Expenses. It requires $575,000 of that amount to be spent in FY 08, of which $500,000 is to continue the contract to implement DOT's construction software module. For FY 08 and FY 09, it makes $75,000 of the remaining money available each year for conference materials.

§ 65 – Medicaid Carry-Forward

The act carries forward $5,906,052 of DSS' FY 06 and FY 07 appropriations for Medicaid to FY 08 to cover extra costs for leap year. It divides the funds among the departments of Mental Retardation ($893,736), Mental Health and Addiction Services ($186,134), Social Services ($4,152,735), and Children and Families ($673,447) for the purposes shown in Table 6.

Table 6: Medicaid Carry Forward

Agency	*Purpose*	*Amount*
DMR	Pilot program for client services	$6,686
	Cooperative Placements Program	17,740
	New placements	4,028
	Family placements	5,481
	Emergency placements	10,825
	Community residential services	848,976
DMHAS	General Assistance managed care	186,134
DSS	Medicaid	3,876,000
	Old Age Assistance	99,340
	Aid to the Blind	1,751
	Aid to the Disabled	175,644
DCF	Family support services	4,989
	Board & care for children – adoption	175,735
	Board & care for children - foster	203,732
	Board & care for children – residential	288,991

§ 66 – DSS Disproportionate Share (DSH) Payments to DMHAS Hospitals

The act requires DSS to spend money appropriated to it for DMHAS/Medicaid Disproportionate Share payments only when, and in the amounts, OPM specifies. DSS must make payments to DMHAS hospitals for operating expenses and related fringe benefits. Hospitals must reimburse the comptroller from the fringe benefit payments and deposit the other funds to "grants – other than federal accounts." Unspent DSH funds in the "grants" account must lapse at the end of each fiscal year.

§ 67 – DSS Receivables

In compliance with federally approved advanced planning documents, the act authorizes DSS to establish receivables for FY 08 and FY 09 for anticipated reimbursements from (1) procuring a Medicaid management information system and (2) developing a data warehouse.

§§ 68 & 69 – UConn Health Center and Veterans' Affairs DSH Transfers

The act allows the OPM secretary to transfer up to $5 million of the UConn Health Center's FY 08 appropriation to DSS' DSH-Medical Emergency Assistance account in order to maximize federal reimbursement. It allows the secretary to do the same with any FY 08 appropriation or any part of an appropriation to the Department of Veterans' Affairs for the same purpose.

§ 70 – Birth- to-Three Program

For FY 08 and FY 09, the act requires SDE to annually transfer $1 million of the federal special education funds it receives to DMR for the Birth-to-Three Program to carry out special education-related requirements consistent with federal law.

§ 73 – Private Occupational School Student Protection Account

Despite statutory restrictions on such spending, the act allows the DHE to spend $228,000 in FY 08 and $233,000 in FY 09 from the private occupational school student protection account.

§ 77 – Legalized Gambling Study

Despite a statute barring such a study before FY 09, the act requires the Division of Special Revenue's executive director to study the effect of legalized gambling on Connecticut citizens during FY 08. It appropriates $350,000 of funds carried forward from FY 07 for the study. The study must include (1) a determination of the types of gambling the public engages in and (2) the desirability of expanding, maintaining, or reducing the amount of legalized gambling allowed in the state.

§§ 82 – Legislative Management Carry-Forward

The act carries forward up to $2,887,000 of the Office of Legislative Management's FY 07 appropriation to FY 08 and requires the money to be available in the following amounts for the following purposes: (1) other expenses, $1.4 million; (2) equipment, $400,000; (3) flag restoration, $64,000; and (4) minor Capitol improvements, $1.023 million.

§ 83 & 90 – Analysis of Proposed New UConn Health Center Hospital

The act requires the Office of Legislative Management, rather than the Office of Health Care Access (OCHA), to contract with the Connecticut Academy of Science and Engineering (CASE) for a needs-based analysis of the UConn Health Center's facilities plan. (PA 07-5, June Special Session, requires CASE to conduct its analysis in consultation with OCHA.) The act earmarks up to $400,000 of Legislative Management's FY 08 appropriation for the analysis.

Special Act 07-10 requires the analysis to consider:

1. comparing the health center's proposal for a replacement hospital with the alternative plan for a remodeled health center;
2. the projected statewide need for hospital beds at least to 2018 and the possible impact of an increase in beds at the UConn hospital on other acute care hospitals in the region;
3. the health center's need for a modernized academic medical facility to provide instruction and achieve excellence in UConn's medical, dental medicine, and biomedical science schools and programs, attract medical and biomedical professionals, and support research and clinical trials; and
4. other factors CASE considers appropriate.

§ 84 – Biofuels

The act carries forward an FY 07 appropriation to DECD for biofuels and allocates the money for FY 08 as follows: (1) $4 million for production grants, (2) $1 million to establish a fuel diversification research grant program, and (3) $100,000 to be transferred to Eastern Connecticut State University for the Institute for Sustainable Energy. The act allows DECD to enter into an agreement with another entity to operate the production and fuel diversification research grant programs.

§ 85 – Pre-Trial Alcohol Substance Abuse Program Funding

The act earmarks up to $500,000 per year for FY 08 and FY 09 from DMHAS' appropriations for the Pre-Trial Alcohol Substance Abuse Program to regional action councils.

§ 87 – Chronic Gamblers Treatment and Rehabilitation

The act requires the Connecticut Lottery Corporation to transfer additional lottery ticket sales revenue in each fiscal year to the chronic gamblers treatment and rehabilitation account for preventing, treating, and rehabilitating chronic gamblers. The additional transfer for FY 08 is $400,000; for FY 09, the transfer is $448,000.

§ 89 – Geographic Information System

The act earmarks $1.4 million for the Geographic Information System. The funding comes from an appropriation from the FY 07 General Fund surplus to OPM for the Regional Performance Incentive Program.

§§ 91 & 92 – Revenue Transfers to FY 09

The act allows the comptroller to transfer up to $80 million in FY 07 General Fund revenue and $16 million in FY 08 General Fund revenue to be counted as General Fund revenue in FY 09 to balance the FY 09 budget.

§ 93 – Dempsey Hospital Fringe Benefit Costs

The act allows the comptroller, in FY 09, to pay fringe benefit costs for any Dempsey Hospital employee who is a member of a statewide collective bargaining unit from the General Fund's central fringe benefit account. It limits the benefit costs paid to $3.6 million.

§ 98 – WACE Technical Training Center

For FY 07 and FY 08, the act exempts WACE Technical Training Center in Waterbury from adult education grant requirements and allows it to spend up to $300,000 of its grant for technical training.

§101 – Private Provider Cost of Living Adjustment

The act requires OPM to transfer funds appropriated to its private provider account for FY 08 and FY 09 to specified agencies that contract with private providers to reflect a 3% cost of living adjustment for FY 08. The agencies are: the departments of Mental Retardation, Mental Health and Addiction Services, Children and Families, Social Services, Public Health, and Correction; the Judicial Department; and the Council to Administer the Children's Trust Fund.

§ 108 – Newborn Screening Account

For FY 08, the act allocates $800,000 rather than the statutorily required $500,000 to the General Fund's newborn screening account. The funding comes from fees DPH charges institutions for comprehensive newborn testing, parent counseling, and treatment. DPH must use the money (1) to buy upgraded screening technology and (2) for its testing expenses.

§ 111 – Medicaid Behavioral Health Carve-Out

The act allocates funding recovered from managed care organizations during FY 08 because of the behaviorial health carve-out to Medicaid costs for FY 08.

§ 117 – Funding for New Department on Aging

The act transfers $100,000 of the Department on Aging's FY 08 appropriation to DSS for analysis of, and recommendations on, the best structure, services, staffing, and funding for establishing the new department. The act transfers an additional $350,000 of the department's FY 08 appropriation to DSS to enhance elderly services.

§120 – Higher Education Matching Grants

Despite statutory restrictions on payments of matching grants for contributions to higher education constituent unit endowment funds, the act requires DHE to pay the full matching grants for FY 08.

§ 121 - Connecticut Impaired Driving Records Information System

For FY 08 and FY 09, the act transfers $1 million per year of DOIT's appropriation for Internet and e-mail services to OPM for the Connecticut Impaired Driving Records Information System.

FILLING STATE EMPLOYEE POSITIONS

§ 27 – All State Agencies

Unless the governor recommends it and the FAC approves, the act limits the number of positions state agencies, other than higher education constituent units, may fill to the number recommended by the Appropriations Committee as revised by the full General Assembly and set out in the Office of Fiscal Analysis (OFA) report on the state budget.

§§ 36 & 37 – General and Technical Services Revolving Fund Positions

The act limits the number of positions DAS may fill from the General Services Revolving Fund to 124. It limits the number of positions DOIT can fill from the Technical Services Revolving Fund to 201 for FY 08 and 208 for FY 09.

§ 79 – State Troopers

The act requires DPS to begin a new trooper training class if, during FY 08, the number of the department's sworn personnel falls below 1,220.

§ 80 – PROGRAM ACCOUNTABILITY REPORTS

The act requires each agency or other entity that receives state funds in the FY 08-09 biennium for a new or expanded program, as designated by OFA, in conjunction with OPM, in its state budget report, to submit a report of the program's purpose to the Appropriations Committee. Entities must submit reports through OFA by September 1, 2007. By July 1, 2008, the act requires each such entity to submit a progress report to the committee and OPM through OFA. The progress report must include:

1. the population results to which the program significantly contributes,
2. the indicators for those results, and
3. quality and client outcome measures for the program.

The outcome measures must agree with results-based accountability (RBA) principles and be approved by OFA as meeting RBA requirements.

The act also requires each entity the Appropriations Committee chairpersons and ranking members designate as an early childhood care and education provider to continue providing any information the committee leaders or their designees request, if it receives state funding during the biennium. The information must be in an RBA format.

§ 81 – MASHANTUCKET PEQUOT AND MOHEGAN FUND GRANTS TO CERTAIN TOWNS

The act requires $1,666,665 per year of the money appropriated in FY 08 and FY 09 to the Mashantucket Pequot and Mohegan Fund for grants to towns to be distributed to (1) municipalities that are members of the Southeastern Connecticut Council of Governments and (2) distressed municipalities that are members of either the Northeastern Connecticut or Windham Area councils of governments. The funds must be distributed to the eligible towns in proportion to their total grants from the fund in FY 07 and FY 08. The act requires the additional grants to these eligible towns to be determined before the overall statutory grants are determined and bars them from being proportionately reduced, if appropriations are not sufficient to pay the full grants to all towns under the statute. The additional grants to these towns must be paid according to the same schedule as the full grants.

§ 94 – VISION TESTING FOR DRIVERS

The act delays by two years the effective date for implementing required vision testing for all drivers when renewing drivers' licenses. Instead of taking effect on July 1, 2007, the act requires vision testing to take effect on July 1, 2009. When passed, this delay had no effect because the vision-testing requirements had been repealed by PA 07-167. But later, PA 07-5, June Special Session, restored both the vision-testing requirement and the delay in its effective date until July 1, 2009.

§ 95 – GAAP ACCOUNTING

The act delays, from July 1, 2007 to July 1, 2009, the date after which the comptroller and the OPM secretary may start using Generally Accepted Accounting Principles (GAAP) to maintain the state's financial statements and prepare the state budget, respectively. It also requires the comptroller and OPM secretary to submit GAAP conversion plans to the Appropriations Committee by February 1, 2009 instead of 2007, and adjusts other GAAP-related deadlines to conform to the two-year implementation delay.

§§ 96-97 – CITIZEN'S ELECTION FUND

By law, the Citizen's Election Fund is funded by revenue the state receives from the sale of abandoned property that escheats (reverts) to the state. Starting in FY 08, prior law required that the amount of such revenue deposited in the fund equal the amount deposited in the previous year, adjusted for changes in the annual Consumer Price Index for all urban consumers. The act delays the inflation adjustments for one year and instead sets the FY 08 deposit at $17.3 million, an increase of $1.3 million (8.1%) over the $16 million deposit required for FY 07. It thus establishes a new base for inflation adjustments starting in FY 09 under the act.

The act correspondingly increases the State Elections Enforcement Commission's (SEEC) maximum annual administrative set-aside from the fund by $1.3 million. It increases the SEEC's share from a maximum of $1 million per year for each fiscal year starting with FY 07 to a maximum of $2.3 million per year starting with FY 08. It continues to require that unused administrative funds not lapse at the end of each fiscal year and be available for funding administrative costs in subsequent years.

The act also makes several technical and clarifying changes.

§ 119 – AUTHORITY FOR ADVANCE PAYMENTS TO CERTAIN NURSING HOMES

For FY 07 and FY 08, the act allows the DSS commissioner, after consulting the OPM secretary, to provide payments in advance of normal bill payment processing to nursing homes that provide services eligible for payment under the medical assistance program. The nursing facility must ask for the advance payments. The act limits advances to the estimated amounts due the facility for services to eligible recipients over the most recent two months.

The DSS commissioner must recover the advance either by reducing payments due the facility or through a cash receipt within 90 days after issuing the advance. The act requires the commissioner to take prudent measures to assure that no advances are made to nursing homes in danger of insolvency or bankruptcy and allows her to execute appropriate agreements to secure repayment.

§ 123 – FY 07 DEFICIENCIES

The act appropriates $5,591,811 and transfers $34.6 million from various state agency accounts to cover $40.2 million in state agency deficiencies for FY 07 as shown in Tables 7 & 8 below. It carries the funds forward to FY 08. It also reduces the Labor Department's FY 07 Workforce Investment Act appropriation by $1.4 million from $27.3 million to $25.9 million to match the amount of federal funds the state actually received for the program.

Table 7: Deficiency Appropriations

Agency	*For*	*Amount*
DPH	Personal services	$100,000
DOC	Personal services	3,891,811
Public Defender Services Commission	Special public defenders – non-contractual	650,000
DAS	Workers' Compensation claims	950,000

Table 8: Deficiency Transfers

Original Agency	***For***	***New Agency***	***For***	***Amount***
DSS	Medicaid	DOC	Personal services	$6,108,189
DSS	Medicaid	DOC	Inmate medical services	621,811
DMR	Personal Services	DOC	Inmate medical services	1,350,000
Comptroller-Fringe Benefits	Employers Social Security tax	DOC	Inmate medical services	1,428,189
Comptroller-Fringe Benefits	Higher education Alternative Retirement Program	DOC	Other expenses	1,728,189
SDE	Charter schools	DOC	Other expenses	1,000,000
Comptroller-Fringe Benefits	Employers Social Security tax	DOC	Other expenses	271,811
Comptroller-Fringe Benefits	State employee health services	UConn Health Center	Operating expenses	20,000,000
Comptroller-Fringe Benefits	Higher education Alternative Retirement Program	UConn Health Center	Operating expenses	2,100,000

§§ 124-126 – CIGARETTE TAX INCREASE

The act increases the cigarette tax by 49 cents, from $1.51 to $2 per pack of 20. It also imposes a 49-cent tax on each pack of cigarettes that dealers and distributors have in their inventories at the later of the close of business or 11:59 p.m. on June 30, 2007.

By August 15, 2007, each dealer and distributor must report to the Department of Revenue Services (DRS) the number of cigarettes in its inventory as of that time and date and pay the inventory tax. Failure to file the report by the due date is grounds for DRS to revoke a dealer's or distributor's license, and willful failure to file subjects the dealer or distributor to a fine of up to $1,000, one year in prison, or both. A dealer or distributor who willfully files a false report can be fined up to $5,000, sentenced to one to five years in prison, or both.

§ 127 – ADMISSION TAX EXEMPTION

The act exempts events at the Connecticut Convention Center from the 10% admissions tax.

§ 128 – MUNICIPAL REAL ESTATE CONVEYANCE TAX

The act extends the 0.25% municipal real estate conveyance tax rate for one year, until July 1, 2008. Under prior law, the rate was scheduled to drop from 0.25% to 0.11% on July 1, 2007.

§ 129 – SALES TAX EXEMPTION FOR ENERGY-EFFICIENT APPLIANCES

The act shortens the duration of a temporary sales tax exemption for household appliances that meet federal Energy Star standards for energy efficiency from one year to three months. PA 07-242 required the exemption to run from July 1, 2007 through June 30, 2008. This act instead ends the exemption on September 30, 2007.

§ 130 – NATURAL GAS CONSERVATION PROGRAMS

PA 07-242 funds natural gas conservation programs from any excess revenue the state actually receives from the utility company tax in any fiscal year over the legislatively adopted revenue estimate for that tax for the same year. This act specifically requires the comptroller, before General Fund accounts are closed for each fiscal year, to transfer the revenue into the program account in the General Fund.

§ 131 – FUEL OIL CONSERVATION PROGRAMS

PA 07-242 establishes fuel oil conservation programs and funds them from any excess petroleum products gross earnings tax revenue over the revenue the state collected from the tax in FY 06. This act reduces the maximum revenue allocated to these programs from $10 million to $5 million annually starting in FY 09. In addition, it specifically requires the comptroller, before General Fund accounts are closed for each fiscal year, to transfer the revenue into the program account in the General Fund.

§ 132 – ESTATE TAX STUDY

The act requires the DRS commissioner, in consultation with the OPM secretary, to study Connecticut's estate tax. The study must at least include the tax's impact on the state's economic competitiveness and its ability to retain residents. The commissioner must submit the study report to the governor and the Finance, Revenue and Bonding Committee by February 1, 2008.

§ 133 – EARNED INCOME TAX CREDIT STUDY

The act requires the Office of Legislative Research (OLR) to study a state earned income tax credit. The study must at least include the number of residents whose income would rise above the federal poverty level as a result of the credit, and the credit's effect on:

1. local economies, including the amount received from the credit spent in economically distressed neighborhoods;
2. the state's labor force participation;
3. members of the U. S. armed forces; and
4. children in low-income families.

OLR must submit the report to the governor and the Finance, Revenue and Bonding, Appropriations, and Human Services committees by February 1, 2008.

§ 134 – RATE REDUCTION BOND DEFEASANCE

Section 21 of this act appropriates $85 million from the FY 07 General Fund surplus to retire ("defease") some or all of the state rate reduction bonds maturing after December 30, 2007 by either or a combination of the following methods: (1) irrevocably depositing the appropriation with the bond trustee to be used for scheduled payments of principal and interest as they come due or (2) buying back such bonds on the open market under terms and conditions the state treasurer determines are in the state's best interest.

The act allocates 75% of any money not needed to defease or satisfy the bonds (net of the state's administrative costs) to the Energy Conservation and Loan Management Fund and 25% to the Renewable Energy Investment Fund ("Clean Energy Fund"). The goal of defeasing the rate reduction bonds is to resume sending revenue from the conservation and renewable energy charges on electric bills to the funds instead of allocating it to secure the bonds.

In recent years, the legislature has diverted part of the revenue that would have otherwise gone into the electric companies' conservation funds and the state's Clean Energy Fund to the General Fund. To maintain the funds' revenues, the state issued "rate reduction" bonds backed by future revenue from the conservation and renewable energy charges on electric bills.

§§ 135-138 – DIESEL FUEL TAX

PA 07-199 established a three-step increase in the motor fuel tax on diesel fuel from 26 cents to 36 cents per gallon starting July 1, 2007; 36.8 cents per gallon starting July 1, 2008; and 38 cents per gallon starting July 1, 2013. The act changes the increase scheduled for July 1, 2007 from 36 cents to 37 cents per gallon. It eliminates the other two increases and instead requires the DRS commissioner to calculate a new diesel tax rate annually, starting by June 15, 2008.

The act establishes the following method for calculating future diesel tax rates.

1. The DRS commissioner must, by June 15, 2008, and annually thereafter, determine the average wholesale price per gallon for diesel fuel during the 12 months ending on the preceding March 31 or, if the first or last day of the 12-month period is a Sunday or holiday, the next regular day. The commissioner must use wholesale price information published by the Oil Price Information Service and average the price information for Hartford/Rocky Hill and New Haven.
2. The diesel tax rate applicable for the 12 months starting the following July 1 each year is 26 cents plus the average wholesale price multiplied by the petroleum products gross earnings tax rate in effect during the same 12 months, rounded to the nearest 10th of a cent.

By law, non-farmers are eligible for a tax refund for fuel purchased for use in any way other than in a licensed motor vehicle on the road (excluding fuel purchased to take out-of-state in a fuel tanker). The act reduces the refund from the full amount of the tax paid to 26 cents per gallon.

The act expands the petroleum products gross earnings tax exemption for diesel fuel in PA 07-199 to include all diesel fuel except that used in an electric generation plant to generate electricity. PA 07-199 exempted only diesel fuel used exclusively by motor carriers.

Finally, the act reduces the scheduled petroleum products gross earnings tax revenue transfers from the General Fund to the Special Transportation Fund (STF) specified in PA 07-199 for FY 08 through FY 10 as shown below.

Table 9: Scheduled Petroleum Products Gross Receipts Tax Revenue Transfers from the General Fund to the STF

Fiscal Year(s)	*Annual Transfers (in millions)*	
	PA 07-199	*This Act*
2008	$131.1	$127.8
2009 & 2010	145.3	141.9

FEE INCREASES

§ 139 – Nursing License Renewal Fees

The act doubles annual license renewal fees for nurses as follows.

Table 10: Nursing License Renewal Fees

License	*Old Fee*	*New Fee*
Registered nurse	$50	$100
Advanced practice registered nurse	60	120
Licensed practical nurse	30	60
Nurse-midwife	60	120

§§ 140-148; 150 - 153 – Department of Public Safety Fees

The act increases numerous Department of Public Safety (DPS) fees and makes technical and conforming changes. Old and new fees are shown in Table 11.

Table 11: DPS Fee Increases

§	*License, Permit, Registration, Inspection, Approval, etc. **	*Prior Law*	*The Act*
140	Movie theater inspection and approval fee (§ 29-112)	$35	$50
140	Movie theater projection room approval and inspection fee (§ 29-112)	10	25
140	Movie theater and projection room plan review fee (§ 29-112)	10	25
141	Movie theater license (§ 29-117)	35	50
142	Amusement park license (§ 29-130)	35	50
143	Open-air or tent carnival, circus or show license (§ 29-134)	50	100
144	New elevator or escalator installation plan review fee (§ 29-193)	150	200
145	Elevator or escalator operating certificate (§ 29-196)	150	200
145	Elevator or escalator operating certificate (§29-196) (renewal)	40**	120**
146	New tramway plan review (§29-204)	100	200
147	Tramway operating certificate (§ 29-206)	150	200
147	Tramway operating certificate (§ 29-206) (renewal)	80	100
150	Explosives license (for blaster) (§ 29-349(b))	50	100
150	Explosives license (for blaster) (§ 29-349(b)) (renewal)	30	75
150	Explosives permit (for business) (§ 29-349(d))	25	50
150	Explosives truck inspection (§ 29-349(e))	25	50
150	Explosives transport permit (§ 29-349(e))	20	30
151	Fireworks certificate of competency permit (§ 29-357)	50	100
151	Fireworks user certificate of competency (§ 29-357) (renewal)	30	150
151	Fireworks use permit (§ 29-357)	35	50
152	Fireworks manufacturing license (§ 29-365)	100	200
152	Fireworks dealer, wholesaler, jobber license (§ 29-365)	50	200
153	Demolition registration – Class B certificate (§ 29-402)	300	350

* Unless otherwise stated, renewals are annual

** Renewal cycle changed from annual to every two years

§ 148 – DPS Boiler Fees

The act replaces the multiple boiler fees, previously assessed based on capacity, with a flat $40 fee as shown in Table 12. It also makes conforming and technical changes.

Table 12: Boiler Fees

Boilers	***Prior Law***	***The Act***
Boiler operating fee (up to 50 sq. ft. of heating surface)	$30	$40
Boiler operating fee (over 50 sq. ft and up to 1,000 sq. ft. of heating surface)	40	40
Boiler operating fee (over 1,000 sq. ft. and less than 4,000 sq. ft. of heating surface)	60	40
Boiler operating fee (at least 4,000 sq. ft. and less than 10,000 sq. ft. of heating surface)	80	40
Boiler operating fee (at least 10,000 sq. ft. of heating surface)	100	40
Boiler external inspection (50 sq. ft. or less of heating surface)	20	40
Boiler external inspection (more than 50 sq. ft. heating surface)	25	40
Inspection of heating boilers without a manhole	30	40
Inspection of heating boilers with a manhole	50	40
Inspection of hot water supply boilers and hot water heaters	30	40

§ 154 – REVENUE ESTIMATES

The act adopts revenue estimates for FY 08 and FY 09 for each state fund. Total estimated revenue, by fund, is shown in Table 13.

Table 13: Revenue Estimates for FYs 08 and 09

Fund	***Revenue Estimate (000)***	
	FY 08	***FY 09***
General Fund	$16,315,600	17,073,100
Special Transportation Fund	1,126,900	1,157,000
Mashantucket Pequot & Mohegan Fund	86,300	86,300
Soldiers, Sailors, & Marines' Fund	3,300	3,300
Regional Market Operating Fund	1,100	1,100
Banking Fund	19,700	19,000
Insurance Fund	23,500	24,100
Consumer Counsel & Public Utility Control Fund	23,400	24,300
Workers' Compensation Fund	23,800	24,100
Criminal Injuries Compensation Fund	3,525	2,625

§ 155 – SMALL ALTERNATIVE ON-SITE SEWAGE TREATMENT SYSTEMS

PA 07-231 requires the DPH commissioner, by December 31, 2008, to establish and define discharge categories for alternative on-site sewage treatment systems that have a daily capacity of 5,000 gallons or less. It also gives the commissioner jurisdiction over such systems once he has done so and requires him to establish minimum requirements for the systems. This act requires the commissioner to accomplish these tasks within available appropriations.

§ 156 – APPROPRIATION FOR ENERGY EFFICIENCY AND OUTREACH

This act repeals a provision of PA 07-242 that (1) appropriates $5 million from the General Fund for FY 08 to the DPUC and (2) requires the DPUC to deposit the money in a state-wide energy efficiency and outreach account. This act appropriates the $5 million from the FY 07 surplus instead (see Table 2).

PA 07-2, **June Special Session—** HB 8002
Emergency Certification

AN ACT IMPLEMENTING THE PROVISIONS OF THE BUDGET CONCERNING HUMAN SERVICES AND PUBLIC HEALTH

SUMMARY: This act makes changes in the laws governing numerous Department of Social Services (DSS) cash and medical assistance programs, including the Medicaid, HUSKY, Temporary Family Assistance (TFA), and State-Administered General Assistance (SAGA) programs. It:

1. increases benefit levels for TFA and SAGA beneficiaries,
2. freezes cost-of-living increases in the State Supplement Program,
3. limits Medicaid eligibility for "medically needy" individuals and food stamp benefits for legal immigrants,
4. adds new services for SAGA medical assistance beneficiaries,
5. permits more people to participate in the "Money Follows the Person" demonstration program, and
6. eliminates a provision in PA 07-185 that expanded the HUSKY B program to children in families with incomes up to 400% of the federal poverty level (FPL).

It requires DSS to:

1. develop a primary care case management program in the HUSKY A program,
2. ask for federal approval to require employed caretakers of children enrolled in HUSKY A to enroll in employer-sponsored insurance if it is available, with DSS subsidizing their costs,
3. pay for certain nonformulary drugs under its Medicare Part D "wrap-around" program, and
4. establish a state-funded home-care pilot program for younger people with disabilities.

The act ties DSS funding for certain child day care centers to their meeting school readiness requirements.

The act establishes the Charter Oak Health Plan, which provides health insurance and state subsidies to certain state residents who have been uninsured for at least six months. It makes numerous changes in the law governing Medicaid third-party liability to conform to federal law. And it requires school districts to ascertain the health insurance status of students and provide information about publicly funded insurance.

The act increases the amount the state may pay for indigent veterans funeral expenses from $150 to $1,800 and permits the Veterans Affairs' Department to create a health data registry for armed forces members who have completed active service.

It (1) creates a timetable and reporting requirements for testing babies and young children for lead poisoning and assessing their risks, (2) lowers the blood level threshold that triggers local health officials investigations into the sources of a child's lead poisoning, and (3) permits remediation, not just abatement or removal, of lead hazards.

It increases rates hospitals and other institutions receive for their services to DSS medical assistance program participants, increases the state's oversight of assisted living facilities, and changes some provisions governing certain providers.

It authorizes $30 million in hardship grants to hospitals and increases funding for local and district health departments. It permits annual reviews of nursing home residents with mental illness to determine if they continue to need nursing home care or should receive mental health services in another setting.

The act amends several provisions of PA 07-185 concerning the extension of health insurance coverage for unmarried children up to age 26, plans for a network intergrating state-held health information and for a statewide electronic health information system, and funding for school-based health centers. It also repeals serveral provisions of that act.

EFFECTIVE DATE: Various, see below

§ 1 — NURSING HOME PROVIDER TAX CHANGE

Beginning January 1, 2008, this act lowers the maximum nursing home provider tax rate from 6% to 5.5% of a home's net revenue, consistent with a recent change in federal law. It requires the DSS commissioner, when setting the amount of each home's tax, to use a percentage rate determined by the Office of Policy and Management (OPM) secretary.

The tax is calculated every two years by multiplying each home's anticipated non-Medicare net revenue, including estimated revenue from any increases in Medicaid payments, for the 12-month period ending on June 30th of the succeeding calendar year by the provider tax rate. This product is divided by each nursing home's total anticipated non-Medicare resident days during that same 12-month period. Currently, the tax is $15.90 per resident day for homes with 230 or fewer beds and $12.20 a day for those with more than 230 beds or owned by municipalities. Under a federal waiver, the state exempts from the tax nursing homes owned by continuing care retirement communities.

EFFECTIVE DATE: July 1, 2007

§ 2 — INCREASE IN CASH WELFARE BENEFITS

Beginning July 1, 2007, the act requires the DSS commissioner annually to increase the payment standards (benefits) in the TFA and SAGA cash assistance programs by the annual percentage increase, if any, in the consumer price index for urban consumers over the average for the previous year. The act caps these cost of living increases at 5%. TFA benefits (currently $543 for a family of three living in most parts of the state) have been frozen for more than 15 years; SAGA cash assistance (currently $200 per month for a single, unemployable person) benefits were reduced significantly in 2003 and have not risen since.

Increasing the TFA benefit effectively raises the income eligibility limits for SAGA medical assistance and the "medically needy" category under Medicaid. The income limit for participants in both is 143% of the TFA benefit.

EFFECTIVE DATE: July 1, 2007

§ 3 — FREEZE IN STATE SUPPLEMENT BENEFITS

For the next two fiscal years, the act freezes the adult payment standard in the State Supplement program, which provides cash assistance to low-income people who qualify for federal Supplemental Security Income (SSI) benefits. DSS uses this standard to calculate the actual State Supplement benefit, which takes into account both the recipient's need and available income. The law continues to require DSS, when calculating available income, to disregard annual increases in State Supplement recipients' SSI benefit.

EFFECTIVE DATE: July 1, 2007

§ 4 — MEDICARE PART D SUPPLEMENTAL NEEDS FUND

The federal Medicare Part D program helps Medicare beneficiaries pay for certain prescription drugs. The state Medicare Part D Supplemental Needs Fund helps ConnPACE and people dually eligible for Medicaid and Medicare pay for medically necessary drugs that are not on a Medicare Part D plan's formulary (i.e., "nonformulary" drugs). This act specifies that if DSS, in consultation with the prescribing physician, determines that a nonformulary prescription drug is medically necessary, it must cover the cost of the prescription and any prescribed refills, minus any applicable copayment. (The copayment is up to $16.25 for ConnPACE recipients and nothing for the dually eligible).

The act requires, rather than allows, DSS to require the beneficiary to establish, to the department's satisfaction, that he or she has made a good faith effort to enroll in a Medicare Part D plan that the DSS commissioner recommends and to use that plan's exception process to obtain the nonformulary drug. It deletes the law's requirement that DSS expeditiously review requests for financial assistance and notify the beneficiary within two hours after receiving the request for assistance.

The act requires that expenditures for each fiscal year cannot exceed the amount appropriated in PA 06-186 ($5 million annually). (PA 07-5, June Special Session eliminates this limitation.)

Prior law required the DSS commissioner to contract with an entity specializing in Medicare appeals and reconsideration for the purpose of having it exhaust remedies for pursuing payment from the Part D plans for the denied nonformulary drugs for which DSS has paid. (This requirement was never implemented and DSS performs this function through its own employees.) The act eliminates the requirement and instead requires the commissioner to implement a plan for pursuing these payments.

EFFECTIVE DATE: July 1, 2007

§ 5 — MONEY FOLLOWS THE PERSON

The act increases the maximum number of participants in the "Money Follows the Person" demonstration program from 100 to 700. DSS has received funding for this demonstration from a new federal grant program that helps states move back into the community people who have been inappropriately institutionalized in a nursing home or other institution for six months or more. The grant is for five years, and the expansion to 700 participants will apparently occur gradually over that period.
EFFECTIVE DATE: July 1, 2007

§ 6 — MEDICAID ASSIGNMENT OF SPOUSAL SUPPORT RIGHTS

The act changes the conditions under which an institutionalized person or someone in need of institutional care who applies for Medicaid can assign his or her right of support from the community spouse's assets to the DSS commissioner.

Prior state law required such assignment if the Medicaid applicant's spouse was unwilling or unable to provide the information needed to determine the applicant's eligibility for Medicaid. Under federal law, such an assignment permits the person requiring care to qualify for Medicaid without being punished for the spouse's non-cooperation.

The act allows, rather than requires, such assignment under certain somewhat different conditions. Specifically, an applicant may assign the right of spousal support to the DSS commissioner only if (1) the applicant's assets do not exceed the Medicaid asset limit and (2) the applicant cannot locate the community spouse or the spouse is unable to provide information about his or her own assets. If the assignment is made or if the applicant is so physically or mentally impaired that he cannot execute the assignment, the act allows the commissioner to seek recovery of any medical assistance DSS pays on the person's behalf up to the amount of the community spouse's assets that exceed the community spouse protected amount (CSPA) as of the first month of Medicaid eligibility. The CSPA is one-half the couple's countable assets but no more than $101,640 in 2007, set annually by federal Medicaid rules.

This change is in response to a federal court case in Connecticut.
EFFECTIVE DATE: July 1, 2007

§ 7 — REPEAL OF COST SHARING IN HUSKY A AND REFERRALS TO HUSKY B

The act repeals the law requiring the DSS commissioner, to the extent permitted by federal law, to impose premiums and co-payments on HUSKY A caretaker relatives with income between 100% and 185% of the FPL. These have never been implemented. HUSKY A provides Medicaid-funded health insurance to children in families with income up to 185% and their caretaker relatives.

The act requires DSS, when it determines a person is ineligible for HUSKY A, to provide a written notice of ineligibility and a statement advising the person of the availability of HUSKY B. Prior law required DSS to provide the information about HUSKY B when a person applied for HUSKY A.

The act also makes it clear that HUSKY A is provided both to children who live with caretaker relatives, who themselves qualify for benefits, as well as others who do not live with a caretaker relative, including those under age 19 who live independently.
EFFECTIVE DATE: July 1, 2007

§ 8 — PREMIUM ASSISTANCE IN HUSKY A

The act requires the DSS commissioner to seek a federal waiver, if one is required, to encourage HUSKY A caretaker relatives to enroll in employer-sponsored health insurance. The waiver must:

1. as a condition for HUSKY A enrollment, require caretaker relatives to enroll themselves and their dependents in employer-sponsored health plans to the maximum extent available, provided DSS determines doing so is cost-effective;
2. require DSS to reimburse caretaker relatives for all payroll deductions their employer takes to pay for health care insurance; and
3. assure HUSKY A coverage for services that the employer's plan does not cover ("wrap-around").

Regardless of any state law or contract provision between employers and their health insurance carriers, the act provides that no employee who DSS requires to enroll in employer coverage is subject to open enrollment limitations.

The act permits the DSS commissioner to implement policies and procedures needed to administer these provisions while in the process of adopting them in regulation. He must print a notice of intent to adopt the regulations in the *Connecticut Law Journal* within 20 days of implementing them. The policies and procedures remain valid until the final regulations are adopted.

EFFECTIVE DATE: July 1, 2007

§ 9 — COVERAGE FOR PREGNANT WOMEN

PA 07-185 required DSS to apply for a federal waiver to increase the income limit for HUSKY A coverage for pregnant women from 185% to 250% of the FPL ($2,852 per month for two-person household). It did not specify a date for doing this. This act repeals that provision and instead requires DSS, by September 30, 2007, to either submit an amendment to the Medicaid state plan, or if the federal government requires, seek a waiver, to cover pregnant women with incomes between 185% and 250% of the FPL who do not "otherwise have creditable coverage," as defined by federal law. (Federal Medicaid funds match the state's payments for the coverage for pregnant women with incomes under 185% of the FPL.) If the state plan amendment or a waiver is approved, DSS must implement the change by January 1, 2008.
EFFECTIVE DATE: July 1, 2007

§ 10 — CHILDREN'S PREVENTIVE HEALTH SERVICES PLAN

PA 07-185 requires DSS to develop a children's preventive health services system plan. The act (1) requires it to do this within available appropriations; (2) specifies the plan must include ophthalmologic and optometric services, not vision care; (3) removes the requirement that DSS' tracking of the system's use be done electronically; and (4) requires DSS to report to legislative committes by January 1, 2009 on the plan, not its implementation.
EFFECTIVE DATE: July 1, 2007

§§ 11-13 — LONG-TERM CARE INSTITUTION RATE INCREASE

For FY 08, the act increases Medicaid reimbursement rates for nursing homes and intermediate care facilities for the mentally retarded (ICF-MRs) by 2.9% over FY 07 and freezes the rates at FY 08 levels for FY 09. It increases the rates for private residential facilities serving Department of Mental Retardation clients that are not licensed as ICF-MRs by no more than 2% over FY 07 and no more than another 2% over FY 08 for FY 09.

For all these facilities, the act makes an exception to the increases and the freeze for facilities that have interim rates or agreed to a lower rate. Those facilities that would have received a lower rate on the increase's or freeze's effective date because of their interim rate status or agreement will receive that lower rate.
EFFECTIVE DATE: July 1, 2007

§ 14 — SAGA MEDICAL BENEFITS

Prior law prohibited the SAGA medical program from providing any ancillary or specialty services that exceed the services it provided on July 1, 2003. The act makes an exception to this prohibition, allowing nonemergency medical transportation and vision care services to be provided for a limited duration.

The act also allows the DSS commissioner, when it is cost-effective, to provide or require a contractor to provide home health services or skilled nursing facility coverage for SAGA recipients who are being discharged from a chronic disease hospital.
EFFECTIVE DATE: July 1, 2007

§ 15 — STATE-FUNDED CHILD DAY CARE CENTERS

DSS uses a unit cost reimbursement system for paying state-funded child care centers. Beginning January 1, 2008, the act requires any increase in payments to centers to be based on a requirement that they meet the statutory staffing requirements for school readiness programs. The school readiness law defines "staff qualifications" in a way that currently requires school readiness classrooms to include at least one staff person with certain credentials, such as a college degree or coursework, and imposes stricter credentialing requirements in the future (e.g., bachelor vs. associate degree).
EFFECTIVE DATE: July 1, 2007

§ 16 — PRIMARY CARE CASE MANAGEMENT (PCCM)

The act requires DSS, no later than November 1, 2007, to develop a plan to implement a pilot PCCM program for at least 1,000 people who are otherwise eligible for HUSKY A benefits. Primary care providers participating in the pilot

must provide primary medical care services to enrollees and arrange for specialty care as needed. The act defines PCCM as a system of care in which the health care services for program beneficiaries are coordinated by a primary care provider chosen by or assigned to the enrollee. Currently, all HUSKY A beneficiaries are enrolled in managed care organizations that coordinate care, to some extent, and bear the full medical risk.

The commissioner must submit the plan to the Human Services and Appropriations committees, which within 30 day of receiving the plan must hold a public hearing on it and may advise the commissioner of their approval, denial, or any modifications. DSS must begin enrolling people in the pilot by April 1, 2008.

EFFECTIVE DATE: July 1, 2007

§§ 17, 44 — REDUCING INCOME LIMIT FOR HUSKY B

PA 07-185 raised the HUSKY B income eligibility limit from 300% to 400%, of FPL (i.e., from $41,070 to $54,760 for a two-person family) and provided for premium assistance for families with income above 300% of poverty who did not have access to employer-sponsored coverage. It also required DSS to pay two months of HUSKY B premiums to cover all infants born in Connecticut or bordering states to state residents. The act (1) eliminates the income limit increase for HUSKY B coverage and the premium assistance and (2) increases, from two to four months, the period for which DSS must pay premiums for newborns.

It removes a requirement in PA 07-185 that DSS or its servicer redetermine a family's HUSKY eligibility within 10 months of its original eligibility determination. Instead, it requires DSS or the servicer, within available appropriations, to mail or electronically send the family a new application form within that period and use that information to determine whether to continue eligibility after the initial 12 months. The act also removes a requirement that DSS contract with an entity to provide a single point of entry service for HUSKY applicants and enrollees, instead requiring DSS to provide for such a servicer.

EFFECTIVE DATE: July 1, 2007

§§ 18-20 — THIRD PARTY LIABILITY AND MEDICAID COVERAGE

Obligation of Insurers to Provide Information

Federal law requires Connecticut, as a condition of receiving federal Medicaid matching funds, to enact laws requiring health insurers to provide certain information to DSS to enable it to determine whether a person submitting a Medicaid claim is covered by another form of insurance.

By law, DSS must exhaust other payment sources before paying for health care services provided to Medicaid recipients, and individuals are expected to disclose when they have other coverage. The act requires health insurers to provide certain information to the DSS commissioner, when requested, regardless of whether they bear any financial risk for a Medicaid recipient's claims. As used in the act, "health insurer" includes a self-insured plan; group health plan, as defined in federal law; service benefit plan; managed care organization; health care center; pharmacy benefit manager (PBM); dental benefit manager, or other party that is by statute, contract, or agreement legally responsible for paying health care claims.

The act requires health insurers to provide the information in a manner and format the commissioner or his designee prescribes, that identifies, determines, or establishes third-party coverage. This includes information necessary to determine during what period a person, or his or her spouse or dependents, is or was covered by a health insurer and the nature of the coverage provided, including the insurance plan's name, address, and identifying number. The insurer must also provide this information to all third-party administrators, PBMs, dental benefit managers, or other entities with which it arranges to adjudicate health care claims.

Prior law required state-licensed insurance companies to conduct automated data matches to identify this coverage if (1) the DSS commissioner requested it and (2) compatible data elements were available. The law required the commissioner to reimburse the companies for the costs of conducting the matches. The act instead requires health insurers, as more broadly defined by the act, to do these matches at the commissioner's request or allow the commissioner or his designee to conduct them.

Insurers' Obligation to Assist DSS as Condition of Operating in State

With respect to individuals eligible for or receiving Medicaid, the act requires health insurers, as a condition of operating in Connecticut, to:

1. provide the DSS commissioner or his designee, all third-party administrators, PBMs, dental benefits managers,

and other entities with which the insurer arranges to adjudicate health care claims any information the commissioner or his designee prescribes that is needed to r determine whether there is available coverage and the coverage plan's name, address, and identifying number;

2. accept the state's right of recovery from the insurer and a person's assignment of benefits to the state for payment of a covered health care service for which Medicaid paid;
3. respond to any inquiry from the commissioner or his designee regarding a health care claim submitted within three years from the date the service was provided; and
4. agree not to deny a claim that the state submits solely based on its submission date, claim form, type or format, or failure to present proper documentation at the "point-of-sale" that is the basis of the claim if (a) the state or its agent submits the claim within the three-year period and (b) the state begins any legal action to enforce its rights with respect to the claim within six years of the claim submission.

Under existing law, no individual or group accident, health, accident or health, medical expense, medical service plan, self-insured plan, or self-funded plan subject to ERISA can contain provisions that have the effect of denying or limiting benefits or excluding coverage because the services are provided to someone who is eligible for or receiving Medicaid. The act applies the prohibition to the act's broadened list of health insurers' plans and extends it to include provisions that limit enrollment in private health care coverage.

DSS Subrogated to Any Right of Recovery for Medicaid Services Rendered

By law, DSS is subrogated (i.e., entitled) to any right of recovery or indemnification that a Medicaid applicant or recipient, or his or her legally liable relative, has against an insurer for the costs of hospitalization, pharmacy, physician, and nursing services provided, up to the amount DSS spent on such services. The act extends this provision to the broadened list of health insurers and any other legally liable third party. And it adds behavioral health and long-term care services to the list of Medicaid-covered services for which DSS can recover.

Applying for or receiving Medicaid is deemed by law to be a subrogation assignment and an assignment of claims for benefits to DSS. Insurers must pay DSS directly under such an assignment. DSS can further assign its right to payment to a health care provider participating in Medicaid. Currently, providers must notify the "private" insurer of the assignment when rendering health care services. If the provider fails to do this, he or she is ineligible for DSS reimbursement. The act requires notification to a health insurer, as it more broadly defines the term, or other legally liable third party.

Requirement to Pay Claims

The act specifies that claims for recovery or indemnification that DSS or its designee submit to health insurers may not be denied solely based on the submission date, claim form, type or format, or failure to present proper documentation at the "point-of-sale" that is the basis of the claim if (1) the state or its agent submits the claim within three years from the date of service and (2) the state begins any legal action to enforce its rights with respect to the claim within six years of the claim submission.

EFFECTIVE DATE: July 1, 2007

§ 21 — PHARMACY CLAIMS

The act prohibits any pharmacy from claiming payment from DSS under a DSS-administered medical assistance program or the Medicare Part D Supplemental Needs Fund for drugs prescribed to people who have other prescription drug insurance coverage unless the coverage has been exhausted and the person is otherwise eligible for the program or assistance from the Fund. It requires DSS to recoup from the submitting pharmacy any claims it submitted to DSS which DSS paid when other insurance coverage was available.

Under the act, DSS must investigate a pharmacy that consistently submits ineligible payment claims to determine whether the pharmacy is in violation of its medical assistance provider agreement or is committing fraud or abuse in the program. Based on its findings, the act allows DSS to take action against the pharmacy in accordance with state and federal law.

EFFECTIVE DATE: Upon passage

§ 22 — TIMING OF DSS PAYMENTS TO NURSING HOMES

Under prior law, DSS paid half of its initial June payment to a nursing home in June and the other half in July. The act ends this practice and requires DSS to make the full payment in June beginning in 2008.

EFFECTIVE DATE: July 1, 2007

§ 23 — CHARTER OAK HEALTH PLAN

The act establishes a Charter Oak Health Plan for residents who have been uninsured for at least six months and are ineligible for publicly funded health care. In establishing the plan, it authorizes the DSS commissioner to enter into contracts to provide comprehensive health care for this population and allows him to approve an alternative plan to make coverage options available to eligible residents. It requires him to conduct outreach to facilitate enrollment in the plan.

Cost Sharing

The act requires the DSS commissioner to impose cost sharing for plan participants. This may include:

1. monthly premiums;
2. a maximum $1,000 annual deductible;
3. coinsurance of no more than 20%, once the deductible is met;
4. tiered co-payments for prescription drugs, depending on whether the drug is on a formulary, is a brand name, or whether it is mail-ordered;
5. no fees for emergency visits to hospital emergency rooms and a maximum $150 fee for nonemergency visits; and
6. a lifetime benefit up to $1 million.

Premium Assistance

Residents purchasing the insurance pay premiums directly to the insurer and qualify for premium assistance if their income is less than 300% of the FPL. The assistance amounts are shown below.

Income Level	***Monthly Premium Assistance***
Below 150% of FPL	$175
150% to 185% of FPL	$150
185% to 235% of FPL	$75
235% to 300% of FPL	$50

Coverage

The act requires the DSS commissioner to determine minimum requirements for the plan's amount, duration, and scope of benefits, which cannot include a pre-existing condition exclusion. Each participating insurer must provide an internal grievance process through which an insured person can request and receive a review of any coverage denial.

Allowable Plans

The act authorizes DSS to contract with any of the following entities to provide coverage:

1. managed care organizations (MCOs);
2. a consortium of federally qualified health centers and other state-funded, community-based health care providers; and
3. other health care provider consortia established to serve plan participants.

The act specifies that these consortia are not subject to the laws governing MCOs, hospital service corporations, and medical service corporations. These laws include annual financial filings with the Department of Insurance (DOI), DOI rate approval, and investment limitations.

The act requires the commissioner to request proposals from the entities based on its cost-sharing and benefit specifications. Before they may participate in the plan, the DSS commissioner must certify them according to criteria he establishes, which must include minimum reserve fund requirements.

Regulations; Exception to Six-Month Crowd Out and Enrollment Restrictions

The act permits the DSS commissioner to implement policies and procedures needed to administer the plan while adopting them as regulations, if notice of intent to adopt the regulations is published in the *Connecticut Law Journal* within 20 days of implementation. The policies and procedures are valid until the final regulations are adopted.

The policies and regulations may include (1) exceptions to the six-month period of noninsurance and (2)

requirements for open enrollment periods and limits on enrollees' ability to change plans between these periods.
EFFECTIVE DATE: July 1, 2008

§ 24 — SCHOOL DISTRICT REPORTING OF STUDENT INSURANCE RATES

The act requires local and regional school boards to require all enrolled students in their jurisdiction to report annually whether they have health insurance. The DSS commissioner, or his designee, must provide information to the boards on state-sponsored health insurance programs for children, including application assistance. The boards must provide this information, and application assistance, to the student's parent or guardian. (PA 07-4, JSS, requires the boards to provider this information only to caretakers of children who are identified as uninsured.)
EFFECTIVE DATE: July 1, 2007

§ 25 — DELAY START OF DEPARTMENT ON AGING

The act postpones the re-establishment date of a Department on Aging by one year, from July 1, 2007 to July 1, 2008.
EFFECTIVE DATE: Upon passage

§ 26 — STATE FOOD STAMP BENEFITS

The act limits benefits for participants in the state-funded food stamps for legal immigrants program to 75% of the amount the individual would receive under the federal food stamp program. In practice, DSS has applied this limit since March 2003 as a result of reduced appropriations. The program serves legal immigrants who do not qualify for the federal program.
EFFECTIVE DATE: July 1, 2007

§ 27 — HOSPITAL RATES

The act requires the DSS commissioner, in consultation with the OPM secretary and within available appropriations, to increase the target amount per discharge used to reimburse hospitals for providing inpatient services to Medicaid recipients to $4,250 from $4,000. The increase applies to the rate period ending September 30, 2007. It permits the commissioner to add an inflation adjustment factor to the discharge amount for those hospitals whose target amounts do not change as a result of the floor being raised.

By October 1, 2008, the DSS commissioner must submit a report to the Public Health, Human Services, and Appropriations committees identifying the increased target amounts or annual adjustment factors applied on or after October 1, 2006 along with the associated costs of these increases.

The act also increases the rates for chronic disease hospitals by 4% in FY 08.
EFFECTIVE DATE: July 1, 2007

§ 28 — HOSPITAL HARDSHIP GRANTS

For FY 08, the act authorizes the DSS commissioner, in consultation with OPM, to spend up to $30 million appropriated for "hospital hardship" for grants to hospitals. The grants must be provided as needed to (1) avoid the substantial deterioration of a hospital's financial condition that may adversely affect patient care and (2) for continued operation of the facility when the DSS commissioner, in consultation with the Department of Public Health (DPH) and Office of Health Care Access commissioners and the Connecticut Health and Educational Facilities Authority executive director determine continuation is necessary.

In determining grant eligibility, DSS must at a minimum consider (1) hospital use by patients eligible for state assistance programs, (2) hospital licensure and certification compliance history, and (3) the reasonableness of actual and projected revenues and expenses. A hospital applying for a grant must submit an application on forms DSS prescribes and a plan describing its operating savings and nongovernmental revenue enhancements. DSS may accept the plan or require modifications. Each hospital (presumably those receiving grants) must file quarterly reports with DSS concerning plan implementation. DSS may stop payments if the hospital fails to report. DSS must provide quarterly written reports to the Human Services and Appropriations committees naming those hospitals requesting a grant, the amount requested, and DSS's action.
EFFECTIVE DATE: July 1, 2007

§ 29 — PILOT HOME CARE PROGRAM FOR PEOPLE WITH DISABILITIES

The act requires the DSS commissioner, within available appropriations, to establish and operate a state-funded pilot program to provide the same home care services to up to 50 people with disabilities ages 18 to 64 as the Connecticut Home Care Program for Elders (CHCPE) state-funded portion provides to people age 65 and older. To qualify, participants must also (1) be inappropriately institutionalized or at risk of being inappropriately institutionalized and (2) have assets that do not exceed the Medicaid community spouse protected amount if single or 150% of that amount if married.

It makes participants, at the DSS commissioner's discretion, potentially eligible to receive services necessary to meet needs attributable to disabilities so they can avoid institutionalization.

The act also:

1. requires program participants with incomes exceeding 200% of the federal poverty level to contribute to the cost of their care in the same way that CHCPE participants do,
2. limits the annualized cost of services provided to an individual under the pilot to 50% of the weighted average cost of nursing home care in the state, and
3. requires the DSS commissioner to establish a waiting list based on applicants' application dates if more than 50 people are eligible for the program or if the pilot's costs exceed available appropriations.

EFFECTIVE DATE: July 1, 2007

§§ 30 – 43 — INCREASED OVERSIGHT OF ASSISTED LIVING

By law, DPH licenses assisted living services agencies (ALSAs), which provide nursing services and assistance with activities of daily living to elderly people at assisted living facilities. These facilities are not licensed, but they must meet certain DPH regulatory qualifications to be defined as a "managed residential community" (MRC), which is the only place an ALSA can provide its services.

The act places additional requirements on MRCs. It delineates each MRCs' duties; requires it to provide each resident with a written bill of rights and residency agreement, and specifies what must be in these documents. It requires the ALSA to create a service plan for each resident. It also requires the MRC to comply with applicable state and federal laws and regulations.

It requires DPH to review each MRC every two years and at other times if it has probable cause to believe the MRC has violated the act's requirements. It (1) specifies what these reviews must include; (2) requires DPH to establish administrative procedures for preparing, completing, and transmitting written reports prepared as part of the reviews; (3) requires DPH to notify the MRC of alleged violations of the act; (4) gives the MRC 15 days after receiving the notice to request an administrative hearing; and (5) allows DPH, pending the hearing's outcome, to issue a remedial order, including a civil penalty of up to $5,000 per violation, against the MRC; and (6) authorizes the attorney general, at the DPH commissioner's request, to enforce the orders in Superior Court.

The act exempts from its provisions low- and moderate-income state-assisted elderly congregate housing facilities.

It also makes other changes in the MRCs' duties and responsibilities, and makes conforming and technical changes in other statutes.

§ 30 — Definitions

Under the act, "activities of daily living" are activities or tasks essential for a person's healthful and safe existence, including bathing, dressing, grooming, eating, preparing meals, shopping, housekeeping, transferring from a bed to a chair, bowel and bladder care, washing clothes, communicating, self-administering medication, and ambulating.

The act defines:

1. "assisted living services" as nursing services and help with activities of daily living provided to residents in an MRC having supportive services that encourage people primarily age 55 and older to maintain a maximum level of independence;
2. "assisted living services agency" as a DPH-licensed entity that provides, among other things, chronic and stable people with nursing services and help with activities of daily living;
3. "managed residential community" as a for-profit or not-for-profit facility consisting of private residential units that provides a managed group living environment consisting of housing and services for people who are primarily age 55 and over, excluding state-funded congregate housing facilities; and
4. "private residential unit" as a private living environment designed for an MRC resident's use and occupancy that includes a full bathroom and access to facilities and equipment for food preparation and storage.

EFFECTIVE DATE: October 1, 2007

§ 31 — MRC Responsibilities

The act requires all MRCs operating in Connecticut to:

1. provide each resident with a written residency agreement;
2. enable residents to access services provided by an ALSA and in accordance with a service plan, which the act requires;
3. at the resident's request, arrange, in conjunction with the ALSA, for ancillary medical services, including physician, dental, and pharmacy services; restorative physical therapies; podiatry services; hospice care; and home health agency services (the ancillary medical services may not be administered by the MRC's employees unless the resident chooses to receive such services);
4. provide a formal security program to protect residents from intruders;
5. give residents the rights and privileges granted under the state's landlord-tenant laws;
6. comply with provisions currently established in DPH regulations for MRCs (Conn. Agencies Regs. § 19-13-D105); and
7. be subject to DPH oversight and regulation.

The act prohibits MRCs from controlling or managing a resident's financial affairs or personal property.

EFFECTIVE DATE: October 1, 2007

§ 32 —Investigaing Complaints

The act requires DPH to receive and investigate any complaint that an MRC is engaging in, or has engaged in activities, practices, or omissions that violate the act's provisions, the regulations DPH adopts under it, or any other regulations that apply to MRCs, including the Public Health Code. It also requires DPH to include in its biennial review of an MRC (see below) a review of the nature and type of any complaints received, as well as DPH's final determination concerning them.

EFFECTIVE DATE: April 1, 2008

§ 33 —Reviews, Administrative Hearings, and Penalties

The act requires DPH to conduct biennial reviews of all MRCs. These biennial reviews must be in addition to, not in lieu of, any inspections by state or local officials to ensure an MRC's compliance with the Public Health Code, State Building or Fire codes, or any local zoning ordinance.

In addition to the biennial review, the act allows DPH to review an MRC at any time it has probable cause to believe it is violating the act's requirements, regulations adopted under it, or any other applicable regulations, including the Public Health Code. The biennial or investigatory review's purpose must be to ensure that an MRC is complying with the act and the regulations.

Under the act, a biennial review must include an inspection of:

1. all of the MRC's common areas, including any common kitchen or meal preparation area and
2. private residential units, but only if the occupants provide prior written consent.

The act allows an inspector, in the course of conducting a biennial or investigatory review, to interview any MRC manager, staff member, or resident. Interviews with residents must be confidential and conducted privately.

Under the act, DPH must establish an administrative procedure for preparing, completing, and transmitting written reports prepared as part of any biennial or investigatory review. If after a review it determines the MRC is violating the act, DPH must provide the MRC written notice of its determination. The notice must advise the MRC of its right to request an administrative hearing to contest the determination in accordance with the Uniform Administrative Procedure Act. The MRC must request a hearing, in writing, within 15 days after it receives DPH's notice of an alleged violation.

The act allows DPH to issue remedial orders it considers necessary to ensure an MRC's compliance with the act's provisions. It specifies that remedial orders available to DPH include imposing a civil penalty of up to $5,000 per violation. But DPH must stay the imposition of any remedial order or civil penalty pending the outcome of the administrative hearing. DPH must maintain and make available for public inspection all completed reports, the MRC's responses, and any remedial orders issued.

If an MRC fails to comply with a DPH remedial order, the attorney general, at the DPH commissioner's request, can apply to Hartford Superior Court to enforce the order. The act gives all such actions precedence in the order of trial over all other civil actions except actions on probate bonds. It allows the court to issue orders necessary to obtain compliance with DPH's order.

EFFECTIVE DATE: April 1, 2008

§ 34 — Bill of Rights

The act requires an MRC to have a written bill of rights that prescribes the rights afforded to its residents. (The ALSA must already have a bill of rights under DPH regulations.) The MRC must designate a staff person to provide and explain the bill of rights to residents when they enter into a residency agreement. The bill of rights must include each resident's right to:

1. live in a clean, safe, and habitable private residential unit;
2. be treated with consideration, respect, and due recognition of personal dignity, individuality, and the need for privacy;
3. privacy within a private residential unit, subject to the MRC's rules reasonably designed to promote the resident's health, safety, and welfare;
4. keep and use one's own personal property in a private residential unit so as to maintain individuality and personal dignity, provided its use does not infringe on other residents' rights or threaten their health, safety, and welfare;
5. private communications, including receiving and sending unopened correspondence, telephone access, and visiting with people of one's choice;
6. freedom to participate in and benefit from community services and activities so as to achieve the highest possible level of independence, autonomy, and interaction within the community;
7. directly engage or contract with licensed health care professionals and providers of one's choice to obtain necessary health care services in one's private residential unit or in other space made available in the MRC for such purposes;
8. manage one's own financial affairs;
9. exercise civil and religious liberties;
10. present grievances and recommend changes in policy, procedures, and services to the MRC's manager or staff, government officials, and anyone else without restraint, interference, coercion, discrimination, or reprisal from the MRC, including access to DPH or the Office of the Long-Term Care Ombudsman;
11. ask for and receive the name of the service coordinator or anyone else responsible for resident care or coordination of resident care;
12. confidential treatment of all records and communications to the extent required by state and federal law;
13. have reasonable requests responded to promptly and adequately within the MRC's capacity and with due consideration given to other residents' rights;
14. be fully advised of the MRC's relationship with an ALSA, health care facility, or educational institution to the extent that the relationship relates to resident medical care or treatment and to receive an explanation about the relationship;
15. receive a copy of the MRC's rules and regulations;
16. privacy when receiving medical treatment within the MRC's capacity;
17. help plan for his or her care and services and refuse care and treatment, provided refusal may preclude the resident from continuing to live in the MRC; and
18. all rights and privileges afforded tenants under state law.

The act requires an MRC to post the bill of rights in a prominent place in the MRC. The posting must include contact information for DPH and the Office of the Long-Term Care Ombudsman, including names, addresses, and telephone numbers of people in those agencies who handle questions, comments, and complaints about MRCs.

EFFECTIVE DATE: October 1, 2007

§ 35 — Residency Agreement and 24-Hour Skilled Nursing Care

The act prohibits an MRC from entering into a written residency agreement with anyone who requires 24-hour skilled nursing care unless they establish to the MRC's and ALSA's satisfaction that they have, or have arranged for, such 24-hour care and maintain it as a condition of residency if an ALSA determines that such care is necessary.

EFFECTIVE DATE: October 1, 2007

§ 36 — ALSA Individualized Service Plan

The act requires an ALSA, after consulting with the resident and following a registered nurse's assessment, to develop and maintain an individualized service plan for any MRC resident who receives assisted living services. The plan must describe in lay terms the individual's need for such services; the service providers or intended providers; the services' scope, type, and frequency; itemized costs of such services; and other information DPH may require. The

service plan and any periodic revisions to it must be confidential and signed by the resident (or the resident's legal representative) and an ALSA representative. It must also be available for inspection by the resident and DPH.

The MRC must maintain written policies and procedures for a resident's initial evaluation and annual reassessment of his or her functional and health status and service requirements.

EFFECTIVE DATE: October 1, 2007

§ 37 — Residency Agreement

The act requires an MRC to enter into a written residency agreement with each resident that clearly sets forth the resident's and the MRC's rights and responsibilities, including rights under PA 06-195, which set requirements for facilities with Alzheimer's special care units or programs. The agreement must be in plain language, at least 14-point type, and signed by the MRC's authorized agent and the resident before the resident takes possession of a private residential unit. It must include, at a minimum:

1. an itemization of assisted living services, transportation services, recreation services, and any other services, goods, lodging, and meals the MRC will provide for the resident;
2. a full and fair disclosure of all charges, fees, expenses, and costs to be borne by the resident, including a payment schedule and disclosure of all late fees or potential penalties;
3. the grievance procedure for enforcing the agreement's terms;
4. the MRC's covenant to (a) comply with all municipal, state, and federal laws and regulations regarding consumer protection and protection from financial exploitation and (b) give residents all rights and privileges afforded them under the state's landlord-tenant laws;
5. the conditions under which either party can terminate the agreement;
6. full disclosure of the MRC's and resident's rights and responsibilities in situations involving the resident's serious health deterioration, hospitalization, or death, including a provision stating that in the event of death, the resident's estate or family will only be responsible for payment to the MRC for up to 15 days following the date of death as long as the unit has been vacated; and
7. any of the MRC's adopted rules reasonably designed to promote residents' health, safety, and welfare.

EFFECTIVE DATE: October 1, 2007

§ 38 — Applicability of Other Laws; Authority To Adopt Regulations

The act requires an MRC to meet the requirements of all applicable federal and state laws and regulations, including the Public Health Code, State Building and Fire Safety codes, and federal and state laws and regulations governing handicapped accessibility.

The act requires the DPH commissioner to adopt regulations to carry out its provisions.

EFFECTIVE DATE: October 1, 2007

§ 39-42 — Conforming Technical Changes

§ 43 — Elderly Congregate Housing Exemption

The act specifies that its provisions do not apply to any state-funded congregate housing facility.

These facilities are regulated by the Department of Economic and Community Development (DECD), allowed to offer assisted living services (15 of the 24 in the state do so), and have been granted DPH waivers from some of the usual assisted living and MRC requirements to enable them to offer the services. Subsidies for the assisted living services in these facilities are available for residents who qualify financially through DECD and DSS' Connecticut Home Care Program for Elders.

EFFECTIVE DATE: October 1, 2007

§ 45 — VETERANS' BURIAL EXPENSES

The act increases the amount that the state may for the funeral expenses of indigent veterans from $150 to $1,800. Claims for such expenses must be made within one year after the veteran dies or his or her remains are returned from abroad and interred here

EFFECTIVE DATE: July 1, 2007

§ 46 — VETERANS' HEALTH REGISTRY

The act allows the Veterans Affairs' Department to establish and maintain a registry of health data on armed forces members who have completed a period of active service. The department may use the data to (1) study the potential short- and long-term effects of environmental hazards on such members and (2) inform, customize, and coordinate the provision of health care services to them. It must accomplish these tasks using available resources.

The act applies to members of the U.S. Army, Navy, Marine Corps, Coast Guard, Air Force, and reserves, including guard members performing under federal law. It allows the Veterans Affairs' Department to develop surveys for members or their health care providers voluntarily to provide registry data during or after their period of active service. The surveys and data must be related to members' illnesses and potential correlations between such illnesses and environmental hazards. These hazards include vaccinations, infections, chemicals, pesticides, microwaves, depleted uranium, pyridostigmine bromide, and chemical and biological warfare agents.

The department must collect and maintain the surveys and data in accordance with the federal Health Insurance Portability and Accountability Act (HIPAA). Except for individually identifiable health data, which may be released only with the member's consent in accordance with HIPAA, the registry database information is disclosable under the Freedom of Information Act.
EFFECTIVE DATE: July 1, 2008.

§ 47 – 60 — LEAD POISONING PREVENTION AND REMEDIATION

§ 47 — Coordinating Lead Poisoning Prevention Efforts

The act makes the DPH the lead state agency for lead poisoning prevention. The commissioner must identify the state and local agencies with responsibilities related to lead poisoning and schedule a meeting with them at least once a year to coordinate their efforts. The act also requires DPH's lead poisoning prevention program to include the screenings it mandates.
EFFECTIVE DATE: October 1, 2007

§ 48 — Lead Screening and Risk Assessments

Screening. The act requires primary care providers (e.g., physicians and advanced practice registered nurses) other than hospital emergency departments, to screen annually for lead every child between nine and 35 months old. The screenings must follow the Childhood Lead Poisoning Prevention Screening Advisory Committee's recommendations. These recommendations call for blood lead screening (capillary) tests at age 12 months and 24 months with follow-up venous blood tests if the initial screening shows an elevated blood lead level.

These providers must also screen (1) all children between 36 and 72 months old who have never been screened and (2) any child under 72 months if the provider determines it is clinically indicated under the advisory committee's recommendations (which call for screening children who exhibit developmental delays and consideration of blood lead testing for any child who has unexplained seizures, neurologic symptoms, hyperactivity, behavior disorders, growth failure, abdominal pain or other symptoms consistent with elevated lead levels or a recent history of ingesting foreign objects).

Risk Assessments. The act requires primary care providers also to conduct annual lead risk assessments for children ages three to six. Providers can assess younger children if they determine it is needed. Assessments must be conducted according to the Lead Screening Advisory Committee's recommendations. These recommendations call for questioning parents or guardians about the child's housing (age and location) and family history of elevated blood lead levels.

Exemptions. The act exempts children whose parents object to blood tests on religious grounds from these screening requirements.
EFFECTIVE DATE: January 1, 2009

§ 49 — Reporting Elevated Blood Lead Levels

By law, health care institutions and clinical laboratories must notify DPH and appropriate local health officials within 48 hours of receiving or completing a report on a person with a lead level of 10 or more µg/dL of blood or other abnormal bodily lead level. The act requires them also to report the results within 48 hours to the health care provider who ordered the test. It requires this provider, within 72 hours of learning the results, to make reasonable efforts to notify the parents or guardians of a child under age three of the results.

Another law (CGS § 19a-111b), which this act does not alter, requires the DPH commissioner to establish an early lead diagnosis program that includes routine exams of children under age six. Under this program, exams showing blood levels of 10 or more µg/dL must be reported to the child's parents, the local health director, and DPH.
EFFECTIVE DATE: October 1, 2007

§ 50 — Local Health Department Lead Investigations

The act requires the local health director to inform parents about the child's potential eligibility for the state's Birth to Three program, which provides services to families with children with disabilities age three and under. (The current lead threshold for Birth to Three eligibility is 45 µg/dL.) Health directors must already inform parents about lead poisoning dangers, ways to reduce risks, and lead abatement laws.

The act establishes a new lead source investigation and clean-up process that appears to parallel the existing process. Under the act, whenever a local or district health director receives a report that two blood tests (venous) taken at least three months apart confirm a child's blood lead level is between 15 to 20 µg/dL, the director must conduct an on-site investigation (presumably of the child's home) to identify the source of lead causing the elevation and order whoever is responsible for the condition to remediate it. The act lowers the threshold for investigations to 10 µg/dL if, beginning January 1, 2012, 1% or more of Connecticut children under age six have been reported with blood levels of at least 10 µg/dL.

Under existing law (CGS § 19a-111), which the act does not change, health directors must conduct, an epidemiological investigation for lead levels of 20 or more µg/dL. (An epidemiological investigation is an examination and evaluation to determine the cause of elevated blood lead levels; it is not clear how the new on-site investigation the act requires differs from this.) After the epidemiological investigation identifies the lead source, the local health director must take action needed to prevent further lead poisoning. Among other things, the director can order abatement and must try to find temporary housing for residents when the lead hazard cannot be removed from their dwelling within a reasonable time.
EFFECTIVE DATE: January 1, 2009

§§ 51 & 52 — Insurance Coverage for Lead Screening

The act requires individual and group health insurance policies to cover the act's lead screening and risk assessments mandates. The requirement applies to Connecticut policies delivered, issued for delivery, amended, renewed, or continued on or after January 1, 2009.
EFFECTIVE DATE: January 1, 2009

§ 53 — Data Collection

The act requires the DPH commissioner, by January 1, 2008, to review the lead poisoning data DPH collects from institutional and private clinical labs performing lead testing and determine if it records it in a format that is compatible with those reports. DPH must adopt regulations if it finds that data should be reported differently.
EFFECTIVE DATE: October 1, 2007

§§ 54-56, 60 — Lead Remediation, Abatement, Testing, and Management

In Dwellings Occupied by Children. By law, owners of dwellings with toxic lead levels occupied by children under age six must abate or manage the dangerous materials and follow DPH regulations for doing so. The act permits them to remediate the materials, as well. It defines remediation as the use of interim controls, including paint stabilization, spot point repair, dust control, specialized cleaning, and mulching soil.

The act requires DPH's regulations to establish requirements and procedures for lead testing, remediation, and management of toxic materials; prior law required the regulations to address only removal, which the act eliminates, and abatement. The act also permits DPH to adopt regulations concerning the standards and procedures for these actions in any premises.

The law requires DPH to authorize the use of any encapsulating product that meets national product standards. The act removes the commissioner's ability to disapprove the use of any product that meets these standards. It extends the uses in which these products may be employed to lead remediation.

In Rented Houses, Mobile Homes, and Apartment Houses. The act permits the local or district health director to order the responsible party to correct cracked, chipped, blistered, flaking, peeling, or loose lead-based paint on exposed interior surfaces in rented one- or two-family houses, mobile homes, apartment buildings and boarding houses. The act requires DPH regulations, if they are adopted, to define testing, remediation, abatement, and management of lead paint in these circumstances.

The law subjects anyone who fails to comply with such an order to a fine of up to $200, imprisonment for up to 60 days, or both. If the local health department determines a rented house or mobile home premises is uninhabitable, it can order it vacated for up to 10 days.

Additional Regulations. The act permits DPH to adopt regulations governing paint removal from buildings and structures where removal may be hazardous to nearby buildings. The regulations can set definitions, applicability and exemption criteria, notice procedures, appropriate work practices, and penalties for noncompliance.

The law requires DPH to approve and keep a list of the encapsulation products that can be used in the state to abate toxic lead levels. The act extends these requirements to encapsulation products used for remediation and changes the type of situations in which they are used from those involving toxic lead levels to those involving lead hazards.

Nuisance Abatement. The act permits local health directors to order a property owner to remediate any nuisance they find on the owner's property. Under prior law, they could order only abatement. Nuisances subject to remediation include lead paint, plumbing, sewerage, and ventilation.

The act extends nuisance law provisions to owners or occupants ordered to remediate a nuisance. By law, owners, or in some cases, occupants, who are ordered to correct a nuisance must pay the costs. If the responsible party fails to do this, the town can take corrective action and sue the person to recover damages and expenses. The town can also seek an injunction. The responsible person is subject to a $250 per day civil penalty for each day the nuisance persists.
EFFECTIVE DATE: October 1, 2007

§ 58 — Reporting

The act requires the DPH commissioner to report annually beginning January 1, 2009 to the Public Health and Human Services committees on the status of lead poisoning prevention programs in the state. The report must include the number of children screened and those diagnosed with elevated blood lead levels in the prior calendar year and the amount of lead testing, remediation, abatement, and management done in that year.
EFFECTIVE DATE: October 1, 2007

§ 59 — Financial Aid to Local Health Departments

The act requires DPH, within available appropriations, to establish a financial assistance program to help local health departments pay for their lead-related expenses under the act. It may adopt implementing regulations.
EFFECTIVE DATE: July 1, 2007

§ 60 — Lead Work Standards

The act applies federal Occupational Health and Safety Administration standards for lead-related work, to the extent they apply to employers and employees, to lead abatement, removal, remediation, management, and other activities conducted under the act's provisions.
EFFECTIVE DATE: October 1, 2007

§§ 61 & 62 — FUNDING OF LOCAL HEALTH DEPARTMENTS

The act increases funding to local and district health departments as follows: (1) from $.94 to $1.18 per capita for full-time municipal health departments, (2) from $1.94 to $2.43 per capita for district health departments for each town or borough in the district with a population of 5,000 or less and (3) from $1.66 to $2.08 per capita for each town or borough in the district with a population over 5,000.
EFFECTIVE DATE: July 1, 2007

§ 63 — ANNUAL NURSING HOME RESIDENT REVIEWS

The act permits the Department of Mental Health and Addiction Services (DMHAS), within available appropriations, annually to review nursing home residents with mental illness to assesses whether they need (1) nursing home level of service or (2) specialized mental health services. DMHAS does the reviews in consultation with DSS, and the act requires nursing homes to give the agencies access to residents and their medical records for these reviews.

Under the act, if an annual review determines a resident who has continuously lived in a nursing home for at least 30 months needs specialized care but not nursing home care, he or she can opt to stay in the home or receive Medicaid-covered services in another appropriate institutional or noninstitutional setting. The move to the alternative setting must be done according to an alternative disposition plan DSS submits to the federal government and consistent with DMHAS' requirements for specialized services. If the resident has lived in the home fewer than 30 months, the home, in consultation with DMHAS, must arrange for his or her safe discharge. If DMHAS determines the person needs an alternative residential placement, the discharge and transfer must be done according to the DSS disposition plan. But if an alternative placement is not available, the person cannot be transferred.

By law, a nursing home must notify DMHAS when a resident who has mental illness undergoes a significant change in condition that may require specialized services. Upon notice, DMHAS and DSS must evaluate whether the resident requires a nursing home level of care or specialized mental health services.
EFFECTIVE DATE: July 1, 2007

§§ 64, 65 & 69 — DEPENDENT CHILDREN COVERAGE EXTENSION

The act amends provisions in PA 07-185 that raise, from age 22 to 26, the age to which group comprehensive and individual health insurance policies that cover unmarried children must do so. That act limited the coverage extension to children who reside in Connecticut; this act specifically extends coverage to full-time students atttending accredited out-of-state colleges and universities and children who live out-of-state with a custodial parent pursuant to a court order.

It makes both the group and individual policy coverage provisions effective January 1, 2009. PA 07-185 made the group provision effective July 1, 2007 and the individual policy provision effective October 1, 2007.
EFFECTIVE DATE: January 1, 2009

§ 66 — CONNECTICUT HEALTH INFORMATION NETWORK PLAN

The act authorizes DPH and the UConn Health Center (UCHC), within available appropriations, to develop a Connecticut Health Information Network (CHIN) plan. The CHIN plan is to integrate state health and social services data within and across the UCHC, the Office of Health Care Access (OHCA), DPH, and the Mental Retardation (DMR) and Children and Families (DCF) departments. Data from other state agencies may be integrated into the network as funding and federal law permit. The CHIN must securely integrate this data consistent with state and federal laws.

The act requires DPH and UCHC's Center for Public Health and Health Policy to collaborate with the Department of Information Technology and DMR, DCF, and OHCA in developing the CHIN plan. The plan must:

1. include research in and describe existing health and human services data;
2. inventory the various health and human services data aggregation initiatives currently underway;
3. include a framework and options for implementing CHIN, including ways to use the network to get aggregate data on the state's key health indicators;
4. identify and comply with confidentiality, security, and privacy standards; and
5. include a detailed cost estimate for implementation and potential funding sources.

The act eliminates provisions of PA 07-185 (§§ 24-28, 37, 38) that established and funded the CHIN at the UCHC.
EFFECTIVE DATE: July 1, 2007

§ 67 — HEALTHFIRST CONNECTICUT AUTHORITY

The act amends PA 07-185 to add the insurance commissioner and health care advocate or their designees as nonvoting members of this authority, which was created to recommend alternatives for affordable quality health care coverage for un- and underinsured people and cost containment measures and insurance financing mechanisms.
EFFECTIVE DATE: Upon passage

§68—STATEWIDE ELECTRONIC HEALTH INFORMATION TECHNOLOGY PLAN

By November 30, 2007, the act requires DPH, in consultation with OHCA and within available appropriations, to contract for the development of a statewide health information technology plan. This must be done through a competitive bid process. The entity awarded the contract must be designated as the state's lead health information exchange organization between December 1, 2007 and June 30, 2009.

The statewide plan must include:

1. general standards and protocols for health information exchange;
2. electronic data standards to facilitate the development of a statewide, integrated electronic health information system for use by state-funded health care providers and institutions funded by the state, including standards:
   (a) on security, privacy, data content, structures and format, vocabulary and transmission protocols,
   (b) for compatibility with any national data standards in order to allow for interstate interoperability,
   (c) permitting the collection of health information in a standard electronic format, and
   (d) for compatibility with the requirements for an electronic health information system; and
3. pilot programs for health information exchange and the projected costs and sources of funding.

By December 1, 2008 and annually afterwards, DPH, in consultation with OHCA, must report to the Public Health, Human Services, Government Administration and Elections, and Appropriations committees on the plan's status.

The act defines:

1. "electronic health information system" as computer hardware and software that includes:
   (a) a patient electronic health record that can be accessed in real time;
   (b) a personal health record through which individuals and their authorized representatives can manage a person's health information;
   (c) computerized order entry technology that allows a health care provider to order tests, treatments, and prescriptions;
   (d) electronic reminders to health care providers concerning screenings, other preventive measures, and best practices;
   (e) error notification procedures; and
   (f) tools to collect, analyze, and report adverse event data and quality of care measures;
2. "interoperability" as the ability of separate systems to exchange information including (a) physically connecting to a network, (b) enabling a user who presents appropriate permission to conduct transactions over the network, and (c) enabling such a user to access, transmit, receive, and exchange information with other users; and
3. "standard electronic format" as one using open electronic standards that (a) enables using health information technology to be used for collecting clinically specific information, (b) promoting interoperability across health care settings, including government agencies at all levels, and (c) facilitating clinical decision support.

The act repeals provisions in PA 07-185 that designated eHealth Connecticut as the state's lead health information exchange organization from July 1, 2007 to July 1, 2012 and required the DPH commissioner to contract with eHealth Connecticut to develop a statewide health information technology plan that included standards, protocols, and pilot programs for health information exchange.

EFFECTIVE DATE: July 1, 2007

§ 70 — SCHOOL-BASED HEALTH CENTERS

The act requires DPH, within available funding, to expand school-based health center (SBHC) services in FY 08 for (1) priority school districts and (2) federally designated health professional shortage areas (HPSA), medically underserved areas (MUA), or areas with a medically underserved population. It repeals a provision of PA 07-185 (§ 41) that made an appropriation to DPH for the both expansion and operating costs of SBHCs for priority school districts and for areas designated as HPSAs and MUAs.

HRSA develops health workforce shortage designation criteria to help determine whether a geographic area or population group is an HPSA or MUA. HPSAs may have shortages of primary medical care, dental, or mental health providers and may be urban or rural areas, population groups, or medical or other public facilities. MUAs may be a whole county or group of contiguous counties, a group of county or civil divisions, or a group of urban census tracts where residents have a shortage of health services.

EFFECTIVE DATE: July 1, 2007

§ 71 — RYAN WHITE PROGRAM FUNDING

For FY 08, the act authorizes the DPH commissioner, in consultation with the OPM secretary, to (1) make payments to providers to address funding reductions under Parts A and B of the federal Ryan White Program and (2) contract with health departments in the Hartford or New Haven Transitional Grant Areas to address funding reductions under the program.

The Ryan White HIV-AIDS Treatment Modernization Act, Part A, funds urban areas with the highest number of people living with AIDS while also helping mid-size cities and areas with emerging needs. Part B funds states.

EFFECTIVE DATE: July 1, 2007

§ 72 — REPEALER

The act repeals the following provisions of PA 07-185:

1. a premium assistance program for families with incomes between 300% to 400% of FPL who have access to employer-sponsored coverage;
2. a requirement that DSS seek a federal Health Insurance Flexibility and Accountability demonstration waiver to cover pregnant women with incomes between 185% and 250% of the FPL who do not "otherwise have creditable coverage";
3. the creation of a Connecticut Health Information Network at the UCHC to integrate state and social services data within and across state agencies;
4. the designation of e-Health Connecticut as the state's health information exchange organization
5. a requirement that DSS increase the rates it pays Medicaid providers, including hospitals; and
6. appropriations for:
   (a) DSS to establish a child health quality improvement program ($150,000 in FY 08),
   (b) DPH to establish electronic health information standards ($250,000 in FY 08),
   (c) UCHC to establish a Connecticut Health Information Network ($1 million each in FY 08 and 09),
   (d) DPH for the Connecticut HealthFirst Authority ($500,000 in FY 09),
   (e) DPH for the Statewide Primary Care Access Authority ($500,000 in FY 09),
   (f) DPH for SBHCs ($2.5 million in FY 08),
   (g) DPH for patient transportation to community health centers ($500,000 in FY 08), and
   (h) DPH for community health center infrastructure improvement ($2 million in FY 08).

It also repeals a provision of PA 07-252 that required, for FYs 08 and 09, that any balance remaining in the Tobacco and Health Trust Fund, after transfers were made as required by law from the amount disbursed to the fund from the Tobacco Settlement Fund, be allocated to DMHAS. DMHAS was to use such money for grants for tobacco education program to discourage minors from smoking.

EFFECTIVE DATE: July 1, 2007

PA 07-3, June Special Session–HB 8003
Emergency Certification

AN ACT IMPLEMENTING THE PROVISIONS OF THE BUDGET CONCERNING EDUCATION

SUMMARY: This act makes a variety of statutory changes to implement the FY 08-09 budget for early childhood, elementary and secondary, and higher education.

It changes several key factors in the Education Cost Sharing (ECS) formula, which distributes state education aid to towns. It increases (1) the per-student spending that ECS aid helps towns achieve, (2) the state's contribution to the overall cost of education, (3) minimum aid, and (4) student need weightings for poverty and limited-English. It updates the data for the poverty weighting. It eliminates supplemental aid to towns based on poverty concentrations and higher-than-average population densities and a factor that provided additional aid for low-achieving students. The act phases in the increased state aid, specifying the percentage increases for FY 08 and FY 09. For those years, it provides minimum annual increases of 4.4%.

The act establishes a new minimum budget requirement (MBR). Instead of requiring towns to spend 100% of increased ECS grants on education, as the law previously did, the act allows towns to spend part of the aid increase for other things. It requires towns to spend between 15% and 65% of the ECS increases on education, with the exact MBR percentage determined by each town's relative current education spending, wealth, and student achievement. Low-

performing school districts, as determined by consistent failure to make adequate yearly progress (AYP), must increase their MBRs by an additional 20 percentage points. These districts are also subject to increased supervision by the State Department of Education (SDE) under the act's accountability provisions.

The act makes a number of changes to the laws governing charter and magnet schools, early childhood education, and accountability. It:

1. increases magnet and charter school grants and establishes a funding priority for newly approved charter schools;
2. establishes additional requirements for charter school oversight, including mandatory audits and requiring the local school board chairperson to serve on the governing council; and
3. allows magnet schools with unused capacity to directly enroll students from nonparticipating districts and requires their home districts to pay tuition.

For early childhood education, the act gives the SDE more flexibility to distribute Head Start and unexpended school readiness grant funds. It requires the Early Childhood Education Cabinet to begin a school readiness program evaluation by July 1, 2008 and develop and report on accountability and workforce development plans and program standards. It moves up the date for the implementing the kindergarten assessment by two years and requires efficacy measures for Early Reading Success grant programs. It requires a school readiness program capacity study and the establishment of two model school readiness programs associated with higher education institutions.

The act requires schools and districts that require corrective action under the federal No Child Left Behind Act (NCLB) to be subjected to intensified supervision and direction by the State Board of Education (SBE). It specifies the actions the SBE must take pursuant to this new authority. A school district or elementary school that fails to make AYP for two successive years must be evaluated by the education commissioner. Under certain conditions, the commissioner may require the school or district to institute certain educational programs and may ask the legislature to allow another entity to control the district. The act also proposes a school improvement model school boards can adopt. Finally, the act requires a committee to study the high school graduation requirements.

The act also:

1. limits certain state education grants to towns at available appropriations through FY 09;
2. allocates the priority school district appropriation among several other education grants to priority school districts and establishes a per-pupil minimum for priority school district grants;
3. increases funding for the Open Choice interdistrict attendance program, vocational agriculture centers, and youth service bureaus;
4. imposes accountability requirements on state-funded after-school programs;
5. establishes an advisory council on professional development for school paraprofessionals and requires SDE to promote professional development for such employees;
6. requires a study and a pilot program to improve recruitment and retention of minority teachers;
7. requires school boards to include information about low-cost or free legal services in school expulsion hearing notices;
8. establishes a six-year pilot program to combine student achievement data for regular and charter schools in Bridgeport, Hartford, and New Haven;
9. waives various school construction statutes and regulations for specified school projects; and
10. repeals a requirement that SDE establish a program to promote use of compact fluorescent light bulbs.

Finally, the act contains several provisions concerning higher education. It establishes a 36-member blue ribbon commission to develop and implement a strategic master plan for higher education in Connecticut. It develops a college-readiness grant program to (1) address core subject-matter deficiencies among college-bound high school students and (2) improve these students' performance on Connecticut mastery and college placement examinations. It specifies how UConn may pay for repairs to correct code violations. And it approves up to $10 million in repairs, alterations, or additions to Central Connecticut State University's athletic fields and associated support facilities.

EFFECTIVE DATE: July 1, 2007, except for the provisions concerning the following, which take effect upon passage:

1. early childhood program quality rating and quality workforce development (§§ 19-21),
2. Neag School contract for CommPACT schools and Bridges College Readiness Program (§§ 38 & 39),
3. Central Connecticut State University athletic facilities (§ 50),
4. UConn code violation repairs (§§ 55 & 56), and
5. the school construction project waivers (§§ 22, 23, 52, & 57-59).

§§ 1-6 & 8 – EDUCATION GRANT LIMITS

The act limits various state education grants to school districts and regional educational service centers (RESCs) through FY 09 at the levels appropriated in PA 07-1, June Special Session (the budget). It requires that, if the appropriated amounts are not sufficient to fully fund the grants, amounts be proportionately reduced. Limits apply to grants for (1) health services to private school students, (2) public and private school transportation, (3) adult education, (4) bilingual education, and (6) RESC lease and operating costs.

§§ 7 & 51 – PRIORITY SCHOOL DISTRICT GRANTS

For FYs 08 and 09, the act directs distribution of the priority school district grant appropriation to various state grant programs as shown below:

Grant	*FY 08*	*FY 09*
Priority School Districts	$42,413,547	$41,413,547
School Readiness	61,388,972	76,338,972
Early Reading Success	19,747,286	0
Extended School Building Hours	2,994,752	2,994,752
School Accountability	3,499,699	3,499,699

For each fiscal year starting with FY 08, the act requires each town in a priority school district to receive a priority school district (PSD) grant of at least $150 per student. The minimum grant must be determined by dividing each town's total grant by the number of its students enrolled in public school at its expense as of October 1 or the full school day that immediately precedes October 1.

It also requires the SBE to add $650,000 per year starting in FY 08 to the PSD grant for the town with the sixth highest population in the state. The population counts must be based on the most recent decennial census. (Norwalk is the town with the sixth highest population in Connecticut based on the 2000 Census.)

§§ 9 & 10 – OPEN CHOICE PROGRAM GRANTS

Per-Student Grants

The act increases grants to district's accepting students from other districts as part of the state interdistrict's school attendance program (Open Choice) from $2,000 to $2,500 for each out-of-district student.

Bonus Grant Pool

When total program enrollment is below the number for which the state appropriates funds, the act increases, from $350,000 to $500,000, the maximum pool of those excess funds available for distribution to receiving districts that enroll 10 or more out-of-district students in the same school. The maximum bonus grant remains at $1,000 per student.

Transportation Grants

The act increases the maximum statewide average grant to RESCs and local and regional school districts that provide transportation for Open Choice from $2,100 to $3,250 per student.

§§ 11-16 – CHARTER SCHOOLS

Grants (§ 11)

The act increases the charter school per-student grant as follows:

FY 07 (Previous)	$8,000
FY 08	8,650
FY 09	9,300

Under existing law and the act, if the amount appropriated for the grants exceeds the amounts set by law, SDE must increase the per-student grant proportionately, but by no more than $70 per student. If there are remaining funds after the proportionate increase, prior law required SDE to use them for supplemental grants to interdistrict magnet schools. The act allows SDE to use the funds for this purpose or to pay for a portion of the required random charter school audit (see below).

Governing Councils (§§ 12-14)

The act requires charter school governing councils to include, in addition to teachers and parents or guardians, the board of education chairperson for the town where the charter school is located and that has jurisdiction over a school that resembles the approximate grade configuration of the charter school. The chairperson may designate someone to serve on the council but that person must be a board member or the school superintendent.

When a governing council submits to the commissioner its certified audit statement of all revenues and expenditures as part of the required annual report on the charter school's condition, the act specifically requires it to include revenue from private and public sources.

The act also requires a council to post the schedule, agenda, and minutes of each of its meetings, including subcommittee meetings, on any web site it operates.

Audits (§ 15)

The act requires the education commissioner to randomly select a state charter school every year for a comprehensive financial audit by an auditor the commissioner selects. The charter school is responsible for all costs associated with the audit unless SDE decides to use remaining charter school grant funds for this purpose.

Funding Priority (§ 16)

The act sets funding priorities when more than one new state charter school is approved and awaiting funding in any fiscal year. In these situations, it requires SBE to determine which school to fund first based on the following factors in order of importance:

1. if the applicant has demonstrated a record of academic success by its students,
2. if the school is located in a district with a demonstrated need for student improvement, and
3. if the applicant has plans for the preparation of facilities, staffing, and student outreach.

§§ 17-21, 43-48 – EARLY CHILDHOOD EDUCATION

Unallocated Funds (§ 17)

Under prior law, a town had to submit a plan to SDE by October 1 for spending all the noncompetitive school readiness grant funds for which it is eligible. If the town did not comply with this requirement, SDE could use the funds that were not earmarked for expenditure for supplemental grants to other eligible towns, school readiness professional development, and to conduct activities related to preschool and kindergarten student development evaluations or assessments. The act eliminates the requirement for submission of a plan. Instead, it allows the education commissioner to use unexpended funds to generally support local school readiness programs.

In addition to professional development and kindergarten assessments, the act specifically allows the commissioner to use the funds for:

1. assisting local school readiness programs in meeting and maintaining accreditation requirements,
2. providing training in implementing the preschool curriculum frameworks and developing a statewide preschool curriculum,
3. developing assessments for first and second grade students, and
4. developing and implementing best practices for parents in supporting preschool and kindergarten student learning and for children to transition from preschool to kindergarten.

Early Childhood Education Cabinet (§§ 19-21)

The act requires SDE to provide administrative services to the statutory Early Childhood Education Cabinet and the Governor's Early Childhood Research and Policy Council established by executive order.

It requires the cabinet to begin, by July 1, 2008, the statewide longitudinal evaluation of the school readiness program that it is required to conduct. It specifically requires the study to examine the educational progress of children from pre-kindergarten to grade three.

It extends from January 1, 2000 to January 1, 2008, the date by which the commissioner must adopt assessment measures school readiness programs must use when conducting annual evaluations.

The act requires the cabinet to develop and implement an accountability plan for early childhood education services annually beginning by December 1, 2008. The plan must identify and define appropriate population indicators and program and system measures of children's readiness to enter kindergarten. As part of the accountability plan, the cabinet, in consultation with SDE and the Office of Policy and Management (OPM), must consider the development of data sharing agreements between state agencies and analyze whether the data can be combined in a manner required to assess children's progress toward school readiness.

Annually, beginning by December 31, 2008, the cabinet must report on the measures implemented to the Appropriations, Education, Human Services, and Higher Education and Employment Advancement committees.

State-funded early childhood education providers must use the program measures developed under the accountability plan to evaluate the effectiveness of their services. Each provider must report the evaluation results to the cabinet annually beginning by June 30, 2009.

The act also requires the cabinet to:

1. develop minimum standards and a range of higher quality standards for all state-funded early care and education programs and
2. in consultation with the Office of Workforce Competitiveness, develop a quality workforce development plan for school readiness.

The cabinet must report on these plans annually, beginning by December 31, 2008, to the Appropriations, Education, Human Services, and Higher Education and Employment Advancement committees.

Kindergarten Assessment (§ 18)

The act moves up, from October 1, 2009 to October 1, 2007, the date by which the education commissioner must, within available appropriations, develop and implement a statewide developmentally appropriate kindergarten assessment tool. It specifies that the tool must not be used as a measurement tool for school readiness program accountability.

Early Reading Success Programs (§§ 43 & 44)

The act requires SDE to develop efficacy measures for early reading intervention programs used by Early Reading Success grant recipients and make a list of effective programs available to grant recipients. It must provide the measures and the list to the governor and the legislature by January 1, 2008.

Beginning with FY 08, SDE must annually use the measures to determine the efficacy of the programs used by each grant recipient. If SDE determines that a grant recipient is using an ineffective program, it must require the recipient to use a program from the SDE list.

The act requires program proposals to provide for program monitoring, in addition to student monitoring. It also requires the proposals to provide for the establishment of performance indicators that are aligned with the SDE efficacy measures, as well as the statewide mastery test, Early Reading Success Panel findings, and other methodologies, as existing law requires.

Facilities (§ 45)

The act requires the Connecticut Health and Educational Facilities Authority and SDE to develop a plan to increase capacity in school readiness programs. The plan must include recommendations on facility needs, professional development, and grant formula changes. The education commissioner and the authority must report the plan to the governor and the General Assembly by January 1, 2008.

Model Programs (§§ 46 & 47)

The act requires the education commissioner to establish two model early childhood learning programs associated with higher education institutions in place of the two similar pilot programs prior law required. Each one may include a laboratory school and a model day care program for 60 children ages three to five. The act requires SDE to issue requests for proposals for the programs and provide grants of $100,000 each from Early Reading Success Program funds.

The commissioner must determine grant eligibility for a five-year period with awards made annually, contingent on available funding and a satisfactory annual evaluation.

Head Start Program Funds (§ 48)

The act eliminates a provision requiring at least 75% of the Head Start competitive grant funding to be allocated to Head Start programs established before July 1, 1992.

§ 24 – VOCATIONAL AGRICULTURE CENTERS

Per-Student Grant

The act increases the state's per-student grant to districts operating vocational agriculture (vo ag) centers from $700 to $1,355 for each secondary school student enrolled in a center on the preceding October 1.

Tuition Limit

By law, a district that operates a vo ag center can charge other districts tuition for the students they send to the center. The tuition charge is limited to a percentage of the ECS foundation amount. To correspond to its increase in the ECS foundation amount from the $5,891 to $9,687, the act reduces the tuition limit from 120% to 82.5% of the ECS foundation. The effect of this change is to increase the maximum allowable vo ag center tuition charge from $7,069 per student (120% of $5,891) to $7,992 per student (82.5% of $9,687).

Opportunity for Enrollment

By law, school districts that do not furnish vo ag training must designate one or more other districts where their students can receive such training. The law also allows districts to make agreements with other districts to provide the training. The act requires a school district that does not maintain a vo ag center to allow its students to enroll in another district's center in numbers that are at least equal to (1) the number specified in any written agreement it has with a vo ag center or (2) if there is no written agreement, the average number of its students enrolled in the center during the three previous school years.

§ 25 – DISTANCE LEARNING

In FY 08 and FY 09, the act requires the Connecticut Distance Learning Consortium (CDLC) to deliver on-line courses. It must develop the courses in conjunction with, or with the approval of, the departments of Education and Higher Education, RESCs, or other agencies interested in delivering such courses. SDE must approve the content of on-line courses offered for academic credit in public schools.

The CDLC is a group of Connecticut public and independent colleges, state and local education agencies, and other entities that seeks to support on-line learning in the state.

§ 26 – AFTER-SCHOOL GRANTS

The act expands the type of programs eligible for state after-school grants. As under prior law, school districts, municipalities, and nonprofit organizations may apply for the grants. The act specifies that grants may be used not only for direct services but also for entities that provide after-school program support. It also requires eligible programs to have parent involvement as one of their program components, in addition to existing requirements that such programs provide educational, enrichment, and recreational activities.

The act requires grant applicants to apply to the education commissioner every two years instead of every year and requires them to submit a grant spending plan as part of their applications. It requires the commissioner to determine grant eligibility for two years based on the spending plan. Before the commissioner pays the second-year grant, the act requires the grantee to report to SDE on its expenditures and performance outcomes, including measurements showing the

program's impact on student achievement and school attendance and behavior. Every two years, starting by October 1, 2008, SDE must report to the Education Committee on the performance outcomes for the grantees.

The act also requires grantees to file expenditure reports when and how the education commissioner prescribes. Grantees must refund (1) any unspent grants at the end of the grant periods and (2) any amounts not spent according to their approved applications.

Under the act, SDE must provide technical assistance, evaluation, program monitoring, professional development, and accreditation support to grantees. The act allows SDE to retain up to 4% of the grant appropriation for these purposes.

§§ 27- 29 – SCHOOL PARAPROFESSIONALS

Professional Development

The act requires SDE to promote professional development for school paraprofessionals responsible for instructing students, including:

1. providing local school boards with appropriate training materials and curricula,
2. helping boards use paraprofessionals effectively, and
3. developing ways to improve communication between teachers and paraprofessionals to provide effective student instruction.

SDE must carry out these activities through its State Education Resource Center and within available appropriations. The act requires SDE to report to the Education Committee by December 1, 2008 on (1) professional development for paraprofessionals and (2) the status and future of paraprofessionals with instructional responsibilities.

Paraprofessional Advisory Council

The act requires the education commissioner to establish a paraprofessional advisory council made up of one representative from each of the statewide unions representing school paraprofessionals with instructional responsibilities. (There are currently four such unions.) It requires the council to advise the commissioner or the commissioner's designee at least quarterly of the (1) needs for paraprofessional training and (2) effectiveness of the content and delivery of existing training. The council must also report to the Education Committee at least quarterly on its recommendations to the commissioner or designee.

§ 30 – REACH OUT AND READ

The act requires SDE to establish and administer a program to provide grants to pediatric care providers to promote early childhood literacy in health care settings. The grants must match federal and private funds and providers must use them to:

1. promote early literacy as a standard part of well-child medical visits for children between the ages of six months and five years;
2. buy appropriate new children's books to distribute during visits;
3. train new pediatric care providers, and maintain all such providers' proficiency, in how to promote early childhood literacy; and
4. make health clinics and medical office waiting rooms more conducive to learning to read by using volunteer readers and providing other opportunities to surround children with oral language, books, or print.

Under the act, "pediatric care providers" are state-licensed physicians and registered and advance practice registered nurses who provide pediatric care. The act allows such providers to apply for grants when and how the education commissioner prescribes.

§ 31 – MINORITY TEACHER RECRUITMENT AND RETENTION

The act requires the RESC Minority Recruiting Alliance to study how best to (1) encourage minority middle and high school students to go to college and enter teacher preparation programs, (2) recruit minority college students to enroll in teacher preparation programs and become teachers, and (3) recruit and maintain minority teachers in Connecticut schools. The alliance must perform the study in consultation with SDE, the Department of Higher Education (DHE), the state higher education constituent units, and the Connecticut Conference of Independent Colleges.

The act also requires the alliance, in consultation with the same entities and by October 1, 2007, to propose guidelines for pilot minority teacher recruitment and retention programs to the SDE and DHE commissioners. In developing the guidelines, the act allows the alliance to consider establishing and operating the following three pilot programs, among others.

1. A fellows program leading to eligibility for a teaching certificate for minority candidates who have:
   (a) finished an intensive summer program on classroom management and methods,
   (b) a bachelor's degree from an accredited higher education institution,
   (c) passed the state teacher preparation examination or had the exam requirement waived based on SAT scores or on an equivalent score as determined by the SBE, and
   (d) other qualifications for certification required for those participating in the state's alternative route to certification program.
2. A competitive grant program for school boards to form and operate future teachers' clubs as part of their middle and high school extracurricular activities.
3. A cadet teacher program to allow minority college seniors who are not in teacher preparation programs but are majoring in subject shortage areas identified by the education commissioner to receive up to three credits for working as cadet teachers in public schools. Upon graduation, if recommended by school officials, a cadet teacher could enter a fellows program as described above, if such a program is operating.

The act defines "minority" as anyone whose race is other than white, or whose ethnicity is Hispanic or Latino, as both are defined by the U.S. Census Bureau.

By January 1, 2008, the alliance must report on the study, the guidelines, and the operation of any pilot programs to the Education and Higher Education and Employment Advancement committees and SDE and DHE.

§§ 32-34 – ACTIONS TO IMPROVE STUDENT PERFORMANCE

Schools Requiring Corrective Action under NCLB (§ 32)

The act requires schools and districts that are designated as "in need of improvement" under Connecticut law and require corrective action under the federal NCLB to be placed on a list of low-achieving schools and districts and subjected to intensified supervision and direction by SBE. The law already requires the education commissioner to prepare a statewide education accountability plan in conformance with NCLB that (1) identifies the schools and districts in need of improvement, (2) requires the development and implementation of improvement plans, and (3) utilizes rewards and consequences.

The act requires SBE to take any of the following actions, any combination of them, or any closely related actions to improve student performance and remove a school or district from the "low-achieving" list and address other school or district needs:

1. require operations and instructional audits, the implementation of an SDE- approved curriculum, the use of state and federal funds for critical needs as directed by SBE, and additional training and technical assistance for teachers, principals, and central office staff members hired by the district;
2. identify schools for (a) reconstitution, which the commissioner can phase in, as charter schools, schools based on certain models of improvement, or (b) management by an entity other than the board of education;
3. require the board for the school or district to implement model curriculum;
4. direct the school board to develop and implement a plan addressing achievement and learning environment deficits as recommended in the instructional audit;
5. assign a technical assistance team to the school or district to guide initiatives and report progress to the education commissioner;
6. develop benchmarks for the school or district to meet as it progresses toward removal from the list of low-achieving schools or districts;
7. provide funding to districts near the low-achieving district so students within the low-achieving district can attend public school in a neighboring district; and
8. direct the establishment of learning academies within schools that require continuous monitoring of student performance by teacher groups.

The act also allows SBE to provide incentives to attract highly qualified teachers and principals and to direct the transfer and assignment of teachers and principals. It does not appear that this latter provision supersedes collective bargaining agreements.

SBE must monitor progress in these schools and districts and notify school boards about their progress in meeting any improvement benchmarks. If a low-achieving district fails to make sufficient progress toward the benchmarks and fails to make AYP under NCLB for two years, the SBE, after consulting with the governor and the district's chief elected officials, can ask the General Assembly to adopt legislation allowing the SBE or another authorized entity to control the district.

The act requires any town whose school district is in the third year or more of failing, as a district, to make AYP in math or reading, to add 20 percentage points to the share of its ECS increase that it must spend on education pursuant to the minimum budget requirement (see §63). The act requires the comptroller to withhold these funds and transfer them to SDE for expenditure on behalf of the identified school district to implement any of the measures above that SBE requires and to offset any other local education costs that the commissioner deems appropriate to achieve school improvement. The funds must be awarded by the commissioner to the board of education for the identified school district on the condition that it spends the funds in accordance with his directives.

Schools/Districts Not Making AYP for Two Years (§ 32)

A school district or elementary school that fails to make AYP for two successive years must be designated as a low-achieving school or district and must be evaluated by the education commissioner. After the evaluation, the commissioner may require the school or district to institute certain educational programs if (1) on any subpart of the third grade statewide mastery examination, 30% or more of the students in any NCLB subgroup do not achieve the level of proficiency or higher or (2) the commissioner determines that it would be in the best educational interests of the school or the school district to have any of these programs.

The commissioner can require that the school district or school provide full-day kindergarten classes; summer school; extended school days; weekend classes; tutoring; or professional development to its administrators, principals, teachers, and paraprofessional teacher aides. In ordering these educational programs, the commissioner may limit the offering to the subgroup of students that have failed to achieve proficiency, those in particular grades, or those who are otherwise at substantial risk of educational failure.

The identified low-achieving school district or the school district in which an identified low-achieving school is located must pay for any educational programs ordered. However, the commissioner cannot order an educational program that costs more to implement than the total increase in the town's ECS grant above the prior fiscal year.

The education commissioner must, within the limits of SDE's capacity, conduct a study of academic achievement of individual students over time as measured by performance on the statewide mastery examination in grades three to eight. If the study shows a pattern of continuous and substantial growth in educational performance for the students, the commissioner can determine that the district or school is not subject to the above requirements, although they must still comply with NCLB.

School Improvement Model (§ 33)

If an elementary or middle school fails to make AYP for two years based on whole school performance in math, reading, or both, the act allows boards governing those schools to reorganize them in themed academies of up to 175 randomly assigned students each, divided into different classes based on grade. Each academy must be comprised of all grades in the school and share a common curriculum.

Under this model, the school principal appoints a teacher as team leader for each academy to work with the school's regular classroom teachers to plan lessons, look at student data, work with small groups of students, provide model lessons, and plan school and academy-wide activities. Additionally,

1. each class in each academy has a 90-minute math block and a two-hour literacy block every day;
2. each student has an individual education plan that incorporates the student's personal reading plan if the student is required to have one;
3. all teachers in the school of the same grade level meet weekly to plan lessons; teachers meet daily in grade-level teams to plan lessons; and teachers meet once a week with the team leader and the school principal to look at student work and data, evaluate instruction, and make adjustments and changes in instruction;
4. students receive (a) regular assessments that evaluate short-term progress every two weeks and (b) district-wide assessment tests every six weeks that evaluate progress toward long-term objectives; and
5. based on these assessments, parents, teachers, and principals must have a meeting about any child who is falling behind.

High School Graduation Requirement Study (§ 34)

The act requires the Education Committee co-chairpersons and ranking members or their designees, the education commissioner, the SBE chairperson, and the OPM secretary to form a committee to study high school graduation requirements. It must report on the study to the governor and the Education Committee by January 15, 2008.

§§ 35 & 36 –YOUTH SERVICE BUREAU GRANTS

The act increases the number of youth service bureaus (YSBs) eligible for SDE grants. It does so by making any YSB eligible for state grants starting in FY 08 if it (1) was eligible for a grant in FY 07, rather than in FY 06; or (2) applied for a grant by June 30, 2007, rather than by June 30, 2006, after receiving approval for its 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.

The act also establishes a YSB enhancement grant and requires SDE to award specified annual grants according to the population of the town or group of towns a YSB serves. Grant amounts are shown below.

Annual Enhancement Grant	***Population of YSB Town or Region***	
	More Than	***But not more than***
$3,300	0	8,000
$5,000	8,000	17,000
$6,250	17,000	30,000
$7,550	30,000	100,000
$10,000	More than 100,000	

§§ 37 & 38 – "COMMPACT SCHOOLS"

The act allows a board of education, through agreement with its teachers' and administrators' bargaining units, to create a CommPACT school. The board must give such a school autonomy in governance, budgeting, and curriculum. The school must be managed collaboratively by the district superintendent and a governing board comprised of school and bargaining unit representatives, community leaders, and parents and guardians of CommPACT school students.

The act requires DHE to contract, by March 1, 2008, with UConn's Neag School of Education to administer a field-based support program for up to 12 CommPACT schools. For FY 09, it transfers $500,000 of the funds appropriated to SDE for CommPACT schools to DHE for these purposes. The Neag School, in consultation with SDE and DHE, must develop a plan to implement the program, which it must submit to the education and higher education commissioners. The plan must describe the services and types of assistance to be provided to CommPACT schools. When the higher education commissioner receives it, she must release the appropriated funds to the Neag School to implement the plan. By January 1, 2009, the Neag School must report to the Education and Higher Education and Employment Advancement committees and both commissioners on the program's progress and the services and assistance provided to CommPACT schools.

§ 39 – BRIDGES COLLEGE-READINESS GRANT PROGRAM

The act requires DHE to contract, by March 1, 2008, with the Connecticut State University (CSU) system board of trustees to develop a college-readiness grant program to (1) address core subject-matter deficiencies among college-bound high school students and (2) improve these students' performance on Connecticut mastery and college placement examinations. The CSU trustees must (1) develop a plan for implementing a college-readiness program in the CSU system, in consultation with SDE and DHE, and (2) submit it to SDE and DHE.

The act transfers $250,000 of the funds appropriated to SDE in FY 09 for CommPACT schools to DHE for this program. It requires the DHE commissioner to release these funds to the board after she receives the plan.

The plan must include the following strategies to decrease the number of high school students requiring remedial education:

1. provide opportunities for high school faculty to participate in mutual learning exchanges with college faculty,
2. provide opportunities for high school students to discuss college readiness and expectations with high school and college faculty who are involved in the learning exchanges,

3. use software or other instruments to (a) assess students' college readiness skills and (b) identify areas requiring remediation before they enter college,
4. engage high school and college faculty in workshops to plan 11th and 12th grade curricular changes to address areas requiring remediation, and
5. develop and institute shared decision-making structures that increase faculty and parental involvement in promoting a school culture and environment that fosters positive student development in a variety of domains.

Program Assessment and Administration

By January 1, 2010, the CSU board of trustees must complete an assessment of the grant program and submit it to the Higher Education and Employment Advancement and Education committees and the education and higher education commissioners. The assessment must include (1) a summary of the strategies used by the participating CSUs; (2) the methods used to assess strategy outcomes; and (3) where applicable, recommendations for making changes and incorporating positive findings into the programs.

§§ 40, 42 – MAGNET SCHOOLS

Operating Grants

The act increases operating grants to interdistrict magnet schools over four years and revamps the formula for distributing the grants.

Host Magnets. It eliminates the prior formula that ties the per-student amount for host magnet schools to a percentage of the ECS foundation amount. Under the formula, the per-student amount varied according to the share of the school's enrollment that comes from each participating district. Under the act, the maximum grant each interdistrict magnet school can receive for each student from a district that is not the host district that supplies more than 55% of a magnet school's enrollment is:

FY 08	$6,016
FY 09	6,730
FY 10	7,440
FY 11	8,158

The per-pupil grant for each enrolled student who is a resident of the host district is $3,000 per student. The act does not provide a grant for students from participating districts that supply less than 55% of the school's enrollment.

*RESC Magnets***.** For each RESC-operated interdistrict magnet school that enrolls at least 55% of its students from a single town, the act sets per pupil grants for each enrolled student who is not a resident of the district that enrolls at least 55% of the school's students at the same amounts as above for FYs 08 to 11. The grant for the remaining students stays at $3,000.

The act increases the per-student grant for RESC-operated magnets that enroll less than 55% of students from a single district as follows:

FY 07 (Prior)	$6,500
FY 08	7,060
FY 09	7,620
FY 10	8,180
FY 11	8,741

Enrollment

The act allows interdistrict magnet schools that have unused student capacity after accommodating students from participating districts in accordance with their enrollment agreement, to enroll any interested student directly into its program. A student from a non-participating district must be given preference. The board of education otherwise responsible for educating the student must contribute funds to support the operation of the magnet school in an amount equal to the per-student tuition, if any, charged to participating districts. For FY 09, the act requires this tuition to equal 75% of the difference between the average per-pupil expenditure of the magnet school for the prior fiscal year and the magnet school per-pupil grant. If the board of education fails to pay the tuition, the education commissioner can withhold

ECS funds from the school, up to the amount of the unpaid tuition, and transfer it to the fiscal agent for the magnet school as a supplementary operating grant. The act provides that, for the purposes of calculating magnet school grants, "participating district" includes districts whose students enroll directly in interdistrict magnet schools pursuant to the act.

Financial Audits

The act requires RESC-operated interdistrict magnet schools to file a financial audit with the education commissioner annually in the form he prescribes.

The act also requires the commissioner to randomly select one RESC-operated interdistrict magnet school every year for a comprehensive financial audit conducted by an auditor selected by the commissioner. The RESC must pay for the audit.

§ 41– STRATEGIC MASTER PLAN FOR HIGHER EDUCATION

The act establishes a blue ribbon commission to develop and implement a strategic master plan for higher education in Connecticut. The plan must identify short- and long-term state goals for higher education and include benchmarks for achieving those goals by 2010, 2015, and 2020. The act also requires the commission, beginning October 1, 2008 and until 2021, biennially to submit a report prepared by DHE on the implementation of the plan and progress made in achieving the strategic plan's benchmarks to the governor and various General Assembly committees.

Commission Membership

The 36-member commission consists of 16 voting and 20 ex-officio, nonvoting members who must reflect the state's geographic, racial, and ethnic diversity. Table 1 shows the appointed voting members and their appointing authorities.

Table 1: Appointed Voting Members and Appointing Authorities

No.	***Appointing Authority***	***Appointee***
2	House speaker	Former administrators or faculty members of independent higher education institutions
2	Senate president pro tempore	Former UConn administrator or faculty member Former community-technical college administrator or faculty member
2	House majority leader	Former CSU administrator or faculty member Former Charter Oak State College administrator or faculty member
2	Senate majority leader	Representative from the arts and culture field Representative from the health care field
2	House minority leader	People knowledgeable about science and technology
2	Senate minority leader	Representatives of statewide business organizations
4	Governor	Representative from a nonprofit education foundation Person experienced in university research and its commercial application Person experienced in prekindergarten to grade 12 education One additional person

The ex-officio nonvoting members are the Higher Education and Employment Advancement Committee's chairpersons and ranking members and the following officials or their designees:

1. the DHE, SDE, economic and community development, and labor commissioners;
2. the chairpersons of the boards of trustees and the chief executive officers of each higher education constituent unit (UConn, the CSU and Community-Technical College systems, and the Board for State Academic Awards);
3. the chairperson of the board and president of the Connecticut Conference of Independent Colleges;
4. the Office Workforce Competitiveness director; and
5. the OPM secretary.

Appointed members serve three-year terms. The appointing authority must fill any vacancy. The act requires the commission to elect a chairperson at its first meeting. Members serve without compensation but are reimbursed for necessary expenses incurred in performing their duties. To assist in carrying out its duties, the commission may (1) seek the advice and participation of any person, organization, or state or federal agency; (2) retain consultants within available appropriations; and (3) receive funds from any public or private sources. The commission terminates on January 1, 2021.

Commission Responsibilities

The commission must develop short- and long-term state goals and benchmarks for achieving those goals. The goals must reflect the unique missions of each public and private higher education institution in the state.

The master plan must promote the following overall goals:

1. ensuring equal access and opportunity to postsecondary education for all state residents;
2. promoting student achievement, including performance, retention, and graduation;
3. promoting economic competitiveness in the state;
4. improving access to higher education for minorities and nontraditional students, including part-time students, incumbent workers, adult learners, former inmates, and immigrants; and
5. ensuring the state's obligation to provide adequate funding for higher education.

The act also requires the commission to:

1. examine the effect of demographics and workforce trends on higher education in the state;
2. address the challenges related to (a) increasing the number of state students earning bachelor's degrees, (b) increasing the number of young people entering the state's workforce, and (c) the disparity in achievement between minority and majority students;
3. examine higher education funding policies, including coordinating appropriations, tuition, and financial aid and maximizing federal and private funding;
4. recommend ways in which the state's higher education institutions can, consistent with their respective missions, expand their role in advancing the state's economic growth; and
5. review the Higher Education Board of Governors' master plan for higher education and strategic plan for racial and ethnic diversity, and the Nellie Mae Foundation report, "New England 2020: A Forecast of Educational Attainment and its Implications for the Workforce of New England States."

In producing the master plan, the commission may consider:

1. establishing institutional performance and productivity incentives;
2. increasing financial aid incentive programs, particularly in workforce shortage areas and for minority students;
3. implementing mandatory college preparatory curricula in high schools and aligning them with postsecondary school curricula;
4. partnerships between (a) public higher education institutions and the business community to move students into workforce shortage areas and (b) public high schools and higher education institutions;
5. implementing high school programs to assist students seeking higher education or an alternative path to post-secondary education, including vocational and technical opportunities;
6. developing policies to promote and measure retention and graduation rates;
7. addressing the educational needs and increasing the retention and graduation rates of minority and nontraditional students; and
8. addressing tuition affordability and student indebtedness.

Reporting

By October 1, 2008, the act requires the commission to submit its strategic master plan, including goals, benchmarks, and recommendations for appropriate legislation and funding. The act also requires the commission biennially to submit, between January 1, 2009 and January 1, 2021, a report prepared by DHE on the implementation of the plan and progress made in achieving the strategic plan's benchmarks. Both submissions go to the governor and the Higher Education and Employment Advancement, Education, Commerce, Labor, and Appropriations committees.

§ 49 – NOTICE OF LEGAL SERVICES FOR SCHOOL EXPULSIONS

By law, except in an emergency, a local or regional school board must hold a hearing before expelling a student from school and must give the student and, if the student is a minor, his parent or guardian, reasonable notice of the hearing as required by the Uniform Administrative Procedure Act. The act requires the notice to include information about (1) free or reduced-rate legal services that are locally available and (2) how to take advantage of the services.

§ 50 – CENTRAL CONNECTICUT STATE UNIVERSITY'S ATHLETIC FACILITIES

The act approves up to $10 million in repairs, alterations, or additions to Central Connecticut State University's athletic fields and associated support facilities. By law, any repairs, alterations, or additions costing more than $1 million to facilities supported by the CSU system operating fund must be approved by the General Assembly or the Finance Advisory Committee.

§§ 55 & 56 – UCONN 2000 CODE VIOLATION REPAIRS

The act prohibits UConn from using tuition or student fee revenue to pay for repairs performed solely to correct code violations that (1) were applicable at the time of project completion and (2) are for UConn 2000 projects named in statute completed before January 1, 2007.

The act also amends the definition of deferred maintenance for the UConn 2000 building program. The law defines deferred maintenance as repair of structures and infrastructure that was not maintained, repaired, or replaced in the usual course of maintenance and repair. Prior law excluded repairs performed solely to correct code violations that were applicable to nonthreshold UConn 2000 projects named in statute that were completed before July 1, 2006. The act eliminates this exclusion.

These changes appear to allow UConn to use money, other than tuition or student fee revenue, including UConn 2000 deferred maintenance funds, to pay for repairs to correct code violations.

§ 54 – PILOT PROGRAM FOR COMBINING CHARTER AND REGULAR SCHOOL ACHIEVEMENT DATA

The act establishes a six-year pilot program for determining district-wide AYP for purposes of the federal NCLB and the state school accountability laws for Bridgeport, Hartford, and New Haven. The program must combine student achievement data from schools under the jurisdiction of each city's board of education with that of charter schools located in the same city. The act allows SDE to use combined data only if (1) a board of education and a charter school mutually agree to include the charter school's data and (2) the education commissioner approves the agreement.

SDE must report to the Education Committee on the results of the pilot program by October 1, 2013.

§§ 53 & 60-64 – ECS GRANTS

ECS Formula Factor Changes (§§ 60 & 61)

The act changes several factors used in the ECS formula starting in FY 08.

Foundation. The act increases the ECS foundation from $5,891 to $9,687 per student for each fiscal year through FY 12. The foundation is the level of weighted per-student spending ECS grants help towns achieve. A higher foundation increases grants to all towns.

State Guaranteed Wealth Level (GWL). The ECS formula is designed to allow towns to tax themselves to raise a portion of the foundation based on an equalized tax burden, with the state making up any difference between what a town can raise and the foundation, up to the state guaranteed wealth level. The act raises the GWL from 55% to 75% above the wealth of the median town (1.55 to 1.75 times the median town wealth). A higher GWL increases the state's share of total education funding.

Base Aid Ratio and Minimum Grant. The base aid ratio (or percentage) represents the relationship between each town's wealth, as measured by its equalized grand list adjusted for income, and the state GWL. In order to provide all towns with a grant, the ECS formula establishes a minimum base aid ratio. The act increases this minimum from 0.06 to 0.09 for most towns and to 0.13 for the 20 school districts with highest concentrations of low-income students, measured by the proportion of their total populations aged 5 to 17 who are eligible for federal Title I funding. Thus, the act increases grants for wealthier towns from 6% to 9% of the foundation amount for each "need student" and to 13% for wealthier towns with high proportions of low-income students.

"Need Students." By law, the ECS formula weights student counts for educational and economic need by increasing a town's resident student counts for students in certain categories to yield a "need student" count. The act makes the following changes in formula for determining the number of each town's "need students."

1. It increases the weighting for limited-English-proficient (LEP) students not participating in bilingual education programs from 10% to 15%. This change increases aid for towns with low concentrations of students with non-English dominant languages. (By law, schools must provide bilingual programs if they have 20 or more students with the same non-English dominant language.)
2. It increases the weighting for low-income students from 25% to 33% and changes the basis of the weighting from students on welfare in 1997 to children aged 5 to 17 eligible for federal Title I education aid as of each October 1.
3. It eliminates the 25% weighting for students who perform below proficiency on mastery tests ("mastery count").
4. In FY 09, it reduces the number of resident students by 25% of the number of a town's full-time students who attend interdistrict magnet schools receiving state magnet operating grants. (Previously and for FY 08, all such students are included in ECS student counts.) This change reduces grants for towns with students attending interdistrict magnet schools on a full-time basis. It also requires SDE, by October 1, 2007, to notify local school boards to anticipate that the number of such students included in the student count in FY 10 will be reduced by 50%.

ECS Grants and Phase-In (§ 62)

Fully Funded Grant. The act defines a "fully funded grant" to replace "target aid" as each town's full ECS entitlement grant. Each town's fully funded grant is the product of its base aid ratio, the foundation, and its need students for the fiscal year before the grant year, plus its regional bonus, if any.

Phase-In. The act phases in full funding of the new ECS grants and establishes the first two years of the phase-in grant as follows.

1. For FY 08, each town must receive the ECS grant it was eligible to receive in FY 07 ("base aid") plus 17.31% of the difference between that and its fully funded grant, but no less than a 4.4% increase over its base aid.
2. For FY 09, each town must receive its base aid plus 23.3% of the difference between that and its fully funded grant, but no less than 4.4% more than its FY 08 grant.

Supplements. The act eliminates two ECS grant supplements that, under the prior law, were used to compensate certain types of towns. It eliminates the density supplement, which provided additional aid to towns with higher-than-average population densities, and supplemental aid, which provided additional aid based on concentrations of low-achieving and low-income students.

"Hold Harmless." The act eliminates a requirement that, for FY 08 and each subsequent fiscal year, a town receive an ECS grant that is at least (1) equal to the grant it received in the previous fiscal year or (2) 60% of its full ECS entitlement.

Minimum Budget Requirement (§§ 53 & 63)

Prior law imposed a minimum budget requirement (MBR) that required any town that received an increase in its annual ECS grant to increase its budgeted appropriation for education by a minimum of 100% of the increased aid. The act modifies MBR as follows.

For FY 08 and 09, the act requires most towns to spend for education at least their budgeted appropriation for the prior year plus from 15% to 65% of their ECS grant increases.

The MBR percentage is determined by the average of the relationships between each town and the state's highest-ranked town in the following categories: (1) current program expenditures per student, (2) per capita wealth (equalized net grand list adjusted for income), and (3) percentage of students who score below proficiency on state mastery tests. The bigger the average of the differences in these categories between a particular town and the highest town, the more of its ECS increase the town must devote to its education budget (i.e., the closer to 65%).

A town whose school district is in the third year or more of failing, as a district, to make AYP in math or reading must add 20 percentage points to the share of its ECS increase that it must spend on education.

By September 15, 2007, the act allows local school boards to ask the education commissioner to defer part of their aid increases for FY 08. If the commissioner approves, the deferred amount must be added to the town's FY 09 grant. Deferred funds must be spent in compliance with the town's MBR for FY 09. The act bars a town from deferring aid increases that it must spend for education based on its failure to make AYP for three or more years.

The act overrides provisions of any state law, local charter, special act, or home-rule ordinance to require local and regional school districts that have unspent ECS grant funds remaining at the end of any fiscal year to carry those funds forward to the next fiscal year.

Other Changes (§§ 61 & 64)

The act defines "current program expenditures" and "current program expenditures per student" for purposes of the MBR as the existing "regular education expenditures" plus expenditures for special education and student transportation.

The act makes a conforming change to repeal an old penalty for a town that does not meet its ECS minimum expenditure requirement. Under prior law and the act, this penalty is part of the MBR. (The penalty is twice the amount of any shortfall.)

§ 65 – COMPACT FLUORESCENT LIGHT PROMOTION REPEALED

The act repeals § 61 of PA 07-242, which required SDE to promote renewable energy and implement a statewide public school compact fluorescent fundraiser.

§§ 22, 23, 52, & 57-59 – SCHOOL CONSTRUCTION PROJECT WAIVERS

Suffield Regional Agriscience Center (§ 22)

The act waives the acreage limitations of the school construction grant law and regulations to allow the Suffield Regional Agriscience Center to be eligible for a reimbursement for buying approximately 10 acres to add to its current site.

New London Magnet Schools (§ 23)

PA 07-249 allows the education commissioner to designate one or two schools in New London as interdistrict magnet schools and makes construction projects at those schools eligible for the 95% interdistrict magnet school reimbursement rate. PA 07-249 limited the total project costs for the two schools to $10 million. This act eliminates that limit and instead imposes a $10 million limit on the additional reimbursement grant for the projects that is attributable to the difference between a 95% reimbursement rate and New London's regular reimbursement rate of roughly 78%.

Edison Magnet School (§ 52)

The act waives any applicable statutes and regulations concerning reimbursable costs or maximum reimbursable areas for a school construction project to require that state grant payments made as of June 30, 2007 for the new Edison Magnet School in Meriden be considered full payment of the state's grant obligation for the project without any further audit adjustments or payment.

Valley Regional High School (§ 57)

The act exempts a renovation and extension project for Valley Regional High School in Regional School District 4 from school construction grant requirements concerning standard space specifications and ineligible repairs and replacements when SDE calculates the grant for the project.

Westbrook Middle/High School and John Winthrop Jr. High School (§§ 58 & 59)

The act waives state school construction requirements that a (1) district submit a project description when applying for a state school construction grant and (2) school renovation project cost less than building a new school to allow certain projects to qualify as renovation projects for grant purposes. The projects are (1) an extension and alteration project at

Westbrook Middle/High School in Westbrook and (2) extension and alteration and roof replacement project at John Winthrop Junior High School in Regional School District 4. The act (1) requires the project grants to be no greater than they would be for new schools and (2) makes the districts ineligible for 25 years to receive state grants to remedy code violations at the schools, except for compliance with future code changes.

BACKGROUND

No Child Left Behind and Corrective Action

Connecticut law requires the education commissioner to prepare a statewide education accountability plan pursuant to NCLB. Among other things, the plan has to identify the schools and districts in need of improvement.

Pursuant to NCLB, if a school fails to make adequate progress for four years (i.e., it has been "in need of improvement" for three years), the district must implement certain corrective actions to improve the school, such as replacing certain staff or fully implementing a new curriculum, while continuing to offer public school choice and supplemental educational services for low-income students. If a school fails to make AYP for a fifth year, the school district must initiate plans for restructuring the school. This may include reopening the school as a charter school, replacing all or most of the school staff, or turning over school operations either to the state or to a private company with a demonstrated record of effectiveness.

For districts, the state must take corrective action if a district does not make adequate progress by the end of the second full school year in which it has been identified for improvement. If the state identifies a district for corrective action, it must continue to ensure that the district is provided with technical assistance and take at least one of the following corrective actions, consistent with state law:

1. defer programmatic funds or reduce administrative funds;
2. institute and implement a new curriculum based on state and local content and academic achievement standards;
3. replace personnel who are relevant to the inability to make adequate progress;
4. remove individual schools from the district's jurisdiction and arrange for their public governance and supervision;
5. appoint a receiver or trustee to administer the affairs of the district in place of the superintendent and school board; or
6. abolish or restructure the district.

In conjunction with at least one of the actions on this list, the state may also authorize parents to transfer their children from a school operated by the district to a higher-performing public school operated by another district that is not identified for improvement or corrective action. If it offers this option, the state must also provide transportation or provide for the cost of transportation to the other school.

PA 07-4, June Special Session—SB 1500
Emergency Certification

AN ACT IMPLEMENTING THE PROVISIONS OF THE BUDGET CONCERNING GENERAL GOVERNMENT

SUMMARY: This act makes many unrelated changes covering topics such as juvenile justice, families with service needs, school bus emissions, housing for economic growth, housing sustainability, sex offenders, biodiesel programs, and autism. It also makes technical changes. Below is a section-by-section analysis.
EFFECTIVE DATE: Various, see below.

§ 1 — OLD STATE HOUSE

The act authorizes the City of Hartford to lease to the General Assembly, through the Joint Committee on Legislative Management, the buildings, land, and improvements that comprise the "Old State House." Under the act, the lease must run for at least 99 years and cost $1 or less per year.

Any such lease between Hartford and the General Assembly must require Legislative Management to (1) maintain custody and control of the property, buildings, and improvements and (2) provide for their appropriate maintenance. The act also requires Legislative Management to award contracts, through requests for proposals, for Old State House educational and community programming, maintenance, and operation.
EFFECTIVE DATE: July 1, 2007

§ 2 — WATER PLANNING COUNCIL ADVISORY COUNCIL

By law, the Water Planning Council must address issues involving water companies, water resources, and state drinking water policies. The act allows the council to establish an advisory council. The advisory council must be balanced between water consumers and other interests. It can include representatives of:

1. regional and municipal water utilities;
2. investor-owned water utilities;
3. a wastewater system;
4. agricultural interests;
5. electric power generation interests;
6. business and industry interests;
7. environmental land protection interests;
8. environmental river protection interests;
9. boating interests;
10. fisheries interests;
11. recreational interests;
12. endangered species protection interests; and
13. academics with expertise in stream flow, public health, and ecology.

The council consists of the Public Utility Control Authority chairperson (i.e., the Department of Public Utility Control (DPUC) head), the departments of Environmental Protection and Public Health (DEP and DPH) commissioners, and the Office of Policy and Management (OPM) secretary, or their designees. The act requires the members of the Water Planning Council, by July 1, 2007 (the section's effective date) and annually thereafter, to elect a chairperson from among themselves.

EFFECTIVE DATE: July 1, 2007

§ 3 — OPM RESPONSIBILITIES REGARDING THE WATER PLANNING COUNCIL

The act requires OPM to:

1. review and prioritize the recommendations and goals the Water Planning Council developed before October 1, 2007;
2. compile information from other reports or studies on water resources planning in the state;
3. establish a mechanism to perform an in-depth analysis of existing DEP, DPH, and DPUC statutes and regulations for areas of overlapping and conflicting or inefficient procedures;
4. review and summarize other states' regulatory programs and structure relating to water resource planning, including their approaches to water allocation;
5. identify processes and funding needs for the evaluation of existing water diversion data and approaches to basin planning projects, and coordinate water data collection from, and analysis among, the DEP, DPH, DPUC, OPM, and the U.S. Geological Survey, and recommend supplemental data collection, as appropriate;
6. evaluate existing water conservation programs and recommend ways to enhance them to promote a water conservation ethic and to provide for appropriate drought response and enforcement capabilities;
7. identify funding requirements and mechanisms for ongoing efforts in water resources planning in the state; and
8. transfer sufficient funds to DEP, as determined by OPM, for data collection and analysis.

The act requires OPM, by February 1 annually, to report the findings of this study, together with proposed legislative changes, to the council and the Appropriations and Energy and Technology committees.
EFFECTIVE DATE: October 1, 2007

§ 4—GROTON SUBMARINE BASE FUNDING

PA 07-205 increased, from $10 million to $50 million, the amount of Manufacturing Assistance Act bond funds that the economic and community development commissioner had to use for grants to the US. Navy to make improvements that would increase the value of the Groton submarine base. It specified some of the improvements that would qualify. It required the commissioner to negotiate a multiyear lease with the U.S. Navy for any such improvements, at the end of which lease ownership of the improvements could be transferred to the Navy. If the Navy stopped operating at the base before the lease ended, the act required it to reimburse the state for the cost of constructing the improvements.

This act removes the additional funding, the examples of the projects that would qualify for funding, and the lease provisions. PA 07-7, June Special Session restores the additional funding.

EFFECTIVE DATE: July 1, 2007

§ 5 — YOUTH EMPLOYMENT AND TRAINING FUNDS

Within available appropriations, the act requires the Labor Department to establish a program to distribute youth employment and training funds to the state's five regional workforce development boards.

The act sets the following allocation formula:

1. Capitol Workforce Partners – 32.5%
2. The Workforce Alliance – 22.5%
3. Northwest Regional Workforce Investment Board, Inc. – 22.5%
4. The Workplace, Inc. – 12.5% and
5. Eastern Connecticut Workforce Investment Board – 10%.

EFFECTIVE DATE: July 1, 2007

§ 6 — EXTENDED FAMILY GUARDIANSHIP

Within available appropriations, the act directs the probate court administrator to establish the Extended Family Guardianship and Assisted Care Pilot Program in the New Haven regional children's probate court. The program's purpose is to reduce the number of abused or neglected children placed out of their communities and in foster care. It must be designed to reach out to local family members and appoint them as guardians. Under the act, each relative appointed guardian is eligible for a grant of up to $500 per child. The program must also have a component for recruiting volunteers to assist guardians caring for the children.

The court administrator must adopt implementing regulations, including eligibility criteria. He must report to the Judiciary and Children's committees on the program's status and effectiveness by January 1, 2009.

EFFECTIVE DATE: October 1, 2007

§ 7—FIREFIGHTER TRAINING

The act specifically allows money in the state fire school training and education extension account to be used to (1) reimburse municipalities and municipal fire departments for one-half the cost of Firefighter 1 certification and recruit training for paid and volunteer municipal fire service personnel and (2) reimburse state agencies one-half the cost of Firefighter 1 certification and recruit training for state agency fire service personnel. By law, the Commission on Fire Prevention and Control, which maintains this General Fund account, may already use the account for training and education programs and sessions, which, in practice, include Firefighter 1 certification programs.

The act specifies that the account must contain any money required by law to be deposited into it. By law, firefighters pay a fee to participate in training and education programs and sessions. The account consists of proceeds from these programs. The act also makes technical changes.

EFFECTIVE DATE: July 1, 2007

§ 8 – INVASIVE SPECIES ACCOUNT

The act creates an Invasive Species Detection and Control Account as a separate, nonlapsing account in the Conservation Fund to contain any money the law requires. The DEP commissioner must use money from the account to control invasive species, including hiring an invasive species coordinator, developing an early detection and rapid response policy, educating the public about invasive species, funding agriculture department and Connecticut Agricultural Experiment Station inspectors, and making grants to municipalities to control invasive species on publicly accessible land

and waters.
EFFECTIVE DATE: July 1, 2007

§ 9 — URBAN VIOLENCE REDUCTION GRANTS

The act establishes a program to reduce urban violence by providing competitive grants to municipalities and agencies acting on their behalf. A municipality's chief elected official must endorse agency applications.

OPM must establish application procedures and selection criteria, prescribe application forms, and administer the program. It may adopt implementing regulations.

The grants are for programs and services targeting urban youth between the ages of 12 and 18. Among other things, grant funds may be used for:

1. training on topics such as problem-solving, decision-making, conflict resolution, and peer counseling;
2. mentoring;
3. tutoring, enrichment, social, and cultural activities;
4. athletics and recreation; and
5. implementing strategies to (a) address imminent violence, (b) collaborate to reduce street violence, and (c) improve police-community relations.

The act requires grant recipients to involve parents and youth in program planning and operations on an ongoing basis.

The act requires OPM to publish annual notices of grant availability beginning in FY 08 and to include its selection criteria in them. OPM decides which grant proposals to fund and at what levels.
EFFECTIVE DATE: July 1, 2007

§ 10 — NAMING RIGHTS FOR TRANSIT STATIONS AND PROPERTY

The act changes the transportation commissioner's responsibility regarding leasing naming rights for transit stations and transit-owned property.

Under PA 07-232, the commissioner must develop procedures and establish criteria for leasing the naming rights to private corporations and organizations. The commissioner must submit the criteria to the Transportation Committee by January 30, 2008. If the committee approves them, it must do so by the close of the 2008 legislative session.

The act instead requires the commissioner to develop and recommend procedures and criteria for leasing the naming rights and submit the recommendations to the Transportation Committee by January 30, 2008. It eliminates the requirement regarding the committee's approval.
EFFECTIVE DATE: July 1, 2007

§ 11 — CONNECTICUT ENERGY ADVISORY BOARD ANALYSIS OF ENERGY FACILITY ALTERNATIVES

By law, when a company files an application with the Connecticut Siting Council to build a power plant, transmission line, or electric substation, the Connecticut Energy Advisory Board must issue a request for proposals (RFP) to identify alternatives to the facility. The RFP process can substantially lengthen the amount of time it takes the Siting Council to act on an application. The act specifies that such an application is considered to be a "pre-application" until the RFP process is completed. At the completion of the RFP process, the "pre-application" is considered an application. The pre-applications are treated the same way as applications under existing law, and the act does not affect the board's or Siting Council's deadlines.

Under federal law, if a siting agency does not act on an application to build a transmission line within one year of receiving it, the applicant can appeal to the Federal Energy Regulatory Commission to assume siting jurisdiction.
EFFECTIVE DATE: July 1, 2007

§ 12 — CONNECTICUT CENTER FOR ADVANCED TECHNOLOGY

The act requires the Connecticut Center of Advanced Technology's Supply Chain Integration Center to offer its services to all of the state's small and medium-size manufacturers, not just those at risk of losing contracts with larger defense firms for parts and services. The center's services include technical assistance and training programs for adopting the latest digital technologies and cost-cutting production techniques.
EFFECTIVE DATE: October 1, 2008 (PA 07-5, June Special Session makes this section effective on October 6, 2007, the date of passage of PA 07-5, June Special Session)

§§ 13, 14 — CONNECTICUT DEVELOPMENT RESEARCH AND ECONOMIC ASSISTANCE MATCHING GRANT PROGRAM

The act transfers the responsibility for establishing and operating two matching grant programs from Connecticut Innovations, Inc. (CII) to the Department of Economic and Community Development (DECD) and makes conforming technical changes. The transfer affects the (1) research and economic assistance and (2) development, research, and economic assistance for micro business programs. Prior law required CII to establish the programs. In transferring the programs to DECD, the act allows DECD to establish and operate the programs and contract with another person, company, or entity to operate them, including determining grant recipients.

By law, the research and economic assistance program provides financial aid to (1) small businesses seeking help to commercialize certain research, (2) Connecticut businesses participating in the federal technology support program, and (3) micro businesses conducting research and development. A separate micro business program provides financial aid to micro businesses that have received federal funds for Phase II proposals under the federal Small Business Technology Transfer and the Small Business Innovation Research programs.

If DECD choose to establish and operate these programs, it must follow the same statutory procedures that applied to CII. Additionally, DECD must submit annual status reports on the development, research and economic assistance matching grant program to the Commerce Committee chairpersons, starting January 15, 2008. DECD must do this in consultation with any entity it contracts with to run the program. The report must include a description of the projects supported and the type of financial aid provided.
EFFECTIVE DATE: Upon passage

§ 15 — SMALL BUSINESS INCUBATOR PROGRAM

Grant Programs

The act requires the DECD commissioner, within available funds, to provide grants to small businesses operating in incubator facilities, which provide low-cost space and business services to newly formed technology-based small businesses. The commissioner may provide these grants directly or contract with a person, firm, corporation, or other third party to do so. Incubators can use the grants to provide operating funds and related services, including preparing business plans, obtaining financing, and providing management counseling.

The act allows the commissioner to provide these grants under the existing incubator program, which provides grants to the entities operating the incubators. The act allows her to provide these grants directly or under a contract with a third party.

Program Regulations

The act eliminates the requirement that DECD adopt implementing regulations and instead requires DECD to adopt written guidelines for awarding the grants, whether by DECD or a third party. Under prior law, the regulations had to describe the process and criteria for awarding grants.

Grant Account

By law, the commissioner can provide the grants from a separate nonlapsing General Fund account. The act also allows her to tap the account to cover the program's administrative expenses. It eliminates a requirement that the account contain any money the law requires to be deposited in it along with any investment earnings.

Advisory Board

The act establishes a 12-member Small Business Incubator Advisory Board to evaluate and recommend changes in the program guidelines. The board includes the Connecticut Development Authority president and CII executive director or their designees, who serve as non voting ex officio members; the DECD commissioner, who serves as a voting ex officio member; and nine voting members appointed as follows:

Number	***Qualification (s)***	***Appointing Authority***
1	None specified	Governor
2	Experience in the field of technology transfer and commercialization	House speaker
2	Experience in new product and market development	Senate president pro tempore
1	Experience in seed and early stage capital investment	House minority leader
1	Experience in seed and early stage capital investment	Senate minority leader
1	None specified	House majority leader
1	None specified	Senate majority leader

Members must be appointed by September 1, 2007 and the commissioner must schedule the board's first meeting by October 15, 2007. The board must meet at least annually in each subsequent year.
EFFECTIVE DATE: Upon passage

§§ 16 - 19 — SCHOOL BUS EMISSIONS

The act requires towns and school boards to retrofit certain full-size school buses with emissions-reducing equipment by September 1, 2010, as long as the work can be done within the grant amounts the act establishes. However, the DEP commissioner must reimburse towns and school boards that retrofit their buses voluntarily, even if the grant amounts are not enough to cover the retrofitting costs. DEP must provide the grants from available appropriations. DEP also must develop an outreach plan to educate municipalities, school boards, and bus companies about the emission and procurement contract requirements and help them retrofit their buses.
EFFECTIVE DATE: July 1, 2007.

Pollution Reducing Equipment

The act requires retrofitting certain full-size school buses with closed crankcase filtration systems (filtration system). Under the act, a filtration system separates oil and other contaminants from blow-by gases and routes the gases into a diesel engine's intake system downstream of the air filter. These buses also must have either a Level 1, level 2, or level 3 device. These devices reduce particulate matter (soot) emissions by 25% to 49%, 50% to 84%, and at least 85%, respectively. Alternatively, a level 3 device must achieve a soot emission standard of 0.01 grams per brake horsepower-hour.

The act requires, by September 1, 2010, that full-size school buses transporting children meet one of four standards, depending on its model year, fuel type, or emissions level. Under the act:

1. a bus with an engine model year of 1994 or later must have a filtration system and either a level 1, level 2, or level 3 device or
2. a bus with an engine model year of 2003 to 2006 must have a filtration system and a level 3 device, if it (a) has not been retrofitted with a level 1 or level 2 device before July 1, 2007 and (b) is capable of operating normally with a level 3 device that can be installed, together with a filtration system, for $5,000 or less.

Alternatively, a bus must meet U.S. Environmental Protection Agency (EPA) engine model year 2007 emissions standards, or use compressed natural gas or another alternative fuel certified either by the EPA or the California Air Resources Board to reduce soot emissions by at least 85% compared to ultra low sulfur diesel fuel.

Grant Levels

Retrofitting is required only if the procurement contracts the Department of Administrative Services (DAS) commissioner develops, after consulting with the DEP commissioner, set the price to buy, install, and warranty a filtration system and either a level 1, level 2, or level 3 device at a cost equal to or less than the following grant amounts set by the DEP commissioner, in consultation with the education commissioner:

1. up to $5,000 for each 2003-2006 model year bus equipped with a filtration system and a level 3 device;
2. up to $2,500 for each bus equipped with a filtration system and level 2 device; and
3. up to $1,250 for each bus equipped with a filtration system and level 1 device.

To be eligible for these grants, a bus must be expected to be in operation on or after September 1, 2010. The DAS commissioner must make the procurement contracts available to political subdivisions of the state and state agencies through the contracting portal section of the DAS website. DEP must provide the grants within available appropriations.

Reimbursement

The DEP commissioner must reimburse the towns and boards from a "school bus emissions reduction account" the act creates as a separate, nonlapsing account in the General Fund to hold any money the law requires. The commissioner cannot use more than 3% of the funds in the account to administer the program.

The act requires the commissioner to reimburse towns and school boards that choose to retrofit their buses, regardless of whether the grant amounts for the filtration systems, and either a level 1, level 2, or level 3 devices are less than the amounts the procurement contracts specify for the devices. In such a case, however, retrofitting the buses is optional, not mandatory.

Towns and school boards seeking reimbursement under the grant program must submit a form the commissioner prescribes, containing (1) the school bus model and year, (2) the engine model and year, (3) the vehicle identification number, (4) the date of the retrofit, and (5) a receipt for the purchase and installation of the equipment. In addition, applicants must certify that buses equipped with a level 3 device will operate in the state for at least three years after the device's installation.

Outreach Plan and Assistance

The DEP commissioner must (1) develop an outreach plan and materials to educate and notify municipalities, school boards, and bus companies about the emissions requirements and procurement contracts and (2) help them retrofit their full-size buses. The assistance must include guidance on whether to retrofit buses with the level 1, level 2, or level 3 devices.

Application

The act applies to school buses as defined by law (CGS § 14-275), which are Type I (full-size) diesel school buses, including spare buses operated by or under contract to a school district. It does not apply to buses (1) placed in a contingency fleet for local emergencies, after they have reached the end of their normal minimum useful life, or (2) that operate for no more than 1,000 miles annually.

§ 20 — VICTIM IMPACT PANELS

The act raises, from $25 to $75, the maximum fee participants may be charged to participate in victim impact panel programs. It requires the organization running the programs to waive the fee if it would pose an economic hardship on a participant.

By law, courts may order people convicted of driving under the influence of drugs or alcohol to participate in the programs as a condition of (1) probation or (2) participation in the pretrial alcohol education program. The programs provide a nonconfrontational forum for offenders and victims of drug- and alcohol-related offenses to share the impact the offenses have had on their lives. Mothers Against Drunk Driving currently runs the programs.
EFFECTIVE DATE: October 1, 2007

§ 21 — ETHICS

The State Ethics Code prohibits public officials and state employees from knowingly accepting gifts to the state from anyone prohibited from giving gifts to them. The officials and employees cannot receive gifts from (1) registered lobbyists, (2) people doing or seeking to do business with the agency that employs the public official or state employee, (3) people engaged in activities regulated by the official's or employee's employer, or (4) prequalified contractors. PA 07-1 lifts this absolute ban and allows these donors to give the state goods or services or donate the use of facilities to assist state or quasi-public agency functions or actions. "Goods and services" are things that (1) are for use on state or quasi-public agency property or support an event and (2) facilitate state or quasi-public agency action or functions.

The act amends PA 07-1 by specifying that the code does not prohibit anyone from donating real property to a state or quasi-public agency.

EFFECTIVE DATE: Upon passage

§ 22—OFFICE OF MILITARY AFFAIRS

PA 07-205 established this office, headed by an executive director appointed by the governor. It required the governor to give preference to someone who has the necessary training and experience, served in the Navy, and knows about or has had experience with the federal Base Realignment and Closure (BRAC) process. This act requires the governor to appoint someone who either has the necessary training, experience, and Navy service or knows about the BRAC process, instead of someone who meets both criteria.

EFFECTIVE DATE: October 1, 2007

§ 23 — TILLMAN SETTLEMENT

SA 07-5, requires the comptroller to pay James Calvin Tillman $5 million as full and final settlement of all claims he has against the state; any political subdivision of the state; and any state or local officer, agent, employee, or official, arising out of, or in any way related to, his arrest, prosecution, conviction, and incarceration from 1988 to 2006 for the crimes of kidnapping and sexual assault, which he did not commit. It exempts any payment he receives under the act from the state income tax.

The act specifies that this settlement is also exempt from claims or liens for incarceration costs that the law authorizes the state to recover from inmates.

EFFECTIVE DATE: Upon passage

§ 24 — TOBACCO AND HEALTH TRUST FUND

The act requires the 17-member board of trustees of the Tobacco and Health Trust Fund to meet at least biannually instead of bimonthly. This fund is a separate, nonlapsing fund that can accept transfers from the Tobacco Settlement Fund and apply for and accept gifts, grants, or donations from public or private sources in order to carry out its objectives. The trust fund's purpose is to create a continuing significant source of money to (1) support and encourage programs to reduce tobacco abuse through prevention, education, and cessation; (2) support and encourage program development for substance abuse reduction; and (3) develop and implement programs to meet the state's unmet physical and mental health needs.

EFFECTIVE DATE: July 1, 2007

§ 25 — CRIMINAL JUSTICE INFORMATION SYSTEM GOVERNING BOARD

The act requires the Criminal Justice Information System Governing Board to oversee all criminal justice information systems, instead of just the offender based tracking system. It makes a parallel change in the board's responsibility to recommend legislation necessary to implement, operate, and maintain the criminal justice information systems.

The act also requires the board to:

1. develop plans, maintain policies, and provide direction for the efficient operation and integration of criminal justice information systems, whether they serve a single or multiple agencies; and
2. establish standards and procedures for use by agencies to assure the interoperability of such systems, authorized access to such systems, and their security.

The act defines criminal justice information systems as the offender based tracking system and information systems among criminal justice agencies.
EFFECTIVE DATE: October 1, 2007

§ 26 — STORM SHUTTER REQUIREMENTS UNDER HOMEOWNERS INSURANCE POLICIES

The act changes the effective date of a provision in PA 07-77 that prohibits an insurer from refusing to issue or renew a homeowners insurance policy solely because a person has not installed permanent storm shutters on his or her home to mitigate loss from hurricanes and severe storms. Under PA 07-77, this provision is effective January 1, 2008. The act instead makes it effective July 1, 2007.
EFFECTIVE DATE: July 1, 2007

§ 27 — CONNECTICUT VALLEY HOSPITAL RESERVOIR STUDY

The act requires the DEP in consultation with, among others, Connecticut Valley Hospital (CVH) and the city of Middletown, to study the permanent protection of the reservoirs, watershed, aquifers, and other water supply lands located on or abutting CVH's grounds and buildings. The study must review all available maps, records, title information, and land records, including records of conservation and other easements, to determine the owner of record of the reservoirs, watershed, aquifers, and other water supply lands. In the event the review does not result in a conclusive determination, DEP may conduct or contract for title searches and A-2 surveys to clarify ownership. DEP must report on its findings to the Environment and Public Health committees by February 1, 2008.

Besides CVH and Middletown, DEP must consult with the departments of Mental Health and Addiction Services and Public Health, OPM, and state community colleges, including Middlesex Community College.
EFFECTIVE DATE: Upon passage

§ 28 — COURT TRANSCRIPT FEES

The act increases the fee court reporters and monitors charge state and municipal officials for the first copy of a transcript from $1.50 to $2.00 per page and for subsequent copies from $.50 to $.75 per page. By law, court reporters cannot charge a state's attorney for a copy when the transcript is requested by a party of record or charge the court for a copy when the transcript is requested by a state's attorney or party of record.

By law, others pay $3.00 per page for the first copy and $1.75 per page for subsequent copies.
EFFECTIVE DATE: July 1, 2007

§ 29 — TRAFFICKING IN PERSONS

The act requires the Office of Victim Services, within appropriations, to contract with nongovernmental organizations to develop a coordinated response system to help victims of trafficking. Allowable contract topics include:

1. developing a uniform curriculum to address victims' rights and services;
2. developing information and material on available resources and services for victims;
3. seeking out quality training and other educational opportunities for identifying and helping victims, taking into consideration their culture and needs; and
4. promoting and disseminating information on training and other educational opportunities that help victims to locate emergency medical services, faith-based communities, sexual assault service providers, domestic violence service providers, and state and local government agencies.

EFFECTIVE DATE: October 1, 2007

§§ 30 - 32, 37 — FAMILIES WITH SERVICE NEEDS

The act expands diversion services and court options for families with service needs (FWSN). Generally, these are families with children under age 16 who have engaged in behavior such as running away or truancy (i.e., have committed status offenses). (Section 79 of the act makes 16- and 17-year-olds eligible for the FWSN program beginning January 1, 2010.)

The act also authorizes the FWSN Advisory Board to monitor progress of this expansion for an additional six months, until July 1, 2008.

FWSN Complaints

The law authorizes various relatives and state and local officials to file court complaints when they believe a child's behavior meets FWSN criteria. The court, in turn, refers these complaints to juvenile probation officers who must promptly investigate and decide what, if any, action is appropriate. Currently, probation officers who determine that the complaint raises legitimate FWSN issues may either refer the child and family for voluntary services or file a petition asking a judge to declare the child a FWSN child.

The act prohibits probation officers from filing FWSN petitions without (1) first conducting an initial assessment and referring the child for voluntary services and (2) being notified by the provider that the family can no longer benefit from the services. In addition to the existing referral option of community-based programs and other providers, the act directs the Judicial Department's Court Support Services Division (CSSD) to establish a network of family support centers providing multiple services intended to prevent further court involvement.

EFFECTIVE DATE: October 1, 2007

Family Support Centers

The act directs the CSSD to contract with at least one private provider or youth service bureau, or both, to develop a network of family support centers. It defines a family support center as a community-based service center for children and families against whom a FWSN complaint has been filed. Its purpose is to prevent the child and family from further involvement in FWSN proceedings.

Each center must provide, or ensure access to, appropriate services, including:

1. screening and assessment;
2. crisis intervention;
3. family mediation;
4. educational evaluations and advocacy;
5. mental health treatment and services, including gender-specific trauma treatment and services;
6. resiliency skill building; and
7. short-term respite care.

Each must also provide access to positive social activities and services available to children in the juvenile justice system.

CSSD must have each center independently evaluated to measure service quality and outcomes for children and families.

EFFECTIVE DATE: October 1, 2007

Repeat Probation Officer Assessments

The act requires a probation officer, each time a service provider or family resource center head informs him or her that a referred family can no longer benefit from its services, to conduct an appropriate assessment and decide whether filing a FWSN petition is appropriate. A notice from a community based provider can trigger a referral to a family support center.

As under existing law, the probation officer must notify the individual who filed the FWSN complaint of his or her action. The act eliminates authorization for complaining parties to file FWSN petitions on their own after being notified that the probation officer is not doing so.

EFFECTIVE DATE: October 1, 2007

Actions While FWSN Petitions Are Pending In Court

Under prior law, judges could suspend formal court proceedings involving FWSN petitions (i.e., grant continuances) for up to three months when they determined that a service referral is in the child and family's best interests. The act allows the court to grant continuances of up to six months and authorizes an additional three-month extension for cause. As under existing law, judges can dismiss the FWSN petition at the end of the continuance when it appears that the matter has been satisfactorily resolved.
EFFECTIVE DATE: October 1, 2007

Case Dispositions: DCF Commitments

The law authorizes courts to issue orders directing the future conduct of children and families it has found to be FWSNs. The act entitles children to legal representation and an evidentiary hearing. One disposition option is to order the child committed to DCF custody for an indefinite period up to 18 months. The act allows these orders only when the court finds that there is no less restrictive alternative. Existing law permits courts to grant a DCF petition to extend a FWSN child's DCF commitment for another 18 months when it finds this is in the child's best interest. The act prohibits the court from granting an extension unless it finds that there is no suitable less restrictive alternative.
EFFECTIVE DATE: October 1, 2007

Sanctioning FWSN Order Violators

The act authorizes probation officers to file court petitions alleging that the child has violated the terms of a FWSN order. It specifies that the child is entitled to legal representation and an evidentiary hearing on the petition's allegations. If the court grants the petition, the act authorizes it to order the child to:

1. remain at home or in the custody of a suitable person, subject to a probation officer's supervision,
2. be committed to DCF's care and custody, and to cooperate with DCF, for up to 18 months, or
3. be placed in a staff-secure facility under the auspices of CSSD for up to 45 days if there are no appropriate less restrictive alternatives.

The first two sanctions are already permissible under existing law.

If the court imposes the third sanction, children cannot be detained for more than 24 hours, excluding weekends and holidays, while waiting for a court hearing on this issue. It must review the appropriateness of continuing the placement every 15 days. The child must be returned to the community after the period of staff-secure placement ends and may be subject to probation officer supervision.
EFFECTIVE DATE: October 1, 2007

Emergency Staff-Secure Placements

The act also allows probation officers to file a court petition alleging that a FWSN child is at risk of immediate physical harm from the child's surroundings or other circumstances. The petition must contain the facts on which the claim is based. If it appears from the specific allegations of the petition and other sworn statements accompanying it, or introduced later, that there is probable cause to believe that (1) the child is in imminent risk of physical harm from his or her surroundings, (2) as a result of such condition, the child's safety is endangered and immediate removal from the surroundings is necessary to ensure that safety, and (3) there is no less restrictive alternative available, the court must enter an order for the child's placement in a staff-secure CSSD facility. The act specifies that these children have the same procedural protections as those afforded to delinquent children.

No child may be detained without a court hearing for more than 24 hours, excluding weekends and holidays. Placement can last for up to 45 days; the court must reconsider its appropriateness every 15 days. When the placement period ends, the court must either return the child to the community for appropriate services or commit the child to DCF for up to 18 months.
EFFECTIVE DATE: October 1, 2007

Staff-Secure Facilities

The act defines staff-secure facilities as residential facilities:

1. that do not include construction features designed to physically restrict the movements and activities of residents and
2. in which the movements and activities of individual juvenile residents may be restricted or subject to control for treatment purposes through the use of intensive staff supervision.

The act authorizes staff-secure facilities to establish reasonable rules restricting entrance to and exit from the facility.

EFFECTIVE DATE: October 1, 2007

§§ 33, 38-50 — HOUSING FOR ECONOMIC GROWTH PROGRAM

Incentive Housing Zones

Incentive Housing Developments (IHDs). The act provides grants to towns that choose to zone land for developing housing mainly where transit facilities, infrastructure, and complementary uses already exist or have been planned or proposed. As discussed below, a town receives the incentives only after it has established an incentive housing zone (IHZ) and approved incentive housing developments (IHDs) in the zone.

An IHD can consist entirely of residential units or a mix of these units and stores, offices, and other uses. In either case, the residential units can be single-family homes or multi-family dwellings containing at least three units. But at least 20% of the units must be affordable to people who earn no more than 80% of the area's median household income, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development (HUD). HUD classifies families in this bracket as "low-income" when determining eligibility for rent subsidies (24 CFR § 570.603(b)). A unit is affordable if it costs no more than 30% of a household's annual income.

Affordable units must remain that way for at least 30 years. Developers and the units' subsequent owners must be held to this requirement under deeds, covenants, or land use restrictions requiring them to sell or rent the units only to low income people at prices they can afford. Developers must record these documents and restrictions in the town's land records.

An IHD's sponsor may impose more stringent affordability requirements. The sponsor can increase the share of affordable units and target them to low-income people, such as those earning no more than 50% of the area median income. It can also require these units to remain affordable for more than 30 years. In any case, it must incorporate these requirements in the deeds, covenants, or other restrictions imposed on the affordable units. The commission cannot reject a project because the sponsor chooses to do this.

(Besides meeting the zone location and affordable housing requirements, the act specifies that an IHD must also be eligible for its financial incentives. But, as discussed below, only towns qualify for the act's major incentives.)

Establishing Zones. The town receives grants only for IHDs that are developed in a state-approved incentive housing zone. The town's zoning commission must establish the IHZ as an overlay zone. Overlay zones rest on top of existing zones and usually impose additional requirements or restrictions intended to protect the area's unique characteristics. Establishing an IHZ does not affect the commission's power to adopt or amend regulations under the statutes or a special act.

Under the act, the IHZ's requirements apply only to incentive housing developments proposed in the underlying zone. The IHZ regulations must designate these developments as permitted uses and allow them as a matter of right. As such, the zoning commission may deny them only if they do not meet the requirements specified in the regulations. (Zoning commissions usually have discretion about whether to allow a proposed use that is not expressly permitted in a zone.)

The commission may overlay the IHZ over an area: (1) near a mass transit facility; (2) consisting entirely of homes and apartments; (3) where homes, stores, and offices are located close together (e.g., village center); or (4) where existing, planned, or proposed infrastructure, access to transportation, or underutilized facilities or locations make the area suitable for IHDs. The zone must also be consistent with the State Plan of Conservation and Development.

The town may establish separate IHZs and subdivide them into subzones, but the act limits the zones' size. Each zone may cover no more than 10% of the town's total land area, and all the zones and subzones together can cover no more than 25% of that area.

The IHZ may overlay a local historic district or one may be created in the IHZ. In either case, the district's regulations must be compatible with the IHZ's before the state can approve the IHZ and annually certify that the town has complied with the act's requirements (see below).

The IHZ's regulations may allow projects that combine residences with stores, offices, and other nonresidential uses or segregate them into sub zones. In either case, the various uses must be compatible with the act's minimum required housing densities, and the overall zone must satisfy the act's requirements.

The act specifies the minimum densities the zoning commission must incorporate in the IHZ regulations. It requires the commission to allow these densities only on land that can be feasibly developed into residential and mixed use property (i.e., developable land). Developable land generally excludes parks, wetlands, dedicated open space land, public and privately owned property slated for public uses, and other land where restrictions prohibit development. It also excludes areas exceeding one-half or more acres of contiguous land where steep slopes or other topographic features make it unsuitable for development.

The minimum densities are:

1. six units per acre for single-family detached homes,
2. 10 units per acre for duplex or townhouses, and
3. 20 units per acre for multifamily housing.

The act specifies lower minimum densities for towns with fewer than 5,000 people according to the most recent federal decennial census. But these towns cannot adopt these densities without the OPM secretary's approval. The reduced densities are four units per acre for single-family homes, six units per acre for duplex or townhouses, and 10 units per acre for multifamily housing.

The secretary may approve these lower densities if the town can show that the proposed IHZ lacks the sewage disposal; water supply; traffic safety; and other existing, substantial infrastructure needed to support housing at the higher minimum densities. The secretary must allow the lower densities if the proposed IHZ meets the act's other requirements.

Any town can also ask the secretary to waive the density requirements, and he may do so if the following conditions are met.

1. The town, one of its agencies, a land or housing trust, or a nonprofit housing organization owns or controls the land in the proposed IHZ.
2. The proposed regulations require all of the units to be affordable and provide a mechanism to enforce that requirement.
3. The proposed IHZ satisfies the act's other requirements.

Even though the act sets minimum densities, the commission may have to set higher ones, depending on permitted densities of the underlying zone. Before the town can qualify for the act's grants, the IHZ's densities must be at least 25% greater than the minimum density of the underlying zone. In other words, the commission can adopt the act's minimum density for single-family detached homes (i.e., six units per acre) if the density for these structures in the underlying zone is four or fewer units per acre, but must set a higher minimum density if the density in the underlying zone is five or more units per acre.

The zoning commission cannot impose special conditions, requirements, and standards on projects meeting the minimum densities as it can on applications for special permits or exceptions. It can review the densities only as it would site plans or subdivisions.

Adopting Design Standards for the IHZ. The IHZ's regulations may include design standards, which the commission must submit to the OPM secretary for approval. The standards may insure that a proposed new development complements existing buildings and structures and the zone's housing plan. They may do so by addressing building scale and proportion; site coverage; street and sidewalk alignment, width, and grade; type and location of infrastructure; building locations and garage entrances; off-street parking; protection of significant natural sites; location and design of open spaces; signage; and setbacks and buffering.

The standards cannot increase development costs to the point where low-income people cannot afford the units reserved for them. As discussed below, the secretary may disapprove a proposed IHZ if the standards could have this effect. This is the only reason why he may disapprove the standards.

Existing Regulatory Standards. The IHZ's standards are in addition to those of the underlying zone, and a proposed IHD must comply with these as well. But the act allows the commission to modify, waive, or delete those standards of the underlying zone that mainly govern structures' size and where they can be placed on a lot. These include building height limits, the minimum distances between structures and roads, the minimum amount of space a structure must cover on a lot, the number of parking spaces per structure, and road design standards.

An IHD that includes subdividing land for building detached single-family homes must comply with the town's subdivision regulations. In these cases, the act requires the zoning commission to make a written finding that the subdivision regulations will not increase development costs to the point where low-income people cannot afford the units reserved for them.

The zoning commission must do its best to promote subdivision regulations that further the IHZ's purpose. But its ability to do so depends on how the town organized its land use functions. If the zoning and planning commissions are separate, then the zoning commission must encourage the planning commission to adopt requirements that tend to reduce development costs and make housing more affordable. If the commissions are combined, then the combined commission must adopt such subdivision standards.

State Approval for Proposed IHZs. The town becomes eligible for the incentives only after the OPM secretary approves the proposed IHZ in a two-step process. The town must first apply to the secretary for a preliminary determination as to whether the proposed IHZ qualifies for the zone adoption grants described below. The town must submit this application before July 1, 2017. The application must:

1. identify and describe the proposed IHZ's boundaries;
2. identify, describe, and calculate the amount of developable land in the zone;
3. identify and describe existing and potential residential development and potential reuse of existing or underutilized buildings in the zone; and
4. calculate the number of residential units that may be constructed on the developable land in the zone under the proposed implementing regulations and the act's minimum as-of-right densities.

The application must include:

1. copies of the proposed IHZ regulations and design standards and, if the zone includes unsubdivided parcels, the subdivision regulations;
2. a copy of the restrictions to be imposed on the affordable units in an IHD and the plan for administering and enforcing those restrictions; and
3. a plan describing the zone if it were fully developed under those regulations (i.e., build-out analysis).

The plan must describe the zone and how the town intends to develop it. Specifically, it must describe:

1. the infrastructure that already exists in the zone and the infrastructure the town plans to construct,
2. the extent to which the proposed IHZ is compatible with other proposed and existing uses, and
3. how the town will support and promote the type of residential development the zone's regulations allow.

The secretary must reply to the town in writing within 60 days after receiving its application for preliminary eligibility. Before doing so, he must notify the people and organizations that asked to be notified anytime he receives an application for preliminary eligibility. Any person or organization can receive these notices by submitting a written request to the secretary, along with an e-mail address. The secretary must notify them electronically at least 30 days before responding to the town.

If the secretary determines that the application is incomplete or that the proposed IHZ does not satisfy the act's criteria, he must explain why in his written reply to the town. The town can reapply, but only after it addresses the secretary's reasons for denying the previous application. If the secretary does not reply within the 60-day period, the application is rejected but the town may reapply for a preliminary determination.

If the secretary approves the proposed regulations and design standards, he must send the town a preliminary letter of eligibility. The second step occurs after the zoning commission adopts them. The town must notify the secretary to that effect and request final approval. Within 30 days after receiving the town's notice, the secretary must send a letter to the town granting that approval.

The secretary cannot grant preliminary or final approval if a proposed IHZ's regulations and design standards would make government funded projects, including those receiving rent subsidies, physically or economically infeasible. Nor can he do so if the regulations and design standards suggest that the town intends to discriminate against these projects, deny them approval, excluded them from the IHZ, or have these effects. The secretary cannot approve an IHZ that includes an historic district if the district's regulations are so restrictive as to preclude incentive housing developments.

The zoning commission cannot amend the regulations and design standards without the secretary's approval. The secretary has 60 days to act on the amendment. If he does nothing, the amendment is tacitly disapproved, and the town may resubmit the amendment to him.

Appeals. Existing law allows two types of parties to appeal a zoning commission's decisions. People who believe that a decision to adopt regulations or approve a developer's application adversely affects them (i.e., "aggrieved parties") can appeal to Superior Court. A developer can also appeal to court if the commission denies his or her application or approves it with conditions the developer believes are unfair.

The act specifies that this right to appeal extends to people who believe they were aggrieved by a commission's decisions to (1) adopt or amend IHZ regulations and design standards and (2) approve the IHD site plan or subdivision applications. These parties may appeal these decisions according to the same statutory procedures for appealing zoning and planning commission decisions. As discussed below, the act also allows applicants to appeal decisions affecting IHD applications.

Annual Compliance Certification. The town can approve projects under the IHZ and qualify for incentives only after the secretary grants final approval to the zone's regulations and design standards and any subsequent amendments. But the secretary must annually certify that the town remains eligible to receive the act's incentives to avoid repaying those it already received. He must adopt procedures for obtaining that certification.

To obtain certification, the town must verify that:

1. the zoning commission did not amend or repeal any part of its IHZ regulations or design standards without the secretary's approval;
2. the secretary did not revoke the zone's approval;
3. the town is making reasonable efforts to assist and promote IHDs and housing construction in the zone;
4. the commission did not unreasonably deny site plan, subdivision, or necessary coordinating permits and approval; and
5. it denied approval only when applicants failed to provide the information needed to approve a proposed development.

If the town verifies these facts within the time the secretary's procedures require, the secretary must issue a certificate of compliance by October 1. If the secretary finds that the town is not in compliance, he may revoke its certificate after holding a hearing on the issue. In doing so, he must follow the statutory procedures for conducting public hearings. The revocation affects only the town's eligibility for incentives; it does not invalidate the IHZ regulations or the way the commission has applied them to approved proposed projects.

Reviewing a Proposed IHD. The act requires the zoning commission to review and approve proposed IHDs under the same schedules and procedures for reviewing and approving proposed projects under the zoning and subdivision statutes. But the commission must prepare an application form specifically for reviewing and approving IHDs, and that form must be consistent with the bill's requirements.

The act allows the commission to conduct planning meetings or workshops on IHZs or projects. In doing so, it must comply with the Freedom of Information Act's public meetings and information disclosure requirements.

The act requires the commission to hold a public hearing on a site plan or subdivision application for an IHD. Existing law already allows commissions to hold hearings on site plan and subdivision applications for other types of projects.

Consultant Fees. The IHZ's regulations may allow the commission to impose consultant fees on IHD applicants. The commission may use the money only to hire outside consultants needed to review an application's technical aspects. The town must account for these fees separately from other revenue and use them only to pay the consultants. It must return any unspent funds, plus accrued interest, to the applicant within 45 days after the consultants complete their review.

Referrals. The regulations may also allow the commission to refer IHD site plan or subdivision applications to other agencies, boards, and commissions for comment. By law, the commission must refer any application that affects a wetlands to the inland wetlands agency (CGS §§ 8-3(g) and 8-26), and the act does not affect this or any other law requiring the commission to submit an application to another agency.

These entities must comment on these referrals under the same statutory deadlines for commenting on site plans or subdivision applications referred to them. The deadline for an inland wetlands agency depends on whether it holds a hearing on the application. If the agency chooses to hold a hearing, it has up to 165 days from receiving the application to make a decision. If the agency chooses not to hold a hearing, it must act within 65 days from when it received the application.

Approval. The act limits the extent to which the commission can impose conditions on an IHD's approval. The commission may impose only conditions needed to insure that the developer substantially complies with the zone's regulations; design standards; and, if applicable, subdivision regulations. It may also impose conditions needed to mitigate any extraordinary adverse effects on nearby properties the IHD may create.

The act allows the commission to deny an IHD application only if:

1. it fails to meet the zone's regulations,
2. the applicant's failure to submit the required fees and information prevented the commission from adequately and timely reviewing the project's design and identifying its development impacts, or
3. it is impossible to adequately mitigate the project's adverse effects on nearby property in a way the applicant accepts.

The act's requirements for completing an IHD or renewing its approval are the same as those for site plans and subdivisions under the law. If a site plan project involves 400 or more units, the developer must complete the work within 10 years after the commission approved the plan. If it involves residences and a 400,000 square foot or greater business project, the commission must require the developer to complete the business project within five to 10 years after the commission approved it. If the commission sets the deadline for less than 10 years, it may extend it up to the 10th year after approval (CGS § 8-3(j)).

The law's deadlines for completing subdivisions are similar to those for site plans. Developers must complete them within five years if they involve fewer than 400 units, and the commission may extend the deadline for up to 10 years from when it approved the subdivision plan (CGS § 8-26c). Developers must complete a subdivision involving 400 or more units within 10 years after the commission approved the subdivision plan (CGS § 8-26g).

The act explicitly allows the commission to extend a deadline when it allows a developer to complete an IHD in several distinct phases. In these cases, the commission can extend the deadline for each phase as existing law allows.

Deadline Extensions. But the act specifies conditions under which the commission must extend an IHD's completion deadline:

1. If the developer appealed the commission's decision regarding the project, the commission must extend the deadline by the time needed to resolve the appeal or
2. The applicant is actively pursuing other required permits or cannot complete the work on time for good cause.

Affordable Housing Land Use Appeals Procedure. The act prohibits a developer from using the affordable housing land use appeals procedure when proposing an IHD. The procedure is available to developers proposing housing projects that meet statutory criteria similar to those for IHDs. If the town rejects the project or approves it with conditions the developer believes are unnecessarily stringent, the developer may appeal the town's decision to Superior Court under rules that force the town to defend its decision. The act implicitly prohibits the developer from using the procedure to appeal the commission's decision regarding the proposed IHD.

Incentives

Planning Grants for Towns. If funds are available, the act authorizes OPM to make grants to towns for planning IHZs, drafting implementing regulations and design standards, and reviewing and revising applicable subdivision regulations. Towns can also use the grants to prepare the information they must submit to the secretary when applying for preliminary or final eligibility. The secretary may adopt regulatory procedures and criteria for awarding the grants.

Zone Adoption Grants. If funds are available for this purpose, the act requires OPM to make one-time grants to towns where the zoning commission adopted IHZ regulations and design standards. The secretary must pay the grants after he confirms that the commission did so and verifies that no one appealed this action or that a court has upheld them.

The grant must equal $2,000 for each housing unit that can be built on developable land in the zone based on the act's minimum as-of-right densities. Units developed specifically for older persons under federal or state law do not qualify for grants.

Building Permit Grants. If funds are available for this purpose, the act requires OPM to make one-time grants to towns for each building permit they issue in an IHD. The grant equals $2,000 for each multifamily, duplex, and townhouse unit and $5,000 for each single-family detached unit.

The OPM secretary must pay the grants after (1) a town submits proof that it issued the permits for the IHD within five years after it adopted the IHZ regulations and (2) verifies that no one appealed or challenged building permit. He must pay the grant within 60 days after making these determinations.

Units developed specifically for older persons under federal or state law do not qualify for grants.

Technical Assistance Grants for Nonprofit Housing or Development Organizations. If funds are available, the act allows the DECD commissioner to make grants to nonprofit housing assistance or development organizations to develop the technical capacity to plan and implement housing projects. The commissioner must do this in consultation with the OPM secretary. She may adopt implementing regulations.

*Other Benefits***.** The act creates a mechanism through which the state must notify potential IHD developers about surplus state property. The law already requires the public works commissioner to notify the town where the state property is located and the legislators representing the town. To receive notice, a developer must register with the DECD commissioner.

Recapturing Incentive Payments. The act allows the secretary to require a town to repay the grants it received if he finds that the town:

1. amended or repealed IHZ designation without his approval;
2. discouraged IHZs; or
3. imposed arbitrary or unreasonable standards, requirements, and barriers on proposed IHDs after he approved the zone.

The secretary may adopt implementing regulations.

Annual Report

The secretary must administer, review, and report on the incentive housing zone program. These duties include reporting annually to the governor and legislature on the program's accomplishments. The first report is due January 1, 2009. Each report must cover the prior fiscal year and:

1. identify and describe the status of towns actively seeking letters of eligibility for IHZs;
2. identify the zones he approved and the schedule for paying the related incentives;
3. summarize the amount of land zoned for different types of developments in the proposed and approved zones;
4. summarize the number of IHDs zoning commissions reviewed, including the number and type of proposed residential units in the zones, the number of building permits issued for these units, and the number and type of completed units; and
5. indicate the type and amount of incentive payments made to each town.

The report also must, for the current and next fiscal years, estimate the number and size of proposed new zones, the number and size of those that may be approved during that period, the anticipated number of residential units allowed in these zones, and the projected number of units to be built during the period.

Towns must provide any data the secretary needs to prepare the report.

Blue Ribbon Commission on Housing and Economic Development

Membership. The act establishes a 12-member commission to study affordable housing needs and how they affect economic growth and development. The members include the OPM secretary, DECD commissioner, the Connecticut Housing Finance Authority (CHFA) chairman, the treasurer, or their designees.

The governor appoints two members, one whom she must designate as the commission's chairperson, and each of the legislative leaders appoint one member. The members should include representatives of large and small towns, realtors, planners, developers, and housing policy and regional planning organizations. The appointing authorities must make their appointments within 30 days after the act's passage. They must fill any subsequent vacancies.

Duties. The commission must study and report on the state's short- and long-term housing needs and how they affect economic growth and development. Specifically, it must evaluate:

1. the amount of housing the state needs in the short- and long-term to support economic development and growth;
2. the regulatory and economic barriers limiting the extent to which developers can produce affordable housing;
3. the regions where housing needs are greatest;
4. the number of IHZs needed to create enough single- and multi-family housing to accommodate the creation of at least 20,000 new jobs annually; and
5. ways to encourage towns to adopt IHZ, including compensating them for educating children residing the zones.

The study must also determine the best way to use the state's housing programs and coordinate its housing resources to preserve affordable housing and stimulate the production of new affordable and modest, market-rate housing. Specifically, it must evaluate:

1. establishing uniform standards for financing multifamily housing,
2. expanding loan guarantees,
3. improving the use of the housing programs operated by state agencies and quasi-public authorities,
4. using mortgage insurance and other credit enhancements provided by CHFA and others to significantly expand public and private housing financing,
5. enhancing the existing affordable housing and historic preservation tax credits to promote housing renovation, and
6. coordinating financing to increase the use of federal housing tax credits.

Lastly, the study must include a comprehensive review of the rental housing market and an assessment of the benefits of subsidizing rents for low-income people in new housing developments and ways to finance this assistance.

The commission must submit its findings and recommendations to the governor and the legislature. Its interim report is due February 1, 2008 and its final report June 30, 2008. The commission terminates when it submits its final report or January 1, 2009, whichever is sooner.
EFFECTIVE DATE: Upon passage

§§ 34, 35 — FUEL EFFICIENCY AND STATE VEHICLES

Under current law, cars and light-duty trucks the state purchases must have an average fuel efficiency of at least 40 miles per gallon. In addition, the state fleet must meet federal requirements for the proportion of vehicles that run on alternative fuel. Under federal law, at least 75% of vehicles bought by the state (with certain exceptions) must be alternative fuel (these include electric vehicles and vehicles capable of operating on ethanol, among others).

The act modifies fuel efficiency requirements for state fleet vehicles. It requires, starting January 1, 2008, that

1. at least half the cars and light-duty trucks the state purchases or leases be alternative-fueled, hybrid electric or plug-in electric vehicles;
2. all alternative-fueled vehicles purchased or leased be certified to the California Air Resources Board (CARB) Low Emission Vehicle (LEV) II Ultra Low Emission Vehicle standard; and
3. all gasoline-powered light-duty and hybrid vehicles purchased or leased must be certified at least to CARB's LEV II Ultra Low Emission Vehicle standard.

It requires all state cars and light duty trucks be alternative-fueled, hybrid electric or plug in electric vehicles starting July 1, 2012. If the administrative services (DAS) commissioner determines that such vehicles are not available for purchase or lease, he must give his reasons in the annual reports the act requires.

Under prior law the alternative fuel requirements did not apply to vehicles purchased for law enforcement or other special purposes as designated by DAS. The act instead exempts from the above requirements any Department of Public Safety (DPS) vehicle the DPS commissioner says DPS needs to carry out its mission, provided the DAS commissioner approves the designation, and, in consultation with the public safety commissioner, explains why the provisions should not apply to these vehicles.

It requires, by August 1, 2007, the DEP commissioner, in consultation with the DAS commissioner, to try to determine if (1) the state qualifies for a waiver from the alternative fuel acquisition requirements of the federal Energy Policy Act (EPACT) of 2005 and (2) it is in the state's best interest to apply for such a waiver. The DAS commissioner must immediately apply for a waiver if the DEP commissioner, in good faith, finds the state qualifies and that it is in the state's best interest to apply.

It requires, by September 1, 2007, the DEP commissioner, in consultation with the DAS commissioner, to develop a plan to increase the use of existing ethanol and natural gas fueling stations and any other existing alternative fueling station in the state, and to update the plan periodically. It requires the commissioners, by the same date, to develop a plan to use alternative fuel credits the state has under EPACT, including credits earned by the Department of Transportation (DOT) and DPS to buy hybrid electric vehicles.

It requires, by October 1, 2007, the DAS commissioner to report to the Government Administration and Elections (GAE), Environment, and Energy and Technology committees on (1) details on the state fleet composition, including a listing of all vehicles owned, leased or used by DOT and DPS; the make, model and fuel type of vehicles in the state fleet and the amount of fuel, including alternative fuels, that each vehicle uses, and (2) a copy of the DEP commissioner's determination on whether the state qualifies for a waiver from EPACT's alternative fuel acquisition requirements. It requires DOT and DPS to submit all the data DAS requests when preparing its report.

It requires, by January 1, 2008 and annually thereafter, the DAS commissioner to report to the GAE, Environment, and Energy and Technology committees the same information as above, plus (1) any changes in the DEP commissioner's determination concerning the waiver application, (2) a listing of any vehicle exempt from the alternative fuel and electric vehicle requirement, together with the DAS commissioner's reasons for the exemptions, and (3) any changes or amendments to the DEP commissioner's fueling station and EPACT credit plans. It requires DOT and DPS to submit all the data DAS requests when preparing the report. It authorizes the DAS commissioner to enter into any agreement necessary to carry out the act's reporting provisions.

The DAS and DEP commissioners must, when possible, consider the use of and impact on state companies in carrying out the act.

Finally, the act defines "hybrid."
EFFECTIVE DATE: Upon passage

§ 36 — PROBATION TRANSITION PROGRAM

Annually, beginning in FY 08, the act requires the Department of Information Technology (DOIT) to transfer residual revenue from its prison inmate pay phone service contract to the Judicial Department.

The Judicial Department must use the funds for staffing and services needed for its statewide expansion of the Probation Transition Program and Technical Violation Unit operations. The former targets inmates who have been sentenced to terms of probation following incarceration. The latter is intended to reduce the number of probationers sentenced to incarceration because of technical violations of their probation conditions.

Residual revenue is that remaining after DOIT deducts (1) the $350,000 it is required to transfer annually to the Correction Department for inmate educational services and reentry programs and (2) its costs for administering the criminal justice information system.
EFFECTIVE DATE: July 1, 2007

§§ 51 - 61 — BIODIESEL PROGRAMS

The act encourages the production and use of biodiesel fuel for transportation and heating. Among other things, it provides grants to biodiesel producers and distributors and encourages the use of biodiesel in state buildings.
EFFECTIVE DATE: July 1, 2007, except the Institute for Sustainable Energy provisions takes effect October 1, 2007.

§§ 51, 52 — Connecticut Qualified Biodiesel Producer

Incentive Account. The act creates the Connecticut Qualified Biodiesel Producer Incentive Account (incentive account) as a separate, non-lapsing General Fund account. DECD must use money from the account to (1) provide grants to qualified Connecticut biodiesel producers and distributors, and (2) administer the grant program. To qualify, biodiesel producers must be actively engaged in the commercial production of biodiesel in Connecticut and be registered with, and domiciled in, the state. Distributors must be registered with, and domiciled in, the state and actively engaged in storing and distributing biodiesel in Connecticut for commercial purposes. The fuel produced and distributed must be derived from vegetable oil or animal fats and meet the standards for B100 biodiesel specified by American Society for Testing and Materials (ASTM) designation D6751.

DECD may enter into a personal services agreement with a person, firm, corporation, or other entity to implement the grant programs.

§§ 53 – 56, 57 — Incentive Account Grants

Qualified producers are eligible in any one fiscal year for grants in the following amounts: (1) 30 cents per gallon for the first five million gallons produced; (2) 20 cents per gallon for the second five million gallons produced; and (3) ten cents per gallon for the third five million gallons produced. Production over 15 million gallons in a fiscal year is not eligible for grants. DECD, after consulting with the person, firm, corporation, or other entity implementing the grant, must determine monthly grant amounts by calculating the estimated amount of biodiesel produced in the preceding month, as certified by the DECD commissioner or his designee, and multiplying that figure by the incentive credit. Qualified producers can receive up to 60 monthly grants.

Producers must apply for the grants no later than 15 days after the last day of the month for which the grant is sought. The application must include (1) the producer's location, (2) the number of Connecticut citizens it employed in the preceding month, (3) the number of gallons of biodiesel produced during the month for which the grant is sought; (4) a copy of the producer's Connecticut registration, (5) satisfactory documentation that the biodiesel has a net carbon energy benefit when compared to the fuel it will replace, and (6) any other information DECD deems necessary to ensure that grants are made only to qualified biodiesel producers.

Other Producer Grants. Each producer also is eligible to receive one grant of up to $3 million plus 25% of its costs to buy equipment or build, modify, or retrofit production facilities. A producer can get only one grant, regardless of the number of facilities it owns.

Distributor Grants. Each distributor is eligible for a grant of up to $50,000 for each distribution site. These grants may be for the actual monthly costs of creating biodiesel storage and distribution capacity, but cannot be used to buy equipment or build, modify, or retrofit facilities. DECD, in consultation with the entity it selects to implement the grant, must create an application process and adopt guidelines to administer this grant. (PA 07-5, June Special Session specifies that distributors are not eligible for grants for purposes other than helping them buy equipment or construct, modify, or retrofit biofuel facilities.)

DECD, in consultation with the entity selected to implement the grant program, if applicable, must (1) create guidelines to administer the above grant programs and (2) submit an annual report to the Energy and Technology, Commerce, and Environment committees.

§ 58 — Connecticut Farm Link Program

By law, the Agriculture Department must encourage communication between farmers and farmland owners seeking to sell their farms and lands and those interested in starting or expanding an agricultural business. The act specifically requires the department to encourage contact between parties interested in growing and processing feedstock crops for biodiesel heating and transportation fuels. It requires the department to post educational information about growing and processing such crops on its website.

§ 59 — Connecticut Biofuel Link Program

The act requires the Institute for Sustainable Energy to (1) compile and distribute consumer education materials about biodiesel fuel to municipalities, local school boards, and private businesses and (2) establish and administer a Connecticut biodiesel link program to establish a database of schools, restaurants, institutional cafeterias, and other institutions and businesses in the state that produce waste vegetable oil or comparable food products suitable for conversion to biodiesel. The institute must maintain the database and make it publicly available on its website.

Businesses interested in selling their waste vegetable oil or similar food products to biodiesel heating and motor vehicle fuel producers may notify the institute and have their names, contact information and business objectives placed on the website. The institute must make reasonable efforts to encourage contact between parties with similar interests.

The institute must post educational material about this biofuel link program on its website. The information also must be posted as a link on websites of DECD, the Agriculture Department, the Connecticut Agricultural Experiment Station, the UConn Biofuel Consortium, and UConn Cooperative Extension System. The educational material must include information about starting and conducting a waste vegetable oil business.

§ 60 — Use of Biodiesel Blends in State Buildings

The act requires the OPM secretary, within available appropriations and in consultation with each state department and state higher education system constituent unit, the judicial branch, and the Joint Committee on Legislative Management, to establish a program to encourage the use of biodiesel heating oil blends in state buildings and facilities under their custody and control. The blends must contain not more than 90% ultra low sulfur number 2 heating oil and at least 10% biodiesel.

By January 1, 2008, the secretary must prepare a plan to implement this program, including (1) identifying state buildings and facilities suited to use biodiesel blended heating fuel, (2) evaluating energy efficiency and reliability of such fuel in these buildings and facilities, and (3) the availability and feasibility of exclusively using such fuels, including agricultural products or waste yellow grease, produced in Connecticut.

§ 61 — Fuel Diversification Grant Program

The act requires DECD to administer a fuel diversification grant program for Connecticut colleges and universities or state agricultural research institutions. They may use the money for (1) research to promote biofuel production from agricultural products, algae and waste grease, and (b) biofuel quality testing. DECD may enter into a personal service agreement, as provided by law, with a person, firm, corporation, or other entity to administer the program. DECD, in consultation with such entity, must create guidelines needed to administer the program. Any entity that DECD selects must report to DECD on the program's status by January 1, 2008 and annually afterwards.

§ 62 — HOLD HARMLESS MUNICIPAL AID FOR FY 08

The act sets a standard for determining the level of each town's total FY 08 state grants-in-aid. The standard is the total grants-in-aids calculated according to a statutory formula and that were included in the governor's FY 07 budget recommendations. Under the act, each town is entitled to receive no less than that total in FY 08, as modified by audit report. To meet this requirement, the act provides up to $100,000 from the FY 08 appropriation for state payment in lieu of taxes for new manufacturing machinery and equipment.

The OPM secretary must certify each town's total grant payment to the comptroller by May 1, 2008. The secretary may proportionately reduce those payments if the total amount due to all towns exceeds the appropriated amount. The comptroller must direct the treasurer to pay the amount due to each town within 15 days after the secretary's certification. The treasurer has up to 15 days to pay the grants.
EFFECTIVE DATE: Upon passage

§ 63 — AIR CONDITIONER REPLACEMENT PROGRAM

PA 07-242 requires the Energy Conservation Management Board (ECMB) to establish a program to provide rebates to people who replace their room or central residential air conditioners with ones that meet federal Energy Star standards. This act requires that the program be cost effective. Under existing law, the rebate for room air conditioners ranges from at least $25 to at least $100, depending on the air conditioner's cost. The act allows ECMB to provide smaller rebates if these levels are not cost-effective.
EFFECTIVE DATE: Upon passage

§ 64 — RENEWABLE ENERGY PROJECTS IN STATE BUILDINGS

PA 07-242 authorizes $30 million in bonds for Connecticut Innovations, Inc. to fund the net project costs of renewable energy and combined heat and power (cogeneration) projects in state buildings. Under that act, to be eligible, the building must be certified in the Leadership in Energy and Environmental Design (LEED) program or in the process of being certified. This act expands eligibility for this program to include buildings that (1) are becoming LEED silver rated (a more stringent standard than certified), (2) have a two-globe rating in the Green Globes USA design program (another rating system), or (3) are in the process of receiving this latter rating.
EFFECTIVE DATE: July 1, 2007

§§ 65, 66 — STATE SET-ASIDE PROGRAM

Set-Aside Goals

By law, state agencies and political subdivisions, other than municipalities, must set aside 25% of the contracts they let for construction, goods, and services each year to small contractors, including minority business enterprises. It excludes (1) any contract for which the set-aside conflicts with federal law or regulations and (2) goods and services not customarily available from or supplied by small contractors.

The act eliminates obsolete language that created an alternative method for calculating the number of set-aside contracts at a time when the value of contracts to be set aside was a minimum of 15% and a maximum of 25% of the average of contracts awarded over three fiscal years.

The act changes, from August 30 to September 30, the deadline for the agencies and political subdivisions to submit their annual set-aside goals to DAS, the Commission on Human Rights and Opportunities (CHRO), and the chairpersons and ranking members of the Planning and Development and Government Administration and Elections committees. It requires any agency or political subdivision that does not achieve at least 50% of its goals by the end of the second reporting period in any 12 months beginning on July 1 to give DAS and CHRO a detailed written explanation of how it will achieve them in the final reporting period.

Eligibility

The act makes changes to the definition of "small contractor," thus increasing the number of firms that may be eligible under the set-aside program. Beginning July 1, 2007, it:

1. requires firms to have the same ownership or management, rather than both, for at least one year before applying, thereby allowing those that have gone through ownership transfers to be eligible; and
2. expands the group of small contractors who qualify as minority business enterprises to include individuals with mental impairments, not just physical impairments.

Beginning January 1, 2008, it raises, from $10 million to $15 million, the annual gross revenue limit for eligible firms.

The act also removes a prohibition against the DAS commissioner awarding a small contractor a contract or contracts totaling more than $10 million in a fiscal year.

Explanation for Contracts with Ineligible Subcontractors

The act requires any authority that awards a set-aside contract to obtain from that contractor, before any work begins, a written explanation detailing any subcontract it has with a firm 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 the contract.

Notice Requirements

Existing law permits awarding agencies, after notice and a hearing, to impose a civil penalty of up to $10,000 per violation on contractors or subcontractors who willfully violate the set-aside law. The act requires, rather than allows, them to send notice to a contractor or subcontractor they suspect commits such a violation. It also requires the awarding authority to send a copy of the notice to CHRO. By law, the notice must inform the firm of the maximum civil penalty for the alleged violation, that there will be a hearing, and its time and date, among other things.

Directory of Certified Firms

The act removes a requirement for DAS to print a directory of certified small contractors and minority business enterprises and provide updated copies to state agencies on a quarterly basis. Instead, it requires the department to maintain the updated directory on its website.
EFFECTIVE DATE: July 1, 2007, except the increase in the gross revenues is effective January 1, 2008

§ 67 — WOMAN-OWNED BUSINESS MONTH

The act requires the governor to proclaim May as Woman-Owned Business Month to honor the contributions that these businesses make to our state. It requires suitable exercises and observances at the State Capitol and other locations that the governor designates.
EFFECTIVE DATE: Upon passage

§ 68 — MUNICIPAL SMALL AND MINORITY BUSINESS SET-ASIDES

The act increases the number of contractors eligible to participate in municipal small and minority business set-aside programs by raising, from $3 million to $10 million, the annual gross revenue limit for eligible contractors. By law, an eligible small business must also have (1) maintained its principal place of business in Connecticut for at least one year and (2) at least 51% of its ownership in the hands of people who have the power to direct its management and policies and who are active in its daily affairs. In addition to meeting these requirements, an eligible minority business must continue to be owned by a minority or person with a disability.
EFFECTIVE DATE: July 1, 2007

§§ 69 - 71 — FILM INDUSTRY TAX CREDIT CHANGES

The act makes two changes in the film production tax credit amendments and the new digital animation production tax credit enacted in PA 07-236.

First, it restores a provision requiring that the 30% credit for qualifying film production expenses apply only to production expenses and costs that are incurred in Connecticut. (The change appears to conflict with another provision of PA 07-236 that, from January 1, 2009 to January 1, 2012, allows 50% of qualifying production expenses incurred outside the state to count towards the credit if they are used in the state.)

Second, the act allows the Commission on Culture and Tourism to require a film production or digital animation company to provide independent certification of the amount of its production expenses and costs when it applies for a production or digital animation tax credit voucher, respectively.
EFFECTIVE DATE: July 1, 2007. The change concerning the in-state expenses applies to income years starting on or after January 1, 2007.

§ 72 — SALES TAX EXEMPTION FOR HIGH-MILEAGE VEHICLES

The act expands a temporary sales tax exemption for passenger cars that get at least 40 miles per gallon (city or highway) enacted in PA 07-242 to include all passenger motor vehicles, such as trucks, vans, and motorcycles, that get such mileage. The exemption runs from January 1, 2008 to July 1, 2010.
EFFECTIVE DATE: January 1, 2008 and applicable to sales on or after that date.

§§ 73 - 78, 81, 82, 84, 87, 88, 123 — RAISING THE AGE FOR JUVENILE COURT JURISDICTION

Beginning January 1, 2010, the act permits most offenses involving 16- and 17-year olds to be adjudicated in juvenile court. Until that date, these cases will continue to be handled in criminal court. Existing law, unchanged by the act, (1) requires juvenile cases involving serious felonies to automatically be transferred to adult court and (2) allows prosecutors to ask juvenile court judges to transfer other cases to adult court.

The act also eliminates on January 1, 2010, the Youth In Crisis program which provides limited intervention and services for 16- and 17-year-olds who are truant, run away from home, or are beyond their parents' control (i.e., are status offenders). It instead makes these youngsters eligible for the FWSN program. This program currently serves status offenders under age 16 and generally offers a wider range of services than are provided to youth in crisis. (See §§ 30-32 of the act for changes in the FWSN program, effective July 1, 2007.)
EFFECTIVE DATE: January 1, 2010

Excluded Offenses

The act specifies that juvenile courts cannot handle charges filed against 16- and 17-year-olds involving (1) infractions and violations that are subject to the statutory mail-in fine procedure or (2) motor vehicle violations for which a prison term may be imposed. And they may not handle misconduct or manslaughter with a motor vehicle charges if the perpetrator was under age 16 when the offense occurred.
EFFECTIVE DATE: January 1, 2010

Serious Juvenile Offenses

By law, children convicted of designated “serious juvenile offenses” are subject to longer dispositional sentences and court supervision. Prior law included in the definition of serious juvenile offense (1) misconduct with a motor vehicle and (2) 2nd degree manslaughter with a motor vehicle. The act restricts this definition to charges involving children who were under age 16 when the offense was committed.

The act also permits repeat felony offenders to qualify for treatment as serious juvenile repeat offenders when their first or second conviction occurred in criminal court. Under prior law, qualifying offenses had to be disposed of in juvenile court.
EFFECTIVE DATE: January 1, 2010

§§ 79, 80, 85 — OTHER CHANGES IN DELINQUENCY STATUTES

§ 79 — Mandatory Fines for Possessing Alcohol

The act requires juvenile court judges to impose statutory fines on all children convicted as delinquent for possessing alcohol. Under existing law, the fine for a first offense is $136; repeat offenses carry fines of between $200 and $500.
EFFECTIVE DATE: January 1, 2010

§ 80 — Erasing Juvenile Arrest and Court Records

By law, courts may grant petitions erasing a delinquent or FWSN child’s arrest and court records when the child has not been charged with another crime or status offense within a specified period. The act extends the erasure option to situations in which the child has signed a statement of responsibility admitting to having committed a delinquent act or status offense. Such statements are often prerequisites to participating in court diversion programs, which, if successfully completed, result in a dismissal of the charges.

Children subject to erasure orders are deemed to have never been arrested or charged with a FWSN violation.
EFFECTIVE DATE: January 1, 2010

§ 85 — Use of Pretrial Detention

The act prohibits judges from placing juveniles in pretrial detention unless this is necessary and is the least restrictive environment possible consistent with public safety. Prior law did not contain these restrictions.
EFFECTIVE DATE: January 1, 2010

§ 83 — OPM ANALYSIS AND LEGISLATIVE REPORT

By January 15, 2008, the act requires OPM to submit a report to the legislative committees analyzing the impact on budgeted state agencies of:

1. raising the delinquency and FWSN age and restructuring detention options for serious juvenile repeat offenders;
2. establishing and operating family support centers and staff secure facilities for FWSN children as provided in §§ 31 and 32; and
3. implementing the (a) extended guardianship program, (b) court transcript fee increase, and (c) trafficking in person contracting provisions, as provided in §§ 6, 28, and 29 of the act.

The report must contain, for each affected agency, OPM's estimate of necessary expenditures. (Section 6 of PA 07-5, June Special Session eliminates the analysis and reporting requirements for the FWSN program and the programs listed in item 3 above.)

OPM must submit its report to the Appropriations, Children's, Human Services, and Judiciary committees.
EFFECTIVE DATE: Upon passage

§ 84 — PROGRAM DEVELOPMENT

The law requires CSSD to provide a continuum of services for juvenile offenders living in the community. The act specifies that the system must include programs for juveniles classified as being eligible for release with and without structured supervision. It directs CSSD to coordinate these programs with the Children and Families and Mental Health and Addiction Services departments if appropriate.

Under prior law, these programs were only tailored to the juvenile's offense history, age, gender, mental health, and chemical dependency status. The act specifies that they also be tailored to the juvenile's maturity, social development, and need for structured supervision. And they must be culturally appropriate, trauma informed, and provided in the least restrictive environment possible in a manner consistent with public safety.

Existing law requires CSSD to provide juveniles with anger management and nonviolent conflict resolution training; substance abuse treatment; sexual offender treatment; and mental health screening, assessment, and treatment. The act requires CSSD also to provide:

1. appropriate job training and employment opportunities,
2. counseling sessions in anger management and conflict resolution,
3. substance abuse prevention programs, and
4. services for the juvenile's family.

The act also requires CSSD to include individualized remediation plans in each juvenile's general education program, rather than the individual educational plan currently required.

The act requires CSSD to consult with the Commission on Racial and Ethnic Disparity in the Criminal Justice System to address the needs of minorities in the juvenile justice system.
EFFECTIVE DATE: July 1, 2007

§ 86 — HIRING FIVE NEW JUDGES

Beginning April 1, 2009, the act increases, from 196 to 201, the number of superior, appellate, and supreme court judges.
EFFECTIVE DATE: April 1, 2009

§ 87 — PROGRAM EVALUATIONS

By July 1, 2009, the act requires the chief court administrator and CSSD executive director to evaluate its juvenile programs and services. The purpose of the evaluation is to ensure that the programs and services meet the needs of youth age 16 and older in the juvenile justice system. Within appropriations, the department must make all necessary programmatic and service changes.
EFFECTIVE DATE: July 1, 2008

§ 88 — JUVENILE JURISDICTION POLICY AND OPERATIONS COORDINATING COUNCIL

The act creates the Juvenile Jurisdiction Policy and Operations Coordinating Council to monitor the implementation of the central components of new and modified programs, procedures, and court operations associated with raising the delinquency age. It must study specified issues and make recommendations to legislative committees.

Council Members

The council is made up of 30 unpaid members who are entitled to reimbursement for their necessary expenses. Members and appointing authorities are as follows:

1. two legislators, one each appointed by the House speaker and Senate president pro tempore;
2. the chairpersons and ranking members of the Appropriations, Judiciary, and Human Services committees, or their designees;
3. the chief court administrator, or a designee;
4. one juvenile court judge appointed by the chief justice;
5. the executive directors of CSSD and the Superior Court Operations Division, or their designees,
6. the chief public defender and chief state's attorney, or their designees;
7. the commissioners of the Children and Families, Correction, Education, and Mental Health and Addiction Services Departments, or their designees;
8. the president of the Connecticut Police Chief's Association, or a designee;
9. two child or youth advocates, one appointed by each chairperson of the Juvenile Jurisdiction Planning and Implementation Committee;
10. two parents of children who have been involved in the juvenile justice system, one each appointed by the House and Senate minority leaders; and
11. the child advocate, or a designee.

Council appointments must be made within 30 days of the act's passage, by July 29, 2007. The House speaker and Senate president pro tempore must select a legislator to co-chair the council with the OPM secretary, or his designee. The chairpersons must hold the first meeting by August 28, 2007.

The appointing authorities fill vacancies.

Council Responsibilities

The act directs the council to monitor, until January 1, 2009, the implementation of the central components of the Juvenile Jurisdiction Planning and Implementation Committee's February 8, 2007 report. These include the development and implementation of a comprehensive system of community-based and residential services for juveniles.

The council must also, until January 1, 2009, study and make recommendations about unresolved issues to improve the juvenile justice system and prepare for its expansion to 16- and 17-year-olds, including:

1. the development of appropriate diversion programs;
2. existing short- and long-term placement and detention capacities, including pretrial detention, anticipated needs, and feasible alternatives to detention;
3. (a) needed juvenile services, including mental health, substance abuse, housing, education, and employment; (b) which state agencies will be responsible for providing them; and (c) how raising the age for juvenile jurisdiction will affect them;
4. whether to amend the laws governing mandatory school attendance and serious juvenile offenses;
5. the relationship between the juvenile justice system and emancipation of minors;
6. the delinquency or adult criminal court procedures most suitable for juveniles, including which should govern juvenile interrogations;

7. school-related interventions to reduce student suspension, expulsion, truancy, and arrest rates; and
8. the causes of disproportionate minority contact in the juvenile justice system and strategies to reduce it.

Between January 1, 2008 and January 1, 2009, the council must submit quarterly status reports to the governor and the Judiciary, Human Services, and Children's committees. Reports must include information on the (1) implementation of mandated changes and (2) the council's findings and recommendations with respect to unresolved issues.

The council must file its final report by January 1, 2009.

EFFECTIVE DATE: Upon passage

§ 89 — STATUTE OF LIMITATIONS IN SEXUAL ASSAULT CASES

The act removes the 20-year statute of limitations for prosecuting the six most serious sex assault crimes where the perpetrator is identified by DNA and the victim notified the police or a prosecutor of the offense within five years of its commission. Instead, the act allows the prosecutions at any time.

The provision applies to first-degree sexual assault, aggravated first-degree sexual assault, sexual assault in a spousal or cohabiting relationship, second-degree sexual assault, and third-degree sexual assault, with or without a firearm.

EFFECTIVE DATE: July 1, 2007

§§ 90 - 96, 98 — SEX OFFENDERS

Registration Requirements

The act requires sex offenders who are required to register with DPS to register their e-mail and instant message addresses and any other similar Internet communication identifiers at the same time and in the same way that they register their names, identifying factors, criminal history records, and residential addresses.

By law, anyone convicted or found not guilty by reason of mental disease or defect of a criminal offense against a minor, nonviolent sexual offense, sexually violent offense, or felony committed for a sexual purpose must register with DPS (1) within three days of his release into the community or (2) at any time the Department of Correction (DOC) commissioner requires prior to release. Non-state resident sex offenders must register without undue delay after beginning work or school in this state. If the registrant moves, he or she must register the new address with the DPS commissioner, in writing, without undue delay. Under the act, the registrant must follow the same procedure for changes in e-mail and instant message addresses or other similar Internet communication identifiers.

Court and State Agencies Duties Regarding Registration

The act requires courts, the DOC, and the Psychiatric Security Review Board to submit to the DPS commissioner the e-mail and instant message addresses and any other similar Internet communication identifier of sex offenders who are released from custody without conditions and who refuse to submit their own registration. The courts and agencies must submit the information in the same manner that they currently submit offenders' names, release dates, criminal history records, known treatment histories, and anticipated residential addresses.

The court and these agencies must also inform offenders of their duties to update this information and any new, or changes to existing, Internet communication identifiers within five days of the change.

Public Access to Sex Offender Internet Information

The act specifies that sex offender registrants' e-mail and instant message addresses and any other similar Internet communication identifiers are not public records. However, DPS may release them for law enforcement or security purposes in accordance with regulations the act requires DPS to adopt. The regulations must specify when the information may be disclosed, to whom, and the procedure for doing so. Electronic communication and remote computing service providers and Internet web site operators must be included among potential recipients. "Electronic communication service" and "remote computing service" have the same meaning as they do under the federal law on wire and electronic communications, as amended from time to time.

Law Enforcement Access to Offenders' Information from Providers

The act requires the DPS commissioner to designate a sworn police officer to serve as a liaison between the department and electronic communication and remote computing service providers to facilitate the exchange of registrants' nonpersonally identifiable information. Whenever the liaison learns through the exchange of this information that sex offenders are subscribers, customers, or users of the providers, he or she must initiate a criminal investigation to determine if their status as such violates a registration requirement or the terms and conditions of their parole or probation.

The liaison may ask a judge to issue an *ex parte* order compelling a provider to disclose a sex offender's name; address; age or date of birth; e-mail address, instant message address, or other similar Internet communication identifier; and subscriber number or identity, including any assigned Internet protocol address (i.e., basic subscriber information). The judge must grant the order if the liaison offers specific and articulable facts that constitute reasonable grounds for believing the basic subscriber information is relevant and material to the ongoing criminal investigation.

The order must state the investigation's case number, the name of the judge issuing the order, and the date and time of issuance. The judge must sign the order within 48 hours of its issuance or the next business day, whichever is earlier.

The provider must disclose the information to the liaison pursuant to the order. A provider that discloses the information in good faith pursuant to the order has the same protection he has under federal law (18 USC § 3124) as amended from time to time. This means the provider cannot be sued for the disclosure and may use his or her good faith reliance on the court order as a complete defense against any civil or criminal action.

EFFECTIVE DATE: October 1, 2007

§ 97 — NEW CRIME INVOLVING ENTICEMENT OF A MINOR

The act establishes a new crime of misrepresentation of age to entice a minor. A person commits this crime when he or she misrepresents his or her age and uses an interactive computer service to knowingly persuade, induce, entice, or coerce a person under age 16 to engage in prostitution or illegal sexual activity. Misrepresentation of age to entice a minor is a class C felony (see Table on Penalties).

EFFECTIVE DATE: October 1, 2007

§ 99 — RISK ASSESSMENT BOARD

By law, the Risk Assessment Board must develop a risk assessment scale and use it to assign a risk level of high, medium, or low to each registered sex offender based on his or her likelihood to reoffend. It must also submit a report to the Judiciary Committee on its findings and recommendations on the (1) sex offenders who should appear on the Internet and the detailed information that should accompany the posting and (2) need for additional restrictions on this population, including civil commitment.

The act requires the board to use the risk assessment scale to determine the sex offenders who should be prohibited from residing within 1,000 feet of the property comprising an elementary or secondary school or a licensed center- or home-based child day care facility.

It extends, from February 1, 2007 to October 1, 2007, the deadline for the board to submit its report. It expands the information the board must include in the report by requiring recommendations on whether a person found guilty of an offense in another state that would require registration in this state must register in Connecticut if final judgment was never entered in the other state.

EFFECTIVE DATE: Upon passage

§ 100 — STREAMLINED SALES TAX COMMISSION

The act establishes a 16-member commission to study the possibility of the state becoming a full member of the Streamlined Sales Tax Governing Board, an interstate body that oversees efforts to design, test, and implement a simplified sales and use tax system. The commission must study and evaluate the changes the state would have to make in its sales and use tax laws to become a full member of the governing board. It must also study how doing so would benefit the state and retailers.

The commission must consist of the chairpersons and ranking members of the Finance, Revenue and Bonding Committee or their designees, two members appointed by the governor, the revenue services commissioner and the OPM secretary or their designees, two members each appointed by the House speaker and Senate president pro tempore, and one member each appointed by the House and Senate majority and minority leaders. Appointments must be made by August 15, 2007 and any subsequent vacancies filled by the appointing authority.

The OPM secretary and a legislator selected jointly by the House speaker and Senate president pro tempore serve as co-chairpersons and must convene the commission's first meeting by September 1, 2007. The commission must report its findings and recommendations to the governor and the legislature by January 15, 2008.

EFFECTIVE DATE: Upon passage

§ 101 — PROPERTY TAX CAP COMMISSION

The act establishes a 16-member commission to study and evaluate how different methods to limit local property tax growth rates could affect taxpayers and municipalities. The commission consists of the chairpersons and ranking members of the Finance, Revenue and Bonding Committee or their designees; two members appointed by the governor; the OPM secretary or his designee; two members each appointed by the House speaker and Senate president pro tempore; and one member each appointed by the House and Senate majority and minority leaders. Appointments must be made by August 15, 2007 and any subsequent vacancies filled by the appointing authority.

The OPM secretary and a legislator selected jointly by the House speaker and Senate president pro tempore are the commission's co-chairpersons and must convene its first meeting by September 1, 2007. The commission must submit a final report with its findings and recommendations to the governor and legislature by January 15, 2008.

EFFECTIVE DATE: Upon passage

§ 102 — CONNECTICUT ENERGY ASSISTANCE PROGRAM

PA 07-242 expands the requirement that the Department of Social Services (DSS) commissioner implement a program to buy deliverable fuel for low-income households participating in the Connecticut Energy Assistance Program and the state-appropriated fuel assistance program. The act eliminates a requirement that the commissioner ensure that all fuel assistance recipients are treated the same as any other similarly situated customer. It allows, rather than requires, the commissioner to take advantage of programs offered by fuel vendors that reduce the cost of fuel purchased.

PA 07-242 requires the commissioner to ensure that all agencies administering the program pay fuel vendors in advance of the delivery "where vendor provided price-management strategies require payments in advance." The act requires the commissioner to do this if funding allows.

PA 07-242 requires community action agencies administering fuel assistance programs to begin accepting applications by September 1 each year. Under the act, the commissioner, in consultation with the OPM secretary, must require them to do so if funding allows.

EFFECTIVE DATE: July 1, 2007

§§ 103-107 — HOUSING SUSTAINABILITY

State-Assisted Housing Sustainability Fund

The act requires DECD to establish and maintain a State-Assisted Housing Sustainability Fund to preserve eligible housing. DECD must do so in consultation with a committee the act creates, the State-Assisted Housing Sustainability Advisory Committee.

Under the act, "eligible housing" means the approximately 412 developments that are part of the state-financed affordable rental housing portfolio formerly under DECD's control and transferred to the Connecticut Housing Finance Authority (CHFA) in 2003.

Fund money must be available to DECD to provide financial assistance to eligible housing owners for maintaining, repairing, rehabilitating, and modernizing eligible housing and for other activities consistent with preserving this housing. Other activities include:

1. performing emergency repairs to abate actual or imminent emergency conditions that would result in the loss of habitable housing units;
2. performing major system repairs or upgrades, including repairs or upgrades to roofs, windows, mechanical systems, and security;

3. reducing the number of vacant units;
4. remediating or abating hazardous material, including lead;
5. improving mobility- and sensory-impaired accessibility in units, common areas, and accessible routes;
6. providing relocation assistance and alternative housing for up to 60 days due to a major building system failure; and
7. conducting a comprehensive physical needs assessment (see below).

DECD must award financial assistance to applicants according to standards and criteria it adopts in consultation with the advisory committee's recommendations. (PA 07-5, June Special Session requires DECD to adopt regulations by 2009 based on the standards and procedures it develops.)

The act authorizes DECD to spend up to $750,000 annually in FY 08 and FY 09 from the fund for reasonable administrative expenses. These include the:

1. advisory committee's expenses,
2. development of analytic tools and research concerning the capital and operating needs of eligible housing, and
3. study the act requires.

Beginning in FY 10, DECD must prepare an administrative budget that takes effect when the advisory committee approves it.

Written Procedures, Including for Emergency Repairs. DECD must adopt written procedures to implement its handling of the fund. The procedures must establish:

1. guidelines for grants and loans, including providing for deferred payment of principal and interest upon the committee's approval, and
2. a process for certifying an emergency condition within 48 hours and for committing emergency funds, including costs of relocating a resident, not more than five business days after the eligible housing owner applies for emergency repair financial assistance.

Loan Viability Review. Under the act, in reviewing applications and providing financial assistance, DECD, in consultation with the advisory committee, must consider the long-term viability of eligible housing and the likelihood that financial assistance will ensure that viability. The act specifies that "viability" includes (1) continuous habitability and adequate operating cash flow to maintain the existing physical plant and any capital improvements and (2) providing basic services required under the lease and otherwise required by local codes and ordinances.

Physical Needs Assessment Grant Program. DECD must design and administer a grant program for eligible housing owners to pay for comprehensive physical needs assessments for each eligible housing development. The final design of this program is subject to the advisory committee's review and approval. The assessment may be a 20-year life-cycle analysis covering all physical elements, adjusted for observed conditions, and must at a minimum evaluate:

1. dwelling units, building interiors and envelopes, community buildings and amenities, site circulation and parking, site amenities such as lots, site conditions, and mechanical systems, including technological options to reduce energy consumption and pay-back periods on new systems that produce heat and domestic hot water;
2. compliance with physical accessibility guidelines under the federal Americans with Disabilities Act, (which prohibits public entities from disability discrimination); and
3. hazardous material abatement, including lead paint abatement.

A copy of each needs assessment must be submitted to DECD in a format it prescribes. DECD must design the format so that a baseline of existing and standardized conditions of eligible housing can be prepared and annually updated to reflect changes in the consumer price index and annual construction costs.

State-Assisted Housing Sustainability Advisory Committee

To advise DECD and CHFA on the sustainability fund's use, the act establishes a 12-member advisory committee consisting of the following members:

1. one each, appointed by the Senate president pro tempore and House speaker, who may be legislators;
2. one, appointed by the House majority leader, who represents a housing authority with between 100 and 250 eligible housing units;
3. one each, appointed by the Senate majority and minority leaders, each representing a housing authority with fewer than 100 eligible housing units;
4. one, appointed by the House minority leader, who represents a housing authority with 250 or more eligible housing units;
5. four appointed by the governor;
6. the state treasurer or her designee; and
7. the state comptroller or her designee.

The majority and minority leaders must select appointees from a list the Connecticut Chapter of the National Association of Housing and Redevelopment Officials submits.

The committee must select its chairpersons from the members. The chairperson, or the vice-chairperson in the chairperson's absence, may establish subcommittees and working groups as needed and designate subcommittee chairpersons.

The initial terms of the members, other than those the speaker and Senate president appoint, are staggered as determined by a lottery the committee conducts. After the initial term, the members' terms are three years. Members may be reappointed for an unlimited number of terms.

The committee must meet at least quarterly and advise DECD and CHFA on the administration, management, procedures, and objectives of the act's financial assistance, including the establishment of criteria, priorities, and procedures for the sustainability fund.

Sustainability Fund Report

The act also requires DECD, in consultation with the advisory committee, to submit a report on the sustainability fund's operation for the previous year by February 1, 2009, and annually thereafter. The report must include an analysis of the sustainability fund's distribution and an evaluation of its performance. It may also include recommendations for program modifications.

Elderly and Disabled Rental Program Study

The advisory committee must also study and recommend modifications to the state's rental assistance program for the elderly and people with disabilities. In conducting the study, the committee must consider expanding the program to other eligible housing or replacing it with a program designed to assure the long-term viability of all eligible housing, as the act defines it, with minimal effects on low- and moderate-income households. The committee must submit its report to the Housing Committee by July 1, 2009.

EFFECTIVE DATE: Upon passage for creation of the fund, establishment of fund procedures, and needs assessment grant program; all other provisions are effective July 1, 2007.

§ 108—PUBLIC HOUSING AUTHORITY COMMISSIONERS

By law, a commission that oversees a local housing authority must include at least one member who is a tenant of the authority. The number of tenant commissioners depends on the commission's size. Those with five or fewer members must include at least one tenant member; those with more than five must have at least two. In both cases, a tenant can serve as a commissioner if he or she resided in a unit owned or managed by the authority for at least one year.

The act allows a person to serve as a commissioner if he or she formerly lived in an authority-owned or -managed unit for more than a year and currently receives DECD housing assistance. These people would include, for example, those residing in privately owned units who receive DECD assistance.

EFFECTIVE DATE: Upon passage

§§ 109-114 — AUTISM SPECTRUM DISORDER DIVISION

The act creates the Autism Spectrum Services Division in the Department of Mental Retardation (DMR). It authorizes the division, within available appropriations, to research, design, and implement the delivery of appropriate and necessary services and programs for all state residents with autism spectrum disorder (ASD). The services and programs may include creation of (1) an autism-specific early intervention program for children at risk of, or diagnosed with, ASD who previously were placed in DMR's Birth-to-Three program; (2) support services for three- to 21-year-olds, including education, recreation, life and skill coaching, vocational, and transitional services; and (3) adult services, including those defined by DMR's ASD pilot program, and related services DMR deems necessary. The pilot program's adult services definition includes services such as life skills and job coaching; social skills groups; behavior management, speech and occupational therapy, and other consultants; and postsecondary education supports.

The act requires DMR to adopt regulations to (1) define autism; (2) establish eligibility standards and criteria for any state resident with ASD to receive services regardless of age (DMR currently serves only children with ASD under age three and some adults in the pilot program); and (3) data collection, maintenance, and reporting procedures. The commissioner may implement policies and procedures to administer the act's provisions before adopting these regulations, provided he publishes notice of intent to adopt them no later than 20 days after implementing the policies and

procedures. The policies and procedures are valid until the regulations are adopted. The act also broadens the scope of the existing independent council created to advise the autism pilot program to include advising the DMR commissioner on all autism matters.

The act carries forward up to $200,000 of the funds appropriated for the pilot program in FY 07 for use in FY 08 to study the feasibility of amending the state Medicaid plan or obtaining a federal waiver to implement Medicaid-financed home and community-based services for adults with ASD who are not mentally retarded. It authorizes the Department of Social Services (DSS) commissioner, in consultation with the DMR commissioner, to seek approval of such an amendment or waiver, whichever is sufficient and most expeditious, to implement this program, which can include housing assistance, if necessary. The commissioners must file annual status reports with the Public Health committee beginning January 1, 2008.

It also:

1. makes DMR the lead agency for purposes of the federal Combating Autism Act and for applying for and receiving funds and performing related responsibilities concerning ASD authorized by state and federal law;
2. requires DMR, beginning February 1, 2009, to make annual recommendations to the governor and Public Health Committee concerning legislation and funding needed to provide services to people with ASD;
3. requires the division to research and locate funding sources to develop and implement services for people with ASD who do not have mental retardation, and to coordinate with DSS to secure Medicaid reimbursement for home and community-based, individualized support services, including applying for a Medicaid waiver;
4. requires the division, within available appropriations, to (a) design and implement a training initiative to develop a workforce, and (b) develop an autism specific curriculum, together with the Department of Higher Education; and
5. requires the division, to the extent federal reimbursement permits, to develop an education and training initiative eligible for federal funding under the Combating Autism Act.

It subjects the case records the division maintains for any purpose the act authorizes to the same state and federal confidentiality requirements that govern other DMR client records.

EFFECTIVE DATE: Upon passage

§ 115 — VALIDATION OF DCF COMMISSIONER NOMINATION AND APPOINTMENT

The act permits the Executive and Legislative Nominations Committee and the House of Representatives to take action on the governor's nomination of a candidate for DCF commissioner during the June 2007 Special Session, outside of statutorily mandated timeframes. The law:

1. requires the governor, with the advice and consent of either house of the General Assembly, to appoint department heads (e.g., commissioners) before March 1 of the first year of her term (CGS § 4-6) and
2. establishes confirmation procedures that depend on when a vacancy occurs (CGS § 4-7). If a vacancy occurs while the General Assembly is in regular session, the governor must nominate a replacement within 30 days and the house to which the vacancy is submitted must immediately refer it to the Executive and Legislative Nominations Committee, which must hold a hearing on the nomination and report a resolution within 10 legislative days.

Specifically, the act authorizes the committee to hold a public hearing and report on the nomination by resolution. It allows the House of Representatives to consider the resolution by emergency certification. If it validly adopts the resolution, the act validates and confirms its actions.

EFFECTIVE DATE: Upon passage

§ 116 — SITING ELECTRIC TRANSMISSION LINES

The law establishes a presumption that a proposal to build an overhead electric transmission line of 345 kilovolts or more in residential areas or near certain facilities is inconsistent with the purposes of the Siting Council law. It allows the firm proposing to bid the line to rebut this presumption by showing that it is technically infeasible to bury the line. The act requires the council, in determining whether it is infeasible to bury the line, to consider whether the cost of any contemplated technology or design configuration could result in an unreasonable economic burden on the state's ratepayers. Under federal law, a transmission line developer can appeal to the Federal Energy Regulatory Commission if a state siting agency approves a transmission line, but imposes conditions that make the line too costly.

EFFECTIVE DATE: July 1, 2007

§ 117 — TECHNICAL

The act makes a technical change.
EFFECTIVE DATE: July 1, 2007

§ 118 — SAGA MEDICAL BENEFITS

PA 07-2, June Special Session makes an exception to a statutory prohibition on State-Administered General Assistance (SAGA) medical assistance program ancillary or specialty services exceeding the services provided under the program on July 1, 2003. It allows nonemergency medical transportation and vision care services to be provided for a limited duration.

The act instead allows SAGA to provide these nonemergency medical transportation and vision care services on a limited basis within available appropriations.
EFFECTIVE DATE: July 1, 2007

§ 119 — SCHOOL DISTRICT ROLE IN HUSKY AWARENESS

PA 07-2, June Special Session requires local school boards to provide to all parents and guardians information on state-sponsored health insurance programs for children, regardless of their child's insurance status. The act limits the districts' obligation to offer the information to parents and guardians whose children are identified as uninsured.
EFFECTIVE DATE: July 1, 2007

§ 120 — THIRD PARTY LIABILITY IN MEDICAID

The act makes a technical, grammatical change.
EFFECTIVE DATE: July 1, 2007

§ 121 — SALES TAX EXEMPTION FOR CERTAIN MEALS

The act exempts meals sold from both honor boxes and coin-operated vending machines. The vending machine exemption previously covered "food products." Although most food is not taxable, certain food products, such as soda, candy, cookies, and cakes, are subject to sales tax unless they are sold from a vending machine. In addition, meals are taxable. By law, a "meal" is food furnished, prepared, and served in a form and in a portion that is ready to eat, including take-out meals that are packaged and wrapped.

An "honor box" is typically an unattended box where customers deposit money for items they buy.
EFFECTIVE DATE: July 1, 2007 and applicable to sales on or after that date.

PA 07-5, June Special Session—HB 8006
Emergency Certification

AN ACT CONCERNING MINOR AND TECHNICAL CHANGES TO CERTAIN SPECIAL SESSION AND REGULAR SESSION PUBLIC ACTS

SUMMARY: This act enacts unrelated provisions dealing with unemployment benefits for military spouses, nonpartisan legislative employees' compensation, below-cost cigarette sales, Medicaid reimbursements, payments to dairy farmers, and the use of biomass in electric generating plants. It also makes substantive, technical, and conforming changes to acts passed during the regular session and acts passed earlier in the special session that implement the budget.

A section-by-section analysis appears below.
EFFECTIVE DATE: Various, see below.

§§ 1-3 — STATE-ASSISTED HOUSING SUSTAINABILITY FUND

The act changes a provision in PA 07-4, June Special Session (JSS) regarding the State Assisted Housing Sustainability Fund. PA 07-4, JSS required the Department of Economic and Community Development (DECD) to adopt procedures to implement the fund and the awarding of grants and loans for emergency repairs, relocation costs, and other items. The act requires DECD to adopt regulations rather than procedures. It also expands the scope of the regulations to include (1) the State Assisted Housing Sustainability Advisory Committee and (2) physical needs assessment grants.

The act requires the advisory committee to advise the DECD commissioner and CHFA on the adoption of regulations.

The act gives DECD until October 1, 2009 to submit final regulations to the Regulation Review Committee. While in the process of adopting regulations, DECD must adopt written policies and procedures, which will be valid until the regulations become effective. DECD must print a notice of intention to adopt regulations in the *Connecticut Law Journal* no later than 20 days before implementing the policies and procedures.

It also makes technical changes.

EFFECTIVE DATE: Upon passage

§ 4 — LOCAL PLANS OF CONSERVATION AND DEVELOPMENT

By law, municipalities must prepare or amend plans of conservation and development at least once every 10 years. If they do not, the municipality's chief elected official must send a letter to the Office of Policy and Management (OPM) secretary and the transportation, economic and community development, and environmental protection commissioners explaining why the plan was not amended.

PA 07-239 requires that a copy of this letter be included in each municipal application for discretionary funding submitted to any state agency, rather than just applications submitted to the four officials for funding real property conservation or development. This act specifies that the requirement applies just to applications for discretionary state funding, instead of all discretionary funding. PA 07-239 makes a municipality that has not met the plan update requirement ineligible for such funding unless the OPM secretary expressly waives this provision.

EFFECTIVE DATE: July 1, 2010

§ 5 — PUBLIC HOUSING AUTHORITIES

The act makes a technical correction.

EFFECTIVE DATE: Upon passage

§ 6 — OPM STUDY

PA 07-4, JSS requires OPM to report to legislative committees by January 15, 2008 analyzing the impact on budgeted state agencies of:

1. raising the juvenile delinquency and Family With Service Needs (FWSN) Program age limits to 18 and restructuring detention options for serious juvenile repeat offenders under age 18;
2. establishing and operating family support centers and staff-secure facilities for FWSN children; and
3. implementing the (a) extended guardianship program, (b) court transcript fee increase, and (c) trafficking in persons contracting provisions, as provided in other sections of that act.

This act eliminates the analysis and reporting requirements for the FWSN program and for the third group of items listed above.

EFFECTIVE DATE: Upon passage

§§ 7-10 — CERTIFIED COMPETITIVE VIDEO SERVICE

The act makes conforming tax changes to PA 07-253, which allowed telecommunications companies to provide video services and subjected the affected companies to the same gross earnings tax as cable TV companies pay. That act subjected cable TV companies to less extensive regulation if a telecommunications company begins offering service in their franchise areas or if a cable TV company enters another company's franchise area. PA 07-253 specified that the cable TV company is still subject to the gross earnings tax even if it is subject to competition from a telecommunications company. This act similarly specifies that a cable TV company is still subject to the gross earnings tax if it enters another cable TV company's franchise area. It subjects unpaid taxes to interest and penalties for all of the companies providing video services, which go into an account used to support public access and educational TV established by PA 07-253.

The act also makes the tax used to fund this account payable quarterly, rather than annually.
EFFECTIVE DATES: Upon passage

§§ 11, 12 – ENERGY CONSERVATION

The act makes conforming changes in the Neighborhood Assistance Act to reflect a provision of PA 07-242, which (1) increases, from 60% to 100%, the maximum credit against business taxes for a firm's investments in energy conservation projects in low-income housing developments or properties occupied by charitable organizations and (2) establishes a 100% credit for energy conservation investments in properties owned, but not occupied by, these organizations. (Investments in buildings occupied by the organizations were already eligible.)
EFFECTIVE DATE: Upon passage

§§ 13-15 — FILM INDUSTRY TAX CREDIT CHANGES

PA 07-236 establishes new tax credits for film infrastructure investments and digital animation production expenses and makes several changes in the existing credit for film production expenses. That act requires the Commission on Culture and Tourism (CCCT), which administers all three credits, to issue tax credit vouchers to eligible companies and, once the vouchers are issued, limits the state's power to audit or review the expenses on which they are based. This act makes conforming changes to the audit and review limits in PA 07-236 to substitute the CCCT for the revenue services commissioner as the entity that issues the tax credit vouchers. It also makes technical changes.
EFFECTIVE DATE: Upon passage

§ 16 — CHILDREN'S HOSPICE PILOT PROGRAM

The act extends, from September 20, 2007 to September 20, 2009, Sunshine House, Inc.'s pilot program to create a comfort center for children with a limited life expectancy and their families.
EFFECTIVE DATE: Upon passage

§§ 17 & 61 — UNEMPLOYMENT BENEFITS FOR MILITARY SPOUSES

The act makes eligible for unemployment compensation benefits an employee who voluntarily leaves his or her job to accompany a spouse who is required to relocate while on active duty with the United States armed forces. It applies only to those who leave their job between July 1, 2007 and June 30, 2008. Furthermore, it establishes that an employer's unemployment taxes will not be directly affected by an employee who files a claim under the act's provisions.

By law, in most cases an employee who voluntarily leaves work through no fault of the employer is not eligible for unemployment compensation. Some current exceptions to this include when an employee leaves a job to (1) care for a seriously ill child, spouse, or parent living with the employee or (2) protect himself or herself or a child living with the employee from continued or threatened domestic violence.

The act also requires the labor commissioner to submit quarterly reports on the effect of providing unemployment benefits for military spouses to certain legislative committees and the OPM secretary. The first report is due by January 1, 2008. They must be submitted quarterly until June 30, 2009.

The reports must include (1) data on the number of quits compensated under the spousal provision and (2) a description of the cost to the Unemployment Compensation Fund. They must be submitted to the Appropriations, Labor, and Veterans' Affairs committees.
EFFECTIVE DATE: October 1, 2007, except the reporting requirement is effective upon passage.

§ 18 — NONPARTISAN PAYMENTS

The act removes a ban on lump sum payments to nonpartisan employees of the General Assembly. It permits the award of a bonus payment for meritorious service, based on office directors' annual performance appraisals, to employees who have reached the maximum salary for their job classification. Any such payment, which must be made in accordance with an incentive plan the Joint Committee on Legislative Management or its personnel policies subcommittee establishes, is not considered a salary increase.
EFFECTIVE DATE: Upon passage

§ 19 — BIODIESEL DISTRIBUTORS

PA 07-4, JSS creates a variety of incentives for biodiesel producers and distributors. This act specifies that distributors can receive grants only to help them buy equipment or construct, modify, or retrofit biofuel facilities. Under PA 07-4, JSS, the distributors were eligible for grants for other purposes.
EFFECTIVE DATE: Upon passage

§§ 20-21 — BACKGROUND CHECKS FOR SCHOOL VEHICLE DRIVER APPLICANTS

PA 07-224 requires the Department of Motor Vehicles (DMV) commissioner, before issuing a commercial driver's license with a school bus or school transportation vehicle (STV) endorsement, to check each applicant against the Department of Children and Families' (DCF) state child abuse and neglect registry. That act allows the DMV commissioner to refuse endorsements to applicants listed on the registry as perpetrators of abuse. This act also (1) requires the DCF commissioner to give DMV copies of records, without the person's consent, to allow DMV to check the registry for applicants for school bus and STV license endorsements and (2) makes technical changes.
EFFECTIVE DATE: Upon passage

§§ 22-24 — CIGARETTE DISTRIBUTORS SELLING OR BUYING BELOW COST

The act increases the administrative and criminal penalties for cigarette distributors who sell or buy cigarettes below cost if the intent is to injure competitors or to destroy or substantially lessen competition. The law presumes that "cost" includes a mark-up based on the types of businesses selling and buying the cigarettes. By law, the commissioner of the Department of Revenue Services, which licenses cigarette distributors and dealers, may administratively impose license suspensions, license revocations and fines as follows:

1. for a first offense, a license suspension of at least seven days and a fine of up to $10,000;
2. for a second offense within five years, a license suspension of at least 30 days and a fine of up to $25,000; and
3. for a third offense within five years, license revocation and a fine of up to $50,000.

A distributor is also subject to a criminal penalty of a fine of up to $1,000 for a first offense, up to $5,000 for a second offense, and up to $10,000 for subsequent offenses. The act adds an additional $1,000 fine for each carton of cigarettes sold or bought in violation of the prohibition to both of the existing administrative and criminal penalties.

The act also creates another enforcement mechanism by making a violation an unfair trade practice. By doing so, it authorizes the consumer protection commissioner to 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. Under the Unfair Trade Practices Act, 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.
EFFECTIVE DATE: January 1, 2008

§ 25 — MEDICAID REIMBURSEMENT FOR CERTAIN CHILDREN'S HOME HEALTH SERVICES

PA 06-188 required the Department of Social Services (DSS) commissioner to provide reimbursement under the HUSKY A program for services for children a home health care agency provides either in the child's home or a substantially equivalent environment, which can include a child day care center or after-school program. The act instead requires DSS, to the extent federal law permits, to provide reimbursement through the Medicaid program, but only for physical, occupational, and speech therapy these agencies provide in these settings. HUSKY A is one of several Medicaid categories under which children get medical coverage. For example, children with severe physical disabilities could alternatively be enrolled in the Katie Beckett Medicaid waiver program.

Federal Medicaid regulations (1) define home health services as those provided to recipients in their place of residence and (2) specify that hospitals, nursing facilities, and intermediate care facilities for the mentally retarded are not residences.
EFFECTIVE DATE: Upon passage

§ 26 — MEDICARE PART D SUPPLEMENTAL NEEDS FUND

PA 07-2, JSS limits annual expenditures for Medicare Part D nonformulary drugs that the state's Supplemental Needs Fund pays for to the amount appropriated for that purpose in PA 06-186 ($5 million). This act eliminates the spending limitation. But the law continues to specify that assistance from the fund is subject to available funds.
EFFECTIVE DATE: Upon passage

§ 27 — CHEFA BOARD OF DIRECTORS

The act expands the eligibility requirements for Connecticut Health and Educational Facilities Authority members appointed in their capacity as trustees, directors, officers, or employees of higher education or health care institutions in the state by permitting them to be retired or currently serving. Prior law required them to be currently serving.
EFFECTIVE DATE: Upon passage

§ 28 — LEADERSHIP IN ACTION PROGRAM FUNDING

For FYs 08 and 09, the act allows up to $100,000 per year from appropriations for the Early Childhood Education Advisory Cabinet to be used to support the Annie E. Casey Foundation's Leadership in Action Program. The program trains people from diverse fields and backgrounds, including agency managers, educators, business people, nonprofit leaders, public officials, parents, and child advocates to focus on achieving a specific result, such as reducing the number of low birth-weight babies or increasing the number of children ready for kindergarten.
EFFECTIVE DATE: Upon passage

§ 29 — PAYMENTS TO DAIRY FARMERS

The act authorizes the agriculture commissioner to compensate dairy farmers operating in Connecticut, in a manner he determines, for low milk prices they received between January 1and December 31, 2006. The commissioner must (1) make the payments from available appropriations and (2) calculate them based on the amount of milk each farmer produced during this time.
EFFECTIVE DATE: Upon passage

§§ 30-31 & 33-38 — TECHNICAL CHANGES

The act makes technical changes to public acts enacted during the 2007 regular session.

§ 32 — GOLD STAR FAMILY LICENSE PLATES

PA 07-167 creates a Gold Star Family license plate that can be issued to the immediate family members of Connecticut service members killed in the line of duty. This act changes the criterion to state residents killed in action while performing active military duty with the armed forces (defined by law as the U.S. Army, Navy, Marine Corps, Coast Guard, and Air Force and any of their reserve components and the Connecticut National Guard performing duty under Title 32 of the U.S. Code (e.g., certain homeland security missions)).
EFFECTIVE DATE: Upon passage

§§ 39-41 — EMINENT DOMAIN

PA 07-141 makes many changes to the laws towns must follow when taking property to eliminate blight and prepare an area for redevelopment. This act makes technical changes to those sections of PA 07-141 requiring a development agency's governing body to approve each taking, allowing property owners to ask the Superior Court to enjoin a taking, and establishing owners' right of first refusal.
EFFECTIVE DATE: Upon passage

§ 42 — HEARSAY EXCEPTION

PA 07-143 creates an exception to Connecticut's hearsay rule for statements of children under age 13 about sexual or physical assault committed against them by someone with authority or apparent authority over them. It requires courts to accept these statements as evidence in criminal, juvenile, or civil proceedings under certain circumstances. This act eliminates the requirement for courts to accept these statements in civil proceedings.
EFFECTIVE DATE: Upon passage

§ 43 — VISION SCREENING FOR DRIVERS' LICENSE RENEWALS

Prior law required, beginning July 1, 2007, that the motor vehicle commissioner screen the vision of every licensed driver before every second license renewal. It allowed the commissioner, in lieu of conducting the screening, to accept the results of a vision screening conducted by a licensed and qualified health care professional within the 12 months preceding license renewal. The law prohibited the commissioner from renewing a driver's license unless the applicant passed the vision screening.

PA 07-167 repealed these vision screening requirements. This act restores the prior law and changes the requirements' start date to July 1, 2009.
EFFECTIVE DATE: October 1, 2007

§ 44 — USE OF UNALLOCATED SCHOOL READINESS FUNDS

The act restores a provision, eliminated in PA 07-3, JSS, that allows the education commissioner to use funds appropriated for noncompetitive school readiness grants for supplemental grants to other eligible towns, among other things.

Under both PA 07-3, JSS and this act, the commissioner can also use the unallocated funds for:

1. assisting local school readiness programs in meeting and maintaining accreditation requirements;
2. providing training in implementing the preschool curriculum frameworks and developing a statewide preschool curriculum;
3. developing assessments for kindergarten, first, and second grade students;
4. developing and implementing best practices for parents in supporting preschool and kindergarten student learning and for children to transition from preschool to kindergarten; and
5. providing for professional development.

EFFECTIVE DATE: Upon passage

§ 45 — MAGNET OPERATING GRANTS

The act sets the maximum grant interdistrict host-magnet schools can receive for any student from another district at the same rate that the law allows for students from another district that supplies more than 55% of a host-magnet school's enrollment. The per student grant amounts are:

FY 08	$6,016
FY 09	6,730
FY 10	7,440
FY 11	8,158

Prior law did not provide a grant for students from participating districts that supplied less than 55% of the school's enrollment.

The act also requires all (host and regional education service center) magnet school operating grants to be proportionately adjusted within available appropriations, if necessary. It prohibits the distribution of grants in excess of the magnet school program's reasonable operating budget after other revenue sources are deducted.

Finally, the act makes any magnet program operating between half- and full-time eligible to receive 65% of the grant that it would receive if it were operating as a full-time program.
EFFECTIVE DATE: Upon passage

§ 46 — TRANSPORTATION TO VOCATIONAL-TECHNICAL SCHOOLS

The act changes the vocational-technical school transportation cost ceiling for school districts from the ECS foundation amount to $6,000 per student. PA 07-3, JSS increased the ECS foundation amount from $5,891 to $9,687 per student, starting in FY 08.

By law, local and regional school boards must pay reasonable and necessary transportation costs to allow their students to attend vocational-technical schools. The state reimburses districts for such costs under its school transportation grant, with costs up to $800 per pupil reimbursed at the regular rate of zero to 65% and costs over $800 reimbursed from 20% to 85%, depending on wealth.
EFFECTIVE DATE: Upon passage

§ 47 — SUPPLEMENTAL PRIORITY SCHOOL DISTRICT FUNDS DISTRIBUTION

The act extends an FY 07 allocation of $2,610,798 in additional priority school district (PSD) grants to the three largest school districts (Bridgeport, Hartford, and New Haven) for two years, through FY 09.

It also reduces the total funding for a supplemental PSD grant to all priority districts from $6 million to $4,750,990 per fiscal year. By law, the State Board of Education must allocate a share of these supplemental funds to each priority district in proportion to its regular PSD grant. The money is in addition to all other PSD grants each district receives.
EFFECTIVE DATE: Upon passage

§ 48 — CURRENT PROGRAM EXPENDITURES PER RESIDENT STUDENT

The act eliminates a separate calculation for "current program expenditures per resident student" for towns that are members of K-12 regional school districts. "Current program expenditures per resident student" is one of three factors used to calculate each town's ECS minimum budget requirement (MBR) under PA 07-3, JSS. This change makes all three MBR factors town-based. The other factors are per capita wealth and percentage of students who score below proficiency on state mastery tests.

The act also makes two technical, conforming changes.
EFFECTIVE DATE: Upon passage

§ 49 — HARTFORD INTERDISTRICT ALL-DAY KINDERGARTEN GRANTS

The act extends indefinitely the education commissioner's ability to provide grants for Hartford students to participate in an all-day kindergarten program under the Open Choice interdistrict school attendance program. The grants can be used to pay for before- and after-school care and remedial services for the kindergarten students in the program as well as for subsidies to receiving districts. Under prior law, the program would have expired June 30, 2007.
EFFECTIVE DATE: Upon passage

§ 50 — SDE SCHOOL READINESS ADMINISTRATION

The act allows the State Department of Education (SDE) to continue to retain up to $198,200 of the annual total school readiness grant appropriation for coordination, program evaluation, and administration through FY 09.
EFFECTIVE DATE: Upon passage

§ 51 — EARLY READING SUCCESS COMPETITIVE GRANTS

The act increases the amount of the annual appropriation for early reading success competitive grants from the FY 07 level of $1,788,001 to $ 1,850,000 and extends the grant through FY 09. It continues to limit the maximum amount SDE may use for administering the grants to $353,646 per year.
EFFECTIVE DATE: Upon passage

§ 52 — FY 08 ECS INCREASE DEFERRAL OPTION

PA 07-3, JSS allows towns, by September 15, 2007, to ask the education commissioner to defer part of their ECS aid increases for FY 08. If the commissioner approves, deferred amounts must be added to the town's FY 09 grant. This act overrides provisions of any state law, local charter, special act, or home-rule ordinance to allow towns to ask for the deferrals and repeals a similar but broader provision of PA 07-3, JSS (see below § 73).
EFFECTIVE DATE: Upon passage

§ 53 — ECS PHASE-IN FOR FY 08

PA 07-3, JSS phases in full funding of new ECS grants. For FY 08, that act requires each town to receive the ECS grant it was eligible to receive in FY 07 ("base aid") plus 17.31% of the difference between that and its fully funded grant, but no less than a 4.4% increase in base aid. This act requires the state to adjust the 17.31% percentage for all towns to accommodate the cost of the minimum 4.4% increase within the budgeted ECS appropriation for FY 08.
EFFECTIVE DATE: Upon passage

§ 54 — USE OF EXCESS CHARTER SCHOOL FUNDS

The act expands the permitted uses of any excess charter school funds to include paying expenses incurred (1) in the creation of a CommPACT school or (2) by SDE to ensure continuity of a charter school, when a competent court requires it. SDE must consult with the OPM secretary in allocating the funds for CommPACT school expenses.

Under existing law, if the amount appropriated for the charter school grants exceeds the amounts set by law, SDE must increase the per-student grant proportionately, but by no more than $70 per student. If funds remain after the proportionate increase, SDE must use them for supplemental grants to interdistrict magnet schools or to pay for a portion of the required random charter school audit.
EFFECTIVE DATE: Upon passage

§ 55 — ENERGY IMPROVEMENT DISTRICTS

PA 07-242 allows municipalities to establish energy improvement districts. It grants the districts a number of powers, including issuing revenue bonds, and exempts the bonds and the income from them from taxes. This act subjects the bonds and the income they produce to the estate and succession taxes and subjects the interest on the bonds to excise and franchise taxes.
EFFECTIVE DATE: Upon passage

§ 56 — REPLENISHMENT OF CLEAN ENERGY AND ELECTRIC CONSERVATION FUNDS

This act defines several terms used in PA 07-1, JSS (the budget act) with regard to the replenishment of state's Clean Energy Fund and the electric companies' conservations funds. Several years ago, the legislature diverted to the General Fund part of the revenue that would have otherwise gone into these funds. To reduce the impact of the transfer, the legislature authorized the issuance of "state rate reduction bonds" backed by future revenue from the conservation and renewable energy charges on electric bills. PA 07-1, JSS appropriates $85 million from the FY 07 budget to defease or buy back the bonds that mature after December 30, 2007, or a combination of these measures. Seventy-five percent of the revenue resulting from this measure (net of the state's expenses in paying off bonds) must go into the conservation funds and 25% must go into the Clean Energy Fund. This act defines "state rate reduction bonds," "operating expenses," and several related terms. These definitions are virtually identical to those in PA 07-242, which the governor vetoed.
EFFECTIVE DATE: Upon passage

§ 57 — CONNECTICUT HIGHER EDUCATION TRUST ANNUAL REPORT

The act delays the deadline for the state treasurer to submit her annual financial report on the Connecticut Higher Education Trust (CHET) from October 15 to December 31. CHET is Connecticut's state-sponsored college savings plan. By law, the report must cover CHET's operations for the previous fiscal year, including receipts, disbursements, assets, investments, and liabilities. The report goes to the governor and the CHET Advisory Committee and is available to CHET depositors and designated beneficiaries.
EFFECTIVE DATE: Upon passage

§ 58 — USE OF BIOMASS IN ELECTRIC GENERATING PLANTS

The act temporarily broadens the types of power plants where construction and demolition (C&D) waste and certain other biomass products can be used as a fuel and the resulting power considered a class I renewable resource. By law, electric companies must get part of their power from class I renewable resources. Under prior law, for power generated from biomass to be eligible to be considered a class I renewable resource (1) the biomass product had to be turned into a gas which was then burned to produce power at a plant that received funding from the Clean Energy Fund before May 1, 2006 or (2) the energy derived from the biomass had to have been the subject of a long-term power purchase entered into

before that date. The act additionally allows the biomass products to be used in any renewable energy facility certified as a class I resource by the Department of Public Utility Control until the department certifies that the plant funded by the Clean Energy Fund is operational and able to accept the biomass products. In addition to C&D waste, the affected biomass products are organic refuse fuel derived from municipal solid waste; finished biomass products from sawmills, paper mills, or stud mills; and biomass from old growth timber stands.
EFFECTIVE DATE: Upon passage

§ 59 — COMPENSATION FOR BILLBOARDS ACQUIRED BY DOT

The act modifies the compensation the Department of Transportation (DOT) must pay when it acquires a billboard or other outdoor advertising structure. Under PA 07-141 and PA 07-207, the amount of compensation depends on whether the structure's owner is able to relocate it within the same metropolitan area within one year.

Under prior law, if the owner (1) was able to obtain all of the state and local permits to relocate the structure to a new site within one year of DOT's acquisition and (2) was not previously offered the site, the DOT commissioner had to pay (1) the replacement cost of the old structure plus (2) the structure's fair market value less the fair market value of the new site. The act instead sets the second component of this amount at the fair market value of the old structure less the fair market value of the structure at the new site. It requires using the income capitalization method to determine the value of the old structure, rather than the value of the new site. This method values a property based on the amount of income it generates.

Under prior law, if the owner (1) could not obtain the permits within one year of DOT's acquisition or (2) was previously offered the site, the DOT commissioner had to pay a different amount. This amount was the replacement cost plus the fair market value of the old structure. The act eliminates the requirement that the commissioner pay the replacement costs and requires the fair market value of the structure be determined by the income capitalization method.

Under both scenarios, the act allows the commissioner and the owner to agree to extend the one-year period.

Under prior law, the commissioner had to pay the owner's relocation costs in any case. The act instead requires the commissioner to pay the relocation costs or the amounts described above. However, federal law (42 USC § 4601 et seq.) requires the payment of relocation costs if the acquisition is federally funded, as is typically the case in DOT projects. In addition the federal and state constitutions require the state to pay just compensation when it takes property.
EFFECTIVE DATE: Upon passage and applicable to property acquired on and after that date (October 6, 2007)

§ 60 — UCONN HEALTH CENTER STUDY

The budget act (PA 07-1, JSS) requires the Office of Legislative Management to contract with the Connecticut Academy of Science and Engineering (CASE) for a needs-based analysis of the UConn Health Center's facilities plan. This act requires CASE to conduct its analysis in consultation with the Office of Health Care Access.
EFFECTIVE DATE: Upon passage

§ 61 — UNEMPLOYMENT BENEFITS FOR MILITARY SPOUSES

See section 17 above.
EFFECTIVE DATE: Upon passage

§ 62 — DISTRIBUTION OF EXTRA TOWN ROAD AID

Instead of allowing the funds to lapse, the act requires the DOT to distribute funds for extra town road aid for FYs 07 through 09. The funds, which were appropriated in the 2005 and 2007 budget acts, must be distributed to towns in proportion to their shares of regular town road aid.
EFFECTIVE DATE: Upon passage

§ 63 — UCONN EMINENT FACULTY RECRUITMENT PROGRAM

The act requires UConn to raise at least $2 million from industry and other sources before it can spend any state dollars for its program to recruit eminent faculty and their research staffs. To meet this requirement, UConn's president must certify to the OPM secretary that it or the university's foundation received written commitments from these sources for at least this amount. Prior law allowed UConn to spend state dollars if outside funds were available to match to state dollars.

The law requires UConn to recruit faculty to accelerate applied research and development in a way that supports the state's economic development and promotes core competence areas. It must do this by supplementing faculty compensation and related costs. Eligible scientists must have demonstrated excellence in their research fields, want to work collaboratively with other UConn scientists, and be interested in commercializing their research.
EFFECTIVE DATE: Upon passage

§ 64 — ENVIRONMENTAL EVALUATION OF QUARRYING ON NEW BRITAIN-OWNED WATER COMPANY LAND

The act requires the Department of Public Health (DPH), within 90 days after the act takes effect (October 6, 2007), to commission and supervise an independent third-party environmental evaluation of the potential effects of allowing New Britain to change city-owned Class I water company land to Class II to allow the lease of about 131.4 acres (the "0 Biddle Pass" in Plainville) for quarrying stone and other minerals. DPH must commission the evaluation within available resources and approve the independent evaluator.

The act specifies the minimum factors and effects the evaluation must analyze. These include (1) the likely environmental impacts of such change of use on local hydrology, forest ecology, and wetlands systems; (2) long-term water supply needs for New Britain as well as interconnected and reasonably feasibly interconnected water companies in the geographic region surrounding the areas New Britain's water system supplies; (3) likely safe yield increase to New Britain's water reservoir system that could be supplied by the change of use; (4) the change's likely impact on raw reservoir water quality; (5) steps available to minimize environmental impacts from the proposed change of use; and (6) a summary conclusion comparing the environmental impacts and potential environmental and water supply benefits.

The act requires the DPH commissioner to review the evaluation with respect to DPH's water-related jurisdiction in order to give the New Britain Water Department guidance on the best management practices the evaluation identifies to protect the public water supply and public health.

Within 90 days after the act's effective date, the DPH commissioner must give the Department of Environmental Protection (DEP) commissioner the evaluation's results. The DEP commissioner must review and comment on the evaluation within 90 days after receiving it. By March 1, 2008, the DPH commissioner must submit the results of the evaluation and the departments' reviews and recommendations to the Public Health Committee.

The act specifies that its provisions do not affect requirements under the state water resources laws or any other applicable law for obtaining permits before beginning any activities on the land.

(The act repeals a provision of PA 07-244 (§ 6) that allows New Britain to change the use of some of its water company-owned lands to allow for extraction of stone or other materials from the Plainville acreage through a leasing process as part of a contract with New Britain as a party (see § 73 of this act.))
EFFECTIVE DATE: Upon passage

§ 65 — NEWTOWN CONVEYANCE CORRECTION

The act corrects the property description reference in PA 07-11 for a 1.23-acre conveyance in Newtown from the Department of Public Works to the town. The property is to be used for municipal purposes.
EFFECTIVE DATE: Upon passage

§ 66 — OPERATION FUEL

The act requires Operation Fuel, Inc. to establish a one-time grant program in 2007 for low-income people with high utility bill arrearages. The program must provide one-time grants of up to $1,000 based on the customer's arrearage and income level. The grants can be used only for arrearages that are up to 24 months old. The program must also provide case management services such as budget counseling and help with utility payment programs.

The act allocates the following amounts from the FY 07 General Fund surplus appropriation in PA 07-1, JSS to OPM for "Implement Energy Initiatives":

1. $2.5 million for the arrearage forgiveness program,
2. $1.75 million to expand Operation Fuel, and
3. $750,000 for Operation Fuel's infrastructure.

The governor vetoed the sections of PA 07-242 containing these provisions.
EFFECTIVE DATE: Upon passage

§ 67 — PROFESSIONAL COUNSELORS

Existing law requires a person seeking licensure as a professional counselor to have (1) completed 60 hours of graduate school work in counseling-related areas; (2) earned a master's or doctoral degree in social work, marriage and family therapy, counseling, psychology, or a related mental health field from an accredited higher education institution, and a sixth-year degree in counseling; (3) acquired 3,000 hours of postgraduate degree supervised experience in professional counseling performed over at least one year; and (4) passed a DPH-prescribed exam.

The act eliminates the sixth-year degree requirement.

EFFECTIVE DATE: Upon passage

§ 68 — APPROPRIATION CHANGES

The act transfers funds appropriated in the budget act (PA 07-1, JSS) as follows:

1. $250,000 in each of FYs 08 and 09 for the Amer-i-can Program from the Department of Correction to the Department of Education and
2. $250,000 FY 07 carried forward for a Hartford Arena study from the Commission on Culture and Tourism to the Capital City Economic Development Authority.

The act expands the purpose of a $300,000 appropriation to DECD in each of FYs 08 and 09 for the Spanish American Merchants Association (SAMA), from the "SAMA Bus Windham" to "SAMA Windham."

The act also corrects a typographical error in the budget act.

EFFECTIVE DATE: Upon passage

§ 69 — CONNECTICUT CENTER FOR ADVANCED TECHNOLOGY (CCAT)

The act makes the requirement that the CCAT extend the services it provides through its Center for Supply Chain Integration to more businesses effective on the date of passage of this act (October 6, 2007), rather than October 1, 2008.

EFFECTIVE DATE: Upon passage

§ 70 — SCHOOL READINESS PER-CHILD LIMIT

Prior law limited the per-child cost of the SDE's school readiness program component to $6,925 for FY 07 and subsequent fiscal years. The act extends this limit only through December 2007. For January 2008 and each subsequent month, it requires SDE to increase the limit to a level it determines can be funded with 50% of the estimated unspent FY 08 appropriation for school readiness spaces as of June 30, 2008, but not more than $8,266 per child. SDE must estimate the projected lapse on January 1, 2008.

The act does not specify a per-child funding limit for FY 09 or subsequent years.

EFFECTIVE DATE: Upon passage

§ 71 — GRANTS FOR OPEN CHOICE STUDENTS IN THE SHEFF REGION

The act allows the education commissioner, within available appropriations, to provide grants for preschool, kindergarten, and academic support programs for students participating in the Open Choice interdistrict attendance program in the Sheff Region. The commissioner must approve the programs receiving the grants.

The act defines the "Sheff Region" as the following 22 towns:

Avon	Ellington	Newington	West Hartford
Bloomfield	Farmington	Rocky Hill	Wethersfield
Canton	Glastonbury	Simsbury	Windsor
East Granby	Granby	South Windsor	Windsor Locks
East Hartford	Hartford	Suffield	
East Windsor	Manchester	Vernon	

EFFECTIVE DATE: Upon passage

§ 72 — CONSULTATIONS ON ADDITIONAL MAGNET SCHOOLS IN THE SHEFF REGION

The act requires the education commissioner to consult with the boards of trustees of public and private higher education institutions and constituent units, and with nonprofit organizations that will serve students in the Sheff Region

(see § 71 above) to initiate collaborative planning for establishing additional interdistrict magnet schools. The commissioner must approve any nonprofit organizations that participate.
EFFECTIVE DATE: Upon passage

§ 73 — REPEALER

"Reach Out and Read" Grants

The act repeals a requirement that SDE administer grants to pediatric care providers to promote early childhood literacy in health care settings. PA 07-3, JSS required the grants to match federal and private funds for:

1. promoting early literacy as a standard part of well-child medical visits for children between the ages of six months and five years;
2. buying appropriate new children's books to distribute during visits;
3. training new pediatric care providers, and maintaining all such providers' proficiency, in how to promote early childhood literacy; and
4. making health clinics and medical office waiting rooms more conducive to learning to read by using volunteer readers and providing other opportunities to surround children with oral language, books, or print.

Town ECS Carryover Provision

The act repeals a section of PA 07-3, JSS that overrides provisions of any state law, local charter, special act, or home-rule ordinance to require local and regional school districts to carry unspent ECS grant funds remaining at the end of any fiscal year forward to the next fiscal year (see § 52).

New Britain Water Company Land Lease

The act repeals a provision of PA 07-244 that allows New Britain to change the use of some of its water company-owned lands to allow for extraction of stone or other materials from defined acreage in Plainville through a leasing process that is part of a contract with New Britain as a party.
EFFECTIVE DATE: Upon passage

PA 07-6, June Special Session—SB 1501 **(VETOED)**
Emergency Certification

AN ACT AUTHORIZING AND ADJUSTING BONDS OF THE STATE FOR CAPITAL IMPROVEMENTS AND FOR TRANSPORTATION INFRASTRUCTURE IMPROVEMENTS AND CONCERNING STATE CONTRACTING REFORM

SUMMARY: This act authorizes state general obligation (GO), special tax obligation (STO), and revenue bonds. It authorizes a net total of $3.15 billion in GO bonds for FY 08 and FY 09, plus an additional $1.076 billion in GO bonds for a 10-year infrastructure improvement program for the Connecticut State University System ("CSUS 2020") that starts July 1, 2009. The GO bond authorizations for FY 08 and FY 09 provide funding for state agency capital projects and grants for local and regional capital projects, including local school construction projects, economic and community development projects, the Local Capital Improvement Program (LOCIP), and farmland preservation. The act also cancels, reduces, and reallocates authorizations from past years.

The act authorizes $850 million in (STO) bonding for FY 08 and FY 09 to pay for transportation-related projects, including a "Fix-It-First" program repairing state roads and bridges, Department of Transportation (DOT) capital improvement and highway resurfacing projects, and new and refurbished rail cars. The act also adds several programs and initiatives to the list of strategic transportation projects already authorized for funding, replaces the planned New Haven Line $1 per-trip surcharge with a schedule of fare increases, and establishes a transit-oriented development pilot program and related programs, among other things.

The act authorizes $575 million in revenue bonds for FY 08 and FY 09. Of this amount, $550 million funds loans to municipalities for clean water projects and $25 million funds a new Municipal Pension Solvency Loan Program.

The act revamps the state's contracting process by establishing a State Contracting Standards Board (SCSB) as an independent Executive Branch state agency. It gives the board various responsibilities associated with the state

contracting processes, including reviewing, monitoring, and auditing state contracting agencies' procurement processes. It requires all state contracts that take effect after its passage to contain provisions to ensure accountability, transparency, and results-based outcomes, as the board prescribes. The act requires the Legislative and Judicial branches and the state constitutional officers to establish their own procurement codes by January 1, 2011.

The act establishes a procedure for privatizing state contracts, including a requirement for cost-benefit analyses and business cases. It also requires the Department of Administrative Services (DAS) to maintain a single electronic portal for posting most contracting opportunities in the state.

Finally, the act revises temporary changes adopted in PA 07-5, JSS in qualifying criteria for use of biomass in electric generating plants.

EFFECTIVE DATE: Upon passage for FY 08 bond authorizations and July 1, 2008 for FY 09 authorizations. Other sections are effective on passage unless otherwise specified.

§§ 1-39 — GO BOND AUTHORIZATIONS

§§ 1-7 & 20-26 – State Agency Capital Projects

The act authorizes up to $369,604,739 for FY 08 and $347,380,361 for FY 09 for the state agency capital projects listed in Table 1.

Table 1: Bond Authorizations For State Agency Capital Projects

Agency/§	*Purpose/Project*	*FY 08*	*FY 09*
Legislative Management §§ 2(a), 21(a)	Genius of Connecticut statue - completion and installation	$360,000	$0
	Legislative Office Building – renovation and expansion	5,000,000	0
	Old State House, Hartford - alterations, renovations, and improvements	1,450,000	1,450,000
Comptroller §§ 2 (b), 21(b)	CORE financial systems project	960,000	1,115,000
Revenue Services § 2(c)	Integrated tax system	2,950,000	0
Special Revenue § 2(d)	Electrical system upgrades, Newington	220,000	0
Information Technology §§ 2(e), 21(c)	Connecticut Education Network	4,100,000	0
	Alternate data center – planning	2,500,000	0
	Information technology systems - compliance with the Health Insurance Portability and Accountability Act	6,310,500	6,310,500
Veterans' Affairs §§ 2(f), 21(d)	Cost and feasibility study of future uses for health care facility at Rocky Hill Veterans' Home	250,000	0
	Buildings and grounds - alterations and improvements	1,000,000	1,000,000
Public Works § 2(g), 2(e)	State buildings - asbestos removal and encapsulation	6,000,000	6,000,000
	State-owned buildings – repairs, improvements, and preservation of unoccupied buildings	8,000,000	6,000,000
	New state office building – planning, taking into consideration transit-oriented development principles	1,000,000	0
	Fire training schools - construction, improvement, repairs, and land acquisition	10,000,000	10,000,000
	State-owned & leased surface parking lots in Hartford – develop and implement plan to reduce number	200,000	0
Public Safety § 2(h), 2(f)	State-wide telecommunications system upgrades	2,250,000	3,200,000
	Buildings & grounds – alterations and improvements	2,000,000	1,500,000
	Building 5, Mulcahy Complex, Meriden – alterations, renovations, & improvements	750,000	6,826,000
	Forensics Lab, Meriden – addition	2,180,000	0
	Emergency services facility, including canine training & vehicle impound area	1,688,000	0
	Programmatic study of State Police troops and districts;	250,000	600,000

Agency/§	Purpose/Project	FY 08	FY 09
	develop design prototype for troop facilities		
	Simsbury shooting range - improvements	1,750,000	0
Motor Vehicles § 2(i)	Information technology system upgrades	17,000,000	0
Military §§ 2(j), 21(g)	Matching funds for federal reimbursable projects	750,000	750,000
	Buildings and grounds – improvements and alterations	500,000	500,000
	Regional force protection training facility - construction	1,000,000	0
	Air National Guard Base, Bradley Airport – alterations, renovations, and improvements	0	500,000
Fire Prevention and Control § 2(k)	Buildings and grounds – alterations and improvements	500,000	0
Emergency Management & Homeland Security §§ 2(l), 21(h)	Buildings and grounds – alterations and improvements	450,000	700,000
Environmental Protection §§ 2(m), 21(i)	Recreation and Natural Heritage Trust Program – recreation, open space, resource protection and management	7,500,000	7,500,000
	Dam repairs	2,000,000	2,000,000
	Flood control improvements	10,000,000	10,000,000
	Fort Griswold Battlefield State Park, Groton – restore monument and surrounding walls, gates, and walkways	500,000	0
	State roads in East Hartford – drainage study	250,000	0
	Extend boardwalk from Walnut Beach to Silver Sands State Park and create handicapped access to Walnut Beach	125,000	0
	West Rock Ridge State Park – acquire property	0	1,000,000
Culture & Tourism § 2(n)	Prudence Crandall Museum, Carter House Visitor Center – alterations, improvements, renovations	500,000	0
CT Agricultural Experiment Station §§ 2(o), 21(j)	Jenkins Laboratory – alterations, improvements, renovations	1,300,000	11,960,000
	Facilities – alterations, improvements, renovations, including new construction at Griswold	500,000	0
Public Health § 2(p)	New public health lab - development and related costs	38,285,900	0
Mental Retardation §§ 2(q), 21(k)	Regional facilities – fire, safety, and environmental improvements for client and staff needs	5,000,000	5,000,000
Mental Health and Addiction Services §§ 2(r), 21(l)	Regional facilities – fire, safety, and environmental improvements for client and staff needs	6,000,000	6,000,000
	Patient care information technology system upgrade	4,700,000	0
Education §§ 2(s), 21(m)	American School for the Deaf, buildings and grounds – renovations, improvements, new construction, and portable classrooms	1,300,000	0
	Vocational-technical schools – upgrades, alterations and improvements; equipment, tools and supplies; and vehicles and technology	10,000,000	10,000,000
COMMUNITY-TECHNICAL COLLEGE SYSTEM §§ 2(t), 21(n)			
All Colleges	Facility alterations, improvements, and renovations	5,000,000	4,000,000
	New and replacement instruction, research, or lab equipment	9,000,000	9,000,000
	System Technology Initiative	6,000,000	6,000,000
Manchester	Campus improvements	2,609,500	0
Northwestern	Joyner Building – alterations, improvements, and renovations	705,708	0
Gateway	Consolidate programs in one location	21,504,000	36,600,000
Three Rivers	Consolidate campus according to master plan – renovations and additional facilities	8,071,531	0

Agency/§	*Purpose/Project*	*FY 08*	*FY 09*
Norwalk	Roof repairs	450,000	0
Northwestern	Nursing and allied health programs – infrastructure development and improvements	340,000	0
Tunxis	Buildings and grounds - alterations and improvements according to master plan	0	19,118,861
CONNECTICUT STATE UNIVERSITY SYSTEM §§ 2(u), 21(o)			
All universities	Instruction, research, lab, physical plant and administrative equipment	10,000,000	10,000,000
	Auxiliary services buildings – alterations, repairs, and improvements	5,000,000	5,000,000
	System telecommunications infrastructure upgrades, improvements, and expansions	3,500,000	2,067,000
	Land and property acquisitions	4,587,000	3,158,000
Central CSU	Facilities – alterations, renovations, and improvements	2,933,000	2,397,000
	Ventilation and air conditioning system improvements	5,227,000	0
	East Campus – infrastructure improvements	5,000,000	0
	New public safety building	5,196,000	0
	New maintenance building and salt storage shed	1,206,000	0
	New classroom and office facility	3,917,000	11,706,000
	Willard and DiLoreto Halls – renovations and improvements and in-fill addition	0	4,198,000
Western CSU	Facilities – alterations, renovations, and improvements	2,780,000	2,545,000
	Fine and performing arts building – development and construction	17,592,000	0
Southern CSU	Facilities – alterations, renovations, and improvements	1,641,000	3,387,000
	New academic building and parking garage - development	6,721,000	11,482,000
Eastern CSU	Facilities – alterations, renovations, and improvements and new campus police station	3,447,000	2,450,000
	New athletic support building	1,921,000	0
	New fine arts building	5,000,000	32,350,000
	Outdoor track, Phase II	1,816,000	0
Correction §§ 2(v), 21(p)	State-owned buildings – renovations and improvements for inmate housing, programming and staff training space, and additional inmate capacity	10,000,000	42,095,000
Children and Families §§ 2(w), 21(q)	Buildings and grounds - alterations, renovations, and improvements	1,785,600	2,415,000
	Self-contained, secure treatment facility for girls	11,000,000	0
	Former Long Lane School, Middletown – reimburse for environmental remediation	5,000,000	14,000,000
	High Meadows - alterations, renovations, and improvements, including new dormitory and activity center	7,000,000	0
Judicial §§ 2(x), 21(r)	State-owned and maintained buildings - alterations, renovations, and improvements	5,000,000	5,000,000
	State-owned and maintained buildings – security improvements	1,000,000	1,000,000
	Technology Strategic Plan - implementation	5,000,000	3,500,000
	Torrington courthouse	25,275,000	0
	New Bridgeport courthouse	5,000,000	0
	Parking garage, Lafayette St., Hartford – renovations and improvements	4,000,000	0
	Development and land acquisition for courthouse annex and parking near the Milford judicial district and GA courthouse	2,000,000	1,000,000
	Current and future space needs study at Manchester GA	50,000	0

Agency/§	Purpose/Project	FY 08	FY 09
	courthouse		
	Alterations and improvements to existing facilities related to age jurisdiction change	4,000,000	0
	Courthouse at 121 Elm St., New Haven – alterations, renovations, and restoration	0	13,000,000

§§ 8-11 & 27-30 – Housing Projects

The act authorizes up to $11 million in GO bonds for FY 08 and $10 million for FY 09 for the Department of Economic and Community Development (DECD) for housing projects. It reserves up to $1 million of the FY 08 authorization for lead abatement and remediation in public housing projects.

§§ 12-19 & 31-38 – Grants for Local and Regional Projects and Purposes

The act authorizes up to $306,004,000 for FY 08 and up to $146,150,000 for FY 09 in GO bonds for grants by specified state agencies for local, regional, and other projects and purposes listed in Table 2.

The grants are subject to state contracts. For grants to entities that are not state subdivisions, the contracts must require that, if within 10 years after the grant date, the premises for which the grant was made are no longer used for grant purposes, the entity must repay the grant amount minus 10% for each full year that has elapsed since the grant date. The state must place a lien on the land to ensure payment, unless the premises are owned by the state, a municipality, or a housing authority.

Table 2: Grants For Local And Regional Projects And Purposes

Grantee (s)	For	FY 08	FY 09
Office of Policy and Management §§ 12(a), 32(a)			
Municipalities	Preparing and revising municipal plans of conservation and development	$1,000,000	$1,000,000
	Responsible Growth Incentive Fund	5,000,000	10,000,000
	Enhance Geospatial Information System – data collection, use and mapping, and grants to regional planning agencies	400,000	0
	Planning and developing a web-based information system allowing all criminal justice and related agencies to access case files	1,000,000	0
Department of Public Safety §§ 12(b), 32(b)			
Litchfield	Firehouse construction - Northfield	1,000,000	0
Quinebaug Valley Emergency Communications Center	Emergency communications equipment	2,950,000	0
Somers	2 fire substations	500,000	500,000
Hartford	Public safety complex and regional emergency management center	1,500,000	0
West Haven – Allingtown Fire District	New fire and police substation - land acquisition and construction	2,000,000	2,000,000
Montville	Convert old town hall to a police station	800,000	0
North Stonington	Firehouse improvements	250,000	0
West Haven – West Shore Fire District	Improvements	250,000	0
Burlington	Firehouse improvements	100,000	0
Department of Agriculture §§ 12(c), 32(c)			
	Farm Reinvestment Program	500,000	500,000
Farmers	Matching grants for environmental compliance	2,000,000	2,000,000

Grantee (s)	For	FY 08	FY 09
Farmers, agricultural nonprofit organizations, and farm cooperatives	Biofuel Crops Program - for cultivating and producing crops used to generate biofuels	1,000,000	2,500,000
	Farm Reinvestment Program	500,000	500,000
Department of Environmental Protection §§ 12(d), 32(d)			
Municipalities	Acquire open space for conservation and recreation	7,500,000	7,500,000
	Containment, removal, or mitigation of identified hazardous waste disposal sites	17,500,000	17,500,000
CT Resources Recovery Authority	Costs associated with closing Hartford landfill	3,000,000	12,000,000
Hartford	Flood control system improvements	15,000,000	0
	Lake Restoration Program • Lake Beseck, Middlefield - $100,000 per year • Pattagansett Lake, East Lyme - $200,000 per year	1,000,000	650,000
Municipalities	Providing potable water	2,500,000	2,500,000
State agencies, regional planning agencies, and municipalities	Water pollution control projects	1,000,000	1,000,000
New Britain	Replacing Brooklawn St. Bridge on Willow Brook	440,000	0
CT Institute of Water Resources	River basins study	500,000	0
Greenwich	Remediate brownfields at Cos Cob Power Plant site	2,000,000	0
Naugatuck	Long Meadow Brook – improvements, including riverside access	93,000	0
North Branford	Develop Swatchuk property for active and passive recreation	500,000	0
Thomaston	Extend water main in Jackson St. area	2,000,000	0
Sprague	Dam repairs and sewage treatment plant improvements	1,000,000	0
New London	Ocean Beach Park repairs	1,500,000	0
Environmental Learning Center, Inc.	Indian Rock Nature Preserve, Bristol – infrastructure projects	200,000	0
Farnam Neighborhood House	Camp Farnam Reclamation and Revitalization Project, Durham	500,000	0
Simsbury	Acquire open space and preserve farmland at Meadow Wood	300,000	500,000
Guilford	East River Preserve	1,000,000	2,000,000
West Haven	Shoreline improvements – rebuild beach groin, repair beach erosion, replenish sand, and replace pier	1,500,000	0
Bridgeport	Purchase development rights at Veterans' Memorial Park	3,000,000	0
Wolcott	Retire debt associated with water line installation	500,000	0
Enfield	Soil remediation project – Enrico Fermi High School	3,300,000	0
Stonington	Soil remediation – Pawcatuck Dock vicinity	150,000	0
Berlin	New construction and repair of leisure services or maintenance facilities	300,000	0
Manchester	Develop and construct Manchester-to-Bolton section of East Coast Greenway	900,000	0
Milford	Replenish beach	500,000	0
New Haven	Morris Cove storm water drainage system improvements	1,000,000	0
Orange	Purchase Ewen Farm	750,000	0
Rte. 11 Greenway Authority	Land acquisition	1,000,000	0

Grantee (s)	For	FY 08	FY 09
Commission			
Simsbury	Infrastructure improvement – Tariffville section	200,000	0
Danbury	Acquire Terre Haute property in Bethel for open space	2,000,000	0
Shoreline Greenway Trail, Inc.	Match federal funds for building a trail from Lighthouse Point in New Haven harbor to Hammonasset State Park in Madison	665,000	0
Meriden	Flood control improvements and reuse of Meriden Hub	10,000,000	0
Norwalk	Flood control system improvements	3,255,000	0
Fairfield	Rooster River flood control project	17,000,000	0
Trumbull	Great Oak Park – open space and trail development	50,000	0
South Windsor	Purchase or construction of regional animal shelter	500,000	0
Preston	Demolish former Poquetanuck School	250,000	0
Montville	Sewage treatment facility infrastructure improvements and upgrades	6,000,000	0
Homeowners in Beverly Hills section of New Haven and in Woodbridge	Structurally damaged homes from subsidence in the immediate vicinity of West River	2,000,000	0
Portland	Replace water mains	1,000,000	0
Cromwell	Sewer repairs	500,000	0
Norwalk	Harbor dredging	0	1,000,000
Simsbury	Acquire open space at Ethel Walker School	0	1,000,000
Commission on Culture and Tourism §§ 12(e), 32(e)			
	Restore and preserve historic structures and landmarks	300,000	300,000
Greenwich	Bruce Museum – renovate existing or construct new exhibition areas, teaching spaces, and the science gallery	1,500,000	0
Norwalk	Maritime Aquarium – defray financial obligations incurred for Environmental Science Center construction	500,000	0
Stepping Stones Museum for Children, Norwalk	Expand facility	500,000	0
Vernon	Vernon Historical Society Museum in Vernon Grange Building – ADA improvements and repair and restore exterior siding and windows	283,000	0
Westport Historical Society	Retire outstanding debt	600,000	0
Kidcity Children’s Museum, Middletown	New building	1,000,000	0
Norwich Free Academy	Slater Memorial Museum – ADA improvements, including an elevator	1,000,000	0
Lyme Art Association	Renovate gallery building in Old Lyme	100,000	0
Discovery Museum, Bridgeport	Infrastructure renewal and expansion projects	1,000,000	0
Norwalk Seaport Association	Infrastructure renewal projects	500,000	0
Darien Arts Center	Infrastructure renewal projects	50,000	0
Amistad America, Inc.	Freedom Schooner Amistad - repairs	250,000	250,000
Holcomb Farm, Granby	Restore and renovate buildings	100,000	0
Westport	New construction at Levitt Pavilion for the Performing Arts	1,000,000	0
Milford Historical Society	Restore and renovate historic property	50,000	0
Hamden	Restore Eli Whitney 1816 barn	390,000	0
West Haven	Restore historic property for military museum	750,000	1,000,000

Grantee (s)	*For*	*FY 08*	*FY 09*
Gallery 53, Meriden	Structural improvements	50,000	0
Chatham Historical Society, East Hampton	Replace roof	50,000	0
Barnum Museum Foundation, Inc.	Renovations at Barnum Museum, Bridgeport	1, 250,000	0
Artists' Collective, Inc., Hartford	Infrastructure repairs and improvements	800,000	0
Willimantic	Restore historic properties along Main St.	650,000	0
Stanley L. Richter Association for the Arts, Inc., Danbury	Roof repair, expansion, and ADA improvements	150,000	150,000
New England Air Museum, Windsor Locks	Construct swing space storage building and education building	3,500,000	0
East Hampton	Restore and renovate Goff House	100,000	0
New Haven Museum and Historical Society	Restore and reconstruct Pardee Morris House	500,000	0
Antiquarian & Landmarks Foundation	Nathan Hale Museum and Family Homestead Development Plan, Coventry	1,000,000	0
CT Zoological Society	Plan and develop the Andes Adventure Exhibit at Beardsley Zoo, Bridgeport	1,000,000	0
West Hartford Historical Society	Restore and renovate Noah Webster House	100,000	0
Park Road Playhouse, West Hartford	Facility improvements, including infrared system to aid hearing impaired, fire code compliance, HVAC modification, and new sound system	25,000	0
Mystic	Museum of America and the Sea at Mystic Seaport - improve transportation access at north gate	0	1,000,000
Lockwood-Mathews Mansion Museum, Norwalk	Infrastructure renewal projects	0	1,000,000
Torrington	Warner Theater Stage House – development and construction	0	1,000,000
Department of Economic and Community Development §§ 12(f), 32(f)			
	Southeastern Connecticut Economic Diversification Revolving Loan Fund	5,000,000	5,000,000
	Regional Brownfield Redevelopment Loan Fund	2,500,000	2,500,000
Four municipalities	Brownfield pilot program	5,000,000	5,000,000
Connecticut colleges and universities or state agricultural research institutions	Biofuel Production Facility Incentive Program	1,100,000	6,000,000
	Fuel diversification grant program (PA 07-4, JSS, § 61)	2,500,000	0
	Loans for installing new alternative fuel pumps or converting gas or diesel pumps to dispense alternative fuels	1,000,000	2,000,000
Middlesex County Revitalization Commission	Revitalization projects	1,000,000	0
Stafford	Downtown redevelopment	500,000	0
Torrington	Downtown redevelopment	575,000	0
Ansonia Development Corporation	Downtown development projects	500,000	0
Bridgeport	Planning and implementing Upper Reservoir Avenue Corridor Revitalization Initiative Project	250,000	0
Fairfield County Housing Partnership	Independent living facility in Bridgeport - land acquisition, design, development, and construction	1,000,000	0
New Haven	River Street development project	2,800,000	2,800,000
New Britain	Downtown redevelopment plan – property acquisition, design development, and construction	1,000,000	1,000,000

Grantee (s)	For	FY 08	FY 09
New Britain	New Britain Stadium – new scoreboard, production equipment and related software, and repairs and upgrades to suites	500,000	0
Vernon	Convert Roosevelt Mill to apartments and retail	1,000,000	500,000
Southington	Southington Drive-In renovations	250,000	0
Oxford	Oxford Industrial Park Road improvements	600,000	0
Milford	Silver Sands Parkway – streetscape improvements, lights in front of Jagoe Court	500,000	0
Hamden	Whitneyville Center streetscape improvements	390,000	0
Manchester	Broad Street streetscape project	2,000,000	2,000,000
Hill Development Corporation, New Haven	Housing rehabilitation and repairs	500,000	0
Meriden	West Main Street streetscape project	2,500,000	0
Hartford	Park Street streetscape project	1,700,000	3,000,000
Bridgeport	Madison Avenue Gateway Revitalization streetscape project	3,000,000	0
Hartford	Bridge over Park River	500,000	0
Bridgeport	Black Rock Gateway project	1,000,000	1,000,000
Fairfield	Repair and improve State Road 59 between North and Capitol Avenue intersections, including median and sidewalk renovations	1,000,000	0
Bridgeport	Water taxi, dock construction, and construction of Pleasure Beach retractable pedestrian bridge	4,000,000	0
Bridgeport	Congress Street Bridge – design and construction	5,000,000	0
Bridgeport Port Authority	Derecktor Shipyard -improvements, remediation, dredging, bulkheading, and building shipyard economic development plan, Phase 2	5,000,000	0
Bridgeport	Bluefish Stadium improvements	500,000	0
Southington	Road relocation, utility upgrades, new service facilities, and other improvements related to Lake Compounce Water Park expansion	3,500,000	0
	(1) Purchase, rehabilitation, or demolition of severely damaged homes in Newhall neighborhood, Hamden or (2) grant to Hamden for such purposes	2,000,000	3,000,000
Hartford Economic Development Corporation	North Hartford community revolving loan fund	1,000,000	0
Hartford	Planning and design of streetscape improvements in North Hartford area and along Main Street corridor	500,000	0
Norwalk Transit District	Renovations, upgrades, technology improvement, lighting, and new security system related to pulse point safety and security enhancements	153,000	0
Bridgeport	Repair and improve State Road 59 between North and Capitol Avenue intersections, including median and sidewalk renovations	1,000,000	0
Milford Housing and Redevelopment Partnership	Maintain and improve partnership's housing stock	1,500,000	0
Goodwin College, East Hartford	Expand and relocate Goodwin College	9,000,000	9,000,000
Lyme Academy of Fine Arts, Old Lyme	Infrastructure improvements	250,000	0
Bethel	Downtown redevelopment and municipal parking improvements	500,000	0
Hamden	Acquire and install hydrogen fueling station	250,000	0
Cross Sound Ferry, Inc. and Thames	Dredging and facility renovations	2,000,000	0

Grantee (s)	*For*	*FY 08*	*FY 09*
Shipyard Repair, New London			
Brooklyn	Implement Internet pilot program	200,000	0
Wethersfield	Silas Deane Highway economic development and infrastructure improvements	1,000,000	0
Hartford	Wethersfield Ave. façade improvements	500,000	0
Neighborhoods of Hartford, Inc.	Hartford Rising Star Blocks and Pride Blocks programs	500,000	0
Farmington	Complete portion of a trail in Rails to Trails	65,000	0
Portland	Sidewalk repairs	200,000	0
Newington	Community center	1,000,000	0
Stratford	Streetscape improvements	450,000	0
Somers Housing Authority	Woodcrest facility – rehabilitate and expand senior housing	0	1,000,000
East Haven	Phase III downtown development	0	1,000,000
Department of Public Health § 12(g)			
	Hospital-based emergency service facilities: • Hospital of Central Connecticut - $1,500,000 • Griffin Hospital - $500,000 • Johnson Memorial Hospital - $1,000,000 • Backus Hospital - $1,000,000 • Norwalk Hospital - $1,000,000 • Midstate Medical Center, Meriden - $1,000,000	6,000,000	0
Milford	New community health center in Westshore area – design and construction	150,000	0
Stamford Hospital Foundation	Purchase digital mobile mammography unit	1,000,000	0
Community Health Center, Inc.	Groton facility – renovations and improvements	500,000	0
Community Health Center, Inc.	New London facility – renovations and improvements	1,500,000	0
KB Ambulance Corporation	Building addition and alterations, Danielson	765,000	0
Department of Mental Health and Addiction Services § 12(h)			
Bridges of Milford	Property acquisition and facility expansion	1,000,000	0
Rushford Behavioral Health Services, Meriden	Renovations and roof replacement	800,000	0
Department of Social Services §§ 12(i), 32(g)			
Bristol Community Organization, Inc.	Buy building to expand Head Start program	425,000	0
Brookfield	Expand senior center, including computer equipment	500,000	0
New Opportunities, Inc.	Slocum Child Center, Waterbury – renovate classrooms and administrative space	700,000	0
New Opportunities, Inc.	Human Services Center, Waterbury – new heating system	300,000	0
Prudence Crandall Center, Inc.	Rose Hill Center, New Britain – building renovations	1,000,000	0
Saugatuck Senior Cooperative, Westport	Replace roof	250,000	0
New London	Alliance for Living, Inc. – remediate asbestos and replace siding on building	100,000	0
Easton	Senior center - renovations	250,000	0
Good Shepherd Day Care Center,	Construction and LEED certification requirements	350,000	0

Grantee (s)	*For*	*FY 08*	*FY 09*
Milford			
Action for Bridgeport Community, Inc.	Acquire and renovate property for early learning center	1,200,000	0
Interfaith Cooperative Ministries of New Haven	Aging-at-home pilot program in Hamden	100,000	0
American Red Cross, Meriden/Wallingford Branch	Building renovations, including ventilation, plumbing, and wiring system alterations	50,000	0
New Britain	Acquire building associated with food pantry	150,000	0
Hospice Southeastern Connecticut	New building in Norwich	1,000,000	0
Mi Casa, Hartford	Renovate and acquire equipment for wellness center	350,000	0
New London County 4H Foundation, Inc.	4H Club, Franklin - renovations	250,000	0
Bridge Family Centers, Inc.	Develop and renovate administrative space in West Hartford	150,000	0
Casa Bienvenida	Acquire property in Waterbury	3,000,000	0
Rivera Hughes Memorial Foundation	Acquire property in Waterbury	1,000,000	0
Jewish Community Center of Eastern Fairfield County	Facility upgrades, asbestos, removal, and HVAC replacement	1,000,000	0
Polish American Foundation	Sloper Wesoly House, New Britain - renovations	100,000	0
Martin House, Norwich	Build efficiency apartments	0	1,000,000
Department of Education §§ 12(j), 32(h)			
Municipalities, regional school districts, and regional education service centers (RESCs)	Wiring school buildings	3,000,000	3,000,000
School readiness programs	Minor capital improvements and wiring for technology	2,000,000	2,000,000
Challenger Learning Center of Southeastern Connecticut	Construct building	1,000,000	0
Waterford Country School	Build gymnasium	1,000,000	0
Stratford	Stratford High School – new boilers	500,000	0
Municipalities, regional school districts, and RESCs	Purchase and install security infrastructure, including surveillance cameras, entry door buzzer systems, scan cards, and panic alarms	5,000,000	0
State Library §§ 12(k), 32(i)			
Public libraries not located in distressed municipalities	Construction, renovation, expansion, energy conservation, handicapped accessibility	5,000,000	5,000,000
Public libraries located in distressed municipalities	Construction, renovation, expansion, energy conservation, handicapped accessibility	5,000,000	5,000,000
North Branford	Edward Smith Library of Northford – renovations and additions	500,000	0
Somers	Expand Somers Library	500,000	0
Vernon	George Maxwell Memorial Library, Rockville – ADA compliance improvements, including an elevator	550,000	0
Branford	Blackstone Library	500,000	0
Waterbury	Silas Bronson Library - improvements	0	1,500,000
Department of Children and Families § 12(l)			
Children's Home of Cromwell	Infrastructure renewal and renovation	400,000	0
Pathway-Senderos Teen Pregnancy Prevention Center, New Britain	Acquire new facility	1,200,000	0

Grantee (s)	For	FY 08	FY 09
Child Guidance Center of Southern Connecticut, Stamford	Expansion	2,000,000	0
Youth Continuum, New Haven	Renovations and code improvements	500,000	0
The Grounds, Inc.	Plan and develop new facility in West Hartford	30,000	0
Miscellaneous Grants §§ 12(m) & (n), 32(j)			
Connecticut Public Broadcasting, Inc.	Buy and upgrade transmission, broadcast, production, and information technology equipment	5,000,000	0
Connecticut Innovations, Inc. (CII)	Recapitalize CII programs • Capital expenses associated with the Biobus - $1,500,000 for FY 08	15,000,000	15,000,000

§ 39 – Exemption from Grant Repayment Requirements

The act exempts First Step or its successor agency from liability for repaying a grant from the Department of Mental Health and Addiction Services authorized and awarded under SA 01-2, JSS and required under a contract dated June 22, 2004. The special act authorized up to $4 million for the department for grants-in-aid to private, nonprofit organizations for alterations and improvements to various facilities. The authorization was effective July 1, 2002.

§§ 40-61 —STATUTORY BOND AUTHORIZATIONS

§§ 40-43 & 46-53 — Increased Authorizations for Various Agencies and Purposes

The act increases statutory bond authorization limits for various statutory grants and purposes and allocates new bonding for these purposes for FY 08 and FY 09 as shown in Table 3. It authorizes up to $1,005.4 million in GO bond for FY 08 and $903.4 million for FY 09. It also authorizes $275 million in revenue bonds each year for Clean Water Fund loans.

Table 3: Statutory Bond Authorizations For FY 08 & FY 09

§	Agency	Purpose/Fund	FY 08	FY 09
40	Office of Policy & Management	Economic and community development project grants (Urban Act)	$30,000,000	$30,000,000
41	Office of Policy & Management	Small Town Economic Assistance Program (STEAP)	20,000,000	20,000,000
42	Treasurer	Capital Equipment Purchase Fund	40,000,000	28,000,000
43	Office of Policy & Management	LOCIP	30,000,000	30,000,000
46	Education	Charter school capital expenses	5,000,000	5,000,000
47	Education	School construction projects	705,000,000	603,000,000
48	Education	School construction interest subsidy grants	14,400,000	16,400,000
49	Agriculture	Farmland preservation	5,000,000	5,000,000
50	Environmental Protection	Clean Water Fund grants	110,000,000	110,000,000
51	Environmental Protection	Clean Water Fund loans (revenue bonds)	275,000,000	275,000,000
52	Economic and Community Development	Manufacturing Assistance Act	45,000,000	45,000,000
53	Environmental Protection	Special Contaminated Property Remediation and Insurance Fund	1,000,000	1,000,000

§ 44 — Housing Trust Fund Authorization

The law allows the State Bond Commission to authorize up to $20 million per year over five years (FY 06 to FY 10) to capitalize the Housing Trust Fund. The act increases (1) the maximum GO bond authorization for the fund for FY 09 by $10 million, from $20 million to $30 million and (2) the fund's total maximum capitalization by $10 million, from $100 million to $110 million.

The Housing Trust Fund was established to expand affordable housing opportunities for low- and moderate-income homeowners.

§ 45 — Charter School Facility Grants

The act extends, through FY 09, the State Department of Education's authority to provide grants, within available bond authorizations (see Table 3 above), to help charter schools:

1. renovate, build, buy, extend, replace, or carry out major alterations in their facilities;
2. (a) replace windows, doors, boilers and other heating and ventilation system components, internal communication systems, lockers, and ceilings; (b) upgrade restrooms; (c) replace and upgrade lighting; or (d) install security equipment; and
3. repay debt incurred for school building projects.

The act eliminates a requirement that charter schools use state funds for debt repayment only to repay debt incurred before July 1, 2005.

By law, the education commissioner, in selecting schools to receive grants, must give preference to those that provide matching funds from nonstate sources.

§ 52 — Groton Sub Base and Connecticut Center For Advanced Technology

Of the $90 million it authorizes for the Manufacturing Assistance Act, the act (1) increases by $40 million (from $10 million to $50 million) the amount earmarked for grants to the U.S. Navy or other eligible applicants to enhance the infrastructure at the Groton submarine base for long-term, ongoing naval operations and (2) reserves $2 million for a grant to the Connecticut Center for Advanced Technology for manufacturing initiatives, including aerospace and defense.

§§ 54 & 59-61 — 21st Century UConn

The act extends UConn's capital improvement campaign, known as 21st Century UConn, by one year. It reduces the annual caps on the amount of state-backed bonds the UConn board of trustees can issue in FY 08 through FY 14, increases the cap for FY 15, and extends the program through 2016 as shown below in Table 4.

Under prior law and the act, any difference between the amount actually issued in any year and the cap can be carried forward to any succeeding fiscal year. Financing transaction costs can be added to the caps.

Table 4: Annual Bond Limits for 21st Century UConn

FY	*Prior Limit (in millions)*	*New Limit (in millions)*	*Change (in millions)*
08	$120.0	$115.0	($5.0)
09	155.0	140.0	(15.0)
10	160.5	140.5	(20.0)
11	161.5	146.5	(15.0)
12	138.1	123.1	(15.0)
13	129.5	114.5	(15.0)
14	126.5	111.5	(15.0)
15	90.9	100.0	9.1
16	N.A.	90.9	0

§ 55 — Construction Grants for Public Libraries

The act doubles the State Library Board's maximum grant for public library construction projects (from $500,000 to $1 million) for project applications submitted on or after September 1, 2007. As under prior law, the grants pay for one-third of the total cost of each approved project on the board's priority list, up to the maximum grant. The grants are subject to available appropriations.

§ 56 — Municipal Pension Solvency Loan Program

The act authorizes up to $25 million in bonds to fund the municipal pension solvency loan program established by PA 07-204. PA 07-204 established the program to lend money to municipalities for their unfunded employee pension liabilities, but failed to include a specific bond authorization. The act also eliminates a redundant requirement that the state treasurer determine the bond terms and conditions in the best interests of the state. This requirement is already part of the state's general bond act.

§ 57 — Matching Grants for Commercial Freight Rail Lines

The act authorizes up to $15 million in GO bonds to the DOT for FY 09 to provide competitive matching grants for commercial freight rail lines operating in Connecticut. Recipients must use the grants to improve, repair, and modernize existing rails, rail beds, and related facilities. The act requires the DOT commissioner to adopt regulations to implement the grant program.

§ 58 — Financial Assistance to Torrington

By law, the General Assembly must approve state assistance to any applicant or business project that exceeds $10 million in any two-year period. In 2004, the General Assembly approved up to $30 million in bond-funded grants, loans, loan guarantees, insurance contracts, investment, or some combination of these forms of assistance to restore and improve property in Torrington.

This act (1) changes the name of the assistance recipient from Downtown Torrington Redevelopment LLC to Torrington Development Corporation and (2) allows the DECD to provide the assistance between the act's effective date and June 30, 2009, instead of between July 1, 2001 and June 30, 2007.

§§ 62-103 — STO BOND AUTHORIZATIONS AND TRANSPORTATION PROVISIONS

§§ 62-64 & 92 — Strategic Transportation Project List Additions

Certain specific transportation projects and initiatives are specified by law as "strategic transportation projects" and identified for available funding. This act adds the following projects and initiatives to the strategic project list (referred to as "tier 1" projects):

1. purchasing up to 38 electric rail cars for use on the New Haven Line and Shore Line East commuter rail services;
2. purchasing equipment and facilities to support Shore Line East commuter rail expansion, including implementing phases I & II as recommended in the Department of Transportation (DOT) commissioner's January 1, 2007 report on obstacles to improved service on Shore Line East;
3. improving bicycle access to, and storage facilities at, transportation centers;
4. developing a new commuter rail station in Orange;
5. improving bus connectivity and service, up to $20 million for FY 08, of which (a) up to $14 million must be used to build bus maintenance and storage facilities for the Windham and Torrington regional transit districts (b) up to $5 million must be used to buy and install clean diesel bus retrofits, and (c) up to $1 million must be used to buy vehicles for elderly and disabled demand-responsive transportation programs that participate in the state municipal dial-a-ride matching grant program established by law;
6. funding the Waterbury Intermodal Transportation Center, up to $18 million;
7. funding the state share of Tweed New Haven Airport's Runway Safety Area, up to $1.055 million; and
8. evaluating purchase of rolling stock for direct commuter rail service connecting Connecticut to New Jersey via Pennsylvania Station in New York. The evaluation must be conducted by the governor or her designee initiating formal discussions with appropriate parties from New York, New Jersey, the Metropolitan Transportation Authority, and Amtrak.

The act modifies two projects already approved as priority transportation projects. Instead of developing a new commuter rail station between New Haven and Milford, the act specifies that the new station be in West Haven. It also expands the funding authorization for the Commercial Vehicle Information System Network to include weigh-in motion and electronic pre-clearance of safe truck operators for fixed-scale operations on I-91 (Middletown) and I-95 (Greenwich and Waterford) for up to $4 million.

By law, the transportation commissioner must evaluate and plan implementation for various specified projects (referred to as “tier 2” projects). This already includes improving Routes 2 and 2A in Preston, North Stonington, and Montville. The act requires that, as part of this project, DOT conduct the first phase of a Route 2A bypass alternative that would begin in Preston, proceed northerly toward downtown Norwich, and end at Route 2 in Preston. The first phase of the study must include an analysis of the feasibility, local economic impact, and cost of constructing the portion of the alternative bypass that would pass through the Hinkley Hill area in Norwich. An independent entity that contracts with the DOT must conduct the study’s first phase for which the cost may not exceed $300,000. It must submit the results to DOT, which must submit them to the Transportation Committee by September 30, 2008.

The act also adds to the tier 2 project list the completion of the Day Hill Corridor environmental assessment study. Its cost may not exceed $500,000.

§§ 65 & 66 — “Fix-It-First” Program for State Roads and Bridges

The act authorizes up to $150 million in STO bonds ($75 million in each FY 08 and FY 09) for DOT to establish a “Fix-it-First” program. Up to $30 million of each year’s authorization is earmarked for repairing state roads, with $30 million of that amount earmarked for rehabilitating and rebuilding highways that are not part of the interstate highway system. Up to $45 million of each year’s authorization must be used for repairing state bridges.

The act requires DOT to choose road projects based on traffic volume, condition, and need, with priority given to projects already programmed in out years. It directs DOT to use its FY 08 bridge repair authorization for bridges rated in Category 4 or 5 under the National Bridge Inspection Standards established by federal regulation. (Under the federal rating system, a bridge can be classified from a 9 (excellent) to a 0 (failed) condition. A Category 5 bridge is classified as in “fair” condition. A Category 4 bridge is considered in “poor” condition. Bridges in more deteriorated condition may be classified as in serious, critical, or imminent failure condition.)

Bond funds can also be used for enhancing and improving pedestrian and bicycle access for the road projects and when bridges need to be rebuilt.

By January 1, 2009, DOT must report the program results to the Transportation Committee.

§§ 67-68 & 97-98 — Transit-Oriented Development Projects

Definition. The act changes the definition of "transit-oriented development." Under prior law, it meant the development of residential, commercial, and employment centers within walking distance to public transportation facilities and services in order to facilitate and encourage their use. The act instead defines it as such development within one-half mile or walking distance of public transportation facilities (including rail and bus rapid transit and services) that meet transit-supportive standards for land uses, built environment densities, and walkable environments in order to facilitate and encourage their use.

By law, transit-oriented development is eligible for urban action bonds (CGS § 4-66c), congestion mitigation and air quality grants (CGS § 13b-38v), DECD grants and loans (CGS § 13b-79v), and Connecticut Development Authority loans (CGS § 13b-79w).

DOT Commissioner. The act adds participating in transit-oriented development projects at or near transit facilities, if funds are available, to the transportation commissioner’s general powers, duties, and responsibilities. It permits the commissioner, if funds are available and with the Office of Policy and Management (OPM) secretary’s approval, to participate in such projects to the extent that they result in public transportation facility development or improvement.

The act requires the commissioner to use an open, competitive process to select developers when soliciting transit-oriented development proposals. With the OPM secretary’s approval, the commissioner may waive the competitive selection process if:

1. the developer is an abutting land owner;
2. his or her property is essential to the project; and
3. the commissioner expressly finds that (a) the state’s cost for any property transaction or provision of services does not exceed the fair market value of the property or services and (b) the waiver is in the state’s best interest.

The act requires the State Properties Review Board’s approval for any lease, sale, or purchase of state land or facilities for a transit-oriented development project.

It exempts transit-oriented development projects started under its provisions from state laws that:

1. prohibit the state from selling state land without first giving the municipality where it is located the option to purchase it;
2. set out the approval process for purchasing, selling, or transferring state land; and
3. establish the process DOT must follow for selecting, evaluating, and negotiating with consultants, including selecting the lowest responsible and qualified bidder for work on certain public buildings.

Pilot Program. The act authorizes up to $5 million in GO bonds in FY 08 for DOT to establish a transit-oriented development pilot program. It designates as pilot projects commuter station development (1) in all towns on the New Britain-Hartford Busway, (2) in Windsor and Meriden on the New Haven-Springfield rail line, (3) on the New Haven rail line from West Haven to Stratford, and (4) in New London on the Shore Line East rail line.

The act permits other projects to be designated as transit-oriented development pilot projects if (1) they are identified in law as strategic projects; (2) they are substantially funded by federal, state, or local government; and (3) substantial planning is underway or completed. The act specifies that such projects qualify for pilot funding of between $250,000 and $1 million each if the towns involved have a memorandum of understanding (MOU) involving a regional planning agency.

The act requires that the MOU identify the grant administrator and the participating municipalities and regional planning agencies. It must also include:

1. a work plan;
2. a budget;
3. anticipated work products;
4. geographically defined transit-oriented development zones; and
5. a deadline for completing the project.

The MOU must propose to complete one or more of the following:

1. a transit-oriented development plan or station area development plan;
2. the development or adoption of a transit-oriented development overlay zone;
3. the selection of a preferred development approach;
4. the implementation of a transit-oriented development plan;
5. a market assessment for transit-oriented development plan implementation;
6. a financial assessment and planning for transit-oriented development plan implementation;
7. the preparation of detailed plans for environmental and brownfield remediation, if required; or
8. the preparation of development or joint development agreements.

The act requires OPM to review and approve MOUs. An applicant must submit a proposed MOU to OPM. OPM must (1) review it within 60 days of receiving it, (2) notify the applicant of any deficiencies in it, and (3) permit the applicant to reapply. OPM must also (1) monitor the pilot program grants (see below) to make sure they comply with the MOUs and (2) help any pilot program obtain necessary funding or investments.

Grant Programs. In addition to the pilot program, the act creates a transit-oriented development planning grant program. Planning grants must be available for (1) completing a transit-oriented development plan or station area development plan, (2) developing or adopting a transit-oriented development overlay zone, or (3) preparing a development strategy and selecting a preferred development approach. The act limits planning activities to areas within one-half mile of transit stations.

The act also creates a transit-oriented development facilitation grant program. Facilitation grants must be available for transit-oriented development projects that completed one or more of the following: (1) a transit-oriented development plan or station area development plan, (2) developed or adopted a transit-oriented development overlay zone, or (3) prepared a development strategy and selected a preferred development approach. The act limits facilitation activities to areas within one-half mile of transit stations.

The act allows facilitation grants to be used for one or more of the following:

1. implementing a transit-oriented development plan and overlay zone;
2. performing a market analysis to determine the economic viability of a project;
3. financial planning;
4. analyzing a project's economic benefits, revenue, or expense projections; and
5. preparing (a) environmental assessments and plans for brownfield remediation, (b) infrastructure studies and surveys, (c) requests for development proposals, and (d) development or joint development agreements.

§ 69 — Coordination of Projects in Hartford

The act requires OPM to coordinate all DOT, DECD, and Department of Public Works projects in Hartford to facilitate economic revitalization and promote livability. OPM must do this in consultation with the city and the Capitol Region Council of Governments.

§ 70 — Connecticut Bikeway Grant Program

The act authorizes up to $12 million in GO bonds ($6 million in FY 08 and in FY 09) for the Department of Environmental Protection (DEP) to establish a Connecticut bikeway grants program for municipalities.

Grants may be used for planning, design, land acquisition, construction, construction administration, and publications for bikeways and multiuse paths. Eligible projects may include (1) bicycle trails that complete sections of the Connecticut portion of the East Coast Greenway, (2) bikeways that connect to the East Coast Greenway, and (3) bikeways and multiuse paths established as part of the State Recreational Trails Plan.

Under the act, grant eligibility criteria must include (1) a 20% local match provided by municipal, federal, other state, nonprofit, or private funds; (2) municipal responsibility for bikeway maintenance; (3) public input; and (4) project designs that comply with the 1999 American Association of State Highway Transportation Officials' "Guide for the Development of Bicycle Facilities." If grant applications include more than one municipality, the act requires the local match to be 10% rather than 20%. State grant funds may be used to match federal funds being used for the specified purposes. For purposes of the grant program, a "bikeway" is any road, street, path, or way specifically designated for bicycle travel whether or not it is shared with other modes of transportation.

The act allows DEP to use up to 2% of the bond allocation for administrative purposes. It also requires DEP to establish a committee to advise the commissioner on the allocation of funds. The committee must consist of trail users and advocates the commissioner designates. The act directs DOT to work with DEP in furtherance of the bikeway program.

§ 71 — Bond Authorization for New Haven Line Rail Stations

The act authorizes up to $6 million in STO bonds ($3 million in FY 08 and in FY 09) for DOT to make rail station improvements identified in its October 6, 2006 New Haven Line Train Station Visual Inspection Report.

§ 72 — Bond Authorization for Stamford Parking Garage

The act authorizes up to $35 million in STO bonds in FY 08 for DOT to build a parking garage at the Stamford Transportation Center, including rights-of-way, alternative temporary parking, other property acquisition, and related projects.

§ 73 — Certification by DOT Contractors

The act prohibits the DOT commissioner from approving any payment for construction, alterations, reconstruction, improvements, repairs, or inspection work performed under a DOT contract unless he receives from the contractor, on an approved form, a statement that it has performed the work according to contract specifications. The contractor statements are subject to criminal penalties for 1st degree false statement (a class D felony—See Table on Penalities).
EFFECTIVE DATE: January 1, 2008

§§ 74-85 — Bond Authorizations for Capital Improvement Projects

The act authorizes up to $275.688 million in STO bonds in FY 08 and $173.3 million in FY 09 for DOT's capital improvement program as shown in Table 5.

Table 5: Bond Authorizations For Dot Projects

Authorized Program Areas	*FY 08*	*FY 09*
Interstate highway program	$12,000,000	$12,000,000
Urban systems	8,300,000	8,500,000
Interstate highway program	112,940,000	42,030,000
Soil, water supply, and groundwater remediation at or near DOT maintenance facilities and former disposal areas	6,000,000	6,000,000
State bridge improvement, rehabilitation, and replacement	65,240,000	34,340,000
Reconstruction and improvements to the warehouse and State Pier in New London, including site and ferry slip improvements	1,400,000	300,000
Developing and improving general aviation airports, including grants to municipal airports, but excluding Bradley International Airport	2,000,000	2,000,000
Bus and rail facilities and equipment, including rights-of-way, other property acquisition, and related projects	40,108,000	40,430,000
DOT facilities	6,400,000	6,400,000
Cost of issuing STO bonds and debt service	21,300,000	21,300,000

§§ 86-90 —Highway Resurfacing

The act authorizes up to $59 million in STO bonds in FY 09 for DOT's capital highway resurfacing program. The funds may be issued for road resurfacing and related projects.
EFFECTIVE DATE: May 1, 2008

§ 91 — Route 7 Connector Alternatives

The act requires DOT, within available resources, to report on one or more options for an alternative Route 7 connector from Route 7 in Norwalk to a point not farther north than Route 33 in Wilton. The report must be submitted to the Transportation Committee by December 31, 2008. The options must include:

1. an engineering analysis;
2. the deadline for completing construction;
3. the identification of physical, social, or environmental obstacles;
4. cost estimates; and
5. potential funding sources.

The act requires DOT to consult Norwalk and Wilton and their regional planning agencies in developing the options.

§ 93 — Technical Change

The act makes a technical change.
EFFECTIVE DATE: October 1, 2007

§ 94 — New Haven Line Ticket Surcharge

The act replaces the $1-per-trip ticket surcharge scheduled to be imposed on New Haven Line passenger tickets from January 2008 until June 30, 2015 with a schedule of fare increases. Beginning on January 1, 2010, the act imposes a 1.25% increase on the existing fare for all fares originating or terminating in Connecticut. On the following January 1 and on each January 1 until 2016, it imposes an additional 1% increase over the existing fare for a total of seven annual increases.

Under prior law, the $1-per-trip ticket surcharge revenue had to be deposited in the New Haven Line revitalization account, which is a nonlapsing account within the Special Transportation Fund (STF) that could be used solely for the capital costs of the line's revitalization. The act instead requires the proceeds from the fare increases to be deposited into the account and allows the funds to be used to pay capital costs and debt service the revitalization program incurs. The act eliminates the account's scheduled termination on June 30, 2015 and specifies that funds in the account may be used to purchase rail cars for the New Haven Line in addition to those already authorized by the law.

The act requires the DOT commissioner to determine, and adopt regulations regarding, how to apply the increase to daily, multiple-ride, weekly, and monthly commutation tickets.

§ 95 — Increased Bond Authorization for Rail Cars

The act increases the STO bond authorization for rail cars, maintenance facilities, rights-of-way, other property acquisition, and related projects by $140 million, from $485.65 million to $625.65 million.

§ 96 — Bond Authorization for UConn Transportation Institute

The act authorizes $500,000 in GO bonds in FY 08 for laboratory improvements to UConn's Connecticut Transportation Institute.

§ 99 — Pavement Noise Reduction Pilot Program

The act authorizes $1.5 million in STO bonds in FY 08 for DOT and the UConn Transportation Institute to establish a noise reduction open-graded friction course pilot program. They must (1) build at least four one-mile test sections of rubberized open-graded friction course (i.e., layers of pavement) and (2) monitor the pavement's performance, including its durability and sound reduction, for six years.

By January 1, 2011, the DOT and the Institute must submit a status report on the program to the Transportation Committee. They must submit a final report by January 1, 2015, or earlier if the pilot program concludes before then.

§ 100 — Funding TSB Projects

The act transfers $5.5 million from the STF to the Transportation Strategy Board's (TSB) projects account, which is a nonlapsing account within the STF that may be used for the board's projects. One such project must be a study of the governance and operations of Bradley International Airport. Findings and recommendations from the study must be submitted to the Transportation and Commerce committees by December 31, 2008.

§ 101 — TSB Reporting Requirements

The act requires TSB to review and revise, as necessary, its transportation strategy once every four, rather than once every two, years. Prior law required TSB to submit a report describing its revisions to the General Assembly by January 1 in odd-numbered years. The act instead requires TSB to report by January 1, 2011 and every four years thereafter. The report must include a (1) prioritized list of projects necessary to implement its strategy and (2) completion schedule for all projects.

The law requires the Transportation; Finance, Revenue and Bonding; and Planning and Development committees to meet with the DOT and DECD commissioners, the OPM secretary, and TSB chairperson in the January after the report is filed. The act also requires the Commerce Committee chairpersons and ranking members to attend.

EFFECTIVE DATE: October 1, 2007

§ 102 — Bond Authorization for Atlantic Street Underpass Project

The act authorizes $10 million in STO bonds for DOT to complete the Atlantic Street Underpass Project in Stamford.

§ 103 — Weigh Station Operations Report

As of January 1, 2008, the act requires weigh station personnel to maintain logs for each shift conducted at all weigh stations in Connecticut. The Department of Public Safety (DPS) commissioner must submit a written report that summarizes the information in the logs to the Transportation Committee by January 1, 2008 and semiannually thereafter. Each report must contain data for the preceding six months. The act also requires the commissioner's report to the committee to be posted on the Department of Motor Vehicle (DMV) and DPS websites.

The act requires the weigh station logs, which must be submitted to the public safety commissioner, to record the following information:

1. the location, date, and hours of each shift;
2. the hours the station's "OPEN" sign is illuminated;
3. the number of DMV and DPS personnel for each shift;
4. the number and weight of all of the vehicles inspected;
5. the type of vehicle inspections conducted;
6. the number and types of citations issued;
7. the amount of fines that may be imposed for overweight and other violations;
8. the operating costs for each shift; and
9. the number of vehicles that pass through the weigh station during each shift.

By December 15, 2007, the DPS commissioner, in consulation with the DMV commissioner, must develop and distribute a form for recording this information.

The state operates fixed commercial vehicle weighing and inspection stations on I-84 in Danbury and Union, I-95 in Greenwich and Waterford, and I-91 in Middletown. Both DMV and DPS enforcement personnel operate the facilities. Enforcement personnel also conduct weight and safety inspections away from these fixed facilities using portable scales.

§ 104 — UCONN-RELATED PARKING FACILITIES

The act authorizes up to $27 million in GO bonds to OPM to plan and fund UConn activities-related parking facilities. The act reserves up to $12 million of this amount for facilities in Mansfield and up to $15 million for facilities at Rentschler Field in East Hartford.

The act requires the OPM secretary to implement the project in two phases. Phase I is the Mansfield parking and Phase II is the Rentschler Field parking. The act requires the secretary to submit a status report on the Mansfield phase to the Finance, Revenue and Bonding and Appropriations committees by July 1, 2008 and prohibits him from starting the Rentschler Field phase until each committee approves the report.

The act gives each committee 45 days from the date its clerk receives the Mansfield status report to accept or reject it. The secretary can withdraw or change the report and resubmit it but, in that case, the 45-day clock starts over from the resubmission date. Under the act, a committee that does not act within its allotted time is considered to have approved the report.

EFFECTIVE DATE: July 1, 2007

§§ 105-156 — CHANGES IN PRIOR GO BOND AUTHORIZATIONS

The act changes amounts and purposes of various GO bond authorizations, reallocates previously authorized funds, and cancels certain authorized but unallocated funds as shown in Tables 6 and 7. Overall, these changes constitute a net reduction of $5,464,472 in previous authorizations. (The amended authorization totals in § 123 and § 144 of the act for local grants and other purposes for FY 05 and FY 06, respectively, are incorrect.)

Table 6: Cancellations, Reductions, And Additions

§	*Agency/Grantee*	*For*	*Change*
106	Environmental Protection	Mill Brook-Piper Brook flood control project in Newington & New Britain, including replacing bridges over Piper Brook - Reduced from $815,000 to $375,000	($440,000)
108	Mental Health & Addiction Services	Grants to tax-exempt private nonprofit organizations for community- based residential and outpatient facilities – purchases, repairs, alterations, and improvements, with at least $800,000 for First Step in New London – Reduced from $1.25 million to $677,653	(572,347)
110	Eastern Connecticut State University	Campus security system - Reduced from $550,000 to $523,302	(26,698)
116	Environmental Protection	Residential Underground Storage Tank Replacement Program – Reduced from $5.5 million to $4.25 million	(1,250,000)
120	Public Health	Either (1) purchase and install modular-based portable hospital or (2) provide grant to CT hospital for patient isolation and treatment for smallpox event and grants to CT hospitals for up to 50% of total cost of physical plant modifications and renovations to isolate patients for smallpox – Reduced from $10 million to $9,999,533	(467)
122	Military	Southington Readiness Center alterations, renovations, & improvements – Reduced from $913,300 to $687,540	(225,760)
125	Milford	Upgrade Daniel Wasson Babe Ruth Field - Canceled	(50,000)
127	Hartland	Hartland Elementary School playground improvements - Canceled	(50,000)
128	Portland	Gildersleeve Elementary School playscape – Canceled	(50,000)
129	Ellington	Renovate and relocate Pinney House – Canceled	(500,000)
135	Windham Regional Community Council, Inc.	**Old:** Improvements to Windham Recovery Center - $764,000 **New:** Improvements to central office building in Willimantic - $814,500	50,500
136	Windham	Generations Family Center improvements – Canceled	(1,400,000)
137	Canaan	Falls Village Day Care Center, construction and equipment – Canceled	(50,000)
139	Fairfield	Administration building for Operation Hope – Canceled	(250,000)
146	Glastonbury	Glastonbury Riverfront Park Development Project – Canceled	(500,000)
147	Bridgeport	Beardsley Park improvements - Canceled	(100,000)
148	Brooklyn	Recreational facilities – Canceled	(250,000)
149	West Haven	Painter Park improvements – Canceled	(400,000)
150	Newington	Newington High School track repairs – Canceled	(275,000)
151	Plainville	Norton Park soccer field construction - Canceled	(175,000)
152	Children and Families	**Old:** Grants to private, nonprofit organizations, including Boys and Girls Clubs of America, to renovate and construct community centers for neighborhood revitalization or education, $5	2,000,000

§	Agency/Grantee	For	Change
		million **New:** Increase grant to $7 million and allocate: (1) $500,000 for Windham-Tolland 4-H Camp in Pomfret Center, (2) $1 million to Bridgeport Police Athletic League to construct and renovate anew gym and youth center, (3) $1 million for Regional YMCA of Western CT in Brookfield for capital improvements, including an indoor pool, (4) $150,000 for Milford/Orange YMCA for a new addition and ADA compliance projects, (5) $1 million for CT Alliance of Boys and Girls Clubs to develop and construct a new facility in Milford, (6) $250,000 for Boys and Girls Village, Inc. to acquire and rehabilitate program facilities in Bridgeport, (7) $150,000 for Ralphola Taylor Community Center YMCA in Bridgeport, (8) $1 million for Soundview Family YMCA in Branford to construct swimming pool complex, and (9) $1.5 million for new YMCA on Albany Avenue in Hartford.	
153	Farmington	Revitalize Unionville center - Canceled	(300,000)
155	Windham	Generations Family Center - Canceled	(1,400,000)
156	Norwalk Transit District	Build bus depot	250,000
156	Southington	Reconstruct Marion Ave. and Mount Vernon Rd. intersection	150,000
156	Coventry	Build sand and salt shed	350,000

Table 7: Reallocations And Language Changes

§	*Total Prior Authorization*	*Previous*	*New*
111	$4,000,000	Mental Health and Addiction Services: Design and install sprinkler systems in direct patient care buildings	Add related fire safety improvements
112	8,500,000	Environmental Protection: Grants to municipalities to improve incinerators and landfills	Earmark up to $600,000 for Plymouth
113	3,500,000	Mental Health and Addiction Services: Design and install sprinkler systems in direct patient care buildings	Include related fire safety improvements
114	30,000,000	Economic and Community Development: Grant to New Haven for economic development projects, including downtown improvement and a biotechnology corridor and related development	(1) Expand grantees to include New Haven Housing Authority, for-profit housing development corporations, and tax-exempt nonprofit organizations (2) Specify that funded projects must be in New Haven
117	4,200,000	Veterans' Affairs: Renovate and improve existing facilities	Add option to build a new veterans' health care facility
118	896,607	Education: Grant to American School for the Deaf to buy amplification systems	Expand to cover purchase of equipment to test the effectiveness of hearing aids and the amplification system
124	300,000	Agriculture: Grant to Farmer's Cow, LLC for Connecticut Dairy Entrepreneurial Initiative	Change grant purpose to "business development"
126	50,000	Environmental Protection: Grant to East Hampton for watershed management at Crystal Lake	Change grantee to Middletown
129 141	250,000	Grant to Killingworth to restore and renovate Killingworth Old Town Hall	Transfer grant authority from OPM to Culture & Tourism Commission
130	4,500,000	Children & Families: Earmark $1 million for construction and acquiring property in Middlesex County for Makayla's House	(1) Change use of $1 million earmark to construction and acquiring property in either Middlesex or Windham counties for a residential facility (2) Earmark an additional $1 million for improving, altering, and constructing residential facilities at Klingberg Family Center, New Britain
131	5,000,000	Children & Families: Grants to private nonprofit organizations, including Boys and Girls Clubs of America, for building and renovating community youth centers for neighborhood recreation and education	(1) Include YMCAs, YWCAs, and community centers (2) Earmark (a) $3 million for Cardinal Shehan Center in Bridgeport to renovate a

§	Total Prior Authorization	Previous	New
			youth center and (b) $750,000 to Bridgeport for Burroughs Community Center
133 141 145 153	4,000,000	OPM: Grant to University of New Haven to establish and build Henry Lee Institute	Transfer grant authority to DECD
135	700,000	Social Services: Grant to Norwich for expanding Martin House	Change grantee to Martin House
138	1,000,000	Social Services: Grant to Danbury to buy buildings for Greater Danbury AIDS Project	Change grantee to Greater Danbury AIDS Project
140	500,000	Social Services: grant to West Hartford to relocate senior center	Change purpose from relocate to improve
141 142	250,000	Grant to Middlefield for Mattabeseck bridge improvements	Transfer grant authority from OPM to DOT
143	77,947,900	Gateway CTC: Implement master plan to consolidate campuses in a single location	Change purpose to: develop new comprehensive campus, including parking
154	750,000	Social Services: Grant to Killingly to alter and expand the facilities for United Services of Dayville	Change grantee to United Services of Dayville

§§ 157-161 — CONNECTICUT STATE UNIVERSITY SYSTEM 2020 PLAN

This act authorizes nearly $1.076 million in GO bonds over 10 years starting in FY 10 for the Connecticut State University System (CSUS) 2020 plan, a systemwide capital improvement plan. The bond issuance requires a one-time approval by the State Bond Commission and annual approval by the governor.

The act authorizes the CSUS board of trustees to determine the sequencing and timing of the projects. It also allows the board to revise, delete, or add projects to the plan. The board must report annually to the governor and the General Assembly on the status and progress of CSUS 2020.

§ 158 — Purpose

The act's purpose is to finance a capital improvement plan for the CSUS that includes acquiring, constructing, buying, improving, and equipping facilities, structures, and related systems.
EFFECTIVE DATE: July 1, 2009

§ 159 — Definitions

The act defines "CSUS 2020" as the projects in the CSUS facilities plan necessary to modernize, rehabilitate, renew, expand, and stabilize the system's physical infrastructure. The "CSUS 2020 Fund" is the fund the act creates to hold the GO bond proceeds used to finance CSUS 2020. The state treasurer holds and administers the fund separate from other accounts.

Under the act, a "project" is any CSU system or university building, including existing ones; real or personal property; related equipment; or improvements, except for current operating charges, unless the board of trustees includes such an amount in a financing transaction to ensure that the interest on the bonds is exempt from federal tax. A project may also include (1) any residential or other auxiliary service facility already defined in statute and (2) any state facility used for CSUS programs.

The “cost” of a project includes (1) all costs associated with purchasing, planning, designing, constructing, and financing; (2) working capital, including the costs incurred by DPW in supervising the design and construction process, and DPS for personnel to oversee code compliance; and (3) consulting or technical services (e.g., accounting, engineering, and legal services).
EFFECTIVE DATE: July 1, 2009

§ 160 — Board of Trustees’ Powers and Reporting Requirement

Facilities Plan Revisions. The act authorizes the CSUS board of trustees to (1) revise, delete, or add projects to the facilities plan; (2) determine the sequencing and timing of the projects, to the extent the authorized funding allows; and (3) revise cost estimates. It also allows the board to reallocate funds between projects, if the facilities plan is revised accordingly and projects from which money is taken can still be completed within authorized amounts or are deleted from the plan.

CSUS 2020 Annual Report. By January 1, 2011 and annually thereafter, the board of trustees must report to the governor and the Finance, Revenue and Bonding; Higher Education and Employment Advancement; and other appropriate committees on the status and progress of CSUS 2020. The board may request from the treasurer information necessary to prepare the report. The report must include:

1. the number of projects and bonds authorized, approved, and issued;
2. project costs and timeliness of completion;
3. any issues that arise in the design or construction process;
4. a schedule of the remaining projects and their expected costs; and
5. any revisions to the facilities plan approved by the board.

Construction Management and Oversight. By law, DPW is authorized to supervise the design and construction of state buildings, including hiring design and construction firms. The act makes the DPW commissioner responsible for these functions as part of CSUS 2020. It requires him to provide the CSUS chancellor with quarterly information on (1) project costs, (2) timeliness of completion, and (3) any issues that arise in the design or construction process.

The act also requires the public safety commissioner and the chancellor to enter into and maintain an MOU that assigns DPS staff to ensure fire and building code compliance for CSUS 2020 projects. The MOU is to cover CSUS 2020 buildings and projects (1) whose construction begins while it is in effect and (2) that are under the state’s threshold limits.
EFFECTIVE DATE: July 1, 2009

§ 161 — Bond Authorizations

The act authorizes up to $1,075,891,409 over 10 years in state GO bonds. Table 8 shows the maximum amount of bonds authorized for each fiscal year. Any issuance costs and capitalized interest may be added to the annual maximums. If the board of trustees or the governor does not approve all or part of the maximum in a fiscal year, that amount is added to the maximum for the following year.

Table 8: CSUS 2020 Bond Authorizations

Fiscal Year	*Amount*
10	$90,113,409
11	111,002,000
12	144,384,000
13	122,493,000
14	87,135,000
15	98,790,000
16	107,376,000
17	124,025,000
18	99,455,000
19	91,118,000

Bond Commission Approval. The bond commission must approve the CSUS 2020 plan and authorize the total bond issuance. The act requires the CSU board of trustees to enter into an MOU with the OPM secretary and the treasurer regarding the bond issuance, including the extent to which federal, private, or other available funds should be added to the bond proceeds to finance CSUS 2020. The bond commission must approve the MOU, which satisfies the standard requirements for bond commission approval under the State General Obligation Bond Procedure Act.

Governor's Approval. The governor must approve the CSUS 2020 bond issuance for each year of the program. The board of trustees must submit annually, by March 1, the most recently approved facilities plan to the governor, through the OPM secretary. If the OPM secretary recommends it, the governor can disapprove all or part of the requested bonds if (1) she determines that, because of a change in the state's financial condition since the budget was adopted, reductions are needed because estimated budget resources are insufficient to fully fund all appropriations or (2) the state has reached 90% of its statutory debt limit. The plan is deemed approved if the governor does not act within 30 days. Her approval of the bonds is deemed to be an appropriation and allocation of the bond amounts.

EFFECTIVE DATE: July 1, 2009

§ 162 — CSUS Auxiliary Service Facility Financing

Prior law allowed the bond commission to issue up to $5 million in GO bonds to finance the design, construction, or renovation of residential and other auxiliary service facilities within the CSUS. It could do this if the General Assembly did not appropriate the lesser of (1) $5 million or (2) one-half the revenue from the student university fee for debt service on self-liquidating GO bonds or CSUS obligations financed through the Connecticut Health and Education Facilities Authority. The bond commission could issue the lesser of the amount the General Assembly failed to appropriate for debt service or $5 million. This authority expires on June 30, 2008.

The act extends the bond commission's authority until June 30, 2019. But it eliminates the alternative authorization amount of one-half the student fee revenue. Instead, it allows the bond commission to issue up to $5 million in GO bonds if the General Assembly does not appropriate at least $5 million to the CSUS for debt service. The new provision conforms the statute to the General Assembly's existing practice of annually authorizing $5 million in GO bonds for CSU auxiliary service facility capital expenses.

The act also revises the definition of auxiliary facilities to include student parking facilities and eliminates a specific list of dormitory and student center projects at the various CSU universities.

§ 163 — USE OF BIOMASS IN ELECTRIC GENERATING PLANTS

PA 07-5, JSS temporarily broadens the types of power plants where construction and demolition (C&D) waste and certain other biomass products can be used as a fuel and the resulting power considered a class I renewable resource. This act both limits and expands these eligibility criteria.

Under PA 07-5, JSS, a plant is eligible if it is certified as class I renewable resource by the Department of Public Utility Control (DPUC). This act limits eligibility for such plants only to those certified as a class I as of this act's effective date. But, it also expands the eligibility criteria to allow a plant to qualify:

1. if, as of October 10, 2007 (the effective date of PA 07-5, JSS), the DPUC has certified it as a class II renewable resource;
2. if it has an application for a class I renewable energy certificate pending before the DPUC; and
3. to the extent it (a) produces renewable energy from C&D waste and certain other biomass products derived from Connecticut sources under a long-term biomass supply contract entered into before November 1, 2007 and (b) was supplying biomass on or before June 1, 2007.

§§ 164-214 — CHANGES IN STATE CONTRACTING

§§ 164-168— State Contracting Standards Board (SCSB)

The act establishes the 14-member SCSB as a separate, independent, Executive Branch agency. The governor appoints eight board members, the Senate president pro tempore and House speaker each appoint two, and the Senate and House majority leaders each appoint one. If the governor is of the same political party as the majority in both chambers of the General Assembly, the top six legislative leaders each appoint one member.

Each member serves at the pleasure of the appointing authority up to a maximum term coterminous with that of the appointing authority. Each appointing authority fills any vacancy in his or her appointment. Eight members of the board, including at least one member appointed by a legislative leader, constitute a quorum, which is required to transact business. The governor appoints the board's chairperson.
EFFECTIVE DATE: Upon passage, except for the provisions on the board's powers and duties, which are effective October 1, 2008.

Budget and Compensation

The act requires the board's budget, upon approval of its members, to pay its reasonable expenses. Board members receive a $200 per diem.

Board Member Qualifications

Within five consecutive years of the 10 years immediately preceding their appointment, board members must have been educated or trained or had experience in one or more of the following areas:

1. procurement;
2. contract negotiation, selection, and drafting;
3. competitive bidding and proposal procedures;
4. real estate transactions, including real estate and building purchases, sales, and leases;
5. business insurance and bonding;
6. building construction and architecture;
7. ethics in public contracting;
8. federal and state laws, procurement policies, and regulations;
9. outsourcing and privatization analysis;
10. small and minority business enterprise development;
11. engineering and information technology;
12. human services;
13. personnel and labor relations; or
14. contract risk assessment.

"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 Staff

It requires the governor to appoint and the legislature to confirm an executive director who serves as an ex-officio, nonvoting board member. The executive director may contract as necessary to carry out his or her duties. The board must annually evaluate the executive director's performance and may remove him or her for cause. The executive director reports to the board's chairperson. The board must appoint a chief procurement officer (CPO) for a term not to exceed six years, unless reappointed. The CPO reports to, is annually evaluated by, and serves at the pleasure of the board. For administrative purposes only, the executive director supervises the CPO.

In consultation with the CPO, the executive director must:

1. prepare a comprehensive plan of the board's administrative functions,
2. coordinate the board's budget and personnel activities,
3. provide for the board's administrative organization to be examined for economy and efficiency,
4. act as the board's external liaison, and
5. perform any other duties the chairperson or board assigns, as appropriate.

Beginning July 1, 2008, the executive director may contract with consultants and professionals as necessary to carry out his or her duties.

The CPO is responsible for carrying out the board's policies relating to procurement, including oversight, investigation, auditing, agency procurement certification, procurement and project management training, and enforcement. He or she also ensures that state contracting agencies apply the policies when they screen and evaluate current and prospective contractors. The CPO may contract as necessary for the discharge of his or her duties, including recommending best practices and assisting state agencies that the board determines are violating the act.

The CPO must also:

1. oversee state contracting agencies' compliance with statutes and regulations concerning procurement;
2. monitor and assess each agency's procurement officer's performance;
3. administer a certification system (see below) and monitor compliance with procurement statutes and regulations, including the education and training, performance, and qualifications of agency procurement officers;
4. review and monitor the procurement processes of each state contracting agency, quasi-public agency, and institution of higher education; and
5. serve as chairperson of the Contracting Standards Advisory Council and an ex-officio member of the Vendor and Citizen Advisory Panel (see below).

Board Ethics and Operations

The act prohibits board members and staff from having a state or municipal position. It also prohibits board non-clerical staff, or their spouse, child, stepchild, parent, or sibling from having an association with any business that does business with the state. An associated business is one owned by an official, employee, or immediate family member, or in which 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.

It requires board members and employees to file with the board and the Office of State Ethics, by May 1 annually, a statement of financial interest required by the State Ethics Code. The financial statement is a public record and subject to disclosure under the Freedom of Information Act (FOIA).

Any board employee who violates the employment prohibition and any board employee or member 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 reviews of appeals by bidders.

§ 166 — Powers and Duties

The act permits the board to exercise the rights, powers, duties, and authority related to the state's procurement policies, now vested in, or exercised by, any state contracting agency. These consist of the right, power, duty, or authority:

1. to acquire, manage, control, warehouse, sell, and dispose of supplies, services, and construction;
2. related to any state contracting or procurement processes, including, leasing and transferring property; purchasing or leasing supplies, material, or equipment; retaining consultants or consultant services; making service agreements; or arranging privatization contracts; and
3. related to public building construction contracts.

"Consultant services" are professional services rendered by architects; professional engineers; landscape architects; land surveyors; accountants; interior designers; environmental professionals; planners; and people who perform professional work such as educational and medical services, information technology, and real estate appraisals.

Upon the board's request, each state contracting agency must give the board procurement information in a timely manner. The act gives the board access to all information, files, and records related to any state contracting agency. The act specifies that it does not require the board to publicly disclose records exempt from disclosure under FOIA.

Unless the board's actions show otherwise, its authority does not limit or restrict the rights, powers, or authority of the contracting agency.

§ 167 — Board's Oversight of Procurement Practices

Except as otherwise provided by law, the board is responsible for:

1. recommending the repeal of repetitive, conflicting, or obsolete state procurement laws;
2. making recommendations regarding information systems for state procurement including data element and design and the state contracting portal;
3. develop a guide to state statutes and regulations concerning procurement for use by all state contracting agencies;

4. helping state contracting agencies comply with state laws and regulations by providing guidance, models, advice, and practical assistance to their staff related to (a) buying the best service at the best price; (b) properly selecting contractors; and (c) drafting contracts that achieve state goals of accountability, transparency, and results-based outcomes and protect taxpayers' interests; and
5. adopting regulations and policies to carry out state procurement laws in order to facilitate consistent application and require the implementation of best procurement practices.

Review Procurement Legislation, Regulations, and Policies. The board must review and make recommendations concerning proposed legislation and regulations on procuring, managing, controlling, and disposing of supplies, services, and construction, including:

1. prequalification, suspension, debarment, and reinstatement of prospective bidders and contractors;
2. small purchase procedures;
3. conditions and procedures for delegating procurement authority, procuring perishables and items for resale, using source selection methods authorized by statute or regulation, making emergency procurements, and selecting contractors by processes or methods that restrict full and open competition;
4. opening or rejecting bids and offers and waiving errors in bids and offers;
5. confidentiality of technical data and trade secrets submitted by actual or prospective bidders;
6. partial, progressive, and multiple awards;
7. supervision of storerooms and inventories, including determining appropriate stock levels and the management, transfer, sale, or other disposal of publicly owned supplies;
8. definitions and classes of contractual services and procedures for acquiring them;
9. regulations for conducting cost and price analysis;
10. use of payment and performance bonds;
11. guidelines for using cost principles in negotiations, adjustments, and settlements; and
12. identifying procurement best practices.

The board must give the governor and the Government Administration and Elections Committee recommendations concerning procurement statutes and regulations.

Board to Coordinate Procurement and Contracting Officers. The board must train and oversee procurement and contracting officers in each state contracting agency.

The act requires the head of each state contracting agency to appoint an agency procurement officer to act as a liaison between the agency and the CPO on the agency's procurement activities. The activities include (1) implementing and complying with statutes and regulations on procurement and any policies or regulations the board adopts and (2) coordinating the training and education of agency procurement employees.

The agency procurement officer must assure that contractors are properly screened before a contract is awarded, evaluate their performances during and at the end of a contract, submit written evaluations to a central data repository that the board designates, and create a project management plan that includes annual reports to the board on the agency's procurement projects.

Agency Procurement Certification

Beginning January 1, 2009, the act requires the board to review and certify that a state contracting agency's procurement processes comply with procurement statutes and regulations. It must accomplish this by:

1. establishing procurement and project management education and training criteria;
2. certifying agency procurement and contracting officers; and
3. approving, in consultation with the Office of State Ethics, an ethics training course, including a course for state employees involved in procurement and prequalifying state contractors and substantial subcontractors.

The Office of State Ethics or any person, firm, or corporation may develop and provide the training, but the board must approve the course.

Employees must maintain the certification in good standing at all times while performing procurement functions.

The board must recertify each state contracting agency's procurement processes at least every three years, notify them of any certification deficiency, and exercise its enforcement authority if it finds noncompliance.

Contract Data Reporting

The act requires the board to "define the contract data reporting requirements to the board for state agencies." Although, it is unclear what this actually means, it may mean that the board must inform state agencies of their duties to report data on:

1. the number and type of state contracts that each state contracting agency has in effect statewide;
2. their client agencies;
3. contractors' names;
4. the contracts' terms and dollar values;
5. services purchased under such contracts;
6. their evaluations of contractors' performances, including records on suspensions or disqualifications and assurances that the information is available on the state contracting portal; and
7. all contracts and contractors awarded without full and open competition, including the reasons for the decisions and the names of the authorities that approved them.

Procurement and Project Management Training

The SCSB, with the advice and assistance of the DAS commissioner, must develop a standardized state procurement and project management education and training program. The board must adopt implementing regulations.

The program must develop education, training, and professional development opportunities for state contracting agency employees with procurement responsibilities. It must educate the employees on general business acumen and proper purchasing procedures as established in procurement statutes and regulations. The program must emphasize ethics, fairness, consistency, and project management.

The program must include:

1. training and education in federal, state, and municipal procurement processes, including the state procurement statutes and regulations and principles of project management;
2. training and education courses developed in cooperation with the Office of State Ethics, Freedom of Information Commission, State Elections Enforcement Commission, Commission on Human Rights and Opportunities, Attorney General's Office, and any other state agency the board determines is necessary;
3. technical assistance to help state contracting agencies, quasi-public agencies, constituent units of higher education, and municipalities implement procurement statutes and regulations and regulations, policies, and standards the board develops;
4. training current and prospective contractors, vendors, and others seeking to do business with the state; and
5. training and education for state employees in best procurement practices in state purchasing with the goal of achieving the level of acumen necessary to achieve the objectives of state statutes and regulations.

The act requires state contracting agency employees responsible for buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction to participate in the program. The board must give employees who complete the program a certificate acknowledging their participation. It must give the governor and legislature an annual status report on the training and education program.

§ 169 — Compliance Audits

The act requires the board to audit state contracting agencies at least once every three years and report on their compliance with procurement statutes and regulations. 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 (1) any process or procedure that is inconsistent with procurement laws and regulations and (2) corrective measures to achieve compliance. It must deliver the report, which is a public record, to the contracting agency within 30 days after the audit is completed.

EFFECTIVE DATE: October 1, 2010

§ 170 — Disciplinary Actions for Noncompliance And Other Violations

The board may review, terminate, or recommend to a state contracting agency terminating 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 as determined by the Citizen's Ethics Advisory Board; (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 any other criminal violation.

Before terminating a contract, the board must (1) consult with the contracting agency to determine the impact of an immediate termination and (2) jointly decide with the agency that immediate termination will not cause imminent peril to public health, safety, or welfare. The board's decision to terminate must be approved by a two-thirds vote of its members present and voting, including at least one member appointed by a legislative leader. The board must notify the state contracting agency and the contractor of the opportunity for a hearing under the Uniform Administrative Procedure Act (UAPA).

The board may (1) restrict or terminate a state contracting agency's contracting or procurement authority or (2) recommend that a state contracting agency restrict or terminate an employee's or agent's authority to enter a contract or procurement agreement. Before taking this action, the board must (1) find that the agency or employee failed to comply with statutory contracting and procurement requirements and showed a reckless disregard for applicable policies and procedures; (2) provide 15 days notice and a hearing; and (3) decide the matter upon a two-thirds vote, including at least one vote by a member appointed by a legislative leader. Any restriction or termination stays in effect until the agency implements corrective measures and complies with procurement laws and regulations. Any agency restriction or termination must be in the state's best interest. The board must arrange for the exercise of the agency's contracting power during the restriction or termination.

This section does not limit the board's authority to perform compliance audits.

EFFECTIVE DATE: October 1, 2010

§ 171 — Contracting Standards Advisory Council

The act establishes a Contracting Standards Advisory Council consisting of the CPO who serves as chairperson and representatives from the Office of Policy and Management; the departments of Transportation, Administrative Services, Public Works, and Information Technology; and three other contracting agencies that the governor designates, including one human services-related state agency.

The council must meet at least four times a year to discuss state procurement issues and recommend improvements to the procurement process to the SCSB. It may conduct studies, research, and analyses and make reports and recommendations with respect to matters within SCSB's jurisdiction.

EFFECTIVE DATE: October 1, 2008

§ 172 — Vendor Advisory Board

The act establishes a 15-member Vendor and Citizen Advisory Panel. The governor appoints three members and the six top legislative leaders each appoint two. No more than six members can be vendors experienced in state procurement. The remaining nine must be citizen members with education, training, or experience, received in five consecutive years of the 10 years immediately preceding their appointment, in one or more of the following areas:

1. government procurement;
2. contract negotiation, drafting, and management;
3. contract risk assessment;
4. preparing requests for proposals, invitations to bid, and other procurement solicitations;
5. evaluating proposals, bids, and quotations;
6. real property transactions;
7. business insurance and bonding;
8. the State Code of Ethics;
9. federal and state laws, policies, and regulations;
10. outsourcing and privatization proposal analysis;
11. government taxation and finance;
12. small and minority business enterprise development;
13. collective bargaining; and
14. human services.

The CPO chairs the panel and serves as an ex-officio member. The panel makes recommendations to the board on best practices in state procurement processes and project management and other issues pertaining to system stakeholders.

EFFECTIVE DATE: October 1, 2008

§ 173 — SCSB Legislation on Application of Procurement Laws And Regulations

On or before January 1, 2010, the board must submit to the governor and legislature necessary legislation to permit state contracting agencies, other than quasi-public agencies, institutions of higher education, and municipal procurement processes using state funds, to comply with procurement laws and regulations.

Within the next year, the board must submit legislation necessary to have (1) procurement statutes apply to constituent units of higher education and (2) privatization and procurement statutes and regulations apply to quasi-public agencies.

By January 1, 2012, the board must submit legislation to governor and legislature necessary to have procurement statutes and regulations apply to municipalities when state funds are involved.
EFFECTIVE DATE: October 1, 2008

§ 174 — SCSB Assistance To Statewide Officers

The board must help the secretary of the state, comptroller, treasurer, and attorney general develop the best procurement practices specific to their constitutional and statutory functions and consistent with procurement statutes and regulations. Each of the statewide officers must adopt a procurement code on or before June 1, 2011.
EFFECTIVE DATE: October 1, 2008

§ 175 — Judicial and Legislative Procurement Codes

By January 1, 2011, the act requires the Judicial and Legislative branches to each prepare a procurement code for their use when contracting for, buying, renting, leasing, or otherwise acquiring or disposing of supplies, equipment, or services, including consultant, personal, and construction services.

By the same date, the Judicial Branch must submit its code to the Judiciary Committee for review and approval.

The codes must:

1. establish uniform contracting standards and practices;
2. ensure the fair and equitable treatment of all businesses and people involved in the procurement system;
3. include a process for maximizing the use of small contractors and minority business enterprises;
4. provide increased economy in procurement activities and maximize purchasing value to the fullest extent possible;
5. ensure that they procure supplies, materials, equipment, services, real property, and construction in a cost-effective and responsive manner;
6. include a process to ensure accountability between contractors and each branch;
7. simplify and clarify contracting standards and procurement policies and practices, including procedures for competitive sealed bids or proposals; small purchases; and sole source, special, and emergency procurements; and
8. 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, timeliness, and costs. "Qualification-based selection" means a process to award contracts based primarily on contractor qualifications and a fair and reasonable price. "Emergency procurements" are those necessary because of a sudden, unexpected occurrence that (1) poses a clear and imminent danger to public safety or requires immediate action to prevent or reduce loss or impairment of life, health, property, or essential public services or (2) is needed in response to a court order, settlement agreement, or other similar legal judgment.
EFFECTIVE DATE: October 1, 2008

§ 176 — State Contracting Portal

The act requires DAS to work with the SCSB to establish and maintain on its website a single electronic portal of all contracting opportunities with Executive Branch state agencies, the constituent units of higher education, and quasi-public agencies. The portal must be called the "State Contracting Portal." It must at a minimum include:

1. all requests for bids or proposals, other solicitations, related material, and all resulting contracts and agreements;
2. a searchable database for locating information;
3. executed personal service agreements and purchase of service contracts;

4. any document DAS designates that describes approved contracting processes and procedures; and
5. prominent features to encourage small businesses and women-and minority-owned enterprises to participate in the state contracting process.

All Executive Branch agencies, constituent units of higher education, and quasi-public agencies must (1) post all bids, requests for proposals, and all resulting contracts and agreements on the portal and (2) develop written policies and procedures to ensure that information posted on the portal is timely, complete, and accurate as determined by the highest legal and ethical standards of state government. They must, with the assistance of DAS and the Department of Information Technology as needed, develop the infrastructure and capability to communicate electronically with the portal.

DAS must give the governor and the SCSB periodic progress reports on (1) the agencies' and units' development of the capacity, infrastructure, policies, and procedures necessary to communicate electronically with the portal and (2) DAS' progress in establishing and maintaining the portal.
EFFECTIVE DATE: October 1, 2008

§ 177 — Accountability And Transparency

Beginning January 1, 2010, the act requires all Legislative Branch, Judicial Branch, and state contracting agency contracts that take effect June 1, 2010 to contain provisions to ensure accountability, transparency, and results-based outcomes. State contracting agencies' contracts must contain the outcomes prescribed by the SCSB.
EFFECTIVE DATE: October 1, 2008

§ 179 — Privatization

Before privatizing any state service that is not currently privatized, a state contracting agency must develop a cost-benefit analysis and a business case. For the purpose of this section, "state contracting agencies" are Executive Branch agencies and constituent units of higher education. Any affected party may petition the SCSB to review the contract. The requirement does not apply (1) to a privatization contract for a service currently provided at least in part by a non-state entity or (2) if the state contracting agency determines the contract is required because of an imminent peril to public health, safety, or welfare and (a) the agency states, in writing, its reasons for such finding and (b) the governor approves the finding in writing.

This section does not apply to procurements that involve the expenditure of federal assistance or contract funds if federal law provides procurement procedures are inconsistent with state procurement statutes or regulations.
EFFECTIVE DATE: January 1, 2009

Cost-Benefit Analysis

The cost-benefit analysis must document the direct and indirect costs, savings, and qualitative and quantitative benefits of the privatization contract. The analysis must (1) specify the minimum schedule required to achieve any estimated savings and (2) clearly identify any cost factor. Cost factors must be supported by all applicable records and reports. The state contracting agency's head must certify that, based on the data and information, all projected costs, savings, and benefits are valid and achievable. "Costs" means all reasonable, relevant and verifiable expenses, including salary, materials, supplies, services, equipment, capital depreciation, rent, maintenance, repairs, utilities, insurance, travel, overhead, interim and final payments and the normal cost of fringe benefits, as calculated by the comptroller. "Savings" means the difference between the current annual direct and indirect costs of providing the service and the projected, annual direct and indirect costs of contracting to provide them in any succeeding state fiscal year during the term of the proposed privatization contract.

If the cost-benefit analysis finds a cost savings of less than 10%, that the contract will not diminish the quality of services, and a significant public policy reason to privatize, the state contracting agency may develop a business case to evaluate the feasibility of entering the contract and to identify its potential results, effectiveness, and efficiency. If the cost savings is at least 10% and the contract will not diminish the quality of services, the agency must develop a business case.

If the contract would result in at least 100 layoffs, transfers, or reassignments, after consulting with unions, the contracting agency must notify the affected employees after the cost-benefit analysis is completed, give them the opportunity to reduce the costs of providing the services to be privatized, and give them resources to encourage and help them organize and bid on the contract. (It is not clear the effect this provision has on existing law that makes certain subjects, such as wages and hours, mandatory subjects of collective bargaining.)

Business Case

Any business case must include:

1. the cost-benefit analysis;
2. a detailed description of the service or activity that is the subject of the business case;
3. a description and analysis of the state contracting agency's current performance of the service or activity;
4. the goals to be achieved through the proposed privatization contract and the rationale for them;
5. a description of available options for achieving these goals;
6. an analysis of the advantages and disadvantages of each option, including potential performance improvements and the risks of terminating or rescinding the contract;
7. a description of the current market for the services or activities that are the subject of the business case;
8. an analysis of the quality of services as determined by standardized measures and key performance requirements, including compensation, turnover, and staffing ratios;
9. a description of the specific results-based performance standards that must be met to ensure adequate performance by any party performing the service or activity;
10. the projected time frame for key events from the beginning of the procurement process through the contract's expiration, if applicable;
11. a specific and feasible contingency plan that addresses contractor nonperformance and a description of the tasks involved in and costs required for implementing the plan; and
12. a transition plan, if appropriate, for addressing changes in the number of agency personnel, affected business processes, employee transition issues, and communications with affected stakeholders, such as agency clients and members of the public, if applicable.

The transition plan must contain a reemployment and retraining assistance plan for employees who are not retained by the state or employed by the contractor.

If the primary purpose of the proposed privatization contract is to provide a core governmental function, the business case must also include information sufficient to rebut the presumption that the core governmental function should not be privatized. The presumption cannot be construed to prohibit a state contracting agency from contracting for specialized technical expertise not available within the agency; however, the agency must retain responsibility for the core governmental function. A "core governmental function" is one whose primary purpose is (A) to inspect for adherence to health and safety standards because public health or safety may be jeopardized if the inspection is not done or is not done in a timely or proper manner; (B) to establish statutory, regulatory, or contractual standards for a regulated person, entity, or state contractor; (C) to enforce public health or safety statutory, regulatory, or contractual requirements; or (D) criminal or civil law enforcement. If any part of the business case is based on evidence that the state contracting agency is not sufficiently staffed to provide the core governmental function required by the privatization contract, the state contracting agency must also include within the business case a plan to remediate the understaffing to allow the agency to provide the services directly in the future.

Review by SCSB

Once the business case is completed, the state contracting agency must submit it to the SCSB. The SCSB cannot engage in any *ex parte* communications with a lobbyist, contractor, or union representative during the review. Each state contracting agency that submits a business case for review must give the board all information, documents, or other material the privatization contract committee requires to complete its review and evaluation of the business case. If the privatization contract is projected to cost more than $150 million annually or $600 million over its term, the state contracting agency must also submit the business case to the governor, the Senate president pro tempore, the House speaker, and any collective bargaining unit affected by the proposed contract.

SCSB Privatization Contract Committee

When the SCSB receives a business case from a state contracting agency, it must immediately refer it to a privatization contract committee that consists of five SCSB members appointed by the board's chairperson. The members must represent both gubernatorial and legislative appointments and no more than three members may represent any one political party. At least one member must be an expert in the area that is the subject of the proposed contract. The SCSB chairperson or his or her designee must head the committee.

The committee must employ a standard process for reviewing, evaluating, and approving business cases. The process must include due consideration of: (1) the state contracting agency's cost-benefit analysis; (2) the agency's business case, including any facts, documents, or other materials that are relevant to it; (3) any adverse effect that the privatization contract may have on minority, small, and women-owned businesses that do, or are attempting to do business with the state; and (4) the value of having services performed in the state and within the United States.

The privatization committee must evaluate the business case and submit its evaluation to the SCSB for review and approval. During the review or consideration, no board member can engage in any *ex parte* communication with any lobbyist, contractor, or union representative.

SCSB Approval of Business Case

Within 60 days after receiving a business case, the SCSB must transmit a report detailing its review, evaluation, and disposition to the state contracting agency that submitted it. In the case of a privatization contract with a projected cost of at least $150 million dollars annually or $600 million dollars over its life time, SCSB must also send the report to the governor, the Senate president pro tempore, the House speaker, and any collective bargaining unit affected by the proposed contract. The 60 days may be extended for an additional 30 days upon a majority vote of the board or the privatization contract committee and for good cause shown. A business case is deemed approved if the SCSB does not act on it within the 60 days, except that no business case may be approved because the board fails to meet.

The board's report must include the business case, the privatization contract committee's evaluation, its reasons for approval or disapproval, any recommendations of the board, and sufficient information to help the state contracting agency determine if additional steps are necessary to proceed with a privatization contract.

Generally, a majority vote of the board is required to approve a business case. However, a two-thirds vote, including the vote of at least one board member appointed by a legislative leader, is required to approve a business case to privatize a core governmental function. Before approval, the state contracting agency must provide sufficient evidence to rebut the presumption that the core governmental function should not be privatized and there is a significant policy reason to approve the business case. In no case can a state contracting agency's staffing level constitute a significant policy reason to approve a business case for privatizing a core governmental function.

Any state contracting agency may request an expedited review if there is a compelling public interest for doing so. If the board approves the agency's request, the review must be completed not later than 30 days after receipt. If the board fails to complete an expedited review within the 30 days, the business case is deemed approved.

The state contracting agency retains sole discretion in determining whether to proceed with the privatization contract if the SCSB approves the business case.

Amendments to SCSB-Approved Business Cases

Each state contracting agency must submit to SCSB, in writing, any proposed amendment to a board-approved business case so that the board may review and approve it. The board may approve or disapprove the proposed amendment within 30 days after receipt by the same vote that was required to approve the original business case. If the board fails to complete its review within 30 days, the amendment is deemed approved.

Solicitations for Privatization Contracts

A state contracting agency may publish notice soliciting bids for a privatization contract only after the board approves the business case. A contract that is estimated to cost over $150 million dollars annually or $600 million or more over its life must also be pre-approved by the legislature. The legislature, by a majority vote in either chamber, must either reject or approve the contract in its entirety. If the legislature is in session, it must approve or reject the contract within 30 days after it is filed. If the legislature is not in session when the contract is filed, the contract must be submitted not later than 10 days after the first day of the next regular session or special session called for that purpose.

A contract is deemed approved if the legislature fails to vote to approve or reject it within the 30 days, which period cannot begin or expire unless the legislature is in regular session. Any contract filed with the clerks within 30 days before the start of a regular session is deemed to be filed on the first day of such session.

Recourse by Adversely Affected Employees

Not later than 30 days after the board decides to approve a business case, the collective bargaining agent of any employee adversely affected by the proposed privatization contract may file a motion for an order to show cause in Hartford Superior Court on the grounds that the contract fails to comply with the act's substantive or procedural requirements regarding privatization. The court may: (1) deny the motion, (2) grant the motion if it finds that the proposed contract would substantively violate the act's privatization provisions, or (3) stay the effective date of the contract until any substantive or procedural defect has been corrected.

SCSB's Review of Existing Privatization Contracts

The SCSB may review existing privatization contracts and must review at least one currently privatized contracting area each year. For each privatization contract that the board selects for review, the appropriate state contracting agency must develop a cost-benefit analysis. Any affected party may petition the board to review the business case of any existing privatization contract. The SCSB cannot engage in any *ex parte* communications with a lobbyist, contractor, or union representative during the review.

If the cost-benefit analysis identifies cost savings of at least 10% and the contract does not diminish the quality of the service provided, the state contracting agency must develop a business case to renew the contract. The board must review the contract just as it does proposed privatization contracts and may approve the renewal by the applicable vote of the board. Any renewal that is estimated to cost over $150 million annually or $600 million dollars or more over its life must also be pre-approved by the General Assembly. If the renewal is approved by the board and the General Assembly, if applicable, the act's provision on proposed amendments applies.

If the cost-benefit analysis identifies a cost savings of less than 10%, the state contracting agency must prepare and begin to implement a plan to have the service provided by state employees. However, (1) after the plan is prepared, but before it is implemented, the state contracting agency may develop a business case for the privatization contract that achieves at least a 10% cost savings and must submit the plan to the SCSB for review and approval; (2) the privatization contract cannot be renewed with the vendor currently providing the service unless there is a significant public interest in doing so and the renewal is approved by a two-thirds vote of the board, including the vote of at least one member appointed by a legislative leader; (3) until the state contracting agency implements the plan, it may contract for the services for up to one year; and (4) funds may be transferred from the General Fund to allocate necessary resources to carry out this provision upon the governor's recommendation and after approval of the Finance Advisory Committee.

Renewal of a privatization contract with a nonprofit organization cannot be denied if the cost of increasing compensation to employees performing the privatized service is the only reason for the contract not achieving at least a 10% cost savings. A "nonprofit" is a not-for-profit business under § 501 (c) (3) of the Internal Revenue Code of 1986 or any subsequent corresponding code as amended.

Policies and Procedures

OPM, in consultation with the SCSB, must: (1) develop policies and procedures, including templates for state contracting agencies to use when developing a cost-benefit analysis and (2) review with each state contracting agency the budgetary impact of any privatization contract and the need to request budget adjustments in connection with it.

The SCSB, in consultation with the DAS, must (1) recommend and implement standards and procedures for state contracting agencies to develop business cases in connection with privatization contracts, including templates for them to use when submitting business cases to the board, and policies and procedures to help state contracting agencies complete the cases and (2) develop guidelines and procedures for helping state employees whose jobs are affected by a privatization contract.

§§ 178 & 180 — Application

The act, other than the provisions establishing and outlining the general duties of the SCSB, applies to all contracts state contracting agencies solicit or enter after the January 1, 2008. The SCSB provisions do not affect the four-year pilot program that creates jobs for people with disabilities established under PA 06-129.

Unless otherwise stated, the act's privatization and procurement procedures apply to every expenditure of public funds by any state contracting agency, irrespective of their source, involving any state contracting and procurement processes, including leasing and property transfers; purchasing or leasing of supplies, materials, or equipment; consultant or consultant services; personal service and purchase of service agreements; privatization contracts; and contracts for the construction, reconstruction, alteration, remodeling, repair, or demolition of any public building, bridge, or road.

The act's privatization and procurement procedures cannot be construed to apply to the expenditure of federal assistance or contract funds if federal law provides procurement procedures that are inconsistent with state procurement statutes or regulations.

EFFECTIVE DATE: January 1, 2010, except the provision on the pilot program, which is effective October 1, 2008.

§ 181 — Requisition System

The act requires the DAS commissioner to establish a requisition system for use by state contracting agencies to initiate and authorize the procurement process when obtaining supplies, materials, equipment, or contractual services, except infrastructure facilities. The SCSB must approve the system.

EFFECTIVE DATE: January 1, 2010

§ 182 — Procurement Methods

The act requires that all state contracting agencies' purchases of, and contracts for, supplies, materials, equipment, and contractual services made under the competitive bidding process, be awarded by one of the following methods unless otherwise authorized by law:

1. competitive sealed bidding,
2. competitive sealed proposals,
3. small purchase procedure,
4. sole source procurement,
5. emergency procurement, or
6. waiver of bid or proposal requirement for extraordinary conditions.

EFFECTIVE DATE: June 1, 2009

§§ 192 & 193 — Inspections and Audits

State contracting agencies' contracts must permit the agencies, at reasonable times, to inspect the part of the plant or place of business of a contractor or any subcontractor that is related to the performance of any contract awarded, or to be awarded by the state, to ensure compliance with the contract.

State contracting agencies may audit the books and records of a contractor or subcontractor under any negotiated contract or subcontract to the extent that the books and records relate to the performance of the contract or subcontract. The contractor must maintain the books and records for three years from the date of final payment under the prime contract and the subcontractor for a period of three years from the expiration of the subcontract.

EFFECTIVE DATE: October 1, 2008

§ 194 — Anticompetitive Practices Among Bidders

When an affected party suspects collusion or other anticompetitive practices among any bidders or proposers for a state contract, the party must give the attorney general notice of the relevant facts. Affected parties include the state contracting agency or a bidder or proposer. A proposer is a business submitting a proposal in response to a request for proposals or other competitive sealed proposal by a state contracting agency.

EFFECTIVE DATE: October 1, 2008

§§ 187, 195 & 196 — Record Requests and Retention

The act permits state contracting agencies to request factual information reasonably available to bidders or proposers to substantiate the reasonableness of offered prices or costs. Under the act, each state contracting agency must retain and dispose of all procurement records in accordance with the public records administrator's records retention guidelines and schedules.

The act requires the agency procurement officer to maintain a record listing all contracts made under the uniform procurement code for a minimum of five years. The record must contain:

1. each contractor's name;
2. the amount and type of each contract; and
3. a list of the supplies, services, or construction procured under each contract.

All procurement records must be retained and disposed of in accordance with the public records administrator's records retention guidelines and schedules.

EFFECTIVE DATE: October 1, 2008, except that the provision on the agency procurement officer is effective on January 1, 2010.

§ 197 — Disqualifications

General Provisions. The act allows the SCSB to disqualify any contractor, bidder, or proposer from bidding on, applying for, or participating as contractor or subcontractor under state contracts. The disqualification can run for up to five years.

In order to disqualify a contractor, bidder, or proposer, the board must (1) consult with the relevant contracting agency and the attorney general; (2) provide reasonable notice and hold a hearing; and (3) act through a subcommittee of three members, including at least one legislative appointee, appointed by the board's chairperson. In determining whether to disqualify a contractor, bidder, or proposer, the board must consider the seriousness of the affected party's acts or omissions and any mitigating factors.

The subcommittee must issue a written recommendation within 60 days after its hearing ends. The recommendation must state the reasons for the subcommittee's action and the length of any disqualification. A disqualification recommendation requires the vote of two subcommittee members present and voting. The subcommittee must submit the recommendation to the board for action and mail it to the contractor by certified mail, return receipt requested. Once the board receives the subcommittee's recommendations, but no later than 30 days after receiving any comments from the targeted contractor, it must issue a written decision adopting, rejecting, or modifying them. The board must mail the decision to the contractor by certified mail, return receipt requested. The decision is final and can be appealed to Superior Court.

Under the act, the grounds for disqualification include:

1. conviction of, or entry of a plea of guilty or *nolo contendere* (no contest) or admission to (a) the commission of a crime in connection with obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of a contract or subcontract; (b) the violation of any state or federal law for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offenses indicating a lack of business integrity or honesty that affects responsibility as a contractor; or (c) a violation of any state or federal antitrust, collusion, or conspiracy law arising from the submission of bids or proposals on a public or private contract or subcontract;
2. accumulation of two or more agency suspensions within a 24-month period;
3. a willful, negligent, or reckless failure to meet the terms of one or more state contracts or subcontracts, agreements, or transactions;
4. a history of failure to perform, or of unsatisfactory performance, on one or more state contracts, agreements, or transactions;
5. a willful violation of a statutory or regulatory provision or requirement applicable to a state contract, agreement, or transaction;
6. a willful or egregious violation of State Ethics Code provisions on prohibited activities and prohibited activities by consultants and independent contractors as determined by the Citizen's Ethics Advisory Board; or
7. any other cause or conduct the board determines to be so serious and compelling as to affect responsibility as a state contractor.

The last category includes: (1) disqualification by another state for cause; (2) the existence of an informal or formal business relationship with a contractor who has been disqualified from bidding or proposing on state contracts of any state contracting agency; and (3) the fraudulent or criminal conduct of any officer, director, shareholder, partner, employee, or other individual associated with a contractor, bidder, or proposer if the conduct was connected with the individual's performance of duties for, or on behalf of, the contractor, bidder, or proposer who knew or had reason to know of the conduct.

Modification of Disqualification. The act allows the board to reduce the period or the extent of a disqualification at the written request of a contractor, bidder, or proposer. It may do so if the affected party provides supporting documentation of:

1. newly discovered material evidence;
2. a reversal of the conviction upon which the disqualification was based;
3. a bona fide change in ownership or management; or
4. the elimination of other causes for which the disqualification was imposed.

EFFECTIVE DATE: January 1, 2010

§ 198 — Agency Suspensions

The act allows the department head of any state contracting agency, after reasonable notice and a hearing, to suspend any contractor, bidder, or proposer for up to six months from bidding on, applying for, or performing work as a contractor or subcontractor under state contracts. The department head must issue a written decision within 90 days after the hearing ends, which must state the reasons for the action taken and the length of any suspension. In determining whether to suspend a contractor, bidder, or proposer, the department head must consider the seriousness of the acts or omissions and any mitigating factors. The department head must send the decision to the contractor and the SCSB by certified mail, return receipt requested. The decision is final and can be appealed to Superior Court.

The causes for suspension include:

1. failure without good cause to perform in accordance with specifications or within the time limits provided in the contract;
2. a record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, other than those caused by acts beyond the control of the contractor, bidder, or proposer;
3. any cause the contracting agency determines to be so serious and compelling as to affect the responsibility of a state contractor, bidder, or proposer, including suspension by another contracting agency for cause; or
4. a violation of the State Ethics Code's ethical standards as determined by the Citizen's Ethics Advisory Board.

The act allows the SCSB to grant an exception permitting a suspended contractor to participate in a particular contract or subcontract upon its written determination that there is good cause for the exception and the exception is in the state's best interest.

Each state department head must review contractors and file reports pertaining to any of the reasons under the act that may be the basis for suspension.

EFFECTIVE DATE: January 1, 2010

§§ 200 & 201 — Appeals From Agency's Suspension Decisions

The act permits contractors, bidders, or proposers to appeal an SCSB subcommittee's suspension decision to the full board within 14 days after receiving it. Each bidder or proposer must state the facts supporting its claim in enough detail for the SCSB to determine whether procedural elements of the solicitation or award failed to comply with the code or whether an unauthorized or unwarranted, noncompetitive selection process was used. (An incorrect internal citation establishes a procedure for appealing the way a contract is awarded rather than one for appealing an agency's decision to suspend a contractor, which was apparently the intention). The appeal does not automatically prohibit the award or execution of the contested contract.

The act requires the SCSB to create a subcommittee of three of its members, including one legislative appointee, to review these appeals and vote on whether an allegation has been substantiated. The appeals committee may not include any SCSB member who originally heard the case. Unless the subcommittee's vote is unanimous, the full board must review the appeal and dispose of it by a vote of two-thirds of its members present and voting, including at least one legislative appointee. (The act does not specify what happens if the full board's vote is less than two-thirds.) And any three board members may request that the full board review an agency's deliberative or awards 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 or proposer. The subcommittee must act within 90 days after receiving the appeal. The full board must act within 90 days after receiving the appeal from the subcommittee. If the subcommittee or full board decides in the bidder's or proposer's favor, the board must direct the state contracting agency to take corrective action within 30 days after the decision date. A decision by the full board or the appeals review committee is final and not subject to appeal.

The board must provide a copy of the decision to all parties, the head of the state contracting agency, and the chief procurement officer.
EFFECTIVE DATE: January 1, 2010

§ 199 — Contesting State Contract Solicitations or Awards

The act establishes a process for bidders or proposers on state contracts to contest (1) the way the contracts were solicited or awarded or (2) an unauthorized or unwarranted, noncompetitive selection process. They may bring a claim to a SCSB subcommittee consisting of three members, including at least one legislative appointee, appointed by the chairperson. The claim must be in writing and submitted within 14 days after the claimant knew or should have known about the facts forming the basis for the claim. Claims must be limited to the solicitation or awarding procedures or of unauthorized or unwarranted, noncompetitive selection.

The act authorizes the subcommittee to resolve or settle the claim. If it is not resolved, the act requires the subcommittee to issue a written decision within 30 days after receiving the claim and provide a copy to the claimant. The decision must:

1. describe the procedure the agency used to solicit and award the contract,
2. indicate the agency's (apparently this means the subcommittee) findings on the claim's merits, and
3. inform the claimant of his right to review.

EFFECTIVE DATE: January 1, 2010

§§ 202 & 203 — Illegal Solicitations and Awards

Prior to an award, the SCSB must cancel or revise a solicitation or proposed award of a state contracting agency's contract that violates the law.

If the board makes the determination after the contract is awarded and the contract recipient did not act in bad faith, the contract may be (1) ratified and affirmed by the state contracting agency if the board determines doing so is in the best interests of the state or (2) terminated and the recipient compensated for the actual expenses reasonably incurred under the contract, plus a reasonable profit.

If the person awarded the contract acted in bad faith, the contract may (1) be declared null and void or (2) ratified and affirmed if doing so is in the best interests of the state, as determined by the SCSB. The determination must be in writing and without prejudice to the state's right to any appropriate damages.
EFFECTIVE DATE: January 1, 2010

§§ 182-210 — Regulations Establishing Procurement Policies and Procedures

The act requires the SCSB to adopt regulations, in accordance with the Uniform Administrative Procedure Act, establishing state procurement policies and procedures. Generally, the deadline for adopting the regulations is January 1, 2010. For those concerning (1) contracting procedures for constituent units of higher education, it is July 1, 2010 and (2) establishing small purchase procedures, it is July 1, 2009.

Under the act, the SCSB must adopt regulations:

1. (a) defining competitive sealed bidding, competitive sealed proposals, small purchase procedure, sole source procurement, emergency procurements, and waiver of bid or proposal requirements for extraordinary conditions; (b) establishing the circumstances under which state contracting agencies use these methods; and (c) establishing the processes and criteria for awarding purchases and contracts in accordance with each method;
2. specifying the procedure for issuing invitations for bids, including (a) the required elements, (b) the process for opening bids, and (c) evaluation criteria for awarding bids;
3. specifying when contracts and purchase orders exceeding $50,000 do not have to go through the competitive sealed- bidding procedure;
4. in consultation with DAS, establishing small purchase procedures for procurements of $50,000 or less (see below);
5. in consultation with the DAS commissioner, specifying when a contract for a supply, service, or construction item does not have to go through competitive bidding (see below);
6. establishing procedures for waiving competitive bidding or proposal requirements;
7. in consultation with the DAS commissioner and any other appropriate awarding authority, permitting emergency procurements when a threat to the public's health, welfare, or safety exists (see below);

8. in consultation with the DAS commissioner, establishing standards for preparing and maintaining the content of specifications for state supplies, services, and construction;
9. in consultation with the attorney general, specifying the types of contracts that state contracting agencies may use when procuring consultant services;
10. requiring proposed contractors, before the award of a contract, to submit documentation to the contracting agency confirming that their accounting system will permit timely processing of necessary cost data in the required format;
11. specifying (a) the process for procuring (1) architectural and engineering services in design-bid-build procurements, (2) construction in design-bid-build procurements, and (3) construction management at-risk and (b) project delivery methods;
12. requiring bid security for all competitive sealed bidding for construction contracts in design-bid-build procurement when the contracting agency estimates the price will exceed $500,000;
13. establishing the process for procuring consultant services (see below);
14. in consultation with state contracting agencies and the attorney general, requiring state contracts with state contracting agencies concerning infrastructure facilities to include clauses for (a) price adjustments, (b) time performance, (c) remedies, (d) termination, or (e) other contract provisions necessary to protect the state's interests; (§ 209)
15. concerning the procedures and circumstances under which state construction contracts of more than $ 50,000 may undergo (1) contract modifications, (2) change orders, or (3) contract price adjustments (see below); and
16. applying the act's procurement procedures to each constituent unit of higher education, taking into consideration circumstances and factors unique to them.

In addition, the State Insurance and Risk Management Board must adopt regulations, in consultation with the SCSB, specifying when a state contracting agency must require proposers to provide errors and omissions insurance to cover architectural and engineering services under the project delivery methods described above. Under the act, a "proposer" is a person, firm, or corporation that submits a bid in response to an RFP or other sealed proposal.

Small Purchase Procedures

The regulations establishing small purchase procedures for procurements of $50,000 or less must prohibit dividing a procurement to make use of the procedures. The act specifies that the SCSB, in consultation with the DAS commissioner, determines if a contracting agency has artificially divided a procurement. Upon making such a determination, the SCSB must prohibit the state contracting agency from utilizing the small purchase procedures.

In addition, the act authorizes the SCSB, in consultation with the DAS commissioner, to waive the competitive bidding or negotiation requirements in the case of minor, nonrecurring, or emergency purchases of $ 10,000 or less.

Contracts for Supply, Service or Construction Items

The regulations must cover situations when an agency contracting officer states, in writing, that there is only one source for the required item. They must specify that a sole source procurement is permitted when an item is available only from a single supplier.

Emergency Procurements

The act specifies that emergency procurements go through a competitive bidding process when practicable under the circumstances. The regulations must require the contract file to include a written determination of the basis for the emergency and for the contractor selection. The information must be transmitted to the governor and the top six legislative leaders.

Types of Contracts

The regulations must specify that a cost-reimbursement contract may be used only when the agency procurement officer makes a written determination that (1) such a contract is likely to cost less than any other type or (2) that it is impracticable to obtain the supplies, services, or construction required, except under such a contract.

Modifications, Change Orders, and Price Adjustments

Under the act, the regulations must require prior written certification for every contract modification, change order, or contract price adjustment for a state construction contract over $50,000. The written certification may be signed by (1) the fiscal officer of the contracting state agency or the agency responsible for funding the project or (2) an official responsible for monitoring and reporting on the status of the total project or contract budget.

If the changes will increase the total project or contract budget, the agency procurement officer cannot execute the modification, change order, or adjustment unless sufficient funds are available or the scope of the project or contract is adjusted to permit the degree of completion that is feasible within the total project or contract budget as it existed before the contract change under consideration. However, "with respect to the validity as to the contractor, of any executed contract modification, change order, or adjustment in contract price which the contractor has reasonably relied upon, it shall be presumed that there has been compliance with the provisions of this section." It is unclear what this language means.

"Change orders" are written orders signed by an official designated by the department head directing the contractor to make authorized changes.

EFFECTIVE DATE: October 1, 2008, except the provision requiring the SCSB to (1) establish a requisition system (§ 181) is effective January 1, 2010, and (2) establish the circumstances under which state contracting agencies may use other procurement methods (§ 182) is effective June 1, 2009.

§§ 211-213 — Appropriations and Fringe Benefits

The act transfers $800,000 from the Department of Labor's Workforce Investment Act Account to implement its provisions. It appropriates $700,000 to the SCSB from the General Fund for FY 08-09 to carry out the board's duties under the act.

The act requires the SCSB to transfer to the comptroller any amount she determines necessary to cover employee fringe benefits.

EFFECTIVE DATE: July 1, 2008

§ 214 — Repealer

The act repeals An Act Concerning Clean Contracting Standards, PA 07-1, September Special Session.

PA 07-7, June Special Session—SB 1502
Emergency Certification

AN ACT AUTHORIZING AND ADJUSTING BONDS OF THE STATE FOR CAPITAL IMPROVEMENTS AND FOR TRANSPORTATION INFRASTRUCTURE IMPROVEMENTS AND CONCERNING THE CONNECTICUT STATE UNIVERSITY INFRASTRUCTURE ACT

SUMMARY: This act authorizes state general obligation (GO), special tax obligation (STO), and revenue bonds. It authorizes a total of $2.92 billion in GO bonds for FY 08 and FY 09, plus an additional $950 million in GO bonds for a 10-year infrastructure improvement program for the Connecticut State University System (CSUS 2020) that starts July 1, 2008. The GO bond authorizations for FY 08 and FY 09 provide funding for state agency capital projects and grants for local and regional capital projects, including local school construction projects, economic and community development projects, the Local Capital Improvement Program (LOCIP), and farmland preservation. The act also cancels, reduces, and reallocates authorizations from past years.

The act establishes a grant program to reimburse school districts for costs they incurred during FY 08 to pay school construction project expenses while state school construction grant payments were delayed because state bond funds were unavailable.

The act authorizes $850 million in STO bonding for FY 08 and FY 09 to pay for transportation-related projects, including a "Fix-It-First" program for repairing state roads and bridges, Department of Transportation (DOT) capital improvement and highway resurfacing projects, and new and refurbished rail cars. It also adds several programs and initiatives to the list of strategic transportation projects already authorized for funding, replaces the planned New Haven Line $1 per-trip surcharge with a schedule of fare increases, and establishes a transit-oriented development pilot program and related programs, among other things.

The act authorizes $415 million in revenue bonds for FY 08 and FY 09 for loans to municipalities for clean water projects.

The bond issuance for CSUS 2020 requires a one-time approval by the State Bond Commission and annual approval by the governor.

The act reduces or cancels unallocated GO bond authorizations for prior years for a net reduction of $205,523,126 in prior years' authorizations. Of this amount, $190,552,254 are cancellations of existing unallocated bond authorizations for CSUS capital improvements that are the same or similar to projects reauthorized in CSUS 2020.

EFFECTIVE DATE: Upon passage for FY 08 bond authorizations and July 1, 2008 for FY 09 authorizations. Other sections are effective on passage unless otherwise noted below.

§§ 1-39 —GO BOND AUTHORIZATIONS FOR FYS 08 AND 09

§§ 1-7 & 20-26 – State Agency Capital Projects

The act authorizes state GO bonding totaling $372,770,739 for FY 08 and $244,530,361 for FY 09 for the state agency capital projects listed in Table 1.

Table 1: Authorizations for State Agency Capital Projects

	FY 08	***FY 09***
Legislative Management - §§ 2(a), 21(a)		
Genius of Connecticut statue - completion and installation	$360,000	$0
Legislative Office Building – renovation and expansion	5,000,000	0
Old State House, Hartford - alterations, renovations, and improvements	1,450,000	1,450,000
Comptroller - §§ 2(b), 21(b)		
CORE financial systems project	960,000	1,115,000
Revenue Services - § 2(c)		
Integrated tax system	2,950,000	0
Special Revenue - § 2(d)		
Electrical system upgrades, Newington	220,000	0
Information Technology - §§ 2(e), 21(c)		
Connecticut Education Network	4,100,000	0
Alternate data center – planning	2,500,000	0
Information technology systems - compliance with the Health Insurance Portability and Accountability Act	6,310,500	6,310,500
Veterans' Affairs - §§ 2(f), 21(d)		
Cost and feasibility study of future uses for health care facility at Rocky Hill Veterans' Home	250,000	0
Buildings and grounds - alterations and improvements	1,000,000	1,000,000
Public Works - § 2(g), 21(e)		
State buildings - asbestos removal and encapsulation	5,000,000	5,000,000
State-owned buildings – repairs, improvements, and preservation of unoccupied buildings	8,000,000	6,000,000
Fire training schools - construction, improvement, repairs, and land acquisition	10,000,000	8,000,000
State-owned & leased surface parking lots in Hartford – develop and implement plan to reduce number	200,000	0
Public Safety - § 2(h), 21(f)		
State-wide telecommunications system – upgrades	2,250,000	2,200,000
Buildings & grounds – alterations and improvements	1,500,000	1,500,000
Building 5, Mulcahy Complex, Meriden – alterations, renovations, & improvements	750,000	5,826,000
Forensics Lab, Meriden – addition	1,680,000	0
Emergency services facility, including canine training & vehicle impound area	1,688,000	0
Programmatic study of State Police troops and districts; develop design prototype for troop facilities	100,000	0
Simsbury shooting range improvements	1,750,000	0

	FY 08	*FY 09*
Motor Vehicles - § 2(i)		
Information technology system upgrades	14,000,000	0
Military - §§ 2(j), 21(g)		
Matching funds for federal reimbursable projects	500,000	500,000
Buildings and grounds – improvements and alterations	500,000	500,000
Regional force protection training facility – construction	1,000,000	0
Air National Guard Base, Bradley Airport – alterations, renovations, and improvements	0	500,000
Emergency Management & Homeland Security - §§ 2(k), 21(h)		
Buildings and grounds – alterations and improvements	250,000	0
Environmental Protection - §§ 2(l), 21(i)		
Recreation and Natural Heritage Trust Program – recreation, open space, resource protection and management	7,500,000	7,500,000
Dam repairs	2,000,000	2,000,000
Flood control improvements	7,500,000	7,500,000
Fort Griswold Battlefield State Park, Groton – restore monument and surrounding walls, gates, and walkways	500,000	0
State roads in East Hartford – drainage study	250,000	0
Extend boardwalk from Walnut Beach to Silver Sands State Park and create handicapped access to Walnut Beach	125,000	0
West Rock Ridge State Park – property acquisition and improvements	0	900,000
Culture & Tourism - § 2(m)		
Prudence Crandall Museum, Carter House Visitor Center – alterations, improvements, renovations	500,000	0
CT Agricultural Experiment Station - §§ 2(n), 21(i)		
Jenkins Laboratory – alterations, improvements, renovations	1,300,000	9,000,000
Facilities – alterations, improvements, renovations, including new construction at Griswold	500,000	0
Public Health - § 2(o)		
New public health lab - development and related costs	38,285,900	0
Mental Retardation - §§ 2(p), 21(j)		
Regional facilities – fire, safety, and environmental improvements for client and staff needs	5,000,000	5,000,000
Mental Health & Addiction Services - §§ 2(q), 21(k)		
Regional facilities – fire, safety, and environmental improvements for client and staff needs	6,000,000	6,000,000
Patient care information technology system upgrade	4,700,000	0
Education - §§ 2(r), 21(l)		
American School for the Deaf, buildings and grounds – renovations, improvements, new construction, and portable classrooms	1,300,000	0
Vocational-technical schools – upgrades, alterations and improvements; equipment, tools and supplies; and vehicles and technology	8,000,000	8,000,000

COMMUNITY-TECHNICAL COLLEGE SYSTEM - §§ 2(s), 21(m)			
All Colleges	Facility alterations, improvements, and renovations	5,000,000	4,000,000
	New and replacement instruction, research, or lab equipment	9,000,000	9,000,000
	System Technology Initiative	6,000,000	6,000,000
Manchester	Campus improvements	2,609,500	0
Northwestern	Joyner Building – alterations, improvements, and renovations	705,708	0
Gateway	Consolidate programs in one location	21,504,000	36,600,000
Three Rivers	Consolidate campus according to master plan – renovations and additional facilities	8,071,531	0
Norwalk	Roof repairs	450,000	0
Northwestern	Nursing and allied health programs – infrastructure development	340,000	0

		FY 08	FY 09
	and improvements		
Tunxis	Buildings and grounds - alterations and improvements according to master plan	0	15,118,861
CONNECTICUT STATE UNIVERSITY SYSTEM - §§ 2(t), 21(n)			
All universities	New and replacement instruction, research, lab, physical plant and administrative equipment	8,000,000	0
	Auxiliary services buildings – alterations, repairs, and improvements	6,346,000	0
	Feasibility study of establishing higher education center in Bridgeport	250,000	0
	System telecommunications infrastructure upgrades, improvements, and expansions	1,200,000	0
	Land and property acquisitions	100,000	0
Central	Facilities – alterations, renovations, and improvements	4,949,000	0
	East Campus – infrastructure improvements	1,800,000	0
	New public safety building	5,196,000	0
	New classroom and office facility	4,014,000	0
Western	Facilities – alterations, renovations, and improvements	1,400,000	0
	Fine and performing arts instructional building – development and construction	12,192,000	0
Southern	Facilities – alterations, renovations, and improvements	3,208,000	0
	New academic lab building and parking garage, renovate former student center, and demolish Seabury Hall	5,684,000	0
Eastern	Facilities – alterations, renovations, and improvements	1,165,000	0
	Develop campus police station	3,500,000	
	Relocate softball field	2,700,000	0
	Develop new parking garage	18,296,000	0
Correction - §§ 2(u), 21(o)			
State-owned buildings – renovations and improvements for inmate housing, programming and staff training space, and additional inmate capacity		10,000,000	42,095,000
Planning for inmate housing		1,000,000	0
Children and Families - §§ 2(w), 21(q)			
Buildings and grounds - alterations, renovations, and improvements		1,785,600	2,415,000
Self-contained, secure treatment facility for girls		5,000,000	6,000,000
Former Long Lane School, Middletown – reimburse for environmental remediation		5,000,000	14,000,000
High Meadows - alterations, renovations, and improvements, including new dormitory and activity center		7,000,000	0
Judicial - §§ 2(w), 21(q)			
State-owned and maintained buildings - alterations, renovations, and improvements		5,000,000	5,000,000
State-owned and maintained buildings – security improvements		1,000,000	1,000,000
Technology Strategic Plan - implementation		5,000,000	3,500,000
Torrington courthouse		25,275,000	0
New Bridgeport courthouse		5,000,000	0
Parking garage, Lafayette St., Hartford – renovations and improvements		4,000,000	0
Development and land acquisition for courthouse annex and parking near the Milford judicial district and GA courthouse		2,000,000	1,000,000
Current and future space needs study at Manchester GA courthouse		50,000	0
Alterations and improvements to existing facilities related to age jurisdiction change		4,000,000	0
Courthouse at 121 Elm St., New Haven – alterations, renovations, and restoration		0	13,000,000

§§ 8-11 & 27-30 – Housing Projects

The act authorizes up to $10 million in GO bonds each year for FY 08 and FY 09 for the Department of Economic and Community Development for housing projects. It also authorizes up to $1 million for FY 08 for lead abatement and remediation in public housing projects.

§§ 12-19 & 31-38 — Grants for Local and Regional Projects and Purposes

The act authorizes up to $270,450,025 for FY 08 and up to $129,017,075 for FY 09 in GO bonds for grants by specified state agencies for local, regional, and other projects and purposes listed in Table 2.

The grants are subject to state contracts. For grants to entities that are not state subdivisions, the contracts must require that, if within 10 years after the grant date, the premises for which the grant was made are no longer used for grant purposes, the entity must repay the grant amount minus 10% for each full year that has elapsed since the grant date. The state must place a lien on the land to ensure payment, unless the premises are owned by the state, a municipality, or a housing authority.

Table 2: Authorizations for Local and Regional Projects & Purposes

Grantee (s)	*For*	*FY 08*	*FY 09*
Office of Policy and Management §§ 13(a), 32(a)			
Municipalities	Preparing and revising municipal plans of conservation and development	$500,000	$500,000
	Responsible Growth Incentive Fund. Up to $5 million of amount for FY 09 to be used for grants up to $1 million each to municipalities or regional planning organizations to implement transit-oriented plans in designated pilot program areas.	5,000,000	10,000,000
	Enhanced geospatial information systems data collection	400,000	0
	Planning and developing a web-based information system allowing all criminal justice and related agencies to access case files	1,000,000	0
Department of Public Safety §§ 13(b), 32(b)			
Litchfield	Firehouse construction - Northfield	878,050	0
Quinebaug Valley Emergency Communications Center	Land acquisition and construction	2,950,000	0
Somers	2 fire substations	439,025	439,025
Hartford	Public safety complex and regional emergency management center	1,000,000	0
West Haven – Allingtown Fire District	New fire and police substation - land acquisition and construction	2,000,000	2,000,000
Montville	Convert old town hall to a police station	800,000	0
North Stonington	Firehouse improvements	250,000	0
West Haven – West Shore Fire District	Improvements	250,000	0
Burlington	Firehouse improvements	100,000	0
Department of Agriculture §§ 13(c), 32(c)			
	Farm Reinvestment Program	500,000	500,000
Farmers	Matching grants for environmental compliance	2,000,000	2,000,000
Farmers, agricultural nonprofit organizations, and farm cooperatives	Biofuel Crops Program - grants for cultivating and producing crops used to generate biofuels	1,000,000	2,500,000

Grantee (s)	*For*	*FY 08*	*FY 09*
Department of Environmental Protection §§ 13(d), 32(d)			
Municipalities	Acquire open space for conservation and recreation	7,500,000	7,500,000
	Containment, removal, or mitigation of identified hazardous waste disposal sites	17,500,000	17,500,000
CT Resources Recovery Authority	Costs associated with closing Hartford landfill	3,000,000	10,000,000
Hartford	Flood control system improvements	12,000,000	0
	Lakes Restoration Program. For FY 08, earmarks $87,805 for Lake Beseck, Middlefield and $200,000 for Pattagansett Lake, East Lyme	487,805	200,000
Municipalities	Providing potable water	2,500,000	2,500,000
State agencies, regional planning agencies, and municipalities	Water pollution control projects	1,000,000	1,000,000
New Britain	Replacing Brooklawn St. Bridge on Willow Brook	440,000	0
CT Institute of Water Resources	River basins study	500,000	0
Greenwich	Remediate brownfields at Cos Cob Power Plant site	2,000,000	0
North Branford	Develop Swatchuk property for active and passive recreation	439,025	0
Thomaston	Extend water main in Jackson St. area	1,756,100	0
Sprague	Dam repairs and sewage treatment plant improvements	1,000,000	0
New London	Ocean Beach Park repairs	1,350,000	0
Environmental Learning Center, Inc.	Indian Rock Nature Preserve, Bristol – infrastructure projects	200,000	0
Farnam Neighborhood House	Camp Farnam Reclamation and Revitalization Project, Durham	439,025	0
Simsbury	Acquire open space and preserve farmland at Meadow Wood	300,000	500,000
Guilford	East River Preserve	1,000,000	2,000,000
West Haven	Shoreline improvements – rebuild beach groin, repair beach erosion, replenish sand, and replace pier	1,250,000	0
Bridgeport	Purchase development rights at Veterans' Memorial Park	3,000,000	0
Wolcott	Retire debt associated with water line installation	500,000	0
Enfield	Soil remediation project – Enrico Fermi High School	3,300,000	0
Stonington	Soil remediation – Pawcatuck Dock vicinity	150,000	0
Berlin	New construction and repair of leisure services or maintenance facilities	300,000	0
Manchester	Develop and construct Manchester-to-Bolton section of East Coast Greenway	790,240	0
Milford	Replenish beach	500,000	0
New Haven	Morris Cove storm water drainage system improvements	1,000,000	0
Rte. 11 Greenway Authority Commission	Land acquisition	1,000,000	0
Simsbury	Infrastructure improvement – Tariffville section	200,000	0
Danbury	Acquire Terre Haute property in Bethel for open space	2,000,000	0
Shoreline Greenway Trail, Inc.	Match federal funds for building a trail from Lighthouse Point in New Haven harbor to Hammonasset State Park in Madison	665,000	0
Meriden	Flood control improvements and reuse of Meriden Hub	9,000,000	0
Norwalk	Flood control system improvements	3,005,000	0
Fairfield	Rooster River flood control project	14,500,000	0
Trumbull	Great Oak Park – open space and trail development	50,000	0
South Windsor	Purchase or construction of regional animal shelter	500,000	0

Grantee (s)	For	FY 08	FY 09
Preston	Demolish former Poquetanuck School	250,000	0
Montville	Sewage treatment facility infrastructure improvements and upgrades	5,000,000	0
Homeowners in Beverly Hills section of New Haven and in Woodbridge	Structurally damaged homes from subsidence in the immediate vicinity of West River	2,000,000	0
Portland	Replace water mains	1,000,000	0
Cromwell	Sewer repairs	500,000	0
Norwalk	Harbor dredging	0	1,000,000
Simsbury	Acquiring open space at the Ethel Walker School	0	1,000,000
Commission on Culture and Tourism §§ 13(e), 32(e)			
	Restore and preserve historic structures and landmarks	300,000	300,000
Greenwich	Bruce Museum – renovate existing or construct new exhibition areas, teaching spaces, and the science gallery	1,500,000	0
Norwalk	Maritime Aquarium – defray financial obligations incurred for construction of Environmental Science Center	400,000	0
Stepping Stones Museum for Children, Norwalk	Expand facility	400,000	0
Vernon	Vernon Historical Society Museum in Vernon Grange Building – ADA improvements and repair and restore exterior siding and windows	283,000	0
Westport Historical Society	Retire outstanding debt	600,000	0
Kidcity Children’s Museum, Middletown	New building	1,000,000	0
Norwich Free Academy	Slater Memorial Museum – ADA improvements, including an elevator	800,000	0
Lyme Art Association	Renovate gallery building in Old Lyme	100,000	0
Discovery Museum, Bridgeport	Infrastructure renewal and expansion projects	800,000	0
Norwalk Seaport Association	Infrastructure renewal projects	500,000	0
Darien Arts Center	Infrastructure renewal projects	50,000	0
Amistad America, Inc.	Freedom Schooner Amistad – repairs	250,000	150,000
Holcomb Farm, Granby	Restore and renovate buildings	100,000	0
Westport	New construction at Levitt Pavilion for the Performing Arts	1,000,000	0
Milford Historical Society	Restore and renovate historic property	50,000	0
Hamden	Restore Eli Whitney 1816 barn	390,000	0
West Haven	Restore historic property for military museum	750,000	1,000,000
Gallery 53, Meriden	Structural improvements	50,000	0
Chatham Historical Society, East Hampton	Replace roof and improve infrastructure	50,000	0
Barnum Museum Foundation, Inc.	Renovations at Barnum Museum, Bridgeport	1, 250,000	0
Artists’ Collective, Inc., Hartford	Infrastructure repairs and improvements	800,000	0
Willimantic	Restore historic properties along Main St.	650,000	0
Stanley L. Richter Association for the Arts, Inc., Danbury	Roof repair, expansion, and ADA improvements	150,000	150,000
New England Air Museum, Windsor Locks	Construct swing space storage building and education building	3,250,000	0
East Hampton	Restore and renovate Goff House	100,000	0
New Haven Museum and Historical Society	Restore and reconstruct Pardee Morris House	500,000	0

Grantee (s)	For	FY 08	FY 09
Antiquarian & Landmarks Foundation	Nathan Hale Museum and Family Homestead Development Plan, Coventry	1,000,000	0
CT Zoological Society	Plan and develop the Andes Adventure Exhibit at Beardsley Zoo, Bridgeport	800,000	0
West Hartford Historical Society	Restore and renovate Noah Webster House	100,000	0
Park Road Playhouse, West Hartford	Facility improvements, including infrared system to aid hearing impaired, fire code compliance, HVAC modification, and new sound system	25,000	0
Mystic	Museum of America and the Sea at Mystic Seaport - improve transportation access at north gate	0	1,000,000
Lockwood-Mathews Mansion Museum, Norwalk	Infrastructure renewal projects	0	1,000,000
Torrington	Warner Theater Stage House – development and construction	0	1,000,000
Department of Economic and Community Development §§ 13(f), 32(f)			
	Southeastern Connecticut Economic Diversification Revolving Loan Fund	5,000,000	5,000,000
	Regional Brownfield Redevelopment Loan Fund	2,500,000	2,500,000
Four municipalities	Brownfield pilot program grants	4,500,000	4,500,000
	Biofuel Production Facility Incentive Program	1,100,000	4,000,000
	Fuel diversification grant program (PA 07-4, JSS, § 61)	2,500,000	0
	Loans for installing new alternative vehicle fuel pumps or converting gas or diesel pumps to dispense alternative fuels	1,000,000	2,000,000
Middlesex County Revitalization Commission	Revitalization projects	878,050	0
Stafford	Downtown redevelopment	439,025	0
Torrington	Downtown redevelopment	504,875	0
Ansonia Development Corporation	Downtown development projects	500,000	0
Bridgeport	Planning and implementing Upper Reservoir Avenue Corridor Revitalization Initiative Project	250,000	0
Fairfield County Housing Partnership	Independent living facility in Bridgeport - land acquisition, design, development, and construction	750,000	0
New Haven	River Street development project	2,800,000	2,500,000
New Britain	Downtown redevelopment plan – property acquisition, design development, and construction	1,000,000	400,000
New Britain	New Britain Stadium – new scoreboard, production equipment and related software, and repairs and upgrades to suites	500,000	0
Vernon	Convert Roosevelt Mill to apartments and retail	1,000,000	500,000
Southington	Southington Drive-In renovations	250,000	0
Milford	Silver Sands Parkway – streetscape improvements, lights in front of Jagoe Court	500,000	0
Hamden	Whitneyville Center streetscape improvements	390,000	0
Manchester	Broad Street streetscape project	2,000,000	2,000,000
Hill Development Corporation	Renovations to New Haven facility	500,000	0
Meriden	West Main Street streetscape project	2,500,000	0
Hartford	Park Street streetscape project	1,700,000	3,000,000
Bridgeport	Madison Avenue Gateway Revitalization streetscape project	2,500,000	0
Hartford	Bridge over Park River	500,000	0

Grantee (s)	*For*	*FY 08*	*FY 09*
Bridgeport	Black Rock Gateway project	1,000,000	1,000,000
Fairfield	Repair and improve State Road 59 between North and Capitol Avenue intersections, including median and sidewalk renovations	1,000,000	0
Bridgeport	Water taxi, dock construction, and construction of Pleasure Beach retractable pedestrian bridge	3,000,000	0
Bridgeport	Congress Street Bridge – design and construction	5,000,000	0
Bridgeport Port Authority	Derecktor Shipyard - improvements, remediation, dredging, bulkheading, and building shipyard economic development plan, Phase 2	1,750,000	0
Bridgeport	Bluefish Stadium improvements	400,000	0
Southington	Road relocation, utility upgrades, new service facilities, and other improvements related to Lake Compounce Water Park expansion	3,300,000	0
	(1) Purchase, rehabilitate, or demolish severely damaged homes in Newhall neighborhood, Hamden or (2) grant to Hamden for such purposes	2,000,000	3,000,000
Hartford Economic Development Corporation	North Hartford community revolving loan fund	900,000	0
Hartford	Planning and design of streetscape improvements in North Hartford area and along Main Street corridor	500,000	0
Norwalk Transit District	Renovations, upgrades, technology improvement, lighting, and new security system related to pulse point safety and security enhancements	153,000	0
Bridgeport	Repair and improve State Road 59 between North and Capitol Avenue intersections, including median and sidewalk renovations	1,000,000	0
Milford Housing and Redevelopment Partnership	Maintain and improve partnership's housing stock	1,000,000	0
Goodwin College, East Hartford	Expand and relocate Goodwin College	6,000,000	6,000,000
Lyme Academy of Fine Arts, Old Lyme	Infrastructure improvements	250,000	0
Bethel	Downtown redevelopment and municipal parking improvements	500,000	0
Hamden	Acquire and install hydrogen fueling station	250,000	0
Cross Sound Ferry, Inc. and Thames Shipyard Repair, New London	Dredging and facility renovations	250,000	0
Wethersfield	Silas Deane Highway economic development and infrastructure improvements	1,000,000	0
Hartford	Wethersfield Ave. façade improvements	500,000	0
Neighborhoods of Hartford, Inc.	Hartford Rising Star Blocks and Pride Blocks programs	500,000	0
Farmington	Complete portion of a trail in Rails to Trails	65,000	0
Portland	Sidewalk repairs	200,000	0
Newington	Community center	1,000,000	0
Stratford	Streetscape improvements	450,000	0
Somers Housing Authority	Woodcrest facility – rehabilitate and expand senior housing	0	878,050
East Haven	Phase III downtown development	0	1,000,000
Department of Public Health § 13(g)			
	Hospital-based emergency service facilities: • Hospital of Central Connecticut - $1,500,000	5,878,050	0

Grantee (s)	For	FY 08	FY 09
	• Griffin Hospital - $500,000 • Johnson Memorial Hospital - $1,000,000 • Backus Hospital - $1,000,000 • Norwalk Hospital - $ 878,050 • Midstate Medical Center, Meriden - $1,000,000		
Milford	New community health center in Westshore area – design and construction	150,000	0
Stamford Hospital Foundation	Purchase digital mobile mammography unit	500,000	0
Community Health Center, Inc.	Groton facility – renovations and improvements	500,000	0
Community Health Center, Inc.	New London facility – renovations and improvements	1,000,000	0
KB Ambulance Corporation	Building addition and alterations, Danielson	465,000	0
Department of Mental Health and Addiction Services § 13(h)			
Bridges of Milford	Property acquisition and facility expansion	600,000	0
Rushford Behavioral Health Services, Meriden	Renovations and roof replacement	800,000	0
Department of Social Services §§ 13(i), 32(g)			
Bristol Community Organization, Inc.	Buy building to expand Head Start program	373,170	0
Brookfield	Expand senior center, including computer equipment	439,025	0
New Opportunities, Inc.	Slocum Childhood Center, Waterbury – renovate classrooms and administrative space	500,000	0
New Opportunities, Inc.	Human Services Center, Waterbury – new heating system	300,000	0
Prudence Crandall Center, Inc.	Rose Hill Center, New Britain – building renovations	1,000,000	0
Saugatuck Senior Cooperative, Westport	Replace roof	250,000	0
New London	Alliance for Living, Inc. – remediate asbestos and replace siding on building	100,000	0
Easton	Senior center - renovations	219,510	0
Good Shepherd Day Care Center, Milford	Construction and LEED certification requirements	350,000	0
Action for Bridgeport Community, Inc.	Acquire and renovate property for early learning center	1,200,000	0
Interfaith Cooperative Ministries of New Haven	Aging-at-home pilot program in Hamden	100,000	0
American Red Cross, Meriden/Wallingford Branch	Building renovations, including ventilation, plumbing, and wiring system alterations	50,000	0
New Britain	Acquire building associated with food pantry	150,000	0
Hospice Southeastern Connecticut	New building in Norwich	800,000	0
Mi Casa, Hartford	Renovate and acquire equipment for wellness center	350,000	0
New London County 4H Foundation, Inc.	4H Club, Franklin - renovations	250,000	0
Bridge Family Centers, Inc.	Develop and renovate administrative space in West Hartford	150,000	0
Casa Bienvenida	Acquire property in Waterbury	3,000,000	0
Rivera Hughes Memorial Foundation	Acquire property in Waterbury	1,000,000	0
Jewish Community Center of Eastern Fairfield County	Facility upgrades, asbestos, removal, and HVAC replacement	1,000,000	0
Polish American Foundation	Sloper Wesoly House, New Britain - renovations	100,000	0

Grantee (s)	*For*	*FY 08*	*FY 09*
Martin House, Norwich	Build efficiency apartments	0	1,000,000
Department of Education §§ 13(j), 32(h)			
Municipalities, regional school districts, and regional education service centers (RESCs)	Wiring school buildings	2,000,000	2,000,000
School readiness programs	Minor capital improvements and wiring for technology	1,500,000	1,500,000
Challenger Learning Center of Southeastern Connecticut	Construct building	850,000	0
Waterford Country School	Build gymnasium	1,000,000	0
Stratford	Stratford High School – new boilers	500,000	0
Municipalities, regional school districts, and RESCs	Purchase and install security infrastructure, including surveillance cameras, entry door buzzer systems, scan cards, and panic alarms	5,000,000	0
State Library §§ 13(k), 32(i)			
Public libraries not located in distressed municipalities	Construction, renovation, expansion, energy conservation, handicapped accessibility	3,500,000	3,500,000
Public libraries located in distressed municipalities	Construction, renovations, expansion, energy conservation, handicapped accessibility	5,000,000	5,000,000
North Branford	Edward Smith Library of Northford – renovations and additions	439,025	0
Somers	Expand Somers Library	439,025	0
Vernon	George Maxwell Memorial Library, Rockville – ADA compliance improvements, including an elevator	550,000	0
Branford	Blackstone Library	500,000	0
Department of Children and Families § 13(l)			
Children's Home of Cromwell	Infrastructure renewal and renovation	400,000	0
Pathway-Senderos Teen Pregnancy Prevention Center, New Britain	Acquire new facility	1,200,000	0
Child Guidance Center of Southern Connecticut, Stamford	Expansion	2,000,000	0
Youth Continuum, New Haven	Renovations and code improvements	500,000	0
The Grounds, Inc.	Plan and develop new facility in West Hartford	30,000	0
Miscellaneous Grants §§ 13(m) & (n), 32(j)			
Connecticut Public Broadcasting, Inc.	Buy and upgrade transmission, broadcast, production, and information technology equipment	2,500,000	0
Connecticut Innovations, Inc. (CII)	Recapitalize CII programs • Capital expenses associated with the Biobus - $1,500,000 for FY 08	12,000,000	12,000,000

§ 39 — Exemption from Grant Repayment Requirements

The act exempts First Step or its successor agency from liability for repaying a grant from the Department of Mental Health and Addiction Services authorized and awarded under SA 01-2, JSS, and required under a contract dated June 22, 2004. The special act authorized up to $4 million for the department for grants-in-aid to private, nonprofit organizations for alterations and improvements to various facilities. The authorization was effective July 1, 2002.

§§ 40-61 — STATUTORY BOND AUTHORIZATIONS FOR FYS 08 AND 09

§§ 40-43 & 46-53 — Increased Authorizations for Various Agencies and Purposes

The act increases bond authorization limits for various statutory grants and purposes and allocates new bonding for these purposes for FY 08 and FY 09 as shown in Table 3. It authorizes up to $977.4 million in GO bonds for FY 08 and $861.4 million for FY 09. It also authorizes up to $235 million in revenue bonds for FY 08 and $180 million for FY 09 for Clean Water Fund loans.

Table 3: Statutory Bond Authorizations For FY 08 & FY 09

§	***Agency***	***Purpose/Fund***	***FY 08***	***FY 09***
40	Office of Policy & Management	Economic and community development project grants (Urban Act)	$20,000,000	$20,000,000
41	Office of Policy & Management	Small Town Economic Assistance Program (STEAP)	20,000,000	20,000,000
42	Treasurer	Capital Equipment Purchase Fund	40,000,000	26,000,000
43	Office of Policy & Management	LOCIP	30,000,000	30,000,000
46	Education	Charter school capital expenses	5,000,000	5,000,000
47	Education	School construction projects	707,000,000	603,000,000
48	Education	School construction interest subsidy grants	14,400,000	16,400,000
49	Agriculture	Farmland preservation	5,000,000	5,000,000
50	Environmental Protection	Clean Water Fund grants	90,000,000	90,000,000
51	Environmental Protection	Clean Water Fund loans (revenue bonds)	235,000,000	180,000,000
52	Economic and Community Development	Manufacturing Assistance Act	45,000,000	45,000,000
53	Environmental Protection	Special Contaminated Property Remediation and Insurance Fund	1,000,000	1,000,000

§ 44 — Housing Trust Fund Authorization

The law allows the State Bond Commission to authorize up to $20 million per year over five years (FY 06 to FY 10) to capitalize the Housing Trust Fund. The act increases (1) the maximum GO bond authorization for the fund for FY 09 by $10 million, from $20 million to $30 million and (2) the fund's total maximum capitalization by $10 million, from $100 million to $110 million.

The Housing Trust Fund was established to expand affordable housing opportunities for low- and moderate-income homeowners.

§ 45 — Charter School Facility Grants

The act extends, through FY 09, the State Department of Education's authority to provide grants, within available bond authorizations (see Table 3 above), to help charter schools:

1. renovate, build, buy, extend, replace, or carry out major alterations in their facilities;
2. replace windows, doors, boilers and other heating and ventilation system components, internal communication systems, lockers, and ceilings; (b) upgrade restrooms; (c) replace and upgrade lighting; or (d) install security equipment; and
3. repay debt incurred for school building projects.

The act eliminates a requirement that charter schools use state funds for debt repayment only to repay debt incurred before July 1, 2005.

By law, the education commissioner, in selecting schools to receive grants, must give preference to those that provide matching funds from nonstate sources.

§ 52 — Groton Sub Base and Connecticut Center For Advanced Technology

Of the $90 million it authorizes for the Manufacturing Assistance Act, the act (1) increases by $40 million (from $10 million to $50 million) the amount earmarked for grants to the U.S. Navy or other eligible applicants to enhance the infrastructure at the Groton submarine base for long-term, ongoing naval operations and (2) reserves $2 million for a grant to the Connecticut Center for Advanced Technology for manufacturing initiatives, including aerospace and defense.

§§ 54 & 58-60 — 21st Century UConn

The act extends UConn's capital improvement campaign, known as 21st Century UConn, by one year. It reduces the annual caps on the amount of state-backed bonds the UConn board of trustees can issue in FY 08 through FY 14, increases the cap for FY 15, and extends the program through 2016 as shown below in Table 4.

Under prior law and the act, any difference between the amount actually issued in any year and the cap can be carried forward to any succeeding fiscal year. Financing transaction costs can be added to the caps.

Table 4: Annual Bond Limits for 21st Century UConn

FY	*Prior Limit (in millions)*	*New Limit (in millions)*	*Change (in millions)*
2008	$120.0	$115.0	($5.0)
09	155.0	140.0	(15.0)
10	160.5	140.5	(20.0)
11	161.5	146.5	(15.0)
12	138.1	123.1	(15.0)
13	129.5	114.5	(15.0)
14	126.5	111.5	(15.0)
15	90.9	100.0	9.1
16	N.A.	90.9	0

§ 55 — Construction Grants for Public Libraries

The act doubles the State Library Board's maximum grant for public library construction projects from $500,000 to $1 million for project applications submitted on or after September 1, 2007. As under prior law, the grants pay for one-third of the total cost of each approved project on the board's priority list, up to the maximum grant. The grants are subject to available appropriations.

§ 56 — Matching Grants for Commercial Freight Rail Lines

The act authorizes up to $10 million in GO bonds to the DOT for FY 09 to provide competitive matching grants for commercial freight rail lines operating in Connecticut. Recipients must use the grants to improve, repair, and modernize existing rails, rail beds, and related facilities. The act requires the DOT commissioner to adopt regulations to implement the grant program.

§ 57 — Financial Assistance to Torrington

By law, the General Assembly must approve state assistance to any applicant or business project that exceeds $10 million in any two-year period. In 2004, the General Assembly approved up to $30 million in bond-funded grants, loans, loan guarantees, insurance contracts, investment, or some combination of these forms of assistance to restore and improve property in Torrington.

This act (1) changes the name of the assistance recipient from Downtown Torrington Redevelopment LLC to Torrington Development Corporation and (2) allows the DECD to provide the assistance between the act's effective date (November 2, 2007) and June 30, 2009, instead of between July 1, 2001 and June 30, 2007.

§§ 61-100 —STO BOND AUTHORIZATIONS AND TRANSPORTATION PROVISIONS

§§ 61-63 & 88 — Strategic Transportation Project List Additions

Certain transportation projects and initiatives are specified by law as "strategic transportation projects" and identified for available funding. This act adds the following projects and initiatives to the strategic project list (referred to as "tier 1" projects):

1. purchasing up to 38 electric rail cars for use on the New Haven Line and Shore Line East commuter rail services;
2. purchasing equipment and facilities to support Shore Line East commuter rail expansion, including implementing phases I & II as recommended in the Department of Transportation (DOT) commissioner's January 1, 2007 report on obstacles to improved service on Shore Line East;
3. improving bicycle access to, and storage facilities at, transportation centers;
4. developing a new commuter rail station in Orange;
5. improving bus connectivity and service, up to $20 million for FY 08, of which (a) up to $14 million must be used to build bus maintenance and storage facilities for the Windham and Torrington regional transit districts, (b) up to $5 million must be used to buy and install clean diesel bus retrofits, and (c) up to $1 million must be used to buy vehicles for elderly and disabled demand-responsive transportation programs that participate in the state municipal dial-a-ride matching grant program established by law;
6. funding the Waterbury Intermodal Transportation Center, up to $18 million;
7. funding the state share of Tweed New Haven Airport's Runway Safety Area, up to $1.055 million; and
8. evaluating purchase of rolling stock for direct commuter rail service connecting Connecticut to New Jersey via Pennsylvania Station in New York. The evaluation must be conducted by the governor or her designee initiating formal discussions with appropriate parties from New York, New Jersey, the Metropolitan Transportation Authority, and Amtrak.

The act modifies two projects already approved by the legislature for funding as priority transportation projects. Instead of developing a new commuter rail station between New Haven and Milford, the act specifies that the new station be in West Haven. It also expands the funding authorization for the Commercial Vehicle Information System Network to include weigh-in-motion and electronic pre-clearance of safe truck operators for fixed-scale operations on I-91 (Middletown) and I-95 (Greenwich and Waterford) for up to $4 million.

By law, the transportation commissioner must evaluate and plan implementation for various specified projects (referred to as "tier 2" projects). This already includes improving Routes 2 and 2A in Preston, North Stonington, and Montville. The act requires that, as part of this project, DOT conduct the first phase of a Route 2A bypass alternative that would begin in Preston, proceed northerly toward downtown Norwich, and end at Route 2 in Preston. The first phase of the study must include an analysis of the feasibility, local economic impact, and cost of constructing the portion of the alternative bypass that would pass through the Hinkley Hill area in Norwich. An independent entity that contracts with the DOT must conduct the study's first phase, for which cost may not exceed $300,000. It must submit the results to DOT, which must submit them to the Transportation Committee by September 30, 2008.

The act also adds to the tier 2 project list the completion of the Day Hill Corridor environmental assessment study. Its cost may not exceed $500,000.

§§ 64 & 65 — "Fix-It-First" Program for State Roads and Bridges

The act authorizes up to $150 million in STO bonds ($75 million each for FY 08 and FY 09) for DOT to establish a "Fix-it-First" program. Up to $30 million of each year's authorization is earmarked for repairing state roads, with $30 million of that amount earmarked for rehabilitating and rebuilding highways that are not part of the interstate highway system. Up to $45 million of each year's authorization must be used for repairing state bridges.

The act requires DOT to choose road projects based on traffic volume, condition, and need, with priority given to projects already programmed in out years. It directs DOT to use its FY 08 bridge repair authorization for bridges rated in Category 4 or 5 under the National Bridge Inspection Standards established by federal regulation. (Under the federal rating system a bridge can be classified from a 9 (excellent) to a 0 (failed) condition. A Category 5 bridge is classified as in "fair" condition. A Category 4 bridge is considered in "poor" condition. Bridges in more deteriorated condition may be classified as in serious, critical, or imminent failure condition.)

Bond funds can also be used for enhancing and improving pedestrian and bicycle access for the road projects and when bridges need to be rebuilt.

By January 1, 2009, DOT must report the program results to the Transportation Committee.

§§ 66-67 & 93-94 — Transit-Oriented Development Projects

Definition. The act changes the definition of "transit-oriented development." Under prior law, it meant the development of residential, commercial, and employment centers within walking distance to public transportation facilities and services in order to facilitate and encourage their use. The act instead defines it as such development within one-half mile or walking distance of public transportation facilities (including rail and bus rapid transit and services) that meet transit-supportive standards for land uses, built environment densities, and walkable environments in order to facilitate and encourage their use.

By law, transit-oriented development is eligible for urban action bonds (CGS § 4-66c), congestion mitigation and air quality grants (CGS § 13b-38v), DECD grants and loans (CGS § 13b-79v), and Connecticut Development Authority loans (CGS § 13b-79w).

DOT Commissioner. The act adds participating in transit-oriented development projects at or near transit facilities, if funds are available, to the transportation commissioner's general powers, duties, and responsibilities. The act permits the commissioner, if funds are available and with the Office of Policy and Management (OPM) secretary's approval, to participate in such projects to the extent that they result in public transportation facility development or improvement.

The act requires the commissioner to use an open, competitive process to select developers when soliciting transit-oriented development proposals. With the OPM secretary's approval, the commissioner may waive the competitive selection process if:

1. the developer is an abutting land owner;
2. his or her property is essential to the project; and
3. the commissioner expressly finds that (a) the state's cost for any property transaction or provision of services does not exceed the fair market value of the property or services and (b) the waiver is in the state's best interest.
4. The act requires the State Properties Review Board's approval for any lease, sale, or purchase of state land or facilities for a transit-oriented development project.

It exempts transit-oriented development projects started under its provisions from state laws that:

1. prohibit the state from selling state land without first giving the municipality where it is located the option to purchase it;
2. set out the approval process for purchasing, selling, or transferring state land; and
3. establish the process DOT must follow for selecting, evaluating, and negotiating with consultants, including selecting the lowest responsible and qualified bidder for work on certain public buildings.

Pilot Program. The act authorizes up to $5 million in GO bonds in FY 08 for DOT to establish a transit-oriented development pilot program. It designates as pilot projects commuter station development (1) in all towns on the New Britain-Hartford Busway, (2) in Windsor and Meriden on the New Haven-Springfield rail line, (3) on the New Haven rail line from West Haven to Stratford, and (4) in New London on the Shore Line East rail line.

The act permits other projects to be designated as transit-oriented development pilot projects if (1) they are identified in law as strategic projects; (2) they are substantially funded by federal, state, or local government; and (3) substantial planning is underway or completed. The act specifies that such projects qualify for pilot funding of between $250,000 and $1 million each if the towns involved have a memorandum of understanding (MOU) involving a regional planning agency.

The act requires that the MOU identify the grant administrator and the participating municipalities and regional planning agencies. It must also include:

1. a work plan;
2. a budget;
3. anticipated work products;
4. geographically defined transit-oriented development zones; and
5. a deadline for completing the project.

The MOU must propose to complete one or more of the following:

1. a transit-oriented development plan or station area development plan;
2. the development or adoption of a transit-oriented development overlay zone;
3. the selection of a preferred development approach;
4. the implementation of a transit-oriented development plan;
5. a market assessment for transit-oriented development plan implementation;
6. a financial assessment and planning for transit-oriented development plan implementation;
7. the preparation of detailed plans for environmental and brownfield remediation, if required; or
8. the preparation of development or joint development agreements.

The act requires OPM to review and approve MOUs. An applicant must submit a proposed MOU to OPM. OPM must (1) review it within 60 days of receiving it, (2) notify the applicant of any deficiencies in it, and (3) permit the applicant to reapply. OPM must also (1) monitor the pilot program grants (see below) to make sure they comply with the MOUs and (2) help any pilot program obtain necessary funding or investments.

Grant Programs. In addition to the pilot program, the act creates a transit-oriented development planning grant program. Planning grants must be available for (1) completing a transit-oriented development plan or station area development plan, (2) developing or adopting a transit-oriented development overlay zone, or (3) preparing a development strategy and selecting a preferred development approach. The act limits planning activities to areas within one-half mile of transit stations.

The act also creates a transit-oriented development facilitation grant program. Facilitation grants must be available for transit-oriented development projects that completed one or more of the following: (1) a transit-oriented development plan or station area development plan, (2) developed or adopted a transit-oriented development overlay zone, or (3) prepared a development strategy and selected a preferred development approach. The act limits facilitation activities to areas within one-half mile of transit stations.

The act allows facilitation grants to be used for one or more of the following:

1. implementing a transit-oriented development plan and overlay zone;
2. performing a market analysis to determine the economic viability of a project;
3. financial planning;
4. analyzing a project's economic benefits, revenue, or expense projections; and
5. preparing (a) environmental assessments and plans for brownfield remediation, (b) infrastructure studies and surveys, (c) requests for development proposals, and (d) development or joint development agreements.

§ 68 — Connecticut Bikeway Grant Program

The act authorizes up to $12 million in GO bonds ($6 million each in FY 08 and in FY 09) for the Department of Environmental Protection (DEP) to establish a Connecticut bikeway grants program for municipalities.

Grants may be used for planning, design, land acquisition, construction, construction administration, and publications for bikeways and multiuse paths. Eligible projects may include (1) bicycle trails that complete sections of the Connecticut portion of the East Coast Greenway, (2) bikeways that connect to the East Coast Greenway, and (3) bikeways and multiuse paths established as part of the State Recreational Trails Plan.

Under the act, grant eligibility criteria must include (1) a 20% local match provided by municipal, federal, other state, nonprofit, or private funds; (2) municipal responsibility for bikeway maintenance; (3) public input; and (4) project designs that comply with the 1999 American Association of State Highway Transportation Officials' "Guide for the Development of Bicycle Facilities." If grant applications include more than one municipality, the act requires the local match to be 10% rather than 20%. State grant funds may be used to match federal funds being used for the specified purposes. For purposes of the grant program, a "bikeway" is any road, street, path, or way specifically designated for bicycle travel whether or not it is shared with other modes of transportation.

The act allows DEP to use up to 2% of the bond allocation for administrative purposes. It also requires DEP to establish a committee to advise the commissioner on the allocation of funds. The committee must consist of trail users and advocates the commissioner designates. The act directs DOT to work with DEP in furtherance of the bikeway program.

§ 69 — Bond Authorization for New Haven Line Rail Stations

The act authorizes up to $6 million in STO bonds ($3 million each in FY 08 and in FY 09) for DOT to make rail station improvements identified in its October 6, 2006 New Haven Line Train Station Visual Inspection Report.

§ 70 — Bond Authorization for Stamford Parking Garage

The act authorizes up to $35 million in STO bonds in FY 08 for DOT to build a parking garage at the Stamford Transportation Center, including rights-of-way, alternative temporary parking, other property acquisition, and related projects.

§§ 71-82 — Bond Authorizations for Capital Improvement Projects

The act authorizes up to $275.688 million in STO bonds in FY 08 and $173.3 million in FY 09 for DOT's capital improvement program as shown in Table 5.

Table 5: Bond Authorizations for DOT Projects

Authorized Program Areas	*FY 08*	*FY 09*
Interstate highway program	$12,000,000	$12,000,000
Urban systems	8,300,000	8,500,000
Interstate highway program	112,940,000	42,030,000
Soil, water supply, and groundwater remediation at or near DOT maintenance facilities and former disposal areas	6,000,000	6,000,000
State bridge improvement, rehabilitation, and replacement	65,240,000	34,340,000
Reconstruction and improvements to the warehouse and State Pier in New London, including site and ferry slip improvements	1,400,000	300,000
Developing and improving general aviation airports, including grants to municipal airports, but excluding Bradley International Airport	2,000,000	2,000,000
Bus and rail facilities and equipment, including rights-of-way, other property acquisition, and related projects	40,108,000	40,430,000
DOT facilities	6,400,000	6,400,000
Cost of issuing STO bonds and debt service	21,300,000	21,300,000

§§ 83-87 — Highway Resurfacing

The act authorizes up to $59 million in STO bonds in FY 09 for DOT's capital highway resurfacing program. The funds may be issued for road resurfacing and related projects.
EFFECTIVE DATE: May 1, 2008

§ 89 — Technical Change

The act makes a technical change.

§ 90 — New Haven Line Ticket Surcharge

The act replaces the $1-per-trip ticket surcharge scheduled to be imposed on New Haven Line passenger tickets from January 2008 until June 30, 2015 with a schedule of fare increases. Beginning on January 1, 2010, the act imposes a 1.25% increase on the existing fare for all fares originating or terminating in Connecticut. On the following January 1 and on each January 1 until 2016, the act imposes an additional 1% increase over the existing fare for a total of seven annual increases.

Under prior law, the $1-per-trip ticket surcharge revenue had to be deposited in the New Haven Line revitalization account, which is a nonlapsing account within the Special Transportation Fund (STF) that could be used solely for the capital costs of the line's revitalization. The act instead requires the proceeds from the fare increases to be deposited into the account and allows the funds to be used to pay capital costs and debt service the revitalization program incurs. The act eliminates the account's scheduled termination on June 30, 2015 and specifies that funds in the account may be used to purchase rail cars for the New Haven Line in addition to those already authorized by the law.

The act requires the DOT commissioner to determine, and adopt regulations regarding, how to apply the increase to daily, multiple-ride, weekly, and monthly commutation tickets.

§ 91 — Increased Bond Authorization for Rail Cars

The act increases the STO bond authorization for rail cars, maintenance facilities, rights-of-way, other property acquisition, and related projects by $140 million, from $485.65 millon to $625.65 million.

§ 92 — Bond Authorization for UConn Transportation Institute

The act authorizes $500,000 in GO bonds in FY 08 for laboratory improvements to UConn's Connecticut Transportation Institute.

§ 95 — Pavement Noise Reduction Pilot Program

The act authorizes $1.5 million in STO bonds in FY 08 for DOT and the UConn Transportation Institute to establish a noise reduction open-graded friction course pilot program. They must (1) build at least four one-mile test sections of rubberized open-graded friction course (i.e., layers of pavement) and (2) monitor the pavement's performance, including its durability and sound reduction, for six years.

By January 1, 2011, the DOT and the Institute must submit a status report on the program to the Transportation Committee. They must submit a final report by January 1, 2015, or earlier if the pilot program concludes before then.

§ 96 — Funding TSB Projects

The act transfers $5.5 million from the STF to the Transportation Strategy Board's (TSB) projects account, which is a nonlapsing account within the STF that may be used for the board's projects. One such project must be a study of the governance and operations of Bradley International Airport. Findings and recommendations from the study must be submitted to the Transportation and Commerce committees by December 31, 2008.

§ 97 — TSB Reporting Requirements

The act requires TSB to review and revise, as necessary, its transportation strategy every four, rather than every two, years. Prior law required TSB to submit a report describing its revisions to the General Assembly by January 1 in odd-numbered years. The act instead requires TSB to report by January 1, 2011 and every four years thereafter. The report must include a (1) prioritized list of projects necessary to implement its strategy and (2) completion schedule for all projects.

The law requires the Transportation; Finance, Revenue and Bonding; and Planning and Development committees to meet with the DOT and DECD commissioners, the OPM secretary, and the TSB chairperson in the January after the report is filed. The act also requires the Commerce Committee chairpersons and ranking members to attend.

§ 98 — Bond Authorization for Atlantic Street Underpass Project

The act authorizes up to $10 million in STO bonds for FY 08 for DOT to complete the Atlantic Street Underpass Project in Stamford.

§ 99 — Weigh Station Operations Report

As of January 1, 2008, the act requires weigh station personnel to maintain logs for each shift conducted at all weigh stations in Connecticut. The Department of Public Safety (DPS) commissioner must submit a written report that summarizes the information in the logs to the Transportation Committee by January 1, 2008 and semiannually thereafter. Each report must contain data for the preceding six months. The act also requires the commissioner's report to the committee to be posted on the Department of Motor Vehicles (DMV) and DPS websites.

The act requires the weigh station logs, which must be submitted to the DPS commissioner, to record the following information:

1. the location, date, and hours of each shift;
2. the hours the station's "OPEN" sign is illuminated;
3. the number of DMV and DPS personnel for each shift;
4. the number and weight of all vehicles inspected;
5. the type of vehicle inspections conducted;
6. the number and types of citations issued;
7. the amount of fines that may be imposed for overweight and other violations;
8. the operating costs for each shift; and
9. the number of vehicles that pass through the weigh station during each shift.

By December 15, 2007, the DPS commissioner, in consultation with the DMV commissioner, must develop and distribute a form for recording this information.

The state operates fixed commercial vehicle weighing and inspection stations on I-84 in Danbury and Union, I-95 in Greenwich and Waterford, and I-91 in Middletown. Both DMV and DPS enforcement personnel operate the facilities. Enforcement personnel also conduct weight and safety inspections away from these fixed facilities using portable scales.

§ 100 — UCONN-RELATED PARKING FACILITIES

The act authorizes up to $20 million in GO bonds to OPM to plan and fund UConn activities-related parking facilities. The act reserves up to $10 million of this amount for facilities in Mansfield and up to $10 million for facilities at Rentschler Field in East Hartford.

The act requires the OPM secretary to implement the project in two phases. Phase I is the Mansfield parking and Phase II is the Rentschler Field parking. The act requires the secretary to submit a status report on the Mansfield phase to the Finance, Revenue and Bonding and Appropriations committees by July 1, 2008 and prohibits him from starting the Rentschler Field phase until each committee approves the report.

The act gives each committee 45 days from the date its clerk receives the Mansfield status report to accept or reject it. The secretary can withdraw or change the report and resubmit it but, in that case, the 45-day clock starts over from the resubmission date. Under the act, a committee that does not act within its allotted time is considered to have approved the report.

EFFECTIVE DATE: July 1, 2007

§§ 101-108 — CONNECTICUT STATE UNIVERSITY SYSTEM 2020 PLAN

§ 102 – Purpose

The act's purpose is to finance a capital improvement plan for the CSUS that includes acquiring, constructing, improving, and equipping facilities, structures, and related systems.

§ 103 — Definitions

The act defines CSUS 2020 as the projects in the CSUS facilities plan necessary to modernize, rehabilitate, renew, expand, and stabilize the system's physical infrastructure. The "CSUS 2020 Fund" is the fund the act creates to hold the GO bond proceeds used to finance CSUS 2020. The state treasurer holds and administers the fund separate from other accounts.

Under the act, a project is any CSUS building or facility, including existing ones; real and personal property; and related equipment and improvements. A project does not include current operating charges, unless the board of trustees includes such an amount in a financing transaction to ensure that the interest on the bonds is exempt from federal tax. A project may also include (1) specific residential or other auxiliary service facilities already defined in statute and (2) any state facility used for CSUS programs.

The cost of a project includes (1) all costs associated with acquiring, planning, designing, constructing, equipping, and financing; (2) working capital, including costs the Department of Public Works (DPW) incurs in supervising the design and construction process; and (3) consulting and technical services (e.g., accounting, engineering, and legal services). It includes administrative and operating expenses except those incurred by the CSUS in carrying out the CSUS 2020 plan.

§ 104 — CSUS 2020 Projects and Costs, Facilities Plan Revisions, and Construction Management and Oversight

The act authorizes 36 projects costing $950 million over three phases of the plan, from FY 09 through FY 18 (see Table 6). The projects and costs are distributed across the four state universities as shown in Table 7.

Table 6: CSUS 2020 Projects and Costs

	Phase I	***Phase II***	***Phase III***
	FY 09 –11	***FY 12 –14***	***FY 15 –18***
Central Connecticut State University			
Code Compliance/ Infrastructure Improvements	$18,146,445	$6,704,000	$5,000,000
Renovate/Expand Willard and DiLoreto Halls (design/construction)	0	57,737,000	0
Renovate/ Expand Willard and DiLoreto Halls (equipment)	0	0	3,348,000
New Classroom Office Building	33,978,000	0	0
East Campus Infrastructure Development	13,244,000	0	0
Burritt Library Expansion (design and construction)	0	0	96,262,000
Burritt Library Renovation (design)	0	0	11,387,000
New Maintenance/ Salt Shed Facility	2,503,000	0	0
Eastern Connecticut State University			
Code Compliance/ Infrastructure Improvements	8,255,113	5,825,000	5,000,000
Fine Arts Instructional Center (design)	12,000,000	0	0
Fine Arts Instructional Center (construction)	0	71,556,000	0

	Phase I	*Phase II*	*Phase III*
	FY 09 –11	*FY 12 –14*	*FY 15 –18*
Fine Arts Instructional Center (equipment)	0		4,115,000
Goddard Hall Renovation (design/construction)	0	19,239,000	0
Goddard Hall Renovation (equipment)	0	0	1,095,000
Sports Center Addition and Renovation (design)	0	0	11,048,000
Outdoor Track- Phase II	1,816,000	0	0
Athletic Support Building	1,921,000	0	0
New Warehouse	2,269,000	0	0
Southern Connecticut State University			
Code Compliance/ Infrastructure Improvements	21,860,500	8,637,000	5,000,000
New Academic Laboratory Building/ Parking Garage (construct garage, design academic laboratory building, demolish Seabury Hall)	20,426,000	0	0
New Academic Laboratory Building/ Parking Garage (construct academic laboratory building)	0	63,171,000	0
Health and Human Services Building	0	0	60,412,000
Fine Arts Instructional Center	0	0	70,929,000
Western Connecticut State University			
Code Compliance/ Infrastructure Improvements	7,658,330	4,323,000	7,212,000
Fine Arts Instructional Center (construction)	80,605,000	0	0
Fine Arts Instructional Center (equipment)	0	4,666,000	0
Higgins Hall Renovations (design)	0	2,982,000	0
Higgins Hall Renovations (construction/ equipment)	0	0	31,594,000
Berkshire Hall Renovations (design)	0	0	4,797,000
University Police Department Building (design)	500,000	0	0
University Police Department Building (construction)	0	4,245,000	0
Midtown Campus Mini-Chiller Plant	0	0	1,957,000
System-Wide			
New and Replacement Equipment	26,895,000	14,500,000	31,844,000
Alterations/ Improvements (Auxiliary service facilities)	18,672,422	15,000,000	20,000,000
Telecommunications Infrastructure Upgrade	5,000,000	3,415,000	5,000,000
Land and Property Acquisition	9,250,190	3,000,000	4,000,000
TOTAL	**$285,000,000**	**$285,000,000**	**$380,000,000**

Table 7: CSUS 2020 Authorizations by University

University	***No. of Projects***	***Cost***
Central	8	$248,309,445
Eastern	10	144,139,113
Southern	5	250,435,500
Western	9	150,539,330
System-wide	4	156,576,612
Total	**36**	**$950,000,000**

Facilities Plan Revisions

For project changes that meet certain thresholds, the act requires approval by the board of trustees and, in some cases, the General Assembly.

The act authorizes the CSUS board of trustees to revise, delete, or add projects by a formal vote. Any revision is subject only to the board's formal approval if the board finds it consistent with the original project's intent (subject to the General Assembly's authourity, see below). It is not clear whether and how the board can authorize revisions that are inconsistent with the original project's intent. The act specifically requires the board to formally approve only those additions necessitated by a change in system planning or for reasons beyond the system's control. But it also implicitly requires the board to approve all additions before forwarding them to the legislature for approval.

The General Assembly must enact legislation to (1) add or delete a project to or from the plan or (2) make a revision that increases or decreases the original project costs (exclusive of changes due to materials costs) by an amount equal to (a) 10% or more for projects with cost estimates under $1 million, or (b) 5% or more for projects with cost estimates over $1 million. The board must submit its request for such legislation to the governor and the General Assembly.

The board can determine the sequencing and timing of the projects, to the extent the authorized funding allows, and revise cost estimates. The act also allows the board to reallocate funds between projects, if the statutory project list is revised accordingly and projects from which money is taken can still be completed within authorized amounts or are deleted from the list.

Construction Management and Code Compliance

By law, the DPW is authorized to supervise the design and construction of state buildings, including hiring design and construction firms. The act makes the DPW commissioner responsible for these functions as part of CSUS 2020. It requires him quarterly to provide the CSUS chancellor with information on (1) project costs, (2) timeliness of completion, and (3) any issues that arise in the design or construction process.

Annually, beginning January 1, 2009, the commissioner must report to the governor and the General Assembly on any costs for (1) construction management, (2) administrative services, and (4) fees associated with CSUS 2020.

The act also requires the DPS commissioner and the chancellor to enter into and maintain an MOU that assigns DPS staff to ensure fire and building code compliance for CSUS 2020 projects. The MOU is to cover CSUS 2020 buildings and projects (1) whose construction begins while it is in effect and (2) that are under the state's threshold limits.

Acquisition of Equipment, Furniture, or Personal Property

The act requires the board of trustees to ask DPW in writing for approval to acquire or purchase any equipment, furniture, and other personal property using CSUS 2020 bond funds. The DPW commissioner has 30 days to approve or disapprove the request or it is deemed approved.

§ 105 — Bond Authorizations

The act authorizes up to $95 million a year over 10 years in state GO bonds, from FY 09 through FY 18. If the board of trustees or the governor do not approve all or a portion of the capped amount in a fiscal year, the unapproved amount is added to the capped amount for the following year.

State Bond Commission Approval

The State Bond Commission must approve the CSUS 2020 plan and authorize the total $950 million bond issuance. The act requires the CSUS board of trustees to enter into an MOU with the OPM secretary and the treasurer regarding the bond issuance, including the extent to which federal, private, or other available funds should be added to the bond proceeds to finance CSUS 2020. The bond commission must approve the MOU, which satisfies the standard statutory bond commission requirements.

Gubernatorial Approval

The governor must approve each annual CSUS 2020 bond issuance, which is capped at $95 million a year. The board of trustees must submit annually, by March 1, the most recently approved facilities plan and the bond amount required for the subsequent fiscal year to the governor, treasurer, and OPM secretary. The governor has 30 days to approve or disapprove the bond amount, in whole or in part, and give her reasons to the board in writing, or the request is deemed approved. The governor's approval of the bonds is deemed to be an appropriation and allocation of the bond amounts.

§§ 106 & 107 — Reporting Requirements

CSUS 2020 Semiannual Report. By January 1, 2010 and semiannually thereafter, the CSUS must report to the governor and the General Assembly on the status of CSUS 2020. The board of trustees may request from the treasurer information necessary to prepare each report, which must include:

1. the number of projects and bonds authorized and approved,
2. project costs and timeliness of completion,
3. any issues that arise in the design or construction process,
4. a schedule of the remaining projects and their expected costs,
5. the amount of money raised from private sources for the capital and endowment programs, and
6. any revisions to the facilities plan approved by the board.

The act also requires the first semiannual report of each year to include:

1. the use of bond funds in the current fiscal year,
2. the projected use of bond funds for the succeeding fiscal year,
3. any updated master plans affecting the remaining projects, and
4. any information requested by the Finance, Revenue, and Bonding Committee's bonding subcommittee.

The act authorizes the bonding subcommittee to recommend modifications in CSUS 2020 to the full committee, if warranted by a significant change in the state's economic circumstances.

Five-Year CSUS 2020 Performance Review. On January 1, 2014 and January 1, 2019, the CSUS must submit to the governor and the General Assembly a five-year CSUS 2020 performance review report. The report must identify each CSUS 2020 project's progress and compare its actual expenditures to original estimates.

The governor and the General Assembly have 60 days to consider the report and determine whether there has been insufficient progress or significant cost increases. If so, the governor and the General Assembly may make recommendations to CSUS and for legislative action.

§ 108 — Financial Audits

The act requires the board of trustees to select and appoint independent auditors to annually audit each CSUS 2020 project. The auditors must (1) review invoices, expenditures, cost allocations, and other appropriate documents and (2) reconcile project costs and verify their conformance to budgets, cost allocation agreements, and applicable contracts. The audits must be submitted annually to the governor and General Assembly.

The auditors serve for five consecutive years, cannot perform any nonaudit services for the system 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 included in the U.S. comptroller general's generally accepted government auditing standards.

EFFECTIVE DATE: July 1, 2008

§ 109 — REIMBURSEMENT FOR DELAYED SCHOOL CONSTRUCTION GRANT PAYMENTS

The act requires the state to reimburse school districts for their costs for short-term borrowing to cover state school construction grant payments that were delayed because state bond funds for the payments were unavailable during FY 08. To be eligible for reimbursement, a district must have submitted a grant payment request that was approved by the State Department of Education between July 1 and December 31, 2007.

Reimbursement must equal 100% of a district's reasonable fees, interest, and other costs or lost income related to district borrowing to cover school construction project costs otherwise payable by the state, including those attributable to shifting money previously budgeted for, or allocated to, another purpose to cover school construction project expenses. The act sets the interest rate for costs attributable to such shifting at the state Short Term Investment Fund's interest rate payable for the period during FY 08 that bond funds to pay state grants were unavailable.

Towns must apply to the State Department of Education for reimbursement by March 31, 2008. The education commissioner prescribes how districts apply and determines whether costs are reasonable.

The act requires the commissioner to pay reimbursement grants from the bond authorization for school construction project grants. As required by IRS regulations, to ensure the bonds funding the reimbursement grants qualify as tax-exempt, the act establishes as the state's official intent that (1) the state reasonably expects to use the bond proceeds to reimburse the costs and expenses the act describes and (2) the aggregate reimbursements are not expected to exceed the total amount of funds the act allows the state to spend for the reimbursements. It authorizes the OPM secretary and the state treasurer to amend the act's declaration of official intent on the state's behalf.

The state generally reimburses school districts for 20% to 80% of the eligible costs for local school construction projects (reimbursement rates for certain types of projects are higher). State school construction grants are funded by state GO bonds. Grants are disbursed to school districts in "progress payments" that cover ongoing project construction expenses.

§§ 110-214 — CHANGES IN PRIOR GO BOND AUTHORIZATIONS

The act changes the amounts and purposes of previous GO bond authorizations, reallocates previously authorized funds, and cancels certain authorized but unallocated funds as shown in Tables 8 and 9. These changes constitute a net reduction of $205,523,126 in previous authorizations.

Table 8: Cancellations and Changes in Prior Authorizations

§	*Agency/Grantee*	*For*	*Change*
112	Environmental Protection	Mill Brook-Piper Brook flood control project in Newington & New Britain, including replacing bridges over Piper Brook - Reduced from $815,000 to $375,000	($440,000)
114	Mental Health & Addiction Services	Grants to tax-exempt, private nonprofit organizations for community- based residential and outpatient facilities – purchases, repairs, alterations, and improvements, with at least $800,000 for First Step in New London – Reduced from $1.25 million to $677,653	(572,347)
116	Eastern Connecticut State University	Campus security system - Reduced from $550,000 to $523,302	(26,698)
118	Environmental Protection	Grants to municipalities for incinerators and landfills, including bulky waste landfills **New:** Earmark $439,025 for Plymouth - Reduced from $8.5 million to $8,426,830	(73,170)

§	Agency/Grantee	For	Change
121	CSU System	Land acquisition and related development costs - Reduced from $1,000,000 to $943,429	(56,571)
122	Eastern CSU	Planning for new campus police station - Reduced from $212,000 to $136,900	(75,100)
124	CSU System	Land and property acquisition - Reduced from $4,000,000 to $3,247,000	(753,000)
127	Eastern CSU	Development of campus police station - Canceled	(1,471,000)
129	Environmental Protection	Residential Underground Storage Tank Replacement Program – Reduced from $5.5 million to $4.25 million	(1,250,000)
133	CSU System	Alterations, repairs and improvements to auxiliary services buildings - Reduced from $5,000,000 to $3,870,000	(1,130,000)
134	CSU System	System telecom infrastructure upgrades, improvements and expansions - Reduced from $1,921,000 to $76,561	(1,844,439)
135	CSU System	Land and property acquisitions – Canceled	(500,000)
136	Central CSU	Alterations, renovations and improvements to facilities, including fire, safety, energy conservation and code compliance improvements - Reduced from $743,000 to $426,301	(316,699)
137	Central CSU	Davidson/Marcus White fire code improvements - Reduced from $417,000 to $146,000	(271,000)
138	Central CSU	Renovations at the Institute of Technology and Business Development – Canceled	(200,000)
139	Western CSU	Alterations, renovations and improvements to facilities, including fire, safety, energy conservation and code compliance improvements - Reduced from $980,000 to $701,670	(278,330)
141	Public Health	Either (1) purchase and install modular-based portable hospital or (2) provide grant to CT hospitals for patient isolation and treatment for smallpox events and grants to CT hospitals for up to 50% of total cost of physical plant modifications and renovations to isolate patients for smallpox – Reduced from $10 million to $9,999,533	(467)

§	Agency/Grantee	For	Change
143	CSU System	Land and property acquisitions - Canceled	(2,000,000)
144	Central CSU	New maintenance facility/salt storage shed – Canceled	(1,297,000)
145	Central CSU	New swing space classroom/office facility – Canceled	(20,203,000)
146	Central CSU	Various ventilation and air conditioning improvements – Canceled	(743,000)
147	Western CSU	New fine and performing arts building – Canceled	(5,792,000)
148	Southern CSU	Earl Hall various upgrades, including mechanical and electrical improvements – Canceled	(4,273,000)
149	Southern CSU	Jennings Hall various mechanical and electrical improvements – Canceled	(798,000)
151	Eastern CSU	Alterations, renovations and improvements to facilities, including fire, safety, energy conservation and code compliance improvements, including improvements to the south electrical loop - Reduced from $915,000 to $515,000	(400,000)
153	Military	Southington Readiness Center alterations, renovations, & improvements – Reduced from $913,300 to $687,540	(225,760)
154	CSU System	Alterations, repairs and improvements to auxiliary services buildings - Reduced from $5,000,000 to $3,969,084	(1,030,916)
155	CSU System	Feasibility study for establishing and education center in Bridgeport - Canceled	(250,000)
156	Central Connecticut State University	Alterations, renovations and improvements to facilities - Reduced from $2,500,000 to $775,000	(1,725,000)
157	Central Connecticut State University	Davidson Hall fire code improvements - Canceled	(1,587,000)
158	Central Connecticut State University	Barnard Hall roof replacements and stairwell enclosure - Canceled	(195,000)
159	Central Connecticut State University	Marcus White Hall fire code improvements – Canceled	(1,181,000)
160	Central Connecticut State University	Renovations and improvements to Willard and DiLoreto Halls, and an in-fill addition – Canceled	(1,694,000)
161	Western Connecticut State University	Alterations, renovations and improvements to facilities – Canceled	(885,000)
162	Western Connecticut	New fine and performing arts	(3,372,000)

§	Agency/Grantee	For	Change
	State University	building - Canceled	
163	Western Connecticut State University	Renovations and improvements to academic facilities - Reduced from $1,300,000 to $675,000	(625,000)
164	Southern Connecticut State University	Alterations, renovations and improvements to facilities - Reduced from $2,600,000 to $2,214,800	(385,200)
165	Southern Connecticut State University	Lyman Auditorium upgrades - Canceled	(252,000)
166	Southern Connecticut State University	Develop new academic building and parking garage - Canceled	(7,907,000)
167	Eastern Connecticut State University	Alterations, renovations and improvements to facilities, including a new campus police station - Reduced from $2,700,000 to $736,307	(1,963,693)
168	Eastern Connecticut State University	Softball field relocation - Reduced from $2,788,000 to $274,820	(2,513,180)
171	Milford	Upgrade Daniel Wasson Babe Ruth Field - Canceled	(50,000)
173	Hartland	Hartland Elementary School playground improvements - Canceled	(50,000)
174	Portland	Gildersleeve Elementary School playscape - Canceled	(50,000)
175	Ellington	Renovate and relocate Pinney House – Canceled	(500,000)
178	Family and Children's Aid Project, Danbury	A building - Canceled	(3,500,000)
179	Meriden	Economic development or purchase of open space rights at Mountainside Corporation – Canceled	(1,000,000)
180	Windham Regional Community Council, Inc.	**Old:** Improvements to Windham Recovery Center - $764,000 **New:** Improvements to central office building in Willimantic - $814,500	50,500
182	Windham	Generations Family Center improvements - Canceled	(1,400,000)
183	Canaan	Falls Village Day Care Center, construction and equipment - Canceled	(50,000)
185	Fairfield	Administration building for Operation Hope - Canceled	(250,000)
191	CSU System	New and replacement instruction, research, laboratory and physical plant, and administrative equipment - Canceled	(10,000,000)
192	CSU System	Alterations, repairs, and improvements to auxiliary services buildings - Reduced from $5,000,000 to $2,142,494	(2,857,506)

§	Agency/Grantee	For	Change
193	Central Connecticut State University	Alterations, renovations and improvements to facilities – Canceled	(3,700,000)
193	Central Connecticut State University	Barnard Hall roof replacement and stairwell enclosure – Canceled	(1,951,000)
194	Western Connecticut State University	Alterations, renovations and improvements to facilities, – Canceled	(280,000)
194	Western Connecticut State University	New fine and performing arts building - Canceled	(66,041,000)
195	Southern Connecticut State University	Alterations, renovations and improvements to facilities - Reduced from $1,100,000 to $1,011,700	(88,300)
196	Southern Connecticut State University	Lyman Auditorium upgrades - Canceled	(1,971,000)
197	Southern Connecticut State University	Jennings Hall upgrades - Canceled	(5,314,000)
198	Southern Connecticut State University	Earl Hall upgrades - Canceled	(2,257,000)
199	Eastern Connecticut State University	Alterations, renovations and improvements to facilities - Reduced from $2,500,000 to $1,171,680	(1,328,320)
200	Eastern Connecticut State University	New parking garage - Canceled	(18,296,000)
201	Eastern Connecticut State University	New fine arts building – Canceled	(8,500,000)
204	Glastonbury	Glastonbury Riverfront Park Development Project – Canceled	(500,000)
205	Bridgeport	Beardsley Park improvements - Canceled	(100,000)
206	Brooklyn	Recreational facilities – Canceled	(250,000)
207	West Haven	Painter Park improvements – Canceled	(400,000)
208	Newington	Newington High School track repairs – Canceled	(275,000)
209	Plainville	Norton Park soccer field construction - Canceled	(175,000)
210	Children and Families	**Old:** Grants to private, nonprofit organizations, including Boys and Girls Clubs of America, to renovate and construct community centers for neighborhood revitalization or education, $5 million **New:** Increase authorization to $6,317,070 and allocate: (1) $439,020 for Windham-Tolland 4-H Camp in Pomfret Center; (2) $2,450,000 to Cardinal Shehan Center in Bridgeport to renovate a youth center; (3) $878,050 for	1,317,070

§	Agency/Grantee	For	Change
		Regional YMCA of Western CT in Brookfield for capital improvements, including an indoor pool; (4) $150,000 for Milford/Orange YMCA for a new addition and ADA compliance projects; (5) $1 million for CT Alliance of Boys and Girls Clubs to develop and construct a new facility in Milford; (6) $250,000 for Boys and Girls Village, Inc. to acquire or rehabilitate program facilities in Bridgeport; (7) $150,000 for Ralphola Taylor Community Center YMCA in Bridgeport; (8) $1 million for Soundview Family YMCA in Branford to construct a swimming pool complex; and (9) $1.5 million for new YMCA on Albany Avenue in Hartford.	
211	CT Culinary Institute	Improvements to convert Hastings Hotel to vocational training school - Canceled	(3,500,000)
211	Farmington	Revitalize Unionville center - Canceled	(300,000)
213	Windham	Generations Family Center - Canceled	(1,400,000)

Table 9: Language Changes for Prior Authorizations

§	Amount Authorized	Previous	Change
110	$500,000	Judicial: Planning for restoration, repairs, and renovations at Bridgeport Courthouse	Use money for actual work instead of planning
113	5,100,000	Judicial: Planning for new addition to Bridgeport Criminal Court Complex and improvements and renovations to existing facility	Use funds for improvements and renovations to existing courthouse in Bridgeport
117	$4,000,000	Mental Health and Addiction Services: Design and install sprinkler systems in direct patient care buildings	Include related fire safety improvements
120	3,500,000	Mental Health and Addiction Services: Design and install sprinkler systems in direct patient care buildings	Include related fire safety improvements
125	30,000,000	Economic and Community Development: Grant to New	(1) Expand grantees to include New Haven Housing Authority, for-profit

§	Amount Authorized	Previous	Change
		Haven for economic development projects, including downtown improvement and a biotechnology corridor and related development	housing development corporations, and tax-exempt nonprofit organizations (2) Specify that funded projects must be in New Haven
131	4,200,000	Veterans' Affairs: Renovate and improve existing facilities	Add option to build a new veterans' health care facility
132	896,607	Education: American School for the Deaf - buy amplification systems	Add purchase of equipment to test the effectiveness of hearing aids and the amplification system
170	300,000	Agriculture: Grant to Farmer's Cow, LLC for Connecticut Dairy Entrepreneurial Initiative	Change grant purpose to "business development"
172	50,000	Environmental Protection: Grant to East Hampton for watershed management at Crystal Lake	Change grantee to Middletown
175 187	250,000	OPM: Grant to Killingworth to restore and renovate Killingworth Old Town Hall	Transfer grant authority to Commission on Culture and Tourism
176	4,500,000	Children & Families: Reserve $1 million for construction and acquiring property in Middlesex County for Makayla's House	(1) Use $1 million for construction and acquiring property in either Middlesex or Windham Counties for a residential facility (2) Use an additional $1 million for improvements, alterations, and construction of residential facilities at Klingberg Family Center, New Britain
177	5,000,000	Children & Families: Grants to private nonprofit organizations, including Boys and Girls Clubs of America, for building and renovating youth centers for neighborhood recreation and education	(1) Include YMCAs, YWCAs, and community centers (2) Earmark (a) $1 million for Bridgeport Police Athletic League to construct and renovate a new gym and youth center and (b) $750,000 to Bridgeport for Burroughs Community Center
179 187 203 211	4,000,000	OPM: Grant to University of New Haven to establish and build Henry Lee Institute	Transfer grant authority to DECD
181	700,000	Social Services: Grant to Norwich for expanding Martin House	Change grantee to Martin House
184	1,000,000	Social Services: Grant to Danbury for buying buildings for Greater Danbury AIDS Project	Change grantee to Greater Danbury AIDS Project
186	500,000	Social Services: grant to West Hartford to relocate senior center	Change purpose to "improve senior center"
187, 188	250,000	OPM: Grant to Middelfield for Mattabeseck Bridge	Transfer grant authority to DOT

§	*Amount Authorized*	*Previous*	*Change*
		improvements	
190	77,947,900	Gateway CTC: Implement master plan to consolidate campuses in a single location	Change purpose to: develop new comprehensive campus, including parking
212	750,000	Social Services: Grant to Killingly to alter and expand the facilities for United Services of Dayville	Change grantee to United Services of Dayville
203 214	250,000	OPM: Grant to Norwalk Transit District to construct bus depot	Transfer grant authority to DOT
203 214	150,000	OPM: Grant to Southington to reconstruct Marion Ave. and Mount Vernon Rd. intersection	Transfer grant authority to DOT
203 214	350,000	OPM: Grant to Coventry to construct sand and salt shed	Transfer grant authority to DOT

PA 07-1, September Special Session—SB 1600
Emergency Certification

AN ACT CONCERNING CLEAN CONTRACTING STANDARDS

SUMMARY: This act establishes a State Contracting Standards Board (SCSB) as an independent Executive Branch agency. It gives the new board various responsibilities associated with state contracting processes, including adopting procurement regulations and reviewing, monitoring, and auditing state contracting agencies' procurement processes. "State contracting agencies" are state Executive Branch agencies, boards, commissions, departments, offices, institutions, or councils. They do not include the Judicial Branch; the Legislative Branch; the offices of the Secretary of the State, the State Treasurer, the State Comptroller, or the Attorney General with respect to their constitutional functions; or any state agency with respect to contracts specific to the responsibilities of the Office of the State Treasurer.

The act provides for disqualifying and suspending contractors, bidders, or proposers who fail to follow state procurement policies.

The act requires the Judicial and Legislative branches to each prepare a procurement code by February 1, 2011 and statewide officers to each adopt one by June 1, 2011.

It requires all state contracts that take effect on or after the act's passage to contain provisions to ensure accountability, transparency, and results-based outcomes. "Contract" or "state contract" means an agreement or a combination or series of agreements between a state contracting agency or quasi-public agency and a business for:

1. a project for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building, public work, mass transit, rail station, parking garage, rail track, or airport;
2. services, including consultant and professional services;
3. the acquisition or disposition of personal property;
4. the provision of goods and services, including the use of purchase of services contracts and personal service agreements;
5. the provision of information technology, state agency information system or telecommunication system facilities, equipment, or services; or
6. a lease or a licensing agreement.

"Contract" or "state contract" does not include a contract between a state agency or a quasi-public agency and a political subdivision of the state.

The act requires the DAS to maintain a single electronic portal for posting most contracting opportunities in the state.

The act establishes a procedure for privatizing state contracts, including a requirement for cost-benefit analyses and business cases. It specifies that the SCSB's establishment and general duties and its privatization provisions do not affect the requirements in PA 06-129. That act requires the Department of Administrative Services (DAS) commissioner 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 act appropriates $700,000 to the SCSB from the General Fund for FY 08-09 to carry out the board's duties.

Lastly, the act makes conforming changes.

EFFECTIVE DATE: Various, see below.

§§ 2-5 — SCSB

The act establishes the 14-member SCSB as a separate, independent, Executive Branch agency. The governor appoints eight board members, the Senate president pro tempore and House speaker each appoint two, and the Senate and House majority leaders each appoint one. If the governor is of the same political party as the majority in both chambers of the General Assembly, the top six legislative leaders each appoint one member.

Each member serves at the pleasure of the appointing authority up to a maximum term coterminous with that of the appointing authority. Each appointing authority fills any vacancy in his or her appointment. Eight members of the board, including at least one member appointed by a legislative leader, constitute a quorum, which is required to transact business. The governor appoints the board's chairperson.

EFFECTIVE DATE: January 1, 2009

Budget and Compensation

The act requires the board's budget, upon approval of its members, to pay its reasonable expenses. Board members receive a $200 per diem payment.

Board Member Qualifications

Within five consecutive years of the 10 years immediately preceding their appointment, board members must have been educated or trained or had experience in one or more of the following areas:

1. procurement;
2. contract negotiation, selection, and drafting;
3. competitive bidding and proposal procedures;
4. real estate transactions, including real estate and building purchases, sales, and leases;
5. business insurance and bonding;
6. building construction and architecture;
7. ethics in public contracting;
8. federal and state laws, procurement policies, and regulations;
9. outsourcing and privatization analysis;
10. small and minority business enterprise development;
11. engineering and information technology;
12. human services;
13. personnel and labor relations; or
14. contract risk assessment.

"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 Staff

The act authorizes the board to (1) employ any staff it considers necessary and (2) contract with consultants and professionals on a temporary or project basis.

It requires the governor to appoint and the legislature to confirm an executive director who serves as an ex-officio, nonvoting board member. The executive director may contract as necessary to carry out his or her duties. The board must annually evaluate the executive director's performance and may remove him or her for cause. The executive director reports to the board's chairperson. The board must appoint a chief procurement officer (CPO) for a term not to exceed six years, unless reappointed. The CPO reports to, is annually evaluated by, and serves at the pleasure of the board. For administrative purposes only, the executive director supervises the CPO.

In consultation with the CPO, the executive director must:

1. prepare a comprehensive plan of the board's administrative functions,
2. coordinate the board's budget and personnel activities,
3. provide for the board's administrative organization to be examined for economy and efficiency,
4. act as the board's external liaison, and
5. perform any other duties the chairperson or board assigns, as appropriate.

The CPO is responsible for carrying out the board's policies relating to procurement, including oversight, investigation, auditing, agency procurement certification, procurement and project management training, and enforcement. He or she also ensures that state contracting agencies apply the policies when they screen and evaluate current and prospective contractors. The CPO may contract as necessary for the discharge of his or her duties, including recommending best practices and assisting state agencies that the board determines are violating the act.

The CPO must also:

1. oversee state contracting agencies' compliance with statutes and regulations concerning procurement;
2. monitor and assess each agency's procurement officer's performance;
3. administer a certification system (see below) and monitor compliance with procurement statutes and regulations, including the education and training, performance, and qualifications of agency procurement officers;
4. review and monitor the procurement processes of each state contracting agency, quasi-public agency, and institution of higher education; and
5. serve as chairperson of the Contracting Standards Advisory Council and an ex-officio member of the Vendor and Citizen Advisory Panel (see below).

Board Ethics and Operations

The act prohibits board members and staff from having a state or municipal position. It also prohibits board non-clerical staff, or their spouse, child, stepchild, parent, or sibling from having an association with any business that does business with the state. An associated business is one owned by an official, employee, or immediate family member, or in which 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.

It requires board members and employees to file with the board and the Office of State Ethics, by May 1 annually, a statement of financial interest required by the State Ethics Code. The financial statement is a public record and subject to disclosure under the Freedom of Information Act (FOIA).

Any board employee who violates the employment prohibition and any board employee or member 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 reviews of appeals by bidders.

Powers and Duties

The act permits the board to exercise the rights, powers, duties, and authority related to the state's procurement policies, now vested in, or exercised by, any state contracting agency. These consist of the right, power, duty, or authority:

1. to acquire, manage, control, warehouse, sell, and dispose of supplies, services, and construction;
2. related to any state contracting or procurement processes, including, leasing and transferring property; purchasing or leasing supplies, material, or equipment; retaining consultants or consultant services; making service agreements; or arranging privatization contracts; and
3. related to public building construction contracts.

"Consultant Services" are professional services rendered by architects; professional engineers; landscape architects; land surveyors; accountants; interior designers; environmental professionals; planners; and people who perform professional work such as educational and medical services, information technology, and real estate appraisals.

Upon the board's request, each state contracting agency must give the board procurement information in a timely manner. The act gives the board access to all information, files, and records related to any state contracting agency. The act specifies that it does not require the board to publicly disclose records exempt from disclosure under FOIA.

Unless the board's actions show otherwise, its authority does not limit or restrict the rights, powers, or authority of the contracting agency.

Board's Oversight of Procurement Practices

Except as otherwise provided by law, the board is responsible for:

1. recommending the repeal of repetitive, conflicting, or obsolete state procurement laws;
2. making recommendations regarding information systems for state procurement including data element and design and the state contracting portal;
3. develop a guide to state statutes and regulations concerning procurement for use by all state contracting agencies;
4. helping state contracting agencies comply with state laws and regulations by providing guidance, models, advice, and practical assistance to their staff related to (a) buying the best service at the best price; (b) properly selecting contractors; and (c) drafting contracts that achieve state goals of accountability, transparency, and results-based outcomes and protect taxpayers' interests; and
5. adopting regulations and policies to carry out state procurement laws in order to facilitate consistent application and require the implementation of best procurement practices.

Review Procurement Legislation, Regulations, and Policies. The board must review and make recommendations concerning proposed legislation and regulations on procuring, managing, controlling, and disposing of supplies, services, and construction, including:

1. prequalification, suspension, debarment, and reinstatement of prospective bidders and contractors;
2. small purchase procedures;
3. conditions and procedures for delegating procurement authority, procuring perishables and items for resale, using source selection methods authorized by statute or regulation, making emergency procurements, and selecting contractors by processes or methods that restrict full and open competition;

4. opening or rejecting bids and offers and waiving errors in bids and offers;
5. confidentiality of technical data and trade secrets submitted by actual or prospective bidders;
6. partial, progressive, and multiple awards;
7. supervision of storerooms and inventories, including determining appropriate stock levels and the management, transfer, sale, or other disposal of publicly owned supplies;
8. definitions and classes of contractual services and procedures for acquiring them;
9. regulations for conducting cost and price analysis;
10. use of payment and performance bonds;
11. guidelines for using cost principles in negotiations, adjustments, and settlements; and
12. identifying procurement best practices.

The board must give the governor and the Government Administration and Elections Committee recommendations concerning procurement statutes and regulations.

Board to Coordinate Procurement and Contracting Officers. The board must train and oversee procurement and contracting officers in each state contracting agency.

The act requires the head of each state contracting agency to appoint an agency procurement officer to act as a liaison between the agency and the CPO on the agency's procurement activities. The activities include (1) implementing and complying with statutes and regulations on procurement and any policies or regulations the board adopts and (2) coordinating the training and education of agency procurement employees.

The agency procurement officer must assure that contractors are properly screened before a contract is awarded, evaluate their performances during and at the end of a contract, submit written evaluations to a central data repository that the board designates, and create a project management plan that includes annual reports to the board on the agency's procurement projects.

Agency Procurement Certification

Beginning January 1, 2009, the act requires the board to review and certify that a state contracting agency's procurement processes comply with procurement statutes and regulations. It must accomplish this by:
1. establishing procurement and project management education and training criteria;
2. certifying agency procurement and contracting officers; and
3. approving, in consultation with the Office of State Ethics, an ethics training course, including a course for state employees involved in procurement and prequalifying state contractors and substantial subcontractors.

The Office of State Ethics or any person, firm, or corporation may develop and provide the training, but the board must approve the course.

Employees must maintain the certification in good standing at all times while performing procurement functions.

The board must recertify each state contracting agency's procurement processes at least every three years, notify them of any certification deficiency, and exercise its enforcement authority if it finds noncompliance.

Contract Data Reporting

The act requires the board to "define the contract data reporting requirements to the board for state agencies." Although it is unclear what this actually means, it may mean that the board must inform state agencies of their duties to report data on:
1. the number and type of state contracts that each state contracting agency has in effect statewide;
2. their client agencies;
3. contractors' names;
4. the contracts' terms and dollar values;
5. services purchased under such contracts;
6. their evaluations of contractors' performances, including records on suspensions or disqualifications and assurances that the information is available on the state contracting portal; and
7. all contracts and contractors awarded without full and open competition, including the reasons for the decisions and the names of the authorities that approved them.

Procurement and Project Management Training

The SCSB, with the advice and assistance of the DAS commissioner, must develop a standardized state procurement and project management education and training program. The board must adopt implementing regulations.

The program must develop education, training, and professional development opportunities for state contracting agency employees with procurement responsibilities. It must educate the employees on general business acumen and proper purchasing procedures as established in procurement statutes and regulations. The program must emphasize ethics, fairness, consistency, and project management.

The program must include:

1. training and education in federal, state, and municipal procurement processes, including the state procurement statutes and regulations and principles of project management;
2. training and education courses developed in cooperation with the Office of State Ethics, Freedom of Information Commission, State Elections Enforcement Commission, Commission on Human Rights and Opportunities, Attorney General's Office, and any other state agency the board determines is necessary;
3. technical assistance to help state contracting agencies, quasi-public agencies, constituent units of higher education, and municipalities implement procurement statutes and regulations and regulations, policies, and standards the board develops;
4. training current and prospective contractors, vendors, and others seeking to do business with the state; and
5. training and education for state employees in best procurement practices in state purchasing with the goal of achieving the level of acumen necessary to achieve the objectives of state statutes and regulations.

The act requires state contracting agency employees responsible for buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction to participate in the program. The board must give employees who complete the program a certificate acknowledging their participation. It must give the governor and legislature an annual status report on the training and education program.

§ 6 — COMPLIANCE AUDITS

The act requires the board to audit state contracting agencies at least once every three years and report on their compliance with procurement statutes and regulations. 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 (1) any process or procedure that is inconsistent with procurement laws and regulations and (2) corrective measures to achieve compliance. It must deliver the report, which is a public record, to the contracting agency within 30 days after the audit is completed.

EFFECTIVE DATE: October 1, 2011

§ 7 — DISCIPLINARY ACTIONS FOR NONCOMPLIANCE AND OTHER VIOLATIONS

The board may review, terminate, or recommend to a state contracting agency terminating 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 as determined by the Citizen's Ethics Advisory Board; (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 any other criminal violation.

Before terminating a contract, the board must (1) consult with the contracting agency to determine the impact of an immediate termination and (2) jointly decide with the agency that immediate termination will not cause imminent peril to public health, safety, or welfare. The board's decision to terminate must be approved by a two-thirds vote of its members present and voting, including at least one member appointed by a legislative leader. The board must notify the state contracting agency and the contractor of the opportunity for a hearing under the Uniform Administrative Procedure Act (UAPA).

The board may (1) restrict or terminate a state contracting agency's contracting or procurement authority or (2) recommend that a state contracting agency restrict or terminate an employee's or agent's authority to enter a contract or procurement agreement. Before taking this action, the board must (1) find that the agency or employee failed to comply with statutory contracting and procurement requirements and showed a reckless disregard for applicable policies and procedures; (2) provide 15 days notice and a hearing; and (3) decide the matter upon a two-thirds vote, including at least one vote by a member appointed by a legislative leader. Any restriction or termination stays in effect until the agency implements corrective measures and complies with procurement laws and regulations. Any agency restriction or termination must be in the state's best interest. The board must arrange for the exercise of the agency's contracting power during the restriction or termination.

This section does not limit the board's authority to perform compliance audits.
EFFECTIVE DATE: October 1, 2011

§ 8 — CONTRACTING STANDARDS ADVISORY COUNCIL

The act establishes a Contracting Standards Advisory Council consisting of the CPO who serves as chairperson and representatives from the Office of Policy and Management; the departments of Transportation, Administrative Services, Public Works, and Information Technology; and three other contracting agencies that the governor designates, including one human services-related state agency.

The council must meet at least four times a year to discuss state procurement issues and recommend improvements to the procurement process to the SCSB. It may conduct studies, research, and analyses and make reports and recommendations with respect to matters within SCSB's jurisdiction.
EFFECTIVE DATE: January 1, 2009

§ 9 — VENDOR AND CITIZEN ADVISORY PANEL

The act establishes a 15-member Vendor and Citizen Advisory Panel. The governor appoints three members and the six top legislative leaders each appoint two. No more than six members can be vendors experienced in state procurement. The remaining nine must be citizen members with education, training, or experience, received in five consecutive years of the 10 years immediately preceding their appointment, in one or more of the following areas:

1. government procurement;
2. contract negotiation, drafting, and management;
3. contract risk assessment;
4. preparing requests for proposals, invitations to bid, and other procurement solicitations;
5. evaluating proposals, bids, and quotations;
6. real property transactions;
7. business insurance and bonding;
8. the State Code of Ethics;
9. federal and state laws, policies, and regulations;
10. outsourcing and privatization proposal analysis;
11. government taxation and finance;
12. small and minority business enterprise development;
13. collective bargaining; and
14. human services.

The CPO chairs the panel and serves as an ex-officio member. The panel makes recommendations to the board on best practices in state procurement processes and project management and other issues pertaining to system stakeholders.
EFFECTIVE DATE: January 1, 2009

§ 10 — SCSB LEGISLATION ON APPLICATION OF PROCUREMENT LAWS AND REGULATIONS

By July 1, 2010, the board must submit to the governor and legislature necessary legislation to permit state contracting agencies, other than quasi-public agencies and institutions of higher education, to comply with procurement laws and regulations.

Within the next year, the board must submit legislation necessary to have (1) procurement statutes apply to constituent units of higher education and (2) privatization and procurement statutes and regulations apply to quasi-public agencies.

By July 1, 2012, the board must submit legislation to the governor and legislature necessary to apply procurement statutes and regulations to municipalities when state funds are involved.
EFFECTIVE DATE: January 1, 2009

§ 11 — SCSB ASSISTANCE TO STATEWIDE OFFICERS

The board must help the secretary of the state, comptroller, treasurer, and attorney general develop the best procurement practices specific to their constitutional and statutory functions and consistent with procurement statutes and regulations. Each of the statewide officers must adopt a procurement code on or before June 1, 2011.
EFFECTIVE DATE: January 1, 2009

§ 12 — JUDICIAL AND LEGISLATIVE PROCUREMENT CODES

By February 1, 2011, the act requires the Judicial and Legislative branches to each prepare a procurement code for their use when contracting for, buying, renting, leasing, or otherwise acquiring or disposing of supplies, equipment, or services, including consultant, personal, and construction services.

By the same date, the Judicial Branch must submit its code to the Judiciary Committee for review and approval.

The codes must:

1. establish uniform contracting standards and practices;
2. ensure the fair and equitable treatment of all businesses and people involved in the procurement system;
3. include a process for maximizing the use of small contractors and minority business enterprises;
4. provide increased economy in procurement activities and maximize purchasing value to the fullest extent possible;
5. ensure that they procure supplies, materials, equipment, services, real property, and construction in a cost-effective and responsive manner;
6. include a process to ensure accountability between contractors and each branch;
7. simplify and clarify contracting standards and procurement policies and practices, including procedures for competitive sealed bids or proposals; small purchases; and sole source, special, and emergency procurements; and
8. 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, timeliness, and costs. "Qualification-based selection" means a process to award contracts based primarily on contractor qualifications and a fair and reasonable price. "Emergency procurements" are those necessary because of a sudden, unexpected occurrence that (1) poses a clear and imminent danger to public safety or requires immediate action to prevent or reduce loss or impairment of life, health, property, or essential public services or (2) is needed in response to a court order, settlement agreement, or other similar legal judgment.

EFFECTIVE DATE: January 1, 2009

§ 13 — STATE CONTRACTING PORTAL

The act requires DAS to work with the SCSB to establish and maintain on its website a single electronic portal of all contracting opportunities with Executive Branch state agencies, the constituent units of higher education, and quasi-public agencies. The portal must be called the "State Contracting Portal." It must at a minimum include:

1. all requests for bids or proposals, other solicitations, related material, and all resulting contracts and agreements;
2. a searchable database for locating information;
3. executed personal service agreements and purchase of service contracts;
4. any document DAS designates that describes approved contracting processes and procedures; and
5. prominent features to encourage small businesses and women-and minority-owned enterprises to participate in the state contracting process.

All Executive Branch agencies, constituent units of higher education, and quasi-public agencies must (1) post all bids, requests for proposals, and all resulting contracts and agreements on the portal and (2) develop written policies and procedures to ensure that information posted on the portal is timely, complete, and accurate as determined by the highest legal and ethical standards of state government. They must, with the assistance of DAS and the Department of Information Technology as needed, develop the infrastructure and capability to communicate electronically with the portal.

DAS must give the governor and the SCSB periodic progress reports on (1) the agencies' and units' development of the capacity, infrastructure, policies, and procedures necessary to communicate electronically with the portal and (2) DAS' progress in establishing and maintaining the portal.

EFFECTIVE DATE: January 1, 2009

§ 14 — ACCOUNTABILITY AND TRANSPARENCY

Beginning June 1, 2010, the act requires all Legislative Branch, Judicial Branch, and state contracting agency contracts that take effect on or after that date to contain provisions to ensure accountability, transparency, and results-based outcomes. State contracting agency contracts must contain the outcomes prescribed by the SCSB.

EFFECTIVE DATE: January 1, 2009

§ 16— PRIVATIZATION

Before privatizing any state service that is not currently privatized, a state contracting agency must develop a cost-benefit analysis and a business case. For the purpose of this section, "state contracting agencies" are Executive Branch agencies and constituent units of higher education. Any affected party may petition the SCSB to review the contract. The requirement does not apply (1) to a privatization contract for a service currently provided at least in part by a non-state entity or (2) if the state contracting agency determines the contract is required because of an imminent peril to public health, safety, or welfare and (a) the agency states, in writing, its reasons for such finding and (b) the governor approves the finding in writing.

This section does not apply to procurements that involve the expenditure of federal assistance or contract funds if federal law provides procurement procedures are inconsistent with state procurement statutes or regulations.
EFFECTIVE DATE: January 1, 2010

Cost-Benefit Analysis

The cost-benefit analysis must document the direct and indirect costs, savings, and qualitative and quantitative benefits of the privatization contract. The analysis must (1) specify the minimum schedule required to achieve any estimated savings and (2) clearly identify any cost factor. Cost factors must be supported by all applicable records and reports. The state contracting agency's head must certify that, based on the data and information, all projected costs, savings, and benefits are valid and achievable. "Costs" means all reasonable, relevant and verifiable expenses, including salary, materials, supplies, services, equipment, capital depreciation, rent, maintenance, repairs, utilities, insurance, travel, overhead, interim and final payments and the normal cost of fringe benefits, as calculated by the comptroller. "Savings" means the difference between the current annual direct and indirect costs of providing the service and the projected, annual direct and indirect costs of contracting to provide them in any succeeding state fiscal year during the term of the proposed privatization contract.

If the cost-benefit analysis finds a cost savings of less than 10%, that the contract will not diminish the quality of services, and a significant public policy reason to privatize, the state contracting agency may develop a business case to evaluate the feasibility of entering the contract and to identify its potential results, effectiveness, and efficiency. If the cost savings is at least 10% and the contract will not diminish the quality of services, the agency must develop a business case.

If the contract would result in at least 100 layoffs, transfers, or reassignments, after consulting with unions, the contracting agency must notify the affected employees after the cost-benefit analysis is completed, give them the opportunity to reduce the costs of providing the services to be privatized, and give them resources to encourage and help them organize and bid on the contract. (It is not clear the effect this provision has on existing law that makes certain subjects, such as wages and hours, mandatory subjects of collective bargaining.)

Business Case

Any business case must include:

1. the cost-benefit analysis;
2. a detailed description of the service or activity that is the subject of the business case;
3. a description and analysis of the state contracting agency's current performance of the service or activity;
4. the goals to be achieved through the proposed privatization contract and the rationale for them;
5. a description of available options for achieving these goals;
6. an analysis of the advantages and disadvantages of each option, including potential performance improvements and the risks of terminating or rescinding the contract;
7. a description of the current market for the services or activities that are the subject of the business case;
8. an analysis of the quality of services as determined by standardized measures and key performance requirements, including compensation, turnover, and staffing ratios;
9. a description of the specific results-based performance standards that must be met to ensure adequate performance by any party performing the service or activity;
10. the projected time frame for key events from the beginning of the procurement process through the contract's expiration, if applicable;
11. a specific and feasible contingency plan that addresses contractor nonperformance and a description of the tasks involved in and costs required for implementing the plan; and

12. a transition plan, if appropriate, for addressing changes in the number of agency personnel, affected business processes, employee transition issues, and communications with affected stakeholders, such as agency clients and members of the public, if applicable.

The transition plan must contain a reemployment and retraining assistance plan for employees who are not retained by the state or employed by the contractor.

If the primary purpose of the proposed privatization contract is to provide a core governmental function, the business case must also include information sufficient to rebut the presumption that the core governmental function should not be privatized. The presumption cannot be construed to prohibit a state contracting agency from contracting for specialized technical expertise not available within the agency; however, the agency must retain responsibility for the core governmental function. A "core governmental function" is one whose primary purpose is (A) to inspect for adherence to health and safety standards because public health or safety may be jeopardized if the inspection is not done or is not done in a timely or proper manner; (B) to establish statutory, regulatory, or contractual standards for a regulated person, entity, or state contractor; (C) to enforce public health or safety statutory, regulatory, or contractual requirements; or (D) criminal or civil law enforcement. If any part of the business case is based on evidence that the state contracting agency is not sufficiently staffed to provide the core governmental function required by the privatization contract, the state contracting agency must also include within the business case a plan to remediate the understaffing to allow the agency to provide the services directly in the future.

Review by SCSB

Once the business case is completed, the state contracting agency must submit it to the SCSB. The SCSB cannot engage in any *ex parte* communications with a lobbyist, contractor, or union representative during the review. Each state contracting agency that submits a business case for review must give the board all information, documents, or other material the privatization contract committee requires to complete its review and evaluation of the business case. If the privatization contract is projected to cost more than $150 million annually or $600 million over its term, the state contracting agency must also submit the business case to the governor, the Senate president pro tempore, the House speaker, and any collective bargaining unit affected by the proposed contract.

SCSB Privatization Contract Committee

When the SCSB receives a business case from a state contracting agency, it must immediately refer it to a privatization contract committee that consists of five SCSB members appointed by the board's chairperson. The members must represent both gubernatorial and legislative appointments and no more than three members may represent any one political party. At least one member must be an expert in the area that is the subject of the proposed contract. The SCSB chairperson or his or her designee must head the committee.

The committee must employ a standard process for reviewing, evaluating, and approving business cases. The process must include due consideration of: (1) the state contracting agency's cost-benefit analysis; (2) the agency's business case, including any facts, documents, or other materials that are relevant to it; (3) any adverse effect that the privatization contract may have on minority, small, and women-owned businesses that do, or are attempting to do business with the state; and (4) the value of having services performed in the state and within the United States.

The privatization committee must evaluate the business case and submit its evaluation to the SCSB for review and approval. During the review or consideration, no board member can engage in any *ex parte* communication with any lobbyist, contractor, or union representative.

SCSB Approval of Business Case

Within 60 days after receiving a business case, the SCSB must transmit a report detailing its review, evaluation, and disposition to the state contracting agency that submitted it. In the case of a privatization contract with a projected cost of at least $150 million dollars annually or $600 million dollars over its life time, SCSB must also send the report to the governor, the Senate president pro tempore, the House speaker, and any collective bargaining unit affected by the proposed contract. The 60 days may be extended for an additional 30 days upon a majority vote of the board or the privatization contract committee and for good cause shown. A business case is deemed approved if the SCSB does not act on it within the 60 days, except that no business case may be approved because the board fails to meet.

The board's report must include the business case, the privatization contract committee's evaluation, its reasons for approval or disapproval, any recommendations of the board, and sufficient information to help the state contracting agency determine if additional steps are necessary to proceed with a privatization contract.

Generally, a majority vote of the board is required to approve a business case. However, a two-thirds vote, including the vote of at least one board member appointed by a legislative leader, is required to approve a business case to privatize a core governmental function. Before approval, the state contracting agency must provide sufficient evidence to rebut the presumption that the core governmental function should not be privatized and there is a significant policy reason to approve the business case. In no case can a state contracting agency's staffing level constitute a significant policy reason to approve a business case for privatizing a core governmental function.

Any state contracting agency may request an expedited review if there is a compelling public interest for doing so. If the board approves the agency's request, the review must be completed not later than 30 days after receipt. If the board fails to complete an expedited review within the 30 days, the business case is deemed approved.

The state contracting agency retains sole discretion in determining whether to proceed with the privatization contract if the SCSB approves the business case.

Amendments to SCSB-Approved Business Cases

Each state contracting agency must submit to SCSB, in writing, any proposed amendment to a board-approved business case so that the board may review and approve it. The board may approve or disapprove the proposed amendment within 30 days after receipt by the same vote that was required to approve the original business case. If the board fails to complete its review within 30 days, the amendment is deemed approved.

Solicitations for Privatization Contracts

A state contracting agency may publish notice soliciting bids for a privatization contract only after the board approves the business case. A contract that is estimated to cost over $150 million dollars annually or $600 million or more over its life must also be pre-approved by the legislature. The legislature, by a majority vote in either chamber, must either reject or approve the contract in its entirety. If the legislature is in session, it must approve or reject the contract within 30 days after it is filed. If the legislature is not in session when the contract is filed, the contract must be submitted not later than 10 days after the first day of the next regular session or special session called for that purpose.

A contract is deemed approved if the legislature fails to vote to approve or reject it within the 30 days, which period cannot begin or expire unless the legislature is in regular session. Any contract filed with the clerks within 30 days before the start of a regular session is deemed to be filed on the first day of such session.

Recourse By Adversely Affected Employees

Not later than 30 days after the board decides to approve a business case, the collective bargaining agent of any employee adversely affected by the proposed privatization contract may file a motion for an order to show cause in Hartford Superior Court on the grounds that the contract fails to comply with the act's substantive or procedural requirements regarding privatization. The court may: (1) deny the motion, (2) grant the motion if it finds that the proposed contract would substantively violate the act's privatization provisions, or (3) stay the effective date of the contract until any substantive or procedural defect has been corrected.

SCSB's Review of Existing Privatization Contracts

The SCSB may review existing privatization contracts and must review at least one currently privatized contracting area each year. For each privatization contract that the board selects for review, the appropriate state contracting agency must develop a cost-benefit analysis. Any affected party may petition the board to review the business case of any existing privatization contract. The SCSB cannot engage in any *ex parte* communications with a lobbyist, contractor, or union representative during the review.

If the cost-benefit analysis identifies cost savings of at least 10% and the contract does not diminish the quality of the service provided, the state contracting agency must develop a business case to renew the contract. The board must review the contract just as it does proposed privatization contracts and may approve the renewal by the applicable vote of the board. Any renewal that is estimated to cost over $150 million annually or $600 million dollars or more over its life must also be pre-approved by the General Assembly. If the renewal is approved by the board and the General Assembly, if applicable, the act's provision on proposed amendments applies.

If the cost-benefit analysis identifies a cost savings of less than 10%, the state contracting agency must prepare and begin to implement a plan to have the service provided by state employees. However, (1) after the plan is prepared, but before it is implemented, the state contracting agency may develop a business case for the privatization contract that achieves at least a 10% cost savings and must submit the plan to the SCSB for review and approval; (2) the privatization contract cannot be renewed with the vendor currently providing the service unless there is a significant public interest in doing so and the renewal is approved by a two-thirds vote of the board, including the vote of at least one member appointed by a legislative leader; (3) until the state contracting agency implements the plan, it may contract for the services for up to one year; and (4) funds may be transferred from the General Fund to allocate necessary resources to carry out this provision upon the governor's recommendation and after approval of the Finance Advisory Committee.

Renewal of a privatization contract with a nonprofit organization cannot be denied if the cost of increasing compensation to employees performing the privatized service is the only reason for the contract not achieving at least a 10% cost savings. A "nonprofit" is a not-for-profit business under § 501 (c) (3) of the Internal Revenue Code of 1986 or any subsequent corresponding code as amended.

Policies and Procedures

The Office of Policy and Management, in consultation with the SCSB, must (1) develop policies and procedures, including templates for state contracting agencies to use when developing a cost-benefit analysis and (2) review with each state contracting agency the budgetary impact of any privatization contract and the need to request budget adjustments in connection with it.

The SCSB, in consultation with the DAS, must: (1) recommend and implement standards and procedures for state contracting agencies to develop business cases in connection with privatization contracts, including templates for them to use when submitting business cases to the board, and policies and procedures to help state contracting agencies complete the cases and (2) develop guidelines and procedures for helping state employees whose jobs are affected by a privatization contract.

§§ 15 & 17 — APPLICATION

The act, other than the provisions establishing and outlining the general duties of the SCSB (§§ 1-15), applies to all contracts state contracting agencies solicit or enter after the January 1, 2010. The SCSB provisions do not affect the four-year pilot program that creates jobs for people with disabilities established under PA 06-129.

Unless otherwise stated, the act's privatization and procurement procedures (§§ 16-47) apply to every expenditure of public funds by any state contracting agency, irrespective of their source, involving any state contracting and procurement processes, including leasing and property transfers; purchasing or leasing of supplies, materials, or equipment; consultant or consultant services; personal service and purchase of service agreements; privatization contracts; and contracts for the construction, reconstruction, alteration, remodeling, repair, or demolition of any public building, bridge, or road.

The act's privatization and procurement procedures cannot be construed to apply to the expenditure of federal assistance or contract funds if federal law provides procurement procedures that are inconsistent with state procurement statutes or regulations.

EFFECTIVE DATE: June 1, 2010, except the provision on the pilot program, which is effective January 1, 2009.

§ 18 — REQUISITION SYSTEM

The act requires the DAS commissioner to establish a requisition system for use by state contracting agencies to initiate and authorize the procurement process when obtaining supplies, materials, equipment, or contractual services, except infrastructure facilities. The SCSB must approve the system.

EFFECTIVE DATE: June 1, 2010

§ 19 — PROCUREMENT METHODS

The act requires that all state contracting agencies' purchases of, and contracts for, supplies, materials, equipment, and contractual services made under the competitive bidding process, be awarded by one of the following methods unless otherwise authorized by law:

1. competitive sealed bidding,
2. competitive sealed proposals,
3. small purchase procedure,

4. sole source procurement,
5. emergency procurement, or
6. waiver of bid or proposal requirement for extraordinary conditions.

EFFECTIVE DATE: October 1, 2009

§§ 29 & 30 — INSPECTIONS AND AUDITS

State contracting agencies' contracts must permit the agencies, at reasonable times, to inspect the part of the plant or place of business of a contractor or any subcontractor that is related to the performance of any contract awarded, or to be awarded by the state, to ensure compliance with the contract.

State contracting agencies may audit the books and records of a contractor or subcontractor under any negotiated contract or subcontract to the extent that the books and records relate to the performance of the contract or subcontract. The contractor must maintain the books and records for three years from the date of final payment under the prime contract and the subcontractor for a period of three years from the expiration of the subcontract.

EFFECTIVE DATE: January 1, 2009

§ 31— ANTICOMPETITIVE PRACTICES AMONG BIDDERS

When an affected party suspects collusion or other anticompetitive practices among any bidders or proposers for a state contract, the party must give the attorney general notice of the relevant facts. Affected parties include the state contracting agency or a bidder or proposer. A proposer is a business submitting a proposal in response to a request for proposals or other competitive sealed proposal by a state contracting agency.

EFFECTIVE DATE: January 1, 2009

§§ 25, 32 & 33— RECORD REQUESTS AND RETENTION

The act permits state contracting agencies to request factual information reasonably available to bidders or proposers to substantiate the reasonableness of offered prices or costs. Under the act, each state contracting agency must retain and dispose of all procurement records in accordance with the public records administrator's records retention guidelines and schedules.

The act requires the agency procurement officer to maintain a record listing all contracts made under the uniform procurement code for a minimum of five years. The record must contain:

1. each contractor's name;
2. the amount and type of each contract; and
3. a list of the supplies, services, or construction procured under each contract.

All procurement records must be retained and disposed of in accordance with the public records administrator's records retention guidelines and schedules.

EFFECTIVE DATE: January 1, 2009, except that the provision on the agency procurement officer is effective on June 1, 2010.

§ 34 — DISQUALIFICATIONS

General Provisions

The act allows the SCSB to disqualify any contractor, bidder, or proposer from bidding on, applying for, or participating as contractor or subcontractor under state contracts. The disqualification can run for up to five years.

In order to disqualify a contractor, bidder, or proposer, the board must (1) consult with the relevant contracting agency and the attorney general; (2) provide reasonable notice and hold a hearing; and (3) act through a subcommittee of three members, including at least one legislative appointee, appointed by the board's chairperson. In determining whether to disqualify a contractor, bidder, or proposer, the board must consider the seriousness of the affected party's acts or omissions and any mitigating factors.

The subcommittee must issue a written recommendation within 60 days after its hearing ends. The recommendation must state the reasons for the subcommittee's action and the length of any disqualification. A disqualification recommendation requires the vote of two subcommittee members present and voting. The subcommittee must submit the recommendation to the board for action and mail it to the contractor by certified mail, return receipt requested. Once the board receives the subcommittee's recommendations, but no later than 30 days after receiving any comments from the targeted contractor, it must issue a written decision adopting, rejecting, or modifying them. The board must mail the decision to the contractor by certified mail, return receipt requested. The decision is final and can be appealed to Superior Court.
EFFECTIVE DATE: June 1, 2010

Grounds for Disqualification

Under the act, the grounds for disqualification include:

1. conviction of, or entry of a plea of guilty or *nolo contendere* (no contest) or admission to (a) the commission of a crime in connection with obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of a contract or subcontract; (b) the violation of any state or federal law for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offenses indicating a lack of business integrity or honesty that affects responsibility as a contractor; or (c) a violation of any state or federal antitrust, collusion, or conspiracy law arising from the submission of bids or proposals on a public or private contract or subcontract;
2. accumulation of two or more agency suspensions within a 24-month period;
3. a willful, negligent, or reckless failure to meet the terms of one or more state contracts or subcontracts, agreements, or transactions;
4. a history of failure to perform, or of unsatisfactory performance, on one or more state contracts, agreements, or transactions;
5. a willful violation of a statutory or regulatory provision or requirement applicable to a state contract, agreement, or transaction;
6. a willful or egregious violation of State Ethics Code provisions on prohibited activities and prohibited activities by consultants and independent contractors as determined by the Citizen's Ethics Advisory Board; or
7. any other cause or conduct the board determines to be so serious and compelling as to affect responsibility as a state contractor.

The last category includes: (1) disqualification by another state for cause; (2) the existence of an informal or formal business relationship with a contractor who has been disqualified from bidding or proposing on state contracts of any state contracting agency; and (3) the fraudulent or criminal conduct of any officer, director, shareholder, partner, employee, or other individual associated with a contractor, bidder, or proposer if the conduct was connected with the individual's performance of duties for, or on behalf of, the contractor, bidder, or proposer who knew or had reason to know of the conduct.

Modification of Disqualification

The act allows the board to reduce the period or the extent of a disqualification at the written request of a contractor, bidder, or proposer. It may do so if the affected party provides supporting documentation of:

1. newly discovered material evidence;
2. a reversal of the conviction upon which the disqualification was based;
3. a bona fide change in ownership or management; or
4. the elimination of other causes for which the disqualification was imposed.

§ 35 — AGENCY SUSPENSIONS

The act allows the department head of any state contracting agency, after reasonable notice and a hearing, to suspend any contractor, bidder, or proposer for up to six months from bidding on, applying for, or performing work as a contractor or subcontractor under state contracts. The department head must issue a written decision within 90 days after the hearing ends, which must state the reasons for the action taken and the length of any suspension. In determining whether to suspend a contractor, bidder, or proposer, the department head must consider the seriousness of the acts or omissions and any mitigating factors. The department head must send the decision to the contractor and the SCSB by certified mail, return receipt requested. The decision is final and can be appealed to Superior Court.

The causes for suspension include:

1. failure without good cause to perform in accordance with specifications or within the time limits provided in the contract;
2. a record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, other than those caused by acts beyond the control of the contractor, bidder, or proposer;
3. any cause the contracting agency determines to be so serious and compelling as to affect the responsibility of a state contractor, bidder, or proposer, including suspension by another contracting agency for cause; or
4. a violation of the State Ethics Code's ethical standards as determined by the Citizen's Ethics Advisory Board.

The act allows the SCSB to grant an exception permitting a suspended contractor to participate in a particular contract or subcontract upon its written determination that there is good cause for the exception and the exception is in the state's best interest.

Each state department head must review contractors and file reports pertaining to any of the reasons under the act that may be the basis for "disqualification" (the act refers to disqualification but this section deals with suspensions).
EFFECTIVE DATE: June 1, 2010

§§ 37 & 38 — APPEALS FROM AGENCY'S SUSPENSION DECISIONS

The act permits contractors, bidders, or proposers to appeal an SCSB subcommittee's suspension decision to the full board within 14 days after receiving it. Each bidder or proposer must state the facts supporting its claim in enough detail for the SCSB to determine whether procedural elements of the solicitation or award failed to comply with the code or whether an unauthorized or unwarranted, noncompetitive selection process was used. (An incorrect internal citation establishes a procedure for appealing the way a contract is awarded rather than one for appealing an agency's decision to suspend a contractor, which was apparently the intention). The appeal does not automatically prohibit the award or execution of the contested contract.

The act requires the SCSB to create a subcommittee of three of its members, including one legislative appointee, to review these appeals and vote on whether an allegation has been substantiated. The appeals committee may not include any SCSB member who originally heard the case. Unless the subcommittee's vote is unanimous, the full board must review the appeal and dispose of it by a vote of two-thirds of its members present and voting, including at least one legislative appointee. (The act does not specify what happens if the full board's vote is less than two-thirds.) And any three board members may request that the full board review an agency's deliberative or awards 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 or proposer. The subcommittee must act within 90 days after receiving the appeal. The full board must act within 90 days after receiving the appeal from the subcommittee. If the subcommittee or full board decides in the bidder's or proposer's favor, the board must direct the state contracting agency to take corrective action within 30 days after the decision date. A decision by the full board or the appeals review committee is final and not subject to appeal.

The board must provide a copy of the decision to all parties, the head of the state contracting agency, and the chief procurement officer.
EFFECTIVE DATE: June 1, 2010

§ 36 — CONTESTING STATE CONTRACT SOLICITATIONS OR AWARDS

The act establishes a process for bidders or proposers on state contracts to contest (1) the way the contracts were solicited or awarded or (2) an unauthorized or unwarranted, noncompetitive selection process. They may bring a claim to a SCSB subcommittee consisting of three members, including at least one legislative appointee, appointed by the chairperson. The claim must be in writing and submitted within 14 days after the claimant knew or should have known about the facts forming the basis for the claim. Claims must be limited to the solicitation or awarding procedures or of unauthorized or unwarranted, noncompetitive selection.

The act authorizes the subcommittee to resolve or settle the claim. If it is not resolved, the act requires the subcommittee to issue a written decision within 30 days after receiving the claim and provide a copy to the claimant. The decision must:

1. describe the procedure the agency used to solicit and award the contract,
2. indicate the agency's (apparently this means the subcommittee) findings on the claim's merits, and
3. inform the claimant of his right to review.

EFFECTIVE DATE: June 1, 2010

§§ 39 & 40 — ILLEGAL SOLICITATIONS AND AWARDS

Prior to an award, the SCSB must cancel or revise a solicitation or proposed award of a state contracting agency's contract that violates the law.

If the board makes the determination after the contract is awarded and the contract recipient did not act in bad faith, the contract may be (1) ratified and affirmed by the state contracting agency if the board determines doing so is in the best interests of the state or (2) terminated and the recipient compensated for the actual expenses reasonably incurred under the contract, plus a reasonable profit.

If the person awarded the contract acted in bad faith, the contract may (1) be declared null and void or (2) ratified and affirmed if doing so is in the best interests of the state, as determined by the SCSB. The determination must be in writing and without prejudice to the state's right to any appropriate damages.

EFFECTIVE DATE: June 1, 2010

§§ 19-47 — REGULATIONS ESTABLISHING PROCUREMENT POLICIES AND PROCEDURES

The act requires the SCSB to adopt regulations establishing state procurement policies and procedures. Generally, the deadline for adopting the regulations is June 1, 2010. For those concerning contracting procedures for constituent units of higher education, it is January 1, 2011.

Under the act, the SCSB must adopt regulations:

1. (a) defining competitive sealed bidding, competitive sealed proposals, small purchase procedure, sole source procurement, emergency procurements, and waiver of bid or proposal requirements for extraordinary conditions; (b) establishing the circumstances under which state contracting agencies use these methods; and (c) establishing the processes and criteria for awarding purchases and contracts in accordance with each method (§ 19);
2. specifying the procedure for issuing invitations for bids, including (a) the required elements, (b) the process for opening bids, and (c) evaluation criteria for awarding bids(§ 20);
3. specifying when contracts and purchase orders exceeding $50,000 do not have to go through the competitive sealed- bidding procedure (§ 20);
4. in consultation with DAS, establishing small purchase procedures for procurements of $50,000 or less (see below) (§ 21);
5. in consultation with the DAS commissioner, specifying when a contract for a supply, service, or construction item does not have to go through a competitive bidding procedure (see below) (§ 22);
6. establishing procedures for waiving competitive bidding or proposal requirements (§ 23);
7. in consultation with the DAS commissioner and any other appropriate awarding authority, permitting emergency procurements when a threat to the public's health, welfare, or safety exists (see below) (§ 24);
8. in consultation with the DAS commissioner, establishing standards for preparing and maintaining the content of specifications for state supplies, services, and construction (§ 26);
9. in consultation with the attorney general, specifying the types of contracts that state contracting agencies may use when procuring consultant services (§ 27);
10. requiring proposed contractors, before the award of a contract, to submit documentation to the contracting agency confirming that their accounting system will permit timely processing of necessary cost data in the required format (§ 28);
11. specifying (a) the process for procuring (1) architectural and engineering services in design-bid-build procurements, (2) construction in design-bid-build procurements, and (3) construction management at-risk and (b) project delivery methods (§ 41);
12. requiring bid security for all competitive sealed bidding for construction contracts in design-bid-build procurement when the contracting agency estimates the price will exceed $500,000 (§ 42);
13. establishing the process for procuring consultant services (see below)(§ 44);
14. in consultation with state contracting agencies and the attorney general, requiring state contracts with state contracting agencies concerning infrastructure facilities to include clauses for (a) price adjustments, (b) time performance, (c) remedies, (d) termination, or (e) other contract provisions necessary to protect the state's interests (§ 45);

15. concerning the procedures and circumstances under which state construction contracts of more than $ 50,000 may undergo (1) contract modifications, (2) change orders, or (3) contract price adjustments (see below (§ 46)); and
16. applying the act's procurement procedures to each constituent unit of higher education, taking into consideration circumstances and factors unique to them (§ 47).

In addition, the State Insurance and Risk Management Board must adopt regulations, in consultation with the SCSB, specifying when a state contracting agency must require proposers to provide errors and omissions insurance to cover architectural and engineering services under the project delivery methods described above. Under the act, a "proposer" is a person, firm, or corporation that submits a bid in response to an RFP or other sealed proposal (§ 43).

Small Purchase Procedures

The regulations establishing small purchase procedures for procurements of $50,000 or less must prohibit dividing a procurement to make use of the procedures. The act specifies that the SCSB, in consultation with the DAS commissioner, determines if a contracting agency has artificially divided a procurement. Upon making such a determination, the SCSB must prohibit the state contracting agency from utilizing the small purchase procedures.

In addition, the act authorizes the SCSB, in consultation with the DAS commissioner, to waive the competitive bidding or negotiation requirements in the case of minor, nonrecurring, or emergency purchases of $ 10,000 or less.

Contracts for Supply, Service or Construction Items

The regulations must cover situations when an agency contracting officer states, in writing, that there is only one source for the required item. They must specify that a sole source procurement is permitted when an item is available only from a single supplier.

Emergency Procurements

The act specifies that emergency procurements go through a competitive bidding process when practicable under the circumstances. The regulations must require the contract file to include a written determination of the basis for the emergency and for the contractor selection. The information must be transmitted to the governor and the top six legislative leaders.

Types of Contracts

The regulations must specify that a cost-reimbursement contract may be used only when the agency procurement officer makes a written determination that (1) such a contract is likely to cost less than any other type or (2) that it is impracticable to obtain the supplies, services, or construction required, except under such a contract.

Modifications, Change Orders, and Price Adjustments

Under the act, the regulations must require prior written certification for every contract modification, change order, or contract price adjustment for a state construction contract over $50,000. The written certification may be signed by (1) the fiscal officer of the contracting state agency or the agency responsible for funding the project or (2) an official responsible for monitoring and reporting on the status of the total project or contract budget.

If the changes will increase the total project or contract budget, the agency procurement officer cannot execute the modification, change order, or adjustment unless sufficient funds are available or the scope of the project or contract is adjusted to permit the degree of completion that is feasible within the total project or contract budget as it existed before the contract change under consideration. However, "with respect to the validity as to the contractor, of any executed contract modification, change order, or adjustment in contract price which the contractor has reasonably relied upon, it shall be presumed that there has been compliance with the provisions of this section." It is unclear what this language means.

"Change orders" are written orders signed by an official designated by the department head directing the contractor to make authorized changes.

EFFECTIVE DATE: January 1, 2009, except the provision (1) requiring the SCSB to define the terms (§ 18) is effective June 1, 2010 and (2) establishing the circumstances under which state contracting agencies may use those procurement methods (§19) is effective October 1, 2009.

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