

SUMMARY OF 2008 PUBLIC ACTS

Connecticut General Assembly

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NOTICE TO USERS

This publication, *Summary of 2008 Public Acts*, summarizes all public acts passed during the General Assembly's January 2008 Special Session, 2008 Regular Session, and the June 11, 2008 Special Session. 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 January and June 11, 2008 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 2008 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 08-90, An Act Concerning a Pre-Retirement Spousal Benefit Under the State Employees Retirement System (*Labor Committee*)
2. PA 08-92, An Act Concerning the Minimum Wage (*Labor Committee*) (OVERRIDDEN)
3. PA 08-113, An Act Concerning the Tip Credit (*Labor Committee*) (OVERRIDDEN)
4. PA 08-165, An Act Establishing a Community-Based Health and Human Services Cabinet (*Government Administration and Elections Committee*)
5. PA 08-179, An Act Concerning the Greenway Commons Improvement District in Southington, the Waypointe Project in Norwalk, Naugatuck Economic Development Corporation, Donation of Open Space Land by Water Companies, and the Authority of Municipal Districts Over the Water Quality in Lakes (*Finance, Revenue and Bonding Committee*)
6. PA 08-183, An Act Concerning the Connecticut Healthcare Partnership (*Labor Committee*)

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.

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

Violations

CGS § 53a-43 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 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. 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; and violators can pay the fine by mail without making a court appearance.

Larceny

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

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

PA 08-1, January Special Session—SB 1700
Emergency Certification

AN ACT CONCERNING CRIMINAL JUSTICE REFORM

SUMMARY: This act:

1. creates the new crime of home invasion and increases the penalty for burglary of a dwelling at night by making it 1st degree, instead of 2nd degree, burglary;
2. makes someone convicted of 2nd degree burglary or home invasion ineligible for parole until he or she has served at least 85% of the sentence imposed;
3. eliminates a factual finding previously required to trigger enhanced sentencing under state persistent offender laws;
4. alters the composition, qualification requirements, and appointment process for the Board of Pardons and Paroles (BOPP); requires a training program for board members and parole officers; prohibits parole hearings from being conducted unless the chairperson has certified that all pertinent information has been obtained or is unavailable; and requires the board to hire at least one psychologist;
5. eliminates the parole administrative review procedure;
6. updates the crime victim notification law; gives the BOPP discretion to permit family members of living victims to make statements at pardon and parole hearings; and directs the Judicial Branch to (a) implement an automated victim notification system that, among other things, can notify interested victims when the court is considering whether to accept a plea bargain and (b) assign two victim advocates to assist crime victims appearing at BOPP hearings;
7. limits the reasons for which the Department of Correction (DOC) can grant an inmate a furlough;
8. increases the number of reentry, diversionary, and staff-secure sexual offender beds;
9. requires the Judicial Branch to post certain arrest warrant information on the Internet;
10. requires global positioning system (GPS) monitoring of 300 more parolees;
11. affords BOPP members and employees and certain DOC employees access to juvenile and youthful offender court records in limited circumstances;
12. requires judges to state reasons for imposing conditions when they release people arrested for certain serious crimes from custody;

13. establishes a committee to study ways to create incentives for towns that allow the siting of community-based offender programs;
14. changes administrative driver's license suspension periods when the driver's elevated blood alcohol level is determined by evidence a hospital provides;
15. moves the effective date of a new consumer reporting law from February 1, 2008 to May 1, 2008;
16. requires probationers, who are the subject of arrest warrants or notices to appear, to continue to comply with their release conditions;
17. increases the responsibilities of the Criminal Justice Policy Advisory Commission;
18. expands membership in the Criminal Justice Information System (CJIS) Governing Board, directs that body to hire an executive director and design and implement a state of the art information technology system, and appropriates \$2.25 million for these purposes;
19. creates a diversionary program for people with psychiatric disorders who have been accused of less serious crimes;
20. appropriates money for reentry and diversionary services in Bridgeport, Hartford, and New Haven;
21. by January 1, 2009, directs DOC to provide the BOPP with a secure video connection at each correctional facility for conducting parole hearings by videoconference (§ 15); and
22. requires DOC, BOPP, and the Judicial Branch's Court Support Services Division to develop a risk assessment strategy for offenders in DOC custody.

EFFECTIVE DATE: Upon passage except (1) March 1, 2008 for provisions on home invasion and burglary crimes, parole eligibility, and persistent offender classification; (2) July 1, 2008 for the elimination of the parole administrative review procedure; and (3) October 1, 2008 for the psychiatric disabilities diversion program.

§§ 1-4 — HOME INVASION AND BURGLARY CRIMES

Home Invasion

The act creates the crime of home invasion. A person commits this crime by entering or remaining unlawfully in an occupied dwelling with intent to commit a crime and in the course of committing the offense:

1. acting alone or with another, commits or attempts to commit a violent felony against someone who is in the dwelling other than a

- participant in the crime or
- 2. is armed with explosives, a deadly weapon, or a dangerous instrument.

The act uses the definitions in the burglary statutes, including the definition of a “dwelling,” which is a building that is usually occupied by a person lodging at night, whether or not a person is actually present. Under the act, “in the course of committing” the offense means that an act occurs in an attempt to commit the offense or fleeing after the attempt or commission.

The act makes this crime a class A felony (see Table on Penalties) with a 10-year mandatory minimum sentence. Prior law punished this conduct under the burglary statutes as a class B, C, or D felony (see Table on Penalties) with, under some circumstances, a one- or five-year mandatory minimum sentence.

Burglary Crimes

The act increases the penalty for committing burglary of a dwelling at night by making it 1st degree burglary instead of 2nd degree burglary. It increases the penalty for this conduct from a class C to a class B felony (see Table on Penalties).

§ 5 — PAROLE ELIGIBILITY

The act makes someone convicted of 2nd degree burglary or the new crime of home invasion ineligible for parole until he or she has served at least 85% of the sentence imposed. The law imposes this same 85% requirement on people convicted of an offense where the underlying facts and circumstances of the offense involve the use, attempted use, or threatened use of physical force against another person. Thus, prior law required people convicted of 1st degree burglary and 2nd or 3rd degree burglary with a firearm to serve 85% of their sentence before being eligible for parole.

§§ 6-11 — PERSISTENT OFFENDER STATUTES

Classification as a Persistent Dangerous Felony Offender

Under certain circumstances, the law authorizes courts to sentence people classified as persistent dangerous felony offenders to a longer prison term than the offense otherwise allows. To be classified as a persistent dangerous felony offender, an offender must (1) stand convicted of certain serious offenses (this is referred to as the current conviction) and (2) have been convicted of, and imprisoned for, certain serious crimes under a sentence of at least one year in prison, or of death, in Connecticut, in any other state, or in a federal prison before he or she committed the current offense.

The act adds the crimes of home invasion, 1st degree burglary, and 2nd degree burglary with a firearm to the list of crimes that can make a person a persistent dangerous felony offender. There are two separate paths to being classified as one of these offenders. Table 1 compares the persistent dangerous felony offender classification under prior law and the act.

Table 1: Persistent Dangerous Felony Offender (Changes in Bold Italics)

PATH 1		
<i>Current Conviction (§ 53a-40(a)(1))</i>		
Manslaughter	Arson	Kidnapping
1 st or 2 nd degree robbery	1 st degree assault	<i>Home invasion</i>
<i>1st degree burglary</i>	<i>2nd degree burglary with a firearm</i>	
<i>Prior Conviction</i>		
Murder	Manslaughter	Arson
Kidnapping	1 st or 2 nd degree robbery	1 st degree assault
1 st degree sexual assault, including aggravated	3 rd degree sexual assault, including with a firearm	<i>Home invasion</i>
<i>1st degree burglary</i>	<i>2nd degree burglary with a firearm</i>	Attempts to commit any of these crimes <i>(the act adds attempts to commit the additional crimes)</i>
Predecessor crimes <i>(the act adds any crimes that are predecessors to the additional crimes)</i>	Crimes substantially similar in other states <i>(the act adds crimes in other states that are substantially similar to those it adds to the list)</i>	

OR

PATH 2		
<i>Current Conviction (§ 53a-40(a)(2))</i>		
1 st degree sexual assault, including aggravated	3 rd degree sexual assault, including with firearm	
<i>Prior Conviction</i>		
Murder	Manslaughter	Arson
Kidnapping	1 st or 2 nd degree robbery	1 st degree assault
<i>Home invasion</i>	<i>1st degree burglary</i>	<i>2nd degree burglary with a firearm</i>
Attempts to commit any of these crimes <i>(the act adds attempts to commit the additional crimes)</i>	Predecessor crimes <i>(the act adds any crimes that are predecessors to the additional crimes)</i>	Crimes substantially similar in other states <i>(the act adds crimes in other states that are substantially similar to those it adds to the list)</i>

Penalties—Persistent Offenders and Acts of Terrorism

Under prior law, when a person had the appropriate convictions to be classified as a persistent dangerous felony offender, the court was required to find that the offender’s history and character and the nature and circumstances of the criminal conduct indicated that

extended incarceration and lifetime supervision would best serve the public interest in order to impose the higher penalty.

The Connecticut Supreme Court ruled that a convicted offender has the right to have a jury make the findings about whether he or she should be subject to the more stringent penalties associated with the persistent dangerous felony offender classification (see BACKGROUND). The act eliminates the required findings and instead requires the court to impose the higher penalty on an offender who meets the criteria of a persistent dangerous felony offender. (PA 08-51 changes the penalties for persistent dangerous felony offenders.)

The act also eliminates the required court findings in the provision that increases the penalty one class for acts of terrorism and the other categories of persistent offenders. By doing so, the act requires the court to impose the higher sentence authorized by the statute for:

1. acts of terrorism,
2. persistent dangerous sexual offenders,
3. persistent bigotry or bias offenders, and
4. persistent stalking and harassment-related offenders.

In the following four persistent offender classifications, the act eliminates the required finding but, as under prior law, the court is authorized, but not required, to impose the higher penalty authorized by the statute:

1. persistent serious felony offenders,
2. persistent serious sexual offenders,
3. persistent felony offenders,
4. persistent larceny offenders, and
5. persistent operating under the influence felony offenders.

§ 12 — CHANGES TO THE BOARD OF PARDONS AND PAROLES

Membership

The act increases the BOPP's membership from 13 to a maximum of 25 between February 1, 2008 and July 1, 2008. On June 30, 2008, it ends the terms of seven board members the chairman assigned exclusively to parole hearings. Terms of the chairman and members assigned to pardon hearings or those appointed by the governor beginning on February 1, 2008 are not affected.

Beginning July 1, 2008, it reduces the membership to 18 and requires 12 members to serve exclusively on parole release panels and five exclusively on pardons panels. As under prior law, the act allows the chairman to serve on both types of panels.

Qualifications

Prior law required the chairman to be qualified by education, experience, and training in administering community corrections, parole, or pardons. The act requires all members appointed starting February 1, 2008 to be qualified by education, experience, or training in administering community corrections, parole, or pardons; criminal justice; criminology; evaluation or supervision of offenders; or providing mental health services to offenders.

Appointment Process

Starting February 1, 2008, the act requires (1) the governor to specify appointments for chairman, full-time or part-time parole panel members, and pardons panel members and (2) both houses of the General Assembly, rather than just one, to approve the governor's appointments.

Beginning with appointments the governor submits to the General Assembly on February 1, 2008, the act requires their referral to the Judiciary Committee instead of the Executive and Legislative Nominations Committee. It requires the Judiciary Committee to report on them within 30 legislative days of the referral.

Five Parole Panel Members Serve Full-Time

By law, the chairman serves full-time and is compensated as determined by the Department of Administrative Services (DAS). Under the act, the five board members appointed by the governor beginning on February 1, 2008 to serve on parole panels also serve full-time and receive compensation as set by DAS. As under prior law, the remaining board members receive \$110 for each day they perform their duties, plus necessary expenses.

Parole and Pardons Panels

Prior law authorized the chairman to assign seven members to parole panels and five to pardons panels. The act limits this authority to members appointed before February 1, 2008.

By law, parole release panels consist of two members and the chairman or his designee who serves temporarily. Until July 1, 2008, the act allows the two panel members to be chosen from the members (1) assigned by the chairman to parole hearings or (2) appointed by the governor, beginning on February 1, 2008, to serve on parole panels. Beginning on July 1, 2008, the act (1) requires the panel to consist of two members from among those the governor appointed on or after February 1, 2008 to serve on parole panels, with at least one being a full-time member and (2) only allows the chairman to designate a full-time member to

serve temporarily in his place.

By law, pardons panels consist of three members, one of whom can be the chairman. But the chairman must be on the panel for a hearing about commuting a death sentence. Under the act, panel members can be chosen from those members (1) assigned to pardons hearings by the chairman or (2) appointed by the governor, starting on February 1, 2008, to serve on pardons panels.

The act eliminates the administrative review process for parole decisions effective July 1, 2008, and it eliminates parole panels' authority to approve or deny these release decisions on that date.

Information for Parole Decisions

The act prohibits a board panel from holding a hearing on someone's suitability for parole or, until July 1, 2008, a meeting to consider a board employee's recommendation to grant parole under the administrative parole process (a process the act eliminates on July 1, 2008) unless the chairman (1) has made reasonable efforts to determine the existence of and obtain all information deemed pertinent to the decision and (2) certifies that all existing pertinent information has been obtained or is unavailable.

Training for Board Members and Parole Officers

The act requires the board's chairman and executive director to establish a formal training program for board members and parole officers that at least includes an overview of:

1. the criminal justice system;
2. the parole system, including factors to consider in granting parole;
3. victims rights and services;
4. reentry strategies;
5. risk assessment;
6. case management; and
7. mental health issues.

Board Psychologist

The act requires the board to employ at least one psychologist with expertise in risk assessment and recidivism of criminal offenders. The psychologist assists the board in parole decisions under the chairman's supervision.

Board Procedures

By law, the chairman is executive and administrative head of the board and has certain authorities and responsibilities. The act gives the chairman authority and responsibility for establishing procedural rules for members to follow when

conducting hearings, reviewing recommendations made by board employees, and making decisions.

§§ 13-14 & 26-32 — CRIME VICTIMS

The law permits crime victims and their families to register with the Office of Victim Services (OVS) or the Department of Correction's Victim Services Unit (VSU) if they want to be notified whenever the offender (1) applies for parole, a pardon, or sentence reduction or review or (2) is scheduled for release. The act requires those requesting notification to provide their telephone numbers and allows OVS, VSU, and the BOPP to share victim contact information. Prior law authorized information sharing between OVS and DOC.

Automated Notification and Plea Bargains

The act requires the Judicial Branch to contract for the establishment and implementation of a statewide, automated victim notification system (SAVIN) to notify registered crime victims of relevant offender information and status reports. OVS, BOPP, VSU, and the Criminal Justice Division (i.e., prosecutors) must use it.

The act mandates that the system be operational by the earlier of (1) July 1, 2009 or (2) 30 days after receipt of notice that federal funds have been awarded for its establishment and implementation.

Automated Notice of Plea Bargains. Once the SAVIN system is operational, the act requires that it be used to inform victims who have asked to be notified when the court is considering acceptance of a plea bargain. It deems notification to have occurred when the SAVIN system is updated to reflect the plea agreement offer.

BOPP Statements from Victims' Families

By law, crime victims' immediate family members may appear and make a statement before the BOPP panel that is considering the perpetrator's parole eligibility only if the actual victim of the crime is dead. The act expressly gives the board discretion to allow one or more family members of a live victim to appear and speak. As under existing law, those who are permitted to appear may choose to submit a written statement instead.

Victim Advocates for BOPP Hearings

The act also directs OVS to assign two full-time victim advocates to assist victims who appear before BOPP panels or submit written statements. It is unclear whether a live victim's immediate family members who have been permitted to make a statement are eligible for this assistance.

§ 16 — FURLOUGHS

The act alters the reasons that the DOC commissioner can grant an inmate a furlough.

Under prior law, the DOC commissioner could allow an inmate to visit a specifically designated place, in or outside the state, under specified conditions for up to 30 days for (1) visiting a dying relative, (2) attending a relative's funeral, (3) obtaining medical services not otherwise available, (4) contacting prospective employers, or (5) any "compelling reason consistent with rehabilitation."

The act eliminates the last reason. It also restricts furloughs to contact prospective employers to those where the commissioner confirms that an employment opportunity exists or an employment interview is scheduled.

By law, the commissioner can renew furloughs.

§ 17 — REENTRY BEDS

The act requires DOC to contract for an additional 35 reentry beds for immediate occupancy, an additional 50 reentry beds for occupancy by July 1, 2008, and another 50 for occupancy by November 15, 2008. (These beds are available to criminal offenders toward the end of their prison term to re-enter the community under supervision.)

§ 18 — DIVERSIONARY BEDS

The act requires the Judicial Branch's Court Support Services Division (CSSD) to contract for (1) an additional 35 diversionary beds for immediate occupancy, (2) an additional 50 diversionary beds for occupancy by July 1, 2008, and (3) another 50 for occupancy by November 15, 2008. (These beds are available to offenders ordered to participate in one of the state's alternative to incarceration programs.)

§§ 19 & 20 — RESIDENTIAL SEX OFFENDER FACILITIES

The act requires DOC and CSSD to (1) each contract for 12 beds in staff-secure residential sex offender treatment facilities for occupancy by July 1, 2008 and (2) report to the governor and the General Assembly by April 15, 2008 concerning the progress made in contracting for these beds. The report must include (1) the number of beds contracted for as of the report's date, (2) the date such beds became or will become available, (3) the number of additional beds that could become available in FY 2009, and (4) any obstacles encountered or foreseen in making the beds available.

§ 21 — ARREST WARRANTS ON THE INTERNET

The act requires CSSD to make available on the Internet:

1. information on all outstanding arrest warrants for probation violations including the probationer's name, address, and photo and
2. quarterly court reports of issuance of all outstanding arrest warrants for probation violations, including the name and address of the probationer named in each warrant and the date it was issued.

§ 22 — ELECTRONIC MONITORING OF ADDITIONAL PAROLEES

The act requires DOC to use a global positioning system (GPS) to electronically monitor an additional 200 parolees immediately after the act becomes effective, and an additional 100 parolees by July 1, 2008, whose risk levels indicate that they are most likely to re-offend.

§§ 23 & 24 — BOPP AND DOC ACCESS TO JUVENILE AND YOUTHFUL OFFENDER RECORDS

The act requires courts to give BOPP members and employees and DOC employees access to otherwise confidential records concerning juvenile delinquency and youthful offender proceedings in certain circumstances. Access is limited to members or employees who need this to perform their jobs and only records involving a (1) juvenile or youthful offender who has been convicted of a crime on the regular criminal docket or (2) youthful offender who was sentenced to jail time are disclosable.

The records must also be relevant to:

1. the performance of a risk and needs assessment while the person is incarcerated,
2. a release from incarceration or pardon decision, or
3. the determination of the person's supervision and treatment needs while on parole or some other form of supervised release.

Under prior law, BOPP was entitled to access when it was involved in providing direct services to the child, but that function is not within its purview.

§ 25 — COURT FINDINGS RELATED TO RELEASE CONDITIONS

When a person is arrested for certain serious crimes for which bail release is available, the law specifies factors that judges consider in determining what conditions of release will reasonably assure (1) the person's appearance in court and (2) that the safety of

others will not be endangered. For people arrested for these serious crimes, the act requires the court to state for the record the factors it considered when it imposes conditions of release. It must also state any findings about the danger, if any, that the arrestee might pose to the safety of any other person that caused it to impose specific conditions of release

The factors are:

1. the nature and circumstances of the offense;
2. the arrestee's criminal history, record of appearing in court after being released on bail, family and community ties, employment record, financial resources, character, and mental condition;
3. the number and seriousness of pending charges, the weight of the evidence against the arrestee, and whether he or she has previously been convicted of similar offenses while released on bond; and
4. the arrestee's history of violence and, based on his or her expressed intention, the likelihood that he or she will commit another crime while released.

This requirement applies to:

1. any class A felony;
2. any class B felony, except 1st degree promoting prostitution (CGS § 53a-86) or 1st degree larceny (CGS § 53a-122);
3. any class C felony, except 2nd degree promoting prostitution (CGS § 53a-87), bribing a juror (CGS § 53a-152), or bribe receiving by a juror (CGS § 53a-153);
4. the following class D felonies: 2nd degree assault (CGS § 53a-60), 2nd degree assault with a firearm (CGS § 53a-60a), 2nd degree assault of an elderly, blind, disabled, pregnant, or mentally retarded person (CGS § 53a-60b), 2nd degree assault of an elderly, blind, disabled, pregnant, or mentally retarded person with a firearm (CGS § 53a-60c), 3rd degree sexual assault (CGS § 53a-72a), 1st degree unlawful restraint (CGS § 53a-95), 3rd degree burglary (CGS § 53a-103), 3rd degree burglary with a firearm (CGS § 53a-103a), reckless burning (CGS § 53a-114), 3rd degree robbery (CGS § 53a-136), or criminal use of firearm or electronic defense weapon (CGS § 53a-216); or
5. a family violence crime.

§ 33 — COMMITTEE TO STUDY MUNICIPAL SITING INCENTIVES FOR COMMUNITY-BASED OFFENDER FACILITIES AND HOUSING

The act establishes an 18-member committee to study how the state can effectively give municipalities

incentives to allow community-based facilities for offenders (such as halfway houses and transitional and supportive housing) to be located in their communities.

The committee is composed of the (1) DOC commissioner, (2) CSSD executive director, (3) Office of Policy and Management's (OPM) Criminal Justice Policy and Planning Division undersecretary, and (4) chairpersons and ranking members of the Judiciary and Planning and Development committees. Other members and their appointing authorities are shown in Table 2.

Table 2: Other Members and Appointing Authorities

<i>Public Members</i>	<i>Appointing Authorities</i>
2 representatives of community-based facilities	1 each appointed by the House majority and minority leaders
A representative of a municipality with fewer than 25,000 residents	Senate minority leader
A representative of a municipality with between 25,000 and 50,000 residents	Governor
A representative of a municipality with between 50,000 and 75,000 residents	House speaker
A representative of a municipality with between 75,000 and 100,000 residents	Senate president pro tempore
A representative of a municipality with more than 100,000 residents	Senate majority leader

The governor must appoint the chairperson from among the members; the committee must report its findings and recommendations to the legislature and governor by January 1, 2009.

§ 34 — ADMINISTRATIVE DRIVER'S LICENSE SUSPENSIONS

When evidence lawfully obtained from a hospital indicates that a driver involved in an accident had a blood alcohol level (BAC) exceeding legal limits (.08% or more for people 21 or older and .02% or more for people under age 21), the law permits the Department of Motor Vehicles commissioner administratively to suspend his or her driver's license. Under prior law, the suspension period was 90 days for a first offense and up to one year for second and subsequent offenses.

The act, instead, imposes the same suspension periods that apply to cases in which a driver's breath test indicates a BAC level over the legal limit. The change will substantially increase license suspension periods for drivers under age 21. For older drivers, suspension periods will increase in some situations and decrease in others. The act does not alter the 90-day

suspension period for first-time offenders age 21 or older with elevated blood alcohol levels of less than .16%.

Table 3 compares suspension periods under prior law and the act.

Table 3: Administrative Per Se License Suspension Periods—Test Results Obtained from Hospital

<i>Per Se Offense</i>	<i>First Offense</i>	<i>Second Offense</i>	<i>Third or Subsequent Offense</i>
BAC between .08% and .16%	Prior: 90 days Act: 90 days	Prior: up to 1 yr. Act: 9 mos.	Prior: up to 1 yr. Act: 2 yrs.
BAC of .16% or more	Prior: 90 days Act: 120 days	Prior: up to 1 yr. Act: 10 mos.	Prior: up to 1 yr. Act: 2 yrs., 6 mos.
BAC of .02% or more (driver is under 21)	Prior: 90 days Act: 180 days	Prior: up to 1 yr. Act: 18 mos.	Prior: up to 1 yr. Act: 4 yrs.

§ 35 — EFFECTIVE DATE FOR CONSUMER REPORTING AGENCY LEGISLATION

The act makes a new law (PA 07-243) that regulates consumer reports that (1) contain criminal matters of public record and (2) are used or expected to be used in employment, effective May 1, 2008 instead of February 1, 2008.

PA 08-53 also makes changes to requirements for consumer reporting agencies.

§ 36 — VIOLATION OF CONDITIONS OF PROBATION OR CONDITIONAL DISCHARGE

By law, the issuance of an arrest warrant or a notice to appear for a violation of probation or conditional discharge interrupts the sentence until a court makes a final determination concerning the violation. Under prior law, the court could impose any conditions of release it could impose for anyone who had been arrested for a crime (e.g., bail). The act instead requires the probationer to comply with any conditions already imposed unless the court orders otherwise.

(PA 08-102 changes these conditions (see BACKGROUND). It also requires the court to dispose of or schedule a hearing on the violation within 120 days after arraignment unless good cause is shown.)

§ 37 — RISK ASSESSMENT STRATEGY

The act requires DOC, BOPP, and CSSD to develop a risk assessment strategy for offenders in DOC custody that will:

1. use a risk assessment tool that accurately rates an offender’s likelihood to commit another

crime after release from custody and

2. identify support programs that will best position the offender for successful reentry into the community.

The strategy must use static and dynamic factors. The agencies can work with an educational institution in the state that has expertise in criminal justice and psychiatry to evaluate risk assessment tools and customize one to best meet the state’s needs. Annually, beginning January 1, 2009, they must report to the governor and Judiciary Committee on the strategy’s development, implementation, and effectiveness.

§ 38 — CRIMINAL JUSTICE POLICY ADVISORY COMMISSION

The act increases the responsibilities of the Criminal Justice Policy Advisory Commission. The commission, which has 16 members representing state and local governments, the Judicial Branch, prosecutors and public defenders, service providers, and the public, is chaired by the OPM undersecretary for criminal justice policy and planning. Its current responsibilities are: (1) developing and recommending policies to prevent prison overcrowding, (2) examining the impact of statutes and administrative policies on overcrowding and making its finding available to criminal justice agencies and legislators, (3) advising the OPM undersecretary on policies and procedures to promote more effective and cohesive criminal and juvenile justice systems and to develop and implement the offender reentry strategy required by law, and (4) assisting the undersecretary in developing recommendations for mandated status reports and presentations on the state’s reentry strategy for legislative committees.

The act adds the following responsibilities:

1. monitoring developments throughout the state’s criminal justice system;
2. annually, beginning February 15, 2009, reporting to the legislature and governor on (a) the reentry strategy’s effectiveness and outcomes, (b) the level of integration and coordination of the information technology systems criminal justice agencies use, and (c) other systemwide issues the commission identifies;
3. by the same date annually, and with the OPM undersecretary serving as facilitator, sponsoring day-long reviews of the state’s criminal justice system for the criminal justice community, including reports on progress made during the prior year and challenges to be met;
4. identifying specific reentry service needs in geographic areas throughout the state;

5. identifying institution- and community-based programs and services that effectively address offenders' needs and reduce recidivism, including education and training, employment preparation and job banks, and transitional health care, family support, substance abuse, domestic violence, and sexual offender programs and services;
6. developing a guide to reentry service best practices; and
7. developing and annually updating a plan to ensure that reentry services are available, which may include establishing community reentry centers.

§§ 39 & 43 — CRIMINAL JUSTICE INFORMATION SYSTEM GOVERNING BOARD

By law, the Criminal Justice Information System (CJIS) Governing Board, within OPM for administrative purposes only, is charged with overseeing the operations and administration of the state's offender-based tracking system and recommending legislation needed to implement, operate, and maintain the system.

The act increases the board's membership from 11 to 15 by adding the Judiciary Committee chairpersons and ranking members. The current members are the chief court administrator, who serves as chairperson; agency commissioners with law enforcement, homeland security, correction, and motor vehicle responsibilities; the BOPP chairperson; the OPM secretary; the chief state's attorney and public defender; Department of Information Technology's (DOIT) chief information officer; the victim advocate; and Connecticut Police Chiefs Association president, or their designees. The act makes the chief court administrator co-chairperson and authorizes the governor to appoint the other co-chairperson from among the board's members.

The act also directs the board to hire an executive director. Qualified candidates must have education, training, or experience to oversee the design and implementation of the comprehensive, statewide information technology system the act requires (see below). The executive director is not a member of the board and serves at its pleasure. OPM must provide the executive director office space and necessary staff, supplies, and services.

The act appropriates \$250,000 to OPM to cover costs related to the board.

§§ 40 & 43 — CRIMINAL JUSTICE INFORMATION SYSTEM

The act directs the CJIS Governing Board to design and implement a comprehensive, statewide information

technology system. Its purpose is to facilitate immediate, seamless, and comprehensive information sharing among all of the following:

1. state agencies, departments, and boards and commissions that have jurisdiction over law enforcement and criminal justice matters;
2. local police departments; and
3. law enforcement officials.

System Requirements

The system must include a centralized tracking and information database, electronic documentary repository, analytical tools, and other components or elements the board determines are appropriate or necessary under its design and implementation plan. The system must be developed with state-of-the-art technology.

Tracking and Information Database

The central, integrated tracking and information database must provide:

1. complete biographical information and vital statistics for all living and former offenders and
2. tracking information for all offenders in the criminal justice system, from investigation through incarceration and release, and seamless integration with electronic monitoring systems, global positioning systems, and offender registries.

Electronic Records Repository

The central, integrated electronic repository of criminal justice records and documents must provide access to:

1. state and local police reports, presentence investigations and reports, psychological and medical reports, criminal records, incarceration and parole records, and court records and transcripts, whether the records and documents normally exist in electronic or hard copy form and
2. scanning and processing facilities to ensure that records and documents are integrated into the system and updated immediately.

Centralized Analytical Tools

The centralized, analytical tools must be bundled together in a custom-designed enterprise system that includes:

1. tools that enhance criminal case assessment, sentencing, and plea bargain analysis and pardon, parole, probation, and release

- decisions;
2. tools that enhance forecasting of recidivism and future offenses for each individual offender; and
 3. collaborative functionality that enables seamless cross-department communication, information exchange, central note-taking, and comment capabilities for each offender.

State-of-the-Art Technology

The act directs that the system be developed with state-of-the-art relational database technology and other appropriate software applications and hardware. The system must be:

1. completely Internet-accessible by all authorized criminal justice officials;
2. completely integrated with information systems and database applications used by state and local police, law enforcement agencies, and other agencies and organizations the governing board deems necessary and appropriate;
3. indexed and cross-referenced by offender name, residence, community, criminal offense, and any other data points necessary for the effective administration of the state's criminal justice system;
4. fully text searchable for all records;
5. secure and protected by high-level security and controls;
6. accessible to the public, subject to appropriate privacy protections and controls; and
7. monitored and administered by the CJIS Governing Board, with DOIT's assistance.

Private, third-party vendors may provide and service major hardware and software.

The act directs the Governing Board, by July 1, 2008, to (1) issue a request for proposals for the system's design and implementation and (2) hire a consultant to develop a design and implementation plan. The act appropriates \$2 million to OPM for the system's design and implementation.

The board must submit status reports starting by July 1, 2008, and continuing each January 1st and July 1st thereafter to the Judiciary and Appropriations committees. It must make a presentation to these committees in conjunction with each January's report and during the ensuing regular legislative session concerning the status of the system's design and implementation along with a specific itemization of any additional resources that are needed.

§ 41 — DIVERSION PROGRAM FOR OFFENDERS WITH PSYCHIATRIC DISABILITIES

Eligibility

The act creates a supervised diversionary program for people with psychiatric disabilities, which it defines as a mental or emotional condition, other than solely substance abuse, that (1) has substantial adverse effects on the defendant's ability to function and (2) requires care and treatment. People with these conditions who have been accused of less serious motor vehicle violations or crimes that carry prison sentences are eligible unless they (1) are ineligible for accelerated rehabilitation due to the nature of the charges or previous participation in other diversionary programs or (2) have participated in the program twice before.

Public Access

The act bars courts from making the accused's file available to the public when the accused applies to participate in the program and states under oath in open court or in front of someone the clerk designates that he or she has not participated in the program more than once.

Victim Notification

Court personnel must notify victims by registered or certified mail that the accused has applied for the program and that they have an opportunity to be heard by the court on the matter. The act directs CSSD to establish policies and procedures for requiring its employees to notify victims of (1) court-ordered participation conditions that directly affect the victim and (2) scheduled court appearances.

Assessment Process and Treatment Plan

The court must refer applicants to CSSD for confirmation of eligibility and an assessment of his or her mental condition. The prosecutor must give CSSD a copy of the police report to assist in its assessment. CSSD must develop individualized treatment plans for applicants whom it determines are amenable to treatment if appropriate services are available.

Diversion Program

If the court approves the application, it must refer the accused to CSSD, and the division, in collaboration with the Department of Mental Health and Addiction Services (DMHAS), must place him or her in a program that provides appropriate community supervision, treatment, and services. The act directs CSSD and DMHAS to develop standards and oversee appropriate

treatment programs. They may contract with service providers for the programs.

Program participants must be supervised by a probation officer with a reduced caseload and specialized training in working with people with psychiatric disabilities. They must agree to (1) toll the statute of limitations for the crime or violation; (2) waive their speedy trial rights; and (3) any participation conditions CSSD establishes, including participating in program meetings or sessions.

Completion of Program

If the accused satisfactorily completes the program, he or she may apply for dismissal of the charges. CSSD must provide the court with information about the person’s participation; the court must dismiss the charges if it finds that he or she satisfactorily completed the program. If a participant does not apply for a dismissal, the act authorizes the court to dismiss the charges on its own motion if it finds satisfactory program completion. After dismissal, all records of the charges are erased, except for those in CSSD’s database as described below. Program participants can appeal a denial of a dismissal.

Ineligible Applicant or Failure to Complete

If CSSD informs the court that an applicant is ineligible to participate in the diversionary program and the court makes an ineligibility determination on this basis, or if the division certifies to the court that a person admitted to the program did not successfully complete it, the act directs the court to (1) order the record to be unsealed, (2) enter a not guilty plea for the accused, and (3) immediately put the case on the trial list.

Database

The act directs CSSD to develop and maintain a database concerning people admitted to the diversionary program that state and local police can access when responding to incidents involving them. The information must include the person’s name, date of birth, Social Security number, the crime or motor vehicle violation he or she was charged with and whether a deadly weapon or dangerous weapon was involved, and the dates he or she participated in the program. CSSD must enter this information in the database when the person enters the program, update it when necessary, and retain it for five years.

Program Records

The act also requires CSSD to keep the (1) police report concerning the incident that gave rise to a diversionary program participant’s application and (2) record of his or her supervision, including dates. It must provide this information to the court, prosecutor, and defense attorney whenever a participant applies for the program a second time.

§ 42 — FUNDING REALLOCATIONS FOR FY 08

The act transfers unspent funds appropriated for FY 08 to the comptroller’s fringe benefit account for the Higher Education Alternative Retirement System to various agencies for the purposes shown in Table 4. It also carries forward specified unspent balances from FY 08 to FY 09 for the same purposes.

Table 4: FY 08 Appropriations for Higher Education Alternative Retirement System Reallocated and Carried Forward

§	Amount	Transferred To		Carry forward to FY 09
		Agency	For	
42 (a)	\$430,943	Board of Pardons & Paroles	Personal Services: \$215,929	
			Other expenses: \$154,514	
			Equipment: \$60,500	
42(b)	\$845,000	Correction	Other expenses: \$125,000	Unspent balance of \$495,000 for community support services
			Community support services: \$495,000	
			Community support services for a contract with a nonprofit organization for reentry and diversionary services in the Bridgeport area: \$225,000	
42(c)	\$530,875	Judicial	Personal Services: \$27,500	Unspent balance of \$495,000 for Alternative Incarceration Program
			Other Expenses: \$1,375	
			Equipment: \$7,000	
			Alternative Incarceration Program: \$495,000	
42(d) (1)	\$100,000	Office of Policy & Management	Other expenses – for costs related to the Criminal Justice Information System Governing Board	Unspent balance

§	Amount	Transferred To		Carry forward to FY 09
		Agency	For	
42(e)	\$62,805	Office of State Comptroller – Fringe Benefits	State Employees Health Services Cost	

§ 43 — APPROPRIATIONS

The act carries forward up to \$17,065,577 in unspent FY 08 appropriations to OPM for payments in lieu of taxes for new manufacturing and equipment to FY 09 and transfers the money to the purposes shown in Table 5.

Table 5: FY 08 Funds Reallocated and Carried Forward to FY 09

§	Transferred To	
	Agency	For
43(1)	Board of Pardons & Paroles	Personal Services: \$1,027,898
		Other Expenses: \$827,084
		Equipment: \$32,250
43(2)	Correction	Other Expenses: \$125,000
		Community Support Services: \$4,280,000
		Community Support Services for a contract with a nonprofit organization for reentry and diversionary services in the Bridgeport area: \$725,000
43(3)	Judicial	Personal Services: \$403,538
		Other Expenses: \$770,178
		Equipment: \$28,000
		Alternative Incarceration Program: \$4,892,360
		Alternative Incarceration Program for a contract with nonprofit organizations for reentry and diversionary services in the Harford and New Haven areas: \$1,000,000
43(4)	Comptroller-Fringe Benefits	State Employee Health Service Cost: \$352,135 State Employees Retirement Contributions: \$352,135
43(5)	Office of Policy & Management	Other Expenses for designing and implementing a comprehensive, statewide information technology system for sharing criminal justice information: \$2,000,000
		Costs related to the Criminal Justice Information System Governing Board: \$250,000

§ 44 — REPEAL OF PAROLE ADMINISTRATIVE REVIEW PROCEDURE

The act eliminates the parole administrative review procedure. Prior law allowed an inmate to be released after an administrative review without a panel conducting a hearing if (1) a board employee reviewed the inmate’s case and recommended parole, (2) at least two members of a board panel approved, and (3) the chairman did not deem a hearing necessary and a victim did not request one.

Only those eligible for parole after serving 50% of their sentence (generally those who committed nonviolent crimes) could be released on parole without a hearing under this procedure. People who committed

crimes where the underlying facts and circumstances of the offense involved the use, attempted use, or threatened use of physical force against another person could not use this procedure.

BACKGROUND

Related Acts

Penalties for Persistent Dangerous Felony Offenders. PA 08-51 sets minimum penalties for persistent dangerous felony offenders and, in some instances, increases the maximum penalties for these offenders. It does so in the following ways.

1. For those with one of the required prior convictions, it changes the penalty from up to 40 years in prison to a range between twice the minimum penalty for the crime the person stands convicted of, including twice any applicable mandatory minimum sentence, to a maximum of 40 years or twice the maximum penalty for the crime the person stands convicted of, whichever is longer. (This is often referred to as “two strikes.”)
2. For those with two of the required prior convictions, it changes the penalty from up to life in prison (statutorily defined as up to 60 years) to a range between three times the minimum penalty for the crime the person stands convicted of, including three times any applicable mandatory minimum sentence, and life in prison (60 years). (This is often referred to as “three strikes.”)

The act also requires prosecutors to investigate whether a person who is arrested for one of the crimes that could lead to prosecution as a persistent dangerous felony offender has two of the required prior convictions to be sentenced as one. It prohibits a court from accepting a plea from such a person unless the prosecutor has conducted this investigation. A prosecutor who finds that a person has the two required prior convictions must state specific reasons on the record for terminating or not initiating proceedings to seek the enhanced sentence.

Consumer Reporting Agencies. PA 07-243 requires each consumer reporting agency that issues these reports containing criminal record information used in hiring 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 Judicial Department’s website to verify, as of the date the report is issued, the accuracy of any criminal matters of public

record contained in the report; and

3. maintain procedures 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.

PA 08-53 (1) eliminates the requirement of verifying the information with the Judicial Department to ensure it is up-to-date and instead requires anyone, including a consumer reporting agency, who purchases “criminal matters of public record” from the Judicial Department to follow certain procedures; (2) requires the Judicial Department to make information concerning any “criminal matters of public record” that has been erased available to anyone who purchases these records; (3) prohibits anyone from further disclosing the erased records; and (4) alters the definition of “criminal matters of public record” to exclude erased records and pardons.

Violations of Probation and Conditional Discharge. By law, the issuance of an arrest warrant or a notice to appear for a violation of probation or conditional discharge interrupts the probation or conditional discharge sentence until a court makes a final determination concerning the violation.

Instead of the changes imposed by § 36 of this act, PA 08-102 allows the court to impose any conditions of release it may impose on anyone arrested for a bailable offense. But after October 1, 2008, it requires the defendant to comply with the probation or conditional discharge conditions previously imposed and requires CSSD to make reasonable efforts to inform the defendant of his or her obligation to continue complying with these conditions and to provide a copy of them.

PA 08-102 requires the court to review the conditions previously imposed on the defendant when he or she is arraigned on the violation charge. The court can, as a condition of pretrial release, order the defendant to comply with any of these conditions and any other conditions that could be imposed on someone arrested for a bailable offense. The person is supervised by CSSD unless the judge orders supervision by a probation officer or other designated person or organization.

State v. Bell

The state Supreme Court ruled that the persistent dangerous felony offender statute violates a defendant's federal constitutional right to a jury trial when the court, rather than the jury, determines that extended incarceration as such a persistent offender best serves the public interest, given the defendant's history and character, and the nature and circumstances of the criminal offenses (*State v. Bell*, 283 Conn. 748 (2007)).

The court ruled that the defendant was entitled to a new sentencing proceeding where the jury must make the determination, beyond a reasonable doubt, whether,

upon consideration of the relevant factors specified in the persistent dangerous felony offender law, extended incarceration will best serve the public interest.

The court noted in its ruling that in those cases in which the defendant chooses to waive his or her right to a jury trial, the court may continue to make the requisite finding. Additionally, the court may impose an enhanced sentence if the defendant admits to the fact that extended incarceration is in the public interest.

Conditions for Releasing Someone on Bail

By law, the Superior Court must, in bailable offenses, promptly order an arrestee's release when the first of the following conditions of release is found sufficient to reasonably assure his or her appearance in court upon his or her execution of a:

1. written promise to appear without special conditions,
2. written promise to appear with nonfinancial conditions,
3. bond without surety in no greater amount than necessary, or
4. bond with surety in no greater amount than necessary.

In addition to or in conjunction with any of these conditions the court may, when it has reason to believe that the person is drug-dependent and that it is necessary, reasonable, and appropriate, order the person to submit to a urinalysis drug test and to participate in a periodic drug testing and treatment program.

The court may, in determining what conditions of release will reasonably assure the appearance of the arrested person in court, consider the nature and circumstances of the offense and the person's:

1. record of previous convictions;
2. past record of appearance in court after being released on bail;
3. family ties;
4. employment record; and
5. financial resources, character, mental condition, and community ties.

For people charged with certain serious crimes (see § 25) it may also consider:

1. the number and seriousness of pending charges, the weight of the evidence, and whether the arrestee has previously been convicted of similar offenses while released on bond; and
2. the arrestee's history of violence and, based on the arrestee's expressed intention, the likelihood that he or she will commit another crime while released.

Offender-Based Tracking System

The offender-based tracking system is an information system that allows criminal justice agencies to share criminal history record information and access electronically maintained offender and case data involving felonies, misdemeanors, violations, certain motor vehicle violations and offenses, and infractions.

BOARDS AND COMMISSIONS

Criminal Justice Information System Governing,
membership increased
08-1 January SS 5

Criminal Justice Policy Advisory, responsibilities
increased
08-1 January SS 5

Municipal Siting Incentives for Community-Based
Offender Facilities and Housing, created
08-1 January SS 5

CHILDREN AND MINORS

Juvenile/youthful offender records, DOC/BOPP access
08-1 January SS 5

CONSUMER PROTECTION

Consumer reporting agencies, criminal matters
reporting/verification, effective date
08-1 January SS 5

CORRECTION, DEPT. OF

Inmate furlough, limitations
08-1 January SS 5

Juvenile/youthful offender records, certain employee
access
08-1 January SS 5

Reentry beds, increased
08-1 January SS 5

Risk assessment strategy requirement
08-1 January SS 5

Videoconferenced parole hearings, secure connection
required
08-1 January SS 5

CRIMES AND OFFENSES

Home invasion, created
08-1 January SS 5

Night burglary, penalty increased
08-1 January SS 5

CRIME VICTIMS

Advocates assigned, BOPP hearings
08-1 January SS 5

Family member statements, BOPP discretion
08-1 January SS 5

Notification, automated system required
08-1 January SS 5

CRIMINAL JUSTICE

Criminal Justice Policy Advisory Commission,
responsibilities increased
08-1 January SS 5

Criminal Justice System Governing Board,
membership expanded
08-1 January SS 5

Reform

08-1 January SS 5

CRIMINAL PROCEDURE

Arrest warrants, probation violation Internet posting
requirement
08-1 January SS 5

Conditional release, judicial statement required
08-1 January SS 5

GPS parolee monitoring expanded
08-1 January SS 5

Persistent offender enhanced sentencing, factual
finding trigger eliminated
08-1 January SS 5

Psychiatric disorder diversionary program created
08-1 January SS 5

Reentry/diversionary services, appropriation
08-1 January SS 5

DRIVERS' LICENSES

BAC evidence, administrative suspension periods
modified
08-1 January SS 5

DRIVING WHILE INTOXICATED

BAC evidence, administrative license suspension
periods modified
08-1 January SS 5

INTERNET

Probation violations, arrest warrant posting
requirement
08-1 January SS 5

JUDGES

Conditional release statement requirement
08-1 January SS 5

JUDICIAL BRANCH

Crime victim notification system automation/victim
advocate assistance
08-1 January SS 5

Diversionary beds, increased
08-1 January SS 5

Probation violations arrest warrants, Internet posting
required
08-1 January SS 5

Risk assessment strategy requirement
08-1 January SS 5

MENTAL HEALTH

Criminal diversionary program created
08-1 January SS 5

MOTOR VEHICLES, DEPT. OF

BAC evidence, administrative license suspension
periods modified

08-1 January SS	5	Juvenile/youthful offender, DOC/BOPP access 08-1 January SS	5
MUNICIPALITIES		STATE BUDGET	
Municipal Siting Incentives for Community-Based Offender Facilities and Housing Committee, created 08-1 January SS	5	Reentry/diversionary services, appropriation 08-1 January SS	5
PARDONS AND PAROLES		TELECOMMUNICATIONS	
GPS parolee monitoring expanded 08-1 January SS	5	Videoconferenced parole hearings, secure connection required 08-1 January SS	5
Hearings, victim family statements discretion 08-1 January SS	5		
Parole administrative review procedure, eliminated 08-1 January SS	5		
Parole eligibility, burglary/home invasion convicts 08-1 January SS	5		
Parole hearings, pertinent information receipt certification 08-1 January SS	5		
Videoconferenced parole hearings, secure connection required 08-1 January SS	5		
PARDONS AND PAROLES BOARD			
Composition/qualifications/appointment process, modified 08-1 January SS	5		
Crime victim family member statements, discretion 08-1 January SS	5		
Juvenile/youthful offender records, access 08-1 January SS	5		
Members/officers, training requirement 08-1 January SS	5		
Risk assessment strategy requirement 08-1 January SS	5		
PRISONS AND PRISONERS			
Furlough, DOC limitations 08-1 January SS	5		
Parole eligibility, burglary/home invasion convicts 08-1 January SS	5		
Risk assessment strategy requirement 08-1 January SS	5		
Sexual offender beds, increased 08-1 January SS	5		
PROBATION			
Arrest warrant subjects, release condition compliance 08-1 January SS	5		
Violations, arrest warrant Internet posting required 08-1 January SS	5		
RECORDS AND RECORDKEEPING			
Consumer reporting agencies, criminal matters reporting/verification, effective date 08-1 January SS	5		

PA 08-17—HB 5125
Select Committee on Aging
General Law Committee

AN ACT CONCERNING A PROHIBITION RELATING TO HOMEMAKER-COMPANION SERVICES

SUMMARY: This act specifies that homemaker-companion agencies can neither offer nor provide homemaker or companion services without a current Department of Consumer Protection certificate of registration. Prior law prohibited agencies only from “offering to provide” services without a certificate.
 EFFECTIVE DATE: October 1, 2008

PA 08-30—SB 386
Select Committee on Aging
Human Services Committee

AN ACT CONCERNING BILLING PRACTICES OF NURSING HOME FACILITIES FOR SELF-PAY PATIENTS

SUMMARY: This act requires nursing homes, associated chronic disease hospitals, and residential care homes to charge self-pay patients a per-diem rather than a monthly rate beginning April 1, 2008. A self-pay patient is one who is not receiving state or municipal assistance.
 EFFECTIVE DATE: Upon passage

BACKGROUND

Self-Pay Deregulation

PA 91-8 deregulated self-pay nursing home rates for two years, but the policy remained in effect despite the lack of statutory authority. Before deregulation, the state set a maximum allowable self-pay rate equal to the Medicaid rate plus a percentage (add-on), based on the type of room.

Under prior law, nursing homes billed self-pay patients using either a monthly or a per-diem rate. Depending on how monthly rates were calculated, patients could be billed for extra days for which they did not receive care.

PA 08-93—sHB 5127
Select Committee on Aging
Planning and Development Committee
Judiciary Committee

AN ACT CONCERNING THE ADMISSION OF ELDERLY PERSONS TO PUBLIC AND SUBSIDIZED HOUSING

SUMMARY: This act allows certain elderly and disabled individuals accepted into state or federally subsidized housing to terminate their existing leases or rental agreements without penalty if they provide 30 days written notice to their landlord. It applies to low-income seniors age 62 and older and individuals certified as disabled by a federal board or agency.
 EFFECTIVE DATE: October 1, 2008 and applicable to any existing lease or rental agreement entered into, renewed, or extended on or after this date.

PA 08-97—sSB 66
Select Committee on Aging
Human Services Committee
Judiciary Committee

AN ACT CONCERNING SUPPORT FOR GRANDPARENTS AND OTHER RELATIVE CAREGIVERS

SUMMARY: This act allows grandparents or other relative caregivers appointed guardian of a child through the Superior Court and who are not receiving subsidized guardianship or foster care payments from the Department of Children and Families (DCF), to apply for grants under the probate-court administered Kinship Fund and Grandparents and Relatives Respite funds. Under prior law, only grandparents or relative caregivers appointed guardian of a child through probate court could get these grants, which are subject to available appropriations.
 EFFECTIVE DATE: July 1, 2008

BACKGROUND

Probate Court Kinship Care and Respite Grants

The Children’s Trust Fund, a state agency responsible for child abuse and neglect prevention, provides one-time grants to help grandparents pay for some nonrecurring child rearing costs. These can pay for such things as a bed or winter coat or for activities like summer camp or tutoring. The funds are available only through (1) probate courts in Bridgeport, Hartford, Killingly, New Haven, New London, Norwich, Waterbury, and West Haven; (2) the regional children’s

probate court in New Haven; and (3) the Norwich Department of Social Services office. Grant amounts range from \$50-\$250 per child, with a family maximum of \$1,000.

The Children's Trust Fund also funds grants to help grandparents pay for respite costs. Grants are available for up to \$2,000 per family per year to pay for housing, transportation, and child care expenses approved by the court.

Superior Court Guardianships

Grandparents may be appointed as guardians of a child either through the Superior or probate courts. Guardianship cases of children involved in the child welfare system (e.g., victims of child abuse or neglect) are handled in Superior Court. Once appointed guardian under DCF's Subsidized Guardianship Program, grandparents receive monthly payments equal to that of foster care payments, which currently range from \$746.17 to \$875.44 (CGS § 17a-126(c)).

Probate Court Guardianships

Cases involving grandparents whose grandchildren have not been committed to DCF are generally handled in the local probate court, which has flexibility to make the grandparent sole legal guardian or co-guardian with the child's biological parent or other responsible adult or to order a "springing" guardianship (one that becomes effective when an anticipated event, such as a parent's incarceration or death, occurs). These arrangements are not formally subsidized by the state, although a qualifying guardian receives a monthly "child only" Temporary Family Assistance payment through the Department of Social Services. The current monthly payment is \$344 for the first grandchild.

Exceptions

In certain limited situations, a grandparent of a child not involved with DCF may be appointed guardian in Superior Court. This may happen when a guardianship case in probate court is contested, at which point it may be transferred to the Superior Court. It may also happen when DCF has filed or is about to file a motion in Superior Court to assume temporary custody of a child and a grandparent volunteers to take guardianship of the child before DCF gets temporary custody. The grandparent may not wish to have any involvement with DCF and choose not to participate in the Subsidized Guardianship Program.

PA 08-115—SB 382

*Select Committee on Aging
Energy and Technology Committee
Appropriations Committee
Judiciary Committee*

AN ACT CONCERNING TELEPHONE AND CABLE INSTALLATION FEES FOR NURSING HOME RESIDENTS

SUMMARY: This act prohibits the following telephone and cable television providers from charging an installation fee to a resident of a residential care home, nursing home, or rest home when the resident changes rooms within the facility:

1. telephone companies,
2. telecommunications companies,
3. certified telecommunications providers,
4. community antenna television companies,
5. certified competitive video service providers, and
6. cable franchise authority certificate holders.

It specifies that a violation of this provision does not constitute an unfair or deceptive trade practice under the Connecticut Unfair Trade Practices Act (CUTPA). It also prohibits the owner or operator of these facilities from charging a telephone or cable television installation fee when the resident changes rooms.

EFFECTIVE DATE: October 1, 2008

PA 08-118—sSB 157

*Select Committee on Aging
Insurance and Real Estate Committee
Labor and Public Employees Committee
Finance, Revenue and Bonding Committee*

AN ACT CONCERNING AUTOMATIC ENROLLMENT IN RETIREMENT PLANS

SUMMARY: This act allows an employer to withhold a certain percentage of an employee's salary to invest in an automatic enrollment retirement plan unless the employee opts out of the plan or chooses to make contributions in a different amount. If an employee does not provide any investment direction, the act requires contributions to be invested according to federal Department of Labor regulations under Section 404 (c)(5) of the 1974 Employee Retirement Income Security Act. An employer or other plan official who makes investment decisions on behalf of a participating employee is not liable for the decisions if the participating employee is:

1. allowed to select investments available under the plan at least quarterly;
2. notified of all investment alternatives available under the plan, procedures for changing investments, and how contributions will be invested if the employee does not provide any direction; and
3. notified at least annually of the actual investments made on the employee's behalf.

EFFECTIVE DATE: October 1, 2008

BACKGROUND

Automatic Contribution Arrangements

To qualify as an “automatic contribution arrangement” under the Pension Protection Act of 2006 (PL 109-280), a defined contribution plan must contribute 3% of each employee's salary in the first enrollment year, increasing 1% each year up to a maximum of 10%. Employers must match 100% of the first 1% of employee contributions and 50% of the next 5% of contributions for each employee. Employer matching contributions must be 100% vested after two years of service.

ERISA Pre-emption

The Pension Protection Act preempts any state law that restricts the use of automatic enrollment plans if participant notification and default investment rules are met. But, this preemption applies only to plans covered by the Employee Retirement Income Security Act of 1974 (ERISA). Non-ERISA plans, which include government and church plans, remain subject to state wage law restrictions.

Fiduciary Liability

Under the Pension Protection Act, employers are not held liable for financial losses when investing contributions under automatic enrollment plans on behalf of employees who do not provide investment direction. But, plans must comply with default investment and notification regulations. Employees must be notified annually of their right to opt out of the plan, how their contributions will be invested if they do not provide any direction, and their ability to choose to contribute in a different amount. If an employee does not provide any investment direction, contributions must be invested in a “qualified default investment alternative” as prescribed in federal Department of Labor regulations.

PA 08-76—sSB 596
Appropriations Committee

AN ACT REVISING STATUTES CONCERNING THE TEACHERS' RETIREMENT SYSTEM TO CONFORM TO THE INTERNAL REVENUE CODE

SUMMARY: This act makes the Teachers' Retirement System (TRS) conform to the requirements of the federal tax law for a "qualified employee plan" with respect to (1) limits on the annual salary covered by the plan, (2) maximum annual voluntary contributions, (3) annual retirement benefit limits, and (4) minimum benefit distributions. It does so by incorporating by reference the appropriate provisions of the Internal Revenue Code. Qualified employee plans receive special tax benefits, including a deferral of tax on the employee's share of the pension fund until the funds are distributed to him, usually after retirement.

For purposes of calculating the annual limits, the act defines the "limitation year" as the 12 months beginning each July 1 and ending on the following June 30.

The act also requires the Teachers' Retirement Board (TRB) to set the interest to be credited on TRS members' mandatory and voluntary contributions to the system at a rate consistent with industry standards and practices rather than at "substantially" the same rate as the Teachers' Retirement Fund.

EFFECTIVE DATE: Upon passage

ANNUAL SALARY

The act limits the maximum annual salary used to calculate a member's TRS benefit to the amount specified in the federal law for the limitation year. For 2008, that maximum is \$230,000 (IRC § 401(a)(17)). The IRS is required to adjust the federal maximum annually for inflation. The act specifies that the federal maximum does not apply to any member who joined the TRS before January 1, 1996, if it would reduce the member's annual salary below the amount otherwise allowed for calculating his or her TRS benefit.

MAXIMUM ANNUAL BENEFIT

The act limits the maximum annual TRS retirement benefit to the amount specified in federal law. Under prior law, the federal limit applied only to the "normal" (i.e., unreduced) TRS retirement benefit. The act extends the limit to the other TRS retirement options: prorateable, early, and deferred vested retirement and lump sum annuity payments.

In general, the federal annual benefit limit for a qualifying plan member beginning at age 65 is the lesser of (1) \$185,000 for 2008 (adjusted annually for inflation) or (2) 100% of average compensation for the member's three highest-paid years in the plan. Federal law allows for actuarial adjustments for benefits that begin before age 62 or after age 65 and for other adjustments in other specified situations (IRC § 415(b)). Under the act, subsequent annual increases in the maximum benefit apply if they take effect either (1) after a member retires or (2) before the member retires but after the date benefits begin to accrue.

VOLUNTARY CONTRIBUTIONS

TRS members are allowed to make additional voluntary contributions to the system and withdraw them, along with credited interest, as one-time, lump-sum payments according to TRB rules. The act limits annual voluntary contributions to the amounts allowed under federal tax law for defined contribution plans for the applicable limitation year. The annual federal limit is the lesser of (1) \$46,000 for 2008 (adjusted annually for inflation) or (2) 100% of the member's annual compensation (IRC § 415 (c)).

For purposes of calculating the voluntary contribution limit, the act defines a member's "compensation" to include:

1. any remuneration paid by an employer for services by an employee and subject to income tax withholding under the federal tax law (IRC § 3401(a));
2. amounts that would be included in the employee's wages except that the employee chooses to allow the employer to make a pre-tax deduction under federal tax laws relating to cafeteria plans (IRC § 125 (a)), pre-paid transportation fringe benefits (§ 132 (f) (4)), employee contributions to simplified and simple pension plans (§§ 402 (h) (1) (B) and 402 (k)), and deferred compensation plans (§§ 402 (e) (3) and 457 (b)); and
3. certain payments requiring notification to the IRS, such as a W2 (taxes withheld), Form 1099 (payments over \$600), or a statement regarding wage payments in the form of group-term life insurance.

The act specifies that the total compensation is limited to the maximum annual salary for the limitation year (see above).

MINIMUM BENEFIT DISTRIBUTIONS

The act requires distribution of TRS benefits to conform to the federal minimum distribution requirements. Members must begin receiving benefits

by April 1 in the calendar year following the year in which (1) the TRS member reaches age 70½ or (2) the member retires, if he or she retires after that age. Federal law requires that a member's entire pension interest be distributed from that starting date over no longer than the member's (1) life, (2) life and the life of a designated beneficiary, (3) life expectancy, or (4) life expectancy and the life expectancy of a designated beneficiary (IRC § 401 (a)(9)(C)).

PA 08-90—SB 599 (VETOED)

Appropriations Committee

AN ACT CONCERNING A PRERETIREMENT SPOUSAL BENEFIT UNDER THE STATE EMPLOYEES RETIREMENT SYSTEM

SUMMARY: This act allows the surviving spouse of a state employee who was a Tier II member of the State Employees' Retirement System (SERS) to qualify for a pre-retirement death benefit under specific circumstances. To qualify, the SERS member must have (1) died on or after January 1, 2002 due to cessation of life support; (2) died not more than six months prior to retirement eligibility and without completing 25 years of vesting service; (3) been earning retirement credit or on an authorized leave at the time of death; and (4) been lawfully married for 12 months prior to his or her death.

The act permits the benefit to be awarded prospectively from the date of application to the state Retirement Commission.

Under law, the surviving spouse would receive such a benefit only if the employee met the retirement eligibility requirements or completed 25 years of vesting service. The benefit is half of the surviving spouse 50% benefit option allowed under Tier II. The surviving spouse 50% option means that if a retiree dies after retirement, his or her spouse gets 50% of the benefit for the rest of his or her life.

EFFECTIVE DATE: Upon passage

PA 08-111—HB 5839

Appropriations Committee

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

SUMMARY: Starting in FY 09, this act allows the comptroller to make incremental changes to the way she prepares and maintains the state's annual financial statement. The changes must be consistent with generally accepted accounting principles (GAAP)

prescribed by the Governmental Accounting Standards Board (GASB) and eventually lead to full GAAP implementation.

By law, the Office of Policy and Management (OPM) secretary may use GAAP to prepare the annual state budget. The act allows, rather than requires, the comptroller and presumably the OPM secretary to concurrently prepare conversion plans for implementing GAAP. If they decide to do so, they must prepare the plans annually, rather than by February 1, 2009, and submit them to the Appropriations Committee when the governor submits her biennial budget and budget status report to the General Assembly. By law, the governor must submit the budget document by the first session day after February 3rd in odd-numbered years and the status report by the opening day of the session in even-numbered years.

The act eliminates a requirement for the comptroller to (1) use GAAP to establish an opening combined balance sheet for all appropriated funds beginning in FY 10 and (2) amortize the GAAP deficit over 15 years beginning in FY 11.

EFFECTIVE DATE: July 1, 2008

BACKGROUND

GASB

GASB is an independent, private-sector, 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.

PA 08-112—sHB 5841

Appropriations Committee

AN ACT INCREASING THE HEALTH INSURANCE SUBSIDY TO RETIRED TEACHERS AND CONCERNING CREDITED SERVICE FOR TEACHERS' RETIREMENT

SUMMARY: This act increases, from \$110 to \$220 per person, the monthly state health insurance premium subsidy for certain retired teachers, and their spouses or surviving spouses, who receive health insurance coverage from the retiree's last employing board of education. To qualify for the increased subsidy, the retiree must (1) have attained normal age to participate in Medicare (currently, age 65); (2) not be eligible for Part A of Medicare without cost; and (3) contribute at least \$220 per month towards his or her medical and prescription drug plan provided by the board of education.

The act also allows Teachers' Retirement System (TRS) members to purchase credit in TRS for more than 10 years of out-of-state teaching service, provided they pay the full present value actuarial cost of the additional benefits arising from the purchased service exceeding 10 years.

Finally, the act allows teachers who meet certain conditions to retain TRS service credit for employment outside the scope of their teaching certificates.

EFFECTIVE DATE: July 1, 2008, except for the provision concerning credit for service outside the scope of the member's certificate, which is effective on passage.

RETIRED TEACHERS' HEALTH INSURANCE

By law, the determining factor in how a retired teacher receives health coverage is whether the teacher participates in Medicare. Those who do may choose a Medicare supplement plan provided by the Teachers' Retirement Board (TRB). Those who do not must be offered coverage by their last employing board of education. The coverage the board offers must be the same coverage it offers to active teachers. A local board is not obligated to pay for the cost of the retirees' health insurance but may do so under a collective bargaining agreement or other arrangement. The board must charge the retiree the same premium that is assessed by the insurance company for the coverage. For self-insured plans, the local school board must charge the retiree the budgetary premium rate for the form of coverage received. The cost of health insurance varies by board, depending on the coverage offered.

The TRB provides a subsidy payment on behalf of the retiree to each local board to offset the cost of retiree health insurance coverage. The subsidy must first be used reduce the amount retirees pay for the coverage, with any balance used to offset the board's costs. Under prior law, the state subsidy for all retirees covered by local board plans was \$110 per person per month. This act doubles the subsidy for certain retirees to \$220.

Federal law requires all teachers hired on or after April 1, 1986 to contribute to and participate in Medicare, but Connecticut teachers hired before that date are excluded from both Medicare and Social Security under a 1951 state law. This act increases the subsidy only for retirees in the latter group. The increase does not apply to retired teachers who will be eligible for Medicare but are covered by local board plans until they reach the Medicare eligibility age.

PURCHASED SERVICE CREDIT FOR OUT-OF-STATE TEACHING SERVICE

By law, TRS members may purchase up to one year of credit in the TRS for each two years of teaching service in another state or U.S. territory or possession provided the member is not entitled to receive any other governmental retirement benefit (other than Social Security) based on the service. Prior law limited the total purchased service in TRS to an aggregate of 10 years. This act exempts out-of-state teaching service from the 10-year limit.

It also requires a TRS member to pay 100% of the present value actuarial cost for out-of-state teaching service exceeding the 10-year limit. Members continue to pay only 50% of the present value actuarial cost for most other service purchases, including the purchase of fewer than 10 years' out-of-state teaching service.

CREDIT FOR SERVICE OUTSIDE SCOPE OF CERTIFICATION

The act makes an exception to the general rule that, after July 1, 1975, teachers receive credit in TRS only for Connecticut public school employment for which they have a valid teaching certificate or permit for the position they hold.

The act's exception applies to any teacher who holds a teaching certificate or permit issued by the State Board of Education but receives notice from the State Department of Education on or after December 1, 2003 that it is not the proper certificate for the position in which the teacher is or has been employed. As under prior law, such a teacher cannot continue to accrue service in the TRS until he or she is properly certified for the position, but the act bars the TRB from rescinding any service credit the teacher previously earned in the position and requires the board to restore any such credit it rescinded prior to the date the governor signs the act (May 27, 2008).

PA 08-145—sHB 5020

Appropriations Committee

AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS REGARDING THE TOBACCO AND HEALTH TRUST FUND

SUMMARY: This act increases the amount the Tobacco and Health Trust Fund (THTF) trustees can recommend be disbursed annually to programs for tobacco use prevention, education, and cessation; substance abuse reduction; and unmet physical and mental health needs. Beginning in FY 09, it allows the trustees to recommend disbursement of up to half of the

previous year's annual disbursement to the THTF from the Tobacco Settlement Fund, up to \$6 million. This is in addition to recommending disbursements from the THTF's annual net earnings on principal, which the trustees can already do. The act specifies that these annual earnings are the prior year's.

By law, the THTF trustees must report annually on the board's activities to the Appropriations and Public Health committees. The act eliminates a mandate that each of the 17 trustees approve this report.

EFFECTIVE DATE: July 1, 2008

BACKGROUND

Tobacco Settlement Fund

By law, the Tobacco Settlement Fund (TSF) is disbursed as follows: (1) to the THTF, \$12 million; (2) to the Biomedical Research Trust Fund, \$4 million; (3) to the General Fund, the amount identified as "Transfer from TSF" in the General Fund revenue schedule the General Assembly adopts; (4) to the Stem Cell Research Fund (through FY 15), \$10 million; (5) to the revenue services department, \$100,000; (6) to the Attorney General's Office, \$25,000; and (7) any remainder to the THTF.

PA 08-5—SB 114

*Banks Committee***AN ACT CONCERNING PREVENTION OF FRAUD IN ELECTRONIC TRANSACTIONS**

SUMMARY: Federal law requires banks and Connecticut and federal credit unions to make funds available in accordance with the Expedited Funds Availability Act. State law specifies that the act applies to savings accounts but not to accounts whose funds are payable on a certain date or at the end of a specified time period (e.g., certificates of deposit). This act extends the exclusion to savings accounts that are opened or funded electronically.

EFFECTIVE DATE: October 1, 2008

BACKGROUND*Expedited Funds Availability Act of 1987*

The Expedited Funds Availability Act requires depository institutions to (1) make funds deposited into transaction accounts available on a uniform time schedule and (2) provide disclosures about the availability of funds. It does not apply to savings accounts.

PA 08-6—sSB 219

*Banks Committee**Judiciary Committee***AN ACT REPEALING THE CONNECTICUT UNIFORM MANAGEMENT OF INSTITUTIONAL FUNDS ACT**

SUMMARY: This act repeals the Uniform Management of Institutional Funds Act. In 2007, the legislature adopted the Uniform Prudent Management of Institutional Funds Act, which provides guidelines for the management, investment, and expenditure of institutional funds, but did not repeal the existing law on the same subject matter.

The act also expands the definition of institutional funds under the more recent act to include funds held by trustees for charitable community trusts. Funds held by an institution exclusively for charitable purposes are already included in this definition.

EFFECTIVE DATE: Upon passage

PA 08-39—sHB 5331

*Banks Committee***AN ACT CONCERNING LETTERS OF CREDIT**

SUMMARY: The act permits the use of irrevocable Federal Home Loan Bank of Boston letters of credit to secure public deposits in Connecticut. By law, qualified public depositories have the power to secure public deposits. To do this, each qualified public depository must keep at all times, segregated from its other assets, eligible collateral in an amount equal to a certain percentage of public deposits held by the depository. In lieu of the eligible collateral required, up to half of the deposits may be secured solely by a private insurance policy.

The act allows qualified public depositories to, in lieu of the eligible collateral requirement, secure their deposits solely with an irrevocable letter of credit issued by the Federal Home Loan Bank of Boston if certain conditions are met. Specifically, (1) the federal home loan bank must have the highest rating available from a rating service the banking commissioner recognizes and (2) the amount of the letter, as a percentage of public deposits must be not less than the amount required for eligible collateral for a particular depository.

To accomplish this change, the act changes the definition of “qualified public depository” to include a bank, out-of-state bank that maintains a state branch, or Connecticut or federal credit union that holds public deposits and either (1) segregates eligible collateral or (2) arranges for a letter of credit to be issued. The act also makes conforming changes.

EFFECTIVE DATE: October 1, 2008

CONFORMING CHANGES*Procedure Upon Loss*

By law, a “loss” is (1) the issuance of an order of supervisory authority restraining a qualified public depository from making payments of deposit liabilities or (2) the appointment of a receiver for a qualified public depository. When the banking commissioner determines that a loss has occurred, he must make a payment to the proper public officers of all public deposits subject to the loss. In determining how much to pay, he must determine the amount of public deposits by looking at the depositories’ records and the amount covered by insurance and certify the amounts to each depositor. When the depositor receives the certification, the depositor has to provide verified statements of its deposits within 10 days.

The act requires the depositors to also provide information about any letters of credit issued to the depositor under the act. The commissioner must then determine and fix the amount of the deposits minus any deposit insurance. The act also requires the deduction of any current or future amounts received by the depositor pursuant to a letter of credit issued under the act's provisions.

Report

The act requires a qualified public depository to include in the certified written report that it is required to file periodically with the banking commissioner, the amount and name of the issuer of any letter of credit issued under the act's provisions, along with other required information.

BACKGROUND

Eligible Collateral Requirements

Currently, most institutions must hold an amount equal to between 10% and 120% of their public deposits, depending on their risk-based capital ratio. A qualified public depository that is (1) an uninsured bank must maintain, apart from its other assets, an amount equal to 120% of all public deposits it holds and (2) subject to a cease and desist order or a stipulation and agreement or letter of understanding and agreement with a bank or credit union supervisor, must maintain, apart from its other assets, 120% of all public deposits it holds, except that the depository and the public depositor can agree on a greater percentage.

Letter of Credit

A letter of credit is a document issued by a bank guaranteeing the payment of a customer's drafts up to a stated amount. An irrevocable letter cannot be canceled.

Federal Home Loan Bank of Boston

In 1932, Congress established the Federal Home Loan Bank System. The federal home loan banks are government-sponsored enterprises, federally chartered but privately capitalized and independently managed. The Federal Home Loan Bank of Boston is one of 12 regional federal home loan banks established by the Federal Home Loan Bank Act. It serves the six New England states. Financial institutions throughout New England are the bank's members and customers.

PA 08-58—HB 5578

Banks Committee

AN ACT CONCERNING REINSTATEMENT PAYMENT STATEMENTS

SUMMARY: This act extends the requirements for issuing mortgage payoff statements to reinstatement payment statements. It defines a "reinstatement payment statement" as one that provides the total amount owed and that a borrower must pay to cause the loan to be reinstated, provided any other contractual conditions for reinstatement are satisfied. Specifically, the act requires a lender, upon written request, to provide a written reinstatement payment statement to the borrower or borrower's authorized agent by the date noted in the request as long as that date is at least seven business days after the request is received. The act also shortens the deadline for payoff statements from 10 business days to seven. The borrower's attorney can make the request to the lender if it relates to a default, as long as the request represents that the person is an attorney authorized to do so by the borrower.

By law, the lender must provide a payoff statement by the request date or forfeit any interest on the mortgage loan that accrues between the request date and when the borrower receives it. The act extends this requirement to reinstatement statements. The borrower bears the burden of proof with respect to the receipt of the request by the lender and the lender bears it with respect to receipt of the statement by the borrower. As with payoff statements, the act prohibits the lender from imposing any fee or charge for the first reinstatement payment statement requested each year unless the person making the request agrees to pay a fee for expedited delivery of the payoff statement and the lender delivers it on time.

Finally, the act specifies that it does not create an obligation on the part of the lender to provide a reinstatement payment statement if no right to cure the default and reinstate the loan exists under the loan documents or the law.

EFFECTIVE DATE: October 1, 2008

PA 08-69—sHB 5128

Banks Committee

Judiciary Committee

AN ACT CLARIFYING CERTAIN DEPOSITORY INSTITUTION DISCLOSURE REQUIREMENTS

SUMMARY: This act allows certain contracts held by certain financial institutions to include a liquidated damages provision. By law, provisions in a contract to purchase or lease goods or services primarily for pers

onal, family, or household purposes that provide for the payment of liquidated damages in the event of a breach are unenforceable 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.

The act applies this exception to contracts originated or held by Department of Banking (DOB) or federal bank regulatory agency regulated institutions. It also applies to a subsidiary or affiliate of such institutions when the subject matter of the contract is a financial activity or incidental to such activity.

By law, the notice requirement also 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.

EFFECTIVE DATE: July 1, 2008

BACKGROUND

Liquidated Damages

“Liquidated damages” is an amount of money that both parties to a contract agree that one will pay the other upon breaching (breaking or backing out of) the contract, or if a lawsuit arises due to the breach.

PA 08-119—sSB 182

Banks Committee

AN ACT CONCERNING BANK AND CREDIT UNION AUTHORITY AND NONDEPOSITORY LICENSES

SUMMARY: This act allows the banking commissioner to approve temporary offices or other facilities to provide banking and credit union services to customers of certain banks or credit unions affected by an emergency. The commissioner may take this action in response to emergencies in Connecticut or other specified states. By law, an emergency includes conditions arising from shortages of fuel, housing, food, transportation, or labor, or arising from: (1) enemy action or threat of enemy action, (2) fire or other casualty, (3) robbery or other crime, (4) a riot or threat of riot, or (5) extreme weather conditions. The act allows a temporary office to remain open for the period

the commissioner specifies, but he may extend this period if he finds that the condition continues. The act allows the temporary office to be converted into a permanent one as the law allows.

The act also allows the commissioner to waive or suspend statutory or regulatory requirements for up to 90 days to further rapid restoration of services after an emergency if these laws might impede the recovery and restoration of financial services.

The act also:

1. allows a subsidiary holding company in a mutual stock structure to acquire and dispose of its own stock, subject to the commissioner’s approval and provided it does not result in anyone other than the mutual holding company parent owning a greater percentage of common stock than is permissible;
2. eliminates a mutual savings bank report publishing requirement;
3. requires parties, in order to be exempt from certain requirements, to provide information to the commissioner on persons acquiring the beneficial ownership of the voting securities or securities convertible into voting securities of a bank or a bank holding company by operation of law, will, gift, or intestacy;
4. specifically requires that certain licensees surrender their licenses within 15 days if they stop doing business in the state;
5. requires information about limited liability company members, instead of their managers, when the entity is applying for certain licenses; and
6. gives the banking commissioner access to certain information provided to federal agencies under the federal Home Mortgage Disclosure Act when he is unable to obtain it from federal agencies.

EFFECTIVE DATE: October 1, 2008

TEMPORARY OFFICES DURING AN EMERGENCY

Banks and Credit Unions with Offices in Connecticut

The act allows the commissioner, under specific emergency circumstances, to authorize the approval of temporary offices or other facilities needed to restore banking or credit union services to existing customers. It allows the commissioner to take this action when he determines that an emergency or subsequent recovery efforts have affected and will continue to affect a Connecticut bank or credit union, or an office of an out-of-state bank or foreign credit union in this state. The act allows the temporary office to be used to solicit and service new customers if they are in the affected office’s

market area.

Banks and Credit Unions without Offices in the State

The act authorizes the commissioner, upon the request of the applicable state or federal banking regulatory agency, to allow foreign banks and out-of-state banks and credit unions (1) whose home state or main office is in Massachusetts, New Jersey, New York, or Rhode Island and (2) that do not have an office in Connecticut, to open a temporary office in Connecticut in an emergency in the home or main office state. The commissioner may do this to restore the institution's services to existing customers. The office may be used to solicit and service new customers as long as they are outside Connecticut.

MUTUAL SAVINGS BANK REPORT REQUIREMENT

The act eliminates the requirement that each mutual savings bank publish reports of condition and income annually and furnish proof of publication. Under prior law, such banks had to publish reports for the period ending December 31 each year in a newspaper published in the county where the bank's main office is located in the form required by the commissioner within 10 days of the report's date. They must still file these reports with the commissioner.

CHANGE OF CONTROL OF CERTAIN SECURITIES

By law, an acquisition or transfer, by operation of law, gift, will, or intestacy, of the beneficial interest in voting securities or securities convertible into voting securities of a bank holding company or bank are exempt from the statutes governing their change of control. The act provides that, to be exempt from these provisions, the acquiror or transferee must provide written notice of the acquisition or transfer to the commissioner within 30 days of the transaction. The notice must include:

1. the name of the acquiror or transferee and the person from whom the securities are being acquired or transferred,
2. the number of shares of securities being acquired or transferred,
3. the number of securities owned by the acquiror or transferee on the date of acquisition or transfer,
4. the date of acquisition or transfer, and
5. whether the acquiror or transferee is an officer or director of the bank or bank holding company whose voting securities or securities convertible into voting securities are being acquired or transferred.

LIMITED LIABILITY COMPANY APPLICANT INFORMATION

The act requires any limited liability company (LLC) applicant for a check cashing license or renewal to provide the name and address of each LLC member instead of each manager. It requires any LLC applicant for a payment instrument or money transmitter license to provide the name, home address, and any history of material litigation and criminal convictions for the previous five years for the members of the company, rather than its managers.

The act also requires that the commissioner find that each member of any LLC applicant for a (1) check cashing license or (2) payment instrument or money transmitter license is in all respects properly qualified and of good character before issuing such licenses.

SURRENDERING LICENSES

The act requires any licensed sales finance company, small loan lender, check casher, money transmitter, or debt adjuster who stops engaging in his or her respective business for any reason to surrender its license for each location or facility where it ceases to do business, if applicable, within 15 days of the cessation. The license must be surrendered in person or by registered or certified mail.

HOME MORTGAGE DISCLOSURE ACT

The act requires all financial institutions to provide the commissioner, upon request, any information required to be disclosed to a federal agency under the federal Home Mortgage Disclosure Act, in any case where he is unable to obtain this information from the applicable federal agency. Under prior law, he could obtain from them any such information that he required.

BACKGROUND

Home Mortgage Disclosure Act

The Home Mortgage Disclosure Act (HMDA) was enacted by the Congress in 1975 and is implemented by the Federal Reserve Board's Regulation C (12 CFR 203). It requires institutions to report data used to determine if (1) they are serving the housing needs of their communities, (2) discriminatory lending practices are being used, and (3) public or private sector investments are necessary in certain areas.

PA 08-176—sHB 5577

Banks Committee

Judiciary Committee

Finance, Revenue and Bonding Committee

**AN ACT CONCERNING RESPONSIBLE
LENDING AND ECONOMIC SECURITY**

SUMMARY: This act specifically authorizes the Connecticut Housing Finance Authority (CHFA) to (1) continue the CT FAMILIES refinancing program and (2) implement mortgage refinancing and emergency mortgage assistance programs. It allows CHFA to develop and implement a program for it to purchase foreclosed Connecticut property and turn the property into supportive and affordable housing. The act requires the WorkPlace, Inc., in conjunction with the other regional workforce development boards and one-stop centers, to establish a mortgage crisis job training program.

The act requires the chief court administrator, by July 1, 2008, to establish a foreclosure mediation program in each judicial district. The program ends in 2010. The act establishes a number of requirements for mortgage loans (mainly for nonprime loans) and for mortgage professionals making those loans. It defines “nonprime loans.” The act makes a number of additional regulatory changes, including increasing bond requirements for lenders and brokers. It also combines first and second mortgage professionals and makes a number of changes to the National Mortgage Licensing requirements adopted under PA 07-156. The act establishes a commission on nontraditional loans and home equity lines of credit.

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

EFFECTIVE DATE: July 1, 2008, except for the CT FAMILIES program, state assistance for the Emergency Mortgage Assistance Program, the establishment of the mediation program, and nontraditional mortgage commission provisions, which are effective on passage.

§§ 1-14, 80 — MORTGAGE PROGRAMS/CHFA
PROVISIONS

§ 1 — CT FAMILIES

The act specifically authorizes CHFA to continue to develop and implement its program for adjustable rate home mortgage refinancing for homeowners (the Connecticut Fair Alternative Mortgage Lending Initiative and Education Services or CT FAMILIES program). It does this by adding to CHFA’s statutory purposes. It specifies that the program must be undertaken, consistent with and subject to its contractual obligations to its bondholders, in an initial amount of

\$40 million under CHFA-determined terms and conditions.

§ 2 — HERO Program

The act authorizes CHFA to develop and implement the Homeowner’s Equity Recovery Opportunity or HERO loan program as one of its purposes under the statutes and consistent with its contractual obligations with its bondholders, in an initial amount of \$30 million. The act requires CHFA to implement the HERO program adopt and relevant procedures by July 1, 2008. Under the program, CHFA must, within available funds, purchase mortgages directly from lenders and place eligible borrowers on an affordable repayment plan.

For HERO program purposes, the act defines a borrower as the owner-occupant of one-to-four family residential real property located in this state, including condominiums, who has a mortgage encumbering the real property. It defines a mortgage as an instrument which constitutes a first or second consensual lien on such property, securing a loan made primarily for personal, family, or household purposes. Finally, it defines a lender as the original lender under a mortgage or its agents, successors, or assigns.

Under the act, borrowers are eligible for the program if the HERO loan is in the first lien position and borrowers have:

1. made an effort to meet their financial obligations to the best of their ability;
2. sufficient and stable income to support timely repayment of a HERO loan;
3. legal title to the mortgaged property and reside in these as a permanent residence; and
4. the ability to account for cash flow if they have stopped making monthly payments by showing how the funds were escrowed, saved, or redirected.

Borrowers must apply for HERO loans on a CHFA approved form. Borrowers must give CHFA full disclosure of all assets and liabilities, whether singly or jointly held, and all household income regardless of source. The act specifies what counts as assets.

The act states that assets include the sum of the household’s savings and checking accounts; market value of stocks; bonds, and other securities; other capital investments; pensions and retirement funds; personal property; and equity in real property, including the subject mortgage property (the act defines equity as the difference between the market value of the property and the total outstanding principal of any loans secured by the property and other liens).

Assets also include lump-sum additions to family assets such as inheritances; capital gains; and insurance payments included under health, accident, hazard, or

worker's compensation policies and settlements, verdicts, or awards for personal or property losses or transfer of assets without consideration within one year of the time of application (pending claims for such items must be identified by the homeowner as contingent assets).

The borrower must complete and sign the application subject to the penalty for false statement. Any borrower who misrepresents any financial or other pertinent information in conjunction with the filing of an application for a HERO loan may be denied assistance. CHFA must make an eligibility determination within 30 days of receiving the borrower's application. All approved borrowers must attend in-person financial counseling at a CHFA-approved agency. HERO loans must be a mortgage of up to 30 years, as determined by CHFA, and include property taxes and insurance in the borrower's monthly payment amount. CHFA determines the interest rate and services the loan.

§ 3 — *Uninsured CHFA Mortgages*

The act increases, from \$1 billion to \$1.5 billion, the aggregate amount of mortgage purchases and loans that CHFA can make that are not insured or guaranteed by a U.S. instrumentality or agency; a public U.S.- or congressionally-chartered corporation (e.g., Freddie Mac); a Connecticut state agency, department, or instrumentality; a Connecticut-licensed insurance company authorized to underwrite mortgage insurance; or CHFA.

§ 4 — *Foreclosed Property and Affordable/Supportive Housing*

The act allows CHFA to develop and implement a program for it to purchase foreclosed Connecticut property and turn the property into supportive and affordable housing, by making this one of CHFA's powers under statute. It appears to allow them to report on the program and plans for implementing it to the Banks, Housing, and Planning and Development committees by January 1, 2009.

§§ 5-12, 80 — *EMAP Changes*

The act amends the existing Emergency Mortgage Assistance Program (EMAP) statutes. The program is currently unfunded. The act makes participation in the program mandatory, rather than voluntary, as under prior law. It also expands its scope (1) to cover one-to-four family rather than just one-to-two family owner-occupied homes and specifically include single-family units in a condominium, cooperative, or other common interest community and (2) by expanding the "financial hardship due to circumstances beyond the mortgagor's

control" eligibility requirement to include a 25% reduction in aggregate family income due to a significant increase in the periodic payments for a mortgage (including principal, interest, taxes, insurance, and, if applicable, condo fees.) By law, the homeowners also qualify if they have lost their job, had their hours reduced, or suffered a disability, illness, or death of another homeowner. They also qualify, by law, if a member of their household or dependent (1) loses or has transfer payments cut or delayed, (2) loses or has retirement or other private benefits cut or delayed, (3) has been divorced or lost support payments, (4) suffered uninsured damage to their home requiring costly repairs, or (5) incurred medical or burial expenses.

Starting July 1, 2008, the act requires a lender to comply with the EMAP statute if it wants to foreclose on a mortgage on a one-to-four family owner-occupied residence where the property is not Federal Housing Administration (FHA) insured and the borrower (1) has not mortgaged the property for commercial or business purposes, (2) has not previously received EMAP assistance (except if the person has reinstated the mortgage and has not been delinquent for six consecutive months since the reinstatement), and (3) is not in default under the mortgage except for the monetary delinquency.

This means the lender must send a notice to the borrower stating that he or she has 60 days, rather than the 30 previously required, to (1) have a conference with the lender or a face-to-face meeting with a credit counseling agency to attempt to resolve the default and (2) contact CHFA about EMAP if they are unsuccessful in doing so. Under the act, if the parties reach an agreement, but the borrower still cannot pay due to financial hardship, he or she can still apply for emergency assistance within 30 days of any default. If the borrower fails to comply with the deadlines or CHFA fails to approve the EMAP application within 30 days of its filing, the foreclosure proceeding can continue. However, the lender must file an affidavit to that effect. The act provides that EMAP participants can still exercise their rights under the foreclosure mediation program the act creates, but the concurrent exercise of those rights cannot delay the EMAP eligibility determination.

Additional changes to the EMAP statutes include:

1. increasing the repayment period from 36 to 60 months (and similarly limiting participation to people who have a reasonable prospect of being able to repay within that time period);
2. requiring borrowers to have, except for the current delinquency, a favorable mortgage credit history for the lesser of the period of ownership or the previous two, rather than five, years; and

3. increasing the limit on the number of times a person can be more than 30 days in arrears to four or more times in the previous year from two or more times in the previous two years, before the person is ineligible for the program.

The act appropriates \$14 million from the State Banking Fund to CHFA for EMAP for FY 09. It specifies that repayments will be revolving instead of going into the General Fund.

It requires the Office of Policy and Management secretary and the state treasurer to make an agreement (“contract”) by July 1, 2008 with CHFA obligating the state to pay debt service (principal, interest, and other bond-related expenses) on up to \$50 million of CHFA bonds issued for EMAP. It allows CHFA to use the state’s promise to pay the debt service as security when it sells the original bonds or any refunding bonds the authority issues to refinance them. The act pledges the state’s full faith and credit to pay the agreed-upon debt service but specifies that the underlying bonds are not state general obligations. It appropriates \$2.5 million to the state treasurer from the State Banking Fund for FY 09 for these purposes.

§§ 13- 14 — *The Workplace, Inc. Mortgage Crisis Job Training*

The act requires The WorkPlace, Inc., in conjunction with the other regional workforce development boards and one-stop centers, to establish a mortgage crisis job training program. For purposes of the program, at least three mortgage crisis job training teams must be established for different areas of the state. The WorkPlace, Inc. and Capital Workforce Partners must manage the teams, which, in cooperation with the regional workforce development boards and one-stop centers, must ensure the provision of rapid, customized employment services, job training, repair training, and job placement assistance to borrowers who are unemployed, underemployed, or in need of a second job. The WorkPlace, Inc. must arrange with CHFA for financial literacy and credit counseling for program participants.

Borrowers are eligible for the program if they are at least 60 days delinquent on their mortgages and (1) are referred by their CHFA lender or (2) demonstrate an imminent need to increase earnings in order to avoid delinquency or foreclosure. Borrowers can also access the program through the one-stop centers.

The act requires The WorkPlace, Inc. and CHFA to submit a joint report on the implementation of the mortgage crisis job training program to the Banks, Housing, and Planning and Development committees by January 1, 2009. The act appropriates \$2.5 million to the Labor Department from the State Banking Fund for the program for FY 09.

§§ 15-20 — FORECLOSURE MEDIATION

The act requires the chief court administrator, by July 1, 2008, to establish a foreclosure mediation program in each judicial district and appropriates \$2 million to the Judicial Branch for the program from the State Banking Fund for FY 09. The program is available to owner-occupants of one-to-four family residential real property in Connecticut who are also borrowers under a mortgage encumbering the property and who use the property as their primary residence. The program must address all issues of foreclosure and be conducted by foreclosure mediators who:

1. are employed by the Judicial Branch;
2. are trained in mediation and all relevant aspects of the law, as determined by the chief court administrator;
3. have knowledge of the community-based resources that are available in the judicial district in which they serve; and
4. have knowledge of the mortgage assistance programs.

The mediators can refer participating borrowers to community-based resources and to the mortgage assistance programs the act establishes.

Under the act, until July 1, 2010, if a lender starts a foreclosure action on a one-to-four family dwelling occupied as a residence by a borrower with a return date on or after July 1, 2008, it must give notice of the foreclosure mediation program to the borrower by attaching to the front of the foreclosure complaint, in a chief court administrator-approved form, (1) a notice of the availability of the foreclosure mediation program and (2) a foreclosure mediation request form. This applies to a lender, including the original lender or servicer under a mortgage or its successors or assigns.

Borrowers can request mediation by submitting the form to the court and filing an appearance within 15 days of the return date. The court can extend this period by up to 10 additional days for good cause shown. The court must notify all appearing parties in the action of the request. If the court determines that the notice requirement has not been met, it can, on the borrower’s or its own written motion, issue an order delaying judgment for 15 days, during which time the borrower can submit a request for mediation. The borrower’s submission of a request does not waive either the borrower’s or lender’s rights in the foreclosure action. No requests can be accepted on or after July 1, 2010, and the program ends when mediation for applications submitted prior to that date have concluded.

The mediation period starts when the court sends notice of the borrower’s request to the appearing parties. This notice must be sent within three business days of the court’s receipt of the completed request form. The mediation period ends 60 days after the return date for

the foreclosure action. However, the court can extend this period for up to 10 days or shorten it for good cause shown on the court's own motion or the motion of any party. The first mediation session must be held within 10 business days of the court sending the notice. The borrower and lender must appear in person at each session and can agree to a proposed settlement. The lender's attorney can appear instead if he or she has the authority to agree to a proposed settlement and if the lender is available by telephone or electronically.

Within two days of the end of the first mediation session, the mediator must determine if further mediation is useful in a report that must be filed with the court and mailed to the parties. The mediation terminates automatically if the mediator does not think it will be beneficial to continue. If mediation continues, the mediator must file a second report within two days after mediation ends, but no later than 60 days after the return date in the foreclosure action. The report must describe the proceedings and the issues resolved and not resolved. This filing automatically terminates the mediation period. If certain issues have not been resolved, the mediator can refer the borrower to community-based services in the judicial district, but this cannot delay the mediation process. It is not clear how the referral would delay the process, as submission of the report terminates the mediation. The mediator can also refer the borrower to the HERO program or EMAP at any time during the mediation, but this does not stop the lender from going to judgment if it has satisfied mediation requirements. A court cannot enter a judgment of strict foreclosure or foreclosure by sale if a borrower has submitted a timely request for mediation and the mediation period has not expired.

The chief court administrator must establish policies and procedures for the mediation program. The program's policies and procedures must at least include provisions requiring the mediator to advise the borrower at the first mediation session that (1) the mediation does not suspend the borrower's obligation to respond to the foreclosure action in accordance with the court's rules and (2) a judgment of strict foreclosure or foreclosure by sale can cause the borrower to lose the residential real property to foreclosure. The act specifies that it does not require the lender to modify the mortgage or changes the terms of payment without its consent. Additionally, determinations issued by mediators cannot form the basis of an appeal of any foreclosure judgment.

§§ 21-30, 81-82 — LOAN REQUIREMENTS AND MORTGAGE PROFESSIONALS' DUTIES

The act establishes requirements for mortgage loans (mainly for nonprime loans) and for mortgage professionals making those loans. These requirements apply to nonprime home loans and mortgages for which

applications are received on or after August 1, 2008. The requirements apply to lenders. The act defines a lender as any person engaged in the business of making mortgage loans who is required to be licensed by the banking department, or its successors or assigns, and also any bank; out-of-state bank; Connecticut, federal, or out-of-state credit union; or an operating subsidiary of a federal bank or a federally chartered out-of-state bank where the subsidiary makes mortgage loans, and their successors and assigns. The term specifically excludes mortgage brokers and originators.

The requirements also apply to brokers. The act defines a mortgage broker as any person, other than a lender, who (1) for a fee, commission, or other valuable consideration negotiates, solicits, arranges, places, or finds a mortgage and (2) is required to be licensed by the banking department under the licensing statutes, or its successors or assigns.

§ 21 — Nonprime Loan Definition

The act defines a "nonprime loan" as any loan or extension of credit when:

1. the borrower is an individual;
2. the proceeds are primarily for personal, family, or household purposes;
3. it is secured by a mortgage on a one-to-four family residential property located in this state which is, or when the loan is made intended to be, used or occupied by the borrower as a principal residence;
4. the principal does not exceed (1) \$417,000 for loans originated between July 1, 2008 and June 30, 2010 and (2) the then current conforming loan limit, as established from time to time by the Federal National Mortgage Association (Fannie Mae) for loans originated after July 1, 2010; and
5. the interest rate exceeds specified thresholds.

Nonprime loans do not include CHFA loans, open-end lines of credit, and reverse mortgage transactions.

With regard to interest, nonprime loans are those where the difference between the annual percentage rate (APR) for the loan or extension of credit and the yield on United States Treasury securities having comparable periods of maturity is either 3% or more on first mortgage loans or 5% or more on second mortgage loans. The act requires the difference between the APR and the yield to be determined using the same procedures and calculation methods applicable to loans that are subject to the federal Home Mortgage Disclosure Act's reporting requirement. The yield on United States Treasury securities must be determined as of the 15th day of the month before the loan application.

Additionally, nonprime loans are those where the difference between the APR for the loan and the

conventional mortgage rate is either equal to or greater than 1.75% if the loan is a first mortgage or 3.75% if it is a second mortgage. The act specifies that the conventional mortgage rate is the most recent daily contract interest rate on commitments for fixed-rate mortgages published by the Board of Governors of the Federal Reserve System in its statistical release H. 15, or any publication that may supersede it, during the week in which the interest rate for the loan is set.

Although the act sets interest rate parameters for identifying nonprime loans, it allows the banking commissioner to increase them after considering relevant factors. The commissioner's authority and any increases or decreases he makes under this authority, expires on August 31, 2009. (The act does not specifically authorize him to make decreases). The act specifies that the relevant factors to be considered include, but are not limited to, (1) the existence and amount of increases in fees or charges in connection with purchases of mortgages by the Fannie Mae or the Federal Home Loan Mortgage Corporation (Freddie Mac) and (2) increases in fees or charges imposed by mortgage insurers and the impact, including the magnitude of the impact, that such increases have had, or will likely have, on APRs for mortgage loans in this state. Increases to a particular percentage cannot exceed .25%, and the total of all increases the commissioner authorizes to a particular percentage cannot exceed .5%.

When considering the factors, the commissioner must focus on those increases that are related to the deterioration in the housing market and credit conditions. The commissioner can choose not to increase the percentage if it appears that lenders are increasing interest rates or fees in bad faith or if increasing the percentages would be contrary to the purposes of the act's nonprime provisions. No increase can be made unless (1) the increase is noticed in the Banking Department Bulletin and the Connecticut Law Journal and (2) a 20-day public comment period is provided. Any increase must be reduced proportionately when the need for the increase diminishes or no longer exists. The commissioner may authorize a percentage increase with respect to all loans or to a certain class or classes of loans.

§ 22 — *Duties in Making Nonprime Loans*

The act prohibits lenders from engaging in any misleading, deceptive, or untruthful conduct in any transaction, practice, or course of business in connection with making a nonprime loan.

It imposes a duty of good faith on mortgage brokers and lenders concerning a nonprime home loan contract with a borrower. The act specifies that the duty (1) is the same as the one imposed for contracts under the Uniform Commercial Code, (2) includes the observance

of reasonable common standards of fair dealing, and (3) cannot be waived.

For nonprime first mortgage home loans, the act requires lenders to give borrowers (1) a notice or letter that generally describes the transaction's terms within three business days of the closing and (2) within a reasonable time period, notification of any subsequent material changes to the terms of the transaction. The requirement does not apply if the borrower expressly requests an expedited closing and the lender, in good faith, has not provided the letter or notice. This requirement cannot be waived.

§ 23 — *Ability to Pay*

The act prohibits lenders from making nonprime home loans, excluding FHA loans, unless they reasonably believe, when the loan is consummated, that one or more of the people who are incurring the debt will be able, individually or collectively to (1) make the scheduled payments and (2) pay the related taxes and insurance. This must be based on consideration of:

1. current and expected income;
2. current and expected obligations as disclosed by the borrower or otherwise known to the lender, including contemporaneously made subordinate mortgages;
3. homeowner's fees;
4. condo fees;
5. employment status; and
6. other financial resources, excluding the equity in the mortgaged dwelling.

In the case of a bridge loan, the act specifies that the lender can consider the equity in the dwelling as a source of repayment for the loan. The act does not define the term "bridge loan," but it is generally considered to be a short-term loan made in anticipation of intermediate or long-term financing.

The act allows lenders to use commercially recognized underwriting standards and methods to determine an obligor's ability to repay, including automated underwriting systems. The lender must take reasonable steps to verify the accuracy and completeness of information provided by or on behalf of the borrower using tax returns, consumer reports, payroll receipts, bank records, reasonable alternative methods, or reasonable third-party verification. When the lender is determining the ability to repay a nonprime loan with an adjustable rate feature, the lender must underwrite the repayment schedule assuming that the interest rate is a fixed rate equal to the fully indexed interest rate when the loan is made, or within 15 days afterwards, without considering any initial discounted rate.

The act defines “fully indexed rate” as the interest rate that would have been applied had the initial interest rate been determined by applying the same interest rate formula that applies under the terms of the loan documents to subsequent interest rate adjustments, disregarding any limitations on the amount by which the interest rate may change at any one time. In determining a borrower’s ability to repay a nonprime home loan that is not fully amortizing by its terms, the lender must underwrite the loan based on a fully amortizing repayment schedule based on the maturity set out in the note.

§ 24 — *Special Mortgages*

The act prohibits lenders from making nonprime home loans where any of the proceeds are used to fully or partially pay off a special mortgage on the same property unless the lender receives written certification that the borrower has received counseling from an independent U.S. Department of Housing and Urban Development (HUD)-approved non-profit organization. The act defines a special mortgage as a loan originated, subsidized, or guaranteed by or through a state, federal, tribal, or local government or nonprofit organization. However, this requirement does not apply when the borrower gives the lender a statement from the organization on its letterhead stating that the counseling is not available for at least 30-days from the date of the request for counseling.

The lender must make a good faith effort to determine whether the loan is a special mortgage, but does not have to get the certification if it does not get an affirmative response to a good faith inquiry to the borrower and the loan’s holder or servicer as to whether the loan is a special mortgage.

§ 25 — *Additional Requirements for Nonprime Home Loans*

For first-mortgage nonprime loans originated on or after January 1, 2010, the act requires lenders to collect a monthly escrow for payment of property taxes and homeowner’s insurance. The provision does not apply to FHA loans and home equity loans and a nonprime home loan product which, in good faith, is generally designed and marketed to the public as a subordinate lien home equity loan product secured by a first mortgage loan.

The act also requires lenders to mail or deliver to applicants, within three business days of receiving a completed application for a nonprime home loan, a notice containing a toll-free number that can be used to obtain a list of HUD-approved nonprofit housing counselors. The act provides that borrowers do not have a private right of action for the lender’s failure to deliver

notice on a timely basis.

§ 26 — *Provisions Prohibited in a Nonprime Loan Agreement*

The act prohibits lenders from offering nonprime loans that contain a:

1. prepayment penalty (except in FHA loans);
2. provision increasing the interest rate after default, except when it results from failing to maintain an automatic electronic payment feature that resulted in a rate reduction and the increase is not more than the reduction; or
3. provision requiring the borrower to assert a claim or defense in a nonjudicial forum that uses principles inconsistent with common or statutory law, limits a borrower’s claims or defenses, or is less convenient, more costly or more dilatory than going to court.

A loan that violates these provisions is void and unenforceable.

§§ 21 & 27 — *Bad Faith Structuring and Division of Loans*

The act prohibits lenders and brokers from acting in bad faith to divide a loan into separate parts or structure a residential mortgage loan, in bad faith, as an open-end loan to avoid the act’s protections. This prohibition applies to situations where the loan would have been a nonprime home loan if it had been structured as a closed-end loan. The act defines an open-end line of credit as a mortgage extended by a lender under a plan where (1) the lender reasonably contemplates repeated transactions; (2) the lender may periodically impose a finance charge on an outstanding unpaid balance; (3) the amount of credit that may be extended to the consumer during the term of the plan, up to any limit set by the lender, is generally made available to the extent that any outstanding balance is repaid; and (4) none of the proceeds are used at closing to purchase the borrower’s primary residence or refinance a mortgage loan that had been used by the borrower to purchase the borrower’s primary residence.

§§ 28 & 29 — *Mortgage Provisions and Mortgage Broker Duties Applicable to All Mortgages*

The act prohibits lenders from making, and brokers from offering, a nonprime home loan that refinances a mortgage unless the loan provides the borrower a tangible net benefit. (The act does not define this term.) The act prohibits lenders and mortgage brokers from taking any action that recommends or encourages a default on an existing mortgage or other debt prior to, and in connection with, the closing or planned closing of a new nonprime home loan that refinances all or any

portion of the existing loan or debt. It also prohibits lenders from financing, in connection with a mortgage, any life or health insurance or any payments for any debt cancellation or suspension agreement or contract (except for those calculated and paid on a monthly basis or using periodic payments).

The act imposes the following unwaivable duties on mortgage brokers, in addition to any other duties imposed by federal, state, or common law:

1. to use reasonable care, skill, and diligence and act in good faith and fair dealing with the borrower;
2. to make reasonable good faith efforts to secure a mortgage that is in the borrower's reasonable best interests considering all the circumstances reasonably available to the broker, including the rates, points, fees, charges, costs, and product type;
3. to ensure that the cost of credit is reasonably appropriate considering the borrower's level of credit worthiness and other bona fide underwriting concerns; and
4. if more than one mortgage is to be made by different lenders, to notify the other lenders of the payment obligations before closing.

For these sections, the act defines the term "mortgage" as a mortgage deed or other instrument that constitutes a first or secondary consensual lien on any interest in one-to-four family residential real property located in this state, that is, or when the loan is made, intended to be occupied by the borrower as a principal residence. It includes nonprime loans.

§ 28(d) — Right to Reinstatement

The act requires lenders to terminate foreclosure proceedings or other actions if all defaults in connection with a nonprime loan are cured before a judgment is entered. The lender can require the borrower to pay any of its reasonable actual costs associated with the default and protecting its rights in the property. Cure of default reinstates the borrower to the same position as if the default had not occurred and nullifies any acceleration of any obligation under the security instrument or note arising from the default as of the date of the cure. The borrower can only use this right twice over the course of 24 consecutive months.

§ 30 — Private Right of Action

The act establishes a private right of action for violations of the act's provisions on loan requirements and mortgage professional duties (sections 22 through 29 only). The borrower must sue in court within three years of the mortgage closing for (1) the greater of actual damages or \$1,000 and (2) attorney's fees,

unless:

1. within 90 days of the closing and before any action against the lender, it notifies the borrower of the noncompliance, provides appropriate restitution (the act does not specify what is appropriate), and (a) makes the loan comply with the nonprime provisions or (b) changes the loan terms so that it is no longer a nonprime loan; or
2. the lender shows by a preponderance of the evidence that the noncompliance was unintentional and resulted from a bona fide error despite the fact that it maintained procedures to avoid the errors; or
3. the lender and borrower reach a mutual agreement on an appropriate remedy or curative action.

The act specifies that a bona fide error includes a clerical, calculation, printing, computer malfunction, or programming error, but does not include an error of legal judgment with respect to a lender's obligations under the act's nonprime provisions. In actions where the compliance failure has caused material injury to the borrower, the lender must also be able to show that it cured the compliance failure or otherwise undertook reasonable remedial steps to address or compensate for the injury.

The act allows the court to grant an injured borrower equitable relief and allows the borrower or mortgagor to assert fraud and any violation of these provisions causing material injury as a counterclaim or defense in a foreclosure action within six years of the mortgage closing date. However, the act specifies that it does not create a cause of action or defense or counterclaim against an assignee of a nonprime loan or other mortgage for the original lender's or broker's violations.

§§ 81 - 82 — Influencing Residential Real Estate Appraisals

The act prohibits mortgage brokers, real estate brokers, and real estate salespeople from influencing residential real estate appraisals. For brokers, the act specifies that this includes refusal or intentional failure to (1) pay an appraiser for an appraisal that reflects a fair market value estimate that is less than the sale contract price or (2) utilize, or encouraging other mortgage brokers not to utilize, an appraiser based solely on the fact that the appraiser provided an appraisal reflecting a fair market value estimate that was less than the sale contract price.

For real estate brokers and salespeople, this includes refusal or intentional failure to refer a homebuyer, or encouraging other real estate brokers or salespeople not to refer a homebuyer, to a mortgage

broker or lender, as defined in the act's loan provisions, based solely on the fact that the mortgage broker or lender uses an appraiser who has provided an appraisal reflecting a fair market value estimate that was less than the sale contract price.

§§ 31-84 — NATIONWIDE MORTGAGE LICENSING SYSTEM AND OTHER REGULATORY CHANGES

§§ 32, 38 — *First and Second Mortgage Professionals*

The act subjects first and second mortgage professionals to the same provisions and repeals separate provisions governing secondary mortgage professionals. It eliminates references to first and second mortgage professionals by combining definitions (i.e., mortgage lenders, mortgage broker, and mortgage originators). However, the act retains the definitions of first and secondary mortgage loans. The act excludes the term "correspondent lender" from the definition of "mortgage lender" and defines it separately.

Specifically, the act defines a "mortgage broker" as a person who, for a fee, commission, or other valuable consideration, directly or indirectly, negotiates, solicits, arranges, places, or finds a mortgage loan that is to be made by a mortgage lender or mortgage correspondent lender, whether or not that lender is required to be licensed in Connecticut.

It defines a "mortgage lender" as a person engaged in the business of making mortgage loans in such person's own name using such person's own funds or by funding loans through a warehouse agreement, table funding agreement, or similar agreement. Finally, it defines a "mortgage correspondent lender" as a person engaged in the business of making mortgage loans in the person's own name where the loans are not held by such person for more than ninety days and are funded by another person through a warehouse agreement, table funding agreement, or similar agreement.

§§ 31-33, 35 & 39 — *Nationwide Mortgage Licensing System*

The act moves up, from September 30 to July 1, 2008, the effective date of the National Mortgage Licensing System provisions of PA 07-156 and changes the name of the system to the Nationwide Mortgage Licensing System. The act converts existing "first" and "second" mortgage professional licenses to the combined license on July 1, 2008. The act requires those licensed on that date to transition to the system before October 1, 2008. All filings must be submitted exclusively through the system starting on July 1, 2008. (Initial applications submitted on the system between October 1 and December 31, 2008 cannot be approved before January 1, 2009.)

§ 37 — *Examination Fees*

The act allows, rather than requires, the commissioner to suspend a license for failure to pay the cost of any examination of the licensee within 60 days, rather than 30 days, of the demand.

§§ 38 & 40 — *Business of Making Loans*

The law requires those engaged in the business of making loans to be licensed (with exceptions). The act provides that a person, other than a licensed originator acting on behalf of a lender or broker, that employs or retains the mortgage loan originator is deemed to be engaged in the business of making mortgage loans if the person advertises, causes to be advertised, solicits, offers to make, or makes mortgage loans, either directly or indirectly. The act specifically expands the definition of advertisement to include any announcement, statement, assertion, or representation that is placed before the public in a newspaper, magazine, or other publication; or in the form of a notice, circular, pamphlet, letter, or poster; over any radio or television station; by means of the Internet or by other electronic means of distributing information; by personal contact; or in any other way. Under prior law, it included the use of media, mail, computer, telephone, personal contact, or any other means.

The act allows an originator or lender licensee to file a notification of the termination of an originator with the nationwide system. Prior law requires both the originator and the broker or lender licensee to do so with the commissioner.

The act specifies that licenses must be obtained for each main office (the address filed with the nationwide system) and branch office (any other location).

§ 41 — *Exemptions from Licensure*

The act exempts operating subsidiaries of federal banks and federally chartered out-of-state banks from license requirements. In a conforming change, it removes the exemption for secondary mortgage licensees who made less than 12 first mortgage loans in 12 months and instead limits the exemption to people owning real property who take a secondary mortgage back from the buyer. Finally, it moves the existing secondary mortgage exemption for relatives to this section.

§ 42 — *Licensing Requirements*

The act increases the tangible net worth requirement for brokers and correspondent lenders from \$25,000 to \$50,000 starting on March 1, 2009.

The act also requires lenders and brokers to have a qualified individual at a main office and a branch

manager at a branch office, with supervisory authority over the lending or brokerage activities, who has at least three years of experience in the mortgage business in the previous five years to be present at each office. (Prior law required lenders and brokers to have a person with supervisory authority at each location with those experience requirements.) The act defines this experience to include paid experience in the origination, processing; or underwriting of mortgage loans; the marketing of such loans in the secondary market or in the supervision of such activities; or any other relevant experience as determined by the commissioner. The term was not defined in prior law.

Starting on July 1, 2008, the act requires an application that was previously filed with the commissioner to be filed instead with the nationwide system. However, it requires applicants to submit supplementary information directly to the commissioner, some of which had to be included on the application under prior law. First, as required under prior law, applicants must submit a financial statement with the banking department. However, under the act, the statement must be as of a date not more than 12 months prior to the filing, rather than the six months required by prior law. The act also requires the submission of the required bond and, as under prior law, evidence that the experience requirements are met. The act specifies that such evidence includes:

1. a statement specifying the duties and responsibilities of the person's employment; the term of employment, including month and year; and the name, address, and telephone number of a supervisor, employer, or, if self-employed, a business reference; and
2. if required by the commissioner, copies of W-2 forms, 1099 tax forms, or, if self-employed, 1120 corporate tax returns; signed letters from the employer on the employer's letterhead verifying the person's duties, responsibilities and term of employment including month and year; and if the person is unable to provide the letters, other proof satisfactory to the commissioner that the person meets the experience requirement.

Finally, as under prior law, the act requires the submission of any other information about the applicant, its activities, and the background of the applicant and its principals, employees, and, although not required under prior law, originators.

§ 44 — *Notifications*

The act changes the way licensees update their name and address to reflect use of the nationwide licensing system. It extends the notice required before a change from 21 to 30 days. It also eliminates provisions

(1) specifying what must be stated on the license and (2) requiring the license to be maintained at the location and available for public inspection. The act also specifies that licensees must use the legal or fictitious name approved by the commissioner.

It requires licensees who will cease doing business for any reason to file a surrender of the license on the nationwide system within 15 days of cessation. However, this requirement does not apply when licenses have been suspended. Finally, the act requires licensees to file with the system or notify the commissioner if certain things occur.

For lenders and brokers, these things include:

1. filing for bankruptcy, or the consummation of a corporate restructuring, of the licensee;
2. filing of a criminal indictment against the licensee in any way related to the licensee's lending or brokerage activities, or receiving notification of the filing of any criminal felony indictment or felony conviction of any of the licensee's officers, directors, members, partners, or shareholders owning 10% or more of the outstanding stock;
3. receiving notification of license denial, cease and desist, suspension, or revocation procedures or other formal or informal regulatory action by any government agency against the licensee and the reasons for it;
4. receiving notification of the initiation of any action by the attorney general of this or any other state and the reasons for it;
5. receiving notification of a material adverse action with respect to any existing line of credit or warehouse credit agreement;
6. suspension or termination of the licensee's status as an approved seller or servicer by Fannie Mae, Freddie Mac, or the Government National Mortgage Association;
7. exercise of recourse rights by investors or subsequent assignees of mortgage loans if such loans for which the recourse rights are being exercised, in the aggregate, exceed the licensee's net worth exclusive of real property and fixed assets;
8. receiving notification of filing for bankruptcy of any of the licensee's officers, directors, members, partners, or shareholders owning 10% or more of the licensee's outstanding stock; or
9. any proposed change in control in the ownership licensee's or among the licensee's officers, directors, members, or partners on a form provided by the commissioner. (The act provides that the commissioner can investigate the change as if it were a new license and it defines "change in control.")

For originators, notification is required upon:

1. filing for bankruptcy of the mortgage loan originator licensee;
2. filing of a criminal indictment against the mortgage loan originator licensee;
3. receiving notification of the institution of license or registration denial, cease and desist, suspension, or revocation procedures or other formal or informal regulatory action by any government agency against the mortgage loan originator licensee and the reasons for it; or
4. receiving notification of the initiation of any action against the mortgage loan originator licensee by the attorney general of this or any other state and the reasons for it.

The act also allows a licensee to use its legal or fictitious name if allowed by the commissioner. Prior law required a licensee to use the name stated on its license.

§ 45 — License Expiration Dates and Fees

The act changes the expiration date for licenses and designates licensing fees. Under PA 07-156, starting October 1, 2008, all licenses must expire on December 31st of the year following issuance and all licensees must pay the required licensing and processing fee to the national system. For lender and broker licenses that expire on September 30, 2008, the act extends the expiration date to December 31, 2008. Starting on July 1, 2008, lender and broker licenses must expire at the close of business on December 31 of the year in which they are approved, unless the license is renewed. However, licenses approved after November 1 expire on December 31 of the following year. The act requires a renewal application to be filed between November 1 and December 31 of the year in which the license expires, provided a licensee may file a renewal application by March 1 of the following year together with a late fee of \$100. Any filing by that date with the fee is deemed timely and sufficient.

The act specifies that the licensing fee is \$800 for lender licenses and \$400 for broker licenses. However, lenders licensed on September 30, 2008 must submit a renewal fee of \$900 and brokers licensed on June 30, 2008 must submit a renewal fee of \$450. Each mortgage loan originator license expires when the associated lender or broker license expires. The act requires the lenders or brokers to pay \$100 for each originator. However, for those lenders and brokers licensed on September 30, 2008 who submit a renewal application for a mortgage loan originator, the fee is \$125. Starting on January 1, 2010, the fee is \$100.

The act specifies that fees paid in connection with a withdrawn or denied application are nonrefundable, but provides that fees paid for an originator license where

the originator is not sponsored by a lender or broker can be refunded.

§§ 46 - 47 — Lender and Broker Bond Requirements

The act increases the bond amount for lenders and brokers from \$40,000 to \$80,000 starting on August 1, 2009 and allows borrowers or prospective borrowers who are damaged by a licensee's failure to satisfy a judgment against a licensee from the making of a nonprime loan to collect from the bond. The act also allows the commissioner to proceed on the bond for unpaid examination costs, as well as for civil penalties as is permitted under prior law.

The act eliminates language requiring the commissioner to automatically suspend a license on the date a surety bond is cancelled and the associated due process requirements.

§§ 48 - 49 — Records

By law, lenders and brokers must maintain adequate records of each loan transaction. The act requires lenders and brokers to send loan transaction records to the commissioner within five business days of his request by certified mail, return receipt requested, or by an express delivery carrier that provides a dated delivery receipt. On request, the commissioner can grant additional time to comply with this requirement. The law already required licensees to make the records available to the commissioner within that time frame. The act requires the record to include a copy of the initial and final loan application and a copy of all information used in evaluating the application. The act also requires lenders and brokers to retain copies of the note and settlement statement or other records that can verify compliance with the licensing statutes.

§ 50 — Suspension, Revocation, or Refusal to Renew Originator Licenses

The act adds to the circumstances under which the commissioner can suspend, revoke, or refuse to renew an originator license to include situations where a licensee has concealed, suppressed, intentionally omitted, or otherwise intentionally failed to disclose any of the material particulars of any loan transaction.

§ 51 — Referrals from Unlicensed Brokers or Originators

The act specifies that mortgage lending licensees cannot accept applications or referrals from, or pay fees to, any broker or originator who was not licensed at the time he or she "originated" or "brokered" a loan, as opposed to at the point of the application acceptance, referral, or fee payment.

§ 53 — *Mortgage Trigger Leads*

The law prohibits first and second mortgage lenders and brokers from engaging in any unfair or deceptive act or practice when soliciting a mortgage secured by residential property in Connecticut if the solicitation is based in any way on a mortgage trigger lead. The act extends this prohibition to originators. A “mortgage trigger lead” is 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. It excludes from the definition a consumer report obtained by a lender that holds or services the applicant’s existing debt.

§ 54 — *Prepaid Finance Charges in Secondary Loans*

The act prohibits in a secondary loan (1) prepaid finance charges in excess of 8% of the principal amount of the loan and (2) in a loan agreement where prepaid finance charges have been assessed, any provision that allows the lender to demand payment of the entire loan balance before the scheduled maturity (unless there is a default of more than 60 days or if any other condition of default in the mortgage note exists).

The act makes any lender or broker who fails to comply with this liable to the borrower in an amount equal to the sum of: (1) the amount by which the total of all prepaid finance charges exceeds 8% of the principal amount of the loan; (2) the lesser of 8% of the principal amount of the loan or \$2,500; and (3) the costs incurred by the borrower in bringing an action, including reasonable attorney’s fees, as determined by the court. However, no broker or lender can be liable for more than these amounts in a secondary mortgage loan transaction involving more than one borrower.

§ 54 — *Recording in Land Records*

The act requires that any mortgage deed securing a secondary mortgage loan recorded in any town’s land records contain (1) the word “Mortgage” in the heading, either in capital letters or underscored, and (2) the principal amount of the loan.

§ 55 — *Mortgage Releases*

The act requires licensed lenders and brokers to deliver a release of a secondary mortgage to the borrower upon receiving the outstanding balance of the obligation secured by the mortgage (1) in cash or a certified check or (2) in a check that is payable to the licensee or its assignee from the payor bank. Licensees must advise any person designated by the borrower of

the outstanding balance of the obligation secured by the secondary mortgage granted to the licensee by the second business day after receiving a request for the information.

§ 56 — *Mortgage Loan Policy*

The act requires lenders to annually adopt a mortgage loan policy for subprime and nontraditional loans they make. The act does not define the term subprime loan. The policy must be based on and consistent with the most current version of the (1) Conference of State Bank Supervisors, American Association of Residential Mortgage Regulators and National Association of Consumer Credit Administrators’ statement on subprime mortgage lending and (2) Conference of State Bank Supervisors and American Association of Residential Mortgage Regulators’ guidance on nontraditional mortgage product risks. Licensed lenders must comply with the policy and develop and implement internal controls that are reasonably designed to ensure compliance. The mortgage loan policy and any mortgage loan made under the policy are subject to examination concerning prudent lending practices by the banking commissioner.

§ 58 — *Small Loan Lenders*

The act requires lenders making secondary mortgage loans of up to \$15,000 with an interest rate, charge, or other consideration higher than 12% to be licensed as small loan lenders. Such lenders were exempt from this requirement under prior law.

§ 64 — *High Cost Loans*

The act bans, in a high cost loan, (1) prepayment penalties and (2) a provision requiring the borrower to assert a claim or defense in a nonjudicial forum that uses principles inconsistent with common or statutory law; limits claims or defenses; or is less convenient, more costly, or more dilatory. It removes the provision banning mandatory arbitration clauses and exceptions that allowed certain prepayment penalties.

§ 77 — *Commission on Nontraditional Loans and Home Equity Lines of Credit*

The act establishes, from the date of its passage, a 13-member Commission on Nontraditional Loans and Home Equity Lines of Credit. The commission must determine:

1. the number of Connecticut homeowners who have nontraditional loans and home equity lines of credit;
2. the number of Connecticut residents who have nontraditional loans or home equity lines of

credit which are in default or who have been affected by foreclosure action or are likely to face such action over the next four years;

3. the types of nontraditional loans and home equity lines of credit that pose a high risk of loan default or foreclosure and the characteristics or features of such loans that are possible factors in defaults or foreclosure; and
4. the circumstances under which nontraditional loans and home equity lines of credit are appropriate for borrowers.

The act defines a nontraditional mortgage in the same way it is defined in the “Interagency Guidance on Nontraditional Mortgage Product Risks,” 71 Federal Register 58609 (Oct. 4, 2006), as amended from time to time. It specifies that a “home equity line of credit” is a mortgage extended by a lender under a plan in which: (1) the lender reasonably contemplates repeated transactions; (2) the lender may impose a finance charge from time to time on an outstanding unpaid balance; (3) the amount of credit that may be extended to the consumer during the term of the plan, up to any limit set by the lender, is generally made available to the extent that any outstanding balance is repaid; and (4) none of the proceeds of the open-end line of credit are used at closing to purchase the borrower’s primary residence or refinance a mortgage loan that had been used by the borrower to purchase the borrower’s primary residence.

The commission must consist of the banking commissioner and the Banks Committee chairpersons and ranking members, or their designees. Additionally, it must include:

1. two people appointed by the governor, one who must represent state chartered banks and one who is a housing advocate who represents low-income residents;
2. one person appointed by the House speaker who represents mortgage bankers;
3. one person appointed by the Senate president pro tempore who is an attorney who represents homeowners who are defendants in foreclosure actions;
4. one person appointed by the Senate majority leader who is a consumer who has been a defendant in a foreclosure action related to a nontraditional mortgage or home equity line of credit;
5. one person appointed by the House majority leader who is an attorney who represents the banking industry;
6. one person appointed by the Senate minority leader who represents a nonprofit organization that advocates for people affected by predatory lending; and
7. one person appointed by the House minority leader who represents federally chartered

banks.

The appointing authorities must make their appointments by August 1, 2008 and fill any vacancy. The banking commissioner must serve as the committee chairperson. The Banks Committee staff must serve as the commission’s administrative staff.

The commission must report its findings and recommendations to the Banks Committee by January 1, 2009. It must include recommendations on measures that address nontraditional loans and home equity lines of credit that have a high incidence of defaults and foreclosures and possible restrictions on such loans or certain features of such loans that increase the likelihood of foreclosure or default. When making the recommendations, the commission must give consideration to the impact that such measures and restrictions might have on responsible lending activities that can help to serve the credit needs of Connecticut residents, including the impact on the secondary market and credit costs and availability. The commission must terminate on the date it submits the report or January 1, 2009, whichever is later.

§§ 78 - 79 — Agreements for Supervision

The act allows the commissioner to enter cooperative, coordinating, and information-sharing agreements with other state and federal supervisory agencies for examinations, exam fees, and other supervision of not just banking department licensees, as is allowed under existing law, but also for any mortgage and certain other banking activity it regulates under statute. As under prior law, the act provides that any such agreement may include provisions concerning the assessment or sharing of fees for such examination or supervision.

PA 08-100—sHB 5708
Select Committee on Children
Human Services Committee

AN ACT CONCERNING THE EXPANSION OF THE CARE 4 KIDS PROGRAM

SUMMARY: This act expands eligibility periods for parents receiving child care subsidies under the Department of Social Services’ (DSS) Care 4 Kids program. It requires the DSS commissioner to allow parents to remain in the program during temporary interruptions in (1) employment or (2) participation in approved education, training, or other job preparation activities. Under prior program rules, parents became ineligible as soon as they stopped working or participating in an approved activity.

EFFECTIVE DATE: July 1, 2008

BACKGROUND

Care 4 Kids Income Limits and Applicant Preferences

Under the Care 4 Kids program, DSS pays approved day care providers a fixed amount to care for children while their parents work, attend high school, or participate in an approved work activity. Parents select the provider, pay DSS a family fee, and are responsible for paying the balance of any charges that DSS does not pay.

To be eligible, parents must have incomes below 50% of the state’s median (\$38,726 for a three-person family in 2008). Once enrolled, families remain financially eligible until their incomes reach 75% of the state’s median (\$58,089 for a three-person family in 2008). There is no waiting list, but by law, if one is established, preference goes to applicants who are:

1. Temporary Family Assistance (TFA) recipients working or engaged in Jobs First employment activities,
2. former TFA recipients who are employed and received cash assistance within the past five years,
3. teen parents,
4. low-income workers,
5. adoptive parents of DCF foster children with a waiver of Care 4 Kids income standards, or
6. working families at risk of welfare dependency.

PA 08-106—sHB 5650
Select Committee on Children
General Law Committee
Appropriations Committee
Judiciary Committee

AN ACT CONCERNING CHILD PRODUCT SAFETY

SUMMARY: This act establishes limits for lead in children’s products by amending the State Child Protection Act, the state’s counterpart to the Federal Hazardous Substances Act (FHSA). With certain exceptions, it makes children’s products that fail to comply with the limits banned hazardous substances. It also prohibits the sale of toys or other articles marketed for children under age 16 that contain asbestos.

The act requires retailers and other businesses selling a banned hazardous substance to complete a certificate of disposition to account for its disposal. It requires the Department of Consumer Protection (DCP) commissioner, who administers the State Child Protection Act, to post on the department’s website a list of toys and other articles intended for use by children that are banned hazardous substances. The commissioner must also consult with the departments of Public Health (DPH) and Environmental Protection (DEP) to compile a list of other toxic substances and safer alternatives. The commissioner may adopt regulations requiring certain consumer products to have warning labels if they bear lead-containing paint.

The act also:

1. increases related criminal and civil penalties;
2. requires stores to post notices when DCP designates an article as a banned hazardous substance, making failure to do so an unfair trade practice; and
3. makes failure to allow a DCP inspector or investigator to inspect an establishment where hazardous substances are manufactured or to obtain a sample an unfair trade practice.

The act authorizes the DEP commissioner to take part in an interstate clearinghouse to classify chemicals according to the risks they pose.

Finally, the act makes technical changes.

PA 08-122 amends this act.

EFFECTIVE DATE: October 1, 2008, except for the provisions concerning the certificate of disposition and the interstate clearinghouse, which are effective upon passage.

LEAD LIMITS FOR CHILDREN'S PRODUCTS

The State Child Protection Act prohibits placing a banned hazardous substance in the stream of commerce. Beginning July 1, 2009, this act establishes limits for lead in children's products. Products that fail to comply with these limits are banned hazardous substances and thus subject to the prohibition. The act defines "children's product" as a consumer product designed or intended primarily for children under age 12, including toys, jewelry, decorative objects, clothing, candy, food, dietary supplements or other chewable items, furniture, or other articles used by or intended to be used by children.

Under the act, a children's product is considered a banned hazardous substance if:

1. (a) from July 1, 2009 to June 30, 2011, any part of the product contains more than 300 parts per million (ppm) total lead content by weight and (b) on and after July 1, 2011, any part of the product contains more than 100 ppm total lead content by weight;
2. on and after July 1, 2009, it bears lead-containing paint with more than 90 ppm total lead content by weight; or
3. on and after July 1, 2009, it bears lead-containing paint containing more than .009 milligrams of lead per centimeter squared.

The act authorizes the DCP commissioner to adopt regulations on and after July 1, 2011, if he determines that it is feasible for a children's product to comply with a stricter standard than 100 ppm total lead content by weight for any part of the product. Under these regulations, the commissioner may require a children's product to comply with a limit as low as 40 ppm total lead content by weight.

Prior law did not establish limits for lead in children's products. However, the DCP commissioner has, by regulation, declared lead-containing paints with 0.06% lead by weight or more (600 ppm) to be banned hazardous substances (Conn. Agencies Regs. § 21a-336-1).

The act defines "lead-containing paint" as paint or other similar surface coating materials containing detectable lead or lead compounds. "Paint and other similar surface-coating materials" means a fluid, semi-fluid, or other material applied to a metal, wood, stone, paper, leather, cloth, plastic, or other surface. It does not include printing inks, materials that become part of the substrate (e.g., pigment in a plastic article), or materials that are bonded to the substrate (e.g., through electroplating or ceramic glazing).

Exceptions

Inaccessible Components. The act creates an exception for a children's product containing a component that exceeds the act's limits if the component (1) is not accessible to a child because it is enclosed by a covering or casing and (2) will not become physically exposed through normal and reasonably foreseeable use and abuse of the product. Under the act, paint, coatings, or electroplating cannot be considered barriers that would make the substrate inaccessible to a child through normal and reasonably foreseeable use and abuse.

Electronic Devices. The act creates a temporary exception for children's products that are electronic devices, including batteries, if the DCP commissioner determines that it is not feasible for such products to meet the act's standards by July 1, 2009. It requires the commissioner, through regulation, to (1) set interim standards to reduce the exposure of, and accessibility to, lead in these electronic devices and (2) establish a schedule for the devices to comply fully with the act's stricter standards applicable to all other children's products.

PROHIBITED ACTS

The act prohibits introducing or delivering for introduction into commerce any toy or other article for sale in Connecticut containing asbestos and marketed for use by children under age 16.

The act also prohibits manufacturing; distributing; selling at wholesale or retail; or contracting to sell or resell, lease, sublet, or otherwise place in the stream of commerce any children's product that:

1. is a banned hazardous substance under state law or FHSA;
2. is the subject of voluntary or mandatory corrective action taken under the direction of, or in cooperation with, a federal agency but the defect in the product has not been corrected; or
3. does not otherwise conform to applicable consumer product safety standards under the State Child Protection Act, any similar state law, or any similar federal laws or regulations.

DISPOSITION CERTIFICATE

By law, manufacturers, distributors, and retailers must repurchase an article they sell that is a banned hazardous substance, whether or not the article was banned at the time of sale. The act requires retailers and other businesses in the state selling a banned hazardous substance to account for its disposal.

Under the act, the DCP commissioner must develop a certificate of disposition by October 1, 2008 for retailers and wholesalers prohibited from selling or placing in the stream of commerce any children's product that is subject to a recall or voluntary corrective action. The certificate must require these retailers and wholesalers to (1) specify the make, model, type, quantity, and final disposition of the affected children's products and (2) sign an affidavit verifying the authenticity of the information. The certificate must contain any other information the commissioner requires.

If a retailer or wholesaler receives notification or information that a children's product has been recalled or subject to voluntary corrective action, the act requires it to inspect its premises and immediately dispose of all such products in its possession. Retailers and wholesalers must complete the certificate of disposition within seven calendar days after receiving the notice or information concerning a recall or voluntary corrective action. They must maintain signed and dated certification forms, which are subject to inspection by the commissioner or his designated agents, for at least three years.

The act subjects retailers or wholesalers to the penalties of the State Child Protection Act, as amended, if they fail to (1) dispose of products properly, (2) complete the certificate of disposition, or (3) maintain certification forms.

LISTS

Banned Children's Products Internet List

The act requires, rather than allows, the DCP commissioner to compile a list of toys and other articles that are intended for use by children and that are banned hazardous substances. It additionally requires the commissioner to post the list in a conspicuous place on DCP's website. The list must be publicly accessible and searchable.

Other Toxic Substances List

The act also requires the DCP commissioner, in consultation with the commissioners of DPH and DEP, to compile and amend from time to time, a list of other toxic substances and the recommended maximum amount that may be present in children's products. The DCP commissioner must establish and update a corresponding list of safer alternatives to the toxic substances.

WARNING LABELS FOR CERTAIN CONSUMER PRODUCTS

The act defines "consumer product" as any article that is used primarily for personal, family, or household purposes. The act allows the DCP commissioner to adopt regulations requiring certain consumer products to carry warning labels.

Under the act, the commissioner may identify consumer products with which a child may reasonably or foreseeably come into contact and that bear lead-containing paint and, on a case-by-case basis, require them to carry such a warning label. The act prohibits anyone engaged in commerce, including individuals, firms, and businesses, from having, offering for sale, selling, or giving away any consumer product identified in the regulations that bears lead-containing paint, unless the product has a warning label required by federal regulation or the state warning label.

If federal regulations do not prescribe a warning label, the act specifies how the state-required warning label must read. For products with lead-containing paint, the warning label must read:

"WARNING—CONTAINS LEAD. DRIED FILM OF THIS SURFACE MAY BE HARMFUL IF EATEN OR CHEWED. See Other Cautions on (Side or Back) Panel. Do not apply on toys, or other children's articles, furniture, or interior or exterior exposed surfaces or any residential building or facility that may be occupied or used by children. KEEP OUT OF THE REACH OF CHILDREN."

For products with a form of lead other than lead-containing paint, the warning label must read:

"WARNING CONTAINS LEAD. MAY BE HARMFUL IF EATEN OR CHEWED. MAY GENERATE DUST CONTAINING LEAD. KEEP OUT OF THE REACH OF CHILDREN."

Exemptions

The act exempts from its warning label provision (1) children's products and (2) consumer products with lead-containing components that are not accessible to children because they are not physically exposed due to a covering or casing and they will not become physically exposed through normal and reasonably foreseeable use and abuse.

UNFAIR TRADE PRACTICES

Notice Requirements

The act authorizes the DCP commissioner to require retail stores to post notices informing the general public when DCP adopts a regulation designating an article a banned hazardous substance. Notices must be posted in a location visible to the general public and remain up for a period of time the department specifies.

Inspections and Obtaining Samples

By law, DCP inspectors and investigators, upon presenting appropriate credentials, must be allowed to:

1. enter, at reasonable times, any factory, warehouse, or establishment in which hazardous substances are manufactured or held for introduction into commerce, or held after introduction into commerce;
2. enter, at reasonable times, any vehicle used to transport or hold hazardous substances;
3. inspect, at reasonable times, within reasonable limits, and in a reasonable manner any factory, warehouse, establishment, or vehicle, and all equipment, finished and unfinished materials, and labeling; and
4. obtain samples of such materials, packages, or labeling.

Violations

The act makes it a violation of the Connecticut Unfair Trade Practices Act (CUTPA) to fail to (1) follow the posting requirement or (2) permit an inspector or investigator to carry out his or her duties as described above. CUTPA generally allows the DCP commissioner to investigate complaints, issue cease and desist orders, order restitution, enter into consent agreements, and ask the attorney general to initiate legal proceedings. It also allows individuals to file civil lawsuits. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for restraining order violations.

STATE CHILD PROTECTION ACT PENALTIES

Under prior law, violations of the State Child Protection Act were either (1) class C misdemeanors, punishable by imprisonment for up to three months, fines of up to \$500, or both or (2) for repeat offenses or those committed with the intent to defraud or mislead, unclassified misdemeanors punishable by imprisonment for up to one year, fines of up to \$3,000, or both.

Under the act, the former become class B misdemeanors, punishable by imprisonment for up to six months, fines of up to \$1,000, or both. And the maximum fine for the unclassified misdemeanor offense increases to \$5,000.

The act also authorizes the DCP commissioner to levy a civil penalty of up to \$100 for a violation of the State Child Protection Act, except for a violation that involves removing or disposing of tags affixed to embargoed items since the law already authorizes DCP to levy civil penalties of up to \$500 per item for such a violation. Under the act, each violation, and each day it continues, constitutes a separate and distinct offense. The act requires the department to give alleged violators notice and a hearing and directs that these penalties be deposited into DCP's consumer protection enforcement account. It also requires that fines for tagging violations be deposited in that account.

INTERSTATE CLEARINGHOUSE

The act authorizes the DEP commissioner, within available appropriations, to participate in an interstate clearinghouse to (1) classify chemicals used in commercial products according to whether they are of high, moderate, low, or unknown concern and (2) organize and manage available data on chemicals. The data must include information on their use, hazards, and environmental concerns. The commissioner, through the clearinghouse, may also (1) produce and inventory information on (a) safer alternatives to specific chemical uses and (b) model policies and programs related to these alternatives and (2) provide technical assistance to businesses and consumers regarding safer chemical alternatives. She may participate in other related activities.

BACKGROUND

Federal Hazardous Substances Act

FHSA is one of five federal laws that the Consumer Product Safety Commission (CPSC) administers. It authorizes the CPSC to identify hazardous and potentially hazardous substances, ban certain toys and articles marketed for use by children, require certain substances and toys to bear cautionary labeling, and set conditions and standards for that labeling. It authorizes states to adopt identical requirements, thereby gaining enforcement authority, and supplement federal law in areas the CPSC does not regulate. States are prohibited from adopting different requirements protecting against the same risk of illness or injury already regulated by CPSC action.

Parts per Million and Milligrams of Lead per Centimeter Squared

There are two methods for measuring lead in paint. One is called “total lead” and involves traditional laboratory testing. The paint is weighed and dissolved in acid to determine how much lead is present. The result is rendered in milligrams of lead per milligram of paint, expressed as ppm. The current CPSC paint standard is 600 ppm.

The alternative is an X-Ray Fluorescence (XRF) analyzer. XRF analyzers emit X-rays through a small window and measure the amount reflected back, identifying how much lead is present immediately below the window. The result is rendered in milligrams or micrograms per square centimeter.

Normal and Reasonably Foreseeable Use and Abuse

CPSC regulation establishes test methods for simulating use and abuse of toys and other articles intended for use by children under age eight. The regulations describe specific tests for simulating normal use of toys and other articles intended for use by children, as well as the reasonably foreseeable damage or abuse to which the articles may be subjected. The tests are intended to expose potential hazards that would result from normal use or reasonably foreseeable damage or abuse of the articles (16 CFR §§ 1500.50 to 1500.53).

Related Act

PA 08-122 amends this act by (1) requiring DCP to implement the act’s requirements within available appropriations; (2) exempting certain drugs from the recall provision; and (3) revising the list of toxic substances that must be compiled by the commissioners of consumer protection, environmental protection, and public health.

PA 08-122—HB 5025

*Select Committee on Children
General Law Committee*

AN ACT AMENDING AN ACT CONCERNING CHILD PRODUCT SAFETY

SUMMARY: This act amends PA 08-106 to (1) require the Department of Consumer Protection (DCP) to implement that act’s requirements within available appropriations; (2) require DCP to fulfill an existing statutory duty to tag misbranded hazardous substances only within available appropriations; (3) exempt certain drugs from the recall provision; and (4) revise a list of toxic substances that must be compiled by the

commissioners of consumer protection, environmental protection, and public health.

EFFECTIVE DATE: October 1, 2008

IMPLEMENTING WITHIN AVAILABLE APPROPRIATIONS

The act requires DCP to implement the following provisions of PA 08-106 within available appropriations:

1. adopt regulations phasing in limits for lead in children’s products that are electronic products and requiring warning labels on certain consumer products;
2. compile a list of toys and other articles that are intended for use by children and that are banned hazardous substances and post it on the agency’s website;
3. compile a list of other toxic substances in consultation with the commissioners of the departments of Public Health (DPH) and Environmental Protection (DEP);
4. compile, and from time to time amend, a list of safer alternatives to the above substances; and
5. develop a certificate of disposition for retailers and wholesalers to account for any children’s product that is subject to a recall or voluntary corrective action.

TAGGING MISBRANDED HAZARDOUS SUBSTANCES

Under prior law, whenever a DCP inspector found, or had probable cause to believe, that a hazardous substance was misbranded or banned, he or she was required to put an embargo tag on it. The tag gives notice that the substance is detained or embargoed. The act instead requires inspectors to tag items only within available appropriations.

RECALL

PA 08-106 prohibits placing in the stream of commerce a children’s product that is subject to voluntary or mandatory corrective action taken under the direction of or in cooperation with the federal government and the defect in the product has not been corrected. This act exempts articles described in the federal Food, Drug and Cosmetic Act (21 USC § 321(g)).

LIST OF TOXIC SUBSTANCES IN CHILDREN’S PRODUCTS

PA 08-106 requires the DCP commissioner, in consultation with the commissioners of DPH and DEP, to compile a list of toxic substances and the

recommended maximum amount that may be present in children's products. This act, in addition to requiring that the list be compiled within available appropriations, instead requires the list to be of toxic substances that potentially should not exist in children's products.

BACKGROUND

Food, Drug and Cosmetic Act

The federal act defines "drug" to mean the following articles, with certain exceptions:

1. articles recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or their supplements;
2. articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;
3. articles (other than food) intended to affect the structure or any function of the body of man or other animals; and
4. articles intended for use as a component of any of the above.

PA 08-161—sSB 344

*Select Committee on Children
Appropriations Committee
Human Services Committee
Higher Education and Employment Advancement Committee*

AN ACT CONCERNING THE FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM AND THE RECOMMENDATIONS OF THE CHILD POVERTY AND PREVENTION COUNCIL

SUMMARY: This act requires the Department of Social Services (DSS) to administer a food stamp employment and training (FSE&T) program authorized under the federal Food Stamp Act of 1977, which DSS currently administers on a voluntary basis. It requires DSS to provide employment and training activities, support services, and other programs and services for food stamp recipients. DSS must follow federal law and regulations concerning formula grant expenditures and design the program to maximize the state's eligibility for federal matching funds to the fullest extent permitted.

The act specifies how federal matching funds must be used and distributed and requires DSS to select qualified providers, including community collaboratives, to participate in the program. By law, entities that qualify for federal matching funds include state agencies, local governments, nonprofit entities, institutions of higher education, and other FSE&T

providers that offer approved employment and training activities.

The act requires DSS to file annual reports for six years, beginning January 15, 2009, with the Human Services and Appropriations committees and the Child Poverty and Prevention Council. Reports must include the amount of federal matching funds the program generated and amounts (1) used for DSS operating and administrative expenses, (2) distributed to providers, and (3) distributed to community collaboratives. They must also include how recipients used the funds, including whom they served, and describe outcomes using a results-based accountability framework.

Finally it authorizes DSS, in conjunction with Child Poverty and Prevention Council agency members, to work with local governments, institutions of higher education, community action agencies, and other entities to continue and expand efforts, within available appropriations, to enroll people in the traditional food stamp program and to enroll eligible food stamp recipients in education, employment, and training activities.

EFFECTIVE DATE: October 1, 2008

USE OF FEDERAL MATCHING FUNDS

For FY 09, the act authorizes DSS to use a portion of the federal matching funds it receives, on an as-needed basis, for operating expenses and to employ one person to work exclusively on administering the FSE&T program's matching funds provisions. After FY 09, DSS may use the funds as necessary to operate and administer the program.

The balance of the funds must be used for poverty reduction strategies. Under the act, these are coordinated sets of actions, including:

1. job search and work experience;
2. education and training, including adult basic education, high school equivalency preparation, adult literacy, vocational training, and post-secondary education;
3. tuition payment;
4. case management;
5. related services that improve employability;
6. income safety net services;
7. child care during work and job training;
8. family support; and
9. reentry programs.

The strategies must be based on best practices and aimed at reducing poverty or the risk of poverty for people and families who (1) live in census tracts with high poverty rates; (2) have incomes at or below 200% of the federal poverty level (\$35,200 for a three-person household in 2008); and (3) are either adolescent parents, older adolescents and young adults, or low-income working families.

ELIGIBLE PROVIDERS

The act authorizes DSS to select providers whose employment and training activities qualify for federal reimbursement to participate in the federal matching fund portion of the state FSE&T program. The commissioner sets the form and manner for selection and must give priority to providers that belong to an FSE&T community collaborative whose strategies are aligned with the recommendations of the Child Poverty and Prevention Council and its plan to reduce child poverty by 50% by 2014.

Community Collaboratives

Under the act, FSE&T community collaboratives are consortia of public and private providers that implement poverty reduction strategies. They must demonstrate, in the form and manner DSS specifies, their capacity to implement poverty reduction strategies to qualify as participants. They must identify:

1. priorities for reducing child poverty in their municipality or region,
2. how they will use the funds,
3. community partners and resources they use to support poverty reduction strategies, and
4. their capacity to collect relevant data and measure outcomes.

Each qualifying collaborative must establish a governance structure, determine membership, and identify or establish a fiscal agent. It must have at least five member entities representing institutions of higher education, regional workforce development boards, social service nonprofit agencies, business associations, philanthropic organizations, municipalities, community action agencies, or other community partners. A majority of its members must be FSE&T providers.

Collaboratives must use federal funds they receive to implement poverty reduction strategies in a municipality or region they serve.

DISTRIBUTION FORMULA

After allocating federal matching funds to operate and administer the program, as described above, the act specifies that DSS distribute the remainder as follows:

1. 75%, on a pro rata basis, to FSE&T providers whose expenditures generated the funds and
2. 25% to FSE&T community collaboratives selected under the act.

BACKGROUND

Federal Food Stamp Employment and Training Program

The federal FSE&T Program requires each state to

implement an FSE&T program to help food stamp recipients gain skills, training, or experience to increase their ability to obtain regular employment. Federal funding for the program has three components: (1) a formula grant; (2) additional funds for states that pledge to provide services for able-bodied adults without dependents (ABAWDs), whose food stamp benefits became subject to time limits under the 1996 federal welfare reform legislation; and (3) federal matching funds for state expenditures above their formula grant amounts. The federal match is uncapped and set at 50% of state expenditures. A 2002 change in the food stamp law eliminated the requirement that states spend 80% of the FSE&T formula grant money on ABAWDs, giving states greater flexibility in how they use the funds.

On October 1, 2008, the federal food stamp program will be re-named the Secure Supplemental Nutrition Assistance Program.

Child Poverty and Prevention Council

The 21-member council is composed of appointees from the three branches of state government and one public member. It is required by law to (1) develop and promote the implementation of a 10-year plan to reduce the number of children living in poverty by 50%, (2) establish prevention goals and recommendations, and (3) measure prevention service outcomes. The council's current poverty reduction recommendations cover the following:

1. income tax-based assistance for workers,
2. child care,
3. housing subsidies,
4. health care,
5. early childhood education,
6. teacher quality,
7. secondary and post-secondary education,
8. income safety net programs,
9. teen pregnancy,
10. marriage penalties,
11. abrupt public benefit changes, and
12. fatherhood.

PA 08-34—sSB 390
Commerce Committee

AN ACT CONCERNING TECHNICAL CHANGES TO ECONOMIC DEVELOPMENT STATUTES

SUMMARY: This act makes changes to the statutes governing the Manufacturing Assistance Act (MAA) program, which provides financing for developing property, acquiring machinery and equipment, training employees, and providing other business support services. MAA is administered by the Department of Economic and Community Development (DECD).

The act changes the basis for determining if a business qualifies for MAA funds. The law bases eligibility on whether a business is in a specified business sector or contributes to the state’s economy by selling most of its products and services to customers outside Connecticut (i.e., economic base business). The act designates more sectors, thus expanding the types of businesses that qualify for funds without having to meet the economic base criterion. It also eliminates certain sectors, thus requiring the affected businesses to meet the economic base criterion.

The act consolidates and reorganizes the criteria for determining if a project qualifies for MAA funds. In doing so, it makes it easier for specific types of projects to qualify for these funds.

The act eliminates obsolete statutes and makes many conforming technical changes.

The act also repeals the statute authorizing the state to provide financial assistance, staff support, or other in-kind contributions specifically to the nonprofit Connecticut Economic Resource Center (CERC). That statute allowed DECD or any other state agency, government entity, or the private sector to do these things within available funds. (These entities can still contract with CERC under their procurement statutes.) CERC conducts economic research for local, regional, and state economic development entities. It is mostly funded by the utility companies.

EFFECTIVE DATE: Upon passage

ELIGIBLE BUSINESSES

Reorganized Statute

The act reorganizes the statutory criteria for determining if a business qualifies for MAA funds. By law, a business qualifies based on its legal form (e.g., sole proprietorship) and the degree to which it contributes to the state’s economy. Prior law placed these criteria in separate sections. The act consolidates them in one section.

In doing so, it also expands the types of forms that qualify for funding to reflect current practice. Prior law

limited funding to partnerships, sole proprietorships, and corporations; but DECD provided funding to limited liability companies (LLCs) proposing otherwise eligible projects. The act makes LLCs eligible for funding.

North American Industrial Classification System (NAICS)

The act also changes the basis for determining if a business qualifies for funds. By law, a business qualifies based on the types of goods or services it makes or provides, whether it is an economic base business, or whether it belongs to a DECD-designated industry cluster. (Industry clusters are groups of interrelated business that provide the same products or services, use similar processes and techniques, have similar workforce needs, and tend to buy supplies or support services.)

Under prior law, a manufacturer qualified for MAA funds based on the Standard Industrial Classification System (SIC), a federal classification based on the goods businesses make, the services they provide, or the methods and techniques they use. The federal government replaced SIC with a different classification scheme—NAICS. The act updates the law to reflect this change.

In doing so, it retains the manufacturing category, but also adds many nonmanufacturing business categories and subcategories, including film making, banking, and child care services. Many businesses in these categories qualified for funds under prior law if they were economic base businesses or met other criteria. Consequently, they now qualify for funds regardless of whether they meet these criteria.

The act drops agriculture, aquaculture, and wine making from the list of businesses eligible for MAA funds; but they may still qualify for funds under the economic base criterion. A business meets this criterion if it:

1. creates or retains jobs,
2. exports products or services outside the state,
3. encourages innovative products and services,
4. adds value to them, or
5. supports or enhances existing activities important to the state’s economy.

PROJECT ELIGIBILITY

Consolidation and Reorganization

The act consolidates and reorganizes the criteria for determining if a project qualifies for MAA funding. By law, a project qualifies for funding if it meets at least one of 10 criteria, which prior law divided into three categories. Some criteria include eligible development

activities, such as acquiring and developing land and constructing facilities. Others describe how the project must benefit the economy, and include outcomes such as creating new jobs or diversifying a region's economy. One criterion specifies a program—creating workshops for developing and marketing new products or production techniques.

Reduced and Eliminated Criteria

The act makes it easier for projects to qualify for funding under the eligible activities criteria. Under prior law, a project qualified for MAA funds if it involved the purchase or lease of an existing facility that had been idle for at least one year (unless the DECD commissioner waived this requirement). Leases had to be for a minimum five-year term, with an option to renew the lease or purchase the facility. The act eliminates these requirements.

The act similarly eliminates some of the criteria for qualifying projects involving machinery and equipment purchases. Under prior law, they qualified only if:

1. the business acquiring the machinery and equipment had been operating continuously in Connecticut for at least five years;
2. the machinery and equipment would be used for manufacturing and had been purchased as part of a technological upgrade; and
3. the acquisition cost was at least \$200,000 or 200% of the business' average annual machinery and equipment expenditure over the past three years at the facility where the new machinery and equipment would be used, whichever is greater.

The act eliminates these conditions. Consequently, projects involving machinery and equipment purchased or leased for any purpose qualify for funding, regardless of the cost or how long the business has operated in the state.

Lastly, the act eliminates a criterion that applied when a business proposed to acquire, improve, demolish, or dispose of real property. Under prior law, the business had to show that it could not undertake or complete these activities without MAA funds. The bill eliminates this criterion.

Under prior law and the act, the criteria for projects involving the purchase of facilities or machinery and equipment determine only whether a project qualifies for funds. Consequently, the businesses implementing these projects can use the funds for these and other purposes. Furthermore, a project that does not meet the criteria may still qualify for funds under the law's other criteria. If it does, it may use MAA funds for a wide range of activities, including leasing or acquiring facilities and purchasing office equipment.

New Project Eligibility Criteria

The act allows the DECD commissioner to use MAA funds to create and support organizations providing technical and engineering assistance to small manufacturers and other economic base businesses. The organizations may use the funds to help these businesses design, test, manufacture, and market new products and adopt and implement new techniques and technology. The act also allows MAA recipients to use the funds to develop their workforces. (Arguably, both of these activities qualified for funds under prior law as business support services, a criterion the act retains.)

OBSOLETE STATUTES

The act repeals several obsolete MAA statutes. It repeals the statutes authorizing MAA funding for defense diversification projects and establishing a DECD office to develop and support these projects. The authorization for these activities expired June 30, 1996.

The act also repeals the statutes authorizing funding for inventors' workshops. The authorization to request proposals for these workshops was limited to FY 93.

BACKGROUND

Industrial Classification Systems

SIC and NAICS are systems for classifying businesses. SIC was developed during the 1930s. It initially consisted of separate codes for manufacturers and other types of businesses. It was periodically revised to reflect changes in the way goods were made and services delivered. But despite the revisions, users and analysts criticized SIC as outmoded and out of sync with the economy.

The North American Free Trade Agreement with Canada and Mexico underscored the need to develop a classification system that reflected the broader North American market. NAICS was developed in cooperation with these nations. It groups businesses that use the same or similar processes to make goods or deliver services. Consequently, NAICS reflects the greater role service businesses play in the economy.

For example, SIC was divided into 10 divisions, five of which were service-related. NAICS, on the other hand, is divided into 20 sectors, 16 of which are service-related (U.S. Census Bureau, *Development of NAICS*).

PA 08-78—sSB 397

Commerce Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE STATE BUILDING WORKS OF ART ACCOUNT

SUMMARY: This act establishes a “maintenance account” subaccount in the General Fund’s state building works of art account. By law, the State Bond Commission must allocate at least 1% of bond proceeds for the construction, reconstruction, and remodeling of state buildings for art works. The act requires the Connecticut Commission on Culture and Tourism (CCCT) to determine the percentage of the 1% allocation, up to 10%, to credit to the maintenance account. The account’s funds must be used solely to conserve, repair, and clean art works commissioned and purchased for state buildings using the proceeds of the 1% allocation.

EFFECTIVE DATE: July 1, 2008

BACKGROUND

1% for Art Works

By law, the State Bond Commission must, for purposes of calculating the 1%, exclude (1) the cost of a project’s land acquisition; (2) nonconstruction costs, including the price of the artwork; and (3) any cost increases. The allocation must be approved by the public works commissioner in consultation with the CCCT. The money must be used to develop and evaluate proposals for art works for state buildings and compensate artists for their work.

The CCCT, in consultation with the public works commissioner, must credit up to one-quarter of the 1% allocation to the state building works of art account. The money is used to (1) buy art by distinguished state artists for public display in state buildings; (2) establish a bank of major art works for circulation among state buildings, public art museums, and nonprofit galleries; and (3) repair the art works purchased through the account.

PA 08-82—SB 391

Commerce Committee

Insurance and Real Estate Committee

AN ACT CONCERNING THE INSURANCE REINVESTMENT ACT

SUMMARY: This act redefines “insurance business,” for purposes of the Insurance Reinvestment Fund, by limiting it to insurance and other businesses providing

insurance-related services with a North American Industry Classification code of 524113 through 524298. These codes include (1) insurance and reinsurance carriers; (2) insurance agencies and brokerages; and (3) other insurance-related activities, such as claims adjusting, third-party administration, and advisory and rate-making services. The redefinition limits the types of businesses eligible for investments through the Insurance Reinvestment Fund program.

EFFECTIVE DATE: October 1, 2008

BACKGROUND

Insurance Reinvestment Fund

PA 94-214 created the Insurance Reinvestment Act as a way to leverage private investment in insurance and other businesses providing insurance-related services. It does this by authorizing premium, corporate, and personal income tax credits for people and businesses that invest in these businesses through state-registered fund managers. Businesses receiving the investments must occupy facilities and create new jobs. Investors may claim a portion of the tax credits over a 10-year period according to a statutory schedule.

PA 08-89—SB 553

Commerce Committee

Higher Education and Employment Advancement Committee

AN ACT ESTABLISHING A SPORTS ADVISORY BOARD

SUMMARY: This act requires the Connecticut Commission on Culture and Tourism’s (CCCT) executive director to appoint a Sports Advisory Board within CCCT to advise her about how to promote the state’s sports industry. The board members must include state officials and representatives of specified organizations that sponsor or conduct sporting events. The director may add more members. She must appoint the board, by October 1, 2008, and CCCT must provide the staff to support it.

The board must convene its first meeting by November 15, 2008 and meet at least quarterly thereafter. The board members may appoint a chairperson from among themselves whose duties include scheduling and conducting meetings. The director must report annually to the Commerce Committee on the board’s activity. The report is due within 30 days before each regular legislative session.

EFFECTIVE DATE: Upon passage

PURPOSE

The board must advise the director how to:

1. effectively use state resources to promote, attract, and market in-state professional and amateur sports and sporting events;
2. develop methods to coordinate the way information is disseminated in the state and the Northeast about in-state sports and sporting events; and
3. coordinate the use of state-owned facilities to enhance sports-related tourism in Connecticut.

The board must submit any recommendations on these topics to the director within 30 days after it meets.

COMPOSITION

The act requires the director to appoint one representative each from the:

1. athletic departments of the University of Connecticut and the Connecticut State University System,
2. XL Center (formerly the Hartford Civic Center),
3. Northland AEG (a company that manages sports facilities),
4. Traveler's Championship Golf Tournament,
5. Pilot Pen Tennis Tournament,
6. Special Olympics,
7. Mohegan Sun Arena,
8. Foxwoods Resort Casino,
9. Lime Rock Park Race Track,
10. Arena at Harbor Yard,
11. New Britain Stadium,
12. Connecticut Marine Trade Association,
13. Office of Policy and Management,
14. Department of Economic and Community Development,
15. Capital City Economic Development Authority,
16. Nutmeg State Games,
17. Connecticut Interscholastic Athletic Conference,
18. Fairfield University,
19. Quinnipiac University,
20. Sacred Heart University,
21. Connecticut State Golf Association, and
22. Dodd Stadium.

The director may also appoint additional members representing entities involved in sports or sporting events she deems appropriate.

ANNUAL REPORTS

The director must report annually to the Commerce Committee about the board. The report must include (1) the status of the board's activities, (2) any of the board's

recommendations being implemented, and (3) any legislative recommendations.

PA 08-136—sHB 5476

Commerce Committee

AN ACT ESTABLISHING A STATE MUSIC HALL OF FAME

SUMMARY: This act extends, from February 1, 2008 to January 1, 2009, the date the Connecticut Music Hall of Fame Committee must report to the Commerce Committee. By law, the committee must develop a plan to create and operate a hall of fame to recognize Connecticut residents distinguished in the field of music. The plan must include a recommended location, criteria for hall of fame members, and rules for operating the hall of fame.

EFFECTIVE DATE: Upon passage

PA 08-162—sSB 392

Commerce Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING FINANCING FOR INFORMATION TECHNOLOGY AND REMEDIATION PROJECTS AND THE TAX INCREMENTAL FINANCING PROGRAM, AND MAKING A TECHNICAL CORRECTION

SUMMARY: This act extends the sunset dates for two Connecticut Development Authority (CDA) programs that provide financing for large-scale development projects. Both programs use the new or incremental tax revenues the projects generate to repay the bonds CDA issued to finance the projects (i.e., tax increment financing (TIF)). Prior law would have ended the authorization for both programs on July 1, 2008. The act extends this date to July 1, 2010.

The programs use different tax revenues to finance different types of projects. One uses incremental sales, dues, cabaret, and admission tax revenues to finance large-scale projects that create jobs, stimulate economic activity, and meet other statutory criteria (i.e., sales tax TIF). Under prior law, CDA only had to notify specific legislators before using these revenue sources. Under the act, it must obtain the Commerce and Finance, Revenue and Bonding committees' approval before doing so.

Although the act restricts CDA's ability to use incremental sales, dues, cabaret, and admission tax revenues to finance a project, it also allows CDA to use incremental hotel tax revenues for this purpose. It requires CDA to only notify specific legislators before

doing so.

The other program uses incremental property tax revenues a completed project generates to repay the bonds issued to finance it (i.e., property tax TIF). These revenues can be used to repay bonds issued to clean up and redevelop contaminated property or for certain information technology projects.

EFFECTIVE DATE: Upon passage

SALES TAX TIF

Sales, Dues, and Admission Tax Revenue

Prior law required CDA to notify specified legislators if it intended to use incremental sales, admission, cabaret, and dues tax revenues to repay a bond it issued to finance a project. The act, instead, requires CDA to obtain legislative committee approval if it intends to use these revenue sources and specifies the process for obtaining that approval.

The process requires CDA to submit specific information to the Commerce and Finance committees about a project. The information consists of the application for assistance, independent financial assessments, revenue impact assessments, and the financial assistance CDA proposes to offer. CDA must provide the information in these documents in a way that protects the confidentiality of the project sponsor's financial information.

Both committees must act on the information within 45 days after receiving it. They must notify CDA about whether they approve the project or approve it with modifications. If the committees fail to meet this deadline, the project is deemed approved.

If the committees disagree, their respective chairpersons must appoint a conference committee to resolve the matter. The chairpersons of each committee must appoint three members, one of whom must be a minority party member. The conference committee must report to each committee, which may vote to accept or reject the report, but may not amend it.

The proposed financial assistance for the project is approved unless both committees reject the conference report. If the committees accept the report, the Finance, Revenue and Bonding Committee must notify CDA to that effect. In doing so, it must also notify CDA about any modifications the committees made to its proposal. CDA must comply with any of the committees' modifications.

Hotel Tax Revenue

The act allows CDA to use the hotel tax revenue that a project generates to repay the bonds issued to finance it. But CDA's executive director must first notify certain legislators to that effect at least 72 hours

before submitting a proposed project to his board for approval. This is the same procedure CDA had to follow under prior law when it intended to use incremental sales, cabaret, admission, and dues tax revenues to repay a bond it issued to finance a project.

The procedure requires CDA to notify the Senate president pro tempore, the House speaker, the Senate and House minority leaders, and the chairpersons and ranking members of the Commerce and Finance, Revenue and Bonding committees. Any of these legislators can ask CDA's board to delay its decision for 30 days.

PA 08-50—sSB 648
Education Committee

AN ACT CONCERNING STATE CHARTER SCHOOLS

SUMMARY: This act applies the existing student records transfer laws to state charter schools. This means that state charter schools must send and be sent written notice of a student transfer. Additionally, state charter schools must send or be sent a transfer student’s education records within 10 days of the notification. In the case of transfer students from Unified District #1, state charter schools must send the notification within 10 days of enrollment and must credit the students for all instruction received in the unified school district within 30 days of receiving the student’s education records. Unified School District #1 serves students in the custody of the Department of Correction.

By law, charter school applications must include a description of the procedures for establishing a school governing council that must include teachers and parents or guardians. PA 07-3, June Special Session, additionally required the inclusion of 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 act specifies that these membership requirements must be met at all times, not just at the time of charter application or renewal.
EFFECTIVE DATE: July 1, 2008

PA 08-85—HB 5824
Education Committee

AN ACT CONCERNING THE ACCREDITATION OF SCHOOL READINESS PROGRAMS

SUMMARY: By law, the State Department of Education (SDE) may not provide funding to school readiness providers that first entered into a contract with a town to provide programs (1) on or before January 1, 2004 and were not accredited as of January 1, 2007 and (2) after January 1, 2004 and are or were not accredited within three years of that date. This act allows the education commissioner to extend these deadlines, as long as:

1. SDE conducts an on-site assessment of the program before the extension and keeps a report of the assessment in a uniform commissioner-prescribed manner that includes the conditions necessary for accreditation;
2. the program is licensed by the Department of Public Health (PA 08-170 restricts this condition to programs that require department

- licensing under the public health statutes.);
3. the program has a corrective action plan prescribed and monitored by the commissioner; and
4. the program meets any other conditions the commissioner determines.

By law, “accredited” means (1) accreditation by the National Association for the Education of Young Children or a Head Start on-site program review instrument or (2) otherwise meeting criteria established by the education commissioner in consultation with the social services commissioner. The act also specifies that this definition applies unless the context requires otherwise, for example, where the statutes reference accredited higher education institutions.
EFFECTIVE DATE: July 1, 2008

PA 08-107—sHB 5871
Education Committee

AN ACT CONCERNING THE BEST PROGRAM

SUMMARY: As of July 1, 2009, this act eliminates the requirement that newly certified public school teachers participate in the beginning educator support and training (BEST) program. As of the same date, it also eliminates the State Department of Education’s (SDE’s) authority to fund the program and local school districts’ responsibility for providing support to beginning teachers in accordance with the law and SDE regulations.

In addition, the act (1) eliminates the video component from the BEST assessment for new teachers for the 2008-09 school year and (2) establishes a 21-member task force to develop a new mentor assistance program to replace the BEST program starting in the 2009-10 school year and recommend transition procedures between the old and new programs.

BEST is a two-year program of support and assessment for new teachers. Satisfactory completion of the program has been required for beginning classroom teachers employed in public schools and approved private special education facilities.
EFFECTIVE DATE: The BEST Program elimination takes effect July 1, 2009; elimination of the video component of the BEST assessment takes effect July 1, 2008; and the task force takes effect upon passage.

BEST PROGRAM ELIMINATION

Until July 1, 2009, under prior law and this act, the BEST Program provides support for teachers during their first two years of teaching through (1) mentoring by more experienced teachers and (2) assessment of their teaching ability. The assessment includes

classroom assessments and review of a portfolio the teacher submits at the end of his or her second year of teaching. Starting July 1, 2009, new teachers will no longer be required to complete the program satisfactorily to retain their teaching certificates.

By law, SDE, within available appropriations, is required to (1) administer the program; (2) provide training to mentor teachers and those who supervise, train, and assess new teachers; (3) pay stipends to teacher assessors; and (4) provide funds to local school districts for (a) substitute teachers to allow release of mentor teachers and assessors from regular classroom responsibilities and (b) professional development for mentors, assessors, and beginning teachers. SDE must operate the program according to regulations it adopts. The act eliminates these requirements as of July 1, 2009.

As of that date, the act also eliminates requirements that (1) school districts provide support to their new teachers, including assigning experienced mentor teachers to help them; (2) districts select mentor teachers and any assessors they employ according to standards in SDE's regulations and based primarily on mentor teachers' and assessors' classroom experience and recognized success as educators; and (3) the State Board of Education indemnify those serving as teacher mentors and assessors from damage claims arising from their activity in those capacities.

BEST ASSESSMENT VIDEO COMPONENT

Under the BEST Program, new teachers must submit a teaching portfolio to SDE, generally near the end of their second year of BEST participation. The portfolio is used to assess the new teacher's knowledge and application of the state's teaching standards. In addition to other contents (lesson plan, student work and the teacher's assessment of that work, and the new teacher's comments on his or her teaching and students' work), portfolios have to include a videotape of the teacher's classroom instruction.

The act bars SDE from requiring new teachers to submit videos as part of their BEST assessment. The prohibition applies for the 2008-09 school year, which, under the act, is the program's last year of operation.

MENTOR ASSISTANCE PROGRAM TASK FORCE

Task Force Duties

The act establishes a 21-member task force to develop a plan for a new mentor assistance program for beginning teachers to replace the BEST Program starting in the 2009-10 school year. The plan must include:

1. requirements for a new teacher to successfully complete the new program;

2. sequential modules based on the state's teaching standards;
3. requirements for (a) mentor eligibility, assignment, and training and (b) the frequency of meetings between mentors and new teachers;
4. ways to encourage collaboration among SDE, regional educational service centers, and local school districts to identify, recruit, and retain mentors;
5. recommended transition procedures from the BEST Program to the new mentor program, including ways to evaluate beginning teachers who complete one or more of the BEST clinical assessments but have not received satisfactory evaluations as of June 30, 2009;
6. possible exemptions from the new program's requirements for teachers (a) with teaching experience in another state or a private school, (b) who teach in areas where the new program is not relevant, or (c) in other special situations for which the task force considers an exemption appropriate; and
7. recommendations for developing a data collection and evaluation system to monitor the new program on a statewide and local level.

The act also requires the task force to consider possible legislative changes to expand the categories of people who can become mentors and require:

1. a reduced classroom teaching load for mentors, as determined by local school districts;
2. new teachers to receive and complete the new program in their first two years of certification; and
3. full funding for school districts to implement the program.

Appointment and Members

The task force consists of the Education and Program Review and Investigations committees' co-chairpersons and ranking members or their designees, the education commissioner or his designee, and 12 members representing various entities or with certain qualifications and appointed by legislative leaders as follows:

<i>Appointing Authority</i>	<i>Number</i>	<i>Member of/Qualifications</i>
House speaker	1	Connecticut Association of Schools
	1	Connecticut Federation of School Administrators
Senate president pro tempore	1	Regional vocational-technical school teacher
	1	Connecticut Association of Public School Superintendents

<i>Appointing Authority</i>	<i>Number</i>	<i>Member of/Qualifications</i>
House majority leader	1	Connecticut State University faculty member who teaches in a teacher preparation program
	1	Connecticut Education Association
Senate majority leader	1	Public school teacher who is or was a BEST mentor
	1	American Federation of Teachers, Connecticut chapter
House minority leader	1	Connecticut Association of Boards of Education
	1	Connecticut Conference of Independent Colleges
Senate minority leader	1	Connecticut Parent Teacher Association
	1	Public school teacher with an initial educator certificate (i.e., a beginning teacher)

Operations and Reporting Deadline

Task force appointments must be made within 30 days after the act's passage. Vacancies must be filled by appointing authorities. The education commissioner or his designee serves as the task force chairperson and must call the first meeting with 60 days after passage. The Education Committee staff provides administrative support to the task force.

The task force must report its findings and recommendations by January 1, 2009 to the Education and Program Review committees. It terminates on that date or when it submits its report, whichever is earlier.

PA 08-138—sHB 5820

Education Committee

Appropriations Committee

AN ACT CONCERNING HIGH SCHOOL CREDIT FOR PRIVATE WORLD LANGUAGE COURSES AND FOR OTHER SUBJECT AREAS

SUMMARY: This act permits local school boards to give a student credit towards meeting high school graduation requirements for (1) completing a world-language course provided by a nonprofit organization and (2) passing a subject area proficiency test the education commissioner identifies and approves. The act allows boards to grant up to four credits for a private nonprofit world language course if the student achieves a passing grade on a commissioner-prescribed test. Boards can grant an unlimited number of credits to students passing the proficiency tests regardless of the number of hours the student spent in a public school classroom learning the subject matter. The commissioner must prescribe the world language

examinations and identify and approve the subject area proficiency examinations within available appropriations.

By law, students must have at least 20 credits to graduate from high school, with 14 of those in statutorily specified subjects. Generally, only courses taken in school in grades nine through 12 could satisfy the graduation requirement under prior law.

EFFECTIVE DATE: July 1, 2008

PA 08-139—sHB 5825

Education Committee

AN ACT CONCERNING REGIONAL EDUCATIONAL SERVICE CENTERS

SUMMARY: This act allows the education commissioner to allocate funds to regional education service centers (RESCs) so that they can provide professional development, technical assistance, and evaluation activities to boards of education, state charter schools, regional vocational technical schools, school readiness providers, and other educational entities as determined by the commissioner. The commissioner may do this regardless of certain state procurement laws. RESCs must use the funds in accordance with commissioner-prescribed procedures and conditions.

EFFECTIVE DATE: July 1, 2008

PA 08-148—sSB 403

Education Committee

AN ACT CONCERNING THE ROLE OF THE STATE BOARD OF EDUCATION IN THE TEACHER CERTIFICATION REVOCATION PROCESS

SUMMARY: This act requires the education commissioner rather than the State Board of Education (SBE) to make the final determination of whether to uphold the revocation of an educator's public school teaching credential when the educator has been convicted of certain crimes.

By law, when a person holding a certificate, permit, or authorization issued by the SBE that allows him or her to teach in the public schools is convicted of specified crimes, the credential is considered revoked. But, when the commissioner notifies the person of the revocation, he or she can ask that the certificate be reinstated according to SBE regulations. Those regulations give SBE final authority to decide on the reinstatement after the commissioner files a statement with the board for or against reinstatement. This act, instead, requires SBE to make an initial determination

and gives the education commissioner the final say over whether to overturn or uphold the revocation.

EFFECTIVE DATE: July 1, 2008

BACKGROUND

Convictions Requiring Immediate Revocation of Educational Credentials

By law, an educator's certificate, permit, or authorization to teach in the public schools is considered revoked as soon as the education commissioner is notified that the educator has been convicted of any of the following crimes: (1) a capital felony; (2) arson murder; (3) any class A felony; (4) a class B felony, except first-degree larceny, first-degree computer crime, or first-degree vendor fraud; (5) any crime involving child abuse or neglect; (6) risk of injury to a minor; (7) deprivation of a person's civil rights by a person wearing a mask or hood; (8) second-degree assault of an elderly, blind, disabled, pregnant, or mentally retarded person, with or without a firearm; (9) second-, third-, or fourth-degree sexual assault; (10) third-degree sexual assault with a firearm; (11) third-degree promoting prostitution; (12) substitution of children; (13) third-degree burglary with a firearm; (14) first-degree stalking; (15) incest; (16) obscenity as to minors; (17) importing child pornography; (18) criminal use of a firearm or electronic defense weapon; (19) possession of a weapon on school grounds; or (20) manufacture or sale of illegal drugs.

PA 08-152—sHB 5869

Education Committee

Appropriations Committee

AN ACT CONCERNING AGRICULTURAL SCIENCE AND TECHNOLOGY EDUCATION

SUMMARY: This act expands the enrollment opportunities school districts that do not operate vocational agriculture centers must offer to students who wish to attend a center in another district. It changes the name of the centers and the type of education they offer to "agricultural science and technology education" from "vocational agriculture" centers.

EFFECTIVE DATE: July 1, 2008

AGRICULTURAL SCIENCE AND TECHNOLOGY EDUCATION ENROLLMENT OPPORTUNITIES

By law, school districts that do not furnish agricultural science and technology education must designate where their students may receive it. The act

requires districts that do not provide the education themselves to provide enrollment opportunities in one or more agricultural science and technology education centers, not just one center, run by other districts. And if a district provided opportunities for its students to enroll in more than one center in the school year starting July 1, 2007, the act requires it to continue to do so in the numbers required by both prior law and the act.

Prior law required a school district that does not maintain an agricultural science and technology education 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 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. The act requires districts to, in addition, provide the number of enrollment opportunities for 9th graders in each center it designates that are at least equal to (1) the number of 9th graders specified in its written agreement with each center or (2) the average number of 9th graders enrolled in each designated center or centers over the preceding three years.

BACKGROUND

Related Act

PA 08-170, among other things, enacts provisions that are identical to this act.

PA 08-153—sHB 5870

Education Committee

Appropriations Committee

AN ACT CONCERNING MINOR CHANGES TO THE EDUCATION STATUTES

SUMMARY: This act:

1. resolves inconsistencies related to bringing a complaint against a board of education for failure or inability to implement the state's educational interests;
2. eliminates a duplicative section on magnet school operating grants;
3. allows elementary schools to meet the requirement for including a program on participatory democracy in their curriculum in third grade, as well as fourth or fifth, as already required by law;
4. specifies that "the arts," which must be taught as part of the required program of instruction in the public schools, means any form of visual or performing arts, including dance, music, art, and theater;

5. expands the actions the State Board of Education (SBE) can take to improve student performance, remove a school or district from the “low-achieving” list, and address other school or district needs;
6. requires smaller businesses to be represented on the statewide advisory committee for regional vocational-technical (V-T) schools and requires the Senate president pro tempore to appoint to the committee a V-T school teacher and a business representative, rather than two of the latter;
7. specifically requires boards of education to establish a school district curriculum committee that must recommend, develop, review, and approve all curricula for the district;
8. eliminates the Commission on Educational Equity and Excellence; and
9. allows SBE to issue a temporary 90-day teaching certificate in the early childhood education endorsement area at a board of education’s request. The preexisting conditions for 90-day certificates must be met for the endorsement’s issuance.

EFFECTIVE DATE: July 1, 2008, except for the provisions on the educational interests of the state, the magnet school grant, early child teaching certificate, and the Committee on Educational Equity, which are effective on passage.

§ 1 — COMPLAINTS FOR FAILURE OR INABILITY TO IMPLEMENT THE EDUCATIONAL INTERESTS OF THE STATE

By law, (1) a resident of, or parent or guardian of a student enrolled in, a school district can file a complaint with SBE, or (2) SBE can initiate a complaint alleging a local board’s failure to implement the educational interests of the state in accordance with statute. If SBE finds the complaint to be substantial, it must investigate.

By law, SBE must take action if it ultimately finds, after it investigates, that the board failed or is unable to provide educational opportunities to meet the requirements of a number of sections in the education statutes. To conform this step with the initial complaint, the act specifies that it is a finding of a failure or inability to implement the educational interests of the state that would trigger SBE’s action.

§ 2 — REGIONAL EDUCATION SERVICE CENTER (RESC)-OPERATED MAGNET SCHOOL GRANT

PA 07-3, June Special Session, set the general per-pupil grant for RESC-operated interdistrict magnet schools at \$3,000. For those that enroll at least 55% of

their students from a single town, the act set higher per-pupil grants for each enrolled student who is not a resident of the town that enrolls at least 55%. This act deletes a conflicting section that the 2007 act did not delete, which provides that schools meeting the 55% enrollment receive \$3,000 per pupil.

§ 4 — ACCOUNTABILITY

PA 07-3, June Special Session, required schools and districts that are designated as “in need of improvement” under Connecticut law and require corrective action under the federal No Child Left Behind Act to be placed on a list of low-achieving schools and districts and subjected to intensified supervision and direction by SBE. It authorized SBE to take a number of actions to improve student performance and remove a school or district from the “low-achieving” list and address other school or district needs. The act expands the board’s authority to require additional training and technical assistance for teachers, principals, and central office staff, to also include students’ parents or guardians. It is not clear if the act is attempting to allow SBE to require training for parents or require districts to provide the training for parents.

The act also allows SBE to require training of local and regional boards of education to improve their operational efficiency and effectiveness, and submit an annual action plan to the education commissioner outlining procedures for monitoring their effectiveness. Finally, the act provides that if SBE issues directives for the following and they affect working conditions, the directives must be carried out in accordance with the Teacher Negotiation Act, which defines the scope of, and procedures for, collective bargaining for teachers and administrators:

1. providing incentives to attract highly qualified teachers and principals;
2. directing the transfer and assignment of teachers and principals;
3. requiring additional training and technical assistance for teachers, principals, and central office staff members hired by the district, and parents and guardians of students;
4. directing the school board to develop and implement a plan addressing achievement and learning environment deficits as recommended in the instructional audit; and
5. directing the establishment of learning academies within schools that require continuous monitoring of student performance by teacher groups.

§ 5 — STATEWIDE ADVISORY COMMITTEE FOR V-T SCHOOLS

This act changes the types of businesses that must be represented on the statewide advisory committee for V-T schools. It requires that the business representatives appointed by the House speaker and Senate president pro tempore be from firms with more than 500 full-time employees, rather than 1,000 as under prior law; those appointed by the House majority and minority leaders and the Senate majority leader must be from firms with between 50 and 500 full-time employees, rather than between 500 and 1,000; and those appointed by the Senate minority leader and the governor must be from firms with fewer than 50, rather than fewer than 500, full-time employees.

§ 7 — COMMITTEE ON EDUCATIONAL EQUITY AND EXCELLENCE

Finally, the act eliminates the 30-member Committee on Educational Equity and Excellence, which was established on July 1, 1994. Under prior law, the committee had to (1) review and appraise the state's efforts to ensure equal educational opportunity and high standards of performance in the public schools; (2) review and recommend the repeal of state statutes and regulations which impeded the efficient and effective delivery of public education in Connecticut; and (3) make appropriate recommendations to the governor, SBE, and the legislature. The committee had no specific reporting or termination date and was supposed to meet at the call of the chair or at the request of a majority of the members. The committee was inactive for many years.

BACKGROUND

Educational Interests of the State

By law, the educational interests of the state include that (1) each child must have equal opportunity to receive a suitable program of educational experiences; (2) each school district must finance at a reasonable level at least equal to the minimum expenditure requirement an educational program designed to achieve this end; (3) each school district must provide educational opportunities for its students to interact with students and teachers from other racial, ethnic, and economic backgrounds and may provide such opportunities with students from other communities; and (4) the education laws within SBE's jurisdiction be implemented (CGS § 10-4a).

State Board Actions to Improve Student Performance

Pursuant to PA 07-3, June Special Session, SBE can take a number of actions to improve student performance and remove a school or district from the "low-achieving" list, and address other school or district needs, including:

1. requiring operations and instructional audits, the implementation of a state education department-approved curriculum, the use of state and federal funds for critical needs, and additional training and technical assistance;
2. identifying schools for (a) reconstitution or (b) management by an entity other than the board of education;
3. requiring the board for the school or district to implement a model curriculum;
4. directing the school board to develop and implement a plan addressing achievement and learning environment deficits;
5. assigning a technical assistance team to the school or district to guide initiatives and report progress to the education commissioner;
6. developing benchmarks for the school or district to meet;
7. providing 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. directing the establishment of learning academies within schools that require continuous monitoring of student performance by teacher groups.

Conditions for the 90-day Temporary Teaching Certificate

By law, SBE can issue a 90-day teaching certificate for elementary education, middle grades education, secondary academic subjects or fields, special education, and administration and supervision endorsement areas. A board of education's employing agent must make a written request for a certificate to be issued and attest that a special plan for supervising the certificate holder exists. The certificate applicant must meet a number of academic and training requirements.

PA 08-160—sHB 5826

Education Committee

Appropriations Committee

AN ACT CONCERNING SCHOOL LEARNING ENVIRONMENT

SUMMARY: This act extends the implementation date of PA 07-66, which (1) generally prohibits out-of-school suspensions and (2) extends, from five to 10 days, the maximum length of in-school suspensions. The act provides that in-school suspensions may be served in any school building under the jurisdiction of a board of education, as the board determines. It also requires the education commissioner, by October 1, 2008, to issue guidelines to help boards determine whether a pupil should receive an in- or out-of-school suspension.

The act also specifically expands the definition of bullying and requires school boards to implement the bullying policies the law required them to adopt. Finally, it requires (1) people in a teacher preparation program to be encouraged to complete a school bullying and suicide prevention component and (2) teachers to receive in-service training in bullying prevention. Boards of education that implement an evidence-based approach to bullying prevention do not have to provide the training.

EFFECTIVE DATE: July 1, 2008, except for the provisions on the suspension definition and guidelines, which are effective upon passage, and the in-service training, teacher preparation training, and SDE policy review, which are effective July 1, 2009.

SUSPENSIONS

The act extends, from July 1, 2008 to July 1, 2009, the implementation date of PA 07-66's limitation on out-of-school suspensions and its definition of "in-school suspension." PA 07-66 requires suspensions to be in-school unless the school administration determines, at the required informal suspension hearing, that the student (1) poses such a danger to people or property or (2) is so disruptive of the educational process that the suspension must be served outside of school. Prior law defined in-school suspension as exclusion from classroom activity, but not from school, for up to five consecutive days. PA 07-66 extended this to a maximum of 10 consecutive school days.

BULLYING

Definition

Prior law defined bullying as overt acts by one or more students intended to ridicule, humiliate, or intimidate that are repeated over time against another

student on school grounds, at a school-sponsored activity, or on a school bus. The act eliminates the requirement that the acts be repeated against the same student over time and instead requires only that the acts be committed more than once against any student during the school year.

Policies

By law, bullying policies must require school staff who witness or receive reports of bullying to notify school administrators. The act specifies that the notifications must be made in writing. It also requires administrators to investigate all written reports, rather than just those made by parents or guardians.

The law requires school personnel to investigate anonymous reports; the act provides that no disciplinary action can be taken based solely on anonymous reports. The act requires that the policies identify the appropriate school personnel, which can include pupil services personnel, responsible for taking bullying reports and investigating complaints. It specifies each school must invite each parent or guardian that they notify of bullying to one meeting.

The law requires each school to keep a list of the number of verified acts of bullying and make them available for public inspection. The act requires each school, within available appropriations, annually to report that number to the State Department of Education (SDE) in the manner prescribed by the education commissioner.

The act also requires that the policies include a prevention and intervention strategy, rather than just intervention, for school staff to deal with bullying. Under the act, the term "prevention and intervention strategy" may include, among other things:

1. implementation of a positive behavioral interventions and supports process or another evidence-based model for safe school climate or for bullying prevention identified by SDE;
2. a school survey to determine the prevalence of bullying;
3. establishment of a bullying prevention coordinating committee with broad representation to review the survey results and implement the strategy;
4. school rules prohibiting bullying, harassment, and intimidation and establishing appropriate consequences for those who engage in such acts;
5. adequate adult supervision of outdoor areas, hallways, lunchrooms, and other specific areas where bullying is likely to occur;
6. inclusion of grade-appropriate bullying prevention curricula in kindergarten through high school;

7. individual interventions with the bully, the bullied child, parents, and school staff;
8. school-wide training related to safe school climate; and
9. promotion of parent involvement in bullying prevention through individual or team participation in meetings, training, and individual interventions.

The act requires each school board to submit its bullying policy to SDE by February 1, 2009. Each board must ensure that the policy is included in the school district's publication of the rules, procedures, and standards of conduct for schools and in all student handbooks by July 1, 2009.

SDE Review of Policies

The act requires SDE, within available appropriations, to:

1. review and analyze the bullying policies it receives;
2. examine the relationship between bullying, school climate, and student outcomes;
3. document school districts' articulated needs for technical assistance and training related to safe learning and bullying;
4. collect information on the prevention and intervention strategies schools use to reduce the incidence of bullying, improve school climate, and improve reporting outcomes; and
5. develop model policies for grades kindergarten to 12, inclusive, to prevent bullying.

By February 1, 2010, SDE must report on the status of its efforts and any recommendations it may have regarding additional activities or funding to prevent bullying in schools and improve school climate to the Education and Children's committees. SDE can accept private donations to achieve these tasks.

BACKGROUND

Suspensions

The law allows a student to be suspended for conduct that (1) violates a publicized board policy or seriously disrupts the educational process or (2) endangers people or property on school grounds or at a school-sponsored activity. It defines suspension as exclusion from school privileges, or from transportation services only, for up to 10 consecutive school days.

PA 08-169—sSB 402

Education Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING AUTHORIZATION OF STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS, CHANGES TO THE STATUTES RELATING TO SCHOOL CONSTRUCTION, REGIONAL SCHOOL DISTRICTS AND MAGNET SCHOOLS, PROVIDING FUNDING FOR START-UP COSTS FOR MAGNET SCHOOLS AND THE DEVELOPMENT OF A PLAN FOR THE TEACHING OF CHILDREN WITH AUTISM

SUMMARY: This act authorizes state grant commitments for various new school construction projects and reauthorizes previously authorized projects that have changed substantially in cost or scope. It also:

1. imposes a deadline for school districts to submit school project change orders to the State Department of Education (SDE) for cost eligibility review;
2. requires ownership of school buildings for which the state contributed 95% or more, rather than 100%, of the cost, to revert to the state if the building is changed to a non-school use within 20 years after the General Assembly approved the grant for the project;
3. makes it easier for New London to qualify for a higher state school construction reimbursement rate for its magnet school construction projects;
4. establishes a separate process for school districts to award architectural or construction management service contracts on school projects;
5. establishes an alternative procedure for a certain regional school district to add or withdraw grades from the district;
6. makes the community-technical college board of trustees eligible for a magnet school construction grant on behalf of Quinebaug Valley Community College;
7. allows additional entities other than local or regional school districts to apply for and receive state school construction grants for interdistrict magnet schools that implement the 2008 *Sheff v. O'Neill* settlement ("Sheff magnets");
8. gives Sheff magnet applicants more time to apply and receive approval for school construction grants and allows them to receive a 95% reimbursement rate for their eligible construction costs;

9. adds a magnet school operated by Goodwin College to the act's 2008 project list, commits the state to reimburse 95% of the school's eligible construction cost, and limits the total project costs to \$80 million;
10. authorizes up to \$3 million in state bonding for start-up grants for new Sheff magnets;
11. increases the FY 09 state bond authorization for school construction projects by \$20 million;
12. requires education officials to study and recommend how to incorporate ways of teaching children with autism and other developmental disabilities into training programs for teachers, other educational personnel, and parents; and
13. waives statutory and regulatory requirements to make specified school construction projects eligible for state grants subject to certain conditions.

EFFECTIVE DATE: Upon passage unless otherwise noted below.

§ 1 — GRANT COMMITMENTS FOR LOCAL SCHOOL PROJECTS

The act authorizes \$345.37 million in state grant commitments for 29 new school construction projects, with estimated total project costs of \$535.61 million. It also reauthorizes 18 previously authorized projects that have changed substantially (more than 10%) in cost or scope. The reauthorizations increase state grant commitments for these projects by a net \$109,425,640 from the amounts previously authorized.

§ 2 — DEADLINE FOR SUBMITTING CHANGE ORDERS

The act requires school districts to submit school project change orders and other change directives issued on or after July 1, 2008 to the education commissioner within six months after issuance. It excludes any change order not submitted within six months and in a manner the commissioner prescribes from the project costs eligible for a school construction grant.

A change order is an amendment to a school construction project that does not have to be competitively bid. SDE guidelines state that school districts should use change orders only for unforeseen or emergency conditions arising during construction. The education commissioner reviews change orders to determine if their costs are eligible for state reimbursement.

EFFECTIVE DATE: July 1, 2008

§ 3 — REVERSION TO THE STATE UPON A CHANGE IN USE

Under prior law, if the state grant for a school project equalled 100% of its eligible cost, the building had to be used for the grant purpose for at least 20 years from the date the General Assembly approved the grant. If the building's use was changed within the 20-year period, title reverted to the state unless the education commissioner, for good cause, decided otherwise. The law applied to projects approved on or after July 1, 1993. This act extends the reversion requirement to projects approved after that date for which the state paid 95% or more of the project cost.

The change conforms the reversion requirement to a 2004 reduction in state grant support for interdistrict magnet school, vocational agriculture center, and regional special education facility projects from 100% to 95% of the eligible cost.

EFFECTIVE DATE: July 1, 2008

§ 12 — NEW LONDON MAGNET SCHOOL ENROLLMENT

The act makes it easier for New London to qualify for a higher state reimbursement rate for its magnet school construction projects.

By law, the education commissioner may designate one or two schools in New London as interdistrict magnet schools, thus making construction projects at those schools eligible for the 95% interdistrict magnet school reimbursement rate. To qualify for the higher reimbursement, New London must, by June 30, 2012, achieve a minimum district-wide enrollment of 15% of students from outside the district. If it does not, it must repay the difference between the 95% school construction grant and the grant it would have received under its regular, lower reimbursement rate (approximately 78%).

For purposes of determining the out-of-district enrollment, the act requires students enrolled in the Regional Multicultural Magnet School to be considered enrolled in New London's interdistrict magnet school district. The Regional Multicultural Magnet School is run by LEARN, which is the regional educational service center (RESC) for the New London area.

§ 13 — EAST HARTFORD/GLASTONBURY MAGNET SCHOOL

Under certain conditions, the act transfers a previously authorized grant commitment for a new interdistrict magnet school from East Hartford to Glastonbury with the school to be located in Glastonbury. It requires total project costs of up to \$29,724,250 to be reimbursed at the rate of 100% of eligible costs and up to \$7 million of additional costs to

be reimbursed at the rate of 95%. It allows any or all of the existing plans and specifications to be used for the Glastonbury project and makes funds previously spent on them eligible for reimbursement whether or not they are used or the project is completed. Under the act, East Hartford is not required to repay up to \$2.9 million of a state grant previously spent for the project if (1) the expenses were for parts of the project being transferred to Glastonbury and (2) Glastonbury makes no further claim for reimbursement of those expenses.

The act makes these waivers contingent on (1) the Hartford board of education agreeing to send students to the school and (2) project construction starting within two years of the act's passage.

§ 17 — SELECTION PROCESS FOR ARCHITECTS AND CONSTRUCTION MANAGERS ON STATE-FUNDED SCHOOL PROJECTS

The act establishes a separate process by which local school districts must award contracts for architectural or construction management services on school construction projects receiving state school construction grants.

It also defines the “most responsible qualified proposer” for an architectural or construction manager services contract as the firm the school district selects after considering the price and the qualities needed to faithfully perform the work based on the criteria and work scope the district included in its request for proposals.

Required Selection Process

Under prior law, school districts had to award contracts for architectural and construction management services to the lowest responsible qualified bidder after a public invitation to bid advertised in a newspaper circulating in the town where the construction would occur. The act requires districts to award the contracts to the most responsible, rather than the lowest responsible, qualified firm using a public selection process that contains certain prescribed steps.

To start the process, a district must issue a request for qualifications (RFQ). From the firms responding to its RFQ, the district must solicit proposals (RFPs) from those firms that meet the RFQ criteria. The RFPs must include the firms' fees. The act requires districts to advertise the proposed contracts in a newspaper circulating in the town where the project will take place, unless the district is using a state contract for the project. Although the act does not explicitly say so, it appears that the advertising requirement applies to the RFQ since only firms responding to the RFQ can submit responses to the RFP.

Award Criteria

After the RFP process, the district must evaluate the proposals to determine no more than the four most responsible qualified firms. To determine the finalists, the district must use criteria listed in the RFQ and RFP. In evaluating the finalists' bids, the district must give due consideration to:

1. each firm's price for the project;
2. its experience with work of similar size and scope as that required for the project;
3. its organization and team structure for the project;
4. past performance, including meeting project schedules and budgets, and the number of change orders for projects;
5. the work approach the project requires; and
6. documented contract oversight capabilities.

The evaluation can also include specific project criteria.

For final selection, a district is limited to the pool of no more than the four firms. In making the final selection, the district must consider all criteria included in the RFP.

EFFECTIVE DATE: July 1, 2008

§ 19 — MIDDLETOWN SCHOOL PROJECTS

The act waives the requirements of the school construction law to allow Middletown to (1) use federal, other state, and private funding for two school projects in addition to state school construction grants and (2) deduct these outside grants from its locally funded share of the projects' cost rather than from the share reimbursed by the state school construction grant for the projects.

§§ 23 & 24 — ADDING OR WITHDRAWING GRADES FROM A REGIONAL SCHOOL DISTRICT

The act establishes an alternative procedure for a qualifying regional school district that does not include grades K-12 to add or withdraw grades from the regional district. The alternative procedure allows the regional board of education, on its own or at the request of two or more member towns' boards of education, to recommend and develop a plan to add or withdraw grades and submit it directly to a referendum in the member towns. The alternative procedure bypasses the requirement that member towns' boards of education and finance appoint a special committee to study whether to add or withdraw grades.

Districts That May Use the Alternative Procedure

To be eligible to use the alternative procedure to add or withdraw grades, a regional district must have three member towns, each with a population between 3,000 and 7,500, and a combined population of between 10,000 and 20,000. Only Region 4, made up of Chester, Deep River, and Essex, meets these criteria.

The population qualifications must be determined using the same population data as the Education Cost Sharing (ECS) formula.

Plan to Add or Withdraw Grades

Under the mandatory procedure that previously applied to all districts, before any grades may be added or withdrawn from a regional district covering less than grades K-12, there must be a study of the advisability of the change. The regional board of education may recommend the study on its own and must do so if two or more of its member towns' boards of education ask for it. The regional board must recommend the study to the chairpersons of the affected towns' boards of education and finance or other fiscal authority. The law establishes who appoints study committee members, a deadline for issuing a committee report, and maximum funding for the study.

The existing law is still mandatory for most regional districts, but the act also allows a qualifying regional board of education to instead develop its own plan, without the involvement of town fiscal authorities and without the study committee.

Referenda on Plan

Under the existing procedure, if the study committee recommends adding or withdrawing grades, the issue must be submitted to referenda in member towns. Under the act's alternate procedure, the regional board of education's plan to add or withdraw grades must be submitted to the referenda. As under the regular procedure, the alternative process requires referenda to be held in the same manner as referenda establishing a regional school district (CGS § 10-45).

The act makes conforming changes to the referendum procedure to accommodate a recommendation from the regional board of education or a study committee. As under the regular procedure, the referenda must occur between 45 and 90 days after a recommendation. If a majority of the whole district votes to approve the addition or withdrawal of grades, the plan must be implemented. The act changes the procedure that applies if the plan is rejected. It requires that, in every case, the regional board of education decide whether to immediately submit it to a second referendum. Under prior law, when a plan to add or withdraw grades came from a study committee, it was

that committee's decision whether to submit to a second referendum.

EFFECTIVE DATE: July 1, 2008.

§§ 25 & 26 — QUINEBAUG VALLEY MIDDLE COLLEGE HIGH SCHOOL

The act makes the community-technical colleges board of trustees, on behalf of Quinebaug Valley Community College (QVCC), eligible for interdistrict magnet school construction grants for the Quinebaug Valley Middle College High School on the QVCC campus. It also makes the board eligible for a state school construction grant reimbursement rate of 100% of the eligible costs for constructing the school. It adds the project to the 2008 construction project priority list and makes it eligible for grant consideration if the board files a grant application on or before June 30, 2009 and the project complies with all other requirements of the school construction law.

§ 26 — SCHOOL CONSTRUCTION GRANTS FOR SHEFF PROJECTS

Eligible Entities

The act expands the entities that may apply for and receive state school construction reimbursement grants. Under prior law, only a local and regional board of education and the community technical college board of trustees on behalf of Manchester Community College could apply.

Under the act, the following entities may also apply for grants to pay eligible capital costs for interdistrict magnet schools that help the state to meet the goals of the 2008 Sheff settlement:

1. two or more boards of education operating under a cooperative arrangement;
2. the community-technical colleges board of trustees on behalf of any community college;
3. the UConn, Connecticut State University, or any independent college's board of trustees on behalf of their respective institutions; and
4. any other nonprofit corporation the education commissioner approves.

Grant Applications for Sheff Projects

The act gives applicants seeking authorization for school projects to implement Sheff goals an additional two months to submit their grant applications. In general, school construction grant applications are due by June 30 each year. The act gives Sheff project applicants until September 1. And, instead of requiring the local funding authorization to be included in the application as is required for other school construction projects, it gives Sheff project applicants until

December 1 of the application year to secure and report all required state and local approvals needed to complete the grant application.

Additions to Priority List After Legislative Submission

The act allows Sheff projects to be added to the school construction project priority list after the SDE submits the list to the legislature's school construction committee for approval. Under prior law, the only projects that could be added were those needed to (1) preserve a school's accreditation after the school is placed on probation or (2) replace school buildings that a state agency intends to take for a public purpose.

EFFECTIVE DATE: July 1, 2008

§ 27 — SHEFF MAGNET SCHOOL PROJECT REIMBURSEMENT RATE

Starting with FY 08, the act makes certain entities operating Sheff interdistrict magnet schools eligible for state reimbursement of up to 95% of the eligible construction costs. The new eligibility applies to the boards of trustees of the community-technical colleges, UConn, CSU, or any independent college on behalf of their respective institutions, and nonprofit organizations approved by the education commissioner. The 95% reimbursement rate already applies to any interdistrict magnet school project operated by a board of education, cooperative arrangement among school districts, or RESC that started in FY 04 or after.

EFFECTIVE DATE: July 1, 2008

§ 28 — GOODWIN COLLEGE MAGNET SCHOOL

The act adds the Goodwin College-Connecticut River Academy for Earth and Space Science Magnet School in East Hartford to the 2008 school construction project priority list. It makes the project eligible for a school construction reimbursement grant if it files a grant application by September 1, 2008 and meets all other requirements of, and is eligible for assistance under, the school construction law. The total cost for the project is limited to \$80 million.

§ 29 — SHEFF MAGNET SCHOOL START-UP GRANTS

The act authorizes up to \$3 million in state bonding for capital start-up cost grants for new Sheff interdistrict magnet schools. It requires the SDE to use the funds to give grants for portable classrooms; leased space; and equipment purchases, including computers and classroom furniture for such schools.

EFFECTIVE DATE: July 1, 2008

§30 — GENERAL BOND AUTHORIZATION FOR SCHOOL CONSTRUCTION PROJECTS

The act increases the state bond authorization for FY 09 school construction projects by \$20 million, from \$603 million to \$623 million.

EFFECTIVE DATE: July 1, 2008

§ 31 — TEACHING CHILDREN WITH AUTISM AND OTHER DEVELOPMENTAL DISABILITIES

The act requires the education, higher education, and developmental services commissioners, and Southern Connecticut State University's (SCSU) president, or their designees, to develop recommendations for incorporating ways of teaching children with autism or other developmental disabilities in (1) teacher preparation programs; (2) requirements for beginning teacher certification; (3) in-service training for active teachers; and (4) training programs for school paraprofessionals, related service professionals, early childhood certificate holders, school administrators, and parents. The commissioners and the president must define autism and developmental disabilities for purposes of the recommendations. (The rest of the act replaces the SCSU president with the Connecticut State University (CSU) chancellor.)

The commissioners and the chancellor must consult with appropriate parties, including constituent units, independent colleges, the State Education Resource Center, and the RESCs in developing the definition and the recommendations.

The act requires the commissioners and the chancellor to address:

1. competencies for beginning teacher candidates, school paraprofessionals, related service professionals, early childhood certificate holders, school administrators, and parents;
2. existing and new capacity required to implement the recommendations;
3. the extent that new methods are needed for school readiness and K-12 programs;
4. the availability of experts in teaching methods for children with autism and other developmental disabilities;
5. collaborators who should be involved in developing the proposed training;
6. best pedagogical practices, including research-based strategies that address (a) characteristics of children with these disabilities, (b) curriculum planning, modifications in curriculum and instruction, adaptations, and specialized methods, (c) assistive technology, and (d) inclusive practices including collaborative partnerships;

7. incorporating the recommended methods into special education programs, requirements, and training in compliance with the federal special education law;
8. a budget and timeline for implementing the plan; and
9. steps to address the plan's effect on school readiness programs, elementary and secondary schools, and higher education institutions.

The act requires the education commissioner and the CSU chancellor or their designees to report the recommendations to the Education, Public Health, and Higher Education committees by February 1, 2009.

§§ 4-11, 14-18, 20-22, & 32-33 — WAIVERS FOR SPECIFIC SCHOOL CONSTRUCTION PROJECTS

The act waives certain statutory and regulatory requirements to make specified school construction projects eligible for state grants under certain conditions as shown in the table below.

District Building	Project	Requirements Waived	Conditions
Newington: Board of education central administrative offices	Purchase and alter a building at former Fairfield Hills Hospital site	<ul style="list-style-type: none"> • Timing of bid and SDE plan approval • Meeting with SDE staff prior to executing a design-build contract 	SDE approval of plans and specifications
Waterbury: Various schools	Code violations	Timing of bid and SDE plan approval	SDE approval of plans and specifications
Stamford: Cloonan Middle School	Alterations	Timing of bid and SDE plan approval	<ul style="list-style-type: none"> • SDE approval of plans and specifications • Costs must be otherwise eligible
Newington: Newington High School	Expansion, alterations, and code violations	Timing of bid and SDE plan approval	SDE approval of plans and specifications
West Hartford: Wolcott Elementary School	Zero carbon footprint demonstration project, including solar array for roof, improved heating and ventilation system controls, lighting controls for daytime dimming, and window treatments to retain heat in winter and reduce heat gain in summer, all of which must be considered eligible costs	<ul style="list-style-type: none"> • Deadline for inclusion on 2008 priority list • Local funding authorization required prior to application • Eligible costs • Other federal, state, and private funding received for the project must be deducted from cost reimbursed by state school construction grant 	<ul style="list-style-type: none"> • Costs eligible for grant commitment limited to \$750,000 • District must file an application by 6/30/09 • Waivers take effect 7/1/08
Scotland: Scotland Elementary School	Expansion and alteration	Projected enrollment calculation formula	Use 343 as projected enrollment to increase eligible square footage
Bridgeport: Wilbur Cross School	Alterations	<ul style="list-style-type: none"> • Deadline for inclusion on 2008 priority list • Local funding authorization required prior to application 	<ul style="list-style-type: none"> • Completed application filed by 6/30/08 • Meet all other statutory requirements
Norwich: Kelly Middle School	Addition and renovate as new	<ul style="list-style-type: none"> • Deadline for inclusion on 2008 priority list • Local funding 	<ul style="list-style-type: none"> • Completed application filed by 6/30/08

District Building	Project	Requirements Waived	Conditions
		authorization required prior to application	<ul style="list-style-type: none"> • Meet all other statutory requirements
West Hartford: Charter Oak Elementary School	Model children's campus project, including a Sheff interdistrict magnet school	<ul style="list-style-type: none"> • Deadline for inclusion on 2008 priority list • Local funding authorization required prior to application • Eligible costs 	<ul style="list-style-type: none"> • Costs eligible for grant commitment limited to \$700,000 • District must file an application before 6/30/09 • Project meets all other requirements • Waivers take effect 7/1/08
Madison: Dr. Robert H. Brown School	Roof replacement	Timing of bid and SDE plan approval	SDE approval of plans and specifications
Lebanon: Lyman Memorial High School	Vocational-agriculture equipment purchase	Deadline for submitting completed grant application	Documentation of required local legislative and funding authorizations required by 6/30/08
Portland: Portland Middle/High School	Expansion and alteration	Projected enrollment calculation	Use 1,070 as projected enrollment to increase eligible square footage
Bridgeport: Multi-Magnet High School	New construction	Requirement to begin construction within two years after legislative authorization	Construction must start by 6/30/10
Region 19: E.O. Smith High School	Vocational agriculture equipment and building alterations	Timing of bid and SDE plan approval	SDE approval of plans and specifications
New Haven: Various schools	Various projects	Allow the district to apply a share of proceeds received from the state for the sale of Woodward School to reduce local funding share of various projects	The amount of the proceeds to be applied is limited to \$3 million.
Watertown: Multiple projects	Roof replacement, including ceiling and fire prevention work	<ul style="list-style-type: none"> • Requirement that project scope be established at time of application • Requirement that SDE approve project plans prior to bidding and starting the project 	SDE approval of plans and specifications
New Canaan: New Canaan High School	Portion of project for renovating and extending the school concerning remediation of latent asbestos or other hazard defined by code	Requirement for state-funded school construction projects to be competitively bid	

BACKGROUND

School Construction Grants

The state reimburses school districts for between 20% and 80% of the eligible costs of local school construction projects. The reimbursement rate depends mostly on town wealth but districts may receive a higher reimbursement for certain types of projects, such as those involving space for school-readiness programs or full-day kindergarten. In addition, certain types of interdistrict projects (vocational agricultural centers,

regional special education facilities, and interdistrict magnet schools) are reimbursed at the rate of 95% of eligible costs. Districts also receive a 10-percentage-point bonus for projects undertaken in cooperation with one or more other districts.

Related Act

Section 31 of this act concerning teaching children with autism and other developmental disabilities was also passed as a separate special act (SA 08-5).

PA 08-170—sSB 404

Education Committee

Appropriations Committee

AN ACT CONCERNING VARIOUS EDUCATION GRANTS AND CHANGES TO THE STATUTES CONCERNING MAGNET SCHOOLS, VOCATIONAL AGRICULTURE CENTERS AND THE CERTIFICATION OF BILINGUAL EDUCATION TEACHERS

SUMMARY: This act makes adjustments in various education grants for FY 09, including Education Cost Sharing (ECS), school readiness, and priority school district grants. Starting in FY 10, the act also raises the minimum proportion of any annual increase in its ECS grant that a town must allocate to education spending in order to meet its minimum budget requirement (MBR).

The act adopts new grants and transfers funds to implement the 2008 *Sheff v. O'Neill* settlement the General Assembly approved. Finally, it makes changes in various education laws dealing with enrollment in interdistrict magnet schools and vocational agriculture centers, certification for bilingual education teachers, and school readiness programs.

EFFECTIVE DATE: July 1, 2008, unless otherwise noted below.

§ 1 — MINIMUM BUDGET REQUIREMENT FOR CERTAIN REGIONAL SCHOOL DISTRICTS

For FYs 08 and 09, the act establishes a special MBR for any town that (1) is a member of a grade 7-12 or 9-12 regional school district and (2) compared to the previous fiscal year, has a reduced assessment, excluding debt service, for students enrolled in the regional district (i.e., where there has been a drop in the number of students from the town who attend school in the regional district).

The act allows such a district to meet the MBR by appropriating the legal minimum percentage of its ECS increase (15% for FYs 08 and 09 and 50% under the act for FY 10) for education. (The same provision appears

in § 13 but since that section does not take effect until July 1, 2009, this section is also needed to cover FYs 08 and 09. When § 13 takes effect, it repeals this provision.)

§ 2 — ECS PHASE-IN ADJUSTMENT

By law, increases in ECS grants to towns are being phased up to full funding based on the difference between each town's base aid (its FY 07 grant) and its fully funded grant. PA 07-3, June Special Session, established the phase-in percentages for FY 08 and FY 09. This act reduces the FY 09 phase-in percentage from 23.3% to 22.02% of the difference between each town's base aid and its fully funded grant. It also requires the State Department of Education (SDE) to adjust the percentage so that, as prior law already required, each town receives an FY 09 grant that is at least 4.4% higher than its FY 08 grant.

§ 3 — SUPPLEMENTAL PRIORITY SCHOOL DISTRICT FUNDS DISTRIBUTION

The act reduces the total funding for a supplemental priority school district (PSD) grant to all priority districts for FY 09 and subsequent years by \$590,868, from \$4,750,990 to \$4,160,122. By law, the State Board of Education must allocate a share of these supplemental funds to each priority school district in proportion to its regular PSD grant. The money is in addition to all other PSD grants each district receives.

§ 4 — FORMULA FOR DISTRIBUTING SCHOOL READINESS GRANTS TO PRIORITY SCHOOL DISTRICTS

Distribution Formula

The act eliminates the existing permanent formula for distributing PSD school readiness grants and substitutes a temporary distribution formula for FY 09 that is based on each district's school readiness program capacity.

The prior formula distributed funds each fiscal year based on each district's average kindergarten enrollment for the three years preceding the grant year adjusted for a ratio of the free and reduced price meals for all the district's severe need schools.

The act, instead, requires grants for FY 09 to be determined by adding (1) the product of (a) the number of school readiness program slots each district contracted for as of March 30, 2008 and (b) the per-child cost of each slot for FY 09, reduced for less-than-year-round slots, and (2) the product of (a) the additional slots the district requests for FY 09 and (b) the FY 09 per-child cost, reduced for less-than-year-

round slots. If the result is greater than the available appropriation, the education commissioner must reduce the number of additional slots the district requested to stay within the appropriated amount.

SDE Administrative Set-Aside

The act eliminates SDE's authority to retain up to 0.5% of the PSD school readiness appropriation for coordination, program evaluation, and administration. However, the law still allows SDE to retain \$198,200 of the appropriation for these purposes for FY 09.

§ 5 — SCHOOL READINESS

Per-Child Grant for FY 09

The act increases the maximum per-child cost of the SDE's school readiness program for FY 09 to \$8,346. This amount represents a 4% increase over the FY 08 amount. The maximum FY 08 cost was \$6,925 per child for the first half of FY 08 (July 1 through December 31, 2007) and a maximum of \$8,266 per child for the second half (January 1 to June 30, 2008).

Program Accreditation Deadline

PA 08-85 allows SDE to continue to provide funding to school readiness programs that do not meet accreditation requirements by deadlines established in the law as long as, among other things, the program is licensed by the Department of Public Health (DPH). This act specifies that the DPH licensure requirement applies only if the public health statutes require the program to be licensed by DPH.

§ 6 — OPEN CHOICE PROGRAM

Preschool Program Grants for Hartford Students

The act allows the education commissioner to provide grants for Hartford students to participate in preschool programs in addition to the all-day kindergarten programs under the Open Choice interdistrict school attendance program between Hartford and other districts. As with the kindergarten program grants, the preschool grants can be used to pay for before- and after-school care and remedial services for preschool students in the program as well as for subsidies to receiving districts.

The act eliminates an existing, more general authorization for the commissioner, within available appropriations, to make grants for preschool and kindergarten programs in the Sheff region (see below) that the commissioner approves for students participating in Open Choice.

Academic Support Grants

The act restricts the commissioner's authority to make grants, within available appropriations, for academic support programs for Open Choice participants. Under the act, the grants are limited to academic support programs that help the state meet the goals of the 2008 Sheff agreement. Under prior law, the authorization applied generally to such programs in the Sheff region.

Sheff Region

The act eliminates the statutory list of the school districts that make up the Sheff region. The same districts are listed in the agreement. They are: Avon, Bloomfield, Canton, East Granby, East Hartford, East Windsor, Ellington, Farmington, Glastonbury, Granby, Hartford, Manchester, Newington, Rocky Hill, Simsbury, South Windsor, Suffield, Vernon, West Hartford, Wethersfield, Windsor, and Windsor Locks.

§ 7 — SHEFF MAGNET SCHOOLS

Operating Entities

The act expands the entities that may establish and operate interdistrict magnet schools and receive state grants for doing so in order to help the state meet the goals of the 2008 Sheff settlement ("Sheff magnets"). Under prior law, state-supported interdistrict magnet schools could be operated only by (1) a local or regional board of education, (2) two or more boards of education operating under a cooperative arrangement, (3) regional educational service centers (RESCs), and (4) the community-technical college board of trustees on behalf of Manchester Community College.

The act allows the following additional entities to establish and operate Sheff magnets:

1. the community-technical colleges board of trustees on behalf of any community college;
2. the UConn, Connecticut State University, or any independent college's board of trustees on behalf of their respective institutions; and
3. any other nonprofit corporation the education commissioner approves.

Operating Grant Approval

The act expands the criteria the education commissioner must consider before approving annual operating grants for Sheff magnets to include whether the school is meeting the Sheff agreement's desegregation standard. It bars the commissioner from approving an operating grant for any Sheff magnet that does not meet the standard by its second year of

operation unless he determines that, to comply with the Sheff agreement, it is appropriate to continue the grant for an additional year or years. If the commissioner makes this determination, the act exempts a Sheff magnet (1) that began operating before July 1, 2005 from the requirement that an interdistrict magnet school enroll no more than 80% of its students from a single district and (2) that began operating on or after July 1, 2005 from requirements that (a) it enroll no more than 75% of its students from a single district and (b) its total enrollment be at least 25% but no more than 75% minority.

By law, before approving a state operating grant for any interdistrict magnet school, the commissioner must consider (1) whether the program is likely to increase student achievement; (2) whether it is likely to reduce racial, ethnic, and economic isolation; (3) the percentage of student enrollment from each participating district; and (4) the school's proposed budget and funding sources.

Per-Student Grants for RESC-Operated Sheff Magnets

By law, RESC-operated magnet schools receive higher per-student operating grants for enrolling students from many districts. A RESC-operated magnet that enrolls less than 55% of its students from a single town receives a per-student grant of \$7,620 for FY 09, \$8,180 for FY 10, and \$8,741 for FY 11. The act gives these grants to RESC-operated Sheff magnets that enroll less than 60% of their students from Hartford.

A RESC-operated magnet school that enrolls 55% or more of its students from a single town receives a state grant for each student from any other town of \$6,730 for FY 09, \$7,440 for FY 10, and \$8,158 for FY 11. The act gives these grants to RESC-operated magnet schools that enroll 60% or more of their students from Hartford, for each student from outside Hartford.

Academic Support and Summer School Grants

The act makes several changes in grants for summer school educational programs offered to students attending interdistrict magnet school programs. Prior law allowed the education commissioner, within available appropriations, to make grants to RESCs that offer such programs. The act:

1. expands the types of programs eligible for grants to include academic support as well as summer school programs;
2. limits grant-eligible programs to those that serve students attending Sheff magnets, and
3. expands the entities that can receive the grants to any of the entities authorized to operate Sheff magnets.

Start-Up Grants

The act authorizes the education commissioner, within available appropriations, to provide grants of up to \$75,000 for start-up costs for developing new Sheff magnet programs. It allows any authorized Sheff magnet operating entity to receive the grants. It exempts these grants from the payment schedule for other magnet operating grants, which requires the state to pay 50% by September 1 and the balance by January 1.

§ 8 — TRANSPORTATION GRANTS FOR SHEFF MAGNETS

The act allows any authorized Sheff magnet operating entity to receive state transportation grants for transporting students to interdistrict magnet programs. The grants reimburse operating entities for the reasonable costs of such transportation, up to \$1,300 per student. The act eliminates the SDE's authority to retain up to 1% of the total magnet school transportation appropriation for program evaluation and administration.

§§ 7 & 8 — QUINEBAUG VALLEY COMMUNITY COLLEGE

The act makes the community-technical colleges board of governors, on behalf of Quinebaug Valley Community College, eligible for interdistrict magnet school, operating, and transportation grants for any interdistrict magnet school, not just a Sheff magnet.

§ 9 — ASYLUM HILL CHARTER SCHOOL ADMISSIONS

The act allows the Asylum Hill Charter School, if the education commissioner approves it as a state charter school and during its first year of operation, to enroll students directly from its pre-kindergarten program without operating a lottery for those students. The rest of the school's students must be admitted through a lottery.

By law, except for giving a preference for siblings, charter schools are required to determine admissions by lottery when they do not have enough places for all applicants.

§ 10 — CHARTER SCHOOL START-UP GRANTS

The act authorizes the education commissioner, within available appropriations, to provide grants of up to \$75,000 for start-up costs for newly approved state charter schools that the commissioner determines help the state meet the goals of the Sheff agreement.

§ 11 — FUND TRANSFERS

The act authorizes the education commissioner to transfer FY 09 funds appropriated for the Sheff settlement in the state budget adopted in 2007 (PA 07-1, June Special Session) to the following programs:

1. grants for interdistrict cooperative programs,
2. per-student grants for state charter schools,
3. Open Choice Program grants,
4. interdistrict magnet school grants, and
5. regional vocational-technical schools for programs to help meet Sheff goals.

§ 12 — TRANSPORTATION TO VOCATIONAL-TECHNICAL SCHOOLS AND AGRICULTURAL SCIENCE AND TECHNOLOGY EDUCATION CENTERS

The act allows the education commissioner, within available appropriations, to reimburse local and regional boards of education and RESCs up to \$2,000 per student for the cost of transporting Hartford students to vocational-technical schools or agricultural science and technology education centers outside Hartford to help meet Sheff goals. Under prior law, the state reimbursement for any local board of education that transports students to such schools was between zero and 65% of the cost, depending on town wealth.

§ 13 — ECS MINIMUM BUDGET REQUIREMENT

Starting with FY 10, this act raises the minimum proportion of any annual increase in its ECS grant that a town must allocate to education spending in order to meet its MBR and establishes a special MBR for certain regional school district towns with falling enrollment.

All Towns

Prior law required each town to spend for education at least its budgeted appropriation for the prior year plus from 15% to 65% of any ECS grant increase it received. Starting in 2010, the act generally increases this MBR percentage range to 50% to 80%, thus requiring all towns to allocate at least half of any annual ECS grant increase to increased education spending.

As under prior law, each town's exact MBR within the range is determined by the average of the relationships between it 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-ranked town, the more of its ECS

increase the town must devote to its education budget (i.e., the closer to 80%).

School Districts in Need of Improvement

Under prior law, a town whose school district was in the third year or more of failing, as a district, to make adequate yearly progress in math or reading had to add 20 percentage points to the share of its ECS increase that it must spend on education. The act eliminates the permanent requirement that such districts spend this extra amount and instead applies it only to FY 09. (This change has no effect since it does not take effect until July 1, 2009.)

In FY 10, the act requires such a town to spend at least its new MBR percentage plus 20 percentage points or 80% of its increase, whichever is greater. Thus, for FY 10 only, the act requires districts in need of improvement to spend from 80% to 100% of any ECS increase on education, instead of the 35% to 85% required by prior law.

Regional School Districts

The act establishes a special MBR for any town that (1) is a member of a grade 7-12 or 9-12 regional school district and (2) compared to the previous fiscal year, has a reduced assessment, excluding debt service, for students enrolled in the regional district (i.e., where the number of students from the town who attend school in the regional district has dropped).

It allows such a district to meet the MBR by appropriating the legal minimum percentage of its ECS increase (15% under prior law for FY 09 and 50% under the act for FY 10) for education.

The act applies to all fiscal years starting with FY 08 and repeals an identical temporary provision in § 1 that covers FYs 08 and 09.

EFFECTIVE DATE: July 1, 2009

§ 14 — DIRECT ENROLLMENT IN SHEFF MAGNETS

The act allows Sheff magnets that begin operating between July 1, 2008 and June 30, 2009 to enroll students directly from any district without participation agreements. In general, interdistrict magnet schools may enroll students directly only if they have unused capacity after accommodating students from participating districts in accordance with their enrollment agreements.

If a RESC operates the school, any tuition it charges to local or regional boards of education (presumably, boards otherwise responsible for educating a student enrolling directly in the school) must equal at least 75% of the difference between the magnet school's

estimated per-pupil expenditure and the sum of (1) its state per-pupil grant and (2) any other revenue available to it as determined by the school's operator. If a board of education fails to pay the tuition, the education commissioner can withhold ECS funds from the town, 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 requires each Sheff magnet operating under the direct enrollment exception for the 2008-09 school year to establish district participation agreements before operating the school for the 2009-10 school year.

§ 15 — BILINGUAL EDUCATOR CERTIFICATION

The act extends temporary certification requirements for bilingual education teachers for an additional year. The temporary requirements have been in effect since July 1, 2005 and were scheduled to expire on July 1, 2008. The act extends them until July 1, 2009. The extension affects both the subject and language competency requirements for such teachers.

Under the temporary certification requirements, bilingual education teachers (1) do not have to hold a dual certification in both bilingual education and either elementary education, if they wish to teach at the elementary level, or a subject area if they wish to teach a subject at the secondary level and (2) must demonstrate oral and written competency in both English and their other teaching language.

§ 16 — TECHNOLOGY PILOT PROGRAM

Prior law allowed the SDE, within available appropriations, to establish a pilot program to use technology in providing computer-assisted writing, instruction, and testing for 9th and 10th grade public school students. The act expands the program to cover students in grades six through 12.

By law, grants go to boards of education and regional vocational-technical schools for demonstration projects. Grant funds may be used for computer hardware and software, professional development, technical consulting assistance, and other related activities. The commissioner must select a diverse group of pilot program participants based on population, geographic location, and school or district economic characteristics.

§ 17 — INTERDISTRICT MAGNET SCHOOL STUDENTS FROM NONPARTICIPATING DISTRICTS

Students from Nonparticipating Districts

Under prior law, after accommodating students from participating districts in accordance with enrollment agreements, an interdistrict magnet school with unused capacity could directly enroll interested students. Students from districts that were not participating in the school had to be given preference. The act specifies that preference must instead be given to students from districts that are not participating in any interdistrict magnet schools or the Open Choice interdistrict student attendance program, to an extent determined by the education commissioner.

Tuition Payments for Students from Nonparticipating Districts

By law, any board of education not participating in an interdistrict magnet school whose student attends the school on a space-available basis must contribute funds to support the school's operation in an amount equal to the per-student tuition, if any, the school charges participating districts. Prior law set the minimum tuition for students from nonparticipating districts at 75% of the difference between the magnet school's average per-pupil expenditure for the prior year and the state operating grant payable to the magnet school for the student. The act modifies this statutory tuition formula and applies it only to RESC-operated magnets schools and only for FY 09. It also limits the annual increase in the per-student tuition to no more than 10%.

Under the act, for FY 09, tuition at RESC-operated interdistrict magnet schools for students from nonparticipating districts must be at least 75% of the difference between (1) the school's average per-pupil expenditure for the prior fiscal year and (2) its per-pupil state grant plus any other revenue available to it, calculated on a per-pupil basis. As under prior law, if a school board fails to pay the tuition, the education commissioner can withhold ECS funds from the district, 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 also removes a reference to participating districts to conform to a 2007 change.

Enrollment Opportunities for Students from Participating Districts

The act also requires participating districts to provide opportunities for their students to attend an interdistrict magnet school in a number at least equal to (1) the number specified in any written agreement with an interdistrict magnet school operator or (2) the average number of students that the participating district enrolled in the magnet school during the previous three school years.

§ 18 — BLOOMFIELD MAGNET SCHOOL

For FYs 08 and 09, the act exempts the Bloomfield interdistrict magnet school from statutory provisions (1) limiting the number of students from a participating town to 75% and (2) requiring racial minorities to comprise between 25% and 75% of the student body. However, for FY 08, it reduces the school's grant by half.

EFFECTIVE DATE: Upon passage

§§ 19-33 — AGRICULTURAL SCIENCE AND TECHNOLOGY EDUCATION

The act changes the statutory name for the education offered at vocational agriculture (vo ag) centers from "vocational agriculture education" to "agricultural science and technology education" and changes the name of the centers to conform.

§ 20 — AGRICULTURE SCIENCE AND TECHNOLOGY EDUCATION ENROLLMENT OPPORTUNITIES

The act expands the enrollment opportunities school districts that do not operate agriculture science and technology education centers must offer to students who wish to attend a center in another district.

By law, school districts that do not furnish such education must designate where their students can receive it. The act requires districts not operating centers to provide enrollment opportunities in one or more centers, not just one center, run by other districts. And if a district provided opportunities for its students to enroll in more than one center in the school year starting July 1, 2007, the act requires it to continue to do so in the numbers required by law and the act.

Prior law required a school district that does not maintain a 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 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. This act requires districts to, in addition, provide enrollment opportunities for 9th graders in each center it designates that are at least equal to (1) the number of 9th graders specified in its written agreement with each center or (2) the average number of 9th graders that enrolled in each designated center or centers over the preceding three years.

§ 34 — ECS FUNDS TRANSFERRED TO SDE FOR EDUCATIONAL IMPROVEMENT

As noted above, any town whose school district is in the third year or more of failing, as a district, to make adequate yearly progress in math or reading, must add 20 percentage points to the share of its ECS increase that it must spend on education pursuant to the MBR. By law, the comptroller must withhold these funds and transfer them to SDE. The education commissioner must spend the money on the school district's behalf to implement any of the educational improvement measures that the State Board of Education requires and to offset any other local education costs that the education commissioner deems appropriate to achieve school improvement. The commissioner must award the funds to the board of education for the identified school district on the condition that it spend the funds in accordance with the commissioner's directives.

Instead of lapsing, the act requires any funds transferred to SDE under this provision that remain unspent on June 30, 2008 to carry forward to, and remain available for spending in, FY 09 for the same purpose.

EFFECTIVE DATE: Upon passage

§ 35 — SCHOOL READINESS FUNDING ALLOCATIONS

Special Allocation for Certain Towns

The act eliminates a special allocation of \$3,483,750 of the school readiness appropriation for the following districts: Bridgeport, Hartford, New Britain, New Haven, New London, Waterbury, and Windham.

Competitive Grants

The act allows up to 2% of the school readiness grant appropriation to be allocated for competitive school readiness grants. The actual allocation amount must be determined by August 1 annually.

By law, competitive grants of up to \$107,000 annually are available to eligible towns and regional school readiness councils to purchase spaces in school readiness programs for eligible children who live in an area served by a priority school or in any of the 50 poorest towns in the state.

BACKGROUND*Related Act*

PA 08-152 is identical to the agriculture science and technology education provisions of §§19-33 of this act.

PA 08-20—HB 5329

*Energy and Technology Committee
Environment Committee*

AN ACT CONCERNING RADIATION RELEASES

SUMMARY: This act requires a nuclear power plant operator to post on its website all plans for routine and continuous releases of radiation, including their dates and times and the types of radioactive material to be released. An operator must post the information as soon as the release is scheduled.

EFFECTIVE DATE: October 1, 2008

PA 08-77—sSB 368

Energy and Technology Committee

AN ACT CONCERNING THERMAL ENERGY TRANSPORTATION

SUMMARY: This act temporarily subjected thermal energy transportation companies to the jurisdiction of the Department of Public Utility Control (DPUC) as public service companies (utilities). Among other things, public service companies are subject to DPUC rate regulation and must comply with its orders.

Specifically, during the period from its passage until May 7, 2008, the act:

1. barred the company that operates the thermal energy system in Hartford from terminating or interrupting service to its customers under certain circumstances; and
2. required DPUC to regulate any thermal energy company in the same way as it regulates other utilities, but required it to obtain the approval of the Energy and Technology Committee before doing so.

Thermal energy includes media such as steam and chilled water circulated through underground pipes to heat and cool buildings. A thermal energy system in Hartford serves various state buildings in Hartford, including the State Office Building and the Legislative Office Building.

EFFECTIVE DATE: Upon passage

DPUC REGULATION OF STEAM TRANSPORTATION COMPANIES

The act amends the special act governing the company that provides thermal energy transportation in Hartford with regard to its operations from the date of the act's passage (April 30, 2008) through May 7, 2008. During this period, the act barred the company, its parent, subsidiary, or affiliate from terminating or interrupting service to any customer or structure if this

was likely to (1) endanger the public health, safety, or welfare of the occupants of any building being supplied steam, heated, or chilled water or other means of transmitting energy or (2) potentially disrupt or interrupt any governmental or nongovernmental services. This prohibition applied so long as the customer was receiving the service as of January 1, 2008, and had not previously been terminated, after being provided an opportunity to cure, for failure to pay any reasonable rates under any existing contract or as approved by DPUC. During the same period, the act barred the company, its parent, subsidiary, or affiliate from terminating any customer who paid undisputed amounts while in good faith contesting any charges imposed under an existing contract.

During the same period, the act required DPUC to regulate any thermal energy transportation company in the same way as other utilities under relevant state law with regard to (1) setting rates, charges, and revenues; (2) the obligation to provide service and maintenance of facilities and equipment; (3) reliability of service; (4) ownership of the company and any transfer of such ownership; and (5) the enforcement of these provisions as permitted under the law. However, before DPUC could take these steps it was required to send a notice summarizing any such proposed action to the Senate clerk. The Senate clerk had to stamp the date and time of receipt on such notice and immediately submit it to the Energy and Technology Committee. Within 48 hours after the date and time stamped on the notice, the committee had to notify, in writing, the DPUC chairperson of its approval or disapproval of the proposed regulatory action. If the committee did not act on the proposed action in the 48-hour period, the proposed action was considered approved.

Under the act, a thermal energy transportation company is any person authorized under the statutes or a special act to (1) furnish heat, air conditioning, or both by steam, heated or chilled water, or other means; (2) lay and maintain mains, pipes, and other conduits; and (3) erect other fixtures in and on streets, highways, and municipal grounds that are needed for, or convenient to, carrying the steam or water in a loop from the plant to the company's customers.

PA 08-128—sHB 5330

*Energy and Technology Committee
Planning and Development Committee*

AN ACT CONCERNING MUNICIPAL UTILITIES

SUMMARY: This act expands the powers of a municipal electric energy cooperative. It also gives a cooperative more options in procuring supplies, materials, and equipment. The Connecticut Municipal

Electric Energy Cooperative (CMEEC) is currently the only such cooperative in Connecticut.

EFFECTIVE DATE: Upon passage

POWERS

The act allows a cooperative to make agreements with any entity to receive or procure the supply, or prepay for the supply of, natural gas for the sole benefit of the cooperative's members, the city of Norwich Department of Public Utilities, or a municipal gas utility. The gas must be used or consumed by the utility or by its retail consumers entirely within the city of Norwich or the town of Preston. The gas cannot be consumed, used in, or transported to (1) any other municipality or utility, (2) land held in trust by the United States on behalf of a Native American tribe, or (3) land located in a Native American reservation or other jurisdiction. The cooperative cannot exercise these powers in a way that harms the rights, powers, and privileges of gas companies.

PROCUREMENT OPTIONS

Under current law, a cooperative must follow competitive bidding procedures to purchase supplies, materials, and equipment worth more than \$25,000, unless there is only one source for the supplies or if a cooperative is a part owner of the affected project. The act additionally exempts from competitive bidding (1) contracts for projects in which a cooperative has an interest or if a cooperative is involved as a partner or joint venture and (2) contracts entered into under the law governing the cooperative. For these projects and contracts, the act allows a cooperative to enter contracts following negotiations, requests for proposals (RFPs), or open or sealed bid procurement. In determining which procurement method is most prudent, a cooperative can consider the scope of work and associated management complexities; the extent of current and future technological development requirements; and the best interests of the cooperative, its members, and its participants. A cooperative must determine the terms and conditions of the contracts and the fees or other compensation to be paid under them.

Under the act, a cooperative may enter into a contract following an RFP or negotiations by resolution or by the terms of its written policies, at the option of its governing body. If the cooperative chooses to proceed by negotiations or RFP under written policies adopted by the governing body, the contract and the factual basis for its choice of procurement method must be recorded and open for public inspection immediately after the cooperative awards the contract.

BACKGROUND

CMEEC

CMEEC is responsible for procuring power and financing and building generating resources for its members. The members are: Groton Utilities, Jewett City Department of Public Utilities, Norwich Public Utilities, and the Second and Third Taxing Districts of Norwalk (South Norwalk and East Norwalk, respectively). CMEEC also provides power for participating utilities (the Wallingford Department of Public Utilities, Bozrah Light and Power, and the Mohegan Tribal Authority).

PA 08-130—sHB 5599

Energy and Technology Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE TAXATION OF TELECOMMUNICATIONS COMPANY PROPERTY AND THE TIMELY FILING OF DECLARATIONS

SUMMARY: By law, telecommunications companies subject to the statewide personal property tax must annually file a list of their taxable personal property with the Department of Revenue Services (DRS) and the Office of Policy and Management (OPM). This act requires them to list the property on a town-by-town basis. It also requires the companies to submit to each relevant municipality a list of their personal property located in or allocated to the municipality.

The act allows any municipality to examine audits of the companies submissions conducted by DRS or OPM (although OPM is not authorized to conduct audits).

By law, telecommunications companies and other businesses must file annual personal property declarations. The law subjects entities that fail to file a declaration by November 1 (or the deadline set by the assessor if an extension is granted) to a penalty of 25% of the assessment of the property on the list. The act specifies that a declaration postmarked by the filing deadline is not delinquent and thus not subject to the penalty.

EFFECTIVE DATE: Upon passage and applicable to declarations due on or after November 1, 2008 for the penalty provision; July 1, 2008 for the filing provisions.

BACKGROUND

Property Tax on Telecommunications Companies

By law, the personal property of telephone companies is assessed at a statewide rate of 47 mills and subject to uniform depreciation rules. Other telecommunications companies can opt for this treatment. The revenue raised is distributed to the towns where the companies own property.

PA 08-168—sHB 5724

*Energy and Technology Committee
Appropriations Committee*

AN ACT CONCERNING ENERGY SCARCITY AND SECURITY, RENEWABLE AND CLEAN ENERGY AND A STATE SOLAR STRATEGY

SUMMARY: This act requires that three studies be conducted on the state's energy future. It also requires that a plan be prepared regarding the state's solar energy industry.

It requires the Office of Policy and Management (OPM) to conduct a petroleum sensitivity study of state agencies. The study must include a statewide assessment and inventory of state departments and agencies and their activities and corollary need to consume petroleum. OPM must consult with the state's Clean Energy Fund in conducting the study. It can use up to \$250,000 from the fund for this purpose and contract with a consultant to perform the study. OPM must report the study findings to the Energy and Technology Committee by December 1, 2008.

The act establishes an eight-member task force to study energy scarcity and sustainability. The task force must conduct scenario planning for long-term petroleum and natural gas scarcity, steep price increases, and supply disruptions. The study must examine the impacts of natural gas and petroleum price and scarcity on the economy, food supply, transportation, education, health, and emergency response, and can address other issues. The task force must submit its report to the Energy and Technology Committee by January 1, 2009.

The act requires the Renewable Energy Investment Board (the group that determines how the Clean Energy Fund is spent) to contract with the Connecticut Academy of Science and Engineering to study how other states promote and increase the use and supply of renewable energy and clean energy. The board must report its findings to the Energy and Technology Committee by January 1, 2009.

The act also requires the board to convene a working group to develop a plan to maximize the use of solar power and create a self-sustaining solar industry in

the state to help meet renewable portfolio standard requirements and the greenhouse gas emissions limits of the Regional Greenhouse Gas Initiative. The portfolio standard requires electric companies to get part of their power from renewable resources. The initiative is an agreement among northeastern states to limit emissions of carbon dioxide and other greenhouse gases.

EFFECTIVE DATE: Upon passage

TASK FORCE ON ENERGY SCARCITY AND SUSTAINABILITY

The Senate president pro tempore, House speaker, Senate majority leader, Senate minority leader, and House minority leader must each appoint one member to the task force. The other members are the OPM secretary, the environmental protection commissioner, and the executive director of Connecticut Innovations, Inc., (CII) or their respective designees. (CII administers the Clean Energy Fund.) The appointed members can be legislators. All appointments must be made within 30 days of the act's passage. Any vacancy must be filled by the appointing authority. The House speaker and the Senate president pro tempore must select the chairpersons of the task force from among its members. The chairpersons must schedule the first meeting of the task force within 60 days of the act's passage.

By January 1, 2009, the task force must submit its report with findings and recommendations to the Energy and Technology Committee. It must include long-term and short-term response to potential scarcity disruptions and cost increases. The task force will terminate on the date it submits the report or January 1, 2009, whichever is later.

RENEWABLE ENERGY STUDY

The study must at least include an examination of the funding for and mission of renewable energy and clean energy funds and departments in other states. It must analyze the extent to which creating a department of renewable energy or clean energy would (1) ensure that future oil shortages and price increases do not jeopardize the living standards and food security of state residents and farms; (2) maximize economic opportunities for state workers in emerging clean energy industries; (3) reduce carbon emissions through greater reliance on renewable energy and clean energy sources; and (4) promote energy independence, local energy production, and distributed generation.

SOLAR PLAN

The board, in consultation with the Department of Public Utility Control, must convene a working group to develop a plan to maximize the use of solar power and create a self-sustaining solar industry in the state that

will help meet renewable portfolio standard requirements and the greenhouse gas emissions limits of the Regional Greenhouse Gas Initiative.

The working group consists of:

1. one representative from each electric company;
2. two representatives of environmental nonprofits with expertise in clean energy policy;
3. two representatives of the solar industry, one representing the residential solar industry and one a large commercial integrator;
4. one representative of a solar trade association;
5. one representative of renewable finance; and
6. one representative of a community college offering solar training.

The environmental protection and economic and community development commissioners and the CII executive director or their respective designees also must serve on the working group.

The plan must describe the benefits of and the costs associated with achieving a self-sustaining solar industry and maximizing the use of solar power, including (1) types and amounts of incentives to maximize in-state solar installations; (2) methods of residential solar financing; (3) estimated energy production; and (4) solar benefits, including avoided fossil-fuel combustion, reduced congestion (apparently on the electric transmission system) and peak power production, job creation, air quality, and reduced global warming emissions. The plan must (1) identify a target for the amount of generation and a timeline for achieving this target and (2) include recommendations on (a) workforce development and job training needed to build an in-state solar workforce and (b) coordination with other programs where appropriate.

By October 15, 2008, the board must approve the plan and submit it to the Connecticut Energy Advisory Board and the Energy and Technology and Commerce committees.

PA 08-13—SB 616
Environment Committee

AN ACT CONCERNING MINOR REVISIONS TO DEPARTMENT OF AGRICULTURE STATUTES

SUMMARY: The act makes several minor changes to the agriculture statutes. It:

1. increases the value of a Women, Infants and Children (WIC) program farmers' market voucher from \$2 to \$3 (by law, eligible participants in the program receive five vouchers during each distribution);
2. lowers from seven to three the required number of years of experience in a large animal practice for the state veterinarian;
3. expands the entities eligible for the agricultural viability matching grant to include: groups of municipalities, regional planning agencies, councils of governments, councils of elected officials, and other groups of municipalities with a regional inter-local agreement;
4. makes changes to the "Connecticut Grown" law; and
5. deletes the requirement that the Department of Agriculture (DOAG) commissioner adopt regulations concerning commercial and customer formula feeds.

EFFECTIVE DATE: Upon passage

CHANGES TO THE "CONNECTICUT GROWN" LAW

The act expands the applicable definition of farm products to include all those resulting from the practice of farming or agriculture, and "Connecticut Grown" to include all farm products that have a traceable origin in Connecticut. By law, agriculture and farming include the cultivation of the soil, dairying, foresting, raising, or harvesting of any agricultural or horticultural product, including (1) any fresh fruit, vegetables, mushrooms, nuts, shell eggs, honey or other bee products, maple syrup or maple sugar, flowers, nursery stock, and other horticultural commodities; (2) livestock food products, including meat, milk, cheese, or other dairy products; (3) aquaculture products, such as fish, oysters, clams, mussels, and other molluscan shellfish taken from state waters or wetlands; (4) products from any tree, vine, or plant and its flowers; and (5) any of the products listed above that the participating farmer baked or otherwise processed.

Under prior law, proof of native, native-grown, local, locally grown, or Connecticut-grown product verification claims had to be submitted at the commissioner's request, and anyone violating these provisions was subject to a fine of up to \$25. The act

specifies that the proof must be submitted within 10 days and in written form, allows the commissioner's designee to request such verification, and sets the fine for each product label violation.

BACKGROUND

Agricultural Viability Matching Grant Program

The program allows municipalities to receive matching grants for agricultural viability. Eligible projects include (1) local capital projects to foster agricultural viability, including farmers markets and processing facilities, and (2) the development and implementation of agriculturally friendly land use regulations and local farmland protection strategies.

WIC Program

The federal WIC program provides grants to states for supplemental foods, health care referrals, and nutrition education for low-income pregnant and post-partum women, and to infants and children up to five years of age who are at nutritional risk. The Public Health Department administers Connecticut's WIC program, which includes a farmer's market voucher program.

PA 08-26—sHB 5806
Environment Committee

AN ACT CONCERNING BOATING SAFETY

SUMMARY: This act replaces state boating safety rules and regulations with federal standards, as amended periodically, in several boating categories. It also:

1. makes minor changes to laws governing the Department of Environmental Protection (DEP)-approved boating safety courses that are required for the necessary vessel and personal watercraft operator licenses;
2. prohibits owners from allowing unlicensed youth under age 16 to operate vessels and personal watercraft in most instances;
3. prohibits (a) boating safety courses not approved by the commissioner and (b) DEP employees from profiting from DEP safe boating or personal watercraft operation materials, with violations subject to fines between \$60 and \$250;
4. regulates boat and personal watercraft rental businesses; and
5. makes several conforming and technical changes to the environmental statutes.

EFFECTIVE DATE: October 1, 2008

FEDERAL SAFE BOATING RULES AND REGULATIONS

The act replaces state boating safety rules and regulations regarding equipment with federal standards. These safety rules and regulations relate to:

1. personal flotation devices, including requirements regarding the use of personal flotation devices by children;
2. venting for gasoline engines, backfire flame controls, and fire extinguishers;
3. signal sound appliances;
4. visual distress signals;
5. navigation lights;
6. light visibility;
7. anchor lights when a vessel is at anchor or aground; and
8. flashing blue lights and flashing red and yellow signal lights.

These federal rules and regulations are similar to the prior Connecticut laws, but there are some minor differences. For example, Connecticut boating safety laws required one personal flotation device (PFD) for each passenger on board, while federal rules require one PFD per passenger and one extra PFD, and Connecticut law exempted vessels less than 26 feet long from signal sound appliance requirements, while federal law exempts vessels less than 12 meters (or approximately 40 feet) from these requirements. The act also extends the applicability of requirements regarding visual distress signals to all state and federal waters, rather than just Long Island and Fishers Island Sounds.

Under the act, violations of these rules and regulations are infractions.

The act also prohibits the DEP commissioner from suspending or modifying the federal rules and regulations adopted in the above areas, unless (1) necessary to meet uniquely hazardous conditions or circumstances, (2) the Coast Guard issued a statutory exemption or withholds disapproval of the modification or suspension, or (3) a federal regulation exempts the state from preemption. The commissioner retains the right to suspend or modify other Connecticut boating requirements when she determines that they are burdensome, inconvenient, or do not aid boating safety.

SAFE BOATING CERTIFICATES AND PERSONAL WATERCRAFT OPERATION LICENSES

The law requires operators of registered or numbered vessels and personal watercraft in Connecticut and federal waters to have either (1) a valid vessel operator license issued by the Coast Guard or (2) a safe boating certificate or a personal watercraft operation license issued by the DEP commissioner. Applicants for the safe boating certificate must also

successfully complete a course in boating safety approved by the commissioner or pass an equivalency examination testing knowledge of boating safety administered by the commissioner.

Under the act, applicants for the personal watercraft operation certificate must successfully complete a combined course of personal watercraft and boating safety approved by the commissioner, have a boating safety certificate, and successfully complete a personal watercraft operation course approved by the commissioner, or pass an equivalency examination approved by the commissioner.

The act also prohibits (1) teaching courses for the certificate or license, if the commissioner has not approved such a course, and (2) agents or employees of the DEP from profiting from DEP safe boating or personal watercraft operation materials. Violators are subject to fines between \$60 and \$250.

The act prohibits owners from allowing youth under age 16 to operate a vessel or personal watercraft on Connecticut waters, unless they (1) have a safe boating certificate or personal watercraft operation license or (2) are under the direct supervision of a person who (a) is at least 18 years old, (b) possesses a safe boating certificate or personal watercraft operation license, and (c) has had such certificate or license for at least two years. Violators are subject to fines between \$60 and \$250.

The act allows people enrolled in a safe boating operation course to operate a vessel without a safe boating certificate if they are under the direct supervision of a boating instructor holding a valid DEP instructor number. The act reduces from six to three months the period that temporary safe boating certificates or personal watercraft operation licenses, issued to any person who purchases a new or used vessel or watercraft upon registration, are valid.

BOAT LIVERY OPERATION

The act defines a boat livery as a business that is engaged in the commercial rental of vessels, and explicitly includes personal watercraft. The law, unchanged by the act, defines a vessel as any watercraft used for transportation, but excludes seaplanes and watercraft used primarily for commercial cargo. The act requires operators of vessels rented from a boat livery to carry the rental agreement on board and make it available upon request. The owner or agent of the boat livery and the person renting the vessel must sign the rental agreement. The agreement must also state the length of time for which the vessel is being rented, the name of the person renting the vessel, and the vessel number if vessel registration is required.

The act prohibits owners and agents of boat liveries from permitting a vessel to leave the boat livery unless

the vessel is properly registered with the state as both a vessel and a boat livery vessel. If the vessel is required to be registered and numbered as a livery boat, the certificate number must be carried aboard and made available for inspection. The owners or agents of boat liveries must also ensure that operators of rented vessels possess a safe boating certificate or personal watercraft operation license, if necessary. By law, those renting vessels for 14 days or less do not need certificates, but must be given DEP literature on safety and navigation rules.

As under prior law, violations are infractions and subject to fines.

PA 08-27—sHB 5830
Environment Committee

AN ACT CONCERNING LIVESTOCK DEALERS

SUMMARY: This act makes several changes to the state's livestock dealers licensing program.

It expands the program to require licenses for all livestock dealers and their agents, not just those who deal with cattle and swine. The act eliminates the license exemption for trucking companies that primarily truck animals either interstate or intrastate, although railroads remain exempted. It adds an exemption from the license requirement for youth projects or organizations keeping, feeding, breeding, growing, showing, or raising livestock.

The act defines livestock as any hooved (e.g., sheep, swine, or horses) or camelid animal (e.g., llamas), and a livestock producer as any person involved in feeding, keeping, growing, raising, or breeding livestock for domestic or commercial use.

The act broadens the types of diagnostic tests for infectious diseases that the Department of Agriculture (DOAG) may perform and the types of animals subject to these tests. DOAG performs these diagnostic tests at no expense to the dealers. It explicitly allows the DOAG commissioner to quarantine diseased animals, or an animal he suspects is diseased, and allows the commissioner to revoke or refuse licenses of dealers violating the quarantine or making false or misleading statements regarding test results.

The act allows, rather than requires, the commissioner to adopt relevant regulations.

Under the act, violations may result in license revocation, discretionary fines of \$200 for a first offense and \$500 for any subsequent offenses, or administrative civil penalties in lieu of fines. Under prior law, the fines were mandatory.

The act also makes conforming and technical changes.

EFFECTIVE DATE: Upon passage

LICENSE PROGRAM

License Display

Prior law allowed a licensee to display his or her license in a conspicuous place for inspection upon request. The act specifies that these conspicuous places include motor vehicles or on one's person, as well as one's place of business.

The act removes the requirement that motor vehicles used in the livestock business display a license plate issued by the DOAG commissioner.

License Revocation

Prior law protected licensees against license suspension or revocation when diseased or quarantined animals were disposed of in conformity with government regulations. The act removes this protection.

Diagnostic Tests for Livestock Owned or Kept by Licensed Livestock Dealers

Prior law authorized the commissioner to perform only tuberculin and other blood tests. The act allows the state veterinarian, DOAG commissioner's agent, U.S. DOAG-employed veterinarian, or licensed accredited veterinarian to perform any diagnostic tests for various livestock diseases on livestock owned or kept by licensed livestock dealers.

Prior law required the commissioner, his designee, or the state veterinarian to brand and immediately slaughter cattle that test positive for tuberculin or brucellosis. The act allows the commissioner or his designee to determine an acceptable manner of identification and means of disposing of such animals.

The act explicitly allows the quarantine of any livestock that (1) test positive for the diagnostic tests or (2) the commissioner, his designee, or the state veterinarian believes harbors disease.

The act removes the provisions of prior law that (1) generally prohibited individuals from attending both diseased and healthy animals, and (2) required them to maintain separate quarters for diseased animals at least 100 yards away from healthy animals, unless granted permission from the commissioner. Instead, livestock dealers must follow the commissioner's quarantine order.

The law allows the commissioner to refuse or revoke a livestock dealer's license for making false or misleading statements about diagnostic tests, or the buying or receiving of livestock, selling or exchanging, or soliciting resale, exchange, transport, or transfer of animals DOAG officially designates as diseased.

PA 08-35—sSB 582*Environment Committee***AN ACT CONCERNING THE RECYCLING OF COVERED ELECTRONIC DEVICES**

SUMMARY: By law, television and computer manufacturers must participate in a program to implement and finance the collection, transportation, and recycling of their discarded products, known as covered electronic devices (CEDs). This act changes the way television manufacturers are billed for their share of recycled televisions from “return share” to “market share.” It delays, by six months, implementation of the state’s recycling program. It also makes conforming changes.

EFFECTIVE DATE: October 1, 2008, except for provisions delaying by six months requirements that (1) the Department of Environmental Protection (DEP) adopt regulations setting registration and other fees and (2) CED manufacturers pay annual registration renewal fees determined by regulation, which take effect July 1, 2008.

SWITCHING FROM “RETURN SHARE” TO “MARKET SHARE” FOR TELEVISION MANUFACTURERS

Under prior law, each television and computer manufacturer paid for its share of the recycling program based on a formula that compared its share of recycled CEDs to the total of recycled CEDs, a method known as “return share.”

The act revises this formula for manufacturers of cathode ray tube (CRT) and other televisions to one based on “market share” in the state. It assigns the cost of the program among television manufacturers on a sliding scale based on the number of televisions each manufacturer sells, compared to all televisions sold. It leaves unchanged the method of calculating a computer manufacturer’s financial obligation.

Prior law required electronics recyclers, when collecting CEDs, to keep a written log recording the brand and weight of each recycled CED generated by a Connecticut household beginning January 1, 2009. The act delays from January 1, 2009 to July 1, 2009 the start date of the requirement and eliminates the need to track recycled televisions by brand, requiring only that recyclers keep a written log of the total weight of the televisions they collect each month.

It specifies that recyclers must bill each television manufacturer according to its market share, multiplied by the total pounds of televisions recycled, and must use separate invoices for televisions and other CEDs. As

under current law, television and computer manufacturers cannot be billed more than 50 cents per pound or an amount set in DEP regulation.

Prior law defined market share as a particular manufacturer’s national sales of CEDs expressed as a percentage of the total of all manufacturers’ national sales for a category of CEDs. Under the act, market share is a manufacturer’s national sales of a particular product category of CEDs, compared to all manufacturers’ national sales for that CED category. It requires market share information to be based on available national market share data, rather than publicly available data.

TELEVISIONS NO LONGER ORPHAN DEVICES

Under prior law, an orphan device was a recycled computer or television for which no manufacturer could be identified, or one made by a manufacturer that is no longer in business or has no successor in interest. Each computer and television manufacturer was billed for its pro rata share of orphan devices, determined by dividing its CED market share by the total market share of all manufacturers for a given year, multiplied by the total weight of recycled orphan devices. Under the act, televisions are no longer considered orphan devices, so television manufacturers will pay for all recycled televisions according to market share. Computers are still considered orphan devices.

DELAY IN IMPLEMENTING E-WASTE RECYCLING

The act delays, from October 1, 2008 to April 1, 2009, the deadline by which the DEP commissioner must adopt regulations establishing annual registration and reasonable fees to administer the recycling program.

It delays, from January 1, 2009 to July 1, 2009, the start date for:

1. manufacturers to take part in the recycling program;
2. each town to provide for recycling of CEDs generated within its boundaries;
3. each covered electronics recycler to cooperate with towns or regional authorities to provide for the collection and transportation of CEDs, reimburse them for certain transportation costs, recycle CEDs according to certain minimum standards, and meet certain other requirements;
4. each manufacturer to pay the reasonable costs of transportation and recycling that CED recyclers incur for the manufacturer’s share of CEDs and orphan devices;
5. manufacturers to pay an annual registration renewal fee;
6. all collected CEDs to be recycled in

compliance with federal, state, and local laws, regulations, and ordinances; and

7. the DEP commissioner to issue cease and desist orders for certain violations of the program.

It delays, from June 1, 2009 to January 1, 2010, the date by which DEP must post on its website a list of complying manufacturers. It extends, from December 1, 2009 to June 1, 2010, the deadline by which CED sellers must stop selling CEDs from non-complying manufacturers.

PA 08-37—HB 5143

Environment Committee

AN ACT CONCERNING DESIGNATION OF THE LOWER FARMINGTON RIVER AND SALMON BROOK WITHIN THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

SUMMARY: This act declares it state policy that the portion of the Lower Farmington River and Salmon Brook being studied for designation as a national wild and scenic rivers system be preserved according to the federal Wild and Scenic Rivers Act.

It requires the environmental protection commissioner to cooperate with all federal, state, and local agencies to provide for designation under the federal act and to implement a management plan as it requires. Once Congress designates the area, the commissioner must notify the Environment Committee of any statutory changes needed to preserve it according to the act. She must send a copy of the act to the state's Congressional delegation.

EFFECTIVE DATE: October 1, 2008

BACKGROUND

Lower Farmington Wild and Scenic Feasibility Study Area

Towns in the study area include Avon, Bloomfield, Burlington, Canton, East Granby, Farmington, Granby, Hartland, Simsbury, and Windsor.

Wild and Scenic Rivers Act

The Wild and Scenic Rivers Act (P.L. 90-542) protects free-flowing rivers with important scenic, natural, recreational, historic, cultural, or similar values. It designates specific rivers for inclusion and prescribes the methods and standards by which additional rivers may be added.

PA 08-38—HB 5146

Environment Committee

Planning and Development Committee

AN ACT CONCERNING INLAND WETLANDS AGENCY REPORTS

SUMMARY: This act restores a requirement that zoning commissions and planning commissions, respectively, "give due consideration" to inland wetlands agency reports when reviewing, for a regulated wetlands area, (1) a site plan to help determine the conformity of a proposed building, use, or structure with specific zoning regulations and (2) applications and plans for subdivisions and re-subdivisions. PA 07-102 required that these commissions instead "consider" these reports.

EFFECTIVE DATE: Upon passage

BACKGROUND

Case Law

To "consider" is to think with care upon a matter (*Lake v. Ocean City*, 41 A. 427). "Due consideration" is the degree of attention properly paid to something, as the circumstances merit (*Black's Law Dictionary*, Seventh Edition, 1999).

PA 08-94—sHB 5145

Environment Committee

Energy and Technology Committee

AN ACT CONCERNING ENVIRONMENTAL JUSTICE COMMUNITIES AND THE STORAGE OF ASBESTOS-CONTAINING MATERIAL

SUMMARY: This act requires applicants seeking a new or expanded permit, certificate, or siting approval for certain facilities (an "affecting facility") in an environmental justice community from the Department of Environmental Protection (DEP) or the Connecticut Siting Council to (1) file and receive approval of a meaningful public participation plan, including an informal public meeting, with DEP or the Siting Council and (2) consult with officials of the town or towns where the facility will be located or expanded to evaluate the need for a community environmental benefit agreement.

Under the act, DEP and the Siting Council must wait at least 60 days after the informal public meeting to act on the applicant's request. The act specifies that any municipality, owner, or developer may enter into a community benefit agreement in connection with an affecting facility.

The act also restricts where people or government agencies may place, store, dispose of, or deposit certain asbestos-containing materials.

EFFECTIVE DATE: January 1, 2009, except for the provision concerning asbestos-containing materials, which is effective October 1, 2008.

REQUIREMENTS FOR APPLICANTS FOR NEW OR EXPANDED AFFECTING FACILITIES

Affecting Facilities

The act applies to applicants seeking permits, certificates, or approval from DEP or the Siting Council, starting January 1, 2009, for certain new or expanded facilities. These affecting facilities are:

1. electric generating facilities with capacities above 10 megawatts;
2. sludge and solid waste incinerators or combustors;
3. sewage treatment plants with a capacity over 50 million gallons per day;
4. intermediate processing centers, volume reduction facilities, or multi-town recycling facilities with a combined monthly volume over 25 tons;
5. new or expanded landfills, including those that contain ash, construction, and demolition debris or solid waste;
6. medical waste incinerators; and
7. major sources of pollution under the federal Clean Air Act (e.g., large factories).

The act excludes from the definition of affecting facilities (1) portions of electric generating facilities that use non-emitting and non-polluting renewable resources such as wind, solar, and hydropower or that use fuel cells; (2) any facility that received a Siting Council certificate on or before January 1, 2000; and (3) any facility under the control of the state higher education system that has received a satisfactory environmental impact evaluation.

Environmental Justice Communities

The act applies to affecting facilities in environmental justice communities. An environmental justice community is (1) a U.S. census block group (part of a census tract) for which 30% or more of the population consists of low-income people who are not institutionalized and have an income of less than 200% of the federal poverty level or (2) a distressed municipality. This definition affects 59 municipalities (see BACKGROUND).

Public Participation Plan, Including Informal Public Meeting

The act requires the applicants to file and receive approval of a meaningful public participation plan from the appropriate agency or council. Under the act, meaningful public participation occurs when:

1. potentially affected residents have an appropriate opportunity to participate in decisions over permits, certificates, or approvals when proposed facilities or the expansion of existing facilities may harm their environment or health;
2. public input may influence the agency or council; and
3. the applicant seeks out and facilitates the participation of those potentially affected.

Applicants must certify that they will carry out the meaningful public participation plan. As part of the plan, they must organize an informal public meeting at a time convenient to the environmental justice community.

The act also requires the plan to identify methods by which the applicants will publicize the meeting's date, time, and nature. These may include posting a reasonably visible sign on the proposed facility in English, posting signs in any language spoken by at least 20% of the population residing within one-half mile of the facility, or notifying neighborhood and environmental groups and local and state elected officials in writing.

Between 10 and 30 days before the informal public meeting, applicants must publish a notice stating its date, time, and nature in a general circulation newspaper in the environmental justice community or other appropriate newspaper. The notice must be at least one-quarter page in the Monday issue of a daily publication, or in any day's issue in a weekly or monthly publication. The applicant must also publish this information online, if it has a website.

At the informal public meeting, the applicant must make a reasonable and good faith effort to provide clear, accurate, and complete information about the proposed facility or the proposed facility expansion and its potential environmental and health impacts on the public.

If the Siting Council approves a meaningful participation plan for a new or expanded affecting facility, and the municipality holds a public meeting regarding a community benefit agreement, DEP may waive the requirement for an additional informal public meeting in its approval of the meaningful participation plan.

Community Environmental Benefit Agreement

The act also requires the applicant to consult with the chief elected official or other officials of the town or towns in which the affecting facility will be located or expanded to determine the need for a community environmental benefit agreement. Under the act, “community environmental benefit agreement” means a written agreement between the potentially affected municipality and the owner or developer of the affecting facility whereby the owner or developer agrees to develop the property and provide financial resources to mitigate environmental and health impacts, including traffic, parking, and noise, on the community.

Mitigation may include both on-site and off-site improvements, programs, and activities, including funding for environmental education, diesel pollution reduction, construction of biking and walking trails, staffing for parks, urban forestry, support for community gardens, or any other negotiated benefit to the environment in the environmental justice community.

Prior to agreement negotiations, the municipality must provide a reasonable and public opportunity for affected residents to voice concerns about the agreement and its terms.

HAZARDOUS WASTE

The act restricts where people and government agencies may place, deposit, dispose of, or store certain asbestos-containing material. By law, asbestos-containing material is material composed of any type of asbestos in quantities greater than 1% by weight, either alone or mixed with other fibrous or non fibrous material (CGS § 19-332).

Specifically, the act requires the approval of two-thirds of a municipality’s legislative body to move more than 1,000 cubic yards of soil that consists of asbestos-containing material from another site to one that abuts or adjoins residential property at a height of more than four feet above the existing grade of the land.

BACKGROUND

Distressed Municipalities

In 2007, the federal Department of Housing and Urban Development designated the following municipalities as distressed:

Ansonia	Meriden	Putnam
Bridgeport	Naugatuck	Sprague
Bristol	New Britain	Torrington
Brooklyn	New Haven	Waterbury
Derby	New London	West Haven

East Hartford	North Canaan	Winchester
Enfield	Norwich	Windham
Hartford	Plainfield	
Killingly	Plymouth	

Other Affected Towns

The Environmental Coalition for Justice, with the Capitol Region Council of Governments, performed an analysis that shows that several additional municipalities are also affected municipalities under the act. The following municipalities are not distressed, but have census block groups with 30% of their population living below 200% of the federal poverty level:

Ashford	Mansfield	Stonington
Bloomfield	Middletown	Stratford
Danbury	North Haven	Thompson
East Haven	Norwalk	Vernon
East Windsor	Plainville	Wallingford
Fairfield	Salisbury	Waterford
Greenwich	Shelton	West Hartford
Griswold	Southbury	Westbrook
Groton	Southington	Wethersfield
Hamden	Stafford	Willington
Manchester	Stamford	Windsor
		Windsor Lock

PA 08-98—sHB 5600

*Environment Committee
Public Safety and Security Committee
Appropriations Committee*

AN ACT CONCERNING CONNECTICUT GLOBAL WARMING SOLUTIONS

SUMMARY: This act mandates reductions in state greenhouse gas (GHG) emissions and makes changes designed to help the state achieve the reductions.

Prior law set state GHG emission reduction goals for 2010, 2020, and 2050. The act requires the state to meet its 2020 goal and a modified 2050 goal.

It requires certain state agencies to identify (1) activities and facility improvements to meet state energy saving goals and (2) policies and regulations they may adopt to help meet the emission limits. It also requires the Department of Environmental Protection (DEP) commissioner, with the help of a regional nonprofit air quality and climate organization, to publish a baseline inventory of GHG emissions and recommend strategies, regulatory actions, and policies to achieve the necessary reductions. It eliminates a requirement that the commissioner establish a regional GHG registry to which certain emission sources must report, and related provisions.

The act requires the Governor's Steering Committee on Climate Change (steering committee) to create a subcommittee to assess the impact of climate change on the state and recommend to the governor and legislature ways the state can adapt to, and mitigate, harmful impacts. It authorizes the DEP commissioner to contract with, and serve on the board of, a nonprofit organization created to help the state implement a multistate air pollution control program.

It allows the commissioner to use funds from the greenhouse gas reduction fee on new motor vehicles to implement air pollution control requirements as well as the act's greenhouse gas reduction requirements.

It also (1) requires the Department of Transportation (DOT) to continue to investigate, within available appropriations, the potential for improving the state transportation system in ways to reduce GHG emissions; (2) requires DEP to keep abreast of low carbon fuel standards in other states and elsewhere; (3) allows proceeds from the auction of GHG emission allowances to be used to cover certain state agency administrative costs; (4) authorizes DEP to work with other states and Canadian provinces to develop market-based compliance mechanisms to achieve the GHG limits, including a cap-and-trade program; (5) changes reporting requirements, and (6) makes other changes.

EFFECTIVE DATE: October 1, 2008, except for the provision concerning the DEP commissioner's contracting authority, which is effective on passage.

SETTING GHG EMISSION LIMITS

Emission Requirements

Prior law set goals of reducing state GHG emissions to (1) 1990 levels by January 1, 2010 and (2) 10% below 1990 levels by January 1, 2020. It set a default reduction goal of between 75% and 85% below 2001 levels by 2050. The act eliminates the 2010 goal and instead requires the state to reduce its GHG emissions to (1) at least 10% below 1990 levels by January 1, 2020 and (2) at least 80% below 2001 levels by January 1, 2050. It requires the DEP commissioner to determine these levels. By law, GHGs are any chemical or physical substance emitted into the air that the DEP commissioner reasonably anticipates will cause or contribute to climate change, including carbon dioxide (CO₂), methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Reporting Requirements

The act requires, by January 1, 2010 and twice a year thereafter, state agencies that are members of the steering committee to report to the Office of Policy and

Management (OPM) secretary and DEP commissioner. The report must identify (1) existing and proposed activities they design to meet state agency energy-savings goals, as set by the governor; (2) improvements to the agencies' facilities designed to meet these goals; and (3) policies and regulations member agencies may adopt in the near future to meet the act's GHG emissions limits. Steering committee members include the commissioners of DEP, DOT and the departments of Administrative Services and Public Utility Control; the chairperson of the Connecticut Clean Energy Fund; and the OPM undersecretary. The departments of Revenue Services and Social Services join these agencies on the climate change coordinating committee, which staffs the steering committee.

By January 1, 2012 and every three years thereafter, the DEP commissioner, in consultation with the OPM secretary and the steering committee, must report to the Environment, Energy, and Transportation committees on the quantifiable emissions reductions achieved. The report must include a schedule of proposed regulations, policies, and strategies designed to achieve the GHG limits; an assessment of the latest scientific information and relevant data on global climate change; and the status of GHG emissions in other states and countries.

The act requires that, at least one year before the effective date of any federally mandated GHG cap-and-trade program that covers GHG emissions subject to state cap-and-trade requirements, the DEP commissioner and OPM secretary explain the differences between the federal and state requirements in a report to the Environment, Energy, and Transportation committees. The report must identify any regulatory or legislative actions needed to become consistent with the federal program.

The act eliminates a requirement that DEP, in collaboration with other state agencies and the steering committee, submit an annual report to the Environment Committee on progress in meeting the GHG reduction goals set by prior law.

GHG Emissions Reporting

Prior law required (1) the DEP commissioner to work with other states or a regional consortium to establish a regional GHG registry and reporting system, and (2) owners and operators of certain stationary emission sources to annually report their emissions to the registry.

It also required the commissioner to (1) annually consider expanding the reporting requirements to other facilities and sectors, (2) provide for voluntary reporting by these entities and facilities, (3) evaluate the feasibility of establishing a statewide GHG registry if a regional one was not developed, and (4) publish a GHG emission inventory every three years.

The act instead requires the commissioner, with the advice and assistance of a nonprofit association organized to provide scientific, technical, analytical, and policy support to northeastern state air quality and climate programs (apparently the Northeast States for Coordinated Air Use Management, or NESCAUM) to:

1. by December 1, 2009, publish (a) an inventory of GHG emissions to establish a state GHG emissions baseline and (b) a summary of GHG emission reduction strategies on DEP's website;
2. by July 1, 2010, publish results of various modeling scenarios concerning GHG emissions, including an evaluation of potential economic and environmental benefits and economic growth opportunities based on these scenarios;
3. by July 1, 2011, analyze GHG emission reduction strategies, and after allowing for public comment, recommend strategies to achieve the GHG emission level reductions the act requires; and
4. by July 1, 2012, and every three years thereafter, develop, with an opportunity for public comment, a schedule of recommended regulatory actions by relevant agencies, policies, and other actions needed to show reasonable further progress towards achieving the limits.

As under prior law, the commissioner may adopt regulations to implement the act.

Use of Emissions Allowances

Connecticut is a member of the Regional Greenhouse Gas Initiative (RGGI), a multistate initiative to reduce power plant carbon dioxide emissions in the northeast. The law requires DEP to adopt regulations to implement the RGGI cap-and-trade program and, in consultation with DPUC, to auction all emission allowances, investing the proceeds on behalf of electric ratepayers in energy conservation, load management, and class I renewable energy programs.

By law, the DEP regulations may include provisions to (1) cover reasonable administrative costs associated with implementing RGGI in Connecticut, (2) fund assessment and planning of emissions reduction measures, and (3) mitigate the impact of climate change. The act authorizes these regulations to also include provisions covering the reasonable administrative costs state agencies incur in adopting regulations, plans, and policies to achieve the GHG emissions limits. By law, these costs cannot exceed 7.5% of the total projected value of the emissions allowances DEP auctions off.

LOW CARBON FUEL STANDARD

The act requires DEP to monitor the development of low carbon fuel standards in other states and jurisdictions; evaluate the potential of these standards to achieve net carbon reductions; and assess whether the analytical framework used to determine the carbon benefit measures the full lifecycle of GHG emissions, including emissions of GHG caused by changes in land use and other factors. (Lifecycle analysis examines the full range of the environmental impact of a product or service.) The assessment must include the modeling tools developed by the California Air Resources Board and U.S. Environmental Protection Agency. This analytical framework must (1) include all stages of fuel and feedstock production, delivery and use of the finished fuel to the ultimate consumer, and (2) adjust the mass values for all GHG emissions relative to their global warming potential.

DOT must, within available appropriations, continue to investigate the potential for improving the state transportation system to reduce GHG emissions and coordinate with other northeastern states on regional strategies to incorporate GHG emissions reductions into regional transportation planning, including high speed rail, light-rail passenger service, and freight rail services in the northeast.

CLIMATE CHANGE IMPACTS SUBCOMMITTEE

The act requires, by January 1, 2009, the steering committee to create a subcommittee to (1) assess climate change impact on state and local infrastructure, public health, and natural resources and habitats; (2) prepare recommendations and plans to enable state and local governments to adapt to the impact; and (3) provide technical assistance to implement the recommendations and plans. Steering committee members may serve on the subcommittee. By December 31, 2009, the subcommittee must report to the steering committee on its assessment of current state and private programs and its research on the impact of climate change on state:

1. infrastructure, including buildings, roads, railroads, airports, dams, reservoirs, and sewage treatment and water filtration plants;
2. natural resources and ecological habitats, including coastal and inland wetlands, forests, and rivers;
3. public health; and
4. agriculture.

The subcommittee may hold public hearings on its assessment and on recommendations for further assessments of impacts on these resources. It must report to the governor and legislature, by July 1, 2010, on the results of its assessment and its recommendations

for changes to state and municipal programs, laws, or regulations to enable municipalities and natural habitats to adapt to and mitigate harmful climate change impact.

DEP COMMISSIONER'S AUTHORITY

Prior law authorized the commissioner to employ technical consultants (1) for special studies, advice, and assistance, and (2) to consult with, advise, and exchange information with other state departments or agencies. The act authorizes her to enter into contracts with these consultants, including nonprofit corporations created to help the state implement a multistate air pollution control program, for these purposes. It authorizes her to serve on the board of directors of such a nonprofit corporation.

USE OF GREENHOUSE GAS REDUCTION FEE

By law, the Department of Motor Vehicles (DMV) commissioner must charge a \$5 "greenhouse gas reduction fee" for each new motor vehicle sold on and after January 1, 2007. The fee must be deposited in the Clean Air Act account. The DEP commissioner may use up to 60% of this money to implement the requirements of the GHG labeling program for new motor vehicles and a GHG public education program. The act allows the commissioner to also use the fee revenue to implement air pollution control requirements and the act's greenhouse gas emission reduction, low carbon fuel standard, and DOT study requirements. By law, the DMV may spend the remaining 40% of the fee revenue to implement the labeling and public education program.

BACKGROUND

Climate Change Action Plan and Governor's Steering Committee on Climate Change

The Conference of New England Governors and Eastern Canadian Premiers, representing the six New England states and the provinces of New Brunswick, Newfoundland, Labrador, Nova Scotia, and Prince Edward Island, issued a Climate Change Action Plan in 2001 that recommended short- and long-term goals to reduce greenhouse gas emissions. The governor subsequently appointed a steering committee to organize a discussion among businesses, nonprofit organizations, state and local government agencies, and academic institutions of ways to reduce greenhouse gas emissions.

Regional Greenhouse Gas Initiative (RGGI)

Connecticut is a member of RGGI, a multistate initiative to design and implement a flexible, market-based, cap-and-trade program to reduce power plant carbon dioxide emissions in the northeast United States. Connecticut was one of seven states to agree in 2005 to a CO₂ cap-and-trade program for all fossil-fuel electric generating units of 25 megawatts or more. The program begins January 1, 2009.

Each state will allocate allowances up to the amount of its emission budget, with each allowance allowing a regulated source to emit one ton of CO₂. Under RGGI, instead of giving allowances directly to electric generators for free, states will sell a significant portion through a regional auction, or other means. By law, Connecticut must auction all emission allowances and invest the proceeds on behalf of electric ratepayers in energy conservation, loan management, and class I renewable energy programs. The state may use up to 7.5% of the total projected allowance value for reasonable administrative costs of implementing RGGI (CGS § 22a-200c).

Under a cap-and-trade program, companies are free to buy and sell allowances in order to continue operating in the most profitable manner available to them. Thus, companies that are able to reduce emissions at a low cost can sell their extra allowances to companies facing high costs, which will generally prefer to buy allowances rather than make costly reductions.

PA 08-124—sSB 127

Environment Committee

AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO THE ENVIRONMENTAL STATUTES AND THE OPEN SPACE AND WATERSHED GRANT PROGRAM

SUMMARY: The act allows applicants for the open space and watershed grant program to use other state funds as matching grants. It specifies that they may use other state and federal funds to fund up to 70% of their projects. Prior law required these recipients to match the grant with their own funds.

The act also makes technical changes to the environment statutes.

EFFECTIVE DATE: Upon passage

BACKGROUND

Open Space and Watershed Grant Program

This program provides grants to (1) municipalities and nonprofit land organizations to acquire land or permanent interests (e.g., easements) in it, (2) water companies (including municipal utilities) to acquire land that protects drinking water supplies, and (3) distressed municipalities and targeted investment communities to restore or protect open space land they already own.

If the state acquires a partial interest in a property, an easement must provide (1) permanent preservation, (2) public access, and (3) any Department of Public Health restrictions necessary to protect a public drinking water source.

PA 08-144—sHB 5855

*Environment Committee
Judiciary Committee*

AN ACT CONCERNING HUNTING OF MOOSE AND BEAR AND THE DISCARDING OF FISHING LINE OR OTHER LITTER IN THE WATERS OF THE STATE

SUMMARY: It is illegal to hunt moose or bear in Connecticut. This act increases the penalties for illegal hunting of these animals and requires the Department of Environmental Protection (DEP) commissioner to suspend or revoke a violator's hunting license. It allows the commissioner to designate an open season on these animals according to law.

The act requires all sport fishing licenses to state that anyone who intentionally discards fishing line or other litter (1) on private property belonging to another person, (2) in state waters, or (3) on state public property will be fined for littering. The statement must be conspicuous and either accompany, or be printed on, the license.

By law, the penalty for littering is a fine of up to \$199. A person who litters in a state park or forest, or any other publicly owned land open to the public for recreation, must also pay a surcharge of half the fine.

EFFECTIVE DATE: Upon passage, except for the provision on fishing lines and other litter, which takes effect October 1, 2008.

INCREASED PENALTIES FOR ILLEGAL BEAR OR MOOSE HUNTING

It is illegal to hunt moose or bear in Connecticut (Conn. Agency Regs. § 26-66-3(f)). By law, hunters who illegally hunt animals may be fined up to \$200, imprisoned for up to 60 days, or both (CGS § 26-71).

The act increases the penalty for people who illegally hunt moose or bear. The new penalty for first-time offenders is a fine of at least \$500, imprisonment for up to 90 days, or both. Second-time offenders face a fine of at least \$750, imprisonment for up to 120 days, or both; and third-time and subsequent offenders face a fine of at least \$1,000, imprisonment for up to 180 days, or both.

Hunting License Suspension and Revocation

The act requires the DEP commissioner, upon conviction for illegal bear or moose hunting, to suspend (1) a first-time violator's hunting license for at least one year, and (2) a second-time offender's hunting license for at least two years. She must revoke the hunting license of a third-time or subsequent offender.

BACKGROUND

Litter Law

By law, anyone who violates the littering law may be fined up to \$199. One-half the fine must be paid to the municipality in which the arrest was made, unless a DEP officer or patrolman made the arrest, in which case one-half the fine must be paid to DEP. The other half of the fine must be paid to the state.

In addition, the court must also impose a surcharge on people convicted of littering on public land, equal to one-half the amount of the fine. The surcharge must be paid to the municipality in which the arrest was made, unless a DEP officer or patrolman made the arrest, in which case the surcharge must be paid to DEP. Public land is defined as a state park or forest, municipal park, or any other publicly owned land open to the public for active or passive recreation (CGS § 22a-250).

PA 08-164—sSB 632

*Environment Committee
Government Administration and Elections Committee
Commerce Committee
Appropriations Committee*

AN ACT CONCERNING ASSISTANCE FOR DAIRY FARMERS

SUMMARY: This act creates a nine-member Connecticut Milk Promotion Board in the Department of Agriculture (DOAG), and requires the DOAG commissioner to work with the United States Department of Agriculture, or other appropriate agencies, to certify the board by October 1, 2008.

It also requires the DOAG and Economic and Community Development (DECD) commissioners, within available resources, to make recommendations

and propose legislative changes to lower dairy farm production costs and increase dairy industry revenues. The recommendations and proposals on reducing costs must be made in consultation with the Office of Policy and Management (OPM). The proposals and recommendations are due by January 1, 2009.

EFFECTIVE DATE: Upon passage

MILK PROMOTION BOARD

The act, within available appropriations, creates a Connecticut Milk Promotion Board in DOAG. The board must consist of nine members: (1) the DOAG commissioner or his designee, (2) six people from the dairy industry appointed by the legislative leaders, and (3) the Environment Committee chairpersons, both of whom are non-voting ex-officio members.

Table 1 outlines the appointing authorities and appointment guidelines for the six appointed members.

Table 1: Milk Promotion Board Appointments

<i>Appointing Authority</i>	<i>Member Requirements</i>
Senate president pro tempore	Licensed milk producer and member of a dairy cooperative
House speaker	Independent licensed milk producer
Senate majority leader	Licensed dairy producer and member of a dairy cooperative
House majority leader	Member of a state-wide health and nutrition organization promoting consumer interests
Senate minority leader	Licensed milk producer and member of a dairy cooperative
House minority leader	Licensed milk producer and member of a dairy cooperative

Members of the board serve without compensation, but may be reimbursed from available funds for necessary expenses related to their duties. The board elects its chairperson and vice-chairperson from among its members. The chairperson or a majority of board members determines the number of necessary meetings. Members are deemed to have resigned if they miss more than three consecutive meetings, or 50% of meetings held in a calendar year, and the appointing authority must fill vacancies.

The board must (1) develop, coordinate, and implement promotional research and other programs designed to promote Connecticut dairy farms and milk consumption and (2) submit an annual report of its activities to the Environment Committee. The board may employ any necessary staff but must operate within available funds or appropriations. The board may apply for federal, state, or other funding and enter into contracts to carry out its charge.

RECOMMENDATIONS AND LEGISLATIVE PROPOSALS TO LOWER DAIRY FARM COSTS AND INCREASE REVENUES

The act requires the DOAG and DECD commissioners to make recommendations and legislative proposals in two policy areas by January 1, 2009. It requires the commissioners, in consultation with the OPM secretary, to recommend and propose legislation to lower agricultural fuel, electricity, and production costs to the Environment and Energy and Technology committees. The act also requires the commissioners to recommend and propose legislation to the Environment Committee to increase Connecticut dairy revenues, including an analysis of the dairy industry's positive impact on the state economy.

PA 08-172—sHB 5853

Environment Committee

Appropriations Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE ALLOCATION OF STATE FOREST TIMBER SALES, THIRD-PARTY CERTIFICATION FOR CONNECTICUT STATE FORESTS AND A SUSTAINABLE FOREST MANAGEMENT PLAN

SUMMARY: This act requires the Department of Environmental Protection (DEP) commissioner to have Connecticut's forests, woodlands, and products from them certified or licensed under relevant programs by January 10, 2010. Prior law allowed the commissioner to do so without a deadline. The act also broadens the list of programs (see BACKGROUND) acceptable for certification and licensing to include any deemed necessary by the commissioner.

Prior law required the annual deposit of proceeds from state sales of timber, wood, and other products from publicly owned woodlands in excess of \$875,000 into the Conservation Fund, which pays for various DEP programs. The act instead requires that proceeds in excess of \$600,000 from such sales be deposited into the fund and restricts their use to the support of forestry programs, while permitting use of General Fund appropriations for these programs. Under prior law, General Fund appropriations paid for these programs.

In addition, the act authorizes the DEP commissioner, within available resources and in consultation with the Connecticut Agricultural Experiment Station, UConn, and any other entity deemed appropriate, to study sustainable harvesting of forests in the state.

Under the act, if the commissioner conducts such a study, she must report the study's conclusions to the Environment Committee by July 1, 2009. She must also use it as the basis for a sustainable forest-harvesting plan, developed in consultation with the same entities. The plan must take into account carbon credit opportunities, the potential for maintaining a sustainable supply of biomass fuels, and the region's agricultural and silvicultural capability. "Silvicultural" refers to the control of the establishment, growth, composition, health, and quality of forests to meet diverse needs and values of many landowners.

The act also makes a conforming change.

EFFECTIVE DATE: Upon passage

BACKGROUND

By law, woodland or woodland product certification or licensing programs include the:

1. Sustainable Forestry Initiative Program;
2. American Tree Farm System;
3. Canadian Standards Association's Sustainable Management System Standards;
4. Finnish Standard;
5. Forest Stewardship Council;
6. Pan-European Forest Certification Program;
7. Swedish Standards;
8. United Kingdom Woodland Assurance Scheme; or
9. Smart Wood Program, as administered by the Rainforest Alliance.

PA 08-173—sHB 5874

Environment Committee

AN ACT CONCERNING THE PERMITTING OF SOLID WASTE FACILITIES LOCATED NEAR HOUSING DEVELOPMENTS AND THE SALE OF CERTAIN HOUSING

SUMMARY: This act bars the Department of Environmental Protection (DEP) commissioner from permitting a solid waste facility to be built or operated on land whose boundary is within 150 feet of property where there is a housing development owned by a housing authority, unless the commissioner determines the facility does not pose a threat to (1) the environment of the surrounding geographic area or (2) public safety. The act does not define "surrounding geographic area." It exempts from this prohibition (1) permits to build or operate a solid waste facility issued on or before September 30, 2008 and (2) the renewal of these permits. Under the act, a solid waste facility is a solid waste disposal area, volume reduction plant, transfer

station, wood-burning facility, biomedical waste treatment facility, or redemption center.

It also allows an owner, regardless of any law, condominium association bylaw, or affordable housing deed restriction limiting the sale price of housing, who purchased housing between July 1, 2004 and July 15, 2004 for more than the amount specified in the law, bylaw, or restriction, to sell it for an amount that does not exceed the purchase price.

EFFECTIVE DATE: The ban on the construction or operation of certain solid waste facilities is effective October 1, 2008. The condominium resale provision is effective upon passage.

BACKGROUND

Redemption Center

A redemption center is a facility established to redeem empty beverage containers from consumers, or to collect and sort empty beverage containers from dealers and prepare them for redemption by the appropriate distributors (CGS § 22a-243).

Housing Authority

A housing authority is (1) any of the public corporations created by law (CGS § 8-40) and (2) the Connecticut Housing Authority when exercising the rights, duties, or privileges of, or subject to the immunities or limitations of, housing authorities according to law (CGS § 8-39).

PA 08-174—sHB 5873

Environment Committee

*Government Administration and Elections Committee
Finance, Revenue and Bonding Committee*

AN ACT CONCERNING THE FACE OF CONNECTICUT STEERING COMMITTEE, THE PRESERVATION OF FARMLAND, A MUNICIPAL GRANT PROGRAM FOR DEVELOPMENT PROJECTS, LOANS FOR BROWNFIELD PURCHASERS AND TAX EXEMPTIONS FOR OPEN SPACE LAND HELD BY OR FOR CERTAIN CORPORATIONS

SUMMARY: This act establishes new programs and policies for preserving different types of land and cleaning up and redeveloping contaminated land (i.e., brownfields). It establishes a separate, non-lapsing General Fund account for acquiring, restoring, and maintaining open space, urban parks, farmland, and historic resources. The account must contain any money the law appropriates to it plus any public and private contributions. To oversee how the funds in this

account are used, the act creates a 15-member committee within the Department of Environmental Protection (DEP) for administrative purposes only.

The act allows the agriculture commissioner to acquire development rights to more types of farmland. Existing law limits his authority to do so under the Farmland Preservation Program to farmland meeting specified criteria. The act allows him to establish a separate program to acquire up to 100% of the rights to farmland that does not meet these criteria. He may purchase these rights jointly with a municipality.

But it also caps the amount the agriculture commissioner can spend to buy development rights under the existing program at \$20,000 per acre. He must also adjust the regulatory payment schedule to reflect this change and consult with the Farmland Preservation Board when developing the program's regulations. The act makes other technical changes.

The act exempts a nonprofit organization from paying property taxes on open space land it holds and preserves for that purpose. A recent Superior Court decision found that a land trust must use the open space land for a charitable purpose to qualify for the statutory tax exemption (see BACKGROUND). The act specifies that it does not affect any stipulated judgment on the imposition of property taxes.

The act revamps the multipurpose brownfield clean-up and redevelopment program into separate grant and loan programs, each with its own eligibility criteria and administrative requirements. But it also retains most of the old program's criteria and application procedures. The Department of Economic and Community Development (DECD) remains the administering agency. The act allows the DECD commissioner to use up to 5% of grant and loan amounts to cover reasonable administrative expenses.

The act expands the circumstances under which a municipality can enter and investigate or assess contaminated property and specifies the extent to which it is immune from liability when it does so. It requires the municipality to notify the owner before entering the property, and sets narrow grounds under which the owner can appeal the municipality's intention to do so.

The act reestablishes the Brownfields Task Force and requires it to recommend additional Brownfield remediation options to the legislature by January 1, 2009.

EFFECTIVE DATE: Upon passage, except for the open space property tax exemption, which takes effect on or after the October 1, 2007 assessment year, and the per acre cap on development rights purchases, which takes effect October 1, 2008.

FACE OF CONNECTICUT STEERING COMMITTEE

The act creates the Face of Connecticut Account for acquiring, restoring, or managing specific types of property. The account can be used to fund these activities if doing so conserves open space, renovates or enhances urban parks, preserves active agricultural land, or restores historic assets. The steering committee determines how the DEP commissioner may spend the account's funds.

The committee consists of the DEP and agriculture commissioners, the DECD commissioner or her designee, the executive director of the Connecticut Commission on Culture and Tourism (CCCT), the Office of Policy and Management (OPM) secretary, and 10 other appointed members representing different organizations. Table 1 identifies these organizations and the appointing authorities.

Table 1: Appointed Face of Connecticut Members

<i>Appointing Authority</i>	<i>Appointed Member Must Represent</i>
House speaker	a local historic preservation organization the legislative Brownfields Task Force
Senate president pro tempore	a nonprofit farmland preservation organization the environmental law section of the Connecticut Bar Association involved in brownfields remediation
House majority leader	a local or regional nonprofit open space preservation organization
Senate majority leader	a water company actively involved in land preservation
House minority leader	the agricultural industry
Senate minority leader	a state-wide nonprofit open space preservation organization
Governor	a state-wide nonprofit historic preservation organization a community redevelopment organization

All the appointments must be made by September 1, 2008. Each member's term is coterminous with the term of the appointing authority or until a successor is chosen, whichever is later. The committee must meet quarterly, and the chairmanship must rotate every two years. The DEP commissioner serves as the first chairperson, followed by the agriculture commissioner, the CCCT executive director, and the DECD commissioner or her designee. Should one of these positions be vacant, the two other commissioners or the executive director must serve as chairperson until the vacancy is filled.

FARMLAND PRESERVATION

Per Acre Cap on Development Rights Acquisition

Under the Farmland Preservation Program, the agriculture commissioner may acquire a farmer's right to develop his or her agricultural land if the farmer agrees to preserve that use. The commissioner secures that agreement by placing a permanent easement on the land prohibiting it from being developed for nonagricultural uses but allowing the owner to continue operating it as a farm.

The act places a \$20,000 per acre cap on the amount the agriculture commissioner may pay to acquire those rights and requires him to incorporate that cap in the program's implementing regulations. It also requires him to correspondingly increase the regulatory schedule for determining the maximum amount he can pay when he and a municipality jointly purchase development rights.

Community Farms Program

The act allows the agriculture commissioner to create a new program to acquire the development rights to agricultural land that does not meet the Farmland Preservation Program's criteria but could still contribute to the local economy through agricultural production. He may do this subject to the appraisal and review requirements contained in regulations the act implicitly requires him to adopt.

If the commissioner chooses to establish the program, he must establish its criteria in consultation with the Farmland Preservation Advisory Board. The criteria must give preference to farms that produce food or fiber, and consider:

1. the probability that the land will be sold for nonagricultural purposes;
2. the current and future productivity of the land;
3. the suitability of the land for agricultural use, including soil classification; and
4. the level of community support for preserving the land.

The commissioner must consider means to encourage the continued availability and affordability of agricultural production on the land for future generations of farmers. These means include deed restrictions or stewardship requirements.

PROPERTY TAX EXEMPTION FOR LAND PRESERVED AS OPEN SPACE

The law exempts certain nonprofit corporations from paying property taxes on land they own or is held in trust for them. Under prior law, a corporation qualified for the exemption only if it was organized exclusively for a scientific, educational, literary,

historical, or charitable purpose or any combination of these. Under the act, the corporation also qualifies if it preserves the land for open space to:

1. maintain and enhance conservation of natural and scenic resources;
2. protect natural streams or water supplies;
3. promote soil, wetlands, beach, or tidal marsh conservation;
4. enhance the public value of neighboring open spaces;
5. enhance public recreation opportunities;
6. preserve historic sites; or
7. promote orderly urban or suburban development.

BROWNFIELD REMEDIATION AND DEVELOPMENT PROGRAM

Generic Brownfield Program

The former generic brownfield remediation and development program offered a wide range of financial assistance to public, nonprofit, and private entities. The act divides this program into separate grant and loan programs each with its own criteria and administrative requirements. But the act also retains much of the former program's criteria and requirements. In some cases, these work in conjunction with the new programs' requirements; in others, they are superseded by the new requirements.

For example, the DECD commissioner must determine grant and loan amounts under the new programs based on the factors she had to consider when determining these amounts under the former generic program. These factors are:

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 benefit 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. the other criteria the commissioner establishes, which must be consistent with the program's purposes.

The act specifies that the project's relative economic benefits include its contribution to the municipality's tax base. It also adds more factors the

commissioner must consider. These are the length of time the property has been abandoned, the taxes owed on it, the revenue the developed property may restore to the community, and the types of financing the applicant may request.

Just as the act retains the factors the commissioner must consider when determining grant and loan amounts, it retains the types of financing the commissioner could have provided under the generic program. These are grants, loans, loan guarantees, credit extensions, participation interest in Connecticut Development Authority loans, or any combination of these types of assistance. But the provisions governing the loan program limit the commissioner to offering only low-interest loans.

The act also narrows the types of nonprofit organizations that can apply for grants or loans under the new programs. The former program was open to nonprofit organizations or entities; the new programs are opened to qualified nonprofit community and economic development corporations, but the act does not specify criteria for determining if a corporation qualifies for a grant or loan.

Remedial Action and Redevelopment Municipal Grant Program

Eligible Applicants. The act creates a separate grant program and allows only municipalities, local and regional economic development authorities, and qualified nonprofit community and economic development corporations to apply for the grants. Municipalities qualified for grants and loans under the former program, along with for profit and nonprofit organizations, local and regional economic development authorities acting on a municipality's behalf, and any combination of these organizations acting jointly.

Grant Amounts. Applicants qualify for up to \$4 million grants, but the DECD commissioner may supplement them with funds from other state programs. She may do this if the project's eligible costs exceed that amount.

Eligible Projects. The act expands the range of activities that qualify projects for grants. Under prior law, a project qualified if it planned to assess, clean up, and redevelop contaminated property. Under the act, the project also qualifies if it plans to foreclose on or investigates contaminated property.

The act allows the applicants to redevelop the property for a wide range of eligible uses. Those uses are manufacturing, retail, residential, municipal, educational, parks, community centers, and a mix of these.

Eligible Costs. The act explicitly allows applicants to use the grants to cover the same range of eligible costs prior law authorized. But it also expands this range

to include the cost of:

1. abatement;
2. soil, groundwater, and infrastructure investigation;
3. environmental land use restrictions; and
4. building and structural issues, including demolition, asbestos abatement, polychlorinated biphenyls removal, contaminated wood, paint removal, and other infrastructure remedial activities.

Lending Grant Funds. The act allows grant recipients to lend grant funds to redevelopers at low interest rates. A recipient may do so if:

1. a "private party" is a coapplicant,
2. there is an agreement between the applicant and the redeveloper (presumably about how the property will be reused), and
3. the applicant knows the property's intended reuse.

The act does not define redeveloper. Consequently, it appears that any type of organization qualifies for loans from grant recipients. Nor does the act define private party or specify whether it must be a coapplicant on the recipient's grant application or the redeveloper's loan application. Presumably, the private party is the entity that will own or operate the cleaned up and redeveloped property.

When lending grant funds, the recipient must require the redeveloper to participate in DEP's voluntary program for investigating and remediating contaminated property. The recipient may secure the loan with a state or municipal lien on the property. It must keep 20% of the loan principal and interest payments and return the rest to the account the law established for the generic program.

Grant Award Process. The act requires the commissioner to award the grants based on a request for applications. She must request applications at least once annually, issuing the first request by October 1, 2008 and any subsequent requests by June 1. She must award the grants by the following January 1. The commissioner may do these things more frequently, depending on the number of applications and the amount of available funds.

Immunity from Liability. The act gives applicants the same degree of immunity from liability the law provides to municipalities participating in DECD's brownfields pilot program. Consequently, it designates applicants as innocent third parties and protects them from liability for clean-up costs. An applicant enjoys this protection if it did not cause, contribute to, or exacerbate the contamination and complies with DEP's reporting requirements for significant environmental hazards.

The immunity also applies when an applicant acquires interest in real property and subsequently conveys it to a purchaser. The applicant and the purchaser enjoy the immunity if the property was cleaned up under DEP's voluntary investigation and remediation program or under a DEP clean-up order. The purchaser qualifies for the immunity if it was not liable for the contamination. The cleanup must meet DEP standards or be verified by a licensed environmental professional (LEP) and affirmed by a subsequent DEP audit.

Property Resale. The act allows applicants to sell property after they develop it. But it also requires them to return the grant amount, minus 20%, which they may keep to cover oversight, administration, and development costs and, if applicable, lost tax revenue. The grant repayment must go into the special account the law established for the generic program.

Targeted Development Loan Program

Eligible Applicants. The act establishes a low-interest loan program for parties who currently own or plan to purchase contaminated property. Eligible applicants are those who qualify for financing under the former generic program: municipalities, for profit and nonprofit organizations, local and regional economic development corporations acting on a municipality's behalf, and combinations of these organizations acting jointly. Organizations that may purchase a contaminated property (i.e., potential purchasers) qualify if they are not liable for the contamination. Organizations that own contaminated property (i.e., existing owners) qualify if:

1. they are in "good standing" and comply with DEP's regulatory programs,
2. show that they do not have the funds to investigate and clean up the property, and
3. cannot keep or create new jobs because of the investigation and remediation costs.

Eligible Projects. Projects qualify for loans if they will retain or create jobs or develop housing for first-time homebuyers. They may involve manufacturing, retail, residential, or mixed-use developments, expansions, or reuses. Applicants applying for loans over \$50,000 must submit a redevelopment plan that describes how the property will be used or reused and how it will stimulate new jobs and investment for the community.

The commissioner may lend funds for these purposes based on:

1. the project's merit and viability;
2. economic and community development opportunity;
3. municipal support;
4. contribution to the municipality's tax base;
5. the number of jobs involved; and

6. the applicant's past experience, compliance history, and ability to pay.

The act requires the commissioner to review and approve loan applications based on the same criteria she uses to approve grant applications.

Eligible Costs. Applicants may use the loan funds for any purpose, including several authorized under the generic and grant programs. They can use the loan proceeds to cover present and past costs of:

1. investigating, assessing, abating, and remediating property;
2. disposing of hazardous materials and waste;
3. long-term groundwater or natural attenuation monitoring;
4. environmental land use restrictions;
5. attorney fees;
6. planning, engineering, and environmental consulting costs; and
7. building and infrastructure issues, including demolition, asbestos abatement, polychlorinated biphenyls removal, contaminated wood or paint removal, and other infrastructure remedial activities.

Loan Amounts. The act caps loan amounts at \$2 million per year for two years, subject to DECD's underwriting and performance requirements. If a project requires additional funds, the commissioner may recommend bond funding from the State Bond Commission.

Environmental Assurances. Potential purchasers and existing owners must comply with certain environmental clean-up assurances. Potential purchasers must comply with the Transfer Act or participate in DEP's voluntary investigation and remediation program if the loan amount is over \$30,000 or the applicant intends to perform a Phase II environmental site assessment. (Phase II assessment uses chemical analyses to identify hazardous substances or petroleum hydrocarbons.) Existing property owners must participate in the voluntary program.

Loan Terms and Conditions. The act authorizes the DECD commissioner to determine the terms and conditions for the loans, but specifies that they must include performance requirements and job retention or creation goals. The loan repayment terms must coincide with the property's restoration to a productive use or the completion of its expansion. The loan term cannot exceed 20 years. The applicant must repay the loan with interest if he or she sells it before the repayment period, unless the commissioner waives this requirement. The commissioner may carry the loan forward as an encumbrance on the purchaser with the same terms and conditions imposed on the original loan.

Applicants receiving loans for residential developments must agree to address the housing needs of first-time homebuyers or recent college graduates

who want to stay in Connecticut. They must also agree to retire the loan when they sell units for homeownership. Those receiving loans for business uses must agree to retain or add jobs during the loan's term, unless DECD, the Connecticut Development Authority, and the Brownfield Redevelopment Authority agree otherwise.

MUNICIPAL INSPECTION POWERS

The act expands the circumstances under which a municipality may, without liability, enter and investigate contaminated or potentially contaminated property or assess its environmental status. Prior law allowed it to do so only by hiring or retaining an LEP to perform these tasks. It also protected the LEP from liability when acting on the municipality's behalf.

The act allows the municipality to enter and investigate or assess the property without hiring an LEP and do so with limited liability. The municipality is not liable for any preexisting contamination or pollution on the property. But it is liable if it causes the contamination or pollution to spread by negligently and recklessly investigating the property. This could happen, for example, if the municipality removes the contaminated soil without securing it and that soil subsequently washes into a river or stream. In any case, the municipality or its LEP are always liable to the DEP commissioner.

The act adds more conditions under which the municipality or an LEP working on its behalf may enter and inspect or assess contaminated property. Prior law allowed the municipality to hire an LEP for this purpose only if it could not find the property's owner, placed a lien on the property, or filed a notice of eminent domain. The act also allows it or the LEP to enter and investigate or assess the property if:

1. the municipality's legislative body finds the public interest would be served by determining if the property is underutilized or should be included in a redevelopment or remediation project or
2. any municipal official reasonably determines that these steps are necessary to determine if the property poses an environmental or public health, safety, or welfare risk.

The act requires the municipality to notify the owner before it or the LEP can enter the property. It must do so by sending notice by certified mail to the owner's last known address at least 45 days before entering the property.

The act allows the owner to appeal the municipality's decision to Superior Court, but only if the owner represents that it is diligently investigating the property in a timely manner and will fully pay any delinquent property taxes. The owner may bring the

appeal by filing an action in Superior Court within 35 days after receiving the municipality's notice.

BROWNFIELD TASK FORCE

The act reestablishes the Brownfields Task Force and requires it to prepare and submit more recommendations to the legislature on how to clean up contaminated property. The report is due January 1, 2009. 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 operating if it misses the January 1 reporting deadline).

BACKGROUND

Farmland Preservation Advisory Board

PA 07-162 created a 12-member board to help the agriculture department with its purchase of development rights program and other efforts to preserve agricultural lands. The board is within DOAG for administrative purposes only. The board must provide comments and recommendations on the purchase of development rights. The board may also submit recommendations on preservation programs for legislative action.

Recent Superior Court Decision Concerning Land Trusts

On March 3, 2008, the Bridgeport Superior Court ruled that a land trust was liable for property taxes for the 2005 tax year on certain land it owns because it did not conduct any charitable activities with respect to the property during that year. The court found that land preservation can be considered a tax-exempt charitable use of property only if it is "coupled with some minimal educational or other charitable activity on or near the location" (*Aspetuck Land Trust, Inc. v. City of Bridgeport*, No. CV 06 4016847S).

PA 08-186—SB 615

Environment Committee

Government Administration and Elections Committee

AN ACT CONCERNING ENVIRONMENTAL CONSERVATION POLICE OFFICERS, CLEANING PRODUCTS, THE STATE HAZARDOUS WASTE PROGRAM, DEMONSTRATION PROJECTS, A STUDY OF THE NORWALK RIVER WATERSHED, AND THE SALE OF CERTAIN REAL PROPERTY

SUMMARY: This act adds Department of Environmental Protection (DEP) sworn law enforcement officers to the people whose home

addresses are not publicly disclosable by state and local government agencies under the Freedom of Information Act.

It also allows the DEP commissioner to approve solid waste demonstration projects under certain conditions, and specifies, for the purposes of criminal violations of state hazardous waste laws, that certain terms have the same meaning they do under state hazardous waste regulations.

The law prohibits the use of cleaning products in state-owned buildings unless they meet certain guidelines or environmental standards. The act excludes from this restriction products for which these guidelines or standards have not been established, or which are otherwise excluded from them.

It requires DEP, within available resources, to award a grant to the Norwalk Public Works Department to study portions of the Norwalk River watershed, and develop a watershed and flood management plan for it.

By law, sellers of one-to-four family homes and real estate licensees can fully satisfy a duty to disclose the presence of hazardous waste facilities to a prospective purchaser by providing him with written notice of the availability of the list of hazardous waste facilities kept by municipal clerks. Under the act, if a seller provides written notice to the prospective purchaser, before or when entering a contract, of the availability of information on environmental matters from the U.S. Environmental Protection Agency, the National Response Center, the Defense Department, and third-party providers, the seller and real estate licensee are deemed to have fully satisfied any duty to disclose environmental matters concerning properties other than the home that is the subject of the contract. The act specifies that it does not impose liability on a seller or real estate licensee who does not disclose the required information.

EFFECTIVE DATE: Upon passage, except for the provisions on hazardous waste definitions, demonstration projects, and written notice about environmental matters, which are effective October 1, 2008.

SOLID WASTE DEMONSTRATION PROJECTS

The act allows the commissioner to approve a solid waste demonstration project upon finding it (1) is necessary to research, develop, or promote methods and technologies of solid waste management consistent with the goals of the state's solid waste management plan; (2) does not pose a significant human health or environmental risk; and (3) is consistent with the federal Water Pollution Control, Rivers and Harbors, Clean Air, and Resource Conservation and Recovery acts.

People seeking an approval must (1) apply on a form the commissioner prescribes, (2) provide the

information the commissioner deems necessary, and (3) pay a \$1,000 application fee. They cannot start the project without the commissioner's written approval.

The commissioner may impose conditions on the approval to protect human health and the environment or to ensure a project's success. An approval is valid for two years, but the commissioner may renew it for an additional three years. Under the act, anyone may seek, or the commissioner may require, that a demonstration project also obtain a solid waste permit. The commissioner may order summary suspension according to the Uniform Administrative Procedures Act.

DEFINITIONS

The act specifies that, for the purposes of enforcement of certain hazardous waste laws, the terms "treatment," "storage," "disposal," "facility," "hazardous waste," and "used oil" have the same meaning as under the state hazardous waste program and regulations authorized under CGS § 22a-449(c). The Connecticut Supreme Court declared prior law to be unclear on whether state or federal definitions applied for enforcement purposes (*State v. Cote*, 286 Conn. 603 (2008)). The state hazardous waste program's regulations incorporate federal hazardous waste law (40 CFR 260) by reference unless otherwise specified.

CLEANING PRODUCTS

The law prohibits anyone from using cleaning products in state-owned buildings unless they meet guidelines or environmental standards set by a national or international certification program approved by the Department of Administrative Services (DAS), in consultation with the DEP commissioner. It excludes from this requirement certain disinfectants and other antimicrobial products. The act also excludes products for which no guideline or environmental standard has been established by a DAS-approved national or international certification program, or which is outside the scope of, or otherwise excluded from, these guidelines or standards.

NORWALK RIVER WATERSHED STUDY AND PLAN

The act requires, DEP, within available resources, to award a grant to the Norwalk Public Works Department (DPW) to study, in consultation with Darien and New Canaan, the Five Mile River, Stoney Brook, and Goodwives Creek portions of the Norwalk River Watershed. The Norwalk DPW must develop a watershed and flood management plan that includes a

map of the hydrology of the Five Mile River portion and a design to control floods and prevent erosion. DEP must report to the Environment Committee on the status of the plan by January 1, 2009.

BACKGROUND

Residential Addresses Exempt from Disclosure

The Freedom of Information Act prohibits state and local government agencies from disclosing the home addresses of certain specified local, state, and federal employees, with one exception. The prohibition does not apply to personal information, including home addresses, in Department of Motor Vehicles records, which are disclosable to government agencies and others who obtain and agree to use the information only for limited specified purposes.

The law already covers:

1. federal and state judges, federal magistrates, and state family support magistrates;
2. state and local police officers;
3. Judicial, Department of Correction, and Department of Children and Families employees;
4. past and present state prosecutors and public defenders;
5. social workers employed by the Public Defender Services Division;
6. Division of Criminal Justice inspectors;
7. firefighters; and
8. members and employees of the Commission on Human Rights and Opportunities and Board of Pardons and Paroles.

DEP Sworn Law Enforcement Officers

DEP has four categories of sworn law enforcement officers: seasonal special conservation officers, conservation enforcement trainees, police officers, and conservation enforcement officers.

PA 08-187—sSB 627

Environment Committee
General Law Committee

AN ACT CONCERNING FARM WINERIES

SUMMARY: By law, a “farm winery” is any place or premises located on a farm in the state where wine is manufactured and sold. A farm winery permit allows its holder to make and sell wine and brandies distilled from grapes or other fruit products. Prior law required at least 25% of the fruit crop used in the manufacture of a permittee’s wine to be produced on the farm winery

premises or on property adjacent to it in the state, and under the permittee’s ownership and control. The act instead requires that at least 25% of the fruit crop used in the manufacture of the permittee’s wine be grown on (1) the farm winery, (2) land the permittee owns and controls, or (3) on land leased by the permittee or permittee’s backer. It further requires the fruit to be grown in the farm winery’s “principal state.” The act does not define “principal state.”

The act also requires that when a crop is grown on separate properties, the aggregate acreage of the properties must be at least five acres for the farm winery to be eligible for a permit. It specifies that the wine manufacturer permit allows the permittee to sell, ship, and offer wine and brandy produced at the farm only at the main location (“principal premises”) of the farm winery.

EFFECTIVE DATE: Upon passage

PA 08-117—sSB 25

Finance, Revenue and Bonding Committee

AN ACT CONCERNING A REPORT ON BOND ALLOCATIONS AND BOND AUTHORIZATIONS FOR THE CONNECTICUT HIGHER EDUCATION SUPPLEMENTAL LOAN AUTHORITY

SUMMARY: This act increases, from \$170 million to \$300 million, the aggregate amount of outstanding Connecticut Higher Education Supplemental Loan Authority (CHESLA) bonds that may be secured by special capital reserve funds. CHESLA makes loans to college students and their parents to help them finance the cost of undergraduate and graduate education.

The act also eliminates an annual report from the Office of Policy and Management secretary to the Finance, Revenue and Bonding Committee that updates, for all outstanding bond allocations, (1) the full completed cost of the project or purpose that received the allocation and (2) the estimated operating costs of any structure, facility, or equipment being built or acquired. The report was due by January 1 each year starting in 2007.

EFFECTIVE DATE: July 1, 2008

BACKGROUND

Special Capital Reserve Funds

Although bonds secured by special capital reserve funds are not backed by the state’s full faith and credit, the state undertakes a contingent liability for the bonds by authorizing an issuing entity to establish such funds. Subject to any exceptions in the law authorizing establishment of a particular fund, money credited to and held in a special capital reserve fund must be used solely to buy, or pay interest or principal on, the bonds the fund secures or to pay redemption premiums on them if they are redeemed before maturity.

The minimum capital reserve amount is usually the maximum principal and interest payments due on the bonds for a single year. The state’s liability is to maintain the minimum reserve on an annual basis and restore it to the minimum if it falls below the required amount in any particular year.

PA 08-140—sHB 5845

Finance, Revenue and Bonding Committee

Government Administration and Elections Committee

AN ACT CONCERNING THE HOMECARE OPTION PROGRAM FOR THE ELDERLY (HOPE)

SUMMARY: This act exempts dividends and capital gains earned on contributions to an account in the Homecare Option Program for the Elderly (HOPE) from the designated account beneficiary’s state income tax. Interest earned on such contributions was already exempt.

It expands the specified people who can benefit from a HOPE account to include any designated beneficiary. Under prior law, only a person who entered into the HOPE participation agreement or who was later designated as that person’s spouse or civil union partner could benefit.

Finally, the act adds certain requirements and stipulations concerning the status of the HOPE trust fund, its relationship to the state, and how deposits must be administered.

EFFECTIVE DATE: July 1, 2008. The tax exemption applies to tax years starting on or after January 1, 2008.

HOPE TRUST FUND REQUIREMENTS

The act makes the HOPE trust fund an instrumentality of the state performing essential functions and makes the comptroller responsible for receiving, maintaining, administering, investing, and disbursing funds from it.

It requires the trust to receive and hold all deposits, gifts, bequests, endowments, government grants, and other funds, and the earnings on those funds, until disbursed to a designated beneficiary for qualified home care expenses. Depositors and beneficiaries cannot direct how their contributions are invested, but may choose specific investment options that the comptroller may establish within the trust.

HOPE deposits must be made in cash. Amounts deposited in individual HOPE accounts are not state property and cannot be combined with state funds. The state has no claim on, or interest in, the funds. Trust contracts and obligations are not state obligations and the state has no obligation to designated beneficiaries or others on account of the trust. Trust payment obligations are limited to amounts on deposit with the trust. Deposits can only be disbursed in accordance with the HOPE law. The trust continues as long as it has deposits or obligations and until terminated by law. Deposits not claimed when the trust terminates return to the state.

BACKGROUND*Homecare Option Program for the Elderly*

HOPE allows participants to establish individual savings accounts within a state-administered trust fund. It allows an account's designated beneficiary to withdraw funds for qualified home care expenses that (1) are not covered by a long-term health insurance policy or supplement services covered by such a policy or by Medicare and (2) will allow the person to remain in his or her home or live in a non-institutional setting as he or she ages. HOPE is administered by the state comptroller.

PA 08-142—sHB 5931*Finance, Revenue and Bonding Committee***AN ACT CONCERNING THE APPLICABILITY OF ENTERTAINMENT INDUSTRY TAX CREDITS**

SUMMARY: By law, Connecticut grants transferable tax credits equal to 30% of eligible film production expenses incurred in the state that exceed \$50,000. The credits apply against the corporation tax for income years starting on or after January 1, 2006 and, under prior law, against the insurance premium tax for income years starting on or after January 1, 2007.

This act extends the applicability of the film credits to insurance premium tax liability for income years beginning on or after January 1, 2006 as well. It allows these 2006 credits to be sold or transferred on or after July 1, 2006, as well as on or after July 1, 2007. It also requires these 2006 credits to be attributable to film production expenses incurred in 2006, requires them to be claimed on or after July 1, 2006, and allows them to be carried forward only for the three income years immediately succeeding the 2006 income year.

EFFECTIVE DATE: Upon passage

PA 08-179—sHB 5936 (VETOED)*Finance, Revenue and Bonding Committee
Environment Committee***AN ACT CONCERNING THE GREENWAY COMMONS IMPROVEMENT DISTRICT IN SOUTHTON, THE WAYPOINTE PROJECT IN NORWALK, NAUGATUCK ECONOMIC DEVELOPMENT CORPORATION, DONATION OF OPEN SPACE LAND BY WATER COMPANIES, AND THE AUTHORITY OF MUNICIPAL DISTRICTS OVER THE WATER QUALITY IN LAKES**

SUMMARY: This act:

1. allows a special taxing district to be formed within Southington and, after the district concludes an interlocal agreement with the town of Southington, allows it to issue up to \$10 million in district bonds to provide services and finance infrastructure improvements in the district;
2. explicitly authorizes up to \$30 million in economic development assistance over four years for downtown Naugatuck and up to \$25 million in such assistance to the Waypointe Project in Norwalk, subject to the legislative approval requirements of existing law;
3. extends the carry-forward period for unused corporation tax credits for donating open space land from 15 to 25 years;
4. expands the purposes of statutory special taxing districts to include maintaining water quality in lakes (§ 5); and
5. allows statutory special taxing districts to pay for maintaining lake water quality by the same assessment method as they may already use for building flood and erosion control systems (§ 6).

EFFECTIVE DATE: October 1, 2008 for the provisions concerning authority of statutory special taxing districts to maintain lake water quality and July 1, 2008 for the remaining provisions. The open space donation tax credit provision applies to income years starting on or after January 1, 2008.

§ 1 — SOUTHTON SPECIAL TAXING DISTRICT

The law provides a procedure through which voters in a section of a town may form a special taxing district to provide various public services in the district. The act provides a procedure through which voters and nonresident property owners in a specified section of Southington may form a similar district to provide services and finance infrastructure improvements there.

The procedure, which mirrors the one the statutes provide, allows these parties to establish the Greenway Commons Improvement District.

District Purposes and Powers

The act allows the district to provide services, such as fire protection; road, tree, and infrastructure maintenance; and community water systems. It also allows it to finance infrastructure improvements, such as utility improvements and connections; bulkhead repairs, dredging, construction, and environmental remediation; and flood or erosion control systems. The district can pay for the improvements directly or give grants to others to provide them.

The act gives the district the power to levy assessments and taxes on land and buildings benefiting from these improvements, but only after holding at least two public hearings in the town; giving notice to the Southington town manager; and advertising in at least two newspapers circulating in town.

It requires the Southington special district provisions to be liberally construed to effect their purposes.

Establishing and Organizing the District

The act delineates the district's geographic boundaries and establishes procedures for forming, operating, and terminating it with the approval of district voters. It defines such voters as people who (1) live in the district; (2) are liable to it for at least \$1,000 in property assessments (certain tax-exempt entities are also eligible); or (3) own or have an interest in real property located in it, such as banks holding mortgages.

After being established, the district must hold an organizational meeting at which district voters fix the annual meeting dates and elect five directors. The Southington town council may appoint one director for the district. At least three directors must be Connecticut residents. Voters must also elect a president, vice-president, clerk, and treasurer from among the district's directors. Fifteen district voters or a majority of those owning interests in real property in the district are a quorum for transacting business, as long as the property owners present represent at least 50% of the total property assessments in the district.

District Bonds

The district must enter into an interlocal agreement with Southington. Once it does so, the act allows it to issue up to \$10 million in bonds to finance the improvements and to secure them by the district's full faith and credit; district fees, revenues, or benefit assessments; or a combination of the two. While the bonds are outstanding, the district's powers may not be

impaired in any way that would adversely affect the bondholders' interests. Bonds are not considered debts of the state or Southington and can be issued without the consent of either.

Relationship to Town and the State

The act exempts the district's revenues and real and personal property from state and municipal taxes. District bond principal and interest are exempt from state taxes other than state estate and gift, franchise, and excise taxes. But the state and Southington can still levy taxes on the incomes and properties of the people and businesses living or operating in the district.

Whenever any construction or development activity financed by district bonds is taking place, the district must submit quarterly project activity reports to the Office of Policy and Management secretary and the co-chairpersons of the Finance, Revenue and Bonding Committee.

If Southington chooses, it may, by vote of its town council, merge the district into the town (1) if the district does not issue any bonds within four years after the act's passage or (2) after all bonds are paid off. In that case, district property must be distributed to the town.

§ 2 — ECONOMIC DEVELOPMENT ASSISTANCE FOR NORWALK

The act authorizes the departments of Economic and Community Development (DECD) and Environmental Protection, the Connecticut Development Authority (CDA), and Connecticut Innovations, Inc. (CII) to provide up to \$25 million in financial assistance from existing programs to Norwalk or a private developer under a development agreement with the city. The assistance must be used for economic development in an area known as the Waypointe Project, including environmental remediation, building and infrastructure construction, and project development.

The law requires the General Assembly to specifically authorize any state financial assistance from DECD, CDA, and CII to an applicant or business project that exceeds \$10 million in any two-year period. The act specifies that any assistance over \$10 million for the Norwalk project is subject to this law.

§ 3 — ECONOMIC DEVELOPMENT ASSISTANCE FOR NAUGATUCK

Between July 2, 2008 and June 30, 2012, the act authorizes DECD, CDA, and CII to provide up to \$30 million in financial assistance from existing programs to the Naugatuck Economic Development Corporation. The corporation must use the assistance for economic

development and property restoration and improvements in downtown Naugatuck.

The law requires the General Assembly to specifically authorize any state financial assistance to an applicant or business project that exceeds \$10 million in any two-year period. The act specifies that any assistance over \$10 million for downtown Naugatuck is subject to this law.

§ 4 — TAX CREDIT FOR DONATING OPEN SPACE LAND

The law provides a credit against the corporation tax for donations or discounted sales of open space land or interests in land to the state, a political subdivision, or a nonprofit land conservation organization when the land will be permanently preserved as open space. The credit equals 50% of the (1) donated land's market value at its highest and best use or (2) value of the discounted sales price of the land or interest in the land.

The act extends the period for which a company may carry forward unused credits from 15 to 25 years. As under prior law, the carry-forward applies only to credits allowed for any tax year starting on or after January 1, 2000.

PA 08-185—sSB 26

Finance, Revenue and Bonding Committee

AN ACT CONCERNING CERTAIN PROGRAMS ADMINISTERED BY THE OFFICE OF POLICY AND MANAGEMENT, THE DEFINITION OF "BIOMASS," THE ESTABLISHMENT OF PRIVATE DEVELOPMENT DISTRICTS WITHIN ADRIAEN'S LANDING, AND MUNICIPAL OPTIONS TO PROVIDE CERTAIN PROPERTY TAX EXEMPTIONS AND TO MAKE ANNUAL ADJUSTMENTS IN REAL PROPERTY VALUATIONS

SUMMARY:

This act:

1. extends the Capital City Economic Development Authority's (CCEDA) powers and duties relating to certain Hartford economic development projects for an additional five years;
2. establishes a process for designating a "private development district" on the Adriaen's Landing site in Hartford;
3. allows municipalities to make property tax exemptions for additional types of tax-exempt organization property effective on the date the organization acquires the property, rather than only at the start of the next assessment year;

4. allows municipalities to adjust real property values in the assessment years between revaluations, if their legislative bodies approve;
5. modifies what counts as "sustainable biomass" for purposes of the state's renewable portfolio standard (RPS), which requires electric companies and competitive electric suppliers to get part of their power from renewable resources; and
6. requires the Auditors of Public Accounts to perform and pay for the required annual comprehensive audit of accounts associated with Rentschler Field that contain state funds.

The act also eliminates a requirement that the Board of Accountancy be within the Office of Policy and Management (OPM) for administrative purposes and makes a minor change in the approval procedure for temporary leases of the New London State Pier or other state-owned or- controlled navigation property.

EFFECTIVE DATE: Upon passage, except for the provision concerning the Board of Accountancy, which takes effect July 1, 2008, and the provision allowing municipalities to adjust property values between revaluations, which takes effect October 1, 2008. The provision concerning the effective dates of property tax exemptions for property acquired by tax-exempt organizations applies to assessment years starting on or after October 1, 2007.

HARTFORD ECONOMIC DEVELOPMENT PROJECTS

§ 3 — CCEDA's Authority

This act extends CCEDA's powers and duties relating to certain Hartford economic development projects for an additional five years, until July 1, 2013. They were scheduled to expire on July 1, 2008. The projects are (1) a convention center, (2) a downtown higher education center, (3) up to 1,000 newly constructed or rehabilitated housing units, (4) the Civic Center (XL Center) and coliseum renovations, (5) expanded downtown parking, and (6) riverfront infrastructure and improvements.

Under the act, CCEDA exercises the following authority for an additional five years with regard to the Hartford projects:

An applicant requesting state funds for a project must submit a copy of its application, along with supporting documents, to OPM and CCEDA. CCEDA has 90 days to give the funding agency its written recommendations, which may include contractual performance standards and project timelines. The agency cannot spend funds until it receives these recommendations or until the 90 days expire, whichever is sooner. It does not have to implement CCEDA's

recommendations, but must give CCEDA a written explanation about any spending decision that is inconsistent with them.

CCEDA cannot issue any funding recommendations until Hartford has created a municipal parking authority and transferred or scheduled the transfer (in a legally binding way) of its authority over all municipally owned or operated parking facilities to the new authority. CCEDA must coordinate all state and municipal planning and financial resources for projects, and all state and municipal agencies must cooperate with the authority in its efforts.

§ 5 — On-Site Related Private Development at Adriaen's Landing

The act expands the scope of the convention center component of the Adriaen's Landing project to include any on-site related private development that CCEDA owns, develops, or operates according to a determination by the authority and the OPM secretary that it is necessary and in the public interest. By law, "on-site related private development" means housing, entertainment, recreation, retail, and office development contemplated in the Adriaen's Landing master development plan. (It is unclear if the expansion includes the convention center hotel. The act incorporates a statutory definition of "on-site related private development" that includes the hotel but also retains an existing exclusion for the hotel from the scope of the convention center facilities project.) By extending the scope of the convention center facilities, the act gives the private development projects expedited permitting and exempts them from several environmental and public works laws.

The act also makes the inclusion of a central heating and cooling plant a mandatory rather than an optional part of the convention center facilities.

§§ 6 & 7 — Adriaen's Landing Private Development District

The act allows CCEDA and the OPM secretary to jointly designate land on the Adriaen's Landing site in Hartford as a "private development district," meaning that it is available for certain types of private development but needs an inducement to encourage it. Although the types of private development allowed in a district are the convention center hotel and other housing, entertainment, recreation, retail, and office development contemplated in the master development plan for Adriaen's Landing, the secretary and the authority may only designate land for the district on which construction of a building or improvement is to start on or after July 1, 2008.

The act gives CCEDA the authority to negotiate, and with the OPM secretary's approval conclude, an agreement with a private developer or an owner or lessee of any building or improvement in the district for payments in lieu of real property taxes (PILOT) to CCEDA. The act makes any private development rights within the district conditional on such a PILOT agreement. It also requires the agreement to include a requirement that the developer, owner, or lessee make a good-faith effort to achieve the goal of using available and qualified minority businesses to provide construction services and materials equal to 10% of the total services and materials costs of improvements to be built in the district.

PILOT payments to CCEDA have the same lien and payment priority and can be enforced in the same way as municipal real property taxes. CCEDA must use the payments to carry out its statutory purposes relating to encouraging economic development in Hartford.

§ 8 — Exemption From Municipal Laws, Ordinances, And Regulations

The act extends the exemption from municipal ordinances, laws, and regulations that already applied to the overall Adriaen's Landing project to the operation of any improvements in the private development district. The exemption applies to the improvements to the extent they are covered by the laws governing the Adriaen's Landing project, CCEDA's authority, or any other state law.

The act further limits Hartford's authority over the Adriaen's Landing project and the private development district by barring any municipality from imposing indirectly, as a condition of the project receiving state or local funding that the municipality administers, any requirement that it cannot impose directly. The prohibition does not apply if federal law requires the municipality to impose the condition.

§ 9 — State PILOT Payments to Hartford

The act requires the state to make PILOT payments to Hartford for land and improvements within the designated Adriaen's Landing private development district as long the designation continues. Under the act, Hartford's authority to negotiate and fix property tax assessments for retail, commercial, and residential uses for certain capital city projects and projects located within the Adriaen's Landing site for up to 15 years does not apply to land and improvements within the designated private development district while the designation continues.

§ 11 — PROPERTY TAX ON PROPERTY ACQUIRED BY TAX-EXEMPT ORGANIZATION

In general, the property tax exemption for any property acquired by a tax-exempt organization after the first day of October may not take effect until the following October 1 (CGS § 12-89). But the law allows a municipality to establish, by ordinance, that a property tax exemption for certain types of tax-exempt organizations becomes effective on the date the organization acquires the property. This act extends this municipal authority to cover property acquired by, or held in trust for, three additional types of organizations: (1) a bona fide war veterans' organization, (2) a Connecticut Grand Army post, and (3) the American National Red Cross.

The municipal option authority already covered:

1. property used for scientific, educational, literary, historical, or educational purposes;
2. college property;
3. personal property loaned to tax-exempt educational institutions;
4. property owned by agricultural or horticultural societies;
5. property held for cemetery use;
6. personal property of religious organizations devoted to religious or charitable use;
7. houses of religious worship;
8. property of religious organizations used for certain purposes;
9. houses used as dwellings by officiating clergy; and
10. hospitals and sanitoriums.

By law, the municipal ordinance must establish a procedure for reimbursing the tax-exempt organization for any tax it paid for any period after the acquisition date, as well as for any tax for which the exempt organization reimbursed the prior owner on the transfer of the title.

§ 12 — ADJUSTING PROPERTY VALUES BETWEEN PROPERTY TAX REVALUATIONS

Authorization

The act allows municipalities to adjust real property values in the assessment years between revaluations, if their legislative bodies approve. It allows them to do so by calculating an average annual adjustment based on sales data instead of performing an annual revaluation based on the methods the law authorizes. Municipalities that choose to adjust the values in this manner must continue doing so until the next revaluation. The act specifies that this practice does not exempt municipalities from revaluing property every five years as the law requires.

Timing

It appears that municipalities may begin doing annual property value adjustments with respect to grand lists following revaluations implemented on or after October 1, 2007, even though one of the act's provisions explicitly allows them to begin doing so with respect to the first grand list following any revaluation implemented after October 1, 2005. To comply with the act's other provisions, a municipality that implemented a revaluation in 2005 year would have to begin adjusting the values on the October 1, 2006 grand list and continue doing so in each subsequent assessment year until the next revaluation. But the act does not explicitly allow municipalities to retroactively adjust the values for the October 1, 2006 grand list.

The act's other provisions specify that municipalities may begin adjusting values in the assessment year following the assessment year in which they implemented the revaluation. Consequently, this provision appears to limit this option to assessment years following revaluations implemented on or after October 1, 2007. For example, a municipality that implemented a revaluation on that date could begin adjusting the values for the assessment year beginning October 1, 2008. One that implemented revaluation after that date could begin adjusting values for the assessment year commencing the subsequent October 1.

Adjustment

The act allows municipalities to annually adjust the values resulting from the revaluation and specifies the data they must use to make the adjustments, but does not state how they must calculate them. Municipalities that choose to adjust the values must:

1. divide property into categories OPM created to comply with the law's grand list reporting requirement and
2. adjust the values in each category to reflect the "average annual adjustment in value" for each category. (The act does not specify the data municipalities must use to calculate the average.)

They may further adjust the values by geographic areas. In other words, a municipality may designate zones and adjust the values for each category in that zone.

Municipalities that choose to adjust the values must do so based on the average percent of change in the values, up to 5%. But it is not clear if they must adjust each property's value based on (1) the average change in value for all property, (2) the average change in value for each property class, or (3) the average change in value for each property class in each specified geographic area.

Municipalities must adjust the values based on a compilation of all fair market sales within their respective jurisdictions during the year before the October 1 assessment date. If there were not enough sales during that period to accurately adjust the values, assessors may use sales data from a prior period or base the adjustment on other types of data they use to determine property values.

Administration

By law, tax assessors must notify property owners when they increase the value of their property. The act exempts them from this requirement when a property's value increases solely from the annual adjustment method the act allows.

The law requires assessors to assess property that was constructed after the October 1 assessment date as of the date the property received its certificate of occupancy or the date it is actually used for its intended purpose. The act explicitly subjects assessors to this requirement.

§ 4 — SUSTAINABLE BIOMASS

Under the RPS, electric companies and competitive electric suppliers must get part of their power from renewable resources, with specific mandates for obtaining power from class I and II resources. By law, sustainable biomass used in facilities that meet specified emission or size limits is considered a type of class I resource. Sustainable biomass used in facilities that meet less stringent emission limits is considered a class II resource. The power from class I and II resources qualifies for renewable energy certificates that are bought and sold on the regional wholesale electric market.

By law, four types of biomass generally do not count as sustainable biomass. These are: (1) construction and demolition (C&D) waste; (2) finished biomass products from sawmills, paper mills, or stud mills; (3) organic refuse fuel derived separately from municipal solid waste; and (4) biomass from old growth timber stands.

Prior law provided three exceptions to this exclusion. It permitted the four types of biomass to count as a class I or II resource if:

1. the biomass was used in a gasification plant funded by the Clean Energy Fund before May 1, 2006;
2. the energy from the biomass was the subject of a long-term contract entered into before May 1, 2006 between an electric company and a renewable resources generator under a program commonly known as Project 100; or

3. the biomass was used in a renewable energy facility certified as a class I renewable energy resource by the Department of Public Utility Control (DPUC).

By law, the third exception runs until DPUC certifies that the gasification plant described in the first exception has become operational and is accepting the biomass.

The act modifies the third exception by (1) limiting the amount of the four types of biomass that can be used at the facility to 140,000 tons per year; (2) requiring DPUC to have certified the facility as a class I renewable energy resource before December 31, 2007; and (3) requiring that the facility use biomass, including C&D waste, from a Connecticut transfer station and volume-reduction facility that generated biomass during calendar year 2007 that was used during that year to generate class I renewable energy certificates.

The act adds a new exception under which the four types of biomass can count as sustainable biomass. Under the act, if no facility described in the first or third exceptions is accepting such biomass, up to 140,000 tons of the biomass can be used each year in one or more other renewable energy facilities certified as a class I or II renewable energy resource by DPUC. These facilities must use the biomass (including C&D waste) from a Connecticut transfer station and volume-reduction facility that generated biomass during calendar year 2007 that was used during that year to generate class I renewable energy certificates.

The act's 140,000-ton annual limit does not apply to gasification plants funded by the Clean Energy Fund before May 1, 2006.

§ 2 — AUDITS OF RENTSCHLER FIELD ACCOUNTS

The act requires the Auditors of Public Accounts to perform and pay for the required annual comprehensive audits of accounts associated with Rentschler Field that contain state funds. Under prior law, audits had to be conducted by an independent accounting firm chosen by the OPM secretary from a list of at least four such firms provided by the state comptroller. The cost of the independent audit was treated as a stadium operating expense. The audit requirement applies to the Stadium Facility Enterprise Fund, the revenue account, the operating expense fund, and any other account containing state money associated with the stadium.

The act also eliminates an obsolete requirement that the Auditors of Public Accounts conduct an audit of the stadium facility operation's internal controls between August 8 and November 30, 2003.

§ 10 — TEMPORARY AGREEMENTS FOR
LEASING STATE PIER

PA 08-101 authorizes the transportation commissioner to lease or grant any interest at the State Pier in New London or any navigation property the state owns or controls with the approval of the State Properties Review Board (SPRB), OPM, and the attorney general. It also allows the commissioner, after requesting SPRB and attorney general approval, to execute a temporary lease that would be effective only until the full agreement has received final approval. This act requires the OPM secretary to approve any such temporary lease. It also specifies that OPM, as well as the attorney general and the SPRB, make the final decision on the final lease or grant of interest.

PA 08-11—SB 518

*General Law Committee***AN ACT CONCERNING BEER COOLER ACCESSIBILITY**

SUMMARY: This act prohibits the Department of Consumer Protection from adopting regulations under the Liquor Control Act that require publicly accessible beer coolers to be locked when (1) the sale of alcoholic liquor for off-premises consumption is prohibited and (2) stores holding grocery beer permits are open for business.

EFFECTIVE DATE: Upon passage

PA 08-25—sHB 5772

*General Law Committee***AN ACT CONCERNING CONTROLLED SUBSTANCE REGISTRATIONS**

SUMMARY: This act makes the registration certificate for a controlled substance practitioner valid for two years, rather than one, and makes a corresponding adjustment in the fee, raising it from \$10 to \$20.

EFFECTIVE DATE: October 1, 2008

BACKGROUND*Controlled Substance Registration*

The law requires practitioners who distribute, administer, or dispense controlled substances to obtain a registration certificate from the consumer protection commissioner. A “practitioner” is a physician, dentist, veterinarian, podiatrist, optometrist, physician assistant, advanced practice registered nurse, nurse-midwife, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, or conduct research with respect to a controlled substance in the course of professional practice or research.

A “practitioner” can also be a hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer, a controlled substance in the course of professional practice or research.

PA 08-44—sHB 5756

*General Law Committee***AN ACT CONCERNING SWIMMING POOL MAINTENANCE AND REPAIR WORK**

SUMMARY: This act redefines “swimming pool maintenance and repair work” by specifying that it includes (1) renovating or repairing the nonpotable water components of a pool, hot tub, or spa, including its shell, concrete finish, or vinyl liner and (2) draining, acid washing, or backwash filtering a swimming pool. The law already provides that the work includes performing all of the plumbing, heating, and electrical work necessary to service, modify, or repair a swimming pool, hot tub, or spa, where the work begins at an outlet, receptacle, connection, back-flow preventor, or fuel supply pipe. By law, anyone performing such work must have a license issued by the Plumbing and Piping work Board within the Department of Consumer Protection (DCP).

The act exempts holders of swimming pool maintenance and repair work licenses from registering as home improvement contractors if acting within the scope of their licenses. It also exempts them from the law applying to occupational tradesmen (see BACKGROUND). Finally, it makes it clear that licensed plumbers and electricians do not need to hold swimming pool maintenance and repair licenses to install, renovate, or repair a pool, hot tub, or spa.

EFFECTIVE DATE: Upon passage

BACKGROUND*Occupational Licensing System*

State law establishes a licensing system for several trades overseen by the Electrical Work; Heating, Piping, and Cooling Work; Plumbing and Piping Work; Elevator Installation, Repair, and Maintenance Work; Automotive Glass Work and Flat Glass Work; and Fire Protection Sprinkler Systems boards. The boards are within DCP. They have the power to determine who qualifies for a license and to enforce standards by disciplining licensees. The boards may create limited licenses authorizing their holders to work in a specific area of a trade that have less extensive requirements. Each trade has different levels of expertise—apprentice, journeyman, and contractor. Workers must meet education, training, and experience requirements to qualify for each level. The law establishes DCP’s duties in relation to the boards, which include receiving complaints, carrying out investigations, and performing administrative tasks, such as physically issuing licenses and renewals.

PA 08-59—sHB 5609*General Law Committee**Public Safety and Security Committee**Transportation Committee***AN ACT CONCERNING EXEMPTIONS FROM CRANE AND HOISTING EQUIPMENT OPERATOR LICENSING REQUIREMENTS**

SUMMARY: This act exempts from crane and hoisting equipment operator licensing anyone operating a bucket truck or a digger derrick designed and used for an electrical generation, electrical transmission, electrical distribution, electrical catenary (overhead lines above railroad tracks), or electrical signalization project if he or she:

1. holds a valid limited electrical line contractor or journeyman's license issued by the Department of Consumer Protection and authorized by the Examining Board for Electrical Work;
2. has engaged in the installation of electrical line work for more than 1,000 hours; or
3. has enrolled in, or has graduated from, a federally recognized electrical apprenticeship program.

EFFECTIVE DATE: Upon passage

BACKGROUND*Crane and Hoisting Equipment Operator Licensing and Exemptions*

The law requires a crane or hoisting equipment operator to hold a valid crane or hoisting equipment operator's license issued by the Examining Board for Crane Operators in the Department of Public Safety, but it exempts (1) engineers "under the jurisdiction of the United States"; (2) engineers or operators employed by public utilities or industrial manufacturing plants; and (3) anyone engaged in boating, fishing, agriculture, or arboriculture.

An electrical lineman uses a bucket truck when working on overhead lines and a digger derrick when setting poles.

PA 08-81—sSB 272*General Law Committee**Judiciary Committee***AN ACT CONCERNING SHORTHAND REPORTERS AND THE REGISTRATION OF LOCKSMITHS**

SUMMARY: This act (1) adds to the grounds on which the State Board of Examiners of Shorthand Reporters may impose discipline, (2) allows the board to impose a civil penalty of up to \$1,000, and (3) requires licensed shorthand reporters to display their license number on business documents.

In addition, the act requires locksmiths to register with the Department of Consumer Protection (DCP). It establishes registration procedures, requires a \$200 registration fee, sets grounds for discipline, and authorizes discipline.

EFFECTIVE DATE: October 1, 2008

SHORTHAND REPORTERS*Discipline*

This act authorizes the board to suspend or revoke a shorthand reporter's license after a hearing for:

1. knowingly making a false, misleading, or deceptive representation relating to employment as a shorthand reporter;
2. violating regulations relating to shorthand reporting; or
3. a felony conviction in accordance with the law on denial of a state credential based on prior conviction.

The act allows anyone who has had a license revoked or suspended on these grounds, but not on other grounds for disciplinary action, to apply for reinstatement (1) no earlier than 90 days after a revocation or (2) immediately after the suspension period has elapsed.

The law already allows the board to take disciplinary actions, including license suspension and revocation, on specified grounds, such as failing to deliver a transcript to a client or court in a timely manner or producing an incomplete transcript. The act adds producing a materially inaccurate transcript as a ground for disciplinary action.

License Numbers

The act requires each shorthand reporter to display his or her license number on business cards, stationery, transcripts, advertisements, or other practice-related documents.

Civil Penalty

The act authorizes the board to impose, after a hearing, a civil penalty of up to \$1,000 for:

1. violating any provision of the shorthand reporter law or
2. willfully employing or supplying for employment, as an employee or an independent contractor, a person who engages in the practice of shorthand reporting in this state in violation of the shorthand reporter licensing law.

LOCKSMITHING

The act requires anyone engaged in locksmithing to register with DCP. The application fee and the biennial renewal fee are \$200 each. It prohibits anyone who is not registered from engaging in locksmithing; using the title “locksmith;” or using any words, letters, figures, title, advertisement, or other method to indicate he or she is a locksmith. Registrations are not transferable or assignable. The act requires registered locksmiths to renew their registration even if they did not receive a notice of expiration or a renewal application.

“Locksmithing” is inspecting, installing, recombining, rekeying, servicing, or repairing locks or locking devices, with specified exemptions.

The act authorizes DCP to adopt implementing regulations.

Registration

The act requires applicants to apply in writing to DCP on a form the commissioner provides. The application must include the applicant’s name, residence and business addresses, business telephone number, felony conviction information from any state or jurisdiction, and other DCP-required information.

The act requires applicants to agree to a recent criminal history records check and prohibits DCP from registering an applicant without the results of such a check. The act authorizes the commissioner to revoke or refuse to issue or renew a registration if an applicant’s criminal history records check reveals that the applicant has been convicted of a crime of dishonesty, fraud, theft, assault, other violent offense, or a crime related to locksmithing. The commissioner’s actions must be in accordance with the law on denial of a state credential based on a prior conviction and after a hearing held according to the Uniform Administrative Procedures Act (UAPA) (see BACKGROUND).

Registry

The act requires DCP to establish a locksmith registry containing the names and addresses of registered locksmiths and other information determined by the DCP commissioner. It must be (1) updated at least annually, (2) available to the public upon request, and (3) published on DCP’s website.

Locksmith Requirements

The act requires registered locksmiths to (1) visibly display their registration, or a copy of it, at their place of business and any branch; (2) show it on request; and (3) include their registration number in advertisements. The act defines “registration” as a DCP-issued document or card that certifies that the locksmith (1) has completed an application form and paid the registration fee, (2) successfully passed the required criminal history records check, (3) is not otherwise barred from becoming a locksmith, and (4) has been added to the registry of locksmiths.

Prohibited Activities

The act prohibits:

1. presenting or attempting to present another’s registration as one’s own;
2. knowingly giving false evidence of a material nature to the DCP commissioner to obtain a registration;
3. representing himself or herself falsely as a registered locksmith;
4. knowingly using or attempting to use an expired, suspended, or revoked registration;
5. offering to perform a locksmith service without having a current registration;
6. representing in any way that a registration constitutes an endorsement of the quality of workmanship or competency by the DCP commissioner;
7. employing or allowing a person to act as a salesman unless he or she is directly employed by the locksmith; or
8. advertising a location or branch as a place of business without having the right to occupy it.

Enforcement

The act authorizes DCP to (1) investigate and hold hearings on any matter related to locksmith registration and (2) issue subpoenas, administer oaths, compel testimony, and order the production of documents as part of the investigations.

The act authorizes the DCP commissioner or the attorney general to apply to Superior Court for appropriate enforcement orders if anyone refuses to appear, testify, or produce any document when ordered. The act authorizes the attorney general, at the commissioner's request, to apply to Superior Court for temporary or permanent restraining orders.

Grounds for Discipline

The act authorizes DCP to revoke, suspend, place conditions on, or refuse to renew a registration for:

1. conduct likely to mislead, deceive, or defraud the public or the commissioner;
2. engaging in any untruthful or misleading advertising;
3. unfair or deceptive business practices;
4. gross incompetence; or
5. violating any provision of the locksmith registration law.

Penalties

The act empowers the DCP commissioner, after notice and hearing held in accordance with the UAPA, to impose a civil penalty on any person who:

1. engages in locksmithing without a registration,
2. willfully employs or supplies for employment an unregistered person,
3. willfully and falsely pretends to qualify as a locksmith,
4. engages in locksmithing with an expired registration, or
5. violates any provisions of the locksmithing registration law.

The penalty may be (1) up to \$500 dollars for a first violation, (2) up to \$750 for a second violation occurring within three years after a prior violation, and (3) up to \$1,500 for a third or subsequent violation occurring within three years after a prior violation. Proceeds from imposing these penalties must be deposited in the Consumer Protection Enforcement Account (see BACKGROUND).

Additionally, the act makes a violation of its locksmith registration provisions an unfair trade practice.

Exempt Activities and Individuals

The act exempts the following activities from "locksmithing":

1. recombining or rekeying locks or cylinders by a retail or wholesale employee on an employer's property;
2. installing or repairing locks by a registered major contractor or home improvement

contractor incidental to the construction of a building;

3. installing, maintaining, repairing, or servicing a vending machine;
4. selling or duplicating keys or selling key-duplicating equipment by a retail store; and
5. working on one's own residence.

It additionally exempts the following people, if they do not represent themselves as locksmiths:

1. people employed by a state, municipality, or other political subdivision, or by a federal agency or department, acting in their official capacity;
2. automobile service dealers who service, install, repair, or rebuild automobile locks;
3. retail merchants selling locks or similar security accessories or installing, programming, repairing, maintaining, reprogramming, rebuilding, or servicing electronic garage door devices;
4. members of the building trades who install or remove complete locks or locking devices in the course of residential or commercial new construction or remodeling;
5. employees of towing services, repossessioners, or an automobile club representative or employee opening automotive locks in the normal course of their business (The act specifies that it exempts towing service employees who open a motor vehicle to move it without towing.);
6. locksmithing students in DCP-approved programs;
7. warranty services by a lock manufacturer on its own products;
8. maintenance employees of property owners or property management companies at multi-family residential buildings, who service, install, repair, or open locks for tenants; and
9. security personnel at schools or institutions of higher education who open locks in the course of their employment.

BACKGROUND

Felony Conviction

The law generally provides that no one may be disqualified from practicing or engaging in any profession or trade for which a credential is required solely because of a prior conviction unless the credentialing agency considers (1) the nature of the crime and its relationship to the job, (2) the degree of rehabilitation, and (3) the time since the conviction or release and determines that the applicant is not suitable for the specific profession or trade (CGS § 46a-80).

Consumer Protection Enforcement Account

The statutorily established account is funded with revenue generated from imposing fines for licensing law violations and with up to \$400,000 per year from the Home Improvement Guaranty Fund. DCP must use the account “to fund positions and other related expenses” to enforce the licensing and registration laws it administers (CGS § 21a-8a).

Connecticut Unfair Trade Practices Act (CUTPA)

This 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.

PA 08-99—sHB 5610

General Law Committee

AN ACT REQUIRING LAST SALE DATES FOR RETAIL PRODUCTS

SUMMARY: This act requires the consumer protection commissioner to adopt regulations incorporating by reference the voluntary version of the federal Uniform Open Dating Regulation as adopted and amended from time to time by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology (NIST) Handbook 130, or subsequent corresponding handbook of the federal Department of Commerce.

The act exempts from its provisions dairy products that must be marked with their last sale date in accordance with state law and regulations adopted by the Milk Regulation Board. These products are: milk and milk products; cream; yogurt; cottage, ricotta, cream and soft cheese; egg nog; and sour cream.

EFFECTIVE DATE: January 1, 2009

BACKGROUND

National Conference of Weights and Measures

The conference is supported by the NIST to assist it in fulfilling its statutory responsibility to cooperate with the states to secure uniformity in weights and measures laws and methods of inspection. NIST is a non-regulatory agency within the federal Department of Commerce.

Uniform Open Dating Regulation

“Open Dating” (using a calendar date as opposed to a code on a food product) is a date stamped on a product's package to help the store determine how long to display the product for sale. It can also help the purchaser to know the time limit to purchase or use the product at its best quality. The NIST open dating regulation defines such terms as “sell by,” and “best if used by.”

PA 08-167—sHB 5658

General Law Committee

Judiciary Committee

AN ACT CONCERNING THE CONFIDENTIALITY OF SOCIAL SECURITY NUMBERS

SUMMARY: This act requires anyone possessing personal information about another person to safeguard it and the computer files and documents that contain it. “Personal information” is information that can be associated with an individual through an identifier like a Social Security number.

It requires a business that collects Social Security numbers to create a privacy protection policy that must ensure confidentiality of Social Security numbers.

The act exempts state agencies and political subdivisions from the duty to safeguard personal information.

It subjects violators to a civil penalty of \$500 for each violation, up to a maximum of \$500,000 per event. It provides that a violation is not a violation if it is unintentional. Civil penalties must be deposited into the Privacy Protection Guaranty and Enforcement Account. (Because legislation establishing the account was not enacted, penalties will presumably be deposited into the General Fund.)

EFFECTIVE DATE: October 1, 2008

DUTY TO SAFEGUARD PERSONAL INFORMATION

The act requires anyone in possession of personal information about another person to safeguard the data and computer files and documents containing it from misuse by third parties and to destroy, erase, or make unreadable any document, computer file, or data before disposing of it. For this purpose, “personal information” means information capable of being associated with a particular individual through one or more identifiers, such as a Social Security number, driver’s license number, state identification card number, account number, credit or debit card number, passport number, alien registration number, or health insurance identification number. It does not include publicly available information lawfully made available from federal, state, or local government records or widely distributed media.

PRIVACY PROTECTION POLICIES

The act requires anyone that collects Social Security numbers in the course of business to create a privacy protection policy that must be published or publicly displayed, which includes posting it on an Internet web page. The policy must ensure confidentiality of Social Security numbers, prohibit their unlawful disclosure, and limit access to them.

ENFORCEMENT

For persons and entities that hold a state license, registration, or certificate issued by a state agency other than the Department of Consumer Protection, the act provides that its provisions restricting the dissemination of Social Security numbers and on safeguarding personal information are enforceable by the agency that issued the credential using its existing statutory and regulatory authority.

BACKGROUND

Prohibition Against Publicly Disclosing Social Security Numbers

With certain exceptions, the law prohibits individuals and businesses from publicly disclosing Social Security numbers. The prohibition does not prevent the numbers from being (1) collected, used, or released as required by state or federal law or (2) used for internal verification or administrative purposes (CGS § 42-470).

The law also prohibits:

1. intentionally communicating or otherwise making available to the general public an individual’s Social Security number;
 2. printing anyone’s Social Security number on a card that the person or entity must use to access the person or entity’s products or services;
 3. requiring anyone to transmit his or her Social Security number over the Internet, unless the connection is secure or the number is encrypted; or
 4. requiring anyone to use his or her Social Security number to access an Internet web site, unless a password or unique personal identification number or other authentication is also required to access it.
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sHJ 21*Government Administration and Elections Committee***RESOLUTION PROPOSING AN AMENDMENT TO THE STATE CONSTITUTION TO ALLOW SEVENTEEN-YEAR-OLD PERSONS WHO WILL BE EIGHTEEN YEARS OF AGE AT THE NEXT REGULAR ELECTION TO VOTE IN PRIMARIES RELATED TO SUCH ELECTION**

SUMMARY: This resolution proposes a constitutional amendment allowing 17-year-old citizens who will turn 18 on or before the day of a regular election to vote in its primary. Under the resolution, such an individual must apply and otherwise qualify for admission as an elector. He or she may then vote in the primary held to determine nominees for the regular election. Upon turning 18, the individual's electoral rights attach. By law, a "regular election" means any municipal or state election. State elections include candidates for federal office.

The ballot designation to be used when the amendment is presented at the general election is: "Shall the Constitution of the State be amended to permit any person who will have attained the age of eighteen years on or before the day of a regular election to vote in the primary for such regular election?"

EFFECTIVE DATE: The resolution will be placed on the 2008 general election ballot. If a majority of those voting in the general election approves the amendment, it becomes part of the state constitution.

PA 08-2—sHB 5505*Government Administration and Elections Committee***AN ACT CONCERNING THE CITIZENS' ELECTION PROGRAM**

SUMMARY: This act changes state election laws addressing the State Elections Enforcement Commission (SEEC), campaign finance, and the Citizens' Election Program. Specifically, it expands the SEEC's authority by allowing it, among other things, to issue cease and desist orders for violations of statutes or regulations under its jurisdiction and order improper campaign contributions remitted to the Citizens' Election Fund (CEF).

Concerning campaign finance laws, the act makes changes to the registration forms for political committees (known as PACs) and expands the law granting individuals the right to incur legal expenses to contest or maintain the results of an election. It subjects party candidate listings for written communications to the attribution requirement and repeals a requirement for certain mailings to bear a photograph of the

candidate for office.

The act exempts from the contractor contribution and solicitation ban all principals of state and prospective state contractors who are elected officials. It makes other minor and technical changes to that ban and the similar ban affecting lobbyists. It also transfers from the SEEC to the State Contracting Standards Board (SCSB), the responsibility for studying subcontracts for state contracts.

With respect to the Citizens' Election Program, the act establishes grant application deadlines and a corresponding schedule for payments from the CEF. It revises the process for reporting excess receipts and expenditures and receiving and spending supplemental grant money. The act eliminates the requirement that a participating candidate keep supplemental grant money in escrow until his or her opponent's excess spending reaches specified thresholds. Instead, it allows such a candidate to incur an obligation to make additional expenditures once the SEEC determines that he or she is entitled to this additional money. The act also requires individuals who give qualifying contributions of over \$50 to certify the name of their employer.

The act extends the definitions of terms under state election law to the Citizens' Election Program. These terms include major party, minor party, primary, municipal office, and state office.

The act makes several minor, technical, and conforming changes. It also eliminates obsolete provisions. Specifically, it eliminates references to the secretary of the state as the filing repository for campaign finance reports and replaces her with the SEEC, thus codifying current practice. It similarly eliminates a requirement for the secretary of the state to submit to the SEEC a biennial PAC registration report since, by law, these committees register with commission. It eliminates a provision concerning a primary for delegates to a U.S. senatorial or congressional district convention, which no longer exists. Finally, the act eliminates references to penalties for lobbyists who fail to file campaign finance reports since they are no longer required to file with the SEEC because the law prohibits them from contributing to most committees.

EFFECTIVE DATE: Upon passage, except for the provision limiting the sessional ban on contributions from lobbyists to contributions from client lobbyists, which is effective October 1, 2008.

SEEC'S POWERS AND DUTIES

The act authorizes the SEEC to issue cease and desist orders and act to compel compliance with any law or regulation under its jurisdiction.

With regard to the Citizens' Election Program, it authorizes the SEEC to:

1. order any improper campaign finance contribution remitted to the CEF;
2. issue an order, after providing an opportunity for a hearing, upon a finding that there has been an intentional violation;
3. attempt to secure voluntary compliance by informal methods;
4. issue, upon request, and publish advisory opinions in the *Connecticut Law Journal* on the program's requirements; and
5. refer evidence of violations to the chief state's attorney.

In addition, the act expands the SEEC's authority with respect to organization expenditures made to participating candidates by authorizing it to:

1. impose civil penalties of \$2,000 per offense or twice the amount of any improper payment, whichever is greater, after providing an opportunity for a hearing;
2. issue an order to a participating candidate committee, after providing an opportunity for a hearing; and
3. adopt and publish regulations.

By law, organization expenditures are expenditures made by legislative caucus, legislative leadership, or party committees for the benefit of candidates or their committees.

The act also specifies that the commission may inspect or audit the accounts or records of candidates who participate in the Citizens' Election Program. Absent a complaint, the law restricts when and for how long the commission may audit a candidate who is currently seeking election and ran in the previous election.

The act allows the SEEC to ask the Hartford Superior Court to order compliance with an SEEC order concerning the Citizens' Election Program. It authorizes that court to order compliance with an SEEC order concerning the program.

CAMPAIGN FINANCE

PAC Registration

By law, a PAC must register with the SEEC within 10 days after its organization date (that is, the date when it first solicits or receives contributions or funds, or makes or incurs expenditures, whichever is earlier). The act changes the name of the form PACs must submit from "statement of organization" to "registration statement," thus codifying current practice.

In addition, the act gives the SEEC broader authority regarding the registration statement's contents. It authorizes the SEEC to require PACs to furnish any information the commission needs to facilitate compliance with campaign finance laws or the Citizens'

Election Program.

Legal Expenses

By law, a person who exercises his or her right to incur legal expenses to contest or maintain the results of an election does so without violating campaign finance laws. The act extends the same protection to primaries and to individuals under the Citizens' Election Program. The act specifies that only contributions from eligible sources may pay for a candidate's legal expenses. This means that candidates who participate in the Citizens' Election Program (participating candidates) may use only contributions from individuals. Candidates who do not participate in the program (nonparticipating candidates) may use contributions from individuals, most PACs, and state and prospective state contractors, other than pre-qualified contractors, that do not have a state contract or state contract solicitation with the branch of government in which they are seeking office.

Campaign Finance Statements

The law requires each campaign treasurer of a committee, other than a state central committee, to file a campaign finance statement with the SEEC according to a specified schedule. The act conforms the schedule for PACs and party committees that receive or spend \$1,000 or less in a calendar year to such committees that receive or spend more than \$1,000 in a year. It requires those that receive or spend \$1,000 or less to file campaign finance statements on the 10th calendar day, rather than the second Thursday, in January. By law, committees that receive or spend more than \$1,000 file on the 10th calendar days in January, April, July, and October, and both types of committees file on the seventh day preceding an election.

When a treasurer files a campaign finance statement it must include, among other things, information about individuals who have contributed over \$1,000 in the aggregate to the committee. The act repeals the requirement that these individuals disclose whether they or their associated businesses have a state contract valued at more than \$5,000. (By law, individuals who contribute over \$50 to most candidates and committees must already certify that they are not a principal of a state or prospective state contractor or a communicator lobbyist or such a lobbyist's immediate family member.)

Attribution Requirement

By law, political communications paid for by people or committees cooperating with, in consultation with, or acting at the request of a candidate or his or her agent or committee to promote or defeat a candidate must include an attribution.

The act expands the attribution law. It subjects organization expenditures for party candidate listings that are written communications, including those that are web-based, to the attribution requirement. Under prior law, this type of party candidate listing, like other organization expenditures, was not considered a campaign finance expenditure and thus was not subject to the attribution law.

The act also narrows the attribution law. It eliminates the requirement that mailings promoting the success or defeat of a candidate include (1) a photograph of the candidate who conducts the mailing and (2) his or her name in a size font no smaller than the font used in the mailing's narrative.

Lobbyists

The law completely bans communicator lobbyists, their immediate family members, and PACs they establish or control from making or soliciting contributions to (1) exploratory or candidate committees for statewide or legislative office candidates, (2) PACs these candidates establish or control, (3) legislative caucus or legislative leadership committees, or (4) party committees. It also bans contributions when the General Assembly is in session from client and communicator lobbyists to committees associated with candidates for statewide or legislative office.

Since the former provision supersedes the latter with respect to communicator lobbyists, the act limits the sessional ban to client lobbyists. The act also eliminates references to PACs established "on behalf of" lobbyists.

The act reinserts a provision that was inadvertently omitted when PA 06-137 was engrossed. The provision bans communicator lobbyists from soliciting the purchase of advertising space in a fundraising program sponsored by a town committee.

State and Prospective State Contractors

The law imposes a ban on political contributions made or solicited by state and prospective state contractors, pre-qualified contractors, and their principals that is similar to the ban on lobbyists. However, the prohibition on giving and receiving contributions between candidates and contractors, other than pre-qualified contractors, applies when the contractor has a contract with the branch of government in which the candidate is seeking office, except for the Judicial Branch.

The law creates an exception for candidates under both the contractor and lobbyist bans. The act makes a technical change, conforming the contractor ban to the lobbyist ban with respect to candidates' campaigns. It further exempts from the contractor ban all principals of

state and prospective state contractors who are elected officials. (By law, "principals" include the spouses and dependent children of individuals covered by the ban.) The lobbyist ban already exempts lobbyists' immediate family members who are elected officials, but not lobbyists themselves since the law prohibits them from holding state public office.

In addition, the act specifies that the contractor contribution and solicitation ban applies to state and prospective state contractors with either state contracts or state contract solicitations, not only to those with state contract solicitations (see BACKGROUND).

Lastly, the act transfers, from the SEEC to the SCSB, the responsibility for studying subcontracts for state contracts. Under the act, the SCSB must submit proposed legislation to the Government Administration and Elections Committee by February 1, 2010 with recommendations for extending the provisions of the state contractor contribution and solicitation ban to subcontractors. Under prior law, the SEEC was required to do so by February 1, 2009. PA 07-1, September Special Session, established the SCSB effective January 1, 2009.

CITIZENS' ELECTION PROGRAM

The Citizens' Election Program is a system of public campaign financing under which statewide and legislative candidates who receive qualifying contributions, agree to abide by certain spending limits, and comply with other requirements are eligible to receive state grants to fund their campaigns.

Qualifying Contributions

The act gives campaign treasurers the option of returning to the contributor or transmitting to the SEEC contributions that are not valid qualifying contributions. It requires the SEEC to deposit in the CEF any contribution it receives in this manner. Under prior law, campaign treasurers had to return contributions that did not qualify under the Citizens' Election Program to their contributors. The act specifies that a contribution under \$5 is not a valid qualifying contribution.

By law, individuals who contribute more than \$50 to a participating candidate must include a certification with their qualifying contribution. The act requires these individuals to include their employer's name in the certification. Prior law already required them to certify that they are not a communicator lobbyist, immediate family member of such a lobbyist, or a principal of a state or prospective state contractor.

The act also directs these individuals to follow the same procedures as individuals follow when they contribute to nonparticipating candidates under CGS § 9-608(c)(3).

Grants from the Citizens' Election Fund

Application Deadline and Payment Schedule. The act establishes grant application deadlines and a corresponding payment schedule; however, it has no effect on when candidates are initially authorized to apply for a grant.

For a primary or general election, participating candidates submit grant applications by (1) 5:00 p.m. on the third Thursday in May of the year in which they are seeking nomination at a primary or election or (2) by 5:00 p.m. on a subsequent Thursday. The SEEC may not accept applications later than 5:00 p.m. on or after the fourth to last Friday before the primary or election.

Within four business days following Thursday or Friday submissions (i.e., by the following Wednesday or Thursday), the SEEC must review the applications it has received and determine whether to approve or reject each one. In the event of a national, regional, or local emergency or disaster, the SEEC must make this determination "as soon thereafter as is practicable." The act requires the SEEC to disburse the funds by the 12th business day before the primary or election.

During state election years, the act requires the SEEC to meet twice a week from the third week of June until the third week of July to review any pending applications.

For special elections, participating candidates must submit applications to the SEEC by 5:00 p.m. on the 10th business day preceding the special election. Within three business days following the deadline, the SEEC must review the applications it has received and determine whether to approve or reject each one. In the event of a national, regional, or local emergency or disaster, the SEEC must make this determination as soon thereafter as is practicable. The act requires the SEEC to disburse the funds by the seventh business day before the special election.

The SEEC must publish its meeting and application review schedules on its website and with the secretary of the state.

Prior law did not specify application deadlines. It required the SEEC to review each application and, within three business days of receiving one, determine whether a candidate qualified for a grant.

Written Certifications and Cumulative Itemized Accounting. By law, the candidate and campaign treasurer must sign the grant application. The application must include certain written certifications and a cumulative itemized accounting of campaign finances.

The act expands one of the certifications by requiring campaign treasurers to attest that they will comply with all state campaign finance laws, not only the Citizens' Election Program. It also requires treasurers to certify that they will maintain and furnish

all records required under any campaign finance law, the Citizens' Election Program, or related regulation.

In addition, the act requires the cumulative itemized accounting to show expenditures as of three days before the applicable application deadline, rather than the date when the application is signed. By law, the treasurer signs the accounting under penalty of false statement.

Ballot Status. If the SEEC cannot conclude whether a candidate who applies for a CEF grant qualifies for the applicable full grant because the secretary of the state has not determined a candidate's "ballot status," the commission must approve the "lesser applicable partial initial grant." Presumably, "ballot status" indicates whether a candidate (1) qualifies for access to the ballot, (2) will run in a primary campaign, and (3) will run opposed or unopposed in the general election. To determine a participating candidate's grant amount, whether full or "lesser applicable partial initial grant," the SEEC must receive this information from the secretary.

If a candidate receives a "lesser applicable partial initial grant," the act directs the SEEC to authorize payment for the remaining portion of the applicable grant after receiving knowledge of the opposing candidates' ballot status in the primary or general election.

Excess Expenditures and Supplemental Grants

By law, participating candidates are entitled to additional money from the CEF if their opponents exceed certain spending limits, that is, if they make excess expenditures. The act revises the procedure for reporting excess expenditures, establishes the same one for reporting excess contributions, and changes the process for receiving and spending supplemental grant money.

Reporting. Under prior law, if a candidate in a primary or general election campaign with at least one participating candidate made or became obligated to make an expenditure exceeding 90% of the applicable grant for that campaign, his or her campaign treasurer had to file a supplemental campaign finance statement with the SEEC within 48 hours of doing so. After filing the initial supplemental statement, the candidate and opposing candidate or candidates had to file weekly supplemental statements according to a specified schedule.

Under the act, if a candidate in a primary or general election campaign with at least one participating candidate receives contributions, loans, or other funds or makes or obligates to make an expenditure that in the aggregate exceeds 90% of the applicable spending limit for the primary or general election period, his or her campaign treasurer must file a supplemental campaign finance statement with the SEEC. If a candidate

receives such funds or makes or obligates to make such an expenditure more than 20 days before the primary or general election, his or her treasurer must file an initial supplemental campaign finance disclosure statement with the commission within 48 hours of doing so. If a candidate receives such funds or makes or obligates to make such an expenditure 20 or fewer days before the primary or election, the treasurer must file the initial supplemental campaign finance disclosure statement with the commission within 24 hours.

Thereafter, the campaign treasurer filing the initial supplemental statement and the campaign treasurers for all opposing candidates must file periodic supplemental campaign finance statements. If the applicable primary or general election is more than five weeks away, they must file periodic statements every other Thursday, beginning with the second Thursday after the initial statement filing. If it is five or fewer weeks away, they file according to the statutory schedule, except, in the case of a general election, they must continue to file until the Thursday after, rather than before, the election.

The act additionally requires the campaign treasurer of a candidate in a primary or general election campaign with at least one participating candidate to file a declaration of excess receipts or expenditures statement when the candidate committee receives contributions, loans, or other funds, or makes or obligates to make, an expenditure that in the aggregate exceeds 100% of the applicable spending limit. The treasurer must do the same if the candidate has receipts or expenditures that, in the aggregate, exceed 125%, 150%, or 175% of the applicable spending limit for the primary or general election.

If a candidate committee reaches one of these thresholds more than 20 days before the primary or general election, the treasurer must file the declaration of excess receipts or expenditures with the commission within 48 hours of the occurrence. If a candidate reaches one of these thresholds 20 or fewer days before the primary or election, the treasurer must file the declaration of excess receipts or expenditures within 24 hours. Under prior law, treasurers had to file a declaration of excess expenditures within these deadlines.

Finally, the act expands the mandatory contents of supplemental statements. It requires them to disclose, as of the day before the filing deadline, campaign contributions, loans, and other funds received, not only expenditures made or obligated during the primary or general election campaign, whichever is applicable.

Threshold. The act redefines “excess expenditure” as an expenditure made or obligated by a nonparticipating or participating candidate who faces at least one participating candidate in a primary or general election that exceeds the applicable spending limit for the participating candidate and that is the sum of (1) the

qualifying contributions the participating candidate must receive and (2) 100% of the applicable full grant for a major party candidate for the primary or general election. Under prior law, the term meant expenditures made or obligated in excess of the applicable spending limit.

Processing Payments. The act changes the administrative procedure for processing payments (“supplemental grant money”) to candidates whose opponents make excess expenditures. Under prior law, the SEEC had to notify each participating candidate, in addition to the state comptroller, when it determined that a nonparticipating candidate made or became obligated to make an expenditure exceeding 90% of the applicable grant. The SEEC had to direct the comptroller to hold the funds in escrow until it determined that the nonparticipating candidate made or became obligated to make an expenditure exceeding 100% of the grant. The same process occurred when a nonparticipating candidate made or obligated to make an expenditure exceeding 115%, 140%, and 165% of the applicable grant.

Under the act, if the SEEC determines that a nonparticipating candidate has received contributions, loans, or other funds, or has made or become obligated to make expenditures, that in the aggregate exceed 100% of the applicable spending limit for the primary or general election, it must process a voucher payment for each opposing participating candidate. By law, the SEEC must process the voucher using the comptroller’s accounting system within two business days of making this determination. Within three business days of receiving the authorized voucher, the comptroller must draw an order on the state treasurer to electronically transfer the payment into each participating candidate’s account.

The law, unchanged by the act, authorizes a participating candidate to receive a supplemental grant of 25% of the applicable primary or general election grant, provided he or she has not spent more than the sum of (1) the applicable qualifying contributions and (2) 100% of the applicable full grant for the primary or general election. But under the act, a candidate committee may incur an obligation to make additional expenditures, up to the amount of the supplemental grant, once the SEEC determines that the participating candidate is entitled to this additional money. Prior law required participating candidates to receive the additional money before spending it and limited them to spending an amount equal to the excess expenditure rather than the supplemental grant.

The same process occurs when the SEEC determines that a nonparticipating candidate has received contributions, loans, or other funds, or has made or obligated to make expenditures, that in the aggregate exceed 125%, 150%, and 175% of the

applicable spending limit for the primary or general election campaign.

The act makes a similar change to the way payments are processed when a participating candidate who is opposed by at least one other participating candidate exceeds the applicable spending limit. The act directs the SEEC to process a voucher payment using comptroller's accounting system if it determines that a participating candidate has made or obligated to make an expenditure exceeding the sum of the required qualifying contributions and the applicable grant. The voucher payment must equal the excess expenditure. Under the act, a participating candidate committee may incur an obligation to make expenditures, up to the amount of the additional money, once the SEEC determines that the candidate is entitled to it. Under prior law, candidates had to wait until they received the additional money before they could spend it.

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

Notices Within 96 hours of a Primary or an Election. Under the act, if, during the 96-hour period beginning at 5 p. m. on the Thursday preceding a primary or an election, the SEEC receives a notice from a participating candidate that his or her opponent has received contributions, loans, or other funds, or made or obligated to make expenditures, exceeding 100%, 125%, 150%, or 175% of the applicable spending limit for the primary or general election campaign that are not yet reported, it must immediately review the notice. The SEEC must notify the comptroller, who must process the voucher using her accounting system. The amount of the supplemental grant is equal to 25% of the applicable grant for the primary or general election campaign.

Once the SEEC determines that a participating candidate is entitled to this additional money, the candidate committee may incur an obligation to make additional expenditures up to the amount of the approved supplemental grant.

Under prior law, if the SEEC received a notice during the 96-hour period from a participating candidate that his or her opponent had made or became obligated to make an excess expenditure that was not yet reported, it had to immediately review the notice. The SEEC then had to notify the comptroller and direct her to pay the qualified candidate committee, or a person the candidate's treasurer chose, an amount equal to the estimated or confirmed excess expenditures.

BACKGROUND

Definitions

By law, "state contract" means an agreement or contract with the state or any state or quasi-public agency, let through the procurement process or otherwise, with a value of \$50,000 or more, or a combination of contracts with a value of \$100,000 or more in a calendar year for (1) the rendering of services; (2) the furnishing of goods, supplies, or items of any kind; (3) the construction, alteration, or repair of any public building or public work; (4) the acquisition, sale, or lease of any land or building; (5) a licensing agreement; or (6) a grant, loan, or loan guarantee. "State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including an invitation to bid; request for proposals; request for information or quotes; or inviting quotes or other types of submittals. The definition includes requests made within or outside the competitive procurement process as authorized by law.

PA 08-18—HB 5318

Government Administration and Elections Committee

AN ACT CONCERNING TECHNICAL REVISIONS TO THE FREEDOM OF INFORMATION ACT

SUMMARY: This act makes a technical change to the Freedom of Information Act (FOIA), moving the requirement that public agencies make, keep, and maintain records of their meetings from one section of FOIA to another.

EFFECTIVE DATE: Upon passage

PA 08-19—HB 5323

Government Administration and Elections Committee

AN ACT CONCERNING THE DEPARTMENT OF INFORMATION TECHNOLOGY

SUMMARY: This act makes various unrelated changes affecting the Department of Information Technology (DOIT) and information technology (IT) services. Specifically, it authorizes the Department of Administrative Services (DAS) commissioner to purchase IT services, as well as other services, through preexisting federal contracts. The law already authorizes the commissioner to purchase products, including IT products, from such contractors. The act transfers, from the DAS commissioner to DOIT's chief information officer, the responsibility for billing state

agency telecommunications services, thus codifying current practice. It requires the chief information officer to include as a goal in the state's annual information and telecommunication systems strategic plan the provision of "critical application recovery capabilities" in the event of an emergency. Finally, the act requires the Geospatial Information Systems (GIS) Council to meet quarterly instead of monthly. The council is responsible for coordinating a GIS capacity for the state, regional planning agencies, municipalities, and others as needed.

EFFECTIVE DATE: Upon passage

PA 08-52—sSB 684

*Government Administration and Elections Committee
Finance, Revenue and Bonding Committee
Judiciary Committee*

AN ACT CONCERNING THE PRACTICE AND PRIVILEGES OF CERTIFIED PUBLIC ACCOUNTANTS

SUMMARY: By adopting certain provisions of the Uniform Accountancy Act (UAA), this act allows qualified out-of-state certified public accountants (CPAs) to practice in Connecticut without a state-issued license. To do so, an individual or firm must have a "practice privilege."

The act authorizes the State Board of Accountancy to regulate and discipline individuals who have a practice privilege in much the same way that it regulates and disciplines in-state CPAs. It similarly subjects in-state CPAs who render services in another state to disciplinary action in Connecticut for an act committed in the other state if the act would subject them to disciplinary action there.

The act eliminates the requirement that the State Board of Accountancy adopt regulations to allow licensed "public accountants" to convert their licenses to "certified public accountant" licenses. Those regulations allowed for license conversion without testing.

It requires the board to issue a "Connecticut Certified Public Accountant's Certificate" to any person granted the CPA designation by any board in any jurisdiction, and who submits an application and pays the applicable fee for an initial certificate.

The act establishes a fee schedule for failure to earn all continuing education credits by the annual deadline. By law, a CPA who fails to meet continuing education requirements is subject to disciplinary action.

Finally, it makes conforming and technical changes.

EFFECTIVE DATE: Upon passage

PRACTICE PRIVILEGE

The act allows out-of-state CPAs to practice in-state by qualifying for their practice privilege, subject to certain conditions. When out-of-state CPAs qualify for their practice privilege, the act states that they are presumed to have qualifications substantially equivalent to Connecticut's licensure requirements. Prior law prohibited individuals or firms from practicing public accountancy in Connecticut without a state-issued license or permit, respectively.

Under the act, "substantial equivalency" is a determination made by the State Board of Accountancy, or its designee, that the education, examination, and experience requirements of an individual CPA or of another jurisdiction's statutes and administrative rules are comparable to, or exceed, those contained in the UAA. In determining substantial equivalency, the act prohibits the board from taking into account the order in which an individual obtained his or her experience, education, or examination requirements.

An individual qualifies for practice privilege if he or she:

1. holds a valid license as a CPA from any state that the National Association of State Boards of Accountancy (NASBA) National Qualification Appraisal Service has verified as having substantially equivalent licensure requirements as the UAA or
2. obtains verification from the NASBA National Qualification Appraisal Service that his or her CPA qualifications are substantially equivalent to the licensure requirements of the UAA, if he or she does not hold a valid license from a NASBA National Qualification Appraisal Service-verified state.

Consent to Practice Privilege

The act makes practice privilege conditional upon an individual licensee's consent to:

1. comply with the personal and subject matter jurisdiction and disciplinary authority of the State Board of Accountancy;
2. comply with any applicable state law and the board's rules; and
3. cease offering or rendering professional services in Connecticut, individually or on behalf of a firm, if his or her license from the state of his or her principal place of business becomes invalid.

The licensee must also consent to the appointment of the state board that issued his or her license as the agent upon whom process may be served in any action or proceeding by Connecticut's State Board of Accountancy against the individual.

When Service Must Be Provided Through an In-State Firm

Under the act, an individual who qualifies for practice privilege may provide services for an entity with its home in Connecticut only through a firm that has a Connecticut permit if he or she performs:

1. a financial statement audit or other engagement in accordance with Statements on Auditing Standards,
2. an examination of prospective financial information in accordance with Statements on Standards for Attestation Engagements, or
3. an engagement in accordance with Public Company Accounting Oversight Board (PCAOB) Auditing Standards.

Exemption from Fees and Notices

The act authorizes individuals who qualify for practice privilege to offer or render professional services in person or by email, telephone, or electronic means. They may practice without submitting any notice, fee, or other submission.

Disciplinary Actions

After notice and a hearing, the State Board of Accountancy may discipline an individual who has qualified for practice privilege in much the same way it can discipline those who hold in-state licenses or permits. Specifically, the board may revoke or suspend such an individual's practice privilege. It may reprimand or censure the individual or limit his or her scope of practice. It may impose a civil penalty of up to \$50,000 on the individual. Finally, the board may place an individual who has qualified for practice privilege on probation for any of the following reasons:

1. fraud or deceit in obtaining a certificate, registration, license, practice privilege, or permit;
2. cancellation, revocation, suspension, or refusal to renew his or her authority to practice public accountancy in any other state for any reason;
3. revocation, limitation, or suspension of his or her right to practice before any state or federal agency or the Public Company Accounting Oversight Board (PCAOB) under the Sarbanes-Oxley Act of 2002;
4. dishonesty, fraud, or negligence in practicing public accountancy or in filing or failure to file personal income tax returns;
5. violation of Connecticut state law concerning public accountants or regulation of the State Board of Accountancy;

6. violation of any rule of professional conduct the board adopts;
7. felony conviction, or any crime involving dishonesty or fraud, under state or federal law if the act constitutes a crime in Connecticut;
8. engaging in a fraudulent act while being qualified for practice privilege; or
9. conduct reflecting adversely upon the licensee's fitness to practice public accountancy.

The board may also place an individual who qualifies for practice privilege on probation if a state or federal agency or the PCAOB under the Sarbanes-Oxley Act (1) suspends or bars such individual from serving as a corporate officer or director, (2) requires such individual to disgorge funds, or (3) suspends or bars such individual from association with a public accounting firm.

In lieu of or in addition to any of these disciplinary actions, the board may require the individual to (1) submit to a quality review, (2) complete continuing professional education programs, or (3) both. "Quality review" means a study, appraisal, or review of one or more aspects of an individual's or firm's professional work by a licensed CPA who is not affiliated with such individual.

The board may require the respondent to pay the costs of any proceeding.

By law, if the board suspends or revokes a registration, certificate, license, or permit, it may, upon written application, modify the suspension or reissue the certificate, license, or permit. The act gives the board the discretion to reissue an individual's practice privilege. It also allows the board to require an applicant to show successful completion of specified continuing professional education. The board may make reinstatement of practice privilege conditional on and subject to satisfactory completion of a quality review.

Connecticut CPAs

The act subjects in-state licensees who offer or render services, or use their CPA title in another state, to disciplinary action in Connecticut for an act committed in another state that would subject them to disciplinary action there. It requires Connecticut's State Board of Accountancy to investigate any complaint made by another state's board against a Connecticut licensee.

PERMITS

Under prior law, firms had to obtain and renew permits to practice public accountancy in Connecticut. They had to demonstrate that each of their proprietors, partners, and shareholders who work in-state hold a valid license to practice. The act narrows this

requirement by making it apply only to those proprietors, partners, and shareholders whose principal place of business, or office location, is in this state.

The act explicitly exempts an individual who works for a firm holding a permit and who has practice privilege from the requirement to obtain a Connecticut CPA certificate and license.

The act eliminates a requirement that a firm applying for an initial permit or a renewal show that a person who holds a valid license is in charge of each of its offices. It instead requires the firm to show that a person who holds a valid license is in charge of all attest and compilation services.

The act defines “attest” as the provision of any of the following financial statement services:

1. audit or other engagement performed in accordance with the Statements on Auditing Standards;
2. review of a financial statement performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS);
3. examination of prospective financial information performed in accordance with the Statements on Standards for Attestation Engagements; or
4. engagement performed in accordance with the Auditing Standards of the PCAOB.

It defines “compilation” as providing a service in accordance with SSARS and presented in the form of financial statements that represents management without expressing any assurance on the statements.

Firms that Require a Permit

The act specifies that firms must hold a valid Connecticut permit if they:

1. have an office in this state performing attest services;
2. have an office in this state using the title “CPA” or “CPA firm;” or
3. do not have an office in Connecticut but perform an attest service for a client with its home office here, except if the only attest service performed is to review financial statements in accordance with SSARS.

Firms that Do Not Require a Permit

Under the act, an out-of-state firm that does not have a permit but meets certain requirements may (1) review financial statements, in accordance with SSARS, or perform compilation services for a client with its home office in Connecticut and (2) use the title “CPA” or “CPA firm.” Such a firm may do so when it (1) performs services through an individual who has his or her practice privilege and (2) has the qualifications

required for firms that undergo a quality review.

The act specifies that a firm that is not subject to the above provision may perform other professional services in Connecticut without a permit while using the title “CPA” or “CPA firm” if it (1) performs services through an individual who has his or her practice privilege here or (2) can lawfully perform these services in the state where the individuals with practice privilege have their principal place of business.

EXEMPTION FROM PROHIBITIONS

The act specifies that when individuals or firms qualify for practice privilege, or when firms do not require permits, as described above, they are generally exempt from certain prohibitions against:

1. issuing a report on financial statements, including a review or compilation, for a person, firm, organization, or governmental unit without a valid license or permit, whichever is applicable;
2. using the title or designation “certified accountant,” “certified professional accountant,” “chartered accountant,” “enrolled accountant,” “licensed accountant,” “registered accountant,” “accredited accountant,” or any other title or designation likely to be confused with the titles “certified public accountant” or “public accountant;” or use any of the abbreviations “CA,” “EA,” “LA,” “RA,” “AA,” or a similar abbreviation likely to be confused with the abbreviations “CPA” or “PA;” and
3. using, in any other language, any title or designation including the words “accountant,” “auditor,” or “accounting,” as in a report, that implies such individual or firm holds a license or permit or has special competence as an accountant or auditor.

But the act prohibits a firm that does not have a valid permit or an office in this state from issuing a report on financial statements, including a review or compilation, for a person, firm, organization, or governmental unit.

LICENSE RENEWAL FEES

By law, in-state CPAs must renew their licenses annually. To qualify for renewal, an applicant must demonstrate that he or she has completed 40 hours of continuing professional education during the prior year.

The act establishes fees for failure to earn all 40 continuing education credits by the annual June 30 deadline. It requires the board to charge (1) \$250 for reporting on a renewal application a minimum of 40 continuing professional education credits, any of which

was earned between July 1 and September 30 and (2) \$500 for reporting on a renewal application a minimum of 40 such credits, any of which was earned between July 1 and December 31.

By law, the board may also take disciplinary action against a CPA who fails to obtain the continuing education credits. For failure to comply with the requirement, the board may, after notice and a hearing, (1) revoke a license; (2) suspend a license; or (3) limit the scope of a licensee's practice, among other things.

BACKGROUND

Uniform Accountancy Act

In 1984, the American Institute of Certified Public Accountants (AICPA) and NASBA published the first joint model act, later renamed the UAA. Ultimately, a substantial majority of the state accountancy laws followed, in their principal provisions, the example provided by earlier model accountancy acts and the UAA. While the UAA is a comprehensive piece of legislation, it is also designed with separable provisions that may, with appropriate amendments, be added to existing state laws instead of replacing them entirely.

In its latest revision (Fifth Edition, July, 2007), the UAA seeks to enact uniform state accountancy laws that foster interstate professional practice, among other things. It provides a system for permitting licensee mobility while making explicit the state boards' authority to regulate those who offer or render professional services within their jurisdiction, regardless of how those services are provided.

Quality Review

State law requires firms to undergo a quality review to renew their permit. The goal of a quality review is to determine and report on a permit holder's degree of compliance with generally accepted accounting principles, generally accepted auditing standards, and other similarly recognized authoritative technical standards. It covers the financial reporting areas of practice, including audit engagements, review engagements, and compilation engagements with historical and prospective financial information. Firms must undergo a review every three years, unless granted a waiver, and provide the board with a copy of the opinion letter accompanying the report within 30 days of receiving the report (Conn. Agencies Regs. § 21-281-1 *et seq.*).

PA 08-120—SB 204

*Government Administration and Elections Committee
Public Health Committee*

AN ACT CONCERNING ACCESS TO CERTAIN PUBLIC RECORDS

SUMMARY: This act adds Department of Mental Health and Addiction Services employees who provide direct care to patients to the list of public employees whose residential addresses are exempt from disclosure by public agencies, other than the Department of Motor Vehicles (DMV), under the Freedom of Information Act (FOIA).

EFFECTIVE DATE: Upon passage

BACKGROUND

Employees Whose Residential Addresses are Exempt

FOIA prohibits public agencies, other than the DMV, from disclosing the home, but not business, address of the following employees: federal court judges and magistrates; state judges; family support magistrates; state and municipal police; Department of Correction employees; past or present state prosecutors; past or present public defenders; Criminal Justice Division inspectors; firefighters; Department of Children and Families employees; Board of Pardons and Paroles members or employees; Judicial Branch employees; and Commission on Human Rights and Opportunities members or employees.

DMV Records

By law, personal information in DMV records is generally disclosable to government agencies or anyone who agrees to use it for specified limited purposes.

PA 08-135—SB 682

*Government Administration and Elections Committee
Judiciary Committee
Transportation Committee*

AN ACT PROTECTING THE HOME ADDRESSES OF INSPECTORS IN THE DIVISION OF CRIMINAL JUSTICE

SUMMARY: By law, the Department of Motor Vehicles (DMV) can withhold from public disclosure the home addresses of certain public officials. This act adds Division of Criminal Justice inspectors to the list of federal, state, and local employees who may ask the DMV commissioner to substitute their business addresses for their residential addresses on DMV records available for public disclosure or inspection.

Like other employees seeking this protection, the inspectors must provide the DMV with their business addresses.

The Freedom of Information Act already prohibits other public agencies from disclosing the inspectors' residential addresses.

EFFECTIVE DATE: Upon passage

BACKGROUND

Employees Eligible for Residential Address Protection

Employees eligible to have their home addresses protected on DMV documents are: judges, magistrates, police, Department of Correction employees, current or former state prosecutors, Board of Pardons and Paroles members and employees, 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.

PA 08-141—sHB 5899

*Government Administration and Elections Committee
Education Committee
Planning and Development Committee*

AN ACT CONCERNING ON-LINE PROCUREMENT BY STATE AGENCIES, MUNICIPALITIES AND REGIONAL AND LOCAL SCHOOL DISTRICTS

SUMMARY: This act allows contracting agencies to use a reverse auction to award contracts for goods or supplies if they determine that doing so would be advantageous to the agencies and ensure a competitive contract award. Contracting agencies may contract with a third party to prepare and manage the reverse auction. The act requires that agencies comply with their policies and any applicable statutory requirements when using a reverse auction to award these contracts.

Under the act, "contracting agencies" are state agencies with statutory authority to award contracts for goods or supplies, political subdivisions of the state, and school districts. "Reverse auction" means an on-line bidding process in which qualified bidders and proposers anonymously submit bids or proposals to provide goods or supplies pursuant to an invitation to bid or request for proposals.

EFFECTIVE DATE: Upon passage

BACKGROUND

Purchasing

By law, the administrative services commissioner is generally responsible for purchasing, leasing, or contracting for supplies, materials, equipment, and personal services that most Executive Branch agencies require. She may delegate to agency heads the authority to make their own purchases or contracts. The law requires the commissioner to purchase or contract for supplies, materials, equipment, and personal services, when possible, based on competitive bids or competitive negotiation (CGS § 4a-57).

By law, municipalities may, by ordinance, establish requirements for awarding contracts through competitive bidding (CGS § 7-148v).

PA 08-154—SB 679

*Government Administration and Elections Committee
Finance, Revenue and Bonding Committee*

AN ACT CONCERNING THE PAYMENT OF CERTAIN COSTS FROM BOND FUNDS AND THE CREATION OF A RECIPROCAL PREFERENCE STATUTE

SUMMARY: When the lowest responsible qualified bidder on a state contract is an out-of-state business that receives a preference in its home state, this act requires the state contracting agency awarding the contract to increase the bid by an amount equal to the preference.

Beginning January 1, 2009, it requires the State Contracting Standards Board to publish an annual list of states that give preference to in-state bidders, including the percentage amount. The act requires that the list be made available to state contracting agencies and allows them to rely on it when determining the lowest responsible qualified bidder.

By law, the Department of Public Works (DPW) commissioner monitors agency requests for leased space and facility projects during the interim between state facility plans (see BACKGROUND). She advises the governor and Office of Policy and Management (OPM) secretary when the square footage requested or project cost exceeds, by at least 10%, the square footage of, or the cost to implement, the state facility plan.

Under prior law, the OPM secretary, State Properties Review Board, State Bond Commission, and governor had to approve the requests before the projects continued. The act requires their approval only when project costs will be paid with bond funds.

EFFECTIVE DATE: Upon passage, except the provision on preference in contracting is effective on October 1, 2009.

PREFERENCE IN CONTRACTING

By law, state construction contracts must be awarded to the lowest responsible prequalified bidder and state procurement contracts must be awarded to the lowest responsible qualified bidder.

When awarding a state contract, the act requires state contracting agencies to add to bids submitted by out-of-state businesses a percentage increase equal to any preference the business receives in its home state. If the addition results in an in-state business becoming the lowest responsible qualified bidder, the agency must award the contract to the in-state business if it agrees, in writing, to meet the original lowest responsible qualified bid. The in-state business must make the agreement within 72 hours after receiving notice that the agreement is a prerequisite to the contract award.

Under the act, out-of-state businesses are those that do not have a business address in this state and did not pay state unemployment or income taxes during the preceding calendar year. In-state businesses, in addition to paying state taxes and maintaining an in-state address, must affirmatively assert their in-state status on bid submissions.

BACKGROUND

State Facility Plan

Each state agency must determine its space needs and transmit these needs annually to OPM and DPW. In even-numbered years, these agencies project their facility needs over a five-year period and submit their proposed facility plans to OPM and DPW. DPW reviews the plans for factors such as cost, space requirements, and implementation scheduling.

PA 08-159—sSB 677

*Government Administration and Elections Committee
Energy and Technology Committee
Planning and Development Committee*

AN ACT CONCERNING THIRD-PARTY NONPROFIT COMMUNITY ACCESS PROVIDERS AND COMMUNITY ANTENNA TELEVISION COMPANIES

SUMMARY: This act imposes several requirements on the nonprofit organization that administers community access programming in the cable franchise area that consists of six towns, one of which has a population of more than 130,000 (i.e., the Bridgeport franchise area). By law, community access consists of public, educational, and governmental access programming. The act requires the cable TV company serving the

Bridgeport area to provide funding to one or more towns in the area for town-specific educational and governmental access programming.

EFFECTIVE DATE: Upon passage

COMMUNITY ACCESS IN THE BRIDGEPORT AREA

By law, a nonprofit organization can, with the permission of the Department of Public Utility Control (DPUC), assume responsibility for administering community access programming in a cable franchise area. The act requires the nonprofit serving the Bridgeport area to consent, under its service provider agreement, to allow a town organization, authority, body, or official in its service area to (1) operate educational and governmental public access channels in the town and (2) engage freely and directly with the cable TV company serving the town to use the company's head-end (transmitting) equipment to disseminate town-specific programming on these channels. The nonprofit must provide this consent in writing within three business days of a written request from the town organization, authority, body, or official. If it does not, DPUC must, upon request of any of these entities or officials, (1) terminate, revoke, or rescind the agreement within 180 days and (2) reopen the application process to secure an access provider for each of the towns in the service territory.

FUNDING

By law, a cable TV company must provide funding from its subscribers for community access programming operations, regardless of whether the company or a nonprofit organization administers these operations. The act requires the cable TV company serving the Bridgeport area to direct \$100,000 annually from this funding to the cable TV advisory council for the area. This requirement also applies if the cable company has obtained one of the two alternative types of cable certificates authorized by PA 07-253.

The act requires the advisory council, in turn, to distribute all of this money to a town organization, authority, body, or official in the service territory to support the development of production and programming capabilities for town-specific education and government access programming. The council must establish grant procedures and processes governing the use of this money. The council must report annually to DPUC on all completed or planned disbursements of this money. The council must also certify that all of the money was spent and used to create town-specific education and government access programming in one of the six towns in the service territory.

PA 08-165—sSB 678 (VETOED)

*Government Administration and Elections Committee
Human Services Committee*

AN ACT ESTABLISHING A COMMUNITY-BASED HEALTH AND HUMAN SERVICES CABINET

SUMMARY: This act establishes a 25-member Health and Human Services Cabinet. It places the cabinet in the Office of Policy and Management (OPM) for administrative purposes.

The cabinet is generally responsible for assessing provision of health and human services in Connecticut, including funding for nonprofit community providers under purchase of service (POS) agreements. By law, OPM pays private health and human service providers that contract with state agencies.

By December 31, 2012, the cabinet must recommend to the governor and the Appropriations and Human Services committees a governance plan identifying an appropriate coordinating entity to implement a statewide Health and Human Services Plan. The cabinet terminates when it submits its recommendations.

EFFECTIVE DATE: Upon passage

CO-CHAIRPERSONS

For the cabinet’s first two years, the co-chairpersons are the governor and the Human Services Committee’s Senate chair, or their designees. For its final two years, they are the governor and the Appropriations Committee’s House chair, or their designees.

The act requires the co-chairpersons to convene the first meeting by September 1, 2008.

MEMBERSHIP

In addition to the co-chairpersons, the cabinet consists of the following nine public officials, or their designees: the commissioners of the departments of Mental Health and Addiction Services, Developmental Services, Social Services, Public Health, Children and Families, and Correction; the Office of Policy and Management secretary; and the executive directors of the Judicial Branch’s Court Support Services Division and the Children’s Trust Fund.

The governor and the six top legislative leaders each appoint two of the 14 remaining members. Initial appointments must be made by August 1, 2008. Appointing authorities fill vacancies. Table 1 lists these public members and their appointing authorities.

Table 1: Cabinet Appointments

<i>Appointing Authority</i>	<i>Appointments</i>
Governor	Health and human services provider Parent of a child or adult with disabilities
Senate president pro tempore	Appointee whom the executive director of Council 4 AFSCME recommends Appointee whom the executive director of the Connecticut Association of Nonprofits recommends
Senate majority leader	Appointee with Medicaid policy knowledge Appointee whom the president of the SEIU 1199 Union recommends
Senate minority leader	Appointee with knowledge of POS agreements Appointee with labor market knowledge
House speaker	Appointee with knowledge of social services Appointee whom the CEO of Connecticut Community Providers Association recommends
House majority leader	Appointee with knowledge of economics Appointee with knowledge of services The Arc of Connecticut provides
House minority leader	Appointee with knowledge of mental health issues Appointee with knowledge of issues before the Connecticut Nonprofit Human Services Cabinet

STAFF AND FUNDING

The act authorizes the cabinet to contract, within available appropriations, with consultants who have expertise in economics, labor, higher education, or accounting to assist in carrying out its duties. The act does not make an appropriation to the cabinet but allows it to receive funds from any public or private source to carry out its duties.

DUTIES AND RESPONSIBILITIES

By December 15, 2008, with respect to nonprofit community providers providing services under POS agreements, the cabinet must, within available appropriations:

1. identify funding issues;
2. develop proposed budget recommendations;
3. categorize providers by function, financial status, constituency served, or any other relevant category that demonstrates the financial status of any provider or groups of providers; and
4. identify best practices regarding funding and funding structures in this state or others.

Under the act, “financial status” means the community provider’s ability to appropriately meet its clients’ needs and its mission in a sustainable way.

By June 30, 2009, the cabinet must, within available appropriations:

1. conduct a statewide assessment of the system structure serving Connecticut;
2. assess the contracting processes and make suggestions for streamlining, transparency, and accountability;
3. identify a sustainable funding structure; and
4. develop results-based accountability measures for the human services delivery system.

By January 1, 2010, the cabinet must establish an integrated strategic plan for serving Connecticut’s health and human service needs. The plan must identify:

1. an integrated, outcome-based service system that maximizes federal and state funding;
2. a sustainable funding structure that specifically addresses long-term funding solutions for nonprofit community providers under POS contracts;
3. methods for interdepartmental cooperation;
4. methods for service colocation;
5. cooperative programming; and
6. cooperative purchasing.

BACKGROUND

POS Contractors

To ensure continuity of care in the delivery of health and human services, state law requires the OPM secretary, by January 1, 2008, to develop a plan in consultation with the Connecticut Nonprofit Human Services Cabinet and representatives of state agencies that provide health and human services for the competitive procurement of such services. In developing the plan, the secretary must consider current market rates for services and whether (1) a new private provider’s services assure recipients’ health, safety, and well-being; (2) a new private provider’s services assure that community-based services are conveniently located and readily accessible for recipients; (3) selecting a new private provider can avoid unnecessary local zoning law challenges; and (4) 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. The secretary may implement the plan beginning July 1, 2008 (CGS § 4-70b(e)).

PA 08-166—HB 5321

*Government Administration and Elections Committee
Appropriations Committee
Legislative Management Committee*

AN ACT ESTABLISHING AN ASIAN PACIFIC AMERICAN AFFAIRS COMMISSION

SUMMARY: This act establishes a 13-member Asian Pacific American Affairs Commission within the Legislative Department.

EFFECTIVE DATE: July 1, 2009

DUTIES

The act requires the commission, within available appropriations, to:

1. develop a plan before each legislative session that outlines its priorities for the session and strategies for accomplishing them;
2. work with state agencies to develop plans and programs for addressing areas that affect the Asian Pacific American community, including health care access, housing, job training, access to the legal system, mental health and addiction services, economic development, workplace justice and equality, immigration, education, English language instruction, international trade, and economic cooperation with Asian countries;
3. work with the Legislative Management Committee to establish a plan of short- and long-term initiatives based on the needs of people of Asian Pacific descent;
4. review, comment, and testify on any proposed state legislation and regulations that would affect the state’s Asian Pacific American population;
5. advise and provide information to the governor and legislature on the state’s policies concerning Asian Pacific American communities;
6. advise the governor and legislature on the coordination and administration of state programs that serve these communities;
7. maintain a liaison between the communities and government entities;
8. promote the political empowerment of the communities through voter registration, voting rights, and citizenship training;
9. encourage the communities’ representation at all levels of state government, including on state boards and commissions, and help develop these representatives, including by maintaining an accessible list of prospective appointees from these communities;

10. secure appropriate recognition of their accomplishments and contributions to the state;
11. support state efforts to develop (a) international trade and cross-border economic cooperation with Asia and the Pacific Rim and (b) effective foreign language and cultural programs for education and economic development; and
12. prepare and submit to the governor and legislature an annual report on the commission's activities with any appropriate recommendations concerning the state's Asian Pacific American population.

The act authorizes the commission to (1) use any available funds and enter into contracts to carry out its purposes and (2) employ necessary staff within available appropriations in compliance with the State Personnel Act.

MEMBERS AND MEETINGS

The governor appoints three members; the Senate president pro tempore and minority leader and the House speaker and minority leader each appoint two members; and the Senate and House majority leaders each appoint one member. The members must have experience in Asian Pacific American affairs and either represent the public or have expertise in the following areas:

<i>Appointing Authority</i>	<i>Expertise or Representation</i>
Governor	Education Human services Small business and economic development
Senate president pro tempore	Children and youth development Health
Senate majority leader	Public
Senate minority leader	Environment Arts and culture
House speaker	Housing Public safety
House majority leader	Public
House minority leader	Transportation Public

The governor's initial appointees serve staggered terms beginning July 1, 2009 (one year for the education expert, two for the human services expert, and three for the small business and economic development expert). Thereafter, all gubernatorial appointees serve three-year terms beginning on July 1 and must have expertise in the same fields as their predecessors. All legislative appointees serve two-year terms beginning on July 1 in

the appointment year. The appointing authority fills vacancies.

The commission elects its own chairperson and vice-chairperson from its members and meets as often as the chairperson or a commission majority deems necessary. Members are considered to have resigned if they miss three consecutive meetings or half the meetings in a calendar year.

Commission members are not paid; however, they may be reimbursed for necessary expenses they incur while performing their duties.

PA 08-171—sSB 681

*Government Administration and Elections Committee
Public Health Committee
Appropriations Committee*

AN ACT ESTABLISHING A COMMISSION ON HEALTH EQUITY

SUMMARY: This act establishes a 32-member Commission on Health Equity within the Office of the Health Care Advocate for administrative purposes. The commission must work to (1) eliminate disparities in health status based on race, ethnicity, and linguistic ability and (2) improve the quality of health for all state residents.

The commission may (1) employ necessary staff within available appropriations and in compliance with the State Personnel Act; (2) use any funds available from federal, state, or other sources; and (3) enter contracts to carry out its duties.

The act repeals the Advisory Commission on Multicultural Health. That commission's mission was the elimination of disparities in health status among the state's cultural and ethnic communities and the overall improvement of state residents' health.

EFFECTIVE DATE: Upon passage

COMMISSION

In a preamble to the establishment of the commission, the act states the legislature's finding that (1) equal enjoyment of the highest attainable standard of health is a human right and one of the state's priorities; (2) research and experience show that the state's inhabitants experience barriers to good health based on race, ethnicity, national origin, and linguistic ability; and (3) it requires a variety of actions to address these barriers and others that may arise, including the collection, analysis, and reporting of information; identification of causes; and the development and implementation of policy solutions.

Duties

The commission must:

1. review and comment on any proposed state legislation and regulations that would affect the health of the state’s populations experiencing racial, ethnic, cultural, and linguistic disparities in health status;
2. advise and provide information to the governor and legislature on the state policies concerning the health of these populations;
3. work as a liaison between these populations and state agencies to eliminate health disparities;
4. evaluate the impact of policies, procedures, activities, and resource allocations on eliminating these health disparities;
5. review and comment on the Department of Public Health’s health disparities performance measures;
6. (a) explore successful programs in other sectors and states and (b) pilot and provide grants for new creative programs that may diminish or contribute to the elimination of health disparities in this state and culturally appropriate health education demonstration projects that the commission funds with public and private funds; and
7. submit to the governor and legislature an annual report on both a retrospective and prospective view of health disparities and the state’s efforts to ameliorate those among the state’s populations experiencing racial, ethnic, cultural, and linguistic disparities in health status.

The commission also has the authority to:

1. collect and analyze government and other data regarding the health status of state inhabitants based on race, ethnicity, national origin, and linguistic ability, including access, services, and outcomes in private and public health care institutions within the state, including the data collected by the Connecticut Health Information Network;
2. draft and recommend proposed legislation, regulations, and other policies designed to address disparities in health status;
3. conduct hearings and interviews, and receive testimony, regarding matters pertinent to its mission; and
4. convene the directors of state agencies with purview over the elimination of health disparities, including the Office of Health Care Access, Housing Finance Authority, and departments of the Public Health, Social Services, Children and Families,

Developmental Services, Education, Mental Health and Addiction Services, Labor, and Transportation to advise and direct them in the implementation of policies, procedures, activities, and resource allocations to eliminate these health disparities;

Additionally, the commission is required to determine if its duties are duplicated by any other state agency, office, bureau, or commission and include information on the duplication in a report to the governor and legislature by June 1, 2010.

Members and Meetings

The commission consists of the:

1. commissioners of public health, mental health and addiction services, developmental services, social services, correction, children and families, and education;
2. deans of UConn Health Center, Yale University Medical School, and Public Health and the School of Epidemiology at Yale University, or their designees;
3. directors of UConn Health Center, Center for Public Health and Health Policy, and Hispanic Health Council, or their designees; and
4. chairpersons of the Office of the Health Care Advocate; Permanent Commission on the Status of Women; and African-American Affairs, Latino and Puerto Rican Affairs, and Asian Pacific American Affairs commissions, or their designees.

The membership also consists of the following members appointed by the following authorities.

Table 1: Appointed Members

<i>Members</i>	<i>Appointing Authority</i>
Member of a National Urban League affiliate Two public members*	Senate president pro tempore
Member of the National Association for the Advancement of Colored People Two public members*	House speaker
Representative of the Native American community	Senate majority leader with the advice of the Native American Heritage Advisory Council or the chairperson of the Indian Affairs Council
Member of the legislative Black and Puerto Rican Caucus	House majority leader
Representative of an advocacy group for Hispanics Two public members*	Senate minority leader
Representative of the state-wide Multicultural Health Network Two public members*	House minority leader

*These members must represent communities facing disparities in health status based on race, ethnicity, and linguistic ability.

The appointing authority fills vacancies. The commission elects its own chairperson and vice-chairperson from its members and meets as often as the chairperson or a commission majority deems necessary, but at least quarterly. Members are considered to have resigned if they miss three consecutive meetings or half of the meetings in a calendar year.

Commission members are not paid but may be reimbursed for necessary expenses they incur while performing their duties.

HIGHER EDUCATION AND EMPLOYMENT ADVANCEMENT COMMITTEE

PA 08-16—HB 5120

Higher Education and Employment Advancement Committee

AN ACT CONCERNING TECHNICAL CHANGES TO THE STATUTES CONCERNING THE CONNECTICUT STATE UNIVERSITY SYSTEM

SUMMARY: This act changes references to “Connecticut State University” to “Connecticut State University system,” which conforms to other statutes.

EFFECTIVE DATE: July 1, 2008

PA 08-55—HB 5511

*Higher Education and Employment Advancement Committee
Appropriations Committee*

AN ACT CONCERNING CHARTER OAK STATE COLLEGE IN THE CONNECTICUT AID TO PUBLIC COLLEGE STUDENTS GRANT PROGRAM

SUMMARY: Under prior law, the Board of Governors of Higher Education had to base its annual appropriation request for the Connecticut Aid to Public College Students (CAPCS) grant program for Charter Oak State College on Charter Oak’s fee waiver set-aside in the previous fiscal year. This act requires the board to base the request on the fee waiver set-aside in the fiscal year two years before the fiscal year in which the appropriation applies. This conforms the law to the board’s annual CAPCS appropriation request for the other higher education constituent units.

EFFECTIVE DATE: July 1, 2008

PA 08-72—SB 91

*Higher Education and Employment Advancement Committee
Appropriations Committee*

AN ACT CONCERNING FULL CARRYOVER AUTHORITY FOR THE CAPITOL SCHOLARSHIP PROGRAM

SUMMARY: Under prior law, the Department of Higher Education could carry forward up to 5% of its unspent annual appropriations for student financial assistance. This act eliminates the 5% cap and limits the carry forward to unspent appropriations for the Capitol Scholarship Grant Program.

EFFECTIVE DATE: July 1, 2008

PA 08-116—sHB 5050

*Higher Education and Employment Advancement Committee
Government Administration and Elections Committee*

AN ACT CONCERNING HOSPITAL-BASED OCCUPATIONAL SCHOOLS AND TECHNICAL REVISIONS TO THE HIGHER EDUCATION AND EMPLOYMENT ADVANCEMENT STATUTES

SUMMARY: This act requires hospitals that offer any form or manner of trade, industrial, commercial, service, professional, or other occupational instruction for remuneration, consideration, reward, or promise, to obtain an authorization certificate from the higher education commissioner for such instruction. It excludes from this requirement instruction that hospitals provide to their employees, medical staff, and contracted workers. The hospital-based occupational school must pay a \$200 application fee payable to the General Fund’s Private Occupational School Student Protection Account when submitting an initial authorization application.

It requires the commissioner to develop a prioritization process for authorizing such schools, based on the size and scope of the instruction they offer. The schools must comply with the act’s provisions as required by the commissioner, or by 2012, whichever is earlier.

The act specifies that each hospital-based occupational school’s authorization period is three years, regardless of the law requiring annual reauthorization for private occupational schools in their first four years of operation. The schools must pay a \$200 renewal fee payable to the Student Protection Account. And each school must pay one-half percent of its quarterly net tuition revenue to the Student Protection Account, in accordance with the payment schedule established by law.

The act also makes various technical changes in the higher education statutes.

EFFECTIVE DATE: July 1, 2008, except for the technical changes, which are effective upon passage.

BACKGROUND

Private Occupational School Student Protection Account

The Student Protection Account is funded by quarterly assessments on private occupational schools’ tuition revenue and other fees related to the schools’ operations. It is used to make tuition refunds to students unable to complete a course at a private occupational school that becomes insolvent or closes.

PA 08-149—sHB 5123

*Higher Education and Employment Advancement Committee
Government Administration and Elections Committee
Legislative Management Committee*

AN ACT CONCERNING THE CONNECTICUT STUDENT LOAN FOUNDATION

SUMMARY: This act reduces the size of the Connecticut Student Loan Foundation's board of directors from 15 to 14 members and changes its composition. Under prior law, the House speaker and minority leader and the Senate president pro tempore and minority leader each appointed a legislator from their respective chambers to the board. The act eliminates this requirement and instead requires that each legislative leader appoint a person knowledgeable in business or finance.

It also eliminates the governor's appointment of a financial aid officer at an eligible institution and changes one of the governor's appointees from a representative of the private colleges to a representative of an eligible higher education institution.

By law, an eligible institution is any institution that satisfies the eligibility requirements for participation in the Federal Family Education Loan Program authorized under Title IV, Part B of the 1965 Higher Education Act. This includes public or private nonprofit, proprietary, and postsecondary vocational institutions.

EFFECTIVE DATE: July 1, 2008

PA 08-157—sSB 467

*Higher Education and Employment Advancement Committee
Public Health Committee
Public Safety and Security Committee*

AN ACT CONCERNING SECURITY PROTOCOL AT THE CONSTITUENT UNITS

SUMMARY: This act requires each state higher education constituent unit and private college and university to submit a plan to the Department of Higher Education, by January 1, 2009, that identifies procedures to heighten, through effective educational strategies, faculty and staff awareness of students and others on campus who may pose a risk of harming themselves or others. The procedures must be designed to educate faculty and staff on how to recognize and respond to such individuals.

EFFECTIVE DATE: July 1, 2008

PA 08-163—sSB 465

*Higher Education and Employment Advancement Committee
Appropriations Committee
Government Administration and Elections Committee*

AN ACT ESTABLISHING AN ADULT LITERACY BOARD

SUMMARY: This act requires the Office of Workforce Competitiveness (OWC) to establish a 17-member Adult Literacy Leadership Board as a standing committee of the Connecticut Employment and Training Commission (CETC) to review and advise the commission on workforce investment and adult literacy programs and services. It requires the board, among other things, to (1) develop a three-year strategic plan for an adult literacy system, (2) prepare an annual report card on the status of adult literacy in the state, and (3) report annually to the governor and legislature on its activities. The board terminates as a standing committee on July 1, 2012.

EFFECTIVE DATE: July 1, 2008

ADULT LITERACY LEADERSHIP BOARD*Board Membership*

The board consists of seven voting members and 10 ex-officio nonvoting members. Under the act, voting members apparently consist of a:

1. community literacy program director,
2. regional literacy program director,
3. public library representative,
4. literacy outcome study director from a private university,
5. literacy outcome study director from a public university,
6. adult literacy advocacy group representative, and
7. person with experience in literacy research, planning, and evaluation.

(But the act literally ascribes these qualifications to one member.) The governor appoints the chairperson, who must be one of the enumerated voting members.

The chairperson, in consultation with the OWC director, must appoint the other six voting members.

The ex-officio nonvoting members are the:

1. correction commissioner,
2. education commissioner,
3. higher education commissioner,
4. economic and community development commissioner,
5. social services commissioner,
6. labor commissioner,
7. Office of Workforce Competitiveness director,
8. Office of Policy and Management secretary,

9. regional community-technical colleges chancellor, and
10. state librarian.

The voting members serve four-year terms. The board chairperson may create other positions the board deems necessary for its members. Any four members of the board constitute a quorum and can exercise the board's powers. (The act does not specify whether they must be voting members.) The OWC may solicit and receive funds on the board's and commission's behalf from public or private sources to carry out its activities.

Strategic Plan

The act requires the board to develop a three-year strategic plan for an adult literacy system in the state by July 1, 2009. The plan must:

1. be consistent with and guided by the planning requirements established by Title I and Title II of the 1988 federal Workforce Investment Act;
2. integrate adult education and literacy with workforce training to establish a comprehensive approach to the state's adult workforce education;
3. include goals for an adult literacy system, including reducing the number of adults in the state lacking a high school diploma or English proficiency by a certain percentage each year for a specified time;
4. define the roles of adult literacy service providers in the state, particularly the (a) governance responsibility for adult education, (b) discrepancies in service delivery and ways to promote regionalized service delivery and community partnerships, and (c) resources for system-wide administration, management, research, and coordination;
5. prioritize services that improve quality of instruction, access, and retention, and identify target populations for services;
6. analyze funding requirements and identify (a) estimated resources needed to implement the plan's goals, (b) current funding sources and reallocation possibilities, and (c) alternatives and new funding sources; and
7. outline funding policies that provide (a) financial support and incentives supporting collaborative service delivery and (b) adequate resources for state-funded agencies with adult literacy responsibilities, including public libraries, to collect, analyze, and evaluate data and conduct research on program effectiveness and best practices.

The board must annually review the plan's implementation and make any necessary revisions. It must update the plan every three years, but the board

expires in four years. It must also designate regional planning workgroups, under the regional workforce development boards' direction, consisting of adult literacy service provider representatives and adult literacy service recipients to help develop and review the plan.

CETC's Job Placement Report Card

The act requires the CETC to include in its annual job placement report card information on the status of adult literacy in the state. The report card must identify the major components of the adult literacy system, including adult education, family, and workplace literacy, and provide for each (1) the number and demographics of people served, (2) a description of its funding sources, and (3) performance measures.

Annual Report

The CETC must annually report, by January 1, 2009, to the governor and the Judiciary, Education, Higher Education, Commerce, Labor, and Human Services committees on (1) the board's progress in developing and implementing the strategic plan, (2) the board's recommendations for sources and funding levels to meet the strategic plan's goals, and (3) the adult literacy section of the commission's report card.

Other Requirements

The act also requires the leadership board to:

1. create a vision and mission statement by January 1, 2009;
2. report annually through CETC on sources and funding levels to meet the strategic plan's goals;
3. establish results-based accountability measures and use them to track progress towards the strategic plan's goals and objectives;
4. develop and maintain, with state-agency partners, an online inventory of all adult literacy programs and services offered in the state, including a description of the type of service, the time and place it is offered, and any eligibility requirements or fees;
5. establish standards for adult literacy service providers, including waiting list requirements;
6. require each adult literacy service provider to maintain a waiting list and report it to the board, according to the standards the board develops;
7. promote coordination and collaboration among service providers through regionalized service delivery and community partnerships;

8. prepare information on the status of adult literacy in the state to include in the commission's annual report card; and
9. pilot best practices it identifies through its research and analysis of statewide adult literacy programs.

The OWC may ask state agencies for information, reports, and assistance the board needs to carry out its duties.

Definitions

The act defines "adult literacy services" as services established under Title II of the 1988 federal Workforce Investment Act that are aimed at improving the ability of people age 16 or over who are not enrolled in secondary school to (1) read, write, and speak English and (2) compute and solve problems at levels of proficiency necessary to function on the job, in the family, and in society. It defines "vision statement" as a written projected overview of the state's adult literacy programs and services at a specified future date. It defines "mission statement" as a written declaration of the purpose of the state's adult literacy programs and services, including those that address the goals of helping adults develop reading, critical thinking, problem-solving, and communication skills necessary to be self-sufficient, active citizens, effective parents, and qualified, competitive workers.

BACKGROUND

CETC

By law, CETC fulfills, among others, the roles of state job training coordinating council and state human resource investment council pursuant to federal requirements. It also evaluates the effectiveness of state employment and training programs and develops plans and recommendations to avoid duplication of effort and improve delivery of relevant services.

PA 08-177—HB 5048

Higher Education and Employment Advancement Committee

AN ACT CONCERNING BORROWER REPAYMENT AND THE CONNECTICUT STUDENT LOAN FOUNDATION

SUMMARY: This act authorizes the Connecticut Student Loan Foundation (CSLF) to repay certain borrowers 10% of their federal student loans made or guaranteed by CSLF. Eligible borrowers must (1) be state residents when they apply for repayment, (2) meet any applicable income limitations and criteria for

subsidized federal student loans under the 1965 Higher Education Act, (3) have successfully completed the program for which the loan was made, and (4) have applied for repayment between July 1, 2005 and December 31, 2008. The loans must be for an academic period prior to July 1, 1979.

On May 15, 2009, the act requires CSLF to refund the Department of Higher Education (DHE) any unspent appropriations for the repayment program that DHE transferred to CSLF.

EFFECTIVE DATE: Upon passage

BACKGROUND

10% Loan Repayment Program

CSLF's 10% loan repayment program was effectively terminated in 1979 by PA 79-430. Before 1979, the law required CSLF to pay lending institutions the first 10% of subsidized federal student loans made to borrowers who had finished the educational program for which the loans were made. PA 79-416 limited CSLF's 10% repayments to Connecticut residents. PA 79-430 required CSLF to (1) make payments for pre-July 1, 1979 loans and (2) directly pay the borrower when he or she repaid the entire loan (CGS § 10a-206). In 2005, the legislature repealed the statutory references to this program (PA 05-184).

PA 08-1—sSB 33

*Human Services Committee
Appropriations Committee*

**AN ACT IMPLEMENTING THE GOVERNOR'S
RECOMMENDATIONS WITH RESPECT TO
SOCIAL SERVICES PHARMACY PROGRAMS**

SUMMARY: This act requires drug manufacturers to provide rebates for (1) nonformulary drugs the Department of Social Services (DSS) covers for Medicare Part D participants who are also eligible for Medicaid and (2) drugs dispensed under the HUSKY and State-Administered General Assistance (SAGA) medical assistance programs.

EFFECTIVE DATE: Upon passage

**PHARMACY PROGRAMS FOR WHICH REBATES
AUTHORIZED**

*Nonformulary Drugs Provided to Medicare Part D
Recipients who are Eligible for Medicare and Medicaid*

The act requires drug manufacturers to provide rebates for those drugs that (1) are for people participating in Medicare Part D and (2) DSS pays for because they are not on the beneficiary's Part D plan formulary and the plan will not pay for them. This requirement applies both to individuals who are Connecticut Pharmaceutical Assistance Contract for the Elderly and Disabled (ConnPACE)-eligible and those eligible for both Medicare and Medicaid (dually eligible), and is applicable to drugs for which DSS paid beginning January 1, 2007. Nonformulary drugs provided to ConnPACE recipients are already eligible for rebates under ConnPACE rebate agreements.

Other DSS Drug Assistance

The act also requires manufacturers of any prescription drug that DSS covers under any other "state medical assistance programs" it administers to provide rebates for drugs for which DSS has since February 1, 2008. These programs include Medicaid fee-for-service (FFS), HUSKY A and B, and SAGA. (DSS already collects rebates for Medicaid FFS drugs.)

DSS also runs the Connecticut AIDS Drug Assistance Program and has collected rebates for this program for years. These rebates go directly to the Department of Public Health. The act authorizes DSS to collect these rebates.

BACKGROUND

*Rebates for Nonformulary Drugs for Medicare Part D
Recipients*

The federal Centers for Medicare and Medicaid Services (CMS) recently told DSS that it cannot require manufacturers to provide rebates on nonformulary drugs dispensed to dually eligible individuals under Medicare Part D based on existing Medicaid rebate agreements. CMS asserted that these individuals receive drug assistance from Medicare not Medicaid. Consequently, DSS had to return \$3 million in rebates it had collected. DSS intends to establish separate rebate agreements with manufacturers for these nonformulary drugs. DSS pays for these nonformulary drugs from a state-funded Supplemental Needs Fund established in law (PAs 05-280, 05-2, November 2 Special Session, and 06-188).

Rebates for Other DSS Pharmacy Programs

Beginning February 1, 2008, DSS "carved out" pharmacy benefits from the HUSKY A, HUSKY B, and SAGA medical assistance programs. The managed care organizations and federally qualified health centers with which DSS contracted to run these programs had previously negotiated rebates for drugs that they covered, and DSS factored this revenue into the capitation rates that it paid them for providing medical services. DSS expects to receive much higher rebates through direct agreements with the manufacturers.

PA 08-22—HB 5623

Human Services Committee

**AN ACT CONCERNING ELIGIBILITY FOR
EMERGENCY HOUSING ASSISTANCE FROM
THE DEPARTMENT OF SOCIAL SERVICES**

SUMMARY: This act allows recipients of Temporary Family Assistance (TFA) or State Supplemental benefits who are foreclosure defendants to be eligible for Department of Social Service (DSS) emergency housing benefits when a foreclosure judgment is entered, rather than when the property owner's right to redeem has expired.

By law, when a strict foreclosure judgment is entered, the court sets a "law date" by which the property owner must make full payment on the property or lose ownership. The time to redeem the property does not expire until the end of the foreclosure process, which may limit a person's ability to secure emergency housing.

EFFECTIVE DATE: October 1, 2008

BACKGROUND

Special Needs Benefit for Emergency Housing

By law, DSS is required to provide a special needs benefit for emergency housing to recipients of TFA or State Supplemental benefits if they lose their permanent housing under any of the following conditions:

1. the family is being evicted for non-criminal reasons;
2. the family's home is being foreclosed and the time limit for redemption has passed;
3. the family has left its current housing situation to avoid domestic violence;
4. local health officials have told the family it must move because a child in the family has unacceptable lead levels in his blood and the residence is the source of the lead;
5. a catastrophic event makes the residence uninhabitable;
6. a local housing code official has ordered the family to vacate;
7. the family has left a shared living arrangement where the primary tenant is in the process of being evicted, has received a preliminary eviction notice, has received a notice to quit for terminating a lease, or is engaged in criminal activity; or
8. the family was illegally locked out of the residence and has filed a complaint with the police.

The special needs benefit consists of payments for emergency housing (e.g., shelters), is available only once during a calendar year, and covers up to 60 days during that occurrence. Applications must be submitted to DSS within 45 days of when permanent housing is lost. In addition to the basic benefit, individuals may be eligible for supplemental benefits, including security deposits, replacement clothing, and moving expenses.

PA 08-28—HB 5909

Human Services Committee

AN ACT CONCERNING THE ELIMINATION OF TIME LIMITS FOR TRANSITIONAL INDIVIDUALS IN THE STATE-ADMINISTERED GENERAL ASSISTANCE PROGRAM

SUMMARY: This act deletes obsolete references to time limits for certain individuals who would otherwise be considered “transitionally” eligible for cash assistance from the Department of Social Services (DSS) under the State-Administered General Assistance (SAGA) program. The Department of Mental Health

and Addiction Services has provided assistance to these individuals for 10 years.

In general, SAGA cash assistance is available only to individuals who are “unemployable” or “transitional.” Benefits are \$200 per month for unemployable people and transitional recipients who must pay for their shelter. Transitional recipients who do not pay for shelter receive \$50 per month.

EFFECTIVE DATE: October 1, 2008

SAGA — TRANSITIONAL ELIGIBILITY

By law, individuals who meet the criteria for this eligibility category and are not classified as such solely due to mental illness or substance abuse are eligible for SAGA cash assistance for as long as they meet the program's eligibility criteria (e.g., disability).

The law defines someone as transitionally eligible if he or she:

1. has (a) a documented physical or mental impairment that prevents employment and is expected to last between two and six months and (b) a recent connection to the labor force or
2. has a determination of employability or disability pending and provides medical documentation of a severe physical or mental impairment expected to last at least six months.

If the impairment is expected to last for at least six months, DSS conducts a medical review to determine whether the individual should be considered unemployable (see BACKGROUND) based on a potentially permanent condition.

Under prior law, individuals deemed transitional solely on the basis of mental illness or substance abuse were subject to time limits: a 24-month eligibility period, with no more than 10 months of assistance in the first 12 months of eligibility and a maximum of six months of assistance in the second year.

In 1997, the state took over administration of the General Assistance program, and DMHAS assumed responsibility for meeting the basic needs of people who had substance abuse or mental illness problems and who would have otherwise been classified as transitionally eligible for SAGA cash assistance solely based on either of these conditions. Consequently, DSS has not been providing cash assistance to them. Thus, the time limits have no meaning.

BACKGROUND

Unemployable Definition

The SAGA law defines someone as “unemployable” if he or she:

1. is under age 16 or over age 64, or older than age 54 with a history of chronic unemployment;

2. has a physical or mental impairment expected to last at least six months that prohibits him or her from working or participating in an education, training, or other work-readiness program, as the DSS commissioner determines;
3. is waiting to receive federal Supplemental Security Income benefits or financial assistance from another program DSS administers;
4. is needed to care for a child under two or an incapacitated child or spouse;
5. is a full-time high school student; or
6. is a VISTA volunteer.

PA 08-29—sHB 5912

Human Services Committee

AN ACT CONCERNING THE REPEAL OF THE EMERGENCY ASSISTANCE PROGRAM ELIMINATED BY THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT

SUMMARY: This act eliminates all statutory references to the federal Emergency Assistance to Families Program. Congress repealed this program in 1996 when it passed welfare reform legislation, and its funding was rolled into the Temporary Assistance for Needy Families block grant, which that legislation created. When operational, this program provided payments to eligible families with children to meet emergency or crisis needs.

EFFECTIVE DATE: Upon passage

PA 08-36—SB 665

Human Services Committee

AN ACT CONCERNING CONTINUING CARE FACILITIES AND CONTINUING CARE AT HOME

SUMMARY: This act allows continuing care retirement communities (CCRCs) to provide care to individuals in their own homes if these individuals are given future access to facility care. Prior law allowed a CCRC to provide shelter and medical services only to their residents.

EFFECTIVE DATE: October 1, 2008

§ 1 — DEFINITIONS

The act amends the definition of “continuing-care contract” to allow these agreements to include the provision of care in an individual’s home if the individual can receive future access to services and

shelter in the CCRC facility. Prior law required a contract to provide shelter and health care services and benefits to an individual in a CCRC facility for at least one year. In exchange, a resident agreed to transfer assets, or pay an entrance fee or periodic charges.

The act does not define the term “care.” It appears to mean those services and benefits outside the scope of “medical or nursing services or other-health related benefits” which the law defines as nursing facility services, priority admission to a nursing facility, home health care, or assistance with activities of daily living to which a resident is contractually entitled. The act also extends the provision of “care” to individuals living in CCRCs.

The act also amends the definition of a continuing care “provider” to include home care if the recipient can receive future access to services and housing in the CCRC facility. Prior law required providers to administer shelter and medical services only to residents at licensed CCRCs.

§ 5 — NONRESIDENT NURSING HOME PATIENTS

The act removes the limit on the number of extensions the facility may request from the Department of Social Services (DSS) to admit nonresident patients. Prior law allowed facilities to accept nonresident patients for seven years after opening, plus one three-year extension. A facility may accept nonresidents into its nursing home only if (1) it is medically appropriate, (2) the facility applies the same financial eligibility criteria to potential nonresidents that is applied to residents, and (3) the facility annually screens each nonresident to determine whether the patient has sufficient resources to cover at least 42 months of nursing home care.

§ 2 — DISCLOSURE REQUIREMENTS

By law, providers must submit extensive written disclosure statements to prospective residents before entering into a contract or accepting a resident’s money or property. These disclosure requirements include the provider’s contact information and business experience; any criminal or legal offenses and license suspensions or revocations; all goods and services provided; conditions for contract termination; a description of the facility, including any proposed expansions; and all entrance fees and charges, including a description of past increases over the previous seven years (CGS § 17b-522).

The act exempts a provider under contract to provide in-home services from two disclosure requirements: (1) how it will dispose of a resident’s personal property if the person dies or transfers to a nursing facility or the provider terminates the contract

and (2) financial information for a facility that has not begun operating or is being built in stages.

§ 3 — CONTRACT REQUIREMENTS

Additional Requirements

The act requires continuing care contracts for the provision of in-home services to specify the circumstances in which a resident can still receive services at home with the right to future access to facility care if the resident experiences financial difficulties.

It also requires a CCRC to (1) terminate the contract of an individual who dies before beginning to receive services at home and (2) refund any money or property it received from the deceased to the individual's representative. Prior law required this for a resident unable to initially move into a CCRC due to illness, injury, or death.

Exemptions

The act specifies that contracts providing only in-home services do not have to comply with the requirement that:

1. if construction of the facility has not begun, that the contract will not start until (a) at least half the units have been presold and (b) the developer has received a deposit of 5% of the entrance fee, or \$ 10,000 for each presold unit, whichever is less; and
2. if a resident's contract is terminated because the resident fails to initially move into a facility due to illness, injury, or death and the unit was actually available for occupancy, the facility may charge its usual per diem charge for the living unit for the period running from seven days after the contract was executed until the end of the month the contract was terminated.

§ 4 — ENTRANCE FEE ESCROW ACCOUNT

The act exempts contracts to provide in-home services from the law that requires a continuing care facility to set up an escrow account for entrance fees to protect a resident's money in the event that the facility is under construction or the living unit is not ready for occupancy. The fee must be returned to the prospective resident or the resident's representative if the resident exercises his or her right to rescind the contract.

BACKGROUND

Continuing Care Retirement Communities

A CCRC provides elderly people (although there is a no legal age requirement for residency) with a lifetime "continuum of care." Residents must usually pay a one-time entry fee, which is often \$100,000 or more, and continuing monthly payments, often ranging between \$1,000 and \$3,000. Thus, people must have considerable assets to live in a CCRC. They usually obtain the entry fee by selling their houses.

At first, the senior lives independently in an apartment and later, when he or she becomes more frail, can receive assisted living services in it or move into an assisted living unit. CCRCs often have small nursing homes on their premises or contract with a nearby nursing home for residents who ultimately need 24-hour nursing care. They also provide some common meals; have common spaces for leisure and recreation programs; and provide housekeeping, laundry, and transportation services. CCRCs must register with DSS and are subject to its regulation.

PA 08-45—sHB 5904

*Human Services Committee
Judiciary Committee*

AN ACT CONCERNING RECOVERY EXCEPTIONS FOR PUBLIC ACCOMMODATION DISCRIMINATION SETTLEMENTS AND AWARDS

SUMMARY: This act prohibits the state from claiming or applying a lien against any money received as a settlement or award in a public accommodation discrimination case by people who have been supported wholly or in part by the state in a humane institution. Such discrimination could include being barred from a public place based on race, religion, or gender. The law defines these institutions as a state mental hospital, community mental health center, treatment facility for children and adolescents, or any other facility or program administered by the departments of Mental Health and Addiction Services, Developmental Services (successor to the Department of Mental Retardation), or Children and Families.

The prohibition also applies to claims or liens against individuals who received assistance from the State Supplement, Medicaid, Temporary Family Assistance (TFA), Aid to Families with Dependent Children (replaced by TFA in 1997), and State-Administered General Assistance programs.

The act provides for a similar prohibition in the law governing towns' ability to recover assistance provided to residents (former town-administered General Assistance recipients). The state took over that program in 1997, but towns can still recover benefits paid in certain circumstances.

The prohibition already applied to settlements and awards in housing and employment discrimination cases.

EFFECTIVE DATE: October 1, 2008

PA 08-68—SB 659

Human Services Committee

Finance, Revenue and Bonding Committee

AN ACT REPLACING EXPEDITED ELIGIBILITY FOR PREGNANT WOMEN WITH PRESUMPTIVE ELIGIBILITY UNDER THE SOCIAL SECURITY ACT AND THE TREATMENT OF TAX REFUNDS UNDER THE ECONOMIC STIMULUS ACT OF 2008

SUMMARY: This act prohibits the Department of Social Services (DSS), to the extent permitted by federal law, from counting a tax refund received under the federal Economic Stimulus Act of 2008 (P.L. 110-185) as income or resources when determining eligibility for, or amounts of services and benefits under, any DSS-operated need-based program. This prohibition applies to the month the tax refund is received and the following two months.

The act also replaces the existing expedited Medicaid-eligibility process for pregnant women with a presumptive eligibility process under Section 1920 of the federal Social Security Act. Presumptive eligibility allows states to grant immediate health care coverage to these women without a full Medicaid-eligibility determination. The act requires the DSS commissioner to designate "qualified entities" to receive and determine presumptive eligibility in accordance with federal laws and regulations.

Under prior law, the commissioner performed expedited eligibility for pregnant women with income up to 250% of the federal poverty level (\$35,000 for a family of two). In emergencies, this required DSS to process applications no later than 24 hours after receiving all required minimum information from the applicant. For non-emergency applicants, DSS could take up to five days. Within 30 days of applying, an applicant had to submit required information, including proof of identity, pregnancy, residency, citizenship status, and income.

EFFECTIVE DATE: January 1, 2008 except the provision on federal tax refunds, which is effective upon passage.

BACKGROUND

Presumptive Eligibility for Pregnant Women

Section 1920 of the Social Security Act permits states to establish presumptive Medicaid eligibility (PE) for pregnant women (42 USC § 1396r-1). PE allows states to grant immediate health care coverage to these women without initially requiring a full Medicaid-eligibility determination. But, PE only covers ambulatory prenatal care, including doctor visits, prescription drugs, immunizations, and lab and x-ray services. It does not cover inpatient hospital services or labor and delivery services.

PE is determined by a "qualified provider" based only on the income of the pregnant woman's family, which must be less than or equal to 250% of the federal poverty level. There are no citizenship or asset limit requirements for PE. A qualified provider must submit a copy of the PE application to DSS within five working days after making the determination.

The PE period begins when the eligibility determination is made. The individual has until the end of the following month to submit a full Medicaid application to DSS. The PE period ends when DSS makes a final eligibility determination or, if the individual does not complete the full Medicaid application process, the last day of the following month.

Qualified Providers

Federal law requires that a "qualified provider" make PE determinations. A "qualified provider" is a medical provider who:

1. is eligible for Medicaid payments;
2. provides the type of services provided by outpatient hospitals, rural health clinics, or other physician directed clinics;
3. has been determined by DSS to be capable of making presumptive eligibility determinations; and
4. receives funds under either the federal Public Health Service Act's Migrant Health Center or Community Health Center programs; Maternal and Child Health Services block grant programs; or Title V of the Indian Health Care Improvement Act.

A qualified provider may also participate in the Special Supplemental Food Program for Women, Infants and Children; the Commodity Supplemental Food Program; the state's prenatal program; or the Indian Health Service or a health program or facility operated under the Indian Self Determination Act.

PA 08-88—sSB 414

*Human Services Committee
Appropriations Committee*

AN ACT CONCERNING THE STATE-FUNDED HOME CARE PROGRAM FOR THE DISABLED

SUMMARY: This act increases the asset limits in the state-funded, pilot home and community-based services program for adults under age 65 who have disabilities. Previously, assets were limited to 100% and 150% of the minimum community spouse protected amount ((CSPA), spousal asset protection in Medicaid long-term care law) for single and married applicants, respectively. The act increases the limits to 150% and 200% of the minimum CSPA, respectively, by tying the limits to those in the state-funded Connecticut Home Care Program for Elders (CHCPE). Thus, under the act, the increases for 2008 are: (1) \$20,880 to \$31,320 for a single person and (2) \$31,320 to \$41,760 for a married couple. (Federal law requires the state to update the CSPA each January 1.)

EFFECTIVE DATE: July 1, 2008

BACKGROUND

Pilot Program

By law, there is no income limit for the 50-person pilot (which offers home- and community-based services to individuals who are inappropriately institutionalized or at risk of such), but once an individual's income reaches 200% of the federal poverty level (\$20,800 for a single person in 2008), he or she must contribute towards his or her care costs. And annualized program costs for an individual cannot exceed 50% of the weighted average cost of care in the state's nursing homes. The services available through the pilot program are the same as those available under the CHCPE, and include homemakers, adult day care, and minor home modifications, among several others.

PA 08-91—sSB 559

*Human Services Committee
Appropriations Committee*

AN ACT CONCERNING A PILOT PROGRAM FOR SMALL HOUSE NURSING HOMES AND ADDITIONAL EXCEPTIONS TO THE NURSING HOME BED MORATORIUM

SUMMARY: This act directs the Department of Social Services (DSS) commissioner to establish a pilot program, within existing appropriations, to help develop up to 10 small house nursing homes in the state. The

program's goals are to improve the quality of life for nursing home residents and provide nursing home care in home-like, rather than institutional, settings.

The act establishes requirements for pilot program guidelines and eligibility. It requires a small house nursing home participating in the pilot to comply with certificate of need (CON) requirements and processes. It also amends the current moratorium on additional nursing home beds.

When reviewing and selecting proposals, the commissioner must consult with the Long-Term Care Planning Committee. He must give priority to proposals that use energy efficiency technology, including fuel cells. And two of the ten proposals selected must develop a small house nursing home in a distressed municipality with more than 100,000 people. Currently, Bridgeport, Hartford, New Haven, and Waterbury meet these criteria.

EFFECTIVE DATE: July 1, 2008

DEFINITIONS

Small House Nursing Home

The act defines a "small house nursing home" as a facility that:

1. consists of one or more units designed or modeled as a private home,
2. houses up to 10 individuals in each unit,
3. includes private rooms and bathrooms,
4. provides an increased role for support staff in resident care,
5. incorporates a philosophy of individualized care, and
6. is licensed as a nursing home.

PILOT PROGRAM GUIDELINES

The act requires the DSS commissioner to develop program guidelines for design specifications and requirements and submit them to the Human Services Committee by October 1, 2008. If the committee does not approve, deny or modify the guidelines within 30 days of receiving them, they are deemed approved. It authorizes the commissioner to establish additional criteria for homes and requires him to make all guidelines and criteria, once approved, available to applicants. It requires each participating home to seek Medicare and Medicaid certification.

ELIGIBILITY

A licensed nursing home may apply to the DSS commissioner to participate in the pilot program and to relocate existing Medicaid certified beds from its facility to the small house nursing home. An applicant

must submit to DSS (1) a description of the proposed project, (2) information on the applicant's financial and technical capacity to undertake the project, (3) a project budget, (4) information that the relocation of beds results in a reduction in the number of the state's nursing home beds, and (5) any additional information the commissioner determines necessary.

CERTIFICATE OF NEED

The act requires a small house nursing home participating in the pilot to comply with CON requirements and processes.

It exempts Medicaid-certified beds relocated from a licensed nursing facility to a small house nursing home from the current moratorium on additional nursing home beds. (Current law already exempts the transfer of Medicaid-certified beds from one licensed nursing facility to another.)

It also exempts from the current moratorium on additional nursing home beds the relocation of up to 60 new or existing Medicaid-certified beds from a licensed nursing home in a city with a 2004 estimated population of 125,000 to another location within that city. (New Haven is the closest with 125,012.) The act appears to apply only to existing beds since it is not clear how new beds can be relocated.

BACKGROUND

Certificate of Need for Nursing Homes

By law, any nursing home facility intending to do any of the following must apply for a CON from DSS:

1. transfer all or part of its ownership or control before initial licensure,
2. introduce an additional service or function into its program of care or expand an existing service or function,
3. terminate a service or decrease substantially its total bed capacity,
4. make a capital expenditure over \$1 million that increases the facility's size by the greater of over 5,000 square feet or 5% of the existing footage,
5. make a capital expenditure of \$2 million, or
6. acquire major medical equipment requiring a capital expenditure of over \$400,000.

The law establishes a moratorium on CONs for additional nursing home beds until June 30, 2012. Exceptions are provided for:

1. beds restricted to use by patients with AIDS or traumatic brain injury;
2. beds associated with a continuing care facility that guarantees life care for its residents;
3. Medicaid-certified beds being relocated from

one licensed nursing facility to another, provided (a) the availability of beds in an area of need will not be adversely affected, (b) the relocation will not result in increased state expenditures, and (c) the relocation reduces the number of nursing facility beds in the state;

4. a request for up to 20 beds from a nursing facility that does not participate in Medicaid or Medicare and demonstrates the financial ability to provide lifetime nursing home services to its residents without such participation; and
5. a request for up to 20 beds associated with a free standing facility authorized to provide hospice care for terminally ill people (CGS § 17b-354).

"Small House" and "Green House" Nursing Home Models

Generally, "green houses" or "small houses" are "deinstitutionalized" nursing homes. They are self-contained dwellings for seven to 10 residents requiring nursing home levels of care. They incorporate physical design changes such as private rooms and bathrooms, a residential-style kitchen, a communal dining area, and accessible outdoor space. They avoid institutional elements. A cluster of green houses, in effect, forms a nursing facility.

PA 08-133—SB 418

*Human Services Committee
Appropriations Committee
Education Committee*

AN ACT CONCERNING THE HIRING OF SUPPORT STAFF FOR TEACHERS OF THE BLIND AND VISUALLY IMPAIRED

SUMMARY: This act allows up to 5% of the Board of Education and Services to the Blind's (BESB) Educational Aid for the Blind and Visually Handicapped account appropriation to be used to employ special assistants to the blind and other support staff needed to ensure services are delivered efficiently. These assistants are state-classified employees who, among other duties, drive visually impaired people to work, including teachers. By law, BESB must generally provide teachers of the visually impaired, when school districts request them, as well as other resources. It can already use funds from this account to employ these teachers, as well as rehabilitation teachers and technologists and orientation and mobility teachers.

EFFECTIVE DATE: July 1, 2008

BACKGROUND

Priority System for Educational Aid Account

In 2003, the legislature established a priority system for BESB to use when providing and paying for educational services to blind and visually impaired children. Funds from the account must be spent in the following order: (1) to pay for goods and services, such as books; (2) to pay for teaching services that school districts request directly from BESB; and (3) to reimburse towns that purchase these services on their own. BESB can charge districts for any goods or services if the account has insufficient funds. If there are any funds left, they go to the school districts on a pro rata basis, with a two-to-one credit ratio for Braille-learning students to non-Braille-learning students.

PA 08-158—sSB 558

*Human Services Committee
Appropriations Committee*

AN ACT CONCERNING THE AVAILABILITY OF HOSPICE SERVICES UNDER THE MEDICAID PROGRAM

SUMMARY: This act requires the Department of Social Services (DSS) to amend the Medicaid state plan to add hospice services, beginning January 1, 2009. Previously, the state provided Medicaid-funded home health care services but not the full panoply of hospice-type benefits required by Medicaid law. Under federal Medicaid law, states have the option to cover these services.

The act also makes a technical change.

EFFECTIVE DATE: January 1, 2009

BACKGROUND

Hospice Services as State Plan Benefit

Medicaid state plan coverage for hospice is based on the Medicare benefit, which is available to people who are enrolled in Medicare Part A. Congress added the benefit to Medicaid in 1985 to help low-income individuals who were under 65 (and not eligible for Medicare) get the benefits. A state that elects this coverage agrees to offer a “bundled” benefit package, which includes a number of end-of-life services (e.g., bereavement counseling) plus medical services that the regular home health care benefit (which Connecticut offers) does not cover. Additionally, the state plan benefit offers hospice care in nursing homes, which is not currently available in Connecticut. Federal law prohibits Medicaid from paying for regular home health care services provided in this setting unless the state

elects the hospice option.

PA 08-180—sSB 561

*Human Services Committee
Appropriations Committee*

AN ACT CONCERNING THE MONEY FOLLOWS THE PERSON PROJECT AND OTHER LONG-TERM CARE INITIATIVES

SUMMARY: This act increases, from 700 to 5,000, the number of individuals who can be served under the state’s plan for participating in the federal Money Follows the Person (MFP) demonstration program. MFP is a five-year program that permits states to move individuals out of nursing homes or other institutional settings and into less-restrictive, community-based settings and not jeopardize federal funding. The act requires, instead of allows, the Department of Social Services (DSS) commissioner to submit an application to the federal government. DSS has developed a protocol for the demonstration, which needs federal approval before it can be implemented.

The act also requires the DSS commissioner to develop a plan to establish and administer a similar home- and community-based services (HCBS) project for adults who may not meet the MFP institutionalization requirement.

And it establishes a separate, nonlapsing General Fund account to hold the enhanced federal matching funds the state receives for MFP. It specifies the uses of funds in the account and requires a report on expenditures from it.

EFFECTIVE DATE: July 1, 2008, except the changes in the MFP demonstration are effective upon passage.

DEMONSTRATION HCBS PROJECT

Plan

The DSS commissioner must develop a plan to establish and administer a demonstration project to provide home- and community-based long-term care services to individuals who are 18 and older who (1) are institutionalized or at risk of institutionalization and (2) meet the financial and level of care eligibility criteria established in the Connecticut Home Care Program for Elders (CHCPE) regulations.

The plan must detail the project’s structure, people served, services, and service provision. It must also include a timetable for implementing the project beginning July 1, 2009.

The plan must further identify (1) any federal Medicaid waivers or state plan amendments necessary to implement the demonstration and (2) any costs or

savings it creates. In developing the plan, the commissioner must consider consolidating existing waivers, demonstration projects, and state-funded programs to promote efficiencies.

Services

The services the project must provide must be modeled after those provided by the MFP demonstration. Project participants must receive a level of care and services necessary to maintain them in their home or community.

The plan must ensure that the project provides, at a minimum, the following Medicaid-covered services, which would be authorized through a Medicaid state plan amendment, a new Medicaid waiver, or modification to an existing Medicaid waiver:

1. personal care assistance,
2. 24-hour care,
3. occupational therapy,
4. homemaker and companion services,
5. meals on wheels,
6. adult day care,
7. transportation,
8. mental health counseling,
9. care management,
10. elderly foster care,
11. minor home modifications,
12. assistive technology, and
13. assisted living.

Report

By January 1, 2009, the act requires the DSS commissioner to submit the plan to the Human Services and Appropriations committees, along with recommended legislation and funding to implement it. The committees have 60 days to advise the commissioner whether they approve, deny, or modify the plan. If it is approved, it must be implemented on or after July 1, 2009, subject to available appropriations.

LONG-TERM CARE REINVESTMENT ACCOUNT

The account must hold any money the law requires it to. Any enhanced federal Medicaid matching funds the state receives from implementing MFP must be deposited into it.

The act requires the DSS commissioner, in consultation with the Office of Policy and Management (OPM) secretary, to develop and implement a written plan for allocating funds in the account, which must include application procedures and eligibility criteria and requirements for fund recipients. The commissioner must submit a copy of the plan to the Human Services and Appropriations committees.

The DSS commissioner must also consult with the OPM secretary when actually spending account funds, which can go towards:

1. programs and services that provide cost-effective home- and community-based alternatives to nursing home care;
2. rate increases for home health agencies and other home care providers above and beyond those authorized by law and increased wages for MFP transition coordinators;
3. developing, improving, and increasing the long-term care services workforce, including training, education, and other incentives;
4. improving information technology and systems to track costs and savings associated with using home- and community-based care and improve access to long-term care services information;
5. encouraging the purchase of precertified long-term care insurance through the Connecticut Partnership for Long-Term Care by paying for six months of premiums;
6. paying to relocate nursing home residents to other facilities if needed to protect their health and safety, maintaining and operating facilities pending deficiency corrections or closures, and reimbursing residents for lost personal needs fund accounts;
7. grants promoting the adoption of building design and principles of alternative nursing homes; and
8. grants to existing nursing homes for improvements and modifications to support HCBS and programs.

Report

The act requires the DSS commissioner to submit annual reports on the fund, starting by January 1, 2009, to the governor and the Human Services and Appropriations committees. The report must include such information as the number, amount, and type of fund expenditures during the prior calendar year and estimates of the account's impact on present and future Medicaid expenditures.

BACKGROUND

MFP

In 2005, Congress, as part of the Deficit Reduction Act, enacted the MFP provisions as a way to encourage states to rebalance their long-term care spending by moving individuals from nursing homes or other institutions into less-restrictive, community-based settings. The law requires that program participants (1) reside in the nursing home for at least six months and

(2) need a nursing home level of care once they leave.

States that run the demonstration projects are eligible for an enhanced federal match (75% instead of 50%) of state expenditures for the first year of Medicaid-eligible services. States must commit to provide some of these services once the year is up through some other authority (e.g., federal home- and community-based services waiver). Federal matching funds of 50% are also available to support services not allowed by Medicaid that the state will provide during the demonstration, such as housing coordinators.

Other federal law allows states to provide Medicaid-funded community-based services to the elderly and disabled, and Connecticut currently runs several waiver programs that offer these services. These programs generally have enrollment caps. State law allows the DSS commissioner to modify the existing Medicaid waivers if necessary to carry out the demonstration.

Connecticut Home Care Program for Elders (CHCPE)

This program provides home- and community-based services for individuals aged 65 and older who are institutionalized or at risk of institutionalization. It includes both Medicaid waiver- and state-funded components.

The program has three categories of services, depending on the participant's care needs and his or her financial circumstances. Table 1 illustrates these.

Table 1: CHCPE Care Levels, Eligibility, and Service Limitations

<i>Category</i>	<i>Care Level Eligibility</i>	<i>Income Eligibility/Service Limits</i>
1	Might not immediately enter hospital or nursing home in absence of services	No income limit but client contribution once income reaches 200% of the federal poverty level (\$20,800 for single person in 2008); assets limited to \$31,320 and \$41,760, for single and married participants, respectively. Services authorized for up to 25% of weighted average nursing home cost
2	Individuals would require institutionalization in absence of services	Same financial criteria as Category 1. Services authorized for up to 50% of weighted average
3	Same as Category 2 and meet Medicaid's eligibility criteria under federal waiver	300% of Supplemental Security Income maximum benefit (\$1,911 per month in 2008 for single person); assets up to \$1,600 for single person. Services authorized for up to 100% of average nursing home cost

PA 08-33—sSB 310

Insurance and Real Estate Committee

AN ACT CLARIFYING THE SALE OF SPECIAL HEALTH CARE PLANS FOR SMALL EMPLOYERS

SUMMARY: This act makes several changes to insurance laws on the offer and sale of health insurance plans to small employers to resolve inconsistencies between state and federal law.

It eliminates the requirement that insurers offer “special health care plans.” And it limits the employers to whom insurers must offer a small employer plan. Under prior law, insurers had a duty to offer a small employer plan to any small employer (50 or fewer employees, including a sole proprietor) for which it denied other coverage. The act limits the insurers’ duty by applying it only to a sole proprietor. Thus, under the act, an insurer must promptly offer a sole proprietor the opportunity to purchase a small employer plan if (1) the insurer denies coverage that the sole proprietor requested or (2) the insurer or its producer does not offer, for any reason, coverage that the sole proprietor requested. (For example, a sole proprietor may have applied for, and been denied, coverage under an individual health insurance policy. At that time, the insurer would have to offer a small employer plan to him or her.) By law, an insurer may require proof that the person has been self-employed for three consecutive months.

The act also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

BACKGROUND

Special Health Care Plans for Small Employers

By law, a “special health care plan” is a health insurance plan that the Health Reinsurance Association (HRA) or Connecticut Small Employer Health Reinsurance Pool board of directors (“the board”) establishes, in accordance with statutory requirements, for small employers with 10 or fewer employees, the majority of whom are low-income, that have not provided health insurance for their employees for one year. The law prohibits an employer from purchasing a special health care plan for more than three years. (The legislature created HRA to provide comprehensive health insurance to people who cannot obtain insurance from commercial insurers.)

Health care providers are prohibited from providing services in Connecticut unless they provide services, upon request, to people covered by special health care plans for the reimbursement rate the law specifies,

which is 75% of what Medicare reimburses. For services or supplies that Medicare does not reimburse, the rate is 75% of what Medicare would reimburse if the benefit was payable under Medicare, which the board must determine and the commissioner must approve.

Federal Law

Federal law defines small employer as an employer with two to 50 employees. The federal Health Insurance Portability and Accountability Act (HIPAA) requires insurers that offer plans to small employers to (1) offer all small employers all their products approved for sale in the small group market that they are actively marketing and (2) accept each small employer that applies for the coverage and pays the premium. HIPAA also requires insurers to renew small employer’s plans at the policyholder’s election, except in limited cases (e.g., nonpayment of premiums, fraud).

PA 08-74—sSB 279

*Insurance and Real Estate Committee
Transportation Committee*

AN ACT CONCERNING AUTOMOBILE INSURANCE DISCOUNTS

SUMMARY: This act adds to what the Department of Motor Vehicle (DMV) commissioner must include in regulations regarding accident-prevention courses drivers age 60 and over may take to qualify for an auto insurance premium discount. By law, the regulations must include the number of classroom instruction hours, DMV approval of schools and instructors, and certificate issuance to those who successfully complete the course. The act requires the regulations to also address approval of courses that drivers take on the Internet.

The act requires the commissioner to adopt regulations regarding such Internet courses, including methods to verify a person’s (1) identity when he or she registers for, and throughout, the course; (2) participation throughout the course’s duration; (3) course completion within any time requirements the course or commissioner requires; and (4) successful course completion.

EFFECTIVE DATE: October 1, 2008

BACKGROUND

Auto Insurance Premium Discount

By law, a driver age 60 or older is eligible for an automobile insurance premium discount for successfully completing a DMV-approved accident-prevention

course. The premium discount, which is effective at the policy's next renewal, must be at least 5% and apply for at least 24 months. The driver must complete the course within the year before he or she applies for an initial discount. For any future discount, the driver must complete a course within the year before the current discount expires.

PA 08-96—HB 5513

Insurance and Real Estate Committee

AN ACT CONCERNING THE RIGHT OF RECOVERY BY THE CONNECTICUT INSURANCE GUARANTY ASSOCIATION

SUMMARY: By law, the Connecticut Insurance Guaranty Association (CIGA) has a statutory right to recover, from an insolvent insurer's (1) affiliates and (2) insureds whose net worth exceeds \$50 million, the amount of covered claims that CIGA paid on the affiliate's or insured's behalf. The law exempts municipalities and the Second Injury Fund from having to repay CIGA.

The act eliminates CIGA's right to recover any amount of covered claims it paid on or after December 1, 2001 on behalf of a nonprofit corporation that meets certain criteria, if the insolvent insurer was declared insolvent before the act's effective date. The nonprofit must be (1) organized to deliver health and social services to the elderly, (2) incorporated in Connecticut, and (3) qualified as an IRS Code 501(c)(3) tax-exempt organization. The act specifies that CIGA is not required to refund any amounts it recovered from such a nonprofit, or its affiliates, before the act's effective date. EFFECTIVE DATE: Upon passage

BACKGROUND

Connecticut Insurance Guaranty Association

The law requires CIGA to process and pay qualifying claims that state residents file against an insolvent insurance company. It is funded by assessments against insurers licensed to write property and casualty insurance in the state.

PA 08-109—sSB 471

*Insurance and Real Estate Committee
Public Health Committee*

AN ACT EXTENDING THE STATE PHYSICIAN PROFILE TO CERTAIN OTHER HEALTH CARE PROVIDERS

SUMMARY: By law, the Department of Public Health (DPH), after consulting with the Connecticut Medical Examining Board and the Connecticut State Medical Society, must collect certain information to create an individual public profile on each physician licensed to practice medicine in Connecticut. This act, within available appropriations, extends this requirement to dentists, chiropractors, optometrists, podiatrists, naturopaths, dental hygienists, advanced practice registered nurses, and physical therapists. Consistent with existing law for physicians, the act requires DPH to consult with the appropriate state board. It also makes other conforming changes, including authorizing the appropriate board, commission, or department to revoke or suspend the health care provider's license for failing to provide DPH with the information the act requires. EFFECTIVE DATE: January 1, 2010

INFORMATION INCLUDED IN THE PUBLIC PROFILE

Education and Practice Information

The profiles must contain information about the health care provider's education and practice including:

1. professional school names and graduation dates;
2. the site, training, discipline, and dates of any completed postgraduate education or other required professional education;
3. practice specialty;
4. the address of his or her primary practice location;
5. the languages, other than English, spoken at the practice;
6. current specialty board certifications;
7. appointments to a Connecticut medical school faculty and an indication as to whether he or she has current responsibility for graduate medical education;

8. the hospitals and nursing homes where he or she has privileges;
9. a list of publications in peer-reviewed literature;
10. a list of professional services, activities, and awards;
11. an indication as to whether he or she is actively involved in patient care; and
12. the name of the provider's professional liability insurance carrier.

A provider can choose to have his or her profile omit information about publications, professional services, activities, and awards. DPH must inform providers of this option.

Disciplinary Actions

The profile must indicate any disciplinary actions DPH, the appropriate state board, or any professional licensing or disciplinary body in another jurisdiction has taken against the health care provider. It must also include any hospital disciplinary actions taken against him or her in the past 10 years resulting in (1) termination or revocation of privileges for a professional disciplinary reason; (2) resignation from, or non-renewal of, professional staff membership; or (3) restriction of privileges in lieu of or in settling a pending disciplinary case related to professional competence.

Criminal Convictions

The profile must contain a description of felony criminal convictions within the last 10 years. Conviction of a felony means the health care provider pled guilty, was found guilty by a court, or was convicted by a plea of no contest.

Medical Malpractice Claims

The profile must contain, to the extent available, all professional malpractice court judgments, arbitration awards, or settlements against the health care provider where payment was made during the last 10 years.

Duty to Update Information

A provider must notify DPH of any changes in the information, other than publications, professional services, activities, and awards, within 60 days of the change.

Prohibited Disclosure

DPH may not disclose to the public pending malpractice claims or actual amounts paid by or for the provider because of a judgment, award, or settlement.

Advance Copy to Providers

DPH must give the provider a copy of his or her profile before it is released to the public. Profile amendments or modifications not given by the health care provider or produced by DPH must be given to the provider to review before release. The provider can challenge the accuracy of any information in the profile and provide a written statement supporting the challenge.

Internet

DPH must have an Internet website so the public can get the profiles.

Other Disclosure Laws

The law specifies that other state laws that would limit, prohibit, or penalize the disclosure of provider information do not apply to the provider profiles.

False Statements

All information from the provider is subject to penalties for 2nd degree false statement, which is a Class A misdemeanor (see Table on Penalties).

Action Against a Provider's License

The law allows DPH or the appropriate board to restrict, suspend, revoke, or take other appropriate action against a health care provider's license for failure to provide the required information for the profile.

PA 08-110—sSB 492

Insurance and Real Estate Committee

AN ACT MAKING TECHNICAL REVISIONS AND MINOR CHANGES TO THE INSURANCE STATUTES

SUMMARY: This act makes technical revisions to the insurance statutes.

EFFECTIVE DATE: Upon passage

PA 08-125—sSB 167

*Insurance and Real Estate Committee
Public Safety and Security Committee*

**AN ACT CONCERNING BENEFITS FOR
INPATIENT TREATMENT OF SERIOUS
MENTAL OR NERVOUS CONDITIONS**

SUMMARY: This act expands the benefits payable under a group health insurance policy for treatment received in a residential treatment facility by (1) eliminating a three-day hospital stay prerequisite for a child or adolescent with a serious mental illness and (2) extending benefits to adults.

It replaces the term “serious mental illness” with “serious mental or nervous condition” and removes from the term’s definition a requirement that the person have shown recent disturbed behavior. It requires benefits be paid when a physician, psychiatrist, psychologist, or clinical social worker assesses the person and determines that he or she cannot appropriately, safely, or effectively be treated in other specified settings. (Due to federal preemption, state benefit mandates do not apply to self-insured plans.)

EFFECTIVE DATE: January 1, 2009

COVERAGE CRITERIA

The act requires benefits to be payable under group health policies, including HMO contracts, for treatment an insured person receives while confined at a residential treatment facility when he or she:

1. has a serious mental or nervous condition (one that substantially impairs the person’s thought, perception of reality, emotional process, or judgment or grossly impairs his or her behavior) and
2. a physician, psychiatrist, psychologist, or clinical social worker has assessed the person and determined that he or she cannot appropriately, safely, or effectively be treated in an acute care, partial hospitalization, intensive outpatient, or other outpatient setting.

Prior law required group policies to cover an insured person’s treatment at a residential treatment facility only when he or she:

1. had a serious mental illness (one that substantially impairs the person’s thought, perception of reality, emotional process, or judgment or grossly impairs his or her behavior as demonstrated by recent disturbed behavior);
2. was confined in a hospital because of the illness for the three days before being admitted to the residential treatment facility; and

3. without treatment at a residential treatment facility for children and adolescents, would require additional hospital confinement.

MENTAL OR NERVOUS CONDITION

Definition

By law, “mental or nervous conditions” are mental disorders, as defined in the most recent edition of the American Psychiatric Association’s “Diagnostic and Statistical Manual of Mental Disorders” (DSM-IV-TR).

Such conditions do not include (1) mental retardation, (2) learning disorders, (3) motor skills disorders, (4) communication disorders, (5) caffeine-related disorders, (6) relational problems, and (7) additional conditions that may be a focus of clinical attention that are not otherwise defined as mental disorders in the DSM-IV-TR.

General Coverage Requirement

The law prohibits group policies from establishing any provisions that place a greater financial burden on an insured for the diagnosis or treatment of mental or nervous conditions than for the diagnosis or treatment of medical, surgical, or other physical health conditions.

PA 08-126—sSB 273

Insurance and Real Estate Committee

**AN ACT CONCERNING REGULATION OF THE
SECONDARY MARKET IN PHYSICIAN
DISCOUNTS**

SUMMARY: This act requires, with some exceptions, a “contracting entity” that (1) enters into or renews a contract with a health care provider on or after January 1, 2009 and (2) sells, leases, rents, assigns, or grants access to the provider’s health care services, discounted rates, or fees, to include a contract provision that it can permit a third party (i.e., a “covered entity”) to access the provider’s services, discounted rates, or fees. It specifies (1) requirements for a contracting entity when it permits such access and (2) that it does not apply in cases involving workers’ compensation benefits.

The act requires covered entities that access a provider’s services to pay the discounted rates or fees established in the provider’s contract with the contracting entity. It specifies that a covered entity’s right to access a provider’s services, rates, or fees ends when the contract between the contracting entity and the provider terminates, except for any applicable (1) continuity of care requirements or (2) agreements or contractual provisions with the provider.

The act requires all written and electronic remittance advices (payment notices sent to providers) to clearly identify the name of the (1) covered entity responsible for paying the provider and (2) contracting entity whose payment rates and discounts apply.

EFFECTIVE DATE: January 1, 2009

DEFINITIONS

Contracting Entity

The act defines “contracting entity” as an entity that contracts directly with a health care provider for (1) the delivery of health care services or (2) selling, leasing, renting, assigning, or granting access to a contract or its terms.

It specifies that a health care provider is not a contracting entity. It also specifies that a contracting entity does not sell, lease, rent, assign, or grant access to a contract or contract terms when it administers the benefit plan that pays for the health care services rendered under the plan.

Covered Entity

It defines “covered entity” as an entity that (1) has not contracted directly with a health care provider but buys, leases, rents, is assigned, or accesses a provider’s contract or contract terms and (2) is responsible for paying for or coordinating health care services or establishing or extending health care provider networks.

Health Care Provider

It defines “health care provider” as any physician, physician group, physician network, independent practice association, physician organization, or physician hospital organization.

REQUIREMENTS

The act requires each contracting entity to:

1. give a provider who requests it, when first contracting with him or her, a list of all known covered entities to which it may give access to his or her services, rates, or fees and
2. maintain a website or toll-free telephone number through which a provider can obtain a listing of covered entities having access to his or her services, rates, or fees.

It requires a contracting entity or covered entity that issues a member ID card to clearly mark on the card the website address or toll-free telephone number.

EXEMPTIONS

The act specifies that it does not apply to any contracting entity that sells, leases, rents, assigns, or grants access to a provider’s services, discounted rates, or fees to (1) entities under common ownership or control; (2) independent entities (i.e., not under common ownership or control) operating under the same licensee program and brand; or (3) entities providing or receiving administrative services or insurance to or from the contracting entities, entities under common ownership or control, or independent entities operating under the same licensee program or brand.

PA 08-127—sSB 281

Insurance and Real Estate Committee

Judiciary Committee

Government Administration and Elections Committee

AN ACT CONCERNING CAPTIVE INSURANCE COMPANIES

SUMMARY: This act permits a captive insurance company (“captive”) to be licensed and domiciled (have its principal place of business) in Connecticut to transact life insurance, annuity, health insurance, and commercial risk insurance business. A captive insurance company is, in its simplest form, an insurance company that is a wholly-owned subsidiary whose primary function is to insure all or part of the risks of its parent company.

The act enumerates requirements for a captive’s formation, capital and surplus, local office presence, ability to meet policy obligations, payment of certain fees and premium taxes, and annual reporting, among other things. The captive may form as a pure captive, an association captive, an industrial insured captive, or a risk retention group (RRG). (By law, an RRG can already domicile in Connecticut, and RRGs domiciled in other states can transact business in Connecticut if they register with the Insurance Department.)

The act requires the insurance commissioner to regulate captives and examine each at least once every five years. It also authorizes him to suspend, revoke, or refuse to renew a captive’s license or impose a fine up to \$10,000 for cause. It applies some, but not all, insurance laws to captives.

It authorizes the insurance commissioner to use the money in the Insurance Department’s Utilization Review Fund as necessary to implement the act. Prior law required him to use that fund exclusively to regulate utilization review companies. (By law, utilization review companies must each pay the department \$2,500 annually to maintain their operating licenses. The department deposits these fees in the Utilization Review

Fund.)

The act prohibits a captive from joining or contributing to the state insolvency guaranty funds. It also prohibits a captive and its insureds and their affiliates from receiving benefits from the guaranty funds if the captive becomes impaired or insolvent.

EFFECTIVE DATE: January 1, 2009, except for the provision authorizing the insurance commissioner to use the Insurance Department's Utilization Review Fund to implement the act, which is effective October 1, 2008.

§ 1 — CAPTIVE DEFINITION

Under the act, a captive insurance company domiciled in Connecticut can be set up as a pure captive, an association captive, an industrial insured captive, or an RRG. A pure captive insures risks of its parent and affiliated companies or controlled unaffiliated businesses. An association captive insures risks of its member organizations and their affiliated companies.

An industrial insured captive insures risks of the insureds comprising the industrial insured group and their affiliated companies. An industrial insured is a business that (1) obtains insurance through a full-time employee insurance manager, (2) has total annual insurance premiums of at least \$25,000, and (3) has at least 25 full-time employees. An industrial insured group is any group of industrial insureds that together (1) own or control all outstanding voting securities of a captive formed as a stock insurer, (2) have complete voting control over a captive formed as a mutual insurer, or (3) are all of the subscribers of the captive formed as a reciprocal insurer.

An RRG is a captive organized under state law pursuant to the 1986 federal Liability Risk Retention Act.

§§ 2, 9, 18 — LICENSE

Application, Fees, Issuance, Renewal

A captive cannot engage in any insurance business in Connecticut until it obtains a license from the Insurance Department. To request a license, a captive must send the insurance commissioner (1) organizational documents; (2) a financial condition statement; and (3) a coverage description, including deductibles, limits, and rates. A captive must inform the commissioner of any material change in rates within 30 days of adopting the change.

It must maintain capital and surplus as the act specifies and give the commissioner evidence of (1) asset liquidity relative to its assumed risk; (2) adequate management expertise, experience, and character; (3) a sound operation plan; and (4) the adequacy of its insureds' loss prevention program. It must also pay an

\$800 application fee plus reasonable legal, financial, and examination expenses that the commissioner incurs when retaining outside application review services.

The information provided is confidential and can be made public only with the captive's written consent, with two exceptions. The information is discoverable in a civil action in which the captive is a party if it is relevant and necessary to the case; unavailable elsewhere; and, for non-RRG captives, is the subject of a subpoena that a judicial or administrative judge issues. The commissioner can also give the information to insurance regulation officials in another state if the other state's (1) officials agree in writing to keep the information confidential and (2) laws require confidentiality.

If the commissioner approves the application, he issues a license to the captive, which must pay a \$300 initial license fee. The license expires on the next April 1, and the captive can annually renew it by paying a \$300 fee.

Civil Immunity

The commissioner may outsource the application review. As under law for other insurers, no cause of action can be brought or any liability imposed against him, his authorized representatives, or appointed examiners for (1) any good faith statements or conduct in connection with the review or (2) communicating or delivering information in good faith and without fraudulent or deceptive intent. All common law and statutory privileges or immunity remain. The commissioner, representative, or examiner can receive attorney's fees and costs if they prevail in a libel, slander, or any other relevant tort case if the moving party did not have a reasonable basis in law or fact for initiating it.

Suspension and Revocation

The commissioner may, for cause, (1) suspend, revoke, or refuse to renew a captive's license or (2) in addition to, or instead of, license suspension or revocation and after notice and hearing, fine the captive up to \$10,000. A captive may appeal the commissioner's action to New Britain Superior Court.

§§ 4 & 5 — CAPITAL AND SURPLUS

To receive or retain a license, a captive must maintain unimpaired paid-in capital and surplus of at least (1) \$250,000 if a pure captive, (2) \$500,000 if an industrial insured, (3) \$750,000 if an association captive, or (4) \$1 million if an RRG. The commissioner may adopt regulations for additional capital and surplus requirements based on the type, volume, and nature of insurance transacted. The required capital and surplus

can be cash or an irrevocable bank-issued and commissioner-approved letter of credit.

A captive may not pay dividends from, or other distributions with respect to, capital and surplus without the commissioner's prior approval. His approval of an ongoing distribution plan must be conditioned on the captive keeping, when it makes each payment, capital and surplus levels above those approved.

§§ 2, 3, 6 — CAPTIVE FORMATION

Organizational Structure and Company Name

A pure captive can form as a stock insurer, nonprofit corporation, or a manager-managed limited liability company (LLC). An association captive, industrial insured captive, or RRG can be an LLC or a stock, mutual, or reciprocal insurer. A captive, if a stock insurer, may authorize capital stock with no par value. Each captive must have at least three incorporators or organizers, one of whom must be a state resident. A corporation's articles of incorporation or bylaws and a reciprocal insurer's organizing documents can permit a quorum of at least one-third of the directors or members.

A captive's name cannot be the same as, or similar to, that of an existing registered business.

Certificate of General Good

A captive formed as a corporation, reciprocal insurer, or LLC must ask the insurance commissioner for a certificate finding that the proposed company or association will promote the state's general good. To make this finding, the commissioner must consider (1) each incorporator's character, reputation, financial standing, and purposes; (2) each officer's and director's character, reputation, financial responsibility, insurance experience, and business qualifications; and (3) other things he deems advisable.

A captive formed as a corporation must give this certificate, along with its articles of incorporation and organization fee, to the secretary of the state. The act does not specify what, if anything, a reciprocal insurer or LLC needs to do with its certificate. But an LLC must request a certificate before filing articles of incorporation with the secretary of the state.

Types of Insurance Permitted

A captive can (1) provide annuities and life, health, and commercial-risk insurance; (2) reinsure a parent's or affiliated company's qualified self-insured workers' compensation plan, unless prohibited by federal law; and (3) accept or cede reinsurance, but only as the act specifies. It cannot provide private passenger motor vehicle or homeowners' insurance.

§§ 2 & 6 — LOCAL OFFICE PRESENCE

A state-domiciled captive must have (1) its principal place of business and one annual management meeting in Connecticut; (2) at least one resident incorporator or organizer; (3) at least one resident corporation board member, reciprocal insurer advisory committee member, or LLC manager; and (4) a resident agent for service of process.

§§ 6 & 16 — MERGERS AND CONVERSIONS

The act specifies that state laws concerning mergers, consolidations, and conversions that apply to insurers generally also apply to captives.

It authorizes an association captive, RRG, or industrial insured captive formed as a stock or mutual corporation to convert to, or merge with and into, a reciprocal insurer. The transaction must provide a fair and equitable plan (1) for purchasing, retiring, or extinguishing stockholders' or members' and policyholders' interests and (2) that provides rights and remedies for dissenting stockholders, members, and policyholders.

The commissioner must approve articles of merger or a conversion plan if he finds the transaction promotes the general good of the state. To make this finding, the commissioner must consider (1) each incorporator's character, reputation, financial standing, and purposes; (2) each officer's and director's character, reputation, financial responsibility, insurance experience, and business qualifications; and (3) other things he deems advisable.

Mergers

Under the act, a reciprocal insurer's advisory committee is equivalent to a stock or mutual insurer's board of directors. Its subscribers are equivalent to a mutual insurer's policyholders. If the advisory committee does not have a president or secretary, its officers with equivalent duties are the president and secretary.

The commissioner can permit the formation of, without surplus, a captive organized as a reciprocal insurer, into which an existing captive can merge, except there can be only one authorized surviving insurer.

The act allows an alien insurer (chartered outside the United States) to be party to a merger, subject to the insurance laws applying to mergers of domestic and foreign insurers. (A foreign insurer is organized under the laws of another U.S. state or territory.) In this instance, the alien insurer is treated as the foreign insurer.

If the commissioner approves the merger, the surviving insurer must give the articles of merger to the secretary of the state.

Conversions

A conversion to a reciprocal captive insurer must take place in accordance with a plan that the commissioner approves. He can approve a plan only if, in addition to meeting the above other requirements, it (1) notifies affected people of a hearing to be held at their request concerning the plan; (2) includes a fair and equitable plan for converting stockholder, member, or policyholder interests into substantially proportionate subscriber interests; (3) does not prevent the resulting reciprocal insurer from applying underwriting criteria that could affect ongoing ownership interests; and (4) was approved by a majority of voting interests at a meeting with a quorum.

The commissioner must amend the converting insurer's certificate of authority if he approves the conversion. The conversion is effective when the commissioner issues the amended certificate to the company's attorney. The converting insurer's corporate existence ceases on that day, and the resulting reciprocal insurer must inform the secretary of the state of the conversion.

§ 7 — ANNUAL FINANCIAL REPORT

A captive must give the insurance commissioner a financial report prepared under two executive officers' oaths by March 1 each year. The report must be prepared using (1) generally accepted accounting principles, unless the commissioner approves the use of statutory accounting principles, and (2) any modifications or adaptations he requires or approves, depending on the insurer and type of insurance.

An association captive and RRG must prepare its report based on the National Association of Insurance Commissioners' (NAIC) annual statement instructions. The commissioner may adopt regulations on how pure and industrial insured captives must report.

A pure or industrial insured captive can ask in writing for the commissioner's permission to file the report at its fiscal year end instead of March 1. If he agrees, (1) the report is due by 60 days after the fiscal year end and (2) the captive must give him information that supports its premium tax return under two executives' oaths by March 1 each year.

The commissioner must keep confidential any supplemental compensation exhibit or stockholder information filed by a nonprofit with fewer than 150 employees, except for information related to the company's three most highly compensated officers.

§ 8 — EXAMINATIONS

The commissioner or his designee must visit and examine each captive at least once every five years or more often as he deems prudent. The examination must determine the captive's (1) financial condition, (2) ability to fulfill its obligations, and (3) compliance with this act and any applicable insurance code provisions. The commissioner, when determining the scope and frequency of examinations, and examiners must follow the guidelines and procedures in the NAIC examiner's handbook for financial examinations, which they also follow when examining other insurance companies. The commissioner may also adopt other guidelines or procedures he deems appropriate.

The commissioner may appoint examiners and engage the services of attorneys, appraisers, actuaries, accountants, and other professionals as examiners. A captive that refuses to be examined or does not comply with any reasonable written request of the examiners may be subject to license suspension, refusal, or nonrenewal.

In general, a captive must pay the costs associated with an examination. But a domestic captive that is required to pay the statutory assessment that funds the department's operations does not have to pay the portion of examination costs associated with Insurance Department examiners' salaries, fringe benefits, traveling, and maintenance expenses. However, it must pay the examiners' traveling and maintenance expenses when the exam occurs out-of-state.

The commissioner and examiners are immune from liability for their statements or conduct when performing their examination responsibilities in good faith.

Examiners must issue an examination report within 60 days after the exam concludes, and the captive has 30 days to respond to the report. The commissioner then has 30 days to (1) consider the report and response and (2) issue an order adopting the report, rejecting it with direction to the examiners, or calling for an investigatory hearing to obtain additional information and testimony. If he adopts a report that shows the captive violated the law, he may order the captive to take necessary and appropriate action to cure the violation. The act establishes procedures for investigatory hearings. The commissioner's findings, conclusions, and orders are subject to a further hearing and court appeal.

Examination working papers, recorded information, and documents are confidential, not subject to subpoena, and cannot be made public. But it appears that the commissioner may give the NAIC access to the information if it agrees in writing to keep it confidential (although the act reads "unless" it agrees in writing).

The commissioner also has the authority to (1) use and, if appropriate, make public, any final or preliminary examination report, any examiner or company work papers or other documents, or other information discovered or developed during the course of the examination in any legal or regulatory action; (2) publish examination results or reports in Connecticut newspapers if he deems it in the public interest; and (3) disclose examination results and reports to another state's or country's public officials with insurance regulation jurisdiction or state and federal law enforcement officers if they agree in writing to keep the information confidential.

§ 11 — REINSURANCE

A captive can reinsure another insurer's risks, but only those risks that the captive is authorized to insure directly. It can also take credit as an asset or deduction from liability for ceding risks to a reinsurer that is:

1. a state-licensed insurer or reinsurer;
2. a state-accredited reinsurer;
3. domiciled and licensed in, or if a U.S. branch of an alien reinsurer, conducts business through, a state with reinsurance standards similar to Connecticut's; or
4. maintaining a trust fund in accordance with state law for U.S. policyholders' and ceding insurers' claim payments.

If the reinsurer does not meet any of these criteria, the captive can still reduce its liability if the reinsurer holds securities in an amount adequate to cover claims that could arise under the reinsurance contract. It can also take credit if the reinsurance is on risks located in a jurisdiction whose laws or regulations require such reinsurance.

A captive can take credit for ceding risks to a reinsurer that is not state-licensed or accredited if the reinsurer agrees that, if it fails to meet its financial obligations and at the request of the ceding insurer, it will:

1. submit to the jurisdiction of any U.S. court,
2. comply with requirements necessary to give such a court jurisdiction,
3. abide by the court's final decision, and
4. appoint the commissioner or an attorney as agent for service of process in any lawsuit instituted against it by the ceding insurer.

A captive's insurance of its parent's or affiliate's qualified self-insured workers' compensation plan is deemed to be reinsurance.

§ 12 — RATING ORGANIZATION

A captive is not required to join a rating organization.

§ 13 — GUARANTY FUND

A captive is prohibited from joining or contributing to the state insolvency guaranty funds. And if the captive becomes impaired or insolvent, it and its insureds and their affiliates are prohibited from receiving benefits from the funds.

§§ 14 & 19 — PREMIUM TAXES

A captive licensed under the act must pay premium taxes on its direct-written premiums to the revenue services commissioner annually in February. It must pay at least \$7,500, but no more than \$200,000, based on the calculation described below. For policies issued on a multiyear basis, premiums are prorated to determine the annual tax liability. No other taxes may be levied on or collected from a captive, except taxes on real and personal property used to produce income.

Two or more captives under common ownership and control are taxed as though they were a single captive. Common ownership and control means the direct or indirect ownership of 80% or more (1) of the outstanding voting stock of two or more corporations by the same shareholders in the case of a stock corporation or (2) of the surplus and the voting power or two or more corporations by the same members in the case of a mutual or nonprofit corporation.

Existing law subjects RRGs to a 4% premium tax rate. The act exempts captives formed under its provisions (i.e., domiciled in Connecticut) from the 4% tax. Thus, RRGs domiciled outside of Connecticut must still pay it.

Premium Tax Calculation

A captive must pay premium tax on its direct-written premiums minus any premiums returned to policyholders, including dividends paid and deposits returned or credited. No tax is due on money received for an annuity.

The tax owed is 0.38% of the first \$20 million of direct-written premiums collected or contracted for in the preceding calendar year plus 0.285% of the next \$20 million, plus 0.19% of the next \$20 million, plus 0.072% of each additional dollar.

Failure to Pay Tax

A captive that files a tax return but does not pay the premium tax it owes on time is subject to a penalty of 10% of the unpaid tax due or \$50, whichever is greater, plus 1% interest for each full or partial month that the tax remains unpaid.

If a captive does not file a tax return within three months of its due date, the revenue services commissioner may make the return based on the best information available. In addition to the tax due, the captive must pay a penalty of 10% of the tax due or \$50, whichever is greater. Interest of 1% on the tax due accrues for each full or partial month that it remains unpaid.

§ 17 — CONTROLLED UNAFFILIATED BUSINESS

The commissioner may adopt regulations establishing standards for a pure captive's parent or affiliated company to control the risk management functions of a controlled unaffiliated business insured by the captive. Until such regulations exist, he can approve a pure captive's coverage of such risks.

§§ 2, 6, 10, 15 — OTHER APPLICABLE LAWS

In addition to its provisions, the act applies certain other laws to captives.

A captive transacting life insurance, annuity, or health insurance business must comply with all applicable state and federal laws.

Unless the act conflicts, captives formed as:

1. corporations, except for LLCs and nonprofits, are subject to state corporation laws;
2. LLCs are subject to the Connecticut Limited Liability Company Act;
3. nonprofits are subject to applicable provisions of state corporation laws; and
4. reciprocal insurers are subject to state insurance laws.

Association captives and RRGs are subject to state insurance company investment laws. Pure and industrial insured captives are not subject to investment restrictions, except the commissioner can limit or prohibit any investment that threatens the company's solvency or liquidity.

A pure captive cannot loan or invest in a parent company or affiliate without the commissioner's prior written approval of the transaction and documented evidence of approval. The captive is prohibited from loaning any minimum required capital and surplus funds.

The act makes the following insurance statutes apply to captives:

1. § 38a-16 (investigations by the insurance commissioner);
2. § 38a-17 (commissioner's authority regarding improper business conduct);
3. § 38a-54 (audited reports);
4. § 38a-55 (hypothecation of assets (using them as collateral));
5. § 38a-56 (false returns to the commissioner);
6. § 38a-57 (retention of records and assets in Connecticut);
7. § 38a-59 (change of domestic insurance company's name);
8. § 38a-69a (confidentiality of financial work papers and operating and financial condition reports);
9. §§ 38a-250 through 38a-266 (risk retention groups);
10. §§ 38a-903 through 38a-961 (Insurers Rehabilitation and Liquidation Act); and
11. §§ 38a-962 through 38a-962j (commissioner's administrative supervision).

BACKGROUND

Domicile

A company's domicile is the jurisdiction under whose laws the company is organized and in which it has its principal place of business.

Risk Retention Group (RRG)

An RRG domiciled in Connecticut must comply with all state insurance laws and must submit a plan of operation or feasibility study to the commissioner. However, because of federal law, Connecticut cannot require an RRG to become licensed in the state before it does business here.

Connecticut has limited regulatory authority over RRGs licensed in other states. Such an RRG must provide the commissioner information on its domicile licensure, its plan of operation, and a registration statement designating the commissioner as the agent for service of legal process in the state. It must also submit its financial statement and a copy of each financial examination and audit performed on it.

All RRGs, whether domiciled in Connecticut or another state, must pay premium taxes on business written in the state and give insureds notice that insurance insolvency guaranty funds are not available should the company fail. An RRG that does not comply with Connecticut's RRG requirements is subject to fines and penalties, including revocation of its license and its right to conduct business in the state.

Stock, Mutual, and Reciprocal Insurers

A stock insurer is an insurance company conducted for profit that its stockholders own and control. A mutual insurer is an insurance company that its policyholders own. A reciprocal insurer is an unincorporated association organized to write insurance for its subscribers, who each agree to be liable for a proportionate share of total liabilities and can be assessed for any needed additional funds.

Reinsurance

Reinsurance is a transaction between two insurers to apportion risk so that a large loss does not fall on one company. The insurer transferring part of its risk to another is the ceding insurer. The insurer accepting part of the risk is the assuming insurer or reinsurer.

PA 08-129—sHB 5520*Insurance and Real Estate Committee***AN ACT CONCERNING NOTIFICATION BY SURPLUS LINES INSURERS**

SUMMARY: This act changes the notice requirement concerning the Connecticut Insurance Guaranty Association that surplus lines insurers' must include on the cover of their policies. It requires the notice to be printed in at least 12-point boldface type and in capital letters instead of 10-point red bold type.

It also revises the notice by adding a reference that the policy is a surplus lines policy. The revised notice must state "This is a surplus lines policy and is not protected by the Connecticut Insurance Guaranty Association." Under current law, the notice reads: "This policy is not protected by the Connecticut Insurance Guaranty Association."

The association, which property and casualty insurers fund through assessments, pays qualifying claims from state residents against insolvent insurance companies. A surplus lines insurer is an unauthorized insurer (i.e., an insurer not licensed to do business in Connecticut).

EFFECTIVE DATE: October 1, 2008

PA 08-132—sHB 5696*Insurance and Real Estate Committee***AN ACT REQUIRING INSURANCE COVERAGE FOR AUTISM SPECTRUM DISORDER THERAPIES**

SUMMARY: This act requires health insurance policies delivered, issued, renewed, amended, or continued in Connecticut on or after January 1, 2009 to cover physical, speech, and occupational therapy services provided to treat autism spectrum disorders if the policies cover these services for other diseases and conditions. It defines "autism spectrum disorder" based on the American Psychiatric Association's most recent *Diagnostic and Statistical Manual of Mental Disorders*.

It applies this requirement to group and individual (1) health insurance policies that cover basic hospital, medical-surgical, or major medical expenses; (2) HMO contracts covering hospital and medical expenses; and (3) hospital or medical service contracts. Due to federal preemption, this requirement does not apply to self-insured plans.

EFFECTIVE DATE: January 1, 2009

BACKGROUND

Autism Spectrum Disorder

The American Psychiatric Association's most recent *Diagnostic and Statistical Manual of Mental Disorders*, DSM-IV-TR (fourth edition, text revision), refers to autism as a pervasive developmental disorder, more often referred to today as autism spectrum disorder (ASD). ASD ranges from a severe form, called autistic disorder, to a milder form, Asperger syndrome. If a child has symptoms of either but does not meet the specific diagnostic criteria, the diagnosis is called pervasive developmental disorder not otherwise specified. Other rare, very severe disorders that ASD includes are Rett syndrome and childhood disintegrative disorder.

Related Laws

Mental Disorders. Under Connecticut law, insurance must cover the diagnosis and treatment of mental or nervous conditions. It defines "mental or nervous conditions" as mental disorders, as it is used in the DSM-IV-TR. It specifically excludes (1) mental retardation; (2) learning, motor skills, communication, and caffeine-related disorders; (3) relational problems; and (4) additional conditions not otherwise defined as mental disorders in the DSM-IV-TR (CGS §§ 38a-488a and 38a-514).

Birth-to-Three. Insurance must cover medically necessary early intervention services for a child from birth until age three that are part of an individualized family service plan. Coverage is limited to \$3,200 per child per year, up to \$9,600 for the three years (CGS §§ 38a-490a and 38a-516a).

Occupational Therapy. Insurance must cover occupational therapy if the policy covers physical therapy (CGS §§ 38a-496 and 38a-524).

PA 08-146—sHB 5152

Insurance and Real Estate Committee

AN ACT CONCERNING MOTOR VEHICLE REPAIRS

SUMMARY: This act requires a notice (1) in motor vehicle repair shops, (2) on a repair appraisal or estimate, and (3) on auto insurance identification cards informing customers of their right to choose the licensed repair shop that will fix their vehicles. By law, an appraiser and an insurer (unless an insured agrees in writing) are prohibited from requiring a person to use a specific repair shop.

The act prohibits a motor vehicle repair shop that participates in an insurer's vehicle repair program (which generally requires the use of a certain facility) from repairing a vehicle under that program unless the person whose insured vehicle needs repairs acknowledges in writing that he or she is aware of the right to have the vehicle repaired at a shop he or she chooses.

EFFECTIVE DATE: January 1, 2009

CONSUMER NOTICE

Appraisals

The act requires appraisals or estimates for automobile physical damage written on behalf of an insurer or a motor vehicle repair shop to include this notice in at least 10-point boldface type: NOTICE: YOU HAVE THE RIGHT TO CHOOSE THE LICENSED REPAIR SHOP WHERE THE DAMAGE TO YOUR MOTOR VEHICLE WILL BE REPAIRED.

Repair Shops

By law, repair shops must display signs showing labor and storage rates, informing customers of certain rights, and how to contact the Department of Motor Vehicle (DMV). The act requires every motor vehicle repair shop also to prominently display a sign in the area where customers place work orders that is in boldface type and reads: NOTICE: THE CUSTOMER HAS THE RIGHT TO CHOOSE THE LICENSED REPAIR

SHOP WHERE THE DAMAGE TO HIS OR HER MOTOR VEHICLE WILL BE REPAIRED.

Insurance Identification Cards

By law, insurers must issue automobile insurance identification cards annually, in duplicate, for each vehicle insured. For private passenger motor vehicle insurance policies delivered, issued, or renewed beginning January 1, 2009, insurers must include this notice on the identification cards in boldface type: NOTICE: YOU HAVE THE RIGHT TO CHOOSE THE LICENSED REPAIR SHOP WHERE THE DAMAGE TO YOUR MOTOR VEHICLE WILL BE REPAIRED.

Written Acknowledgement of the Right to Choose a Repair Shop

The act prohibits a motor vehicle repair shop that participates in an insurer's vehicle repair program from repairing a vehicle under that program unless the claimant (i.e., person whose insured vehicle needs repairs) acknowledges in writing that he or she is aware of the right to have the vehicle repaired at a shop he or she chooses.

The act permits the acknowledgement to be (1) included in the repair authorization, which a customer signs before repairs are made, or in a separate document and (2) faxed or e-mailed. The acknowledgement statement must be: "I am aware of my right to choose the licensed repair shop where the damage to the motor vehicle will be repaired."

By law, a motor vehicle repairer must obtain a customer's written authorization before making repairs (CGS § 14-65f).

BACKGROUND

Licensed Repair Shop

By law, no one may operate a motor vehicle repair shop without a DMV new car dealer's, used car dealer's, repairer's, or limited repairer's license (CGS § 14-52). A "motor vehicle repair shop" means a new car dealer, a used car dealer, a repairer, or a limited repairer (CGS § 14-65e).

"Repairer" includes any person, firm, or corporation qualified to conduct such business, having a suitable facility and adequate equipment, engaged in repairing, overhauling, adjusting, assembling, or disassembling any motor vehicle. It excludes a person engaged in tire repairs, upholstery, glazing, general blacksmithing, welding, and machine work on motor vehicle parts when a licensed repairer disassembles and reassembles the parts (CGS § 14-51(3)).

“Limited repairer” includes any qualified person, having a suitable place of business and adequate equipment, engaged in the business of minor repairs, including cooling, electrical, fuel, and exhaust system repairs and replacement; brake adjustments, relining, and repairs; wheel alignment and balancing; and shock absorber repairs and replacement. It excludes lubricating motor vehicles; adding or changing oil or other motor vehicle fluids; changing tires and tubes, including the balancing of wheels; or installing batteries or light bulbs, windshield wiper blades, or drive belts (CGS § 14-51(4)).

PA 08-147—sHB 5158

Insurance and Real Estate Committee

AN ACT MAKING CHANGES TO THE INSURANCE STATUTES

SUMMARY: This act makes substantive and technical changes to the insurance statutes. It:

1. revises private health insurance coverage requirements for children;
2. redefines “limited coverage” for purposes of determining which health insurance policies must disclose that they do not provide comprehensive benefits;
3. exempts state-funded federally qualified health centers (FQHCs) that provide services only to recipients of programs the Department of Social Services (DSS) administers from net worth and reserve requirements applicable to preferred provider networks and requires the DSS commissioner to adopt regulations to establish criteria to certify these FQHCs;
4. deletes the 60-day, and leaves a five business day, deadline for managed care organizations (MCOs) and health insurers to provide appeal-related information before a presumption of coverage applies during an appeal review;
5. specifies that the Connecticut Life and Health Insurance Guaranty Association does not protect stop-loss and excess-loss insurance policies covering life, health, or annuity benefits;
6. subjects TriCare supplement coverage to state health insurance laws and regulations;
7. requires the insurance commissioner to adopt regulations establishing standards for selling annuities to all consumers, instead of only senior consumers;
8. requires reinsurers and risk retention groups to file financial statements electronically; and
9. allows the commissioner to notify health insurance entities of certain new laws

electronically.

EFFECTIVE DATE: October 1, 2008, except for the dependent children provisions, which are effective January 1, 2009, and the FQHC and commissioner’s rule-making authority provisions, which are effective upon passage.

§§ 8 & 9 — HEALTH INSURANCE FOR CHILDREN

The act revises the criteria for determining when a child loses coverage under a private health insurance policy that the legislature enacted in 2007 (PA 07-185 and PA 07-2, JSS).

Individual Policy

The 2007 acts require, effective January 1, 2009, a child’s health insurance coverage under an individual policy to continue at least until the policy’s anniversary date on or after the date the child marries or turns age 26, whichever occurs first, as long as the child is a Connecticut resident, unless he or she is living out-of-state (1) as a full-time student at an accredited school of higher education or (2) with a custodial parent pursuant to a child custody determination.

This act instead requires the coverage to continue at least until the policy anniversary date on or after the date the child:

1. marries;
2. ends Connecticut residency, unless he or she is (a) under age 19 or (b) a full-time student at an accredited school of higher education;
3. becomes covered under his or her employer’s group health plan; or
4. turns age 26.

Group Plan and Continued Coverage

The 2007 acts require, effective January 1, 2009, group comprehensive health care plans to (1) extend coverage eligibility to unmarried children who are under age 26 and Connecticut residents and (2) offer continuation coverage to the end of the month following the month in which the child marries or turns age 26, as long as the child is a Connecticut resident, unless he or she is living out-of-state (a) as a full-time student at an accredited school of higher education or (b) with a custodial parent pursuant to a child custody determination.

This act eliminates the residency requirement and related exception and instead requires the plans to (1) extend coverage eligibility to unmarried children under age 26 and (2) offer continuation coverage to the end of the month in which the child meets the criteria for losing coverage under an individual policy.

Health Insurance Coverage for Children until January 1, 2009

Existing law, which is in effect until January 1, 2009, prohibits a child's coverage under an individual health insurance policy from ending before the policy anniversary date on or after the date the child (1) marries; (2) is no longer dependent on the policyholder; or (3) turns age 19 or age 23 if a full-time student at an accredited school of higher education, whichever occurs first.

Group comprehensive plans must extend eligibility to each eligible employee's dependent, unmarried children who are under age 19 or, for full-time students at accredited schools of higher education, 23. Group comprehensive care plans must offer a child the option to continue coverage until the end of the month following the month in which the child (1) marries; (2) ceases to be dependent on the employee; or (3) turns age 19 or age 23 if a full-time student at an accredited school of higher education, whichever occurs first.

§§ 11 & 12 — LIMITED COVERAGE DEFINITION

The act revises the criteria for a health insurance policy to be considered a "limited benefit" plan. It defines "limited coverage" as a health insurance policy that covers basic hospital expenses, basic medical-surgical expenses, major medical expenses, or hospital or medical services, including an HMO contract, and includes (1) an annual maximum benefit of less than \$100,000 or (2) fixed-dollar benefits of less than \$20,000 on any core services. (With respect to the second condition, prior law referred to a per-service or -condition benefit limit of less than \$20,000.) The act defines "core services" as medical, surgical, and hospital services, including inpatient and outpatient physician, laboratory, and imaging services.

By law, 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, must include a conspicuous statement that the plan does not provide comprehensive medical coverage. The law also prohibits insurers and other entities from replacing an employer-sponsored comprehensive health insurance plan with a policy that provides limited coverage.

§ 14 — NET WORTH AND RESERVE EXEMPTION

The act specifies that a state-funded FQHC consortium that provides services only to recipients of DSS-administered programs is exempt from the provisions of the law governing PPNs that require the networks to (1) have a minimum net worth and (2) maintain minimum reserves to pay outstanding amounts due providers. It requires the DSS commissioner to

adopt regulations to establish criteria, including minimum reserve requirements, to certify these FQHCs.

DSS currently contracts with an FQHC consortium to deliver services to State Administered General Assistance recipients. By law, DSS may contract with an FQHC consortium to deliver services to Charter Oak Health Plan recipients, and the consortium must obtain certification from the DSS commissioner to participate in the plan in accordance with criteria, including minimum reserve requirements, that the commissioner establishes.

PA 08-184 (§ 43) makes the same change.

§ 7 — APPEAL-RELATED INFORMATION

Under prior law, an insurer's or MCO's failure to provide appeal-related information or notify a plan sponsor of a plan document request within five business days after the request or the 60-day appeal period, whichever was later, created certain presumptions and may have resulted in the MCO or insurer having to pay appeal-related costs. The act eliminates the 60-day timeframe and allows the presumptions and payment responsibility to apply after five business days.

By law, when an insurer or MCO does not reply within the stated time period, it (1) creates a presumption that the benefit or service being appealed is a covered benefit for purposes of the Insurance Department or its designated review entity to accept the appeal for full review and (2) entitles the insurance commissioner to require the insurer or MCO to reimburse the department for appeal-related expenses. The presumption does not create or authorize benefits or services exceeding those in the enrollee's policy or contract.

§ 10 — LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

The Connecticut Life and Health Insurance Guaranty Association pays certain life, health, and annuity claims when a life and health insurance company becomes financially impaired or insolvent. By law, it does not provide protection against impaired HMOs, fraternal benefit societies, unauthorized or unlicensed insurers, self-funded plans, and stop-loss group insurance plans.

The act changes "stop-loss group insurance plans" to stop-loss or excess-loss insurance policies providing (1) indemnification or (2) payment to a policy or contract owner, plan, or other person obligated to pay life, health, or annuity benefits. (Stop-loss and excess-loss policies are insurance policies that cover losses over a stated amount.)

§ 5 — TRICARE SUPPLEMENT COVERAGE

Existing law defines “health insurance” for purposes of the insurance statutes. This act adds TriCare supplement coverage to the list of coverage types that a health insurance policy may include. (TriCare is a federal health benefit program for military personnel and their dependents.)

The law already includes in the definition of “health insurance” insurance providing benefits for illness or injury resulting in death, loss of earnings, or expenses incurred that includes basic hospital or medical-surgical expense, hospital confinement indemnity, major medical expense, disability income, accident only, long-term care, specified accident, Medicare supplement, limited benefit, hospital or medical service plan, hospital and medical coverage an HMO provides, or specified disease coverage.

§ 13 — REGULATIONS FOR ANNUITY SALES

The act requires the insurance commissioner to adopt regulations establishing standards and procedures for annuity transactions (sales or exchanges) involving all consumers. Prior law required regulations establishing standards and procedures for annuity transactions involving senior consumers (those age 65 or older).

§§ 1- 4 — FINANCIAL REPORTING

The act requires assuming and accredited reinsurers and risk retention groups (RRGs) doing business in Connecticut to file complete, accurate financial reports by March 1 annually for the previous calendar year with the insurance commissioner by electronically filing them with the National Association of Insurance Commissioners (NAIC). The company president or vice-president and secretary or assistant secretary must sign and swear to the reports.

A reinsurer must prepare its reports following NAIC instructions and accounting practices and procedures, unless the commissioner requires or approves any deviations. An RRG must prepare its reports as its home state requires. Assuming reinsurers must also give the commissioner a paper copy of the report.

By law, an annual statement filed electronically with the NAIC must include any additional information the insurance commissioner prescribes, the signed jurat (notary) page, and actuarial certification. Financial analysis ratios and examination synopses concerning companies that NAIC provides the Insurance Department are confidential and not subject to public disclosure.

A reinsurer is an insurance company for other insurance companies. An assuming reinsurer accepts all

or part of the other insurer’s risks in accordance with a reinsurance contract. An accredited reinsurer is not licensed in Connecticut, but must meet certain specified financial requirements.

An RRG is a type of captive insurance company that federal law permits. Those set up in other states can do business in Connecticut if they register with the Insurance Department.

§ 6 — INSURANCE DEPARTMENT NOTICE

By law, the insurance commissioner must give written notice to insurers and other entities providing individual or group health insurance plans of any benefits the law requires them to provide, or any modifications in those benefits, at least 30 days before the benefit or modification takes effect. The act permits the commissioner to send the notice electronically.

BACKGROUND

PPN Requirements

PPNs, which are subject to Insurance Department regulation, (1) pay claims for health care services rendered; (2) accept financial risk; and (3) establish, operate, or maintain arrangements or contracts with providers. By law, each PPN must maintain a minimum net worth of either (1) the greater of \$250,000 or 8% of annual expenditures or (2) an amount the insurance commissioner prescribes. In addition, they must maintain or arrange for a letter of credit, bond, surety, reinsurance, reserve, or other financial security that the commissioner approves for the exclusive use of paying any outstanding amounts owed participating providers in the event of insolvency or nonpayment. At a minimum, this must be the greater of (1) an amount sufficient to pay providers for two months, (2) the actual outstanding amount owed providers, or (3) an amount the commissioner determines. This amount can be credited against the minimum net worth requirement.

PA 08-175—sHB 5512

*Insurance and Real Estate Committee
Judiciary Committee*

AN ACT CONCERNING LIFE SETTLEMENTS

SUMMARY: This act revises prior insurance laws regarding viatical settlements to incorporate requirements for life settlements that are based on the National Conference of Insurance Legislators (NCOIL) Life Settlements Model Act. The act addresses an emerging type of life settlement activity, stranger-originated life insurance (STOLI), which it defines and prohibits.

Under the act, a “life settlement contract” is a written agreement entered into between a life insurance policy owner and another person (called a “provider”), under which the owner assigns, transfers, sells, devises, or bequeaths some or all of his or her policy’s death benefit for money or other value. Prior law defined “viatical settlement contract” similarly, referring to the owner as a viator.

The act generally prohibits a person from entering into a life settlement contract involving a life insurance policy before, when, or within two years of purchasing a life insurance policy. Prior law prohibited it within two years after purchase, with certain exceptions. The act retains similar exceptions and adds several new exceptions to the prohibition, including life status changes (e.g., divorce or retirement).

The act:

1. revises provider and broker licensing requirements, permits life insurance producers to act as brokers under certain conditions, and lowers the insurance commissioner’s threshold for denying, suspending, revoking, or not renewing a license;
2. specifies and prohibits “fraudulent life settlement acts,” which it defines and subjects to criminal and civil penalties;
3. requires anyone who suspects fraud to report it to the commissioner and grants qualified immunity from liability for doing so;
4. revises examination, disclosure, confidentiality, advertising, and contract requirements;
5. identifies prohibited life settlement practices;
6. subjects settlement proceeds to state tax by eliminating an exemption;
7. permits insurers to ask a life insurance policy applicant about premium financing, life settlement arrangements, and his or her interest in the proposed insured person;
8. specifies that insurers cannot prohibit (a) life insurance producers and brokers from speaking with clients about life settlement options and (b) the lawful assignment of policies;
9. expands the commissioner’s rule-making and regulatory authority;
10. eliminates various provisions, including one that prohibited settlement contract investors from influencing an insured person’s medical treatment;
11. makes a violation of the act (a) an unfair insurance practice, (b) insurance fraud, and (c) in addition to other penalties allowed, subject to a civil penalty of up to \$100,000; and
12. makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2008

§ 1 — DEFINITIONS

Life Settlement Contract

Under prior law, a “viatical settlement contract” was a written agreement between a provider and a viator, under which the viator assigns, transfers, sells, devises, or bequeaths some or all of the policy’s death benefit for compensation or other value that is less than the expected death benefit under the policy. The act renames it a “life settlement contract,” replaces “viator” with “owner,” and specifies that the value of the contract must be greater than the cash surrender value or accelerated death benefit available when the owner applies for the life settlement contract. (Cash surrender value is the amount the owner would receive for giving the policy back to the insurer that issued it. Accelerated death benefit is a life insurance policy option that permits a person to collect some of the policy’s death benefit while he or she is alive.)

The act also defines a “life settlement contract” as:

1. the transfer, for money or value, of ownership or beneficial interest in a trust, or other entity that owns such a policy, if the trust or other entity was formed or used to acquire one or more life insurance contracts that insure a Connecticut resident;
2. a written agreement for a loan or other lending transaction, secured primarily by an individual or group life insurance policy; or
3. a premium finance loan made for a policy by the date the policy is issued where (a) the borrower does not use the loan proceeds solely to pay policy premiums and financing costs, (b) the owner receives, when taking the loan, a guarantee of the policy’s future life settlement value, or (c) the owner agrees, when taking the loan, to sell the policy, or any portion of its death benefit, anytime after the policy is issued.

The act specifies that a life settlement contract does not include:

1. a policy loan from a life insurance company according to the policy terms;
2. a premium finance loan or any loan from a bank or other licensed financial institution, provided a (a) default on the loan or (b) policy transfer in connection with such a default, is not the result of an agreement or understanding with another person for the purpose of evading regulation;
3. an owner’s collateral assignment of his or her life insurance policy;
4. a loan from a lender that does not violate state law on premium financing and does not come within the definition of life settlement contract;

5. an agreement where all the parties are (a) closely related to the insured by blood or law, (b) have a lawful substantial economic interest in the insured's continued life, health, and bodily safety, or (c) trusts established primarily for the parties' benefit;
6. an insured employee's designation, consent, or agreement in connection with his or her employer's purchase, or established trust, of life insurance on the employee's life;
7. a bona fide business succession planning arrangement between one or more (a) shareholders in a corporation or between a corporation and one or more of its shareholders or one or more trusts established by its shareholders, (b) partners in a partnership or between a partnership and one or more of its partners or one or more trusts established by its partners, or (c) members in a limited liability company (LLC) or between an LLC and one or more of its members or one or more trusts established by its members;
8. an agreement entered into between a service recipient, or a trust the service recipient established, and a service provider, or a trust the service provider established, that performs significant services for the service recipient's trade or business; or
9. any other contract, transaction, or arrangement from the "life settlement contract" definition that the commissioner determines is not the type intended to be regulated by the act.

Stranger-Originated Life Insurance (STOLI)

Under the act, "STOLI" is an act, practice, or arrangement to initiate a life insurance policy for the benefit of a third-party investor who, when the policy is issued, has no insurable interest in the insured. ("Insurable interest" exists when a person purchasing a life insurance policy that will pay out when someone else dies has an interest in that person staying alive, not in his or her death.)

STOLI includes cases in which life insurance is purchased with (1) resources or guarantees from or through a person (or entity) who could not lawfully initiate the policy and (2) a verbal or written arrangement or agreement to directly or indirectly transfer policy ownership or benefits to a third party. Trusts created to give the appearance of insurable interest and used to initiate policies for investors violate insurable interest laws.

STOLI arrangements do not include those things that are exceptions to the definition of a life settlement contract.

Advertisement

The act revises the definition of "advertisement" by expanding its purpose. By law, an advertisement is a (1) written, electronic, or printed communication; (2) recorded telephone message; or (3) radio, television, Internet, or similar media communication that has been published, disseminated, circulated, or placed before the public, directly or indirectly, for the purpose of inducing a person to purchase or sell a life insurance policy or interest through a settlement contract. The act expands the purpose to include inducing a person to purchase, sell, assign, devise, bequeath, or transfer the death benefit or ownership of a life insurance policy or interest through a life settlement contract.

Broker

A "broker" is a person who, (1) on behalf of a life insurance policy owner and (2) for a fee, commission, or other valuable consideration, offers or attempts to negotiate life settlement contracts between the owner and one or more providers. It specifies that a "broker" is not an attorney, certified public accountant, or certified financial planner (certified by a nationally recognized accreditation agency) retained to represent the owner and whose compensation the owner (and no one else) pays.

Provider

By law, a "provider" is a person, other than a life insurance policy owner, who enters into or facilitates a settlement contract with an owner, but is not:

1. a bank, savings bank, savings and loan association, or credit union;
2. a licensed lending institution that accepts an assignment of a life insurance policy or certificate issued pursuant to a group life insurance policy as collateral for a loan;
3. the insurer of a life insurance policy or rider that provides accelerated death benefits pursuant to Connecticut law;
4. a natural person who enters into or effectuates no more than one agreement in a calendar year for the transfer of a life insurance policy for compensation or anything of value that is less than the policy's expected death benefit;
5. a purchaser;
6. an authorized or eligible insurer that provides stop-loss coverage to a provider, purchaser, financing entity, special purpose entity, or related provider trust;
7. a financing entity;
8. a special purpose entity;
9. a related provider trust; or

10. an accredited investor or a qualified institutional buyer, as defined by federal law, who purchases a life settlement policy from a provider.

The act also specifies that a provider is not:

1. a creditor or secured party pursuant to a premium finance loan agreement that accepts an assignment of a life insurance policy or certificate issued pursuant to a group life insurance policy as collateral for a loan;
2. the insurer of a life insurance policy or rider that provides a cash surrender value;
3. a natural person who enters into or effectuates no more than one agreement in a calendar year for the transfer of a certificate issued pursuant to a group life insurance policy for compensation or anything of value that is less than the policy's expected death benefit; or
4. a broker.

Purchaser

By law, a "purchaser" is a person who pays compensation or anything of value as consideration for a beneficial interest in a trust that is vested with, or for the assignment, transfer, or sale of, an ownership or other interest in a life insurance policy or a certificate that is the subject of a settlement contract.

Prior law specified that a purchaser did not include (1) a licensee under the law, (2) an accredited investor or qualified institutional buyer, (3) a financing entity, (4) a special purpose entity, or (5) a related provider trust. The act eliminates these exceptions.

Special Purpose Entity

By law, a "special purpose entity" is a corporation, partnership, trust, LLC, or other similar entity formed solely to provide access, directly or indirectly, to institutional capital markets for a financing entity or provider.

The act expands the definition to include entities formed solely to provide access, directly or indirectly, to institutional capital markets in connection with a transaction in which the owner or a qualified institutional buyer, as defined in federal law, acquires the securities in the special purpose entity or the securities pay a fixed rate of return commensurate with established asset-backed institutional capital markets.

Financing Transaction

The act modifies the definition of "financing transaction" to mean any transaction in which a provider obtains financing from a financing entity, including any (1) secured or unsecured financing, (2) securitization

transaction, or (3) securities offering that is registered, or exempt from registration, under federal or state securities law. Prior law (1) limited the financing for the purchase or transfer of settlement contracts or the policies or interests that are subject to them and (2) did not specify who was obtaining the financing.

§§ 2, 3, 17, 19, & 20 — LICENSING REQUIREMENTS

As with prior law, a person must obtain a license from the commissioner to act as a provider or broker. The act modifies the application requirements and includes some exceptions for licensure. The act removes requirements for, and references to, viatical settlement investment agents.

Licensed Life Producer May Act as Broker

Under the act, a person who is licensed as a (1) life insurance producer in Connecticut or in another state for at least one year and (2) nonresident producer in Connecticut in accordance with Connecticut law is deemed to meet the life settlement licensing requirements and may operate as a life settlement broker. The act requires such a producer, within 30 days from first acting as a broker, to (1) notify the commissioner on a form he prescribes and (2) pay a \$13 filing fee. The producer's notification must include acknowledgement that he or she will act in accordance with the law.

Current Provider or Broker

The act permits a provider or broker who was lawfully transacting business in Connecticut before October 1, 2008 to continue to do so, pending the commissioner's approval or disapproval of his or her life settlement license application, but the application must be filed by October 31, 2008. While the license application is pending, the applicant may use any form of life settlement contract that has been filed with the commissioner and is pending approval, as long as it otherwise complies with the law.

Anyone who has lawfully negotiated life settlement contracts between an owner who is a Connecticut resident and one or more providers since at least October 1, 2007 may continue to do so pending approval or disapproval of his or her license application, but the application must be filed by October 31, 2008.

Any person transacting business in Connecticut while a license is pending must comply with the act's requirements. Providers and brokers are prohibited from using staff to perform each other's functions unless the staff is properly licensed.

License Exceptions

Under the act, a person is exempt from the broker licensure requirement if he or she is (1) a licensed attorney, certified public accountant, or financial planner accredited by a nationally recognized accreditation agency and (2) retained to represent the owner in life settlement contract negotiations, but whose compensation is not directly or indirectly paid by the provider or purchaser.

Information the Commissioner Requests

The act requires a license applicant to provide the commissioner with information that he may require on forms he approved.

Prior law permitted the commissioner to request an applicant to disclose the identity of its stockholders, partners, key management personnel, directors, officers, members, and employees. The act eliminates from this listing stockholders owning less than 10% of publicly traded stock, key management personnel, directors, and members. Thus, it permits the commissioner to request an applicant to disclose the identity of its stockholders owning 10% or more of publicly traded shares, partners, officers, and employees.

Prior law permitted the commissioner to deny a license if he determined that any partner, key manager, director, officer, employee, stockholder, or member who could materially influence the applicant's conduct failed to meet any of the settlement law's standards. The act eliminates from this listing key manager, director, and member. The commissioner may deny a license, therefore, if any such partner, officer, employee, or stockholder fails to meet the settlement law's standards.

The act requires a provider or broker to provide the commissioner with new or revised information about officers, stockholders holding 10% or more of the company's stock, partners, directors, members, or designated employees within 30 days after the information changes.

License Issued to Legal Entity

Prior law specified that a settlement provider, broker, or investment agent license issued to a corporation, partnership, LLC, or other legal entity authorized the entity's stockholders, partners, key managers, directors, officers, and employees named in the license application, and any supplements to it, to act on the entity's behalf as if they were licensed themselves. The act instead specifies that a license issued to a legal entity authorizes its members, officers, and designated employees named in the application, and any supplements, to act as a licensee under such license.

The act eliminates a provision that specified that a person's authorization under an entity's license terminated when the license expired or was suspended or revoked.

License Expiration, Renewal, and Fees

The act retains prior law regarding license expiration and renewal. Specifically, provider and broker licenses expire on March 31 in each year, but may be renewed annually. If a provider or broker fails to pay the renewal fee on time, the commissioner must revoke his or her license, unless he or she pays within five days after the commissioner sends, by first class mail, a written notice of nonrenewal after March 31.

The act also adds new provisions regarding license expiration and renewal that appear to conflict with the above requirements. It specifies that the term of a (1) producer license is equal to that of a domestic stock life insurance company (annual renewal) and (2) broker license is equal to that of an insurance producer (if an individual, renewal is every other year on the person's birth date, and if an entity, February 1 of even-numbered years). It also states that licenses requiring renewal must be renewed on their anniversary dates and that failure to pay the renewal fee results in license expiration.

As with prior law, a provider or broker license applicant must pay a \$13 fee with each initial license application filed and a \$20 fee for each license issued or renewed.

Commissioner's Investigation and Decision

By law, the commissioner must, upon receiving an application and license fee, investigate the applicant and issue a license if he determines that the applicant satisfies certain specified criteria.

Prior law required the commissioner to verify that the applicant:

1. had provided a detailed plan of operation;
2. was competent and trustworthy and intended to act in good faith;
3. had a good business reputation and adequate experience, training, or education to be qualified in the business; and
4. if a corporation, partnership, LLC, or other legal entity, had provided a certificate of good standing from its state of domicile that, if domiciled outside of Connecticut, was dated within 15 days of the license application.

The act revises these criteria and adds several new ones, such that the commissioner must verify that the applicant:

1. if a provider, has provided a detailed plan of operation (thus, the act exempts brokers from this requirement);
2. is competent and trustworthy and intends to act in good faith;
3. has a good business reputation and adequate experience, training, or education to be qualified in the business;
4. if a corporation, partnership, LLC, or other legal entity, (a) is formed or organized under Connecticut laws, (b) is a foreign legal entity authorized to do business in Connecticut, or (c) provides a certificate of good standing from its state of domicile; and
5. has provided an antifraud plan that meets the act's requirements as described below.

The act also prohibits the commissioner from issuing a license to a nonresident applicant unless the applicant has filed with him a written (1) designation of an agent for service of process or (2) irrevocable consent that any action against the applicant may be started by service of process on the commissioner. Another part of the act (§ 20), makes the commissioner the agent for service of legal process on licensed providers and brokers.

License Denial, Suspension, or Revocation

By law, the commissioner may deny, suspend, revoke, or not renew a license for specified reasons. The act retains some of the reasons from prior law, limits some, and expands others.

As with prior law, the commissioner may deny, suspend, revoke, or not renew a license if he determines that:

1. there was a material misrepresentation in the license application or other information given to the commissioner;
2. the licensee pleaded guilty or nolo contendere to a felony or misdemeanor involving criminal fraud or moral turpitude, regardless of whether the court has entered a judgment or conviction;
3. the provider entered into a life settlement contract using forms the commissioner has not approved;
4. the provider failed to honor contractual obligations under the settlement contract;
5. the licensee no longer meets the requirements for initial licensure; or
6. the provider assigned, transferred, or pledged a settled policy to someone other than a provider licensed in Connecticut, a purchaser, an accredited investor, a qualified institutional buyer, a financing entity, a special purpose entity, or related provider trust.

Under the act, the commissioner may take action against a person's license for the following reasons, revised from prior law as indicated:

1. the licensee, or licensee's partner, member, director, or officer (prior law included key manager and majority stockholders, but not member), (a) has been convicted of a felony, (b) has been convicted of a misdemeanor with a criminal fraud element or found guilty of fraudulent or dishonest practices (prior law limited these to only the licensee), (c) is subject to final administrative action, or (d) is otherwise proven to be untrustworthy or incompetent to act as a licensee;
2. the licensee, or licensee's partner, member, officer, or key management personnel, violated the settlement law (instead of the licensee willfully violating the settlement law); or
3. the provider demonstrates a pattern of unreasonably withholding payments to owners (instead of unreasonably low payments).

By law, if the commissioner denies a license application or suspends, revokes, or does not renew a license, the aggrieved applicant or licensee may appeal in accordance with law. The commissioner, or his designee, may hold a hearing. Whenever someone other than the commissioner acts as the hearing officer, that person must submit to the commissioner a memorandum of findings and recommendations upon which the commissioner may base a decision.

Continuing Education for Brokers

The act requires brokers, excluding life insurance producers, to biennially complete at least 15 hours of continuing education on life settlements and related transactions. Not doing so subjects a person to penalties the commissioner may impose.

Insurer Not Liable for Others' Actions Unless Paid

The act specifies that the insurer that issued a policy that is the subject of a life settlement contract is not responsible for any act or omission of a broker, provider, or purchaser arising out of, or in connection with, the life settlement transaction, unless the insurer receives compensation for placing a life settlement contract from the broker, provider, or purchaser.

§§ 2 & 11 — ANTI-FRAUD PLAN

The act requires a license applicant to provide the commissioner an antifraud plan that meets the act's requirements and includes a description of:

1. procedures for detecting and investigating possible fraud and resolving material inconsistencies between medical records and insurance applications;
2. procedures for reporting insurance fraud to the commissioner;
3. antifraud education and training for its underwriters and other personnel; and
4. the personnel responsible for fraud investigation and reporting.

The antifraud plan must be reasonably calculated to detect, prosecute, and prevent fraudulent life settlement acts. The commissioner may order, or a licensee may request and the commissioner may grant, plan modifications necessary to ensure an effective antifraud program. Fraud investigators must be included in the plan and may be provider or broker employees or independent contractors.

Antifraud plans submitted to the commissioner are privileged and confidential, not public records, and not subject to discovery or subpoena in a civil or criminal action.

§§ 4 & 15 — FORMS AND ADVERTISING FILING REQUIREMENTS

Forms

The law prohibits the use of a life settlement contract form or disclosure statement in Connecticut unless it has been filed with, and approved by, the commissioner. The act requires, instead of permits, the commissioner to disapprove a contract form or disclosure statement if he finds that it (1) contains an unreasonable provision, (2) is contrary to the public interest, (3) does not comply with the relevant provisions of the settlement law (e.g., disclosure, general, and advertising provisions), or (4) is misleading or unfair to the owner.

Advertising

Prior law included numerous detailed provisions regarding advertising that the act eliminates. The act includes fewer, but broad, advertising requirements.

The act continues to allow providers and brokers to advertise in Connecticut, while requiring that the advertisements must be accurate, truthful, and not misleading in fact or by implication. No one is allowed to (1) directly or indirectly market, advertise, solicit, or otherwise promote the purchase of a policy for the sole purpose of, or with an emphasis on, using the policy for a life settlement contract or (2) use the words “free” or “no cost,” or words of similar meaning, in the marketing, advertising, soliciting, or promoting of the policy purchase.

The act authorizes the commissioner to require that life settlement advertisements be filed with the Insurance Department. But it also prohibits a provider from using any promotional, advertising, and marketing material that has not been filed with the commissioner, who may decide if the material must be approved before use.

§§ 4 & 8 — INSURER PROHIBITIONS

Under the act, insurers may not:

1. prohibit a life insurance producer or broker from disclosing to a client the availability of life settlement contracts;
2. include in a life insurance policy a provision that prohibits a lawful assignment of the policy;
3. require, as a condition of responding to a request for coverage verification in connection with a life settlement contract, the owner, insured, provider, or broker to sign any form, disclosure, consent, waiver, or acknowledgment that the commissioner has not approved for use in connection with life settlement contracts in Connecticut; or
4. unreasonably delay ownership or beneficiary changes agreed to in a life settlement contract lawfully entered into in Connecticut or with a Connecticut resident.

§§ 2 & 5 — ANNUAL STATEMENT REQUIREMENTS, PENALTIES, AND REGULATION

The act requires that each provider file with the commissioner by March 1, instead of March 31, of each year an annual statement containing information he must prescribe by regulation.

It expands the annual statement contents that the regulation must require to include, for any life insurance policy acquired under a life settlement contract within five years of the policy’s original issuance, (1) the total number, aggregate face amount, and life settlement proceeds of policies settled during the immediately preceding calendar year and (2) a breakdown of the information by policy issue year, the names of the insurance companies whose policies have been settled, and the brokers involved. The information required is limited to those transactions where the insured is a Connecticut resident and must exclude individual transaction data that could be used to identify the owner or the insured.

A provider that willfully fails to (1) file an annual statement or (2) reply within 30 days to the commissioner’s related written inquiry, in addition to other penalties provided under the act, is subject, upon

notice and a hearing, to a penalty of up to \$250 a day of continued violation, up to a maximum of \$25,000 for each failure.

§§ 5 & 8 — DISCLOSURE OF INSURED'S IDENTITY

Except as law otherwise requires or permits, the law prohibits anyone from disclosing to any other person an insured's identity, unless the disclosure meets certain conditions. The act also prohibits disclosing information that could be used to identify the insured or his or her financial or medical information, unless the same conditions are met. The act slightly modifies the conditions under which disclosure may be made. Disclosure is prohibited unless it is:

1. needed to effect a life settlement contract between the owner and a provider and the owner and insured have provided prior written consent (prior law required only the owner's signature);
2. provided in response to an investigation or examination by the commissioner or other government agency;
3. needed to effect the sale of life settlement contracts or interests as investments, provided (a) the sale is conducted in accordance with applicable state and federal securities laws and (b) the owner and the insured have both provided prior written consent;
4. a term or condition of the transfer of a policy by one provider to another, in which case the provider receiving such information must comply with the confidentiality requirements;
5. required to purchase stop loss coverage; or
6. necessary to allow providers or brokers, or their authorized representatives, to make contacts to determine health status.

"Authorized representative" does not include any person who has, or may have, a financial interest in the settlement contract other than a provider, licensed broker, financing entity, related provider trust, or special purpose entity. Each provider or broker must require its authorized representative to agree in writing to comply with the act's privacy provisions.

Nonpublic personal information solicited or obtained in connection with a proposed or actual life settlement contract is subject to the provisions applicable to financial institutions under the 1999 federal Gramm-Leach-Bliley Act (GLB) and all other applicable state and federal laws. (GLB requires financial institutions to comply with confidentiality provisions for consumers' personal information.)

By law, medical information that a licensee under the settlement law (presumably a provider or broker) solicits or obtains is subject to applicable law relating to

the confidentiality of medical information.

§ 6 — EXAMINATIONS

Commissioner's Authority

Existing law authorizes the commissioner, when he deems it reasonably necessary to protect the public interest, to examine the business affairs of a producer or broker licensee or license applicant and specifies the examination procedures the commissioner must follow. It allows the commissioner to (1) order a licensee or applicant to produce records, books, files, or other information needed to determine if he or she is acting, or acted, in compliance with the law's provisions or contrary to the public interest; (2) issue subpoenas; (3) administer oaths; and (4) examine anyone under oath on matters relevant to the examination.

The act enumerates specific requirements for examinations related to life settlements and authorizes the commissioner to investigate suspected "fraudulent life settlement acts" and people engaged in the life settlement business.

The act permits the commissioner, if he determines that regulatory action is appropriate based on an examination, to initiate any proceedings or actions for which the law provides. The act does not limit the commissioner's authority to end or suspend an examination to pursue other legal or regulatory action under law. It specifies that findings of fact and conclusions made during an examination are prima facie evidence in any legal or regulatory action (i.e., evidence that establishes a fact or upholds a judgment unless contradictory evidence is produced).

In lieu of an examination of a producer or broker from outside Connecticut who is licensed in Connecticut, the act permits the commissioner to accept an examination report on the person that the commissioner of the person's state prepared.

Penalty for Examination Refusal

The act authorizes the commissioner to suspend, refuse, or not renew a license, or an authority under a license, to engage in the life settlement business or other business subject to the commissioner's jurisdiction if a licensee, its officers, directors, employees, or agents refuse to (1) submit to examination or (2) comply with a reasonable written request from the commissioner.

Examinee Responsibilities – Costs, Access to Records

By law, the licensee or applicant under examination must pay all costs associated with the examination, including the reasonable cost to retain professionals or specialists as examiners when the commissioner deems necessary.

A licensee, or person from whom information is sought, and its officers, directors, and agents must provide the examiners with access to all books, records, accounts, papers, documents, assets, and computer or other recordings related to the licensee's property, assets, business, and affairs. The access must be timely, convenient, free, at reasonable hours, and at the licensee's offices.

Examination Staff

Upon deciding to initiate an examination, the commissioner must issue an examination warrant that appoints one or more examiners for that purpose. He may retain attorneys, appraisers, actuaries, accountants, and other professionals and specialists as examiners.

The act prohibits the commissioner from appointing an examiner who, directly or indirectly, has a conflict of interest or is affiliated with the management of, or owns a pecuniary interest in, any person subject to examination. But the act specifies that this does not automatically preclude an examiner from being an owner, an insured under a life settlement contract or insurance policy, or a beneficiary of a life insurance policy proposed for settlement.

Regardless of the conflict of interest provision, the commissioner may retain from time to time and on an individual basis, actuaries, accountants, and similar professionals independently practicing their professions, even though people subject to the commissioner's examination may employ or retain them from time to time.

Examiners must use common methods for examining life settlement licensees and follow guidelines and procedures set forth in a national organization's adopted examiners' handbook.

Provider Records

Prior law required licensees to maintain records of consummated transactions and settlement contracts for the commissioner's inspection during regular business hours. The act limits this requirement to providers and reduces, from five years to three, the time period for which records related to a particular insured person must be available to the commissioner.

Confidentiality

The act considers owners' and insureds' names and identification data to be private and confidential. It prohibits the commissioner from disclosing this information unless the law requires it.

The act specifies that examination reports, working papers, recorded information, documents, and copies of these items are (1) confidential and privileged, (2) not admissible as evidence in a private civil lawsuit, and (3)

not subject to (a) subpoena, (b) discovery, or (c) public disclosure. It authorizes the commissioner to use these documents and other information in any regulatory or legal action he brings as part of his official duties. The licensee being examined must have access to all documents used to make the report.

The act also makes confidential all preliminary and final examination reports, examiner or licensee work papers and documents, and other information discovered or developed during the examination, in accordance with Connecticut law regarding financial examinations. Under that law, documents are confidential unless they are otherwise a matter of public record, or the commissioner deems it in the public interest to disclose, or otherwise make available for public inspection, the information contained in the documents.

Examination Reports

The examiner-in-charge must file with the commissioner, within 60 days after completing the examination, a verified written examination report under oath. An examination report must contain only (1) facts appearing on the books or from testimony concerning the licensee's affairs and (2) conclusions and recommendations the examiners find reasonably warranted based on the facts.

Upon receipt, the commissioner must give the licensee the report and a notice providing the licensee 30 days to (1) submit a written response or rebuttal to the report or (2) request a hearing on any disputed matter. A licensee's written response or rebuttal becomes part of the report.

Qualified Immunity

The commissioner, his authorized representatives, and examiners are immune from liability for statements made and conduct performed in good faith. A person who communicates or delivers information or data to the commissioner, his authorized representatives, or examiners in good faith and without fraudulent intent or intent to deceive is immune from liability. This does not abrogate or modify the commissioner's, his authorized representatives', and examiners' common law or statutory privilege or immunity.

Under the act, the commissioner, his authorized representative, an examiner, or a person providing information to them for the examination is entitled to an award of attorney's fees and costs if he or she (1) wins a civil lawsuit for libel, slander, or other relevant tort arising from his or her examination activities and (2) the party that sued was not substantially justified for doing so. The act specifies that a proceeding is "substantially

justified” if it had a reasonable basis in law or fact at the time the party initiated it.

§ 7 — REQUIRED DISCLOSURES

Prior law required producers and brokers to provide the owner with certain written disclosures in a document separate from the settlement contract. The act requires the owner and the provider to sign the disclosure document. By law, the disclosures must also be conspicuously displayed in any settlement contract a provider gives an owner, including any affiliations or contractual arrangements between the provider and the broker.

The act changes when the disclosures must be made to the owner, revises the content of the disclosures, and makes it an unfair insurance practice not to provide them.

The act also deletes requirements that a provider disclose certain information to a purchaser (someone buying the life insurance policy from the owner).

Disclosures from Providers or Brokers

Prior law required a provider or broker to provide the owner with a disclosure document with each settlement application. The act instead requires that the disclosure be provided on or before the date the settlement contract is signed by all parties. As with prior law, the disclosure must include the following language:

All medical, financial or personal information solicited or obtained by a provider or broker about an insured, including the insured’s identity or the identity of family members, a spouse or a significant other may be disclosed as necessary to effect the life settlement contract between the owner and the provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years.

The act makes minor and technical changes to the following information that must be included in the disclosure:

1. there are possible alternatives to life settlement contracts, including accelerated death benefits, that the insurer may offer;
2. proceeds will be sent to the owner within three business days (prior law required two days) after the provider has received the insurer’s or group administrator’s acknowledgment that

ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated in accordance with the life settlement contract terms;

3. receiving life settlement contract proceeds may adversely affect a person’s eligibility for public assistance, or other government benefits or entitlements, and advice should be obtained from the appropriate agencies;
4. life settlement contract proceeds may be subject to creditors’ claims;
5. entering into a life settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy or certificate, to be forfeited and assistance should be sought from a financial advisor;
6. the provider or broker, or its authorized representative, may occasionally contact the insured to verify his or her health status or address, but not more than once every three months if life expectancy is over one year, and once per month if one year or less;
7. the commissioner requires delivery, during the contract solicitation process, of a buyer’s guide, or a similar consumer advisory package, in a form he prescribes;
8. the affiliation, if any, between the provider and the insurer that issued the policy that is the subject of the settlement contract;
9. the provider’s name, address, and telephone number; and
10. the independent third-party escrow agent’s name, business address, and telephone number, and the fact that the owner may inspect or receive copies of the relevant escrow or trust agreements or documents.

Prior law required the disclosures to inform the owner that settlement contract proceeds may be taxable under federal income tax laws and assistance should be sought from a professional tax advisor. The act removes reference to federal law (i.e., requires disclosure that proceeds may be taxable).

Prior law required the disclosure to inform the owner that he or she has a right to rescind the contract within 15 days after receiving the contract proceeds. The act changes the time period to 15 days after the date all parties sign the contract and the owner receives the required disclosures. It specifies that an owner’s rescission is effective only if he or she (1) gives notice of it to the provider and (2) repays all proceeds and any premiums, loans, and loan interest the provider paid during the rescission period. Failure to provide written notice of the right of rescission delays the start of the rescission period to 30 days after the owner receives written notice of the right. As with prior law, if the

insured dies within the rescission period, the contract is deemed rescinded subject to repayment of any proceeds, premiums, loans, and loan interest to the provider. The act specifies that it is the owner or the owner's estate that is responsible for the repayment.

The act requires that the following information also be included in the disclosures:

1. the amount and method of calculating compensation of a broker or other person working on the owner's behalf;
2. the date by which the funds will be available to the owner and the transmitter of them;
3. that the commissioner requires providers and brokers to print a separate, signed fraud warning on applications and life settlement contracts as follows: "Any person who knowingly presents false information in an application for insurance or life settlement contract is guilty of a crime and may be subject to fines and confinement in prison;"
4. that a broker represents the owner exclusively, and not the insurer, the provider, or any other person, and owes a fiduciary duty to the owner, including a duty to act according to his or her instructions and in his or her best interest; and
5. that an ownership change could limit the insured's ability to purchase future insurance on his or her life because there is a limit to how much coverage insurers will issue on one life.

The act deletes a variety of items from the disclosure requirement, including, that (1) a provider may assign or otherwise transfer its interests in the policy to a third party and has 20 days to inform the insured of such a transaction, (2) that other people covered under the policy that is the subject of the settlement contract may lose their coverage, and (3) that the owner should consult with his or her insurance producer or insurer for advice on the possible settlement.

Additional Broker Disclosures

The act also requires a broker to give the owner and provider the following disclosures by the date all parties sign the life settlement contract. The disclosures must (1) be conspicuously displayed in the life settlement contract or in a separate document that the owner signs and (2) provide the following information:

1. the broker's name, business address, and telephone number;
2. a full, complete, and accurate description of all the offers, counter-offers, acceptances, and rejections relating to the proposed life settlement contract;
3. any affiliations or contractual arrangements between the broker and any person making an

offer in connection with the proposed life settlement contract;

4. the name of each broker who receives compensation and the amount of compensation, which includes anything of value paid or given to the broker in connection with the life settlement contract;
5. a complete reconciliation of the provider's gross offer or bid, including commissions and fees, to the owner's net proceeds or value received, where "gross offer" or "bid" means the total amount or value the provider offered to purchase one or more life insurance policies, including commissions and fees; and
6. that the failure to provide the disclosures or rights described in this section is an unfair insurance practice under Connecticut law.

§ 8 — GENERAL RULES

Terminally or Chronically Ill

When entering into a life settlement contract with an owner of a policy that insures a terminally or chronically ill person, the provider must obtain certain documents.

By law, if the owner is also the insured under the policy, the provider must obtain a written statement from a licensed physician that the owner is of sound mind and under no undue influence to enter into the contract. The act also requires that the statement come from the owner's attending physician and include that the owner is also free from any constraint to enter the contract.

Similar to prior law, the act requires the provider to obtain a document in which the insured consents to the release of his or her medical records to (1) a provider, broker, or life insurance producer and (2) if the policy was issued less than two years (prior law specified 48 months) from the settlement contract application date, the insurer that issued the policy.

Owner Consent and Acknowledgment

By law, a provider must, before or when a life settlement contract is executed, obtain a witnessed document in which the owner (1) consents to the contract; (2) represents that he or she has a full and complete understanding of the policy's benefits; (3) acknowledges that he or she is entering into the contract freely and voluntarily; and (4) if the insured has a terminal or chronic illness or condition, that the illness or condition was diagnosed after the insurer issued the policy.

Coverage Verification

Prior law required an insurer to respond, within 30 calendar days, to a request for coverage verification on a commissioner-approved form. The act specifies that an insurer must respond within this timeframe to such requests from a provider, broker, or life insurance producer. The act requires the insurer to complete and issue the coverage verification or indicate why it is unable to respond. By law, the insurer's response must indicate whether, based on the medical evidence and documents provided, it intends to pursue an investigation regarding the policy's validity.

The act specifies that if a broker performs coverage verification "activities required of the provider," then the provider is deemed to have fulfilled the act's requirements described in § 7, which enumerates required disclosures. (The connection between obtaining coverage verification and providing the required settlement contract disclosures is unclear.)

Notice to Insurer

Similar to prior law, the act requires a provider, within 20 days after an owner executes a life settlement contract, to give the insurer that issued the policy written notice that the policy has become subject to a life settlement contract. The notice must be sent with documents set forth under § 9 of the act (although it is unclear how this works since the referenced documents are (1) disclosures that an insurer may provide to a policy applicant and insured and (2) certifications an insurer may require from an applicant or insured). Prior law required the notice to be sent with a medical release and a copy of the owner's settlement application.

Transfer of Proceeds

The act increases the time a provider has to transfer settlement proceeds into escrow or a trust account. It requires the provider, within three (instead of two) business days of receiving the documents from the owner, to effect the policy transfer, to pay or transfer the settlement proceeds into an escrow or trust account in a state or federally chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation.

The act requires the trustee or escrow agent, within three business days after receiving an acknowledgment from the insurer that the insurance policy has been transferred, to pay the settlement proceeds to the owner. Failure to tender the life settlement contract proceeds to the owner on time renders the settlement contract voidable by the owner for lack of consideration until the time payment is made to, and accepted by, the owner.

Tax Consequences

Prior law exempted settlement contract proceeds from state taxes. The act deletes this exemption. Thus, it subjects the proceeds to state taxation.

Broker Compensation

The act requires the fee a provider, party, individual, or owner pays to a broker in exchange for services to the owner regarding a life settlement contract to be computed as a percentage of the contract offer received and not as a percentage of the policy's face value. The act specifies that it does not prohibit a broker from reducing his or her fee below that percentage.

A broker must disclose to the owner anything of value paid or given to him or her in connection with a life settlement contract involving the owner.

Prohibition on Entering Settlement Contract

Prior law prohibited a person from entering into a viatical settlement contract within two years of purchasing a life insurance contract, unless certain conditions were met. The act instead prohibits a person from entering into a life settlement contract before, when, or within two years of purchasing a life insurance policy, regardless of when (1) compensation is to be paid or (2) the policy assignment, transfer, sale, devise, bequest, or surrender is to occur.

Similar to prior law, the prohibition does not apply if the owner certifies to the provider that the policy was converted, at his or her request, to an individual policy under a group policy conversion right, as long as he or she was insured under both policies for at least 24 months. The 24-month period is to be calculated without regard to a change in insurance carriers for the group policy, provided the coverage has been continuous and under the same group sponsorship.

As with prior law, the prohibition also does not apply if the owner submits independent evidence to the provider that, within the 24 months, the owner or insured (1) became terminally or chronically ill or (2) has disposed of his or her interests in a closely held corporation under the terms of a buyout or other similar agreement in effect when the insurance policy was initially issued.

The act expands upon prior law by specifying that the prohibition also does not apply if any of the following occurs within the 24 months and the owner submits independent evidence of that occurrence:

1. the owner's spouse dies;
2. the owner divorces;
3. the owner retires from full-time employment;

4. the owner becomes physically or mentally disabled and a physician determines that the disability prevents the owner from maintaining full-time employment; or
5. a court of competent jurisdiction enters a final order, judgment, or decree, on an application of the owner's creditor finding the owner bankrupt or insolvent or approving a petition for the owner's reorganization or an appointment of a receiver, trustee, or liquidator to all or a substantial part of the owner's assets.

As with prior law, the provider must submit the independent evidence to the insurer when requesting coverage verification and give the insurer a letter attesting that the documents submitted are true and correct copies of those he or she received. The act does not prohibit an insurer from exercising its right to contest a policy's validity.

By law, if the provider, when requesting an insurer to transfer the policy, submits a copy of the independent evidence, the act deems that the settlement contract meets the prohibition and exception requirements.

§ 9 — REQUIREMENTS WHEN INSURER ISSUES LIFE INSURANCE

When a person applies for life insurance, the act permits the insurer, in addition to other questions it may pose to the applicant, to ask if he or she intends to pay premiums by taking out a premium financing loan for which the lender will use the policy as collateral.

The act requires an insurer to reject the application if the applicant plans to use premium financing and the loan provides funds that can be used for a purpose other than paying for the premiums and financing costs, as that constitutes a prohibited practice under the act.

If the premium financing does not constitute a prohibited practice, the insurer may make the following disclosure to the applicant and the insured, in the application or an application amendment completed before the policy is delivered:

If you have entered into a loan arrangement where the policy is used as collateral and the policy does change ownership at some point in the future in satisfaction of the loan, the following may be true: (a) A change of ownership could lead to a stranger owning an interest in the insured's life; (b) a change of ownership could limit your ability to purchase future insurance on the insured's life because there is a limit to how much coverage insurers will issue on one life; (c) should there be a change of ownership and you wish to obtain more

insurance coverage on the insured's life in the future, the insured's higher issue age, a change in health status or other factors may reduce the ability to obtain coverage or may result in significantly higher premiums; and (d) you should consult a professional advisor, since a change in ownership in satisfaction of the loan may result in tax consequences to the owner, depending on the structure of the loan.

The insurer also may require the applicant or the insured to certify that (1) he or she has not entered into any agreement or arrangement providing for the future sale of the life insurance policy; (2) the loan arrangement for the policy provides sufficient funds to pay some or all of the premiums and financing costs, and he or she has not entered into any agreement for consideration in exchange for obtaining the policy; and (3) the borrower has an insurable interest in the insured.

The act eliminates some provisions, including that an investor in a settlement contract is prohibited from influencing an insured person's medical treatment.

§ 10 — PROHIBITED PRACTICES

The act identifies prohibited practices and specifies that committing any of them constitutes a "fraudulent life settlement act" (see § 11). Under the act, it is a violation for any person to:

1. enter into a life settlement contract if he or she knows, or reasonably should have known, that the life insurance policy was obtained using a false, deceptive, or misleading application;
2. engage in any transaction, practice, or course of business if he or she knows, or reasonably should have known, that the intent was to avoid the act's notice requirements;
3. engage in any fraudulent act or practice in connection with any settlement transaction involving an owner who is a Connecticut resident;
4. issue, solicit, market, or otherwise promote a life insurance policy purchase for the purpose of, or with the emphasis on, entering a life settlement contract with it; or
5. if providing premium financing, receive any proceeds, fees, or other consideration from the policy or policy owner that exceed the principal, interest, and reasonable costs and expenses that the lender or borrower incurs in connection with the premium financing agreement. But the act permits a person providing premium financing to receive more than these amounts in the case of a default on the premium finance loan as long as the

default, or a policy transfer related to it, is not the result of an agreement or understanding with someone else to avoid the act's requirements. The act requires a person who receives amounts in violation of this provision to pay them to the original policy owner or, if the owner is deceased when the overpayment is discovered, his or her estate.

It is a violation for a broker to knowingly solicit an offer from, effect a life settlement contract with, or make a sale to, any provider, financing entity, or related provider trust that is controlling, controlled by, or under common control with the broker, unless the broker discloses the relationship to the owner.

It is a violation for a provider to (1) knowingly enter into a life settlement contract with an owner if anything of value will be paid to a broker that is controlling, controlled by, or under common control with the provider, financing entity, or provider trust involved in the settlement contract, unless the provider discloses the relationship to the owner or (2) enter into a life settlement contract unless the life settlement promotional, advertising, and marketing material have been filed with the commissioner.

In addition, it is a violation for any life insurance producer, insurer, broker, or provider to make any statement or representation to the applicant or policyholder in connection with the sale or financing of a life insurance policy that the insurance is free or without cost for any period of time unless the policy says this.

§ 11 — FRAUDULENT LIFE SETTLEMENT ACTS

The act prohibits anyone from committing fraudulent life settlement acts, which includes acts or omissions a person commits, knowingly and with intent to defraud, to deprive another of property or for pecuniary gain, or permits employees or agents to engage in, acts including: (1) presenting, causing to be presented, or preparing false material information with knowledge and belief that it will be presented to or by a provider, premium finance lender, broker, insurer, insurance producer, or any other person or (2) concealing material information as part of, in support of, or concerning, a fact material to one or more of the following:

1. an application or claim for, or underwriting of, a payment or benefit under a life settlement contract or insurance policy;
2. premiums paid on an insurance policy;
3. payments and ownership or beneficiary changes for a life settlement contract or insurance policy;
4. an insurance policy's reinstatement or conversion;

5. in the solicitation, offer to enter into or effect a life settlement contract or insurance policy;
6. issuing written evidence of a life settlement contract or insurance policy;
7. any application for, or the existence of, any payments related to a loan secured directly or indirectly by a life insurance policy; or
8. entering into any practice or plan that involves STOLI.

It is also a fraudulent life settlement act to:

1. not disclose, when an insurer asks for disclosure, that the prospective insured has undergone a life expectancy evaluation by any person or entity, other than the insurer or its authorized representative, in connection with issuing a policy;
2. employ any device, scheme, or artifice to defraud in the life settlement business; or
3. solicit, apply for, or issue a policy or employ any device, scheme, or artifice in violation of Connecticut's insurable interest laws.

When done to commit fraud or prevent its detection, it is a fraudulent life settlement act to, or permit others to:

1. remove, conceal, alter, destroy, or sequester from the commissioner the assets or records of a licensee or other person engaged in the life settlement business;
2. misrepresent or conceal a licensee's, financing entity's, insurer's, or other person's financial condition;
3. transact life settlement business in violation of laws requiring a license, certificate of authority, or other legal authority;
4. file with the commissioner a document containing false information or otherwise conceal information about a material fact from him;
5. engage in embezzlement, theft, misappropriation, or conversion of money, funds, premiums, credits, or other property of a provider, insurer, insured, owner, policy owner, or any other person engaged in the life settlement or insurance business;
6. knowingly and with intent to defraud, enter into, broker, or otherwise deal in a life settlement contract, the subject of which is a life insurance policy that was obtained by presenting false information concerning any fact material to the policy or by concealing, for the purpose of misleading another, information concerning any fact material to the policy, where the owner or the owner's agent intended to defraud the policy's issuer;

7. attempt to commit, assist, aid, or abet in the commission of, or conspire to commit, the acts or omissions specified in the act; or
8. misrepresent an owner's state of residence to evade or avoid the act's provisions.

The act prohibits a person from (1) knowingly or intentionally interfering with the act's enforcement or investigations of suspected or actual violations of it and (2) knowingly or intentionally permitting any person convicted of a felony involving dishonesty or breach of trust to participate in the life settlement business.

Providers and brokers must print the following fraud warning on applications and life settlement contracts: "Any person who knowingly presents false information in an application for insurance or life settlement contract is guilty of a crime and may be subject to fines and confinement in prison." Not having the required fraud warning on applications and contracts is not a defense in any prosecution for a fraudulent life settlement act. (See § 13 for the penalties associated with a fraudulent life settlement act.)

Reporting Fraud, Qualified Immunity

The act requires any person, whether or not he or she is engaged in the life settlement business, who has knowledge or a reasonable belief that a fraudulent life settlement act is being, will be, or has been committed to provide the commissioner the information he requires and in a manner he prescribes.

The act grants civil immunity to a person who reports (1) suspected, anticipated, or completed fraudulent life settlement acts or (2) suspected or completed fraudulent insurance acts, if the reported information is provided to or received from:

1. the commissioner or his employees, agents, or representatives;
2. federal, state, or local law enforcement or regulatory officials, or their employees, agents, or representatives;
3. a person involved in preventing and detecting fraudulent life settlement acts, or that person's agents, employees, or representatives;
4. any regulatory body, or its employees, agents, or representatives, overseeing life insurance, life settlements, securities, or investment fraud;
5. the life insurer that issued the life insurance policy covering the insured; or
6. the licensee or its agents, employees, or representatives.

A person does not receive immunity for making statements with actual malice.

In an action brought against a person for filing a report of, or furnishing other information concerning, a fraudulent life settlement act or a fraudulent insurance act, the party bringing the action must plead specifically

any allegation that immunity does not apply because the person reporting the information did so with actual malice.

A person granted immunity is entitled to attorney's fees and costs if (1) he or she prevails in a civil lawsuit for libel, slander, or any other relevant tort arising out of his or her activities and (2) the party bringing the action was not substantially justified in doing so. A proceeding is "substantially justified" if it had a reasonable basis in law or fact when it was initiated.

The act does not abridge or modify a person's common law or statutory privileges or immunities.

The documents and evidence provided to, or obtained by, the commissioner in an investigation of suspected or actual fraudulent life settlement acts are (1) privileged and confidential, (2) not public records, and (3) not subject to discovery or subpoena in a civil or criminal action. The commissioner may release the information:

1. in administrative or judicial proceedings to enforce laws he administers;
2. to federal, state, or local law enforcement or regulatory agencies;
3. to an organization established to detect and prevent fraudulent life settlement acts;
4. to the National Association of Insurance Commissioners; or
5. at his discretion, to a person in the life settlement business aggrieved by a fraudulent life settlement act.

The commissioner's release of documents and evidence does not reduce or modify a person's granted immunity.

The act specifies that it does not:

1. preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine, and prosecute suspected violations of law;
2. preempt, supersede, or limit any provision of any state securities law or any related rule, order, or notice;
3. prevent or prohibit a person from voluntarily disclosing information concerning life settlement fraud to a law enforcement or regulatory agency other than the Insurance Department; or
4. limit the other powers Connecticut law grants the commissioner or an insurance fraud unit to investigate and examine possible law violations and to take appropriate action against wrongdoers.

§ 12 — INJUNCTIONS, CEASE AND DESIST ORDERS, DAMAGES

If a person violates the act's provisions, the commissioner, in addition to any other penalties that may apply, may seek an injunction in court and apply for temporary and permanent orders he thinks are necessary to stop the person from committing further violations.

Anyone harmed by a person's actions in violation of the act, or related regulations, may sue the person for damages.

Cease and Desist Orders

Under the act, the commissioner may issue a cease and desist order to a person violating its provisions, a regulation, an order, or a written agreement entered into with him.

When the commissioner finds that a violation of the act's provisions is an immediate danger to the public, he may issue an emergency cease and desist order that specifies the particular facts underlying his findings. The emergency cease and desist order is effective immediately upon service and remains effective for 90 days from the date of service. If the commissioner begins nonemergency cease and desist proceedings, the emergency cease and desist order remains effective, absent a court order.

Damages for Willful Violation

A court, in the event of a willful violation, may award statutory damages, in addition to actual damages, in an amount up to three times the actual damage award.

No Waiver

These provisions cannot be waived by agreement and no choice of law provision can be used to avoid the act's application to any settlement contract involving a Connecticut resident.

§§ 13 & 21 — PENALTIES

A person who commits a fraudulent life settlement act or otherwise violates the act is (1) guilty of insurance fraud and (2) subject to any additional penalties under law. Insurance fraud is a class D felony (see Table on Penalties).

The act authorizes the commissioner to impose a civil penalty of up to \$100,000 and the amount of the claim for each violation against a person found to have committed a fraudulent life settlement act or otherwise violated the act.

The act requires the commissioner to revoke, for at least one year, the license of a person licensed under the

act who commits a fraudulent life settlement.

The act makes a violation of its provisions a violation of the Connecticut unfair insurance practice act and, thus, subjects a person to the penalties under that law.

§ 14 — REGULATIONS

By law, the commissioner is authorized to adopt regulations to implement the law. Prior law specified that the regulations could establish standards for evaluating the reasonableness of payments under settlement contracts involving terminally or chronically ill people. The act removes the limiting factor and instead permits the regulations to establish standards for evaluating the reasonableness of payments under life settlement contracts generally.

By law, the regulations may also address:

1. discount rates used to determine the amount paid in exchange for the assignment, transfer, sale, devise, or bequest of a benefit under a life insurance policy;
2. appropriate licensing requirements and standards for continued licensure for providers and brokers;
3. bond requirements or other mechanisms for a provider's and broker's financial accountability; and
4. rules governing the relationship and responsibilities of providers, brokers, insurers, and their agents.

§ 14 — MULTIPLE POLICY OWNERS, OUT-OF-STATE RESIDENTS

If there is more than one owner on a single policy and the owners are residents of different states, the life settlement contract must be governed by the law of the state (1) in which the owner having the largest percentage ownership lives or (2) of one owner that all owners agree to in writing if the owners hold equal ownership. If equal owners do not agree in writing on a state of residence for jurisdictional purposes, the law of the state of the person insured under the policy governs.

When a provider in Connecticut enters into a life settlement contract with an out-of-state owner whose state has statutes or regulations governing life settlement contracts, the statutes and regulations of the owner's state of residence must govern the contract. If the state in which the owner lives does not have statutes or regulations governing life settlement contracts, the provider must give notice to the owner that neither Connecticut nor his or her state regulates the transaction, except that, if the transactions were executed in the owner's state of residence, the provider must maintain all records as that state requires. The

forms used in states without life settlement laws or regulations do not need the commissioner's approval.

If there is a conflict in the laws that apply to an owner and a provider in any transaction, the laws of the state that apply to the owner take precedence and the provider must comply with them.

BACKGROUND

Connecticut Unfair Insurance Practice Act (CUIPA)

The law authorizes the commissioner to issue cease and desist orders to anyone engaged in unfair methods of competition or unfair or deceptive acts or practices.

Under prior law, he could issue fines, in addition to, or in lieu of, a revocation or suspension of a violator's license and restitution, of up to (1) \$1,000 per violation to a \$10,000 maximum or (2) \$5,000 per violation to a \$50,000 maximum in any six-month period for knowingly committing a violation. The law also imposed a fine of up to \$10,000, in addition to or in lieu of a license suspension or revocation, for violating a cease and desist order.

PA 08-178 (§ 39) increases the fines effective October 1, 2008 to up to (1) \$5,000 per violation to a \$50,000 maximum or (2) \$25,000 per violation, to a \$250,000 maximum in any six-month period for knowingly committing a violation. It increases the fine to up to \$50,000 for violating a cease and desist order.

PA 08-178—sHB 5159

*Insurance and Real Estate Committee
Judiciary Committee*

AN ACT MODERNIZING INSURANCE DEPARTMENT FINES AND MAKING MINOR TECHNICAL REVISIONS TO THE INSURANCE STATUTES

SUMMARY: This act generally increases fines the insurance commissioner may assess against insurance companies, related companies, and people for violating Connecticut's insurance laws, including those related to utilization review, unauthorized insurers, producer and company licensing, unfair and prohibited practices, and fraud. It leaves unchanged most fines enacted since 1996, including those related to privacy, preferred provider networks, and self-insured workers' compensation laws.

The act requires insurers to pay claims from Department of Public Health-licensed emergency medical service personnel and organizations in accordance with the law's prompt claim payment requirements. An insurer's failure to pay claims as specified by law is an unfair and deceptive insurance

act, for which the commissioner may assess fines as shown in the table below (see § 39).

It also makes technical changes.
EFFECTIVE DATE: October 1, 2008

INSURANCE FINES INCREASED

Act §	Description	Prior Fine	New Fine
1	General penalty – Violation of any Title 38a provision when no other penalty is provided	Up to \$7,500	Up to \$15,000
2	Company license suspension, revocation, or non-renewal for cause shown (Fine is in addition to, or in lieu of, license action.)	Up to \$10,000	Up to \$50,000
3	Assessments on domestic insurers – Failure to pay when due	\$10 plus 6% annual interest	\$25 plus 6% annual interest
4	Annual and quarterly financial reports of insurers and HMOs – Filing late	\$100 per day for each day overdue	\$175 per day for each day overdue
5	Managing General Agents Act – Violating the act (Fine is in addition to license revocation or suspension.)	\$10,000 for each violation	\$15,000 for each violation
6	Insurance Holding Company Act – An individual's willful violation of the act (If intentional fraud, the fine is in addition to, or in lieu of, up to two years in prison.)	Up to \$3,000	Up to \$15,000
6	Insurance Holding Company Act – An insurance company's willful violation of the act	Up to \$10,000	Up to \$50,000
6	Insurance Holding Company Act – Willfully and knowingly making a false statement or report to deceive the commissioner	Up to \$25,000, up to five years in prison, or both	Up to \$50,000, up to five years in prison, or both
6	Insurance Holding Company Act – An insurance company,	\$100 each day, up to \$10,000	\$150 each day, up to \$15,000

Act §	Description	Prior Fine	New Fine
	without just cause, does not file a required registration statement	maximum	maximum
6	Insurance Holding Company Act – A director or officer willfully violates the act or agrees to engage in transactions or investments not properly reported or permitted	Up to \$5,000 for each violation	Up to \$7,500 for each violation
7	Insurance Premium Finance Companies – Violating act (Fine is in addition to, or in lieu of, license suspension or revocation.)	Up to \$1,000 for each violation	Up to \$5,000 for each violation
8	Utilization Review (UR) – Violating the UR law (Fine is in addition to license suspension or revocation.) If company knew or should have known of violation.	Up to \$1,000 for each violation and \$10,000 maximum Up to \$5,000 for each violation and \$50,000 maximum in any six-month period	Up to \$1,500 for each violation and \$15,000 maximum Up to \$7,500 for each violation and \$75,000 maximum in any six-month period
8	Utilization Review – Violating commissioner's cease and desist order (Fine is in lieu of license suspension or revocation.)	Up to \$50,000	Up to \$75,000
9	Utilization Review – Providing fraudulent or misleading information to a UR company	Up to \$5,000 or equal to the value of services provided due to the fraud	Up to \$7,500 or equal to the value of services provided due to the fraud
10	Unauthorized Insurers Act– Not paying premium tax on time	The greater of 10% of the tax or \$50, plus 1% interest per month	The greater of 10% of the tax or \$75, plus 1% interest

Act §	Description	Prior Fine	New Fine
			per month
11	Unauthorized Insurers Act—Any unauthorized insurer doing insurance business	Up to \$10,000	Up to \$50,000
11	Unauthorized Insurers Act— Violating the specific provisions of the act	\$500 for first offense and \$500 for each month it continues	\$2,500 for first offense and \$2,500 for each month it continues
12	Defrauding a life or accident insurance company	If less than \$100 obtained due to fraud: up to \$500, up to one year in prison, or both (If more: up to 10 years in prison)	If less than \$2,000 obtained due to fraud: up to \$10,000, up to one year in prison, or both (If more: up to 10 years in prison)
13	Standard Form of Fire Insurance Policy – Making, issuing, or delivering a fire insurance policy that is not the statutorily required standard policy	Up to \$200 for each offense	Up to \$1,000 for each offense
14	Group Life Insurance – Failure to give an insured a notice of insurance cancellation or discontinuance	Up to \$1,000 for each violation	Up to \$2,000 for each violation
15	Burial Contracts – Issuing burial contracts without a license or without the required provisions	Up to \$500, up to one year in prison, or both	Up to \$6,000, up to one year in prison, or both
16	Individual Health Insurance – Delivering an individual policy that does not meet statutory requirements	Up to \$500 for each offense	Up to \$10,000 for each offense
17	Group Health Insurance – Failure to give an insured a notice of insurance cancellation or	Up to \$1,000 for each violation	Up to \$2,000 for each violation

<i>Act §</i>	<i>Description</i>	<i>Prior Fine</i>	<i>New Fine</i>
	discontinuance		
18	Group Health Insurance – Delivering a group policy that does not meet statutory requirements	Up to \$500 for each offense	Up to \$1,000 for each offense
19	Consumer Dental Plans – Not complying with statutory requirements	Up to \$1,000 for each violation	Up to \$1,500 for each violation
20	Fraternal Benefit Societies– Making false or misleading statements regarding the insurance contract or knowingly receiving compensation because of such violation	\$100 to \$500 fine, 30 days to one year in prison, or both	\$2,000 to \$10,000 fine, 30 days to one year in prison, or both
21	Fraternal Benefit Societies– Willfully making a false or fraudulent statement on a membership application	\$100 to \$500 fine, 30 days to one year in prison, or both	\$2,000 to \$10,000 fine, 30 days to one year in prison, or both
21	Fraternal Benefit Societies– Soliciting membership for unlicensed fraternal benefit society	\$50 to \$200	\$1,000 to \$4,000
21	Fraternal Benefit Societies– Willfully violating, neglecting, or refusing to comply with fraternal benefit society statutes when no other penalty is specified	Up to \$200	Up to \$4,000
22	Credit Life, Accident and Health Insurance – Violating statutory requirements	Up to \$250, two years in prison, or both	Up to \$1,500, two years in prison, or both
23	Personal and Commercial Risk Insurance Rating Practices – Not complying with the commissioner's final order	Up to \$1,000, but if willful, up to \$10,000, up to one year in prison, or both	Up to \$2,000, but if willful, up to \$20,000, up to one year in prison, or

<i>Act §</i>	<i>Description</i>	<i>Prior Fine</i>	<i>New Fine</i>
			both
24	Insurance Producers – Soliciting business for unlicensed insurance company	Up to \$100, up to six months in prison, or both	Up to \$2,000, up to six months in prison, or both
25	Insurance Producers – Acting without a license	Up to \$500, up to three months in prison, or both	Up to \$10,000, up to three months in prison, or both
26	Insurance Producers – Signing or countersigning insurance policies in blank by an insurance producer (Fine is in addition to license revocation.)	Up to \$100	Up to \$1,000
27	Public Adjusters – Acting as a public adjuster without a license	Up to \$500, up to three months in prison, or both	Up to \$10,000, up to three months in prison, or both
28	Certified Insurance Consultants – Not acknowledging or giving receipt for services	\$50 to \$500	\$250 to \$2,500
29	Certified Insurance Consultants – Receiving compensation in violation of law	\$50 to \$500 fine, 30 to 90 days in prison, or both	\$250 to \$2,500 fine, 30 to 90 days in prison, or both
30	Certified Insurance Consultants – Acting as certified insurance consultant without a license	\$50 to \$500 fine, up to six months in prison, or both	\$250 to \$2,500 fine, up to six months in prison, or both
31	Fraternal Agents – Acting as fraternal agent without a license	Up to \$100	Up to \$10,000
32	Licensing in General – Willful misrepresentation on a license application	Up to \$500, up to six months in prison, or both	Up to \$4,000, up to six months in prison, or both

<i>Act §</i>	<i>Description</i>	<i>Prior Fine</i>	<i>New Fine</i>
33	Licensing in General – Impersonating another person when taking an insurance license examination	Up to \$500, up to six months in prison, or both	Up to \$4,000, up to six months in prison, or both
34	Licensing in General – For cause shown (Fine is in addition to or in lieu of license suspension or revocation.)	Up to \$1,000	Up to \$5,000
35	Surplus Lines Broker – Not making and filing an affidavit or willfully making a false affidavit	Up to \$500, up to six months in prison, or both	Up to \$4,000, up to six months in prison, or both
36	Certified Insurance Consultants – Not giving commissioner information within 10 days	\$50 to \$500	\$250 to \$2,500
37	Motor Vehicle Physical Damage Appraisers – Acting without a license	Up to \$500, up to one year in prison, or both	Up to \$2,500, up to one year in prison, or both
38	Casualty Claim Adjusters– Acting without a license	Up to \$200, up to one year in prison, or both	Up to \$2,000, up to one year in prison, or both
39	Unfair and Prohibited Practices – Committing an unfair or prohibited practice (Fine is in addition to, or in lieu of, license suspension or revocation and restitution.)	Up to \$1,000 for each violation, \$10,000 maximum	Up to \$5,000 for each violation, \$50,000 maximum
39	Unfair and Prohibited Practices – Knowingly committing an unfair or prohibited practice (Fine is in addition to, or in lieu of, license suspension or license revocation and restitution.)	Up to \$5,000 for each violation, \$50,000 maximum in any six-month period	Up to \$25,000 for each violation, \$250,000 maximum in any six-month period
39	Unfair and Prohibited Practices – Violating a cease	Up to \$10,000 for each	Up to \$50,000 for each

<i>Act §</i>	<i>Description</i>	<i>Prior Fine</i>	<i>New Fine</i>
	and desist order (Fine is in addition to, or in lieu of, license suspension or revocation.)	violation	violation
40	Unfair and Prohibited Practices – Any misrepresentation to convince an insured to surrender a policy and replace it with another	Up to \$500, up to 30 days in prison, or both	Up to \$5,000, up to 30 days in prison, or both
41	Unfair and Prohibited Practices – Publishing a false statement of assets or one that does not meet statutory requirements	\$500 for first offense, \$1,000 for each subsequent offense	\$10,000 for first offense, \$20,000 for each subsequent offense
42	Connecticut Insurance Guaranty Association – Not paying assessment when due (Fine is in lieu of license suspension or revocation.)	Up to 5% of the unpaid amount per month, but at least \$100 a month	Up to 5% of the unpaid amount per month, but at least \$500 a month
43	Connecticut Life & Health Insurance Guaranty Association – Failure to pay when due (Fine is in lieu of license suspension or revocation.)	Up to 5% of the unpaid amount per month, but at least \$100 a month	Up to 5% of the unpaid amount per month, but at least \$500 a month
44	Brokered Transactions Guaranty Fund – Penalty for filing a document that is false or untrue or has a material misrepresentation	At least \$200	At least \$300
45	Brokered Transactions Guaranty Fund – Penalty for embezzlement (Penalty is in addition to restitution, attorney costs and fees, and other relief a court may order)	Up to \$1,000	Up to \$1,500
46	Rehabilitation and Liquidation Act – Failure to cooperate	Up to \$10,000, up to one year in prison, or	Up to \$10,000, up to one year

Act §	Description	Prior Fine	New Fine
	with the commissioner	both; or up to \$10,000 and suspended or revoked license	in prison, or both; or up to \$25,000 and suspended or revoked license
47	Rehabilitation and Liquidation Act – Any agent not giving required notice of policies written for an insurer subject to liquidation or not filing a compliance report (Fine is in addition to, or in lieu of, license suspension or revocation.)	Up to \$1,000	Up to \$2,500
48	Rehabilitation and Liquidation Act – Not paying collected premiums and unearned commissions to the liquidator (Fine is in addition to, or in lieu of, license suspension, revocation, or non-renewal.)	Up to \$1,000 for each violation	Up to \$2,500 for each violation
49	Connecticut Insurance Information and Privacy Protection Act – Obtaining information from an insurance institution under false pretenses	Up to \$10,000	Up to \$20,000
51	Medical Discount Plans – Knowingly operating as a medical discount plan organization in violation of law	Up to \$10,000	Up to \$15,000
51	Medical Discount Plans – Knowingly aiding or abetting someone who the person knew or reasonably should have known was operating as a medical discount plan organization in violation of law	Up to \$10,000	Up to \$15,000

Act §	Description	Prior Fine	New Fine
52	Medical Discount Plans – Violating any provision of the law regulating such plans	Up to \$2,000	Up to \$3,000

BACKGROUND

Prompt Claim Payment

Connecticut law requires insurers to pay claims within 45 days after receiving a (1) claimant's proof of loss (i.e., claim form) or (2) health care provider's request for payment. When the insurer determines a deficiency in the claim or request prevents it from processing the claim, it must (1) send the claimant or provider written notice of all alleged deficiencies within 30 days of receiving the claim and (2) pay the claim within 30 days after receiving the requested information.

An insurer that fails to pay a claim in a timely manner must include 15% interest with the claim payment. The interest payment is in addition to other penalties that may apply by law. For any interest payments under \$1, the insurer must instead deposit the interest in a separate, interest-bearing account and donate the account balance to the University of Connecticut Health Center at year end.

The law already includes as a "health care provider," for purposes of prompt claims payment, physicians and surgeons, chiropractors, naturopaths, podiatrists, athletic trainers, physical therapists, occupational therapists, alcohol and drug counselors, radiologists, midwives, nurses, nurse's aides, dentists, dental hygienists, optometrists, opticians, respiratory care practitioners, perfusionists, pharmacists, psychologists, marital and family therapists, clinical social workers, professional counselors, massage therapists, dietician-nutritionists, and acupuncturists.

It also includes licensed health care institutions such as hospitals; residential care homes; health care facilities for the handicapped; nursing homes; rest homes; home health care agencies; homemaker-home health aide agencies; mental health facilities; substance abuse treatment facilities; student infirmaries; facilities providing services for the prevention, diagnosis, and treatment of human health conditions; and Medicaid-certified residential facilities for the mentally retarded.

PA 08-181—sHB 5157

Insurance and Real Estate Committee

AN ACT CONCERNING THE MARKETING OF MEDICAL DISCOUNT PLANS, THE ISSUING OF SMALL EMPLOYER PLANS AND ARRANGEMENTS BY THE COMPTROLLER AND ASSOCIATION GROUPS, AND AN OFFSET OF THE ANNUAL STANDARD PREMIUM REQUIRED OF WORKERS' COMPENSATION SELF-INSURANCE GROUPS

SUMMARY: This act explicitly permits a licensed medical discount plan organization (MDPO) to market plans directly or through a marketer with which it has a written agreement. Prior law implied this. The act includes operating restrictions for marketers and requirements for MDPOs. It permits the insurance commissioner to (1) take specified actions against an MDPO if its marketer uses unapproved marketing material and (2) in the absence of a court order for financial restitution, order a person convicted of larceny for collecting membership fees without providing the promised benefits to pay restitution.

The act prohibits the insurance commissioner from requiring that a marketer obtain a license. It specifies that an MDPO that contracts with a marketer is bound by, and responsible for, the marketer's activities done on its behalf. It requires an MDPO to provide the commissioner a list of its Connecticut marketers operating under a different name from its own and to update the list as necessary. By law, anyone who violates the MDPO law is subject to a fine of up to \$2,000 (\$3,000 effective October 1, 2008 (PA 08-178, § 52)).

This act permits health insurers to issue "specified disease" policies in Connecticut; prohibits group or individual health insurance plans from coordinating benefits with these policies; and requires the insurance commissioner to adopt regulations by January 1, 2009 to establish minimum standards for group policies. Prior law prohibited insurers from issuing specified disease policies, except as the commissioner allowed in regulations adopted to establish minimum policy standards, or as provided for in statute. (Regulations are in effect for individual policies (Conn. Agencies Regs. § 38a-505-13).)

The act lowers, from 10,000 to 3,000, the number of people needed to be covered in order to exempt small employer groups purchasing health insurance through the Municipal Employer Health Insurance Plan (MEHIP) or an association group plan from the existing small employer rating law and adds additional requirements for an association to avail itself of this option. It requires the 3,000 people to be employees. Prior law required them to be eligible individuals, which

presumably included employees and dependents.

The act permits a proposed workers' compensation self-insurance group to offset or reduce its annual standard premium, which the law requires to be at least \$1 million, by depositing equivalent liquid assets in an interest-bearing claims reserve account set up in the group's name. It prohibits the group from pledging, hypothecating (e.g., using as collateral), or otherwise encumbering its assets to secure debt, guaranty, or obligations.

The act also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2008, except for the provisions regarding specified disease policies, which are effective upon passage.

MEDICAL DISCOUNT PLAN ORGANIZATION (MDPO)

Definitions

By law, an "MDPO" is an entity that establishes a medical discount plan, contracts with providers or other MDPOs to provide discounted health care services to members, and sets the membership fee. Connecticut-licensed health insurers, HMOs, hospital or service corporations, and fraternal benefit societies, or their affiliates, are not MDPOs, but can offer medical discount plans.

The act defines "marketer" as a person that markets, advertises, or sells a medical discount plan, including an entity that markets, advertises, or sells such a plan under its own name.

Written Agreement with Marketer Required

The act permits an MDPO to market plans directly or to contract with marketers. Before a marketer can conduct business on an MDPO's behalf, an MDPO must (1) have a written agreement with the marketer and (2) add the marketer to its list of authorized marketers on file with the commissioner. The act requires that the written agreement between an MDPO and a marketer prohibit the marketer from using any advertising and marketing material, including brochures and plan identification cards, without the MDPO's prior written approval.

It specifies that an MDPO that contracts with a marketer is bound by, and responsible for, the marketer's activities done on its behalf within the scope of the contractual relationship. It requires an MDPO to cooperate in any investigation of a contracted marketer as the commissioner orders.

List of Authorized Marketers

The act requires an MDPO to provide the commissioner a list of its Connecticut marketers operating under a different name from its own. The list must include the marketers' names, addresses, and telephone numbers. The MDPO must submit the list (1) with its license application, (2) with each license renewal fee, and (3) electronically when the list changes. A marketer cannot begin working on behalf of an MDPO until the MDPO gives the commissioner the marketer's information. The act authorizes the commissioner to adopt regulations establishing an electronic filing and acknowledgement process for this purpose.

Advertising and Marketing Material

By law, medical discount plan advertising and marketing material, among other things, must (1) use plain language that does not lead to a misleading, deceptive, or fraudulent representation of the discounts; (2) provide a clear and conspicuous disclosure that the plan is not insurance; and (3) generally not use the following terms: insurance, health plan, coverage, copay, copayments, preexisting conditions, guaranteed issue, premium, PPO, preferred provider organization, or any other term that could lead a person to believe the plan is insurance.

The act permits the commissioner to order an MDPO to (1) immediately remove from its list of authorized marketers a marketer that violates these requirements and (2) refund membership fees paid by state residents harmed by the violation. When the commissioner is investigating a marketer's alleged violation, the act requires MDPOs to make available to him, upon request, a copy of its contract with the marketer and the marketer's advertising and marketing material.

Prohibitions

The act prohibits a marketer from marketing, advertising, or selling to Connecticut residents under a name that is different from the MDPO's name unless (1) the MDPO has a license to operate from the insurance commissioner; (2) the MDPO includes the marketer on its list of authorized marketers and electronically filed an updated list with the commissioner; (3) the MDPO's name, address, and telephone number appear on plan material; and (4) the marketer does not contract directly with providers or provider networks.

The act prohibits a marketer from marketing, advertising, or selling on an MDPO's behalf after the MDPO's license has been surrendered, not renewed, or revoked.

Restitution when Convicted of Larceny

By law, anyone who collects medical discount plan membership fees but fails to provide the promised benefits is guilty of larceny. The act authorizes the commissioner, in the absence of a court order for financial restitution, to order a person convicted of larceny for the above reason to reimburse membership fees collected from state residents harmed by the offense.

COORDINATING BENEFITS WITH SPECIFIED DISEASE POLICIES PROHIBITED

Prior law allowed health insurance plans to coordinate benefit payments when two or more plans covered the medical expenses a person incurred. The act prohibits a group or individual health insurance plan from coordinating benefits, or otherwise reducing benefit payments, because a person covered under its terms is also covered by or receiving benefits from a group specified disease policy that was delivered, issued, renewed, amended, or continued in Connecticut. Thus, under the act, if a person is covered under both a group specified disease policy and another health insurance plan, each plan must adjudicate claims and pay benefits without considering what the other policy is paying.

An insurance policy's coordination of benefits provision (COB) is designed to avoid duplicate claim payments so that a person's benefits from all coverage sources do not exceed 100% of the person's incurred medical expense. For a person covered under more than one health plan, COB establishes the order, manner, and extent to which the plans will pay claims for benefits covered under each.

SMALL EMPLOYER RATING EXEMPTION

The act lowers, from 10,000 to 3,000, the number of people needed to be covered in order to exempt small employer groups purchasing health insurance through MEHIP or an association group plan from the existing small employer rating law, which requires adjusted community rating, at the comptroller's or association group plan administrator's option, under certain circumstances. The MEHIP or association plans offered or issued must cover small employer groups as a single group and insure at least 3,000 employees; each small employer must be offered the same premium rates for each employee and dependent (i.e., rated using a pure community rating methodology); and the plans must be written on a guaranteed issue basis.

The act also requires such an association to be a bona fide group as set forth in the federal Employee Retirement and Security Act (ERISA). And it cannot (1) be a fictitious grouping (a grouping for rating

purposes where a rate differentiation is based solely upon group membership) or (2) issue a plan that causes undue disruption in the insurance marketplace, as determined by the commissioner.

BACKGROUND

Medical Discount Plan

A medical discount plan is an arrangement or contract that allows people who pay a membership fee access to discounted health care services. It does not include a product (1) already subject to regulation or approval by the insurance commissioner or (2) that costs less than \$25 annually.

The law prohibits marketing, advertising, or selling medical discount plans or using plan materials that do not:

1. provide a clear and conspicuous disclosure that the plan is not insurance;
2. include the plan administrator's name, address, and telephone number;
3. have a toll-free telephone number through which a member can obtain a complete and accurate list of the local participating providers and applicable discounted services;
4. promise that a printed copy of the provider list, which must be updated at least once every six months, is available upon request;
5. use plain language that is not misleading, deceptive, or fraudulent;
6. provide notice of the consumer's right to cancel the plan within 30 days of the discount health plan's receipt of membership fees for a full refund minus a reasonable processing fee; and
7. guarantee the refund within 30 days of receiving a member's timely cancellation.

The plan or plan material cannot use any term that could lead a person to believe the plan is insurance, except in a disclaimer that the plan is not insurance. It can offer only discounted health care services or products that a provider agreement authorizes.

The MDPO must issue at least one member discount card to each member and provide the names of the networks to members upon request.

Each MDPO must (1) give the commissioner at least 30 days advance written notice if it changes its name or address, (2) maintain an up-to-date list of its participating providers' names and addresses on an Internet website, and (3) include its website address prominently on all plan material.

Related Act – Penalty for Illegal MDPO

PA 08-178 (§ 51), effective October 1, 2008, increases the maximum fine, from \$10,000 to \$15,000, for a person who knowingly (1) operates as an MDPO in violation of the law or (2) aides or abets someone who he or she knew, or reasonably should have known, was operating as an MDPO illegally.

Small Employer Rating Law

Connecticut law requires insurers and HMOs to use an adjusted community rating process when developing premium rates for small employer groups. Community rating is the process of developing a uniform rate for all. An "adjusted" community rate is a rate the insurer or HMO develops by modifying the community rate by one or more classifications the law permits.

The law allows a small employer group's rates to be adjusted to reflect the group's demographics (age, gender, size, family composition, location, and industry) and the administrative cost and profit reduction savings resulting from administering or writing an association or MEHIP group plan.

MEHIP

MEHIP is a health insurance program that the Comptroller is authorized to sponsor. The legislature has expanded MEHIP eligibility over the years to include (1) certain nonprofit corporations, (2) community action agencies, (3) small employers, and (4) certain eligible individuals, including members of an association for personal care assistants and people eligible for a (a) federal health coverage tax credit or (b) retirement benefit from the Connecticut municipal employees' retirement system (CGS § 5-259(i)).

ERISA and Bona Fide Group

ERISA does not define a bona fide group. Rather, it defines "employee welfare benefit plan," which includes "any plan...established or maintained by an employer...for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise...medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, death or unemployment...." ERISA defines "employer" as including "a group or association of employers acting for an employer.... (29 USCA § 1002)."

The U.S. Department of Labor (DOL), the agency authorized to interpret and enforce ERISA, has used these definitions to determine, and explain in opinion letters, whether particular organizations or associations are bona fide groups for ERISA purposes. These administrative interpretations carry the force of law

(*Marcella v. Capital Dist. Physicians Health Plan, Inc.*, 293 F.3d 42, 49 (2d Cir. 2002) (finding that a group or association that contains non-employers cannot be an “employer” within the meaning of ERISA)).

The DOL has taken the view that a single “employee welfare benefit plan” may exist where a cognizable, bona fide group or association of employers acts in the interests of its employer members to establish a benefit program for the members’ employees (Advisory Op. 94-07A and 2001-04A).

It has stated that whether there is a bona fide employer group or association must be determined based on the facts and circumstances involved, including how members are solicited; who is entitled to, and actually does, participate in the association; how and why the association was formed and what, if any, were the preexisting relationships of its members; the powers, rights, and privileges of employer members; and who actually controls and directs the benefit program. The employers that participate in a benefit program must, either directly or indirectly, exercise control over the program in order to act as a bona fide employer group or association with respect to the program (Advisory Op. 2005-25A).

Workers’ Compensation Self-Insurance Group

Connecticut law permits private employers engaged in the same or similar types of businesses to establish workers’ compensation self-insurance groups. The law defines a self-insurance group as a not-for-profit association consisting of 15 or more employers who enter into agreements to pool their liability for workers’ compensation benefits and employers’ liability claims. The employers must be members of the same bona fide trade or professional association and the association must have been in existence for at least five years (CGS §§ 38a-1000 to 38a-1023).

PA 08-41—HB 5529
Judiciary Committee

AN ACT CONCERNING YOUTH WHO RUN AWAY

SUMMARY: Until January 1, 2010, this act permits judges to order 16- and 17-year-old runaways who they adjudicate as being “youth in crisis” to submit to the control of their parents, guardians, foster parents, or other custodians for a period the court specifies. The court must find that the youth meets the legal criteria under the youth in crisis law (i.e., that the reason for running away was not justified).

The order cannot override any other law or extend beyond the youth’s 18th birthday. As with other court orders directed at youth in crisis, violations are not delinquent acts and cannot subject the youth to detention or imprisonment.

The law allows parents and foster parents to initiate youth in crisis proceedings. The act expands the list of caregivers who may take this action to include guardians and other custodians.

EFFECTIVE DATE: October 1, 2008

BACKGROUND

Youth in Crisis Law

The law, which is repealed by PA 07-4 (June Special Session) on January 1, 2010, covers 16- and 17-year-olds who are beyond their parents’, guardians’, or other custodian’s control; run away from home; or fail to go to school. Juvenile court judges can make and enforce orders directed at youth in crisis, including suspending driver’s licenses and requiring school attendance, mental health or substance abuse treatment, employment, or community service. They can also consider whether a youth in crisis is eligible for emancipation (i.e., to be declared a legal adult).

PA 08-47—SB 485
Judiciary Committee

Government Administration and Elections Committee

AN ACT WAIVING COURT FEES FOR CRIMINAL RECORDS PROVIDED TO FEDERAL PUBLIC DEFENDERS

SUMMARY: This act eliminates the requirement that the Office of the Federal Public Defender pay the fee specified in CGS § 52-259 for any certified copy of any criminal record. That statute does not explicitly mention fees for copies of criminal records, but it

requires a \$25 fee for a certified copy of any judgment file.

EFFECTIVE DATE: July 1, 2008

BACKGROUND

Related Law

The law exempts the Immigration and Naturalization Service from paying these fees (CGS § 52-259a(b)(1)).

PA 08-48—SB 507

Judiciary Committee

Government Administration and Elections Committee

AN ACT CONCERNING THE ADMISSIBILITY OF REPORTS PREPARED BY PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE REGISTERED NURSES

SUMMARY: This act applies the same rules in civil cases concerning the admissibility of records, reports, and acts of physician assistants (PA) and advanced practice registered nurses (APRN) as currently apply to physicians, dentists, chiropractors, naturopaths, physical therapists, podiatrists, psychologists, emergency medical technicians, and optometrists.

Specifically, the act allows signed reports and bills of PA’s and APRN’s to be introduced in any civil action as business entry evidence without calling the professional to testify. The act establishes a presumption that the signature on the report is the PA’s or APRN’s and that it was made in the ordinary course of business.

Also, the act allows any party in a civil action for personal injuries or death to apply to the court where the action is pending to introduce as a business entry, written records and reports about the injured or deceased patient made by a PA or APRN who (1) died before the trial or (2) is physically or mentally disabled at the time of trial and no longer actively engaged in his or her profession. These records and reports must be about the circumstances under which the patient’s injury or death was sustained.

The court must determine whether the PA or APRN is disabled to the extent that he or she cannot testify in person. If the court finds that the person is disabled, it must admit the evidence as a business entry.

EFFECTIVE DATE: October 1, 2008

PA 08-49—SB 604
Judiciary Committee

AN ACT CONCERNING HATE CRIMES

SUMMARY: This act makes it a discriminatory practice to place a noose or simulation of one (1) on public property or on private property without the owner's written consent and (2) with intent to intimidate or harass someone based on religion, national origin, alienage, color, race, sex, sexual orientation, blindness, or physical disability.

Committing a discriminatory practice is a class A misdemeanor but it is a class D felony if property damage over \$1,000 results (see Table on Penalties). It is also a class D felony if the person commits the discriminatory practice (1) while wearing a mask, hood, or other device designed to conceal his identity and (2) intends to deprive another person of any legally guaranteed right because of his religion, national origin, alienage, color, race, sex, sexual orientation, blindness, or physical disability (CGS § 53-37a).

EFFECTIVE DATE: October 1, 2008

BACKGROUND

Discriminatory Practices

By law, it is a discriminatory practice to:

1. deprive someone of any legally guaranteed right because of his or her religion, national origin, alienage, color, race, sex, sexual orientation, blindness, or physical disability;
2. intentionally desecrate any public property, monument, or structure; religious object, symbol, or house of worship; cemetery; or private structure; or
3. place a burning cross or simulation of one on public property or on private property without the owner's written consent.

PA 08-51—sSB 671
Judiciary Committee
Appropriations Committee

AN ACT CONCERNING PERSISTENT DANGEROUS FELONY OFFENDERS AND PROVIDING ADDITIONAL RESOURCES TO THE CRIMINAL JUSTICE SYSTEM

SUMMARY: By law, someone may be prosecuted as a persistent dangerous felony offender if he or she stands convicted of certain serious crimes and has prior convictions of certain serious crimes. This act sets minimum penalties for persistent dangerous felony

offenders and, in some instances, increases the maximum penalties for these offenders. It does so in the following way.

1. For those with one of the required prior convictions, it changes the penalty from up to 40 years in prison to a range between twice the minimum penalty for the crime the person stands convicted of, including twice any mandatory minimum sentence that applies, to a maximum of 40 years or twice the maximum penalty for the crime the person stands convicted of, whichever is longer. (This is often referred to as "two strikes.")
2. For those with two of the required prior convictions, it changes the penalty from up to life in prison (statutorily defined as up to 60 years) to a range between three times the minimum penalty for the crime the person stands convicted of, including three times any mandatory minimum sentence that applies, and life in prison (60 years). (This is often referred to as "three strikes.")

The act requires the prosecutor, when a person is arrested for one of the crimes that could make him or her eligible for prosecution as a persistent dangerous felony offender, to investigate whether the person meets the criteria to be sentenced as a persistent dangerous felony offender by having two of the required prior convictions. If the prosecutor determines the person would be eligible and the person has been presented to a geographical area courthouse, the prosecutor must have the person transferred to a judicial district courthouse.

The act prohibits a court from accepting a plea of guilty, not guilty, or no contest from someone arrested for one of these crimes unless it finds that the prosecutor investigated the person's eligibility for prosecution and sentencing as a persistent dangerous felony offender.

If the prosecutor finds that a person has the two required prior convictions making him or her eligible for prosecution and sentencing as a persistent dangerous felony offender, the act requires the prosecutor to state on the record specific reasons for terminating or not initiating proceedings to seek an enhanced sentence.

The act also makes a number of appropriations to criminal justice agencies.

EFFECTIVE DATE: Upon passage, except for the appropriations which are effective July 1, 2008.

PENALTIES FOR PERSISTENT DANGEROUS FELONY OFFENDERS

By law, there are two separate paths to being classified as a persistent dangerous felony offender (see BACKGROUND). A person must stand convicted of certain serious crimes and have certain serious prior convictions. Under prior law, someone who was a

persistent dangerous felony offender with one of the required prior convictions was sentenced to up to 40 years in prison and someone with two of the required prior convictions was sentenced to up to life in prison (statutorily defined as 60 years). Under the act, the penalty for these offenders is tied to the penalty for the crime that the offender stands convicted of but with maximum sentences at least as long as under prior law. Table 1 shows the crimes that a person can stand convicted of under the persistent dangerous felony offender statute and the changes to the penalties the act makes depending on whether the offender has one or two of the specified prior convictions.

The persistent dangerous felony offender statute uses the terms “manslaughter,” “arson,” “kidnapping,” and “assault in the first degree.” These do not refer to specific criminal statutes but they appear to apply to all of the crimes listed below. For example, “manslaughter” appears to include the crimes of 1st degree manslaughter, 1st degree manslaughter with a firearm, 2nd degree manslaughter, 2nd degree manslaughter with a firearm, and 2nd degree manslaughter with a motor vehicle.

Table 1: Penalties under Prior Law and the Act, Based on the Offender’s Current Conviction and Criminal Record

Current Conviction	Penalty With One Prior Conviction		Penalty With Two Prior Convictions	
	Prior Law	Under the Act	Prior Law	Under the Act
Manslaughter 1 st degree (CGS § 53a-55)	Up to 40 years	2 to 40 years	Up to 60 years	3 to 60 years
Manslaughter 1 st degree with a firearm (CGS § 53a-55a)	Up to 40 years	10 to 80 years; 10 year mandatory minimum	Up to 60 years	15 to 60 years; 15 year mandatory minimum
Manslaughter 2 nd degree (CGS § 53a-56)	Up to 40 years	2 to 40 years	Up to 60 years	3 to 60 years
Manslaughter 2 nd degree with a firearm (CGS § 53a-56a)	Up to 40 years	2 to 40 years; 2 year mandatory minimum	Up to 60 years	3 to 60 years; 3 year mandatory minimum
Manslaughter 2 nd degree with motor a vehicle (CGS § 53a-56b)	Up to 40 years	2 to 40 years	Up to 60 years	3 to 60 years
Arson 1 st degree (CGS § 53a-111)	Up to 40 years	20 to 50 years (see BACKGROUND)	Up to 60 years	30 to 60 years (see BACKGROUND)
Arson 2 nd degree (CGS § 53a-112)	Up to 40 years	2 to 40 years	Up to 60 years	3 to 60 years
Arson 3 rd degree (CGS § 53a-113)	Up to 40 years	2 to 40 years	Up to 60 years	3 to 60 years
Kidnapping 1 st degree or 1 st degree with firearm (CGS §§ 53a-92 and 53a-92a)	Up to 40 years	20 to 50 years; 2 year mandatory minimum (see BACKGROUND)	Up to 60 years	30 to 60 years; 3 year mandatory minimum (see BACKGROUND)
Kidnapping 2 nd degree or 2 nd degree with a firearm (CGS §§ 53a-94 and 53a-94a)	Up to 40 years	2 to 40 years; 6 year mandatory minimum	Up to 60 years	3 to 60 years; 9 year mandatory minimum
Robbery 1 st degree (CGS § 53a-134)	Up to 40 years	2 to 40 years; 10 year mandatory minimum if armed with a deadly weapon	Up to 60 years	3 to 60 years; 15 year mandatory minimum if armed with a deadly weapon
Robbery 2 nd degree (CGS § 53a-135)	Up to 40 years	2 to 40 years	Up to 60 years	3 to 60 years
Assault 1 st degree	Up to 40	2 to 40 years; 10	Up to 60	3 to 60 years;

(CGS § 53a-59)	years	year mandatory minimum if used a deadly weapon or dangerous instrument to cause serious physical injury or 20 year mandatory minimum if victim under age 10 or a witness	years	15 years mandatory minimum if used a deadly weapon or dangerous instrument to cause serious physical injury or 30 year mandatory minimum if victim under age 10 or a witness
Assault of elderly, blind, disabled, pregnant, or mentally retarded person 1 st degree (CGS § 53a-59a)	Up to 40 years	2 to 40 years; 10 year mandatory minimum	Up to 60 years	3 to 60 years; 15 year mandatory minimum
Assault of corrections employee 1 st degree (CGS § 53a-59b)	Up to 40 years	2 to 40 years	Up to 60 years	3 to 60 years
Home invasion (PA 08-1, January Special Session, § 1)	Up to 40 years	20 to 50 years; 20 year mandatory minimum	Up to 60 years	30 to 60 years; 30 year mandatory minimum
Burglary 1 st degree (CGS § 53a-101)	Up to 40 years	2 to 40 years; 10 year mandatory minimum if armed with explosives, deadly weapon, or dangerous instrument	Up to 60 years	3 to 60 years; 15 year mandatory minimum if armed with explosives, deadly weapon, or dangerous instrument
Burglary 2 nd degree with a firearm (CGS § 53a-102a)	Up to 40 years	2 to 40 years; 2 year mandatory minimum	Up to 60 years	3 to 60 years; 3 year mandatory minimum
Sexual assault 1 st degree (CGS § 53a-70)	Up to 40 years	Depending on the circumstances and age of the victim: 2 to 40 years or 20 to 50 years; mandatory minimum of 4, 10, or 20 years	Up to 60 years	Depending on the circumstances and age of the victim: 3 to 60 years or 30 to 60 years; mandatory minimum of 6, 15, or 30 years
Aggravated sexual assault 1 st degree (CGS § 53a-70a)	Up to 40 years	2 to 40 years or 20 to 50 years if victim under 16 years; 10 year mandatory minimum or 40 year mandatory minimum if victim under 16 and force used or threatened	Up to 60 years	3 to 60 years or 30 to 60 years if victim under 16 years; 15 year mandatory minimum or 60 year mandatory minimum if victim under 16 and force used or threatened
Sexual assault 3 rd degree (CGS § 53a-72a)	Up to 40 years	2 to 40 years	Up to 60 years	3 to 60 years
Sexual assault 3 rd degree with a firearm (CGS § 53a-72b)	Up to 40 years	2 to 40 years; 4 year mandatory minimum	Up to 60 years	3 to 60 years; 6 years mandatory minimum

*Arson murder is not included in this table because it is punishable by life imprisonment without eligibility for parole.

APPROPRIATIONS

The act appropriates the following in FY 09:

1. \$681,000 to the Division of Criminal Justice to enhance prosecution of repeat offenders, administrative coordination, and information technology capacity;
2. \$512,000 to the Public Defender Services Commission to enhance the legal defense of indigent defendants and handle increased prosecutions;

3. \$5,232,000 to the Judicial Branch to enhance court operations and probation supervision of sex offenders, including using global positioning system (GPS) and polygraph technology; increase the capacity to serve outstanding warrants for probation violations; provide truancy prevention; and create a juvenile justice urban cities pilot program;
4. \$514,000 to the Department of Public Safety to hire additional staff in the State Police Major Crime Squad;
5. \$2,147,000 to the Department of Correction to fund alternative housing, additional correction and parole officers, expanded GPS use in supervising parolees, and additional staff for the Board of Pardons and Paroles to screen parole candidates and process files; and
6. \$910,000 to the Department of Mental Health and Addiction Services to enhance coordination and monitoring of community services for individuals served by alternative supervision and intervention support teams, provide supportive housing for individuals in the jail diversion and reentry programs, enhance the women’s jail diversion program, and hire an additional clinician to expand the alternative drug intervention program’s capacity.

BACKGROUND

Persistent Dangerous Felony Offender Classification

By law, a prosecutor can elect to charge someone as a persistent dangerous felony offender if the person (1) stands convicted of certain crimes and (2) has been, before committing the present crime, convicted of certain crimes and punished with a prison sentence of more than one year or death for them. There are two separate paths to being classified as a persistent dangerous felony offender. Table 2 displays these paths.

The persistent dangerous felony offender statute uses the terms “murder,” “manslaughter,” “arson,” “kidnapping,” and “assault in the first degree.” These do not refer to specific criminal statutes, but it appears to apply to all of the crimes listed below. For example, “manslaughter” appears to include the crimes of 1st degree manslaughter, 1st degree manslaughter with a firearm, 2nd degree manslaughter, 2nd degree manslaughter with a firearm, and 2nd degree manslaughter with a motor vehicle.

Table 2: Persistent Dangerous Felony Offender Classification

Current Conviction (§ 53a-40(a)(1))			
Statute	Name	Statute	Name
53a-55	Manslaughter 1 st degree	53a-94	Kidnapping 2 nd degree
53a-55a	Manslaughter 1 st degree with a firearm	53a-94a	Kidnapping 2 nd degree with a firearm
53a-56	Manslaughter 2 nd degree	53a-134	Robbery 1 st degree
53a-56a	Manslaughter 2 nd degree with a firearm	53a-135	Robbery 2 nd degree
53a-56b	Manslaughter 2 nd degree with a motor vehicle	53a-59	Assault 1 st degree
53a-54d	Arson murder	53a-59a	Assault 1 st degree, victim elderly, blind, disabled, pregnant, or mentally retarded
53a-111	Arson 1 st degree	53a-59b	Assault 1 st degree, corrections employee
53a-112	Arson 2 nd degree	PA 08-1, Jan. Sp. Sess.	Home invasion
53a-113	Arson 3 rd degree	53a-101	Burglary 1 st degree
53a-92	Kidnapping 1 st degree	53a-102a	Burglary 2 nd degree with a firearm
53a-92a	Kidnapping 1 st degree with a firearm		
Prior Conviction (with a prison sentence of more than one year)			
Statute	Name	Statute	Name
53a-54a	Murder	53a-70a	Aggravated sexual assault 1 st degree
53a-54b	Capital felony	53a-72a	Sexual assault 3 rd degree
53a-54c	Felony murder	53a-72b	Sex assault 3 rd degree with a firearm
53a-70	Sexual assault 1 st degree		
Any of the crimes listed above on the current conviction list			
Attempt to commit any of these crimes			
Predecessor crimes			
Crimes in other states that are substantially similar			

OR

Current Conviction (§ 53a-40(a)(2))			
Statute	Name	Statute	Name
53a-70	Sexual assault 1 st degree	53a-72a	Sexual assault 3 rd degree
53a-70a	Aggravated sexual assault 1 st degree	53a-72b	Sex assault 3 rd degree with a firearm
Prior Conviction (with a prison sentence of more than one year)			
Statute	Name	Statute	Name
53a-54a	Murder	53a-92	Kidnapping 1 st degree
53a-54b	Capital felony	53a-92a	Kidnapping 1 st degree with a firearm
53a-54c	Felony murder	53a-94	Kidnapping 2 nd degree

			degree
53a-54d	Arson murder	53a-94a	Kidnapping 2 nd degree with a firearm
53a-55	Manslaughter 1 st degree	53a-134	Robbery 1 st degree
53a-55a	Manslaughter 1 st degree with a firearm	53a-135	Robbery 2 nd degree
53a-56	Manslaughter 2 nd degree	53a-59	Assault 1 st degree
53a-56a	Manslaughter 2 nd degree with a firearm	53a-59a	Assault 1 st degree, victim elderly, blind, disabled, pregnant, or mentally retarded
53a-56b	Manslaughter 2 nd degree with a motor vehicle	53a-59b	Assault 1 st degree, corrections employee
53a-111	Arson 1 st degree	PA 08-1, Jan. Sp. Sess., § 1	Home invasion
53a-112	Arson 2 nd degree	53a-101	Burglary 1 st degree
53a-113	Arson 3 rd degree	53a-102a	Burglary 2 nd degree with a firearm
Attempt to commit any of these crimes			
Predecessor crimes			
Crimes in other states that are substantially similar			

Mandatory Minimum Sentences for 1st Degree Kidnapping and 1st Degree Arson

By statute, 1st degree kidnapping is a class A felony and 10 years of a sentence for a class A felony cannot be suspended. In *State v. Jenkins*, the court ruled that it was unconstitutional to subject a person convicted of 1st degree kidnapping to a higher mandatory minimum sentence than a person convicted of kidnapping with a firearm, which is punishable as a class A felony with only a one year mandatory minimum sentence (198 Conn. 671 (1986)). The court ruled that the one-year mandatory minimum sentence would apply to both crimes.

By statute, 1st degree arson is also a class A felony. In *State v. O'Neill*, the court held that it is unconstitutional to subject a person convicted of 1st degree arson to a 10-year mandatory minimum while allowing the suspension of a sentence for arson murder, a more serious crime (200 Conn. 268 (1986)).

PA 08-53—SB 704
Judiciary Committee

AN ACT CONCERNING THE RELEASE, SALE AND ACCURACY OF CONVICTION INFORMATION

SUMMARY: PA 07-243 required, starting May 1, 2008, consumer reporting agencies to (1) inform

consumers when they are providing reports for employment purposes that include “criminal 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.

This act eliminates the requirement of verifying the information with the Judicial Department to ensure it is up-to-date and instead requires anyone, including a consumer reporting agency, who purchases “criminal matters of public record” from the Judicial Department, to follow certain procedures. They must at least:

1. purchase from the Judicial Department, on a monthly basis or other schedule set by the Judicial Department, updated records or information available to comply with the act’s provisions and
2. update their records to permanently delete any erased records.

The act requires the Judicial Department to make information concerning any “criminal matter of public record” that has been erased available to anyone who purchases these records. This information can include docket numbers or other information that allows the person to identify and permanently delete the erased records. Under prior law, the Judicial Department was generally prohibited from disclosing these erased records. The erased records relate to criminal charges that were dismissed, nolle, or resulted in a not guilty finding or convictions for which a pardon was granted. The act prohibits anyone from further disclosing the erased records.

It also alters the definition of “criminal matters of public record” to exclude erased records and pardons.
EFFECTIVE DATE: May 1, 2008

CRIMINAL MATTERS OF PUBLIC RECORD

PA 07-243 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.

The act excludes erased records and pardons from “criminal matters of public record.”

BACKGROUND

PA 07-243

PA 07-243, as amended by PA 08-1, January Special Session, took effect May 1, 2008. It applies to consumer reporting agencies that issue a consumer report that is used or expected to be used for employment purposes and that includes criminal matters of public record. A “consumer reporting agency” is a 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. It does not include any public agency.

A “consumer report” is a 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.

PA 07-243 does not apply to 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.

It also 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.

Employment Questions

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 arrests, 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, nolle, 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 08-54—sHB 5033

Judiciary Committee
Appropriations Committee

AN ACT CONCERNING SEXUAL OFFENDER NAME CHANGES

SUMMARY: This act prohibits superior and probate courts from issuing orders or otherwise allowing people required to register as sex offenders to change their names unless they:

1. notify the public safety commissioner of their intent to seek a name change before filing a name change application with the court;
2. include in the notice the new name being sought; and
3. include in the application a sworn statement that the change is not being sought to avoid the legal consequences of a criminal conviction, including registration as a sex offender.

The act gives the commissioner standing, through the attorney general, to challenge the application in the court where the name change is being sought. The court may deny the application if it finds, by a preponderance of the evidence, that the applicant is seeking the name change to avoid the legal consequences of a criminal conviction.

The law, unchanged by the act, requires people required to register as sex offenders to notify the commissioner of any name change in writing and without undue delay. It also requires the clerk of any court to notify the commissioner whenever the court orders a name change for a person required to register. By law, anyone convicted or acquitted by reason of insanity of a criminal offense against a minor, nonviolent sexual offense, sexually violent offense, or felony committed for a sexual purpose must register as a sex offender with the Department of Public Safety.

EFFECTIVE DATE: Upon passage

PA 08-56—HB 5535*Judiciary Committee**Government Administration and Elections Committee***AN ACT ADOPTING THE UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT**

SUMMARY: This act, with respect to documents eligible to be recorded in municipal land records, authorizes town clerks to:

1. receive, index, store, archive, and transmit electronic documents;
2. provide electronic access to, and search and retrieval of, documents and information;
3. convert paper documents accepted for recording into electronic form;
4. convert into electronic form information recorded before they began to record electronic documents;
5. accept electronically any fee or tax that they are authorized to collect; and
6. agree with federal and other state and local officials on (a) procedures or processes to facilitate the electronic satisfaction of prior conditions on recording and prior approvals by other officials and (b) the electronic payment of fees and taxes.

The act requires town clerks who exercise the authority the act grants to (1) comply with regulations adopted by the state librarian under the act and (2) continue to accept paper documents as authorized by state law after beginning to accept electronic documents for recording and place entries for both types of documents in the same index.

EFFECTIVE DATE: October 1, 2009

CONDITIONS FOR RECORDING

The act specifies that if a law requires, as a condition for recording, that a document be a signed original, on paper, another tangible medium, or in writing, the requirement is satisfied by an electronic document complying with the act's requirements.

The act also specifies that:

1. a requirement that a document or a signature associated with it be notarized, acknowledged, verified, witnessed, or made under oath is met if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature and
2. a physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

STATE LIBRARIAN DUTIES

The act requires the state librarian to (1) establish a Real Property Electronic Recording Advisory Committee and (2) in consultation with the committee and the public records administrator, adopt implementing regulations.

The act also requires the state librarian, consistent with the act's purposes, policies, and provisions, to consider in adopting, amending, and repealing regulations:

1. standards and practices of other jurisdictions;
2. the most recent standards promulgated by national standard-setting bodies, such as the Property Records Industry Association;
3. the views of interested persons and government officials and entities;
4. the needs of municipalities of varying sizes, population, and resources; and
5. standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved and resistant to tampering.

The act specifies that the purpose of this requirement is to harmonize the standards and practices of Connecticut town clerks with those of recording offices in other jurisdictions that enact legislation substantially the same as this act.

ELECTRONIC RECORDING ADVISORY COMMITTEE

The committee consists of:

1. three town clerks, one from a town with a population under 20,000, one from a town with a population between 20,000 and 60,000, and one from a town with a population of at least 60,000;
2. three attorneys experienced in real estate law;
3. the secretary of the state, or a designee;
4. the public records administrator, or a designee;
5. an individual experienced in mortgage banking;
6. someone experienced in the title insurance business;
7. a notary public;
8. an individual with experience performing title searches of real property; and
9. a licensed real estate broker.

The committee members must be appointed by, and serve at the pleasure of, the state librarian. The members serve without compensation, but must be reimbursed, within available appropriations, for expenses necessarily incurred performing their duties. The committee must advise the state librarian with respect to adopting, amending, and repealing regulations.

APPLYING AND INTERPRETING THE ACT

When applying and construing the act, consideration must be given to the need to promote uniformity of the law among states that enact uniform provisions.

FEDERAL LAW

The act specifies that it modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 USC 7001 *et seq.*). But the act also specifies that it does not modify, limit, or supersede consumer protections specified in federal law (15 USC 7001(c)), nor does it authorize electronic delivery of the notices described in 15 USC 7003(b) (see BACKGROUND).

CONNECTICUT UNIFORM ELECTRONIC TRANSACTIONS ACT

Prior law exempted certain land transaction laws from the Connecticut Uniform Electronic Transaction Act (CGS §§ 1-266 to 1-286). This act removes the exemption, thus making the recording of deeds subject to it (see BACKGROUND).

Specifically, it removes the exemption for the following laws.

<i>Citation</i>	<i>Title</i>
47-10	Conveyance to be recorded
47-12	Change in name or status of real estate owner
47-12a	Affidavit of facts relating to title or interest in real estate
47-14g	Divorce or marriage dissolution of husband and wife joint tenants
47-14j	Conveyance to effect change in interests among tenants
47-14k	Conveyance or devise creating a joint tenancy
47-15	Certificate of taking land by appraisal to be recorded
47-16	Lost deed of land in two or more towns, copy recorded
47-17	Records of documents as notice of equitable rights
47-18a	Notice of listing of historic structure on National Register of Historic Places
47-19	Leases for more than one year

BACKGROUND

Connecticut Uniform Electronic Transaction Act

The Connecticut Uniform Electronic Transaction Act establishes as state law a version of the Uniform Electronic Transaction Act (UETA), which provides

uniform rules governing electronic commerce transactions.

Connecticut UETA establishes a legal foundation for the use of electronic communications in transactions where the parties, including state and local governmental agencies, have agreed to conduct business electronically. It validates the use of electronic records and signatures and places electronic commerce and paper-based commerce on the same legal footing. An “electronic record” is one created, generated, sent, communicated, received, or stored by electronic means. E-mails, faxes, and Internet messaging are examples of electronic records. “Electronic signatures” are electronic sounds, symbols, or processes that people attach to or logically associate with a record to indicate their signature.

Federal Electronic Signatures in Global and National Commerce Act

The Electronic Signatures in Global and National Commerce Act facilitates the use of electronic records and signatures in interstate and foreign commerce by ensuring the validity and legal effect of contracts entered into electronically (15 U.S.C. § 7001 *et seq.*).

This law (15 USC 7002) allows a state statute to modify, limit, or supersede it only if the state law:

1. constitutes an enactment or adoption of UETA or
2. specifies the alternative procedures or requirements for the use or acceptance (or both) of electronic records or electronic signatures to establish the legal effect, validity, or enforceability if they satisfy certain standards and the state law makes specific reference to this act.

Consumer Protections in 15 USC § 7001(c)

If a statute, regulation, or other rule requires that information relating to any transaction in or affecting interstate or foreign commerce be provided or made available to a consumer in writing, the use of an electronic record to provide or make available (whichever is required) such information satisfies the requirement that the information be in writing if the following conditions, among others, are satisfied:

1. the consumer has affirmatively consented to such use and has not withdrawn such consent;
2. the consumer, before consenting, is provided with a clear and conspicuous statement that satisfies certain requirements, and is provided with a statement of the hardware and software requirements for access to and retention of the electronic records; and

3. the consumer consents or confirms consent electronically, in a way that reasonably demonstrates that he or she can access information in the electronic form that will be used to provide the information that is the subject of the consent.

PA 08-67—sHB 5875

Judiciary Committee

Public Safety and Security Committee

AN ACT CONCERNING THE PROTECTION OF FAMILY VIOLENCE VICTIMS IN FAMILY RELATIONS MATTERS AND THE NOTIFICATION OF A FAMILY OR HOUSEHOLD MEMBER AFTER A MOTOR VEHICLE FATALITY

SUMMARY: This act authorizes the Superior Court, in any family relations matter, to order that the testimony of a party or a child who is a subject of the proceeding be taken outside the physical presence of any other party under certain circumstances.

The act requires that for every motor vehicle accident in which any person is killed, the police officer, agency, or individual who, in the regular course of duty, investigates it must use reasonable efforts to identify and notify a member of the person's family or household of the fatality as soon as practicable after the accident. It specifies what the notification must include. It requires the Police Officer Standards and Training Post Council and each police department, agency, or individual responsible for investigating motor vehicle accidents to adopt a policy for doing so.

The act specifies that (1) it applies to the State Police and (2) policies established or adopted under the act are not regulations under the Uniform Administrative Procedures Act.

EFFECTIVE DATE: October 1, 2008, except for the provision that deals with testimony, which is effective July 1, 2008.

TESTIMONY

The act authorizes the court, in any court proceeding in a family relations matter, to order that the testimony of a party or a child who is a subject of the proceeding be taken outside the physical presence of any other party if (1) a protective order, restraining order, or standing criminal restraining order has been issued on behalf of the party or child and (2) the other party is subject to the protective order or restraining order. The court may do so, within available resources, upon the motion of the attorney for any party.

The order may provide for the use of alternative means to obtain the testimony, including the use of a secure video connection to conduct hearings by videoconference. The order may continue in effect throughout the proceeding. Testimony may be taken in a room other than the courtroom or at another location outside the courthouse or the state. The court must provide for administering an oath before taking the testimony in accordance with Superior Court rules.

The act specifies that it does not limit any party's right to cross-examine a witness whose testimony is taken in a room other than the courtroom.

NOTIFICATION OF FAMILY

Required Notification

The act requires the notification to indicate that the person was killed in a motor vehicle accident. It must also indicate the location of the accident, the location of the person's body, and be made in accordance with the policy the act requires the police to adopt.

Police Officer Standards and Training Council (POST) Policy

The act requires the POST, by October 1, 2008, to establish a uniform policy that ensures that the notification is made promptly in an appropriate manner. POST must make the policy available to each police department, agency, or individual the act requires to adopt a notification policy.

Law Enforcement Agencies

The act requires that, by January 1, 2009, each police department, agency, or individual responsible for investigating motor vehicle accidents adopt a policy for identifying and notifying a member of a person's family or household about any motor vehicle accident in which a person is killed. When doing so, it requires them to consider the provisions of the uniform policy POST establishes. The policy they adopt must be designed to ensure that notification is made promptly and in an appropriate manner.

BACKGROUND

Family Relations Matters

Family relations matters are Superior Court proceedings affecting or involving such things as:

1. divorces, legal separations, and annulments;
2. alimony, support, custody, and change of name in connection with a divorce, legal separation, or annulment;

3. applications for a protective order based on physical abuse by a family or household member or person in dating relationship;
4. complaints for change of name; and
5. civil support obligations.

Juvenile Matters

Juvenile matters are those involving:

1. child abuse and neglect;
2. status offenders, such as truants and runaways;
3. emancipating minors; and
4. delinquency.

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, certain serious crimes.

The court may also issue a standing criminal restraining order when a person is convicted of any crime against a family or household member. 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 (CGS 43a-40e). 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.

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 (CGS §§ 46b-15 and 54-1k).

PA 08-84—sHB 5722

Judiciary Committee

Appropriations Committee

AN ACT CONCERNING PROTECTIVE ORDERS

SUMMARY: This act expands courts' authority to issue protective orders. Under the act, they may do so when a person is arrested for committing or attempting to commit:

1. risk of injury by touching the intimate parts of a child under age 16 or subjecting the child to contact with the offender's intimate parts in a sexual and indecent manner likely to impair the child's health or morals;
2. risk of injury by willfully or unlawfully causing or permitting a child under age 16 to be placed in a situation that (a) endangers the child's life or limb, (b) will likely injure his or her health, or (c) will likely impair his or her morals;
3. risk of injury by doing any other act likely to impair the health or morals of a child under age 16;
4. first-, second-, third-, or fourth-degree sexual assault;
5. first-degree aggravated sexual assault;
6. aggravated assault of a minor; or
7. third-degree sexual assault with a firearm.

Courts may already issue protective orders when someone is arrested for stalking or first- or second-degree harassment. By law, violation of a protective order is a class D felony (see Table on Penalties). A violation also violates bail or release conditions and may result in a court raising the amount of bail or revoking release.

EFFECTIVE DATE: October 1, 2008

BACKGROUND

Protective Orders

Protective orders are court-issued criminal orders typically issued to protect victims of family violence crimes from threatened or further harm. These orders may, among other things, prohibit the respondents of the order from restraining, threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the victim, or entering the victim's home. Protective orders are a condition of bail or other release from incarceration.

PA 08-86—sHB 5926

Judiciary Committee

Human Services Committee

AN ACT CONCERNING FAMILIES WITH SERVICE NEEDS

SUMMARY: This act makes a number of changes in the laws governing families with service needs (FWSN) children. These are children under age 16 (or, beginning January 1, 2010, under age 18) who have run away without good cause, are truant or beyond control of their parents or school authorities, or engaged in certain forms of sexual or immoral conduct.

The law authorizes juvenile court judges to place FWSN children under the supervision of a juvenile probation officer or commit them to the Department of Children and Families (DCF) and to issue orders setting conditions they must meet. The act:

1. makes information obtained about potential FWSN children receiving diversionary services confidential;
2. specifies that judges can modify or enlarge a FWSN child's conditions of supervision, conforming law to existing practice;
3. requires motions alleging that a FWSN child (a) has violated a court order or (b) is in imminent risk and needs to be placed in a staff-secure facility to be served on parties in the same manner as authorized for serving FWSN petitions;
4. sets clear and convincing evidence as the standard judges must use to determine whether a FWSN child (a) has violated a court order or (b) should be committed to DCF after release from a staff-secure facility; and
5. consistent with federal law, requires DCF to develop permanency plans for FWSN children committed to its care, with yearly court reviews.

The act also extends the sunset law applicable to the FWSN Advisory Board from July 1, 2008 to July 1, 2010 and makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2008, except the sunset date for the FWSN Advisory Board is effective upon passage.

§ 4 — CONFIDENTIALITY OF PROBATION ASSESSMENTS AND EDUCATION EVALUATIONS

The act appears to extend existing confidentiality provisions concerning mental health screening and assessments in juvenile matters to information obtained in the course of providing voluntary services or educational evaluations involving children who would

otherwise be the subjects of FWSN court petitions. Under this law, information can be used only for planning and treatment.

It can be further disclosed only (1) for the purposes of court-ordered evaluations, treatment, or services for the child; (2) under mandated child and elder abuse reporting statutes; or (3) pursuant to Judicial Branch disclosure policies and procedures the chief court administrator sets. It cannot be subpoenaed for use in any other proceeding or for any other purpose.

§ 2 — MODIFYING AND ENLARGING SUPERVISION CONDITIONS

The act allows juvenile courts to modify or enlarge supervision conditions at any time during the period a FWSN child is subject to supervision. They must first hold a hearing and find good cause for doing so. This authority extends to conditions the court originally imposed in the FWSN proceeding or otherwise. Copies of orders modifying or enlarging supervision conditions must be delivered to the child, the child's parents or guardians, and probation officer.

§ 3 — SERVICE

The act requires motions concerning alleged violations of FWSN orders or the need to place a FWSN child in a staff-secure facility to be served in the same manner required for serving FWSN and delinquency petitions. The law directs that service include a copy of the motion or petition and a summons to appear in court signed by the judge. It must be made by (1) personally delivering a copy or leaving it at the person's usual place of abode; (2) certified mail, return receipt requested; (3) first class mail; or (4) if other methods fail, by newspaper publication. Service may be made by those legally authorized to serve process, such as judicial marshals, probation officers and aides, or other indifferent people.

§ 3 — FWSN ORDER VIOLATIONS

By law, children who have been accused of violating valid FWSN court orders are entitled to legal counsel and an evidentiary hearing. The act specifies that the court must apply the clear and convincing evidence standard to determine whether the violation occurred. This is the same standard it must apply in making its initial determination that the child is a FWSN child.

The law prohibits placing FWSN children in detention or adjudicating them as delinquents for violating FWSN orders. One option that courts have is ordering them to remain in their homes or in the custody of a relative or other suitable person, subject to supervision by a juvenile probation officer. The act also

allows the courts to order that the child remain in the home or under a relative's or other suitable person's custody, subject to an existing DCF commitment.

§ 3 — STAFF-SECURE PLACEMENTS

By law, courts can order FWSN children to be placed in staff-secure facilities for up to 45 days upon a finding of probable cause that (1) the child is in imminent risk of physical harm from his or her surroundings or other circumstances, (2) immediate removal is necessary to ensure the child's safety, and (3) placement in a staff-secure facility is the least restrictive alternative available. At the end of the placement, courts must order that they either be returned to the community for appropriate services or committed to DCF for up to 18 months. Prior law did not set standards for determining when a DCF commitment was the appropriate disposition.

The act specifies that staff-secure placement is only an option for FWSN children currently under orders of supervision or DCF commitment. It eliminates use of this type of placement when a child has been adjudicated as a FWSN child, but the court ordered a different disposition, or when the period of supervision or commitment has expired.

Under the act, FWSN children cannot be committed to DCF after a staff-secure facility placement unless the court holds a hearing and finds, by clear and convincing evidence, that:

1. the child is in imminent risk of physical harm from the child's surroundings;
2. as a result, the child's safety is endangered and removal from these surroundings are necessary to ensure the child's safety; and
3. commitment to DCF is the least restrictive alternative available.

The act specifies that when these children are returned to their communities following the placement, they are still subject to court-ordered supervision or commitment conditions.

PERMANENCY PLANS

Federal law and regulations require DCF to create permanency plans for status offenders, such as FWSN children, who have been committed to its care. The act codifies this requirement, creating planning requirements and court review procedures that mirror those currently applicable to children committed to the department under its delinquency and child protection mandates.

The act requires the first court permanency hearing to be held no later than 12 months after the commitment, with annual reviews as long as the child remains committed.

At least 60 days before the hearing, the DCF commissioner must file the permanency plan with the court. The plan may include the goal of:

1. revoking the commitment and placing the child with a parent or guardian,
2. transferring guardianship,
3. permanent placement with a relative, or
4. adoption.

Court Review

Courts must review and approve permanency plans, if they are in the best interests of the child and take into consideration the child's need for permanency. The court may order some other planned permanent living arrangement if it finds that the commissioner has documented a compelling reason why it would not be in the child's best interests to set one of the permanency goals listed above. The act specifies that other arrangements may include placing the child in an independent living program.

The act also requires the court to make a finding at each permanency hearing as to whether the commissioner has made reasonable efforts to achieve the permanency plan's goals.

BACKGROUND

Staff-Secure Facilities

Staff-secure facilities are 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 staff supervision.

They may have reasonable rules restricting entrance to and exit from the facility.

FWSN Advisory Board

PA 06-188 established the FWSN Advisory Board and directed it to:

1. monitor the progress made by the Court Support Services Division of the Judicial Branch and DCF in developing services and programming for children and youth from families with service needs and addressing problems unique to girls in the juvenile justice population;
2. monitor the progress being made by the Judicial Branch in eliminating the use of detention for FWSN-order violators;

3. provide advice with respect to implementation upon request of the Judicial Branch or the General Assembly; and
4. make written recommendations to the Judicial Branch and the General Assembly with respect to the accomplishment of implementation of PA 05-250, no later than December 31, 2007.

Its membership includes legislative, judicial, and executive branch officials and juvenile justice advocates.

PA 08-102—sHB 5877
Judiciary Committee

AN ACT CONCERNING PROBATION

SUMMARY: This act reduces the maximum probation term the court can impose on someone convicted of a (1) class C, D, or unclassified felony from five to three years; (2) class A misdemeanor from three to two years; and (3) class B misdemeanor from two years to one. But it also gives the court discretion to continue to sentence someone up to the maximum probation terms provided in prior law, on a case-by-case basis.

The act requires a person’s probation officer to submit a progress report to the sentencing court, state’s attorney, and the probationer’s attorney of record if the probationer was sentenced to more than a certain number of years of probation for one of these felonies or misdemeanors. The court must then consider the report and any victim statement to decide whether to continue or terminate the probation. These provisions apply only to sentences imposed on or after October 1, 2008.

The act also reduces the maximum terms of conditional discharge to which a court can sentence an offender. The act reduces the term for:

1. class C, D, or unclassified felonies from five years to three years;
2. class A misdemeanors from three years to two years; and
3. class B misdemeanors from two years to one year.

The act changes the conditions that are imposed on someone who is arrested for a violation of probation or conditional discharge. It also requires the court to dispose of or schedule a hearing on the violation within 120 days after arraignment unless good cause is shown. Prior law required the court to bring a defendant before it for a hearing on the violation without unnecessary delay.

The act also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2008 except for the provision that changes the conditions of release after an arrest warrant or a notice to appear for a violation of

probation or conditional discharge, which is effective upon passage.

PROBATION TERMS

Table 1 displays the changes in probation terms to which a court can sentence an offender under prior law and the act.

Table 1: Probation Terms Under Prior Law and the Act.

Type of Offense	Prior Law Maximum Term	Under the Act	
		Maximum Term	Case-by-Case Maximum Term
Felonies			
Class C	5 Years	3 Years	5 Years
Class D	5 Years	3 Years	5 Years
Unclassified	5 Years	3 Years	5 Years
Misdemeanors			
Class A	3 Years	2 Years	3 Years
Class B	2 Years	1 Year	2 Years

The act does not change the (1) law that prohibits a court from sentencing someone convicted of a class A felony to probation, (2) maximum probation period for a class B felony (five years), or (3) probation period for certain sex offenders (between 10 and 35 years).

PROBATION OFFICER’S REPORT, VICTIMS, AND COURT DECISION

The act requires a person’s probation officer to submit a progress report to the sentencing court at least 60 days before the (1) two-year mark in the probation term of someone sentenced to more than two years of probation for a class C or D felony or an unclassified felony or (2) one-year mark in the probation term of someone sentenced to more than one year of probation for a class A or B misdemeanor. The report must also be submitted to the state’s attorney and the probationer’s attorney of record if there is one.

The report must describe the probationer’s progress in addressing his or her assessed needs and compliance with probation conditions. The officer must recommend, under guidelines the Judicial Branch develops, whether the probation period should continue or terminate.

Within 60 days of receiving the report, the sentencing court must either continue or terminate the

person's probation. The parties can agree to waive a court hearing.

The Judicial Branch's Court Support Services Division's (CSSD) policies and procedures must require victim notification when someone's probation may be terminated. The court must allow the victim to (1) appear and make a statement for the record about whether to terminate the probation period or (2) submit a written statement that the court makes part of the record. The court must consider a victim's statement before continuing or terminating the probation period.

VIOLATIONS OF PROBATION AND CONDITIONAL DISCHARGE

By law, the issuance of an arrest warrant or a notice to appear for a violation of probation or conditional discharge interrupts the probation or conditional discharge sentence until a court makes a final determination concerning the violation.

PA 08-1, January Special Session, which was effective on passage, required the defendant to comply with any conditions imposed or previously imposed probation or conditional discharge conditions during the interrupted period unless the court orders otherwise. The act instead allows the court to impose any conditions of release it may impose on anyone arrested for a bailable offense. But after October 1, 2008, the act requires the defendant to comply with the probation or conditional discharge conditions previously imposed and requires CSSD to make reasonable efforts to inform the defendant of his or her obligation to continue complying with these conditions and to provide a copy of them.

The act requires the court to review the conditions previously imposed on the defendant when he or she is arraigned on the violation charge. The court can, as a condition of pretrial release, order the defendant to comply with any of these conditions and any other conditions that could be imposed on someone arrested for a bailable offense. The person is supervised by CSSD unless the judge orders supervision by a probation officer or other designated person or organization.

BACKGROUND

Probation and Conditional Discharge

By law, the court can sentence someone to probation if (1) present or extended institutional confinement is not necessary to protect the public; (2) the defendant needs guidance, training, and assistance that can be effectively administered through probation supervision; and (3) it is not inconsistent with the ends of justice (CGS § 53a-29(a)).

By law, the court can impose a sentence of conditional discharge if (1) present or extended institutional confinement is not necessary to protect the public and (2) probation supervision is not appropriate (CGS § 53a-29(b)).

By law, if a person violates the conditions of probation or conditional discharge, the court can continue the sentence of probation or conditional discharge, modify or enlarge the conditions, extend the time period up to the amount of the maximum allowed for the crime, or revoke the probation or conditional discharge (CGS § 53a-32).

By law the court or sentencing judge can terminate a sentence of probation or conditional discharge for good cause at any time after a hearing except for certain sex offenders (CGS § 53a-33).

Conditions of Probation or Conditional Discharge

By law, the court can impose a number of conditions on someone sentenced to probation or conditional discharge including:

1. working, studying, or training for employment;
2. medical, psychiatric, or sex offender treatment;
3. supporting dependants and meeting family obligations;
4. restitution;
5. if a minor, residing with his or her parents or in a foster home, attending school, and contributing to supporting his or her home;
6. posting a bond or security;
7. participating in programs, if appropriate, such as alternative incarceration, community service, anti-bias crime education, or animal cruelty programs;
8. residing in a residential community center or halfway house;
9. electronic monitoring; and
10. other conditions reasonably related to rehabilitation.

CSSD can require that someone sentenced to probation comply with any conditions that the court could have imposed if they are not inconsistent with the conditions that the court did impose (CGS § 53a-30).

Conditions for Releasing Someone on Bail

By law, the Superior Court must, in bailable offenses, promptly order an arrestee's release upon the first of the following conditions sufficient to reasonably assure his or her appearance in court upon execution of a:

1. written promise to appear without special conditions,
2. written promise to appear with non-financial conditions,

3. bond without surety in no greater amount than necessary, or
4. bond with surety in no greater amount than necessary.

The court may order the person to submit to periodic drug testing and treatment under certain circumstances.

The court may consider many factors when determining what conditions to impose. If it imposes nonfinancial conditions, it imposes the least restrictive ones that will reasonably assure the person's appearance in court and, for certain arrestees, that the safety of others will not be endangered. The conditions can include:

1. supervision by a person or organization;
2. restrictions on travel, association, or place of abode;
3. not engaging in specific activities including using or possessing dangerous weapons, intoxicants, or drugs;
4. participating in the zero tolerance drug supervision program;
5. providing sureties of the peace;
6. avoiding contact with the victim and witnesses who may testify;
7. employment;
8. education;
9. electronic monitoring; and
10. other conditions reasonably necessary to ensure the person's appearance in court and the safety of others (CGS § 54-64a).

PA 08-103—HB 5918

Judiciary Committee

AN ACT CONCERNING JURORS

SUMMARY: This act automatically excludes people from jury service if they have served in the past three years, but allows them to send a written notice to the jury administrator requesting that they be summoned for jury service in the same manner as others. Under prior law, someone summoned for jury service who had performed jury service in the preceding three years was excused from service at his or her request.

The act gives the jury administrator authority to add to the list of people excused from jury service those who have performed jury service within the past three years and have not submitted a request to be summoned.

Existing law prohibits an employer from depriving an employee of employment or threatening or coercing the employee because the employee receives a jury summons. The act specifies that an employee who serves eight hours of jury duty in a day is considered to have worked a legal day's work and the employer

cannot require the employee to work more than eight hours. Consistent with violations of existing law, the act makes violations of its work day provision criminal contempt subject to up to 30 days in prison, a fine of up to \$500, or both.

EFFECTIVE DATE: October 1, 2008

PA 08-143—sHB 5933

Judiciary Committee

Appropriations Committee

AN ACT CONCERNING THE COMPENSATION OF WRONGFULLY CONVICTED AND INCARCERATED PERSONS, THE DUTIES AND DURATION OF THE SENTENCING TASK FORCE AND THE PREPARATION OF RACIAL AND ETHNIC IMPACT STATEMENTS

SUMMARY: This act authorizes certain people convicted in state court and sentenced to a term of imprisonment to present a claim against the state with the claims commissioner for compensation for wrongful conviction. The act requires that they follow the procedures in place for filing a claim against the state.

The act requires the Advisory Commission on Wrongful Convictions to monitor and evaluate the implementation of (1) the procedure the act establishes for compensating wrongfully incarcerated persons; (2) the pilot program to electronically record interrogations of arrested persons; and (3) eyewitness identification procedures that, when practicable, use a double-blind administration. The act specifies that a double-blind administration occurs when the person conducting the identification procedure is not aware of which person in the photo or live lineup is suspected as being the perpetrator of the crime. The commission must report its findings and recommendations to the Judiciary Committee by January 7, 2009.

The act also requires that beginning with the 2009 session of the General Assembly, a racial and ethnic impact statement be prepared for certain bills and amendments that could, if passed, increase or decrease the pretrial or sentenced prison population. It also requires that by January 1, 2009, the Judiciary Committee recommend a joint legislative rule on the procedure for preparing the statements, their content, and the types of acts and amendments for which they should be prepared.

Finally, the act extends the reporting deadline for the Connecticut Sentencing Task Force from December 1, 2008 to July 1, 2009. It also requires the task force to recommend, by January 7, 2009, whether to establish a permanent sentencing commission and, if so, the permanent commission's mission, duties, membership, and procedures. The 28-member task force was

established in 2006 to review the state's criminal justice and sentencing policies.

EFFECTIVE DATE: October 1, 2008, except for the provisions concerning the sentencing task force and the racial and ethnic impact statements, which take effect on passage.

COMPENSATION FOR THE WRONGFULLY CONVICTED

Scope of Law

The act applies only to those:

1. who served all or part of their sentence;
2. who were innocent of the crime or crimes of which they were convicted; and
3. whose convictions were vacated or reversed and whose cases were dismissed on grounds of innocence, or on a ground consistent with innocence.

Burden and Standard of Proof

The act gives the person filing the claim the burden of establishing, by a preponderance of the evidence, to the claims commissioner that he or she meets the act's eligibility requirements. In addition, the act requires the claimant to present evidence of damages arising from, or related to, the claimant's arrest, prosecution, conviction, and incarceration. If the claims commissioner determines, by a preponderance of the evidence, that the claimant is eligible, he must order the immediate payment of compensation for the wrongful incarceration.

The act specifies factors the commissioner must consider when determining the amount of compensation and additional amounts he may award for certain training and other specified services.

Deadline for Filing Claims

The act requires people to file any claim based on a pre-October 1, 2008 pardon or dismissal by September 30, 2010. They must file any claim based on a pardon or dismissal that occurred on or after October 1, 2008 within two years after the pardon or dismissal.

Damages

The act specifies that the evidence of damages that the claimant presents may include claims for:

1. loss of liberty and enjoyment of life, earnings and earning capacity, familial relationships, and reputation;
2. physical pain and suffering;
3. mental pain and suffering; and

4. attorney's fees and other expenses arising from or related to the arrest, prosecution, conviction, and incarceration.

Amount of Compensation Awarded

In determining the amount of compensation, the claims commissioner must consider relevant factors, including: (1) the evidence the claimant presented concerning the damages he or she suffered and (2) whether any negligence or misconduct by any officer, agent, employee, or official of the state or any political subdivision of the state contributed to the person's arrest, prosecution, conviction, or incarceration.

The act authorizes the commissioner to pay additional amounts for any other services a wrongfully convicted person may need to facilitate his or her reintegration into the community, including:

1. the expenses of employment, training, and counseling and
2. tuition and fees at any constituent unit of the state system of higher education.

Other Remedies

The act specifies that it may not be interpreted to prevent someone from pursuing any other action or remedy that he or she may have against the state and any political subdivision of the state and any officer, agent, employee, or official arising out of the wrongful conviction and incarceration.

BACKGROUND

Claims Commissioner

Generally, the law requires those who wish to sue the state, or to present a claim against it, to file a claim with the claims commissioner unless their case falls within an exception established by law. They must file their claim with the commissioner within one year after it accrues. A claim accrues on the date the damage or injury is sustained or discovered or, in the exercise of reasonable care, should have been discovered. But, the law requires that the claim be submitted within three years after the date of the act or event that allegedly caused the damages (CGS § 4-148).

Advisory Commission on Wrongful Convictions

The chief court administrator established an advisory commission to review any criminal or juvenile case involving a wrongful conviction and recommend reforms to lessen the likelihood of a similar wrongful conviction occurring in the future. The advisory commission consists of the chief state's attorney, the

chief public defender, and the victim advocate, or their designees; a representative from the Connecticut Police Chiefs Association; a representative from the Connecticut Bar Association; and representatives from one or more Connecticut law schools or institutions of higher education that offer undergraduate programs in criminal justice and forensic science (CGS § 54-102pp).

Related Laws

SA 07-5 required 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 exempted any payment he receives under the act from the state income tax. PA 07-04, June Special Session specified that this settlement is also exempt from claims or liens for incarceration costs that the law authorizes the state to recover from inmates.

PA 08-151—SB 694

Judiciary Committee

AN ACT CONCERNING ERASURE OF CRIMINAL RECORDS RELEASED TO THE PUBLIC

SUMMARY: By law, courts, police, and prosecutors must erase the records of any criminal defendant whenever (1) he or she is found not guilty of the charge or the charge is dismissed in a final judgment; (2) at least 13 months have elapsed since any charge in his or her criminal case has been nolle; or (3) he or she received an absolute pardon. A nolle is a formal statement by the prosecuting attorney that he or she will not prosecute a case further.

The erasure requirement does not apply to cases where defendants have multiple charges (counts) in a single information or indictment (charging document). This act eliminates the multi-count exception in electronic records or portions of electronic records released to the public. This means that courts, police, and prosecutors must erase from electronic, but not paper records, charges in multi-count information or indictments for which defendants are not convicted. Electronic records means computer printouts and records created, generated, sent, communicated, received, or stored electronically, including faxes, e-mails, telexes, and Internet messaging.

EFFECTIVE DATE: October 1, 2009

PA 08-3—sSB 57

Labor and Public Employees Committee

AN ACT REQUIRING THE WORKERS' COMPENSATION COMMISSION TO PROVIDE INJURED EMPLOYEES THE FORMS NECESSARY FOR FILING A CLAIM

SUMMARY: This act requires the Workers' Compensation Commission (WCC) to provide an injured employee with a workers' compensation claim form within five business days after it receives a first report of injury for that employee from an employer, employer's insurance carrier, or employer's representative.

The form, known as a 30C, can be provided in person or sent by mail to the employee's current address on file with the employer.

By law, (1) any employee injured in the course of work must immediately notify his or her employer and (2) employers must file weekly first reports of injury with the WCC documenting any injuries that result in an employee missing work for at least one day.

By law, if a compensation commissioner determines that an employer failed to file a timely first report of injury, the commissioner can increase the employee's compensation award proportionate to the prejudice the employee suffered due to the delay. The act also permits such an increase in award if the employer's representative fails to file a timely report of injury.

EFFECTIVE DATE: October 1, 2008

BACKGROUND

Form 30C

By filing a 30C form regarding a work related injury, an employee secures his or her rights to potential compensation under the state Workers' Compensation Act. By law, the injured employee has one year from the date of accident or injury or three years after the first manifestation of an occupational disease, as the case may be, to file a claim form with the WCC (CGS § 31-294c).

PA 08-4—sSB 65

*Labor and Public Employees Committee
Government Administration and Elections Committee*

AN ACT ALLOWING BLIND OR PHYSICALLY DISABLED STATE OR QUASI-PUBLIC EMPLOYEES TO USE ACCUMULATED SICK LEAVE FOR GUIDE DOG TRAINING

SUMMARY: This act allows permanent full-time state employees and quasi-public agency employees, who are blind or physically disabled, to use up to 15 days of accumulated paid sick leave to take guide dog or assistance dog training.

To qualify an employee must (1) have been employed for at least 12 consecutive months and (2) participate in training that prepares the employee to handle a guide or assistance dog for his or her own use. A guide dog or assistance dog organization that is a member of the professional association of guide dog or assistance dog schools must conduct the training.

The agency can require up to seven days advance notice of an employee's intention to use the leave and may require the employee to provide reasonable documentation that the leave falls under the act's permitted purpose.

EFFECTIVE DATE: October 1, 2008

BACKGROUND

Guide and Assistance Dogs

Guide dogs are trained to help blind people navigate daily life activities including crossing streets and entering and exiting buildings. Assistance dogs are trained to help people with disabilities reach or access things that would be more difficult without the dog's help. This may include picking up keys that have fallen, opening cupboards, or retrieving other items. Both types of dogs enable people to be more independent.

PA 08-15—HB 5111

Labor and Public Employees Committee

AN ACT CONCERNING STATE EMPLOYEES' LEAVE TIME AND MILITARY SERVICE

SUMMARY: This act gives certain Department of Correction (DOC) employees called to active military service by the National Guard or the military reserves more time to use accumulated leave time when they return from service.

Specifically, the act gives those in teaching or professional positions in DOC's Unified School District #1 one year, rather than 120 days, after accrual to use equivalent leave time. Equivalent leave time includes recess time, which is paid time off for designated dates (such as the week between Christmas and New Year's) for teachers who work on a school calendar. Recess time cannot be carried forward except for specific reasons related to military service.

The act applies to an employee called to duty for (1) federal or state post-September 11 anti-terrorism or homeland security-related duty or (2) the Afghanistan or Iraq wars.

EFFECTIVE DATE: Upon passage

PA 08-23—HB 5624

Labor and Public Employees Committee

AN ACT CONCERNING THE CONNECTICUT IDA INITIATIVE

SUMMARY: This act expands the purposes of the Individual Development Account (IDA) program that the Labor Department administers. The IDA program encourages low-income people or qualified people with disabilities to save money for (1) education and job training, (2) buying a home, (3) starting their own business, (4) buying a car to get to work, or (5) making a lease deposit. The act also allows the accounts to be used to save for education or job training for a dependent child of the IDA account holder.

It encourages saving by matching the money that individuals deposit in the account. The maximum match ratio is \$2 for every \$1 a participant deposits, up to \$1,000 per calendar year and \$3,000 for the program's duration. Someone is eligible for the program if he or she (1) has earned income and belongs to a household whose adjusted gross income is no more than 80% of the area median income or (2) has no earned income solely because of a qualified disability.

EFFECTIVE DATE: October 1, 2008

PA 08-60—HB 5628

*Labor and Public Employees Committee
Finance, Revenue and Bonding Committee*

AN ACT CONCERNING ELECTRONIC UNEMPLOYMENT COMPENSATION TAX PAYMENTS

SUMMARY: This act requires employers with 250 or more employees that pay unemployment compensation taxes or make payments in lieu of such taxes to pay electronically starting with the first calendar quarter of

2009. Employers this size have been required to make quarterly wage reports electronically since 1991.

The act does not specify the form of electronic payment, but the existing electronic wage report requirement states they may be made on magnetic tape, diskette, or other similar electronic means the unemployment administrator prescribes.

The act's requirement also applies to any agent making such payments on behalf of one or more employers for a total of 250 or more employees.

EFFECTIVE DATE: October 1, 2008

BACKGROUND

Nonprofits and Municipalities

By law, some employers, such as nonprofits and municipalities, are given the option of paying unemployment taxes or reimbursing the unemployment compensation fund through payments in lieu of taxes to cover the amount of benefits paid to former employees.

PA 08-61—sHB 5629

*Labor and Public Employees Committee
Appropriations Committee*

AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR FIREFIGHTERS AND POLICE OFFICERS

SUMMARY: This act establishes a rebuttable presumption under workers' compensation law for municipal firefighters, police, and constables hired after July 1, 1996 who suffer a cardiac emergency while on duty after July 1, 2009.

To be covered by the act, the cardiac emergency must result in lost work time due to total or partial incapacity or death. The presumption that the ailment is due to the occupation is rebuttable, meaning it is presumed to be job-related unless a preponderance of evidence shows it is not. Until the act takes effect, such an ailment is compensable, but it is the employee's burden to prove the ailment is job-related.

EFFECTIVE DATE: July 1, 2009

CARDIAC EMERGENCY

The act creates a presumption that a cardiac emergency that occurs while a paid municipal firefighter, police officer, or constable is in training for, or engaged in, fire duty at the site of an accident or fire or other public safety operation was suffered in the line of duty and is compensable under workers' compensation. It applies (1) to those hired after July 1, 1996, (2) only in cases where the cardiac emergency results in lost work time due to temporary or permanent

total or partial disability or death, and (3) to cardiac emergencies that take place after July 1, 2009 (the act's effective date). The employee must be acting within the scope of his or her employment for the municipal employer at the time and have previously passed a physical that revealed no evidence of cardiac emergency.

The act defines cardiac emergency as cardiac arrest or myocardial infarction.

Under prior law, any firefighter or police officer hired after July 1, 1996 had to prove a cardiac emergency (or any other type of heart disease) was caused by his work and was not due to other causes. (By law, municipal police officers and firefighters hired before July 1, 1996 and out of work due to heart or hypertension-related illness are given benefits equivalent to workers' compensation benefits without having to demonstrate that the ailment is job-related.)

Under the act, the presumption can be overcome if a preponderance of the evidence shows that the cardiac emergency was not due to firefighting or police work.

CONSTABLES

The act defines a "constable" as any municipal law enforcement officer who is authorized to make arrests and has completed Police Officer Standards and Training Council certification, as defined in state law.

BACKGROUND

Volunteer Firefighters and Workers' Compensation

By law, volunteer firefighters and emergency rescue workers are treated as employees, for workers' compensation purposes, of the town where they volunteer. The law also provides them with a presumption under workers' compensation law that any hypertension or heart disease resulting in death or temporary or permanent total or partial disability is presumed to be suffered in the line of duty if the member is in training or engaged in volunteer fire duty or ambulance service (CGS § 7-314a (a) & (d)).

PA 08-64—sHB 5680

*Labor and Public Employees Committee
Appropriations Committee
Public Safety and Security Committee*

AN ACT CONCERNING SURVIVORS' BENEFITS FOR MEMBERS OF THE STATE POLICE

SUMMARY: Under prior law, the surviving spouse of a state police officer who dies from any cause before retiring from state service was eligible for a survivor's benefit until he or she remarried. The act eliminates the

language that ends the benefit at remarriage, thus making it a lifetime benefit. By law, unchanged by the act, dependent children receive a benefit until age 18 or marriage, if that occurs earlier.

EFFECTIVE DATE: October 1, 2008

PA 08-75—sSB 366

*Labor and Public Employees Committee
Judiciary Committee*

AN ACT CONCERNING TECHNICAL CORRECTIONS TO CHILD LABOR LAWS

SUMMARY: This act subjects violators of the employment regulation statutes (Chapter 557) to the same \$300 civil penalty, for each violation, to which violators of the state's wage laws (Chapter 558) and workers' compensation laws (Chapter 568) are subject. The civil penalty is in addition to any specific penalty that applies to a violation of a specific employment regulation law. The act does not change the \$600 civil penalty for violations of child labor laws (Chapters 557 and 558).

EFFECTIVE DATE: October 1, 2008

EMPLOYMENT REGULATION, CHAPTER 557

Under the employment regulation statutes and unchanged by the act, an employer can be penalized for violating a number of specific statutes. The act makes violators liable to the Labor Department for a civil penalty of \$300 per violation in addition to the specific penalties in the specific statutes.

Some of the existing penalties for specific employment regulation statutes are shown in the table below.

Table 1: Employment Regulation Statute Violations

<i>Statute</i>	<i>Violation</i>	<i>Penalty</i>
Notice requirements for employers using carcinogens (CGS §§ 31-40c, 31-40f)	Failure to provide notification of, or training related to, carcinogens in the workplace	Up to \$1,000 per violation
Recruitment or referral of professional strikebreaker restricted (CGS § 31-48a)	Recruiting or using professional strikebreakers	\$100 to \$1,000 fine, prison for up to three years, or both
Use of polygraph prohibited, with exceptions (CGS § 31-51g)	Improper use of polygraph in hiring and other employment decisions	\$250 to \$1,000 per violation

<i>Statute</i>	<i>Violation</i>	<i>Penalty</i>
Protection of employees who disclose employers' illegal activities (CGS § 31-51m)	Employer retribution (discharge or discipline) against an employee who reports a violation or suspected violation of state or federal law	Job reinstatement, back pay, back benefits, and reasonable attorney's fees
Employee drug testing permitted if specific requirements are met (CGS §§ 31-51u to 31-51aa)	Unauthorized drug testing, improper use of testing results	Civil action with potential liability for special and general damages and attorney's fees
Family and Medical Leave Act (CGS §§ 31-51kk to 31-51qq)	Employer who discharges or disciplines an employee who uses or seeks to use family and medical leave	Job reinstatement, back pay, back benefits, and reasonable attorney's fees

PA 08-83—sHB 5537*Labor and Public Employees Committee**General Law Committee***AN ACT CONCERNING CONSTRUCTION SAFETY**

SUMMARY: Under prior law, all employees performing manual labor on state or municipal building construction or repair projects of \$100,000 or more had to prove they had completed a 10-hour construction safety and health course that met federal Occupational Safety and Health Administration (OSHA) Training Institute standards. This act, which affects contracts entered into on or after July 1, 2009, makes several changes in the law.

First, it expands the construction safety training requirement to any public works project, which includes sewage and water treatment plants, site work, road and bridge work, parking lots, drainage systems, and other public projects.

Second, instead of applying the training requirement to all projects of \$100,000 or more, the act applies it to existing prevailing wage project thresholds. This means the requirement kicks in for (1) repair and renovation projects costing \$100,000 or more and (2) new construction projects of \$400,000 or more.

The proof of training required by law is an OSHA Institute-issued course completion card or other proof the labor commissioner deems appropriate. Prior law required the proof of training to be submitted no later than 30 days after the date the contract was awarded. Instead, the act requires the proof to accompany the first

certified payroll for the first week that each employee begins work on the project.

Furthermore, it removes the requirement that the proof be sent to the labor commissioner. Under prevailing wage law, the contractor must send the certified payroll to the contracting state agency.

The act also creates training requirement exceptions for (1) employees of public service companies and (2) commercial vehicle drivers who either pick up at or deliver cargo to public work projects.

It requires the labor commissioner to adopt implementing regulations by January 1, 2009.

EFFECTIVE DATE: January 1, 2009

COVERED EMPLOYEES

The act specifies that anyone performing the work of a mechanic, laborer, or worker must complete the safety training course rather than, as under prior law, any employee performing manual labor.

It allows a person performing such work to complete a new Federal Mine Safety and Health Administration training program, conducted in accordance with federal regulations, instead of the 10-hour OSHA course.

EXCEPTIONS

The safety training requirements do not apply to employees of public service companies, which statutes define to include electric, electric distribution, gas, telephone, telegraph, pipeline, sewage, and water companies; cable franchise holders; and railroad companies.

The act also exempts commercial vehicle drivers delivering or picking up cargo from a public works project site as long as the only labor they perform on-site is loading and unloading the cargo.

BACKGROUND*Training and Retraining of Miners*

Federal regulations require all new miners to complete at least 40 hours of training. The regulations set standards and requirements for the training and require all firms that operate mines to have a training program that meets the federal standards.

Prevailing Wage Law

State prevailing wage law requires that contractors pay what is determined to be the prevailing wage in an area to employees and subcontractors employed on state and municipal public works contracts. The state Labor Department enforces this law. (There is a separate federal prevailing wage law that applies to federal

projects.)

PA 08-92—sHB 5105 (VETOED; OVERRIDDEN)

*Labor and Public Employees Committee
Appropriations Committee*

AN ACT CONCERNING THE MINIMUM WAGE

SUMMARY: This act raises the state hourly minimum wage from \$7.65 to \$8.00 beginning January 1, 2009 and to \$8.25 beginning January 1, 2010.

EFFECTIVE DATE: October 1, 2008

PA 08-105—sHB 5113

*Labor and Public Employees Committee
General Law Committee
Finance, Revenue and Bonding Committee
Government Administration and Elections Committee*

**AN ACT CONCERNING PROFESSIONAL
EMPLOYER ORGANIZATIONS AND
EMPLOYEE MISCLASSIFICATION**

SUMMARY: This act requires professional employer organizations (PEOs) to register with the Labor Department (DOL) and creates standards for them, including financial capacity standards. It defines the organizations as businesses that provide employer services for their clients and have entered coemployment agreements with their clients' employees. It sets application requirements and allows more than one PEO to form a group and meet the reporting and financial requirements as a group.

The act sets standards for the contracts between the organizations and their clients.

It prohibits the organizations from, among other things, committing willful violations of its provisions and authorizes the labor commissioner to discipline violators.

The act states its relationship to other labor laws and laws creating certain economic development programs.

The act also establishes a permanent enforcement commission to coordinate prosecutions of employers who misclassify their employees in order to avoid state and federal labor, employment, and tax law obligations.

EFFECTIVE DATES: January 1, 2009, except the definition section is effective October 1, 2008; the provisions on the act's relationship to state labor law and the creation of the employee misclassification enforcement commission are effective July 1, 2008; and the provision authorizing implementing regulations is effective on passage.

§§ 1 & 3 — REGISTRATION REQUIRED

The act prohibits anyone from providing, advertising, or otherwise holding oneself out as providing professional employer services without being registered as a PEO with the Labor Department.

It requires each PEO not operating in this state on January 1, 2009, to complete its initial registration before providing services.

It requires each PEO operating in this state on or before January 1, 2009, to register by March 1, 2009. The initial registration is valid until 180 days after the end of the organization's first fiscal year that is more than one year after March 1, 2009. Each PEO or PEO group must file with the commissioner the beginning and ending date of its fiscal year and notify and file any changes in dates with the commissioner.

The act requires the Labor Department to (1) keep a list of registered PEOs and (2) develop forms necessary to promote the efficient administration of the registration requirements. All registered PEOs must notify the commissioner of the address of their principal place of business and each office or proposed office in the state. The commissioner must also be informed of any address change within five working days.

Under the act, the initial registration fee must be no more than \$1,500 and the renewal fee must be no more than \$1,000.

Definitions

The act defines a "professional employer organization" as any person engaged in the business of providing professional employer services, regardless of whether the person uses the term or conducts business as a PEO, staff leasing company, registered staff leasing company, employee leasing company, administrative employer, or any other name. The act defines "person" as any individual, partnership, corporation, limited liability corporation, association, or other legal entity.

"Professional employer services" means entering into coemployment relationships in which all or a majority of the employees providing services to a client or to a division or work unit of a client are covered employees.

A "coemployment relationship" is an ongoing relationship in which the rights, duties, and obligations of an employer are allocated between a PEO and a client pursuant to a professional employer agreement. A "client" is any person who, as an employer, enters into a professional employer agreement with a PEO. A "covered employee" is an individual who (1) is an employee of a client that has a coemployment relationship with a PEO, (2) has received written notice of the coemployment, and (3) has received a written summary of the obligations and responsibilities of the

client and the PEO under the professional employer agreement.

Under the act, a PEO does not include:

1. arrangements in which a person, other than a person whose principal business activity is entering into professional employer arrangements, shares employees with a commonly owned company within the meaning of Section 414(b) and (c) of the Internal Revenue Code;
2. independent contractor arrangements in which the contractor assumes responsibility for the product produced or service performed and retains and exercises primary direction and control over the work performed by the individuals whose services are supplied; or
3. temporary help services that employ individuals directly to furnish part-time or temporary help to others.

Initial Application Requirements

An application for an initial PEO registration must include:

1. the name or names under which the applicant will conduct or has conducted business before the application date;
2. the addresses of the business's principal office and each office in Connecticut;
3. the applicant's federal and state taxpayer and employer identification numbers;
4. a list, by jurisdiction, of any name under which the applicant operated in the five years before the application date, including any alternative names, names of predecessors or immediate successor businesses, and, if known, any other successor businesses;
5. an ownership statement that includes the name and business experience of any person that, individually or with others, owns, controls, or will control, directly or indirectly, 25% or more of the applicant's equity interests;
6. a management statement that includes the name and business experience of any person who serves or will serve as president, chief executive officer, or otherwise has or will have the authority to act as senior executive officer; and
7. a statement of the applicant's financial condition.

The act requires each applicant engaged in the business of providing professional employer services before January 1, 2009, to submit its most recent audit, which must have been conducted within 13 months before the application date.

If an applicant has not had sufficient operating history to have audited financial statements based on at least 12 months of operating history, the act requires the applicant to meet financial capacity requirements (specified below) and submit financial statements prepared by an independent, licensed certified public accountant. In the statement, the accountant must attest that:

1. it is the applicant's most recent financial statement,
2. the accountant reviewed the statement within six months of the registration,
3. the applicant is not delinquent in paying state or federal taxes, and
4. the applicant meets the financial capacity standards set in the act.

All information obtained from a PEO or PEO group under the act is subject to disclosure in accordance with the state Freedom of Information Act.

Renewal Application

The act requires registrations to be renewed annually. A PEO may apply for renewal by submitting, not later than 180 days after the end of its fiscal year, (1) an audit for the preceding fiscal year and (2) a notice of any changes from the information provided in its immediately preceding application. An applicant may apply for an extension with the department, but this request must be accompanied by a letter from its auditor stating the reasons for the delay and the anticipated audit completion date. The financial statement must be:

1. prepared in accordance with generally accepted accounting principles,
2. audited by an independent and properly licensed certified public accountant, and
3. without qualification as to any increase in the going concern status of the PEO.

§§ 1 & 3 — PEO GROUPS

A "professional employer organization group" is two or more PEOs that are majority-owned or commonly controlled by the same entity, parent, or controlling persons. The act allows PEOs in a PEO group to satisfy the act's reporting and financial requirements on a combined or consolidated basis if each member of the group guarantees the obligations under the act of each other group member. In the case of a group that submits a combined or consolidated audited financial statement including entities that are not PEOs or that are not in the PEO group, the controlling entity of the PEO group must guarantee the obligations of the PEO in the group.

PEOs or PEO groups are required to notify the commissioner of their controlling entity's name and address.

§ 3 — LIMITED REGISTRATION

The act allows the labor commissioner to issue a limited registration to a PEO that provides sufficient evidence that it:

1. is domiciled outside this state and is licensed or registered as a PEO in another state,
2. does not maintain an office or directly solicit clients located or domiciled within Connecticut, and
3. does not have more than 50 covered employees employed or domiciled in this state at any time.

Limited registrations are valid for one year and must be renewed annually at the completion of the registrant's fiscal year. The fee for limited registrations and renewals is established by the commissioner and must not be more than \$1,000.

§ 4 — FINANCIAL CAPACITY REQUIREMENTS

The act requires PEOs or PEO groups to meet one of two financial capacity standards. The first is to maintain a minimum of \$150,000 in working capital, as defined by generally accepted accounting principles, as reflected in the financial statements submitted to the department with the initial registration or annual renewal.

A registrant with less than \$150,000 in working capital at renewal has 180 days to attain the \$150,000. During the 180 days, the registrant must submit quarterly statements accompanied by the chief executive officer's attestation that all wages, taxes, workers' compensation premiums, and employee benefits have been paid.

The second way of demonstrating financial capacity is to provide a bond, irrevocable letter of credit, or securities to the Labor Department with a minimum value of \$150,000. The bond must be held by a depository designated by the commissioner, securing payment by the organization of all taxes, wages, benefits, or other entitlements due to or with respect to covered employees.

In lieu of these requirements, the act authorizes the commissioner to accept an affidavit or certification of a bonded, independent, and qualified assurance organization approved by the commissioner certifying qualifications of a PEO.

The act exempts a PEO with a limited registration from the financial capacity requirements.

§ 5 — PROFESSIONAL EMPLOYER AGREEMENT

The act requires PEOs and their clients to allocate their rights, duties, and obligations in an agreement and specifically requires the agreement to:

1. provide for the (a) allocation of employer rights and obligations between the client and the PEO with respect to the covered employees and (b) PEO and the client to assume the responsibilities required by the act and
2. require the PEO to (a) pay wages to covered employees; (b) withhold, collect, report, and remit payroll-related and unemployment taxes; and (c) make payments for employee benefits for covered employees to the extent the PEO has assumed responsibility in the agreement.

Unless the agreement expressly states otherwise, the act provides that:

1. a client is solely responsible for the quality, adequacy, or safety of the goods or services produced or sold by the client's business;
2. a client is solely responsible for directing, supervising, training, and controlling the covered employees' work with respect to the client's business activities, and for the acts, errors, or omissions of the covered employees with regard to such activities;
3. a client is not liable for the acts, errors, or omissions of a PEO or of any covered employee of the client when the covered employee is acting under the express direction and control of the PEO;
4. a PEO is not be liable for the acts, errors, or omissions of a client or its covered employees when they are acting under the client's express direction and control; and
5. a covered employee is not, solely as the result of being a covered employee of a PEO, an employee of the organization for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability that is not covered by workers' compensation, or employer's liability insurance carried by the PEO, unless the covered employee is included by specific reference in the PEO agreement and applicable prearranged employment contract, insurance contract, or bond.

§ 2 — EXISTING RIGHTS

The act provides that it does not, and professional employer agreements must not, (1) diminish existing rights between covered employees and a client existing before the effective date of either the act or the professional employer agreement or (2) create any new or additional enforceable right of a covered employee

against a PEO that is not specifically provided by the professional employer agreement or the act.

§ 6 — DISCIPLINE

The act subjects PEOs and their controlling persons to discipline by the labor commissioner for:

1. willfully violating the act's registration, financial capacity, and written agreement provisions;
2. being convicted of a crime that relates to (a) the operation of a PEO, (b) fraud or deceit, or (c) the ability of the PEO or its controlling person to operate a PEO;
3. knowingly making a material misrepresentation to the Labor Department or other governmental agency;
4. misappropriating any funds of a client employer; or
5. using fraudulent or coercive practices to obtain or retain business or demonstrating gross financial irresponsibility.

The act authorizes the labor commissioner, after notice and opportunity for hearing, upon finding that a PEO or its controlling person has committed a prohibited act, to:

1. deny a registration application;
2. revoke, restrict, or refuse to renew a registration;
3. impose an administrative fine up to \$1,000 for each material violation;
4. place the PEO or its controlling person on probation for a period determined by the commissioner, subject to reasonable conditions he specifies; or
5. issue a cease and desist order.

In addition to the above mentioned penalties, a PEO or PEO group or its officers or agents found in violation of the act's PEO provisions is liable to DOL for a civil penalty of \$300 for each violation. Upon complaint of the commissioner, the attorney general must institute a civil action to recover any penalties the act creates that are due to the state. Any amounts recovered by the civil action must be deposited in the General Fund.

§ 6 — GENERAL FUND DEPOSITS

Registration and renewal fees and penalties collected under the act must be deposited in the General Fund and credited to a separate, nonlapsing appropriation to the Labor Department for other current expenses. The department may use the funds for the cost of administering and enforcing the PEO registration program.

§§ 2 & 7 — RELATIONSHIP TO EXISTING LAWS

The act specifies that it does not eliminate or diminish (1) employee protections and employer responsibilities under the state labor law, regulations, or DOL policies or (2) DOL's ability to enforce them. It also does not diminish any other rights of covered employees and clients that existed before the PEO agreement or give covered employees enforceable rights against PEOs other than those the agreement or the act establishes.

The act specifies that a covered employee who must be licensed, registered, or certified under any provision of the general statutes must be deemed to be solely an employee of the client for credentialing purposes. Further, a PEO must not be deemed to engage in any occupation, trade, profession, or other activity subject to licensing, registration, or certification requirements, or otherwise regulated by a governmental entity, solely by entering into and maintaining a coemployment relationship.

For the purpose of determining tax credits and other economic incentives provided by this state or another government and based on employment, the act deems the client's covered employees to be solely employees of the client.

Under the act, a client's status or certification as a small, minority-owned, disadvantaged, or woman-owned business enterprise or as a historically underutilized business is not affected by entering a professional employer agreement.

§ 8 — REGULATIONS

The act permits the commissioner to adopt implementing regulations by July 1, 2009. It requires the regulations to include:

1. guidelines for electronic filing of applications, documents, reports, and other filings by bonded, independent, and qualified assurance organizations approved by the commissioner to satisfy the act's requirements;
2. criteria for notice and written summaries to covered employees of the PEO arrangement, including whether all or part of a client's employees are covered; and
3. required notice of who is the controlling entity of a PEO or PEO group.

§ 9 — EMPLOYEE MISCLASSIFICATION ENFORCEMENT COMMISSION

The act establishes a joint enforcement commission to address the problem of employers avoiding state and federal labor, employment, and tax law obligations by misclassifying their employees. The commission must

meet at least quarterly and (1) coordinate the civil prosecution of state and federal employment law violations involving employee misclassification and (2) report any suspected violation of state criminal statutes to the chief state's attorney or the state's attorney serving the district where the violation allegedly occurred. The most common form of misclassification involves an employer treating employees as independent contractors to avoid paying workers' compensation insurance premiums and unemployment taxes.

The commission members are the labor and revenue services commissioners, workers' compensation commission chairperson, attorney general, and chief state's attorney, or their designees.

By February 1, 2010, and every following year, the commission must submit its report, with recommendations, to the governor and the Labor and Public Employees Committee.

BACKGROUND

Related Public Act

PA 08-156 also creates a joint employment misclassification commission for the same purpose and with the same membership.

PA 08-108—sSB 216

Labor and Public Employees Committee

AN ACT CONCERNING MINORS IN THE WORKPLACE

SUMMARY: This act permits 15-year-olds to be employed as baggers, cashiers, and stock clerks in retail businesses under certain restrictions. It permits them to work:

1. when school is not in session for at least five consecutive days, except that they may work in retail food stores on any Saturday;
2. for up to eight hours a day or 40 hours a week; and
3. between 7 a.m. and 7 p.m., except that from July 1 to the first Monday in September, they may work until 9 p.m.

These are the same conditions under which 15-year-olds were allowed to work under a prior law that expired on September 30, 2007. The act retroactively makes lawful the employment of 15-year-olds in retail after the prior law expired until this act became effective (June 2, 2008), if the employer met the prior law's work-day and hour restrictions. It specifically exempts employers from the criminal and civil penalties for such violations.

EFFECTIVE DATE: Upon passage

PA 08-113—sSB 55 (VETOED; OVERRIDDEN)

Labor and Public Employees Committee

Government Administration and Elections Committee

AN ACT CONCERNING THE TIP CREDIT

SUMMARY: Effective January 1, 2009, this act increases the minimum wage tip credit for hotel and restaurant employers from 8.2% to 11% for bartenders and from 29.3% to 31% for service employees (e.g., waiters and waitresses). The tip credit allows hotels and restaurants to pay service employees and bartenders, who customarily and regularly receive tips, less than minimum wage as long as tips make up the difference. Under the act, a hotel or restaurant can pay (1) a bartender 11% less than minimum wage and (2) a waiter or waitress 31% less than minimum wage.

EFFECTIVE DATE: October 1, 2008

HOTEL AND RESTAURANT TIP CREDIT

Table 1 shows how the prior tip credit and the act each reduces the minimum wage a restaurant or hotel must pay a service employee as long as the employee's tips bring his or her wage up to the minimum state hourly wage.

Table 1: Tip Credit Impact on Minimum Wage

	Minimum Hourly Wage	Hourly Wage with Tip Credit	
		Prior Law	The Act
Bartenders	\$7.65	\$7.02	\$6.81
Waiters, waitresses, & other service employees	\$7.65	\$5.41	\$5.28

BACKGROUND

Related Public Act

PA 08-92 increases the minimum wage on January 1, 2009 from \$7.65 to \$8.00 and on January 1, 2010 to \$8.25.

PA 08-156—sSB 454

Labor and Public Employees Committee

AN ACT CONCERNING EMPLOYEE MISCLASSIFICATION

SUMMARY: This act establishes a permanent five-member enforcement commission to address the problem of employers avoiding state and federal labor, employment, and tax law obligations by misclassifying

their employees. Misclassification often involves an employer treating employees as independent contractors in order to avoid paying workers' compensation insurance premiums and unemployment taxes.

The commission must meet at least four times a year and (1) coordinate the civil prosecution of state and federal employment law violations involving employee misclassification and (2) report any suspected violation of state criminal statutes to the chief state's attorney or the state's attorney serving the district where the violation allegedly occurred.

The commission members are the labor and revenue services commissioners, workers' compensation commission chairperson, attorney general, and chief state's attorney, or their designees. By February 1, 2010, and every year after that, the commission must report to the governor and the Labor and Public Employees Committee. The report must summarize the commission's actions for the previous year and include any administrative or legislative recommendations.

The act also creates an advisory board to advise the commission on job misclassification in the construction industry.

EFFECTIVE DATE: July 1, 2008

EMPLOYEE MISCLASSIFICATION ADVISORY BOARD

The act establishes a six-member advisory board to advise the commission on job misclassification in Connecticut's construction industry.

Advisory board members represent management and labor in the construction industry. Members must be appointed as follows:

1. the governor appoints two members, one representing labor and one representing management;
2. the House speaker appoints one representing labor;
3. the House minority leader appoints one representing management;
4. the Senate president pro tempore appoints one representing management; and
5. the Senate minority leader appoints one representing labor.

All appointments must be made by August 1, 2008. Members' terms are coterminous with the terms of the respective appointing authority, who must fill any vacancies. Members of the advisory board serve without compensation but, within available funds, are reimbursed for expenses necessarily incurred in performing their duties.

BACKGROUND

Related Public Act

PA 08-105 also creates a joint enforcement commission for the same purpose and with the same members as the one created by this act.

PA 08-183—sHB 5536 (VETOED)

Labor and Public Employees Committee

Appropriations Committee

Insurance and Real Estate Committee

Planning and Development Committee

AN ACT ESTABLISHING THE CONNECTICUT HEALTHCARE PARTNERSHIP

SUMMARY: This act allows municipalities, certain municipal contractors, nonprofit organizations, and small businesses to join the state employee health insurance plan for their employees and retirees. Under it, all new employees will be pooled together with state employees in the state insurance plan.

It requires the comptroller to provide insurance coverage for these employers when they apply to cover all their employees or all of their retirees. When an employer applies to cover some employees or some retirees, she must deny coverage if the Health Care Cost Containment Committee (HCCCC) certifies to her that the application would shift a significantly disproportionate part of the employer's medical risks to the state plan.

The act requires that premiums municipal and other employers pay be the same as those the state pays for the same insurance plans. It allows employers to require an employee contribution toward the premium. It also permits the comptroller to charge participating employers an administrative fee based on a per member, per month basis.

Under the act, employers joining must commit to participate in the state plan for three years, at the end of which they may renew for three more. The comptroller must develop procedures for employers to withdraw from coverage for employers with public employee collective bargaining, the procedures must comply with state collective bargaining law.

The act specifies that it allows the comptroller to procure coverage for nonstate employees from insurance vendors other than those providing coverage for state employees. It is unclear whether this provision conflicts with the requirement to pool all new employees and retirees with state employees in the state plan. The act also specifies the comptroller is not required to offer coverage from each vendor now participating in the state plan.

If an employer fails to make premium payments, the state can charge interest on the overdue amount. In the case of a municipality, it can also withhold grants or other assistance to the town until the premiums are paid.

The act requires the State Employees' Bargaining Agent Coalition (SEBAC) to consent to adding new employees to the state plan before any new groups are added. SEBAC is the bargaining coalition that negotiates state employee health and retirement benefits for all state unions.

The act also establishes a Nonstate Public Health Care Advisory Committee and a Private Sector Health Care Advisory Committee to each make recommendations concerning municipal and private sector coverage, respectively, to the Health Care Cost Containment Committee created through the SEBAC agreement.

It also requires the comptroller to report to the General Assembly on how the state employee health plan can be further expanded to include individuals not addressed under the act.

The act permits two or more municipalities to join together as a single entity to obtain health insurance for their employees. It requires the group to be fully insured and meet existing health insurance requirements.

EFFECTIVE DATE: September 1, 2008, except the definitions, the provision creating the advisory committees, and the SEBAC approval are effective upon passage; and the report and the authority for two or more municipalities to join together to purchase health insurance are effective January 1, 2009.

§ 1 — COVERED EMPLOYERS AND EMPLOYEES

The act includes definitions for the employers and the employees it allows into the state employee health plan.

“Nonstate public employer” is a municipality or other political subdivision of the state, including a board of education or a quasi-public agency or public library. A nonstate public employee is a regular employee or elected officer of a nonstate public employer.

“Municipal-related employer” is any property management, food service, or school transportation business under contract with a nonstate public employer. A municipal-related employee is an employee of a municipal-related employer performing services under a contract with a nonstate public employer.

“Small employer” is any person, firm, corporation, limited liability company, partnership or association actively engaged in business or self-employed for at least three consecutive months who, on at least 50% of its working days during the preceding year, employed no more than 50 eligible employees, as described in the act, the majority of whom were employed within this

state. In determining the number of eligible employees, companies which are affiliates, as defined in state business law as being under the control of another business, or which are eligible to file a combined tax return under state corporation business tax law must be considered one employer. Small employer does not include a town or other state political subdivision.

“Nonprofit employer” is a nonprofit corporation, as defined by law. It does not include a town or other state political subdivision.

The act provides an exception to the small employer 50 employee rule for employers who are either municipal-related employers or nonprofits.

It also specifies state plan enrollees must not include those covered through their employer by health insurance plans or insurance arrangements issued to or in accord with a trust established through collective bargaining under the federal Labor Management Relations Act (i.e., the Taft-Hartley Act).

§ 2 — OPENING THE STATE EMPLOYEE HEALTH PLAN

By law, the comptroller solicits bids and enters into contracts with insurance carriers to provide health insurance for state employees and retirees. The act requires the comptroller to offer insurance coverage for municipalities, other political subdivisions of the state, certain municipal service contractors, nonprofit organizations, and small businesses when their application for coverage is approved according to the act's provisions. A board of education and a municipality must be considered separate employers for purposes of the act.

The act specifies that it allows the comptroller to procure coverage for nonstate employees from insurance vendors that are not providing coverage for state employees. It is unclear whether this provision conflicts with the requirement to pool all the new employees and retirees in the state employee plan. The act also specifies the comptroller is not required to offer coverage from each vendor now participating in the state plan.

(By law and unchanged by the act, the comptroller also procures health insurance for municipalities, nonprofits, and small businesses under the Municipal Employee Health Insurance Program, a separate voluntary program that insures those groups without pooling them with state employees.)

It requires the comptroller to create an application for employers seeking coverage from the state plan. The application must require an employer to disclose whether it will offer any other health plan to employees offered the state plan.

The act establishes two different processes for coverage to begin, depending on whether the application covers all or some of the employees. These rules apply to all nonstate employees and retirees.

If the application covers all of an employer's employees, the comptroller must begin coverage no later than the first day of the third calendar month following such application. For example, if an application arrives any time in January, the coverage must start April 1.

If the application covers some of an employer's employees or it indicates the employer will offer other health plans to employees who are offered the state health plan, the comptroller must forward the application to the HCCCC for review. Under the act, the comptroller must deny coverage if the HCCCC certifies to her that the application is shifting a significantly disproportional part of the employer's medical risks to the state plan. If the HCCCC does not certify, coverage must begin no later than the first day of the third calendar month after the application.

The comptroller must forward the application to the HCCCC within five business days and the HCCCC may, not later than 30 days after receiving the application, certify to the comptroller whether risk shifting is taking place.

Permissive and Mandatory Collective Bargaining

The act makes initial participation in the state employee plan a permissive subject of collective bargaining, despite any collective bargaining laws to the contrary. The decision to join the plan is subject to binding arbitration only if the union and the employer mutually agree to bargain over the initial participation. The agreement must be in writing and signed by authorized representatives of the union and the employer.

Continuation in the state plan, after initial participation, is a mandatory subject of bargaining, and is subject to binding interest arbitration in accordance with the same procedures and standards that apply to any other mandatory subject of bargaining under state, municipal, and certified board of education employees collective bargaining law.

Private Sector and Federal Law

The private sector employers covered under the act (i.e., small businesses, nonprofits, and municipal-related employers) cannot join the plan if the comptroller determines that their participation would subject the plan to the requirements of the Employee Retirement Income Security Act of 1974 (ERISA). If the comptroller later determines the state plan complies with ERISA, she must resume granting applications.

ERISA is a federal law that sets standards, including fiduciary responsibilities, for most voluntary private sector retirement plans and employer-sponsored health plans (see BACKGROUND).

Exception to the HCCCC Review Requirement

Under the act, the comptroller must forward an employer's application for HCCCC review when the application does not cover all the employer's employees. This requirement is waived when the only employees not covered are temporary, part-time, or durational employees.

The act also permits HCCCC review to be omitted in cases where individual employees decline coverage from their employer for themselves or their dependents. This language appears unnecessary and has no practical effect because at the point when the application is being considered by the comptroller, there is not yet any coverage offered to employees for the employees to turn down.

§§ 2 & 4 — PREMIUMS, ADMINISTRATIVE FEE, AND EMPLOYEE COST SHARING

The act requires that premiums employers, other than small employers, pay be the same as those the state pays for the same insurance plans. Each month, each employer must pay the comptroller an amount she determines.

Under the act, employers may require covered employees to contribute a portion of the cost of the employees' coverage under the plan, as may be required under any applicable union contract.

It also permits the comptroller to charge participating employers an administrative fee based on a per member, per month basis.

Small Employer Premium May Vary

The act permits an insurance carrier to adjust the rate charged to small employers for a particular health care product under the state plan to reflect one or more of the community rating characteristics identified in state insurance law. They include:

1. age, provided age brackets of fewer than five years are not permitted;
2. gender;
3. geographic area;
4. industry, within certain variation limits;
5. group size, within certain variation limits;
6. administrative costs savings as a result of being part of the state plan;
7. profit reduction as a result of being part of the state plan; and
8. family composition, with certain limits.

§ 3 — RETIREES

Employers eligible under the act may also seek coverage for their retirees. The coverage must be provided no later than the first day of the third calendar month following such application, as long as the HCCCC has not informed the comptroller that the retirees proposed for coverage constitute a disproportionate shift of the employer's medical risks. If the HCCCC provides this notice, the comptroller must deny coverage.

The act does not appear to include retirees in its other provisions that (1) require pooling with the state employee plan, (2) require the premiums be the same as the state pays, (3) permit a premium contribution by the individual covered, or (4) permit charging an administrative fee.

The act states that it does not diminish any retiree's right to health insurance under the union contract or any provision of state law.

§ 4 — STATE PLAN PREMIUM ACCOUNT

The act establishes, within the General Fund, a separate, nonlapsing account called the state plan premium account. Employer and employee premiums paid under the provisions of the act must be deposited into this account. The account is administered by the comptroller, in conjunction with the HCCCC, for insurance premium payments.

§ 4 — PENALTIES

The act creates two types of penalties for employers who fail to pay or pay on time, in addition to allowing the comptroller to terminate participation in the plan.

For all employers who do not pay by the due date, interest will be added to such payment at the prevailing rate of interest, as determined by the comptroller. The employer must pay the interest.

If a municipal employer fails to make premium payments, the comptroller can direct the state treasurer, or any other officer of the state that is the custodian of state grant money, allocation, or appropriation due to the municipality to withhold the payment. The money or aid is withheld until (1) the premium or interest due and unpaid has been paid or (2) the treasurer or other state officers determine that arrangements, satisfactory to the treasurer, have been made for the payment of such premium and interest. The act provides an exception that such money must not be withheld if withholding impedes the receipt of any federal grant or aid in connection with that money.

It does not appear that this provision applies to other nonstate public employees such as school boards or public libraries.

If a municipal-related employer, small employer, or nonprofit employer fails to make premium payments, the comptroller can terminate employee participation in the state plan and request the attorney general to recover any premium and interest costs.

§ 5 — STATE EMPLOYEES' BARGAINING AGENT COALITION (SEBAC) CONSENT

The act prohibits health coverage to any new employee groups under the act until SEBAC provides its consent to the clerks of both houses of the General Assembly. (Individual unions negotiate individually for pay increases and other conditions-of-work matters.)

§ 6 — REPORT TO THE GENERAL ASSEMBLY

The act also requires the comptroller to submit a report to the General Assembly with recommendations for terms and conditions on how the state employee health plan can be further expanded to include individuals not authorized under the act. It is due by January 1, 2010.

§ 7 — ADVISORY COMMITTEES

The act establishes a Nonstate Public Health Care Advisory Committee (NPHCAC) and a Private Sector Health Care Advisory Committee (PSHCAC), which must make recommendations concerning municipal and private sector coverage, respectively, to the HCCCC created through SEBAC.

NPHCAC

The NPHCAC consists of participating municipal employers and employees and includes the following members appointed by a method to be determined by the comptroller:

1. three municipal employer representatives;
2. three municipal employee representatives;
3. three board of education employers;
4. three board of education employee representatives; and
5. one neutral chairperson, who must be a member of the National Academy of Arbitrators or an arbitrator authorized by the American Arbitration Association or the Federal Mediation and Conciliation Service to serve as a neutral arbitrator in labor relations cases.

For each of the employer and employee categories (1-4 above), one representative must be from a town with a population of 100,000 or more, one from a town with a population of at least 20,000 but under 100,000, and one from a town with a population under 20,000.

PSHCAC

PSHCAC consists of the following members appointed by a method the comptroller determines:

1. five private sector employer representatives;
2. five private sector employee representatives; and
3. one neutral chairperson, who shall be a member of the National Academy of Arbitrators or an arbitrator authorized by the American Arbitration Association or the Federal Mediation and Conciliation Service to serve as a neutral arbitrator in labor relations cases.

§ 8 — JOINT MUNICIPAL HEALTH INSURANCE PURCHASES

The act permits two or more municipalities to join together as a single entity, by written agreement, to obtain health insurance for their employees. It requires the group to be fully insured and meet existing health insurance requirements.

The agreement must establish membership for the group, the duration of the health coverage, requirements regarding premium payments for health coverage, and the procedures for a municipality to withdraw from such a group and terminate coverage.

BACKGROUND

Employee Retirement Income Security Act of 1974 (ERISA)

ERISA is a federal law that sets standards of protection for individuals in most voluntarily established, private sector retirement plans. ERISA requires plans to provide participants with plan information, including important facts about plan features and funding; sets minimum standards for participation, vesting, benefit accrual, and funding; provides fiduciary responsibilities for those who manage and control plan assets; and, if a defined benefit plan is terminated, guarantees payment of certain benefits through a federally chartered Pension Benefit Guaranty Corporation.

PA 08-10—sSB 495

Planning and Development Committee

AN ACT CONCERNING ELIGIBILITY FOR THE PUBLIC HOUSING PILOT PROGRAM AND THE LOW AND MODERATE INCOME HOUSING TAX ABATEMENT

SUMMARY: This act allows the economic and community development commissioner to continue reimbursing municipalities for property tax abatements and exemptions granted to low- and moderate-income housing. It does so by changing provisions specifying the circumstances under which she must end these reimbursements, which are authorized under two statutory programs.

One program allows municipalities to abate property taxes on privately-owned multifamily housing if the owner agrees to keep the rents affordable for low- and moderate-income people. Under prior law, the commissioner could reimburse municipalities for these abatements for up to 40 consecutive years. The act eliminates this sunset provision.

The other program exempts public housing authorities (PHA) from paying property taxes on moderate rental housing projects they developed with state funds. Prior law allowed the commissioner to reimburse municipalities for the revenue loss as long as the PHAs owned the projects. Under the act, she may continue reimbursing a project after a public or private entity acquired and redeveloped it with her approval.

EFFECTIVE DATE: July 1, 2008

PA 08-43—HB 5633

*Planning and Development Committee
Judiciary Committee*

AN ACT CONCERNING CONTINUATION OF WATER LIENS

SUMMARY: This act extends, from one to two years, the time that a lien for delinquent municipal water rates and charges runs before it must be continued by filing a certificate with the town clerk in the same way as a tax lien.

EFFECTIVE DATE: October 1, 2008

PA 08-123—sSB 2

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

AN ACT CONCERNING THE NEXT STEPS INITIATIVE

SUMMARY: This act authorizes the Department of Mental Health and Addiction Services (DMHAS) to provide an additional 500 “Next Steps” supportive housing units mainly for people with mental illness. Funding for these units comes from mortgages, tax credits, and grants from the Connecticut Housing Finance Authority (CHFA) and the Department of Economic and Community Development (DECD). The act authorizes the state to provide annual debt service payments on an additional \$35 million in bonds CHFA may issue to finance these units. It also makes technical changes.

EFFECTIVE DATE: Upon passage

SUPPORTIVE HOUSING

The act increases the number of units authorized under the Next Steps supportive housing program. The program serves:

1. people or families affected by psychiatric disabilities, chemical dependencies, or both and who are homeless or at risk of becoming homeless;
2. families who qualify for federal temporary assistance;
3. 18- to 23-year olds who are homeless or at risk for becoming homeless because they are transitioning out of foster care or other residential programs; and
4. community-supervised offenders with serious mental health needs who are under Judicial Branch or Correction Department jurisdiction.

The law initially required the DMHAS commissioner to provide up to 650 units in a pilot program. It subsequently required him to provide an additional 500 units in the Next Steps Initiative. He had to develop the units under a memorandum of understanding with several state agencies, including the Office of Policy and Management (OPM), DECD, and CHFA, that allowed DECD and CHFA to help finance the units.

The act requires DMHAS to provide up to 500 additional units. It also increases the amount that OPM and the treasurer can pay for annual debt service on the bonds CHFA issues to finance the additional units. Prior law authorized them to pay up to \$70 million; the act increases this total by \$35 million, to \$105 million.

PA 08-182—sHB 5324

*Program Review and Investigations Committee
Planning and Development Committee
Appropriations Committee*

**AN ACT IMPLEMENTING THE
RECOMMENDATIONS OF THE PROGRAM
REVIEW AND INVESTIGATIONS COMMITTEE
STUDY OF REGIONAL PLANNING
ORGANIZATIONS**

SUMMARY: This act expands the capacity for state and regional planning. It requires the Office of Policy and Management (OPM) secretary to (1) rank the state's policies for developing and conserving land and (2) track the extent to which the state's principles for managing growth are being implemented. These policies and principles are specified in the State Plan of Conservation and Development (Plan of C&D), which serves as the basis for state agency decisions whether to fund major physical development projects.

The act also requires the secretary to reassess the boundaries of the state's planning regions at least once every 20 years and change them if necessary. The law allows towns within these regions to form three types of regional planning bodies. The rules governing these bodies vary. The act gives them largely the same powers and duties and refers to them collectively as regional planning organizations (RPOs). It also makes many conforming technical changes regarding RPOs.

By law, most RPOs must prepare a 10-year regional plan of development. These plans do not have to be consistent with the state plan, but the law requires the secretary to review them. The act requires him to develop uniform criteria for doing so.

Lastly, the act expands the range of projects eligible for regional performance incentive grants, which are available for delivering an existing municipal service on a regional basis. The act extends eligibility to new services that are not being provided anywhere in the region. It also drops the requirement that proposed projects increase local purchasing power or lower tax rates but requires the secretary to give priority to those that do.

EFFECTIVE DATE: October 1, 2008, except for the changes affecting the regional performance incentive grants, which take effect July 1, 2008.

STATE PLANNING

§ 10 — State Plan of C&D

By law, the OPM secretary must prepare the Plan of C&D and revise it every five years. The plan contains policies and growth management principles for managing the state's physical development. State

agencies must consider them when deciding whether to fund sewers, roads, public facilities, and other large-scale infrastructure that could affect where private developers build homes, stores, and office parks.

The act expands the plan's capacity as a decision-making tool. It requires the secretary to rank the plan's policies and adopt standards for determining if they are being met. Specifically, he must:

1. assign a priority to each policy,
2. estimate how much it would cost to implement it and identify potential funding sources,
3. identify the entities that must implement it, and
4. specify the schedule for doing so.

The secretary must also track the extent to which the plan's principles are being met. He must do so by developing three standards or benchmarks for each principle. Each set of benchmarks must include one that measures the principle's financial effects.

§§ 8 & 9 — Designating Planning Regions

By law, the OPM secretary must divide the state into logical planning regions. Specifically, he must designate and redesignate the region's boundaries, but the law neither specifies the number of regions he must designate nor the times for reconsidering the current designations. The 15 existing planning regions were designated during the late 1950s.

Starting by January 1, 2012, the act requires the secretary to analyze regional boundaries at least once every 20 years and redesignate them if necessary. Before doing so, he must develop criteria to evaluate how urban centers affect neighboring towns. At a minimum, the criteria must evaluate environmental and economic development trends, including housing, employment levels, commuting patterns for the most common types of jobs, traffic patterns on major roads, and changes in how people see social and historic ties. The criteria must also specify a minimum size for logical planning areas based on the number of municipalities, total population, and total square mileage.

The act requires the secretary to notify municipalities about the revisions he proposes before January 1, 2012 and specifies the process he must follow for notifying them. The notice must go to the chief executive officer (CEO) of each municipality in a region affected by the revisions. If a municipality's legislative body objects to the revision, the CEO must petition the secretary to attend a meeting with the legislative body to hear its objections. The CEO must do so within 30 days after receiving the notice. The petition must specify the meeting's place, date, and time.

The CEO must propose holding the meeting no later than 45 days after submitting the petition. The

secretary or his designee must make every reasonable effort to attend this meeting or a meeting held on another date, which must also fall within 45 days of the petition. If the secretary cannot make this meeting, he and the CEO may schedule the meeting for another date and time, which must fall within 120 days of the secretary's notice to the CEO.

The legislative body must use the meeting to inform the secretary about its objections. The secretary must consider the legislative body's oral and written objections. Within 45 days after the meeting, he must notify the CEO about his decision regarding the proposed boundary changes. In doing so, he must state his reasons for the decision.

Any changes to the regional boundaries take effect on July 1 following the date when the secretary finished analyzing or modifying the boundaries.

§§ 1, 6, & 7 — REGIONAL PLANNING ORGANIZATIONS

Just as the law requires the secretary to prepare the Plan of C& D, it requires RPOs to prepare similar plans for their respective regions. The law allows towns to form three types of RPOs: (1) regional planning agencies (RPAs), (2) regional councils of elected officials (RCEO), and (3) regional councils of governments (RCOGs). Their powers and duties vary, and so do the rules for forming them.

Towns can establish an RPA to prepare the statutorily required regional plan of development. Their representatives on the RPA's board are not limited to each town's chief elected official (CEO). Consequently, the CEOs may form an RCEO where they can air mutual concerns and interests. This council may perform the RPA's duties if the region does not have one.

Lastly, the towns can put the policymaking and planning functions under their chief elected officials by establishing an RCOG that automatically supplants and assumes the duties of the RPA. This council includes a regional planning commission consisting of one representative from each local planning commission.

The act places RCEOs on the same footing as the other RPOs. By law, two or more towns in a region can form an RCEO. Consequently, they are easier to form than RPAs and RCOGs, which require the approval of at least 60% of the region's towns. The act gives RCEOs the same powers as RCOGs in regions where the latter do not exist. This allows them to acquire real estate (CGS § 4-124r), advise the transportation commissioner about alternative standards for roads and bridges (CGS § 13a-13a), and advise the economic and community development commissioner about strategic economic development plans (CGS § 32-1o).

Under the act, RPAs' bylaws must include provisions requiring the RPA and the chief elected officials of the RPA's member towns to hold quarterly meetings on regional issues. By law, each participating town gets two seats on the RPA's board, and those with more than 25,000 people get an extra representative for each 50,000 people. But, as noted above, the representatives need not be the towns' chief elected officials (CGS § 8-31a).

REGIONAL LAND USE COORDINATION

§ 12 — Regional Plans of Conservation and Development

The act requires the OPM secretary to adopt regulations for reviewing regional plans of development, which the act renames regional plans of conservation and development. The law requires RPAs and RCOGs to prepare a regional plan at least once every 10 years. RCEOs must comply with this requirement if they choose to exercise regional planning powers.

In either case, the law requires these bodies to submit the plan to the secretary at least 65 days before the hearing on the plan. The secretary must determine the degree to which a regional plan corresponds to the State Plan of C&D and the state strategic economic development plan. The regional plan must be consistent with the state plans in how they define and address mutual issues and concerns. But a regional plan may also address other issues without being inconsistent with those plans. By October 1, 2011, the act requires the secretary to adopt regulatory criteria for reviewing these plans and issuing his findings.

§§ 3, 4, & 5 — River Protection Plans

The act includes RCEOs exercising regional planning powers in the review of river protection plans. By law, the OPM secretary must coordinate the review of these plans and related documents, which are prepared by organizations that manage river resources. These organizations are river committees, which the Department of Environmental Protection commissioner may establish for state-designated river corridors, and river commissions, which two or more towns may establish for a river that forms their boundaries or flows through them (CGS §§ 25-203 and 25-232).

The act requires the secretary to include RCEOs exercising regional planning duties in the reviews he coordinates of river management plans. Prior law limited the RPOs' participation to RPAs and RCOGs.

§ 11 — FUNDING FOR REGIONALLY DELIVERED SERVICES

Grants for New Services

The act makes new services eligible for regional performance incentive grants. The law allows the secretary to provide grants for delivering an existing municipal service on a regional basis. Only RPOs may apply for the grants. Under prior law, a service qualified for a grant only if a town in the RPO’s region delivered the service alone and not with other towns on a regional basis. The town did not have to be a member of the RPO.

The act limits the grants to services provided only by towns belonging to the RPO. As under prior law, the service qualifies only if (1) it is not already being delivered regionally and (2) two or more towns will jointly deliver it. The act makes planning studies eligible for grants. A study may examine delivering an existing or new service on a regional basis.

The act also opens the grants up to more proposals in other ways. It does so by dropping the requirement limiting proposals only to those that increase the participating towns’ purchasing power or that lower costs to the point where towns can reduce tax rates. Although the act eliminates this requirement, it requires the secretary to give priority to proposals that will produce these effects.

Application Requirements

The act changes the grant application requirements. Under prior law, an RPO had to submit a proposal to the secretary describing:

1. at least one service currently provided on a municipal rather than a regional basis;
2. how the service would be delivered regionally, including which entity would deliver it and how the population would continue to be served;
3. how the service would achieve economies of scale and how much would be saved; and
4. the mill rate reduction for each municipality due to the resulting savings and how this reduction would be implemented.

The proposal also had to include:

1. a cost/benefit analysis of providing the service on a regional versus municipal basis,
2. a plan for implementing the service regionally,
3. an estimate of the savings for each municipality, and
4. any other information the secretary requested.

Under prior law, the proposal had to include an attachment certifying that there are no legal obstacles to regionally delivering the service. The act drops this

provision and the one requiring each town to estimate cost savings and other information the secretary requires. It requires the proposal to explain the need for the service and the potential legal obstacles to delivering it regionally.

By law, each participating town’s legislative body must adopt a resolution endorsing the proposal, and the resolution must be attached to it. The act specifies that the legislative body is the board of selectmen in towns with a town meeting form of government.

Funding Criteria

The act changes the criteria for awarding the grants. Under prior law, the secretary had to give priority to proposals that involved at least half of an RCOG’s member towns. Under the act, he must give priority to those that involve all of an RPO’s member towns.

The act also requires the secretary to give priority to proposals that increase the municipalities’ purchasing power or that cut costs and consequently lower tax rates. As mentioned above, prior law allowed RPOs to submit only proposals that produced these effects.

Starting in 2008, the act pushes back the deadline for submitting grant applications from December 1 to December 31.

Reporting Deadline

The law requires the secretary to report annually about the grants to the Finance, Revenue and Bonding Committee. Under prior law, the report was due February 1. The act pushes back the deadline to March 1 and requires the reports to identify the extent to which the grants helped reduce property taxes.

BACKGROUND

Regional Planning Organizations

Table 1 shows the types of RPOs operating in the state.

Table 1: Regional Planning Organization

<i>Regional Councils of Governments</i>	<i>Regional Planning Agencies</i>	<i>Regional Councils of Elected Officials</i>
Capitol Region Council of Governments	Central Connecticut Regional Planning Agency	Housatonic Valley Council of Elected Officials
Council of Governments of the Central Naugatuck Valley	Connecticut River Estuary Regional Planning Agency	Litchfield Council of Elected Officials

<i>Regional Councils of Governments</i>	<i>Regional Planning Agencies</i>	<i>Regional Councils of Elected Officials</i>
Northeastern Connecticut Council of Government	Greater Bridgeport Regional Planning Agency	
South Central Regional Council of Governments	Midstate Regional Planning Agency	
Southeastern Connecticut Council of Governments	Southwestern Connecticut Regional Planning Agency	
Valley Council of Governments		
Windham Region Council of Government		

PA 08-7—sSB 242

*Public Health Committee***AN ACT CONCERNING CHANGES TO STATUTES AFFECTING THE DEPARTMENT OF DEVELOPMENTAL SERVICES**

SUMMARY: This act changes the Council on Mental Retardation's name to the Council on Developmental Services to reflect the Department of Mental Retardation's 2007 name change to the Department of Developmental Services (DDS), and it permits the DDS commissioner to designate someone to fill his role as an ex-officio, nonvoting council member. It renames the department's "mental retardation" regions as "developmental services" regions and changes the name of one Camp Harkness Advisory Committee member group to reflect its change from the Southeastern Connecticut Association for the Retarded to the Southeastern Connecticut Association for Developmental Disabilities. Similarly, it requires the DDS ombudsman to have experience in the field of developmental services rather than mental retardation.

The act permits DDS to hire another self-advocate in a general worker position. (General workers are unclassified employees eligible for sick, vacation, and personal leave but not other state benefits.)

EFFECTIVE DATE: Upon passage

PA 08-8—sSB 282

*Public Health Committee**Public Safety and Security Committee***AN ACT CONCERNING THE STATE METHADONE AUTHORITY**

SUMMARY: This act designates the Department of Mental Health and Addiction Services (DMHAS) as the lead state agency for substance abuse prevention and treatment and, consequently, as the state methadone authority for purposes of federal laws governing the use of methadone and other opioids to treat opiate addictions like heroin. It authorizes DMHAS, as the state methadone authority, to (1) approve exceptions to federal opioid treatment protocols, (2) approve federal certification of all opioid treatment programs in the state, and (3) monitor those programs. It requires DMHAS to adopt implementing regulations.

EFFECTIVE DATE: Upon passage

PA 08-12—sSB 579

*Public Health Committee***AN ACT CONCERNING METHICILLIN-RESISTANT STAPHYLOCOCCUS AUREUS**

SUMMARY: By January 1, 2009, this act requires each licensed hospital to develop a plan to reduce the incidence of methicillin-resistant staphylococcus aureus (MRSA) infection at the hospital. The MRSA plan must at least include the hospital's strategies for reducing such infections. Each hospital must provide its plan, which is a public record, to the Department of Public Health.

MRSA means the strain of staphylococcus aureus bacteria that is resistant to oxacillin or methicillin and detected and defined according to the Clinical and Laboratory Standards Institute's (CLSI) Performance Standards for Antimicrobial Susceptibility Testing.

The act applies to licensed hospitals which, by law, are establishments for the lodging, care, and treatment of people suffering from disease or other abnormal physical or mental conditions and includes inpatient psychiatric services in general hospitals.

EFFECTIVE DATE: July 1, 2008

BACKGROUND*CLSI*

CLSI is a global, nonprofit standards-developing organization that promotes the development and use of voluntary consensus standards and guidelines within the health care community. It includes over 2,000 member organizations concerned with improving health care quality.

In 1977, CLSI was first accredited by the American National Standards Institute as a voluntary consensus standards organization. At about the same time, CLSI became the home of the National Reference System for the Clinical Laboratory—a collection of broadly understood reference systems intended to improve the comparability of test results consistent with the needs of medical practice.

PA 08-14—SB 622

*Public Health Committee***AN ACT CONCERNING CERTIFICATES OF NEED ISSUED BY THE OFFICE OF HEALTH CARE ACCESS**

SUMMARY: This act amends the Office of Health Care Access (OHCA) certificate of need (CON) review process by:

1. adding a new exemption for capital expenditures for nonclinical purposes if certain conditions are met;
2. changing certain registration and notice periods applicable to exempt facilities and institutions; and
3. specifying that, when reviewing CON applications for capital expenditures or for the acquisition of equipment by health care facilities, institutions, providers, or persons, OHCA must consider a set of existing statutory principles and guidelines concerning financial feasibility, impact on health care quality and accessibility, and the public need for the proposal.

The act also changes several deadlines in the CON process, mainly to reflect a change from business to calendar days. Similarly, it changes, to 14 days from 10 business days, the time a hospital has to adjust a patient's bill after OHCA notifies it that an item in the bill is greater than the hospital showed in the applicable schedule of charges it filed with OHCA. By law, the hospital is subject to a \$500 civil penalty. The act changes the date for paying the penalty to 14 days, rather than 10 business days after OHCA's notification.

The act repeals obsolete statutes, including those related to OHCA's jurisdiction over CONs for nursing homes, which was transferred to the Department of Social Services in 1993.

EFFECTIVE DATE: Upon passage for the new CON exemption; July 1, 2008 for the other provisions.

NEW CON EXEMPTION FOR CERTAIN CAPITAL EXPENDITURES

The act adds a new exemption from CON review for capital expenditures for parking lots and garages, information and communications systems, physician and administrative office space, land acquisition for nonclinical purposes, and acquisition and replacement of nonmedical equipment. The latter category includes boilers; chillers; and heating, ventilation, and air conditioning systems.

In order to be exempt, (1) the health care facility or institution must provide OHCA with information concerning the type of capital expenditure, the total cost of the project, and other information OHCA requests and (2) the total capital expenditure cannot exceed \$20 million.

The act specifies that OHCA's approval of an exemption for land acquisition for nonclinical purposes does not exempt the facility from CON requirements if the facility seeks to develop the land in the future.

EXEMPT FACILITIES - REGISTRATION WITH OHCA

Existing law requires entities exempt from CON to register with OHCA every two years in order to renew their exemption status. Previously, the exempt entity had to file the information required for a "letter of intent" (see BACKGROUND) between 10 business and 60 calendar days before beginning operations or changing, expanding, terminating, or relocating any facility or service otherwise subject to CON. The act changes the filing period to between 14 and 60 calendar days.

The act requires OHCA to provide the entity with a written acknowledgement of receiving the completed filing within 14 days instead of 10 business days.

Existing law exempts municipal, school, and health district outpatient clinics and programs; intermediate care residential facilities for people with mental retardation; certain outpatient rehabilitation services; clinical laboratories; assisted living services; outpatient dialysis units; HMO outpatient clinics; home health agencies; a clinic operated by Americares; and certain nursing and rest homes.

CON DEADLINE CHANGES

Table 1 describes changes the act makes to various deadlines in OHCA's CON process.

Table 1: CON Deadline Changes

<i>Deadline For:</i>	<i>Prior Law</i>	<i>PA 08-14</i>
OHCA to submit notice of a completed letter of intent for publication	15 business days after OHCA determines letter's completion	21 days after OHCA determines letter's completion
OHCA to accept or reject request to extend a letter of intent's current status.	5 business days from receipt of request	7 days from receipt of request
Applicant to submit request for OHCA to waive letter of intent requirement because of emergency nature underlying the CON application	At least 10 business days before the date a new function or service is to begin, a service or function is to terminate, the applicant's ownership or control is to change, or a proposed capital project is to begin	At least 14 days before such date
OHCA to grant, modify, or deny request to waive letter of intent in emergency	Within 10 business days of receiving request	Within 14 days of receiving request
Applicant to provide OHCA with data or information needed to complete letter of	15 business days after OHCA sends notice that letter of intent or CON application is incomplete	21 days after OHCA sends the notice

<i>Deadline For:</i>	<i>Prior Law</i>	<i>PA 08-14</i>
intent or CON application		
OHCA to notify applicant of its acceptance or refusal of a letter of intent or CON application for which applicant must submit additional data or information	15 business days (prior law does not specify when the clock for this notice begins to run; in practice OHCA begins it when it sends notice that the data or information is incomplete)	21 days (the act does not specify when the clock for this notice begins)

BACKGROUND

Certificate of Need (CON)

CON authorization is required from OHCA when a health care facility proposes a medical equipment purchase, introduction of an additional function or service, a reduction or termination in services, or changes in ownership or control. Connecticut health care facilities, including ambulatory care centers and outpatient behavioral health programs, also must obtain a CON prior to developing, expanding, or closing certain services and spending more than \$3 million on a capital project. Additionally, any person is required to obtain a CON if he or she proposes to acquire major medical equipment with a capital cost of over \$3 million.

CON approval, regardless of cost, is required for anyone acquiring, purchasing, or accepting donation of a CT scanner, PET scanner, PET/CT scanner, MRI, cineangiography equipment, a new linear accelerator, or similar equipment utilizing new technology that is being introduced to the state.

The CON process is a two-step procedure consisting of (1) a CON Determination and/or Letter of Intent (LOI) and (2) the application process. Through the LOI process, the applicant notifies OHCA of the project’s intent, description, and cost. A CON determination form is submitted to OHCA if the applicant is unsure if a CON is required for the proposal.

PA 08-21—sHB 5449
Public Health Committee

AN ACT CONCERNING ISSUANCE OF EMERGENCY CERTIFICATES BY LICENSED CLINICAL SOCIAL WORKERS AND ADVANCED PRACTICE REGISTERED NURSES

SUMMARY: This act permits social workers and advanced practice registered nurses (APRNs) who are members of crisis intervention or advanced supervision

and intervention support teams operated by or under contract with the Department of Mental Health and Addiction Services (DMHAS) to issue emergency certificates directing a person with psychiatric disabilities to be taken to a hospital for evaluation. Previously, only social workers and APRNs who were members of a DMHAS-operated or –funded mobile crisis team, jail diversion program, or assertive case management program could issue emergency certificates.

As with social workers and APRNs previously authorized to issue emergency certificates, those working in the newly covered programs must (1) have received at least eight hours of specialized training in conducting direct evaluations and (2) as a result of direct evaluation, believe the person has psychiatric disabilities; is a danger to himself, herself, or others, or gravely disabled; and needs immediate care or treatment.

EFFECTIVE DATE: Upon passage

BACKGROUND

Crisis Intervention and Advanced Supervision and Intervention Support Teams (ASIST)

Crisis intervention teams consist of police and clinicians who respond to situations in a community involving someone with a psychiatric disorder. Teams currently operate in Bridgeport, Hartford, New Haven, New London, Norwich, Stamford, Waterbury, and West Haven. In the ASIST program, DMHAS clinicians work with probation and parole officers to help DMHAS clients who become involved with the criminal justice system to stay out of jail. The program currently operates in Bridgeport, Hartford, Middletown, New Britain, New Haven, Norwich, and Waterbury.

PA 08-24—HB 5706
Public Health Committee

AN ACT CONCERNING THE PLACEMENT OF IDENTIFYING MARKS ON DENTAL PROSTHESES

SUMMARY: This act requires state-licensed dentists to offer to those patients who need removable prosthetic dentures, bridges, appliances, or other structures the opportunity to have the patient’s name or initials placed on the prosthesis. This applies to dentists who either make or direct the prosthesis to be made.

The markings must be done when the prosthesis is made with the location and methods used to apply or implant the markings determined by the dentist or person acting on his or her behalf. The markings must

be permanent, legible, and cosmetically acceptable.

The dentist must advise the patient of any additional charges for the prosthesis markings. The act allows the markings to be omitted if the dentist or entity making the prosthesis determines it is not practicable or clinically safe.

EFFECTIVE DATE: October 1, 2008

PA 08-31—SB 462

Public Health Committee

AN ACT CONCERNING LICENSE RENEWAL FEES FOR PHYSICIANS

SUMMARY: This act allows doctors who annually provide at least 100 hours of free service in a mobile health clinic to renew their licenses without charge if they do not practice medicine anywhere else. Doctors who do this in a public health facility (e.g., hospital, community health center, nursing home, mental health facility, group home, school, or public preschool) and do not practice medicine anywhere else were already exempt from the \$450 license renewal fee.

EFFECTIVE DATE: October 1, 2008

PA 08-42—sHB 5630

Public Health Committee

Judiciary Committee

AN ACT PROMOTING CONSISTENCY AMONG PEER REVIEW PROCEEDINGS

SUMMARY: This act applies confidentiality and immunity provisions of the medical peer review and public health record laws to the operations of the Department of Developmental Services' (DDS) mortality review teams and the Independent Mortality Review Board (IMRB). The DDS teams are composed of regional department staff who review all client deaths and develop corrective action plans, where appropriate. The DDS commissioner must report to the review board any death in which (1) the DDS teams raise questions about the client's care, (2) abuse or neglect has been alleged, (3) the Office of Chief Medical Examiner has accepted jurisdiction, (4) an autopsy was performed, or (5) the death was unexpected. The board, which was established by executive order, must investigate each report.

The act also changes the names of (1) the council that advises DDS and (2) the department's regions, to reflect the department's 2007 name change from the Department of Mental Retardation.

EFFECTIVE DATE: October 1, 2008

CONFIDENTIALITY

The act extends to DDS terms and the IMRB confidentiality provisions that apply to Public Health Department (DPH) records. By law, all information, interview records, written reports, statements, notes, memoranda, or other data (including personal data) the DPH or DPH-licensed facilities obtain in connection with morbidity and mortality studies is confidential. It can be used only for medical or scientific research and can be disclosed only for purposes of the project to which it relates. DPH can disclose personal data for medical or scientific research to other government agencies and private research organizations as long as they do not further disclose it. The information is not admissible as evidence in any judicial or administrative action (CGS § 19a-25).

Peer review is a process for health care professionals to evaluate the quality and efficiency of the services another health care professional performs or orders. A peer review committee's proceedings are not subject to discovery and cannot be introduced into evidence in a civil action for or against a health care provider that arises from the matters the committee reviewed. No one who attended a committee meeting can be allowed or required to testify in such an action about what occurred during the meeting. But the law permits in any civil action:

1. a person testifying about his or her personal knowledge of why the peer review was instituted, as long as this knowledge was acquired independently of the peer review process;
2. the use of any writing recorded independently of the peer review; or
3. disclosure of the fact that staff privileges were terminated or restricted, including the specific restriction.

The law also permits the use of data developed during a peer review in any proceeding concerning termination or restriction of staff privileges.

IMMUNITY

Public Health Records

An individual, hospital, rest home, nursing home, or other agency that provides information to DPH, its representative, or any other agency cooperating in a morbidity, mortality, or other research project is not subject to any action for damages or other relief because of its disclosure.

Peer Review

Anyone who testifies before or provides information, various documents, or conclusions to a hospital, hospital medical staff, professional society, medical or dental school, professional licensing board, or peer review committee that is intended to help evaluate a health care professional's qualifications, fitness, or character is not subject to monetary liability or any cause of action for damages as long as the person does not represent as true something he or she does not reasonably believe to be true.

A member of a peer review committee is not subject to monetary liability or any cause of action for damages for any act or proceeding that is within the committee's scope, as long as the individual acted without malice and in reasonable belief that his or her action was warranted.

PA 08-46—SB 284*Public Health Committee**Public Safety and Security Committee*

**AN ACT CONCERNING CRIMINAL HISTORY
BACKGROUND CHECKS FOR PERSONS
PROVIDING SERVICES TO CLIENTS OF THE
DEPARTMENT OF MENTAL HEALTH AND
ADDICTION SERVICES**

SUMMARY: This act requires all applicants for jobs or volunteer positions in the Department of Mental Health and Addiction Services (DMHAS) to submit to (1) a state criminal background check and (2) checks of the Children and Families and Developmental Services departments' abuse and neglect registries. It permits DMHAS to require any applicant who previously lived in another state to submit to a national criminal background check. It bars DMHAS from hiring an employee or placing a volunteer until the check results are available. The act conforms statute to the department's current practice.

EFFECTIVE DATE: Upon passage

PA 08-63—sHB 5666*Public Health Committee**Appropriations Committee*

**AN ACT CONCERNING EXPANSION OF THE
PILOT PROGRAM FOR PERSONS WITH
AUTISM SPECTRUM DISORDERS**

SUMMARY: This act expands, from 50 to 75, the number of people who can participate in the Department of Developmental Services' (DDS) pilot program for

adults with autism spectrum disorders but not mental retardation. The program provides coordinated services and support, including case management, for people not otherwise eligible for DDS services and their families.

The act requires the DDS commissioner to ensure that eligible adults living outside the pilot's existing service area (parts of New Haven and Middlesex counties) have access to the expanded slots.

The act extends the pilot's end date by nine months, from October 1, 2008 to June 30, 2009. The law requires DSS to report on the pilot's results by January 1, 2009.

EFFECTIVE DATE: Upon passage

PA 08-66—sHB 5808*Public Health Committee*

**AN ACT CONCERNING SOCIAL SECURITY
NUMBERS ON VITAL RECORDS**

SUMMARY: Federal law makes confidential any Social Security numbers (SSNs) and related records obtained under any law enacted on or after October 1, 1990 and prohibits state or local officials from disclosing them. This act tightens access to SSNs on birth and fetal death certificates recorded before that date and on marriage and death certificates recorded after July 1, 1997 when state law first required recording them.

This act bars disclosure of parents' SSNs recorded on birth and fetal death certificates and records unless authorized by state or federal law or by the Public Health Department (DPH) for statistical or research purposes. Prior law permitted disclosure of parents' SSNs to various parties under certain circumstances. The act also requires registrars of vital statistics to record this information in the confidential portion of the certificates instead of the "information for statistical purposes only" section.

The act extends several marriage license laws to civil union licenses and limits access to SSNs on both marriage and civil union licenses. And it limits those who can get a certified copy of certain death certificates containing an SSN.

EFFECTIVE DATE: October 1, 2008

**SOCIAL SECURITY NUMBERS ON VITAL
RECORDS**

Birth and Fetal Death Certificates

Under prior law, parents' SSNs were recorded in the "information for statistical purposes only" section of birth and fetal death certificates, and SSNs on certificates recorded before October 1, 1990 that were

less than 100 years old could be disclosed to various parties. These parties included the child's close relatives; the chief elected official or health director of the town where the birth or fetal death occurred; attorneys representing the child, the child's parents, children, or surviving spouse; genealogists; authorized federal and state officials; and people DPH specifically authorized for statistical or research purposes.

The act requires parents' SSNs to be recorded in these forms' confidential section. It specifies that the law governing access to birth and fetal death records and information is not be construed to permit disclosure of these SSNs, unless authorized by state or federal law or by DPH for statistical or research purposes. By law, information in the confidential section may be used:

1. by DPH or local health directors as authorized by DPH for statistical and health purposes,
2. by local health directors for town-related records, and
3. by the birthing hospital for statistical, health, and quality assurance.

By law, DPH can authorize disclosure of otherwise confidential information in the "information for medical and health use only" and the "information for statistical purposes only" sections for statistical or research purposes. The act also permits disclosure if state or federal law authorizes it for these purposes. In practice neither of these sections is issued with a copy of the certificate.

Marriage and Civil Union Licenses

The act applies existing law governing recording SSNs on marriage licenses to civil union licenses. It requires the SSNs of parties to a civil union to be (1) recorded in the "administrative purposes" section of the license application and the license and (2) redacted or removed from any copy of a license given to (a) people not otherwise authorized to obtain the number or (b) a state or federal agency that requests one.

For both marriages and civil unions, the act (1) specifies that the officiator's and the local registrar's access to the parties' SSNs is only for processing the license, (2) eliminates the DPH commissioner's ability to authorize other people to have access to the parties' SSNs on the license, and (3) allows only the parties to the marriage or civil union to get a certified copy of the license containing their SSNs.

Death Certificates

The law requires recording decedents' SSNs on the death certificate, but for people who died after December 31, 2001 this information is recorded in an "administrative purposes" section. The act specifies that the people listed on the death certificate, including

the funeral director, embalmer, surviving spouse, conservator, physician, and town clerk can have access to the SSN and other information in the "administrative purposes" section only to process the certificate.

For deaths occurring after July 1, 1997, the act permits:

1. only the surviving spouse or next of kin to get a certified copy of a death certificate with the decedent's SSN or with the complete administrative purposes section and
2. any researcher requesting a certified or uncertified copy of a death certificate to obtain the information in the "administrative purposes" section with the decedent's SSN redacted.

Under prior law, if anyone other than the parties listed on the death certificate asked for a copy the registrar could redact or remove the SSN or omit the administrative purposes section.

Vital Records and Genealogists

The law gives members of genealogical societies that the secretary of the state recognizes full access to all vital records, except certain confidential files. The act adds records containing SSNs protected from disclosure by federal law to those exceptions and requires registrars to redact federally protected SSNs from any certified copy of any vital record they issue to a genealogist.

BACKGROUND

Related Law

PA 08-184 amends several provisions of this act. Among other changes, it repeals the provision that requires recording the mother's and father's SSN in the confidential portion of the birth certificate; prohibits releasing a parent's SSN to any person or entity that is not authorized by state or federal law; specifies that the law is not to be construed to permit disclosure of any information contained in the "health and statistical use only" and "administrative purposes only" sections to anyone unless DPH specifically authorizes it for statistical or research purposes; and allows entities authorized by state or federal law to receive marriage, civil union, and death records.

Federal Law

Federal law requires states or their political subdivisions to obtain parents' SSNs in administering their laws governing birth certificate issuance, but it prohibits them from recording this information on the birth certificate (42 USC 405 (c)(2)(c)(ii)). The law

also makes confidential any SSNs and related records obtained under any law enacted on or after October 1, 1990 and prohibits state or local officials from disclosing them (42 USC 405 (c)(2)(c)(viii)(I)).

4. describe the hospital's process for internal review of the plan; and
5. include the hospital's method for involving its direct care staff in developing the plan.

PA 08-79—sHB 5902

Public Health Committee

AN ACT CONCERNING HOSPITAL STAFFING

SUMMARY: Beginning July 1, 2009, the act requires each licensed hospital, upon request, to make available to the Department of Public Health (DPH) a prospective nurse staffing plan and a written certification that the plan is sufficient to provide adequate and appropriate patient health care services in the ensuing hospital licensure period.

The plan must promote collaborative practice in the hospital that improves patient care and the level of services that nurses and other hospital patient care team members provide.

The act requires each hospital to establish a staffing committee to assist in preparing the nurse staffing plan. The hospital, in collaboration with the committee, must develop and implement the plan to the best of its ability. Hospitals may use existing committees to assist in plan development under certain conditions.

“Hospital” means an establishment for the lodging, care, and treatment of persons suffering from disease or other abnormal physical or mental conditions and includes inpatient psychiatric services in general hospitals.

EFFECTIVE DATE: October 1, 2008

NURSE STAFFING PLAN DEVELOPMENT

The act requires registered nurses (RN) whose primary responsibility is to provide direct patient care at the hospital to make up at least 50% of the staffing committee's membership. The hospital may use an existing committee or committees to assist with plan preparation if at least 50% of the membership includes RNs whose primary responsibility is to provide direct care.

The nurse staffing plan must:

1. include the minimum professional skill mix for each hospital patient care unit, including inpatient services, critical care, and the emergency department;
2. identify the hospital's employment practices for temporary and traveling nurses;
3. establish the level of administrative staffing in each patient care unit that ensures that direct patient care staff are not used for administrative functions;

PA 08-80—sSB 464

Public Health Committee

AN ACT CONCERNING STEM CELL RESEARCH

SUMMARY: This act makes changes in Connecticut's stem cell research law to reflect the acknowledgment of, and compliance with, the “National Academies' Guidelines for Human Embryonic Stem Cell Research” (see BACKGROUND). The act (1) amends the consent requirements for prospective embryo donors; (2) establishes standards to allow the use of human embryonic stem cell lines derived outside Connecticut; (3) requires that all human embryonic stem cell research conducted in the state be overseen by embryonic stem cell review oversight committees, rather than by “institutional review committees;” and (4) requires the state's Stem Cell Research Peer Review Committee members to use the guidelines when evaluating grant applications.

EFFECTIVE DATE: October 1, 2008

COMPLIANCE WITH NATIONAL ACADEMIES' GUIDELINES

Consent for Donation

By law, a person choosing to donate for stem cell research purposes any human embryos or embryonic stem cells remaining after undergoing fertility treatment or unfertilized human eggs or human sperm must give written consent, and cannot receive any direct or indirect payment, for the donation.

The act requires that consent for such donations conform to the National Academies' guidelines.

Under the guidelines, consent should be obtained from each donor at the time of donation. Even those who have previously indicated their intent to donate to research any embryos remaining after clinical care should nonetheless give informed consent at the time of donation. Donors should be informed that they retain the right to withdraw consent until the embryos are actually used in cell line derivation.

Research on Stem Cells Derived Outside Connecticut

The act allows human embryonic stem cell research on stem cells that have been derived outside Connecticut and have been acceptably derived as provided in the guidelines. This would have the effect

of allowing the use in Connecticut of human embryonic stem cells lines derived elsewhere (e.g., the United Kingdom, Canada, the California Institute for Regenerative Medicine). Under the guidelines, (1) the donation protocol for the cell lines must be reviewed by an oversight body, (2) there must be informed and voluntary consent, (3) there must have been no payment for donation, and (4) the donation must be legal in the relevant jurisdiction.

Embryonic Stem Cell Research Oversight Committees (ESCROs)

The act requires that all human embryonic stem cell research performed in Connecticut be overseen by an ESCRO rather than by an institutional review committee. The act defines such an ESCRO as one established according to the National Academies' guidelines.

Under existing law, such research must be reviewed and approved by an institutional review committee. Such a committee is defined as (1) the local institutional review committee established according to federal law to supervise the clinical testing of devices in facilities where clinical testing is to be conducted and (2) where applicable, an "institutional review board" (IRB), which, under federal law, is responsible for ensuring that human subjects engaged in research are treated with dignity, are protected from harm, and have given informed consent to participate in research. An IRB reviews and approves research protocols before any work is started and periodically reviews ongoing research to ensure the protection of subjects.

The act deletes references to "institutional review committee," and instead requires that the research be overseen by an ESCRO.

The academics' guidelines make clear that activities related to human embryonic stem cell research should be overseen by an ESCRO. Such committees, according to the guidelines, can be internal to a single institution or established jointly with one or more other institutions. The guidelines give ESCROs the following responsibilities:

1. provide oversight over all issues related to derivation and use of human embryonic stem cell lines,
2. review and approve the scientific merit of research protocols,
3. review compliance of all in-house human embryonic stem cell research with all relevant regulations and the guidelines,
4. maintain registries of human embryonic stem cell research conducted at the institution and cell lines derived or imported by institutional investigators, and

5. facilitate education of investigators involved in human embryonic stem cell research.

Although an ESCRO may overlap with other oversight committees, it should not be a subcommittee of an IRB according to the guidelines.

Stem Cell Research Peer Review Committee

Under existing law, the Department of Public Health (DPH) commissioner appoints a Stem Cell Research Peer Review Committee of up to 15 members. The committee reviews all applications for grants and makes recommendations to DPH and the existing Stem Cell Research Advisory Committee concerning the ethical and scientific merit of each application. Peer review committee members must be aware of the National Academies' guidelines.

The act specifies that the peer review committee must use the guidelines to evaluate each grant application.

BACKGROUND

National Academies

The National Academies is an independent organization that Congress chartered to advise the government on scientific, engineering, and health matters. In April 2005, it released guidelines and recommendations for human embryonic stem cell research. These guidelines are intended for use by the scientific community, including researchers in academic, industry, or other private sector organizations.

The guidelines are amended from time to time. The National Academies called for the establishment of ESCROs in its 2005 guidelines. The guidelines committee believes that all research institutions engaged in human embryonic stem cell research should create and maintain these committees at the local level. The composition and responsibilities of ESCRO committees was further clarified in the February 2007 amendments to the guidelines.

PA 08-95—sHB 5447

Public Health Committee

Human Services Committee

Legislative Management Committee

AN ACT CONCERNING APPOINTMENTS TO THE BEHAVIORAL HEALTH PARTNERSHIP OVERSIGHT COUNCIL

SUMMARY: This act transfers authority to appoint the Behavioral Health Partnership (BHP) Oversight

Council’s public members from the Medicaid Managed Care Council’s chairpersons to legislative leaders and the governor. It adds four public members to the council, raising to 20 the number of appointed voting members and the total voting membership to 34. The following table shows the appointment distribution.

<i>Appointing Authority</i>	<i>Appointments</i>
House Speaker	2 representatives of general or psychiatric hospitals 1 adult with psychiatric disabilities 1 advocate for adults with psychiatric disabilities
Senate President Pro Tempore	2 parents of children with behavioral health disorders or who have received child protection or juvenile justice services from the Department of Children and Families (DCF) 1 expert in health policy and evaluation 1 advocate for children with behavioral health disorders
Senate Majority Leader	1 adult with a substance abuse disorder or an advocate for adults with such disorders 1 representative of school-based health clinics
Senate Minority Leader	1 provider of community-based behavioral health services for children 1 Medicaid Managed Care Advisory Council member
House Majority Leader	1 primary care provider serving children in the HUSKY program 1 child psychiatrist serving HUSKY children
House Minority Leader	1 provider of adult community-based behavioral health services 1 provider of residential treatment for children
Governor	2 representatives of general or psychiatric hospitals 2 parents of children with behavioral health disorders or who have received DCF child protection or juvenile services

EFFECTIVE DATE: October 1, 2008

BACKGROUND

Behavioral Health Partnership (BHP) Oversight Council

The council reviews (1) the state’s contract with the BHP’s administrative services organization (ASO) to make sure its authorization of services is based on the BHP’s clinical management criteria; (2) Medicaid and HUSKY behavioral health services to assure that federal revenue is being maximized; and (3) reports on program activities, finances, and outcomes. It reports annually to the governor and the Human Services, Public Health, and Appropriations committees.

Other voting council members are the Human Services, Public Health, and Appropriations committee chairpersons and ranking members, or their designees; a member of the Community Health Strategy Board; and

the mental health and addiction services commissioner, or his designee.

The council also includes nonvoting members representing various state agencies, consumers, the BHP’s ASO, and each Medicaid managed care organization.

PA 08-134—sSB 496
Public Health Committee

AN ACT CONCERNING PUBLIC HEALTH PREPAREDNESS

SUMMARY: This act:

1. allows the Department of Public Health (DPH), during a governor-declared public health or civil preparedness emergency, to temporarily suspend license renewal and inspection requirements and functions;
2. specifies that health care worker and facility licenses do not lapse during the emergency;
3. adds out-of-state water system operators to those practitioners who can work in Connecticut during an emergency; and
4. allows emergency medical services (EMS) personnel to use nerve agent antidote auto injectors to treat the general public in an emergency.

EFFECTIVE DATE: October 1, 2008

DECLARATION OF A CIVIL PREPAREDNESS OR PUBLIC HEALTH EMERGENCY

Suspension of License Renewal Requirements

If a civil preparedness or public health emergency is declared under the law, the act allows the DPH commissioner to suspend license renewal requirements for any license that would otherwise have to be renewed. By law, “license” includes the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law, but does not include a license required solely for revenue purposes.

Under the act, the license renewal suspension period may continue for the duration of the declared emergency and for the six-month period after the emergency ends. Any license not renewed by DPH during this time does not expire. Not later than six months after the emergency is declared over, the commissioner must reinstate the suspended license renewal requirements. A license not renewed within six months of this reinstatement expires. The commissioner may extend this time period for good cause, but may grant no more than two 90-day extensions.

If DPH renews a license on a date other than the customary renewal date, the licensure period must not extend beyond the customary renewal date provided according to law. At the time of renewal, the licensee is responsible for paying all license fees, including those not collected by DPH because of the license renewal suspension period.

Suspension of Inspection Requirements

The act allows the DPH commissioner to suspend inspections required by department statutes or regulations if a public health or civil preparedness emergency is declared under the law. The suspension period is the same as outlined above for license renewal suspensions. By the end of the six-month period following the end of the emergency, DPH must conduct any inspections not done during the emergency and six-month follow-up period. Inspections must be completed within six months from the date they resumed unless the commissioner extends the time. He may grant up to two 90-day extensions for good cause.

Under the act, DPH can suspend its license renewal and inspection responsibilities only after the Governor, according to law, (1) issues an order that modifies or suspends, in whole or in part, any statute, regulation or requirement relating to license renewals and DPH inspections and (2) specifies the reasons for such action.

Out-of-State Health Care Providers Allowed to Work in an Emergency

Existing law allows various health care practitioners licensed, certified, or registered in another state, territory, or the District of Columbia, to work in Connecticut during a declared public health emergency. They can work only within the scope of their practice as permitted by Connecticut law. The law allows the DPH commissioner to suspend, for up to 60 consecutive days, state licensing, certification, or registration requirements that apply to them. Prior law covered emergency medical personnel, physicians and physician assistants, physical therapists, nurses and nurse's aides, respiratory care practitioners, psychologists, marital and family therapists, clinical social workers, professional counselors, pharmacists, paramedics, embalmers and funeral directors, sanitarians, and asbestos contractors and consultants.

The act adds certified operators of water treatment plants or water distribution systems to this list.

NERVE AGENT ANTIDOTE MEDICATIONS

By law, any paid or volunteer firefighter, police officer, or EMS personnel successfully completing a training course in the use of automatic prefilled cartridge injectors containing nerve agent antidote

medications can carry and use them for self or unit preservation in the event of nerve agent exposure.

The act allows EMS personnel to use them for treating the general public in an emergency.

BACKGROUND

Public Health Emergency

A "public health emergency" under the law, is an occurrence or imminent threat of a communicable disease, except sexually transmitted disease, or contamination caused or believed to be caused by bioterrorism, an epidemic or pandemic disease, a natural disaster, a chemical attack, or accidental release or a nuclear attack or accident that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability (CGS § 19a-131).

The law authorizes the governor to declare a statewide or regional public health emergency after she makes a good faith effort to inform legislative leaders. The governor's declaration must state the nature of the emergency, the towns or geographic areas subject to the declaration, the conditions that create the emergency, how long it will last, and the public health authority responding to the emergency. The governor's declaration takes effect when filed with the secretary of state and the House and Senate clerks (CGS § 19a-131a).

Civil Preparedness Emergency

By law, the governor may proclaim that a state of civil preparedness emergency exists in the event of serious disaster, enemy attack, sabotage, or other hostile action or if the event is imminent. In such a case, the governor can personally take direct operational control of any or all parts of the civil preparedness forces and functions in the state. Such a proclamation is effective upon filing with the secretary of the state (CGS § 28-9).

PA 08-137—sHB 5730

Public Health Committee

Judiciary Committee

Appropriations Committee

AN ACT CONCERNING ENVIRONMENTAL HEALTH

SUMMARY: This act:

1. modifies the Department of Public Health's (DPH) review and approval process concerning proposals for new water supplies;
2. specifies which town is responsible for paying relocation assistance to people who have been

- displaced due to enforcement actions by district departments of health;
3. expands the potential disciplinary actions DPH can take against department-licensed or -certified people or entities who engage in actions harmful to property owners;
 4. requires installers of irrigation systems or other physical connections between public water supply distribution systems and other water systems to notify the water company of the installation, authorizes local health directors to order mitigation measures if such connections create an unreasonable risk of injury to health and safety, and requires DPH to adopt regulations on irrigation systems and other physical connections; and
 5. establishes a penalty for prohibited aircraft-related activities on reservoirs and amends the penalties for other violations concerning improper activities on public water supplies.

EFFECTIVE DATE: October 1, 2008, except for the relocation assistance provision, which is effective upon passage.

DPH REVIEW AND APPROVAL OF PROPOSED NEW WATER SOURCES

Existing law prohibits the construction or expansion of a water supply system owned or used by a water company or the use of a new additional water supply source until plans for them have been submitted to and approved by DPH. No prior review or approval is required for distribution water main installations if they are constructed according to sound engineering standards and all applicable laws and regulations. In reviewing any proposed new water supply source, DPH must consider its anticipated effect on nearby water supply systems, including public and private wells. The law also requires DPH to consult with and advise the water company concerning proposed water supply services and methods to assure their purity and adequacy.

The act expressly requires the submitted plan to include documentation that provides for (1) a brief description of the proposal's potential effects on nearby water supply systems, including public and private wells and (2) the water company's ownership or control of the proposed new water supply source's sanitary radius and minimum setback requirements as specified in state regulations and that such ownership or control will continue to be maintained as specified in regulation.

Under the act, DPH must require the water company proposing the new source to provide additional documentation that adequately demonstrates alternative methods it will use to assure the new supply source's long-term purity and adequacy if DPH

determines, based on the initial required documentation, that the water company does not own or control the proposed new source's sanitary radius or minimum setback requirements. The act directs DPH, when reviewing the proposed new water supply sources, to consider these issues.

Under the act, DPH can adopt regulations to carry out these provisions and a provision of existing law requiring water companies to annually report electronically to DPH on the number and location of all new distribution water main installations.

The act eliminates the requirement that DPH consult with and advise water companies on proposed water supply sources and methods to assure their purity and adequacy.

RELOCATION ASSISTANCE

Under the act, if a district health department order causes an occupant's displacement from a dwelling unit, the municipality in which the dwelling is located is responsible for any relocation assistance to the occupant available under the law. (Generally, such an order occurs when a hazard, nuisance, or source of filth injurious to the public health is identified.)

By law, towns, cities, and boroughs may form district health departments by vote of their respective legislative bodies, or join an existing district department with the approval of its board. District health departments are instrumentalities of their constituent municipalities.

The act requires the district health department to give written notification to the occupant of his or her rights under the law when it issues the displacement order. The notice must include the name, address, and telephone number of the person authorized by the municipality to process applications for relocation assistance provided under the Uniform Relocation Assistance Act (URAA).

The URAA establishes uniform policies for people who are displaced from their dwellings or businesses by state or local government activities and actions.

IRRIGATION SYSTEMS AND OTHER CONNECTIONS BETWEEN PUBLIC WATER SUPPLY SYSTEMS AND OTHER WATER SYSTEMS

The act requires anyone installing an irrigation system or other physical connection between the distribution system of a public water supply system and any other water system to notify the water company that services the property or building of the installation. The installer is subject to all rules and regulations of that water company.

The act specifies that in this context, “water company” means any individual or entity 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 to 25 or more people on a regular basis. If the individual or entity owns or controls 80% of the equity value of more than one such system or company, the number of consumers or people the system supplies must be considered as owned by one company.

Under the act, when a permit application is filed with a local building inspector concerning a project, including a change of use or installation of fixtures or facilities in a building that may affect the performance of, or require the installation of, a reduced pressure backflow preventer, a double valve assembly, or a pressure vacuum breaker, the inspector must give written notice of the application to the water company serving the building. He or she must do so within seven days of the application’s filing.

After receiving notice, the water company must have an evaluation of cross-connection protection done by a qualified person. The water company must notify the local building inspector of its determination. The act prohibits the inspector from issuing a permit or certificate of occupancy until any cross-connection issue is corrected.

The act authorizes a local director of health to issue an order requiring the immediate implementation of mitigation measures when he or she determines that an automatic fire extinguishing system, irrigation system, change of use, installation of fixtures or facilities in a building, or other physical connection between the public water supply distribution system and any other water system causes an unreasonable injury risk to the health or safety of those using the water, to the general public, or to any public water supply. The mitigation measures can include disconnecting the system. If a cross-connection with the public water system is found, the owner of the system may terminate services to the premises.

The act requires the DPH commissioner to adopt regulations establishing standards to prevent contamination of public water supplies that may result from the installation of irrigation systems or other physical connections between a public water supply distribution system and any other water system in any building served by the public water system. The law already required DPH to adopt regulations establishing such standards for the installation of automatic fire extinguishing systems.

DPH AUTHORITY TO ORDER RESTITUTION TO PROPERTY OWNERS

The act authorizes DPH to order certain DPH-licensed individuals and entities to make restitution to an injured property owner based on a finding of good cause. This applies to subsurface sewage disposal installers or cleaners, asbestos contractors, asbestos consultants, asbestos abatement workers, asbestos abatement site supervisors, lead abatement contractors or lead consultant contractors, lead consultants, lead abatement supervisors, and lead abatement workers.

PENALTIES FOR PROHIBITED ACTIVITIES INVOLVING PUBLIC WATER SUPPLIES

The act changes, from a minimum of \$100 to a maximum \$500, the fine that can be imposed on a person who (1) bathes or swims in any public water supply, (2) washes or allows animals in a water supply, (3) causes or allows pollution to enter a public water supply reservoir, or (4) commits any nuisance in a public water supply reservoir or its watershed. The existing possible penalty of 30 days’ imprisonment remains unchanged.

Existing law prohibits anyone from causing or allowing an aircraft to land on; take off from; or be operated, kept parked, or stored on any distribution or storage reservoir or on any watercourse tributary to a reservoir. The act establishes a penalty of a maximum fine of \$500, imprisonment of up to 30 days, or both. Any water company harmed by such an aircraft violation can bring a civil action in Superior Court for the judicial district where the reservoir or watercourse tributary is located, entirely or in part, to recover damages, expenses, and costs.

PA 08-184—sHB 5701

Public Health Committee

AN ACT CONCERNING REVISIONS TO STATUTES PERTAINING TO THE DEPARTMENT OF PUBLIC HEALTH

SUMMARY: This act makes a number of substantive and technical changes to Department of Public Health (DPH) and other related statutes concerning health care practitioner licensing and regulation and DPH programs. Among its substantive changes, the act (1) broadens the requirement to notify neighbors about subsurface sewage disposal system work, (2) increases the amount health care providers can charge for providing copies of patient records, (3) allows towns to regulate outdoor smoking on public property, (4) eliminates a requirement for physicians and hospitals to

order specific kidney function tests, (5) shifts responsibility for hospital community benefits reports from DPH to the Healthcare Advocate's Office, (6) requires newly matriculating college students to show proof of mumps and chickenpox immunization, (7) expands the use of an organ transplant account to include helping donors pay for travel and lost wages, and (8) authorizes fines for minors for possessing tobacco products.

EFFECTIVE DATE: October 1, 2008 except as noted below.

§ 1 — BIRTH CERTIFICATES-GESTATIONAL AGREEMENTS

Existing law requires that each birth certificate contain the birth mother's name. It directs DPH to create a replacement certificate, within 45 days after receiving a court order or 45 days after the child's birth, whichever is later. It must include all information required for the birth certificate as of the date of the birth. The act limits the replacement certificate requirement to births that are subject to a gestational agreement, which is one between a woman and a couple that obligates the woman, often referred to as a surrogate mother, to carry the child for the intended parents.

§ 2 — SEXTONS

By law, a sexton in charge of any burial place must provide a monthly list of all interments, disinterments, and removal of bodies to the town's registrar and the sexton also must file with the registrar the permits received when a body was brought into the town from another town or state for burial. The act specifies that the list must be in a DPH-prescribed format and requires the sexton also to file, during the first week of each month, all completed burial permits he or she received in the preceding month. It deletes an obsolete provision concerning books furnished by DPH.

§ 3 — REPORTABLE DISEASES

The act amends existing law concerning mechanisms to report diseases on the DPH commissioner's list of reportable diseases and laboratory findings. By law, health care providers must file these reports by telephone or in writing with the department and the local health director where the subject resides. The act allows electronic reporting in a format specified by DPH.

§ 4 — SUBSURFACE SEWAGE DISPOSAL SYSTEMS

Prior law required any person applying to DPH for authorization to repair or construct a subsurface sewage disposal system involving a waiver of the proximity requirement for a private residential well to notify in writing all abutting property owners. (The law does not further explain "proximity requirement.") By law, a DPH decision on the application constitutes a final decision for purposes of appeal to Superior Court. The law also states that DPH's approval does not constitute an affirmative defense to liability claims related to a disposal system's proximity to a well.

The act: (1) replaces the term "private residential well" with "water supply well," thus broadening applicability to also include non-residential wells and public water supply wells; (2) requires written notification to all property owners with water supply wells affected by the exception request, not just abutting property owners; and (3) eliminates the language on a final decision for appeal to court.

§ 5 — FOOD ESTABLISHMENT PERMITS

By law, the DPH commissioner can establish and amend the Public Health Code (i.e., DPH regulations). The code can address regulations concerning retail food establishments, including catering food service establishments and itinerant food vending establishments.

The act also allows the code to include regulations concerning permitting required from local health departments or districts for the operation of such establishments.

§ 9 — FARMERS' MARKETS

The act allows food service establishments to purchase Connecticut-grown farm products, instead of just fresh produce, that have been produced and are sold according to applicable state regulations at a farmer's market. "Farm products," as defined under current law, include fresh fruits and vegetables; nuts; shell eggs; honey; maple syrup; nursery stock and other horticultural products; livestock food products such as meat, milk, cheese, and other dairy products; sugar; flowers; aquaculture products; products from trees, vines, or plants; and products processed by the farmer, such as baked goods made with farm products.

EFFECTIVE DATE: Upon passage

§ 10 — ADMINISTRATION OF VACCINES BY HOME CARE NURSES

Existing law allows nurses working for home health care or homemaker home health care agencies to administer flu and pneumonia vaccines to persons in their homes without a physician's order after an assessment for contraindications and according to a physician-approved agency policy.

The act requires the policy to include an anaphylaxis protocol. In the case of an adverse reaction to a vaccine, the act authorizes the nurse to also administer epinephrine or other anaphylaxis medication without a physician's order according to the approved agency policy.

§ 12 — CONTINUING EDUCATION FOR NATUREOPATHS

The act establishes continuing education requirements for natureopaths. For registration periods beginning on and after October 1, 2009, a natureopath applying for license renewal must earn a minimum of 15 contact hours of continuing education within the preceding registration period. "Registration period" means the one-year period for which a renewed license is current and valid. "Contact hour" means a minimum of 50 minutes of continuing education activity.

The continuing education must be directly related to natureopathy practice and reflect the professional needs of the licensee in meeting the public's health care needs. Qualifying continuing education includes courses offered on-line and those offered or approved by the American Association of Naturopathic Medical Colleges, regionally accredited higher education institutions, or state or local health departments.

A license renewal applicant must sign a statement attesting that he or she has met the continuing education requirements on a DPH-prescribed form. The licensee must retain attendance records or certificates of completion that demonstrate compliance with the continuing education requirements for at least five years after the continuing education was completed and provide them to DPH for inspection within 45 days of its requesting them.

A first-time license renewal applicant is exempt from the continuing education requirements. The act gives the DPH commissioner the discretion to waive the continuing education requirements or grant a time extension in cases of medical disability or illness if the licensee submits an application for the waiver or extension on a DPH-prescribed form and provides certification of the disability or illness by a licensed physician and other documentation the commissioner may require. The commissioner can grant a waiver or time extension for up to one registration period; he may

grant additional waivers or extensions if the disability or illness continues beyond that period and the person files for the additional waiver or extension.

A person whose license becomes void for failure to renew and who applies for reinstatement must provide evidence documenting completion of 15 contact hours of continuing education within the one-year period immediately preceding his or her reinstatement application.

§§ 13, 14 — PHYSICIAN ASSISTANTS

The act authorizes physician assistants, as delegated by a supervising physician within the scope of the physician's license, to prescribe and approve the use of durable medical equipment.

It also allows physician assistants to certify a person's disability for purposes of applications to the Department of Motor Vehicles for special license plates and removable windshield placards. Previously, only physicians and advance practice registered nurses could do this.

§§ 15, 17 — OPTOMETRISTS

On and after October 1, 2008, the act bars any agreement, lease, or other contract entered into, renewed, or extended between an optometrist and another person from (1) impeding an optometrist's ability to gain access to his or her professional office or patient records except that it may include a provision that provides a reasonable protocol for the optometrist to gain access during nonbusiness hours for medical emergencies or (2) limiting, inhibiting, or preventing an optometrist's ability to communicate with his or her patients at any time.

It extends from eight to 12 years the maximum time a person can serve on the Connecticut Board of Examiners for Optometrists.

§ 16 — NURSING HOME ADMINISTRATORS

The act adds courses offered or approved by the Connecticut Assisted Living Association and the Connecticut Alliance for Subacute Care to those that meet continuing education requirements for nursing home administrator licensure.

§ 18 — HEALTHFIRST CONNECTICUT AUTHORITY MEMBERSHIP

The act adds the executive directors, or their designees, of the Permanent Commission on the Status of Women, the African-American Affairs Commission, and the Latino and Puerto Rican Affairs Commission to the HealthFirst Connecticut Authority.

The HealthFirst Connecticut Authority, created by PA 07-185, must recommend alternatives for affordable quality health care coverage for un- and under-insured people, cost containment measures, and insurance financing mechanisms.

EFFECTIVE DATE: Upon passage

§ 19 — STATE-WIDE PRIMARY CARE ACCESS AUTHORITY

The act adds two members to the State-wide Primary Care Access Authority, one appointed by the Connecticut State Dental Association and one appointed by the Connecticut Community Providers Association.

This authority, created by PA 07-185, must develop a universal system for providing primary care services to all Connecticut residents.

EFFECTIVE DATE: Upon passage

§ 30 — PERFUSIONISTS

The act allows DPH to license as a perfusionist a person who (1) is currently certified by the American Board of Cardiovascular Perfusion, (2) has worked as a perfusionist in a licensed health care facility in another state for at least five years, and (3) has had no lapse in active practice as a perfusionist for more than 24 months at the time of filing for Connecticut licensure.

The law defines “perfusion” as the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular, circulatory, or respiratory systems or other organs, and to ensure the safe management of physiologic functions by monitoring and analyzing the parameters of these systems under a licensed physician’s order and supervision.

EFFECTIVE DATE: Upon passage

§§ 31, 37 — RADIOGRAPHERS, DENTAL ASSISTANT STUDENTS

The act allows DPH to license as a radiographer, for a 30-day period starting on the act’s effective date, an applicant presenting satisfactory evidence of (1) holding a current radiologic technician license from another state issued on or before October 1, 1965 and with no disciplinary history; (2) completing a course of study in radiologic technology on or before June 30, 1964; and (3) practicing as a radiologic technologist, including taking x-rays, for at least two years within the five-year period immediately preceding the date he or she applies to DPH.

The act specifies that the radiographer statutes should not be construed as requiring licensure as a radiographer of a dental assistant student, intern, or trainee pursuing practical training in taking of dental x-

rays if such activities are part of a supervised course or training program and the person is designated by a title clearly indicating his or her student, trainee, or intern status. This provision already applies to dental assistants.

EFFECTIVE DATE: Upon passage

§ 32 — PATIENT HEALTH RECORDS

The act increases from 45 to 65 cents per page the maximum amount a provider can charge for providing a patient with his or her health records. This cost includes any research fees, handling fees or related costs, and the cost of first class postage, if applicable.

§ 33 — ACUPUNCTURISTS

For a 30 day period following the act’s passage, the act allows DPH to license as an acupuncturist any applicant presenting satisfactory evidence to DPH of (1) receiving a bachelor of medicine degree before 1985, (2) successfully completing all portions of the acupuncturist examination administered by the national Commission for the Certification of Acupuncturists, and (3) successfully completing the Clean Needle Technique Course offered by the Council of Colleges of Acupuncture and Oriental Medicine.

EFFECTIVE DATE: Upon passage

§ 34 — MUNICIPAL POWERS OVER SMOKING

The act empowers a municipality to regulate, on any property it owns, any activity deemed to be deleterious to public health, including the lighting or carrying of a lighted cigarette, cigar, pipe, or similar device.

§ 35 — SCHOOL-BASED HEALTH CLINICS

Previously, any school-based health clinic (SBHC) constructed on or after October 1, 2007 that was located in or attached to a school building had to have an entrance separate from the school’s entrance. This act requires the separate entrance requirement only for SBHCs located in a school built on or after July 1, 2009 where the SBHC shares a first floor exterior wall with the school building.

EFFECTIVE DATE: Upon passage

§ 36 — KIDNEY DISEASE SCREENING

Prior law required physicians to order a serum creatinine test (test for kidney disease) as part of each patient’s routine general medical examination, if not performed within the previous 12 months. The law provided that this did not apply to patients under 18

years old and a “routine general medical examination” did not include an annual gynecological examination. Also, prior law required that if this test was performed on a hospital inpatient, the ordering provider had to request at least once during the patient’s stay that the testing laboratory report an estimated glomerular filtration rate (eGFR). This was required if the patient had not had the test in the year preceding the hospitalization.

The act eliminates the testing requirements placed on physicians and hospitals. It continues the existing requirements that a clinical laboratory, when it tests a specimen to determine a patient’s serum creatinine level if ordered by a physician or hospital provider, to (1) calculate the patient’s eGFR using the patient’s age and gender and (2) include the patient’s eGFR with its report to the physician or hospital provider. (eGFR is a measure of how effectively the kidneys are removing waste and excess fluid from the blood. It is calculated on a blood test for creatinine.)

§ 38 — ALZHEIMER’S SPECIAL CARE UNITS-STAFF TRAINING

The act increases from three to eight hours annually the required dementia-specific training that must be provided by each Alzheimer’s special care unit or program to all licensed and registered direct care staff and nurse’s aides providing direct patient care to residents in the special care unit or program. Existing law requires them also to receive eight hours of training within the first six months of employment.

§ 39 — COMMUNITY BENEFITS PROGRAM

Prior law required each hospital and managed care organization (MCO) to submit a biennial report to DPH on whether it had a community benefits program. The law defines these programs as voluntary programs to promote preventive care and improve the health status of working families and populations at risk in the communities within the MCO’s or hospital’s geographic area. The DPH commissioner had to summarize and analyze the required reports biennially and make summaries available to the public. He was authorized to impose civil penalties on hospitals and MCOs that failed to submit required reports.

The act instead requires that the hospitals and MCOs provide their community benefits reports to the healthcare advocate or his designee and transfers the DPH commissioner’s powers and duties to the healthcare advocate, who must summarize and analyze the reports, within available appropriations.

§ 40 — AMBULANCE SERVICES

The law permits a licensed or certified volunteer municipal ambulance service that is a primary service area provider to add one emergency vehicle every three years without having a public hearing. The one vehicle limit applies to the provider’s entire fleet regardless of the number of towns it serves. The act allows hospital-based ambulance services to add a vehicle under this process.

§§ 41, 42 — PSYCHOLOGISTS

The act changes some of the requirements for licensure as a psychologist and eliminates some of DPH’s responsibilities concerning licensure exam administration. Prior law required a licensure applicant to have at least one year’s postdoctoral experience of a type satisfactory to the Board of Examiners of Psychology. The act instead requires experience (but not necessarily postdoctoral) that meets requirements established in regulations adopted by DPH in consultation with the board. The act eliminates a requirement that the applicant verify that he or she intends in good faith to practice in the state. The act also clarifies that an applicant’s doctoral degree be from an educational institution approved by the board with the consent of DPH rather than registered.

The act eliminates a requirement that DPH grade the licensure examinations of licensure candidates. It also no longer requires DPH to (1) determine the time and place of the examination and (2) administer the exam under the board’s supervision.

§ 43 — FEDERALLY QUALIFIED HEALTH CENTERS (FQHCs)

The act specifically excludes a state-funded consortium of FQHCs, providing services only to Department of Social Services (DSS) program recipients, from certain financial security requirements for preferred provider networks (PPNs). DSS must adopt regulations to establish criteria to certify any such FQHC, including minimum reserve fund requirements. (DSS currently administers the State Administered General Assistance program through a contract with an FQHC consortium.)

EFFECTIVE DATE: Upon passage

§ 44 — MUMPS AND CHICKENPOX IMMUNIZATION

Beginning August 1, 2010, the act requires full-time or matriculating students at a Connecticut college or university who were born after December 31, 1956 to show proof that they have been adequately immunized

against mumps and chickenpox as recommended by the national Advisory Committee for Immunization Practices. The law already contains a similar requirement for measles and rubella immunization.

The act provides exemptions from the mumps and chickenpox immunization requirement that parallel those already permitted for measles and rubella. A student can be exempted by: (1) presenting a (a) doctor's certification that the immunization is contraindicated, (b) statement that immunization is contrary to his or her religious beliefs, or (c) doctor's or health director's certification that the student has had a confirmed case of the disease; (2) enrolling only in a distance learning or other program in which students do not congregate on campus; or (3) having graduated from a high school in the state after 1998 without being exempt from the mumps immunization requirement.

§ 45 — MASS GATHERINGS

An assembly of 3,000 or more people that is expected to last 18 or more consecutive hours must be licensed by the local police chief. The act revises one of the licensing requirements.

It requires a license applicant to show proof that he or she will furnish a written plan that has been reviewed by the primary service area responder for the town in which the event is to be held that indicates satisfactory planning and arrangements for an ambulance service to be on the site for the event's duration. Previously, the applicant had to show proof that he or she would provide (1) at least one doctor for every 1,000 people and one nurse for every 1,500 anticipated attendees, (2) an enclosed structure for treatments, and (3) at least one ambulance available at all times.

§§ 46-49 — VITAL RECORDS AND SOCIAL SECURITY NUMBERS

Birth and Fetal Death Records

The act repeals a provision of PA 08-66 that required recording the mother's and father's Social Security numbers (SSN) in the confidential portion of the birth certificate and makes a conforming change concerning recording the SSN of the father of a child born out of wedlock. It prohibits releasing a parent's SSN recorded on a birth or fetal death record or certificate to any person or entity that is not authorized by state or federal law (e.g., for child support enforcement).

By law, only specified parties can obtain, access, or examine copies of birth and fetal death records and certificates less than 100 years old. These parties include the child's close relatives; the chief elected official or health director of the town where the birth or

fetal death occurred; attorneys representing the child, the child's parents, children, or surviving spouse; genealogists; authorized federal and state officials; and people the DPH specifically authorizes for statistical or research purposes.

The law also provides that it is not to be construed to permit disclosure of any information contained in the "health and statistical use only" and "administrative purposes only" sections of birth or fetal death records to anyone, including these specified parties, unless DPH specifically authorizes disclosure for statistical or research purposes. The act repeals (1) a provision of PA 08-66 that also permitted disclosure of SSNs and other certificate information from these sections if state or federal law authorized it and (2) a provision of prior law that permitted disclosure of information about the parents' ethnic and racial background regardless of its use.

Marriage and Death Records

PA 08-66 limited who could receive a certified copy of a (1) marriage or civil union license or (2) for a death occurring after July 1, 1997, a certificate containing the SSNs of the parties or decedent or the complete "administrative purposes only" section to the parties to the marriage or civil union or the surviving spouse or next of kin of the deceased, as appropriate. This act also allows entities authorized by state or federal law to receive such records.

§ 50 — RENEWAL OF NURSING LICENSES

The act requires DPH, by January 1, 2009, to report to the Public Health Committee on the feasibility and implications of implementing a biennial license renewal system for nurses (registered nurses, licensed practical nurses, and advanced practice registered nurses).

EFFECTIVE DATE: July 1, 2008

§ 51 — DRINKING WATER ADEQUACY

The act requires DPH, in consultation with the departments of Environmental Protection (DEP) and Consumer Protection (DCP), to convene a working group to study and make legislative recommendations to ensure that property owners of new construction served by a private water supply well have an adequate water supply meeting current regulatory portability standards. The group must also study and make recommendations on the installation of replacement water supply wells on properties with insufficient area to meet current separation distances as specified in regulations.

The working group includes: (1) the commissioners of DPH, DEP, and DCP, or their designees and (2) various interested stakeholders who have indicated to

DPH their willingness to work on these issues. The group must report to the public health, environment, and general law committees by July 1, 2009.

EFFECTIVE DATE: Upon passage

§ 52 — ORGAN DONATIONS

The act expands the uses of the existing “organ transplant account” to include assisting individuals who have donated an organ to a state resident in paying all or part of any costs associated with the donation, including transportation and accommodation costs and lost wages.

The organ transplant account is a separate, nonlapsing account within the General Fund. It receives money collected under the income tax contribution system established by law and deposited with the revenue services commissioner. It can also receive money from public and private sources or from the federal government. Previously, money in the account could be used only to (1) assist state residents in paying all or part of the costs associated with a medically required organ transplant or (2) the promotion of the income tax contribution system and the organ transplant account.

EFFECTIVE DATE: July 1, 2008

§ 53 — STILLBORN FETUS CREMATION FEES

The act prohibits the Office of the Chief Medical Examiner (OCME) from assessing any fees or costs concerning the cremation of a stillborn fetus. By law, cremation fees must be paid unless the body is donated for research. In practice, OCME charges \$100, which covers, among other costs, sending OCME staff to funeral homes to investigate the death. It collects this fee from the funeral home.

§ 54 — STATE LABORATORY FEES

By law, DPH can establish state laboratories to test for preventable disease, as well as to perform sanitation, environmental, and occupational testing. The law also allows the DPH commissioner to set laboratory fees. Laboratory services are provided without charge for local health directors and local law enforcement officials.

The law allows for partial, as well as full fee waivers for others if the commissioner determines the public health requires it. He may also waive fees for chlamydia and gonorrhea testing for nonprofit organizations if the organization provides combination chlamydia and gonorrhea test kits. The act extends the fee waiver to chlamydia and gonorrhea testing for higher education institutions that offer the kits.

EFFECTIVE DATE: July 1, 2008

§ 55 — MENINGITIS INFORMATION

The act requires DPH, in collaboration with the Department of Education, to contact each local and regional board of education to make them aware of meningococcal meningitis information. This must be done by September 1, 2008 and include information on the causes, symptoms, and spread of meningococcal meningitis and vaccination information reflecting the Centers for Disease Control and Protection’s (CDC) current recommendations. DPH must periodically update the meningitis information it provides.

EFFECTIVE DATE: July 1, 2008

§ 56 — QUALITY OF CARE

Existing law establishes a quality of care program within DPH and an advisory committee to advise the department on quality of care issues. The act requires the committee to meet at least semiannually instead of quarterly.

EFFECTIVE DATE: July 1, 2008

§ 57 — NURSING HOME PRE-ADMISSION SCREENING

Federal law requires screening patients before they enter a nursing home to determine whether they have serious mental illness (a level I screening) and, if they do, whether they need specialized mental health services (level II screening). The act requires nursing home administrators or their designees to notify the Department of Mental Health and Addiction Services (DMHAS) within 14 days of admitting anyone whose level II screening confirms a psychiatric diagnosis. It requires DMHAS, within available appropriations, to consult with the home’s staff about the status and discharge of any DMHAS client. DMHAS must, within available appropriations, protect to the fullest possible extent the housing of any client who a level II screening identifies as needing admission to a nursing home for 90 days or less.

The act requires DPH, when it conducts its annual survey of a nursing home, to compare the services recommended for any resident with a level II screening with the actual services he or she receives as indicated in the resident’s care plan. DPH must include the results of the comparison, along with any regulatory violations it uncovered in its inspection, in the survey.

EFFECTIVE DATE: Upon passage

§ 58 — EXEMPTION FROM DAY CARE LICENSING

The act exempts Solar Youth, Inc. a nonprofit youth development and environmental education program in New Haven, from day care licensing requirements from the act's passage to June 30, 2009.
EFFECTIVE DATE: Upon passage

§ 59 — ASBESTOS AND LEAD PRACTITIONERS AND CONSULTANTS

The act permits the DPH commissioner to make agreements with other states' agencies concerning training for asbestos and lead abatement practitioners and consultants that run from the act's passage to June 30, 2009. The agreements must establish criteria out-of-state agencies approve to satisfy the training DPH requires for practitioners' and consultants' licensure and certification.
EFFECTIVE DATE: Upon passage

§ 60—WOMEN, INFANTS AND CHILDREN (WIC) PROGRAM

The act prohibits DPH from denying any vendor authorization to participate in the WIC program, either initially or on reapplying, based on DPH's minimum distance requirements between participating vendors in the applicant's geographic area. It requires DPH to give vendors 15 days to cure any deficiency DPH finds in their application for initial or continued authorization. The 15 days begin when DPH notifies the vendor of the deficiency.

The act requires DPH to permit any vendor that was disqualified between January 1, 2007 and the act's passage for failure to maintain the minimum inventory or submit a completed application to reapply for authorization. DPH must notify such vendors of this opportunity within 30 days' of the act's passage, and vendors have 30 days from receiving this notice to apply for reinstatement. DPH must notify a vendor of its decision within 60 days of receiving its reinstatement application.

The act requires DPH to submit a revised state WIC plan for program administration that incorporates the act's vendor selection, notification, and disqualification provisions and all requirements of federal law. It must submit the plan to the U.S. Agriculture Department's Food and Nutrition Service (FNS), which administers the WIC program, by January 1, 2009. The act specifies that if a comprehensive FNS audit finds that Connecticut's WIC program does not comply with federal law and that the state consequently may face financial penalties, DPH must take any action needed to

comply, including suspending the act's provisions on vendor authorization and reinstatement.

The act specifies that all of its requirements are subject to DPH's available appropriations.
EFFECTIVE DATE: Upon passage

§ 61 — MEDICAID COVERAGE OF SMOKING CESSATION DRUGS

The law required DSS to amend the state Medicaid plan to cover smoking cessation drugs if the state budget provided funds for this coverage. Currently, Connecticut's Medicaid program does not cover smoking cessation drugs. The act requires it to cover all prescriptive options, not just drugs, if the initial treatment does not work.
EFFECTIVE DATE: July 1, 2008

§ 62 — MINORS' POSSESSION OF TOBACCO

The act prohibits an individual under age 18 from possessing tobacco in any form in a public place. It imposes a fine of up to \$50 for the first offense and between \$50 and \$100 for each subsequent offense. The act defines "public place" as any area used or held out for use by the public, whether owned or operated by public or private interests.

Existing law requires purchasers of tobacco products to be age 18. Persons under age 18 who buy tobacco products or misrepresent their age to buy such products are subject to the same fines noted above.

§ 63 — REPEALED SECTIONS

The bill repeals (1) the Childhood Immunization Advisory Council, (2) an outdated pilot program concerning municipal selection of emergency medical service providers, (3) an automatic external defibrillator (AED) notice and registry requirement, (4) a DPH annual report concerning the activities of the Connecticut Medical Examining Board, and (5) a DPH reporting requirement concerning the monitoring of public water supplies for organic chemicals. It also repeals internal references to them in other statutes.

Prior law required any person possessing an AED to notify the Office of Emergency Medical Services (OEMS) of its location. OEMS was required to establish an AED registry and a procedure for the use of the enhanced 9-1-1 service for the location of AEDs nearest to the caller. The act repeals these provisions.

Prior law required each water company to monitor, according to DPH regulations, the organic chemical content of all public water supplies to determine potentially harmful carcinogens in the water supply and report this to DPH. DPH ranked the carcinogens in order of potential danger and estimated the cost of

removal of the more dangerous ones. DPH was required to report on this annually to the governor and General Assembly. The act eliminates these requirements.

PA 08-9—SB 354

*Public Safety and Security Committee
Transportation Committee*

**AN ACT CONCERNING THE LEGISLATIVE
COMMISSIONERS' RECOMMENDATIONS FOR
TECHNICAL REVISIONS TO THE PUBLIC
SAFETY STATUTES**

SUMMARY: This act makes technical and grammatical changes in various public safety statutes.
EFFECTIVE DATE: Upon passage

PA 08-62—HB 5645

*Public Safety and Security Committee
Education Committee
Finance, Revenue and Bonding Committee*

**AN ACT CREATING AN EXEMPTION FROM
PERMIT REQUIREMENTS FOR PARENT
TEACHER ASSOCIATION CONDUCTED BINGO**

SUMMARY: This act allows parent teacher associations (PTAs) or organizations (PTOs) conducting bingo for the amusement and recreation of their members and guests to do so without the Division of Special Revenue (DSR) permit required by other qualified organizations (except organizations of senior citizens over age 60) sponsoring or conducting bingo. Existing permit fees range from \$5 per day for a special event permit to \$75 for an annual permit.

The act exempts PTAs and PTOs from the provisions governing other organizations authorized to sponsor or conduct bingo. It, instead, creates a separate, less stringent and complex oversight process for PTAs and PTOs. This process, which is almost identical to that for recreational bingo for senior citizens, requires PTOs and PTAs to:

1. register with DSR annually and pay a \$20 fee,
2. obtain a DSR identification number,
3. charge no more than \$1 admission fee,
4. offer individual cash or merchandize prizes valued at no more than \$20,
5. allow only active members serving without compensation to operate the games, and
6. keep accurate records of game receipts and disbursements available for DSR inspection.

The DSR executive director (1) may revoke registrations for cause, (2) must remit registration fees to the state, and (3) must adopt implementing regulations to prevent fraud and protect the public.

EFFECTIVE DATE: Upon passage

BACKGROUND

Organizations Promoting or Conducting Bingo

By law, organizations sponsoring or conducting bingo may do so only in towns that have voted to approve such games. And, except for senior citizens conducting recreational bingo (described below), such organizations must have a DSR permit. Under existing law, the following organizations qualify to promote or conduct bingo: veterans, religious, civic, fraternal, educational, or charitable organizations; volunteer fire companies; and granges. They must have been organized for at least two years before applying for the permit.

Both the sponsoring organization and anyone operating or helping to operate bingo games must register with DSR and get a DSR identification number. The latter applicants must provide DSR with information on their criminal history, moral character, business affiliations, and any other information DSR may reasonably require.

Organizations conducting bingo must have a (1) class A permit, which is an annual \$75 permit that allows games one day each week; (2) class B permit, which is a special event permit that allows games over a 10-day period and costs \$5 per day; or (3) class C permit, which is an annual \$50 permit that allows games one day per month. All three permits limit the number of games in any day to a minimum of 15 and a maximum of 40. The organizations must file returns with DSR and pay the state a fee of 5% of the gross receipts, less the prizes.

Recreational Bingo for Senior Citizens

Organizations whose members are age 60 or older may register with DSR and get a DSR identification number to allow their members to operate and conduct bingo for recreational purposes without a DSR permit. Only active members may help organize these games and they cannot receive any compensation for doing so. The organizations may not charge more than \$1 for admission, and the value of prizes, or cash award, cannot exceed \$20.

PA 08-65—HB 5802

*Public Safety and Security Committee
Judiciary Committee
Planning and Development Committee*

AN ACT CONCERNING THE STATE FIRE PREVENTION CODE

SUMMARY: This act makes several changes affecting enforcement of the state Fire Prevention Code, which the law requires the state to adopt by October 1, 2008, and the state Fire Safety Code.

With regard to the Fire Prevention Code, the act (1) allows the state fire marshal to issue official code interpretations; (2) establishes a code waiver process; (3) removes the state Codes and Standards Committee from the appeal process for fire safety and prevention decisions, requiring appeals of local fire marshals' decisions to be made to the state fire marshal and appeals of the state fire marshal's decisions to be made to Superior Court; (4) allows the state fire marshal and local fire marshals to issue orders and citations to building owners and occupants to correct code violations; and (5) establishes a penalty of up to six months in prison, a fine of \$200 to \$1,000, or both, for code violations.

The act expands the authority of police officers and local fire officials to order people to vacate buildings for safety reasons and establishes state oversight of such orders when an unsafe building condition cannot be corrected in four hours or less. It reduces the penalty for certain unsafe building conditions for which the local fire marshal issues corrective orders.

It allows fire code officials to inspect manufacturing establishments, which are currently exempt from the inspection requirements that apply to other buildings.

It also makes miscellaneous minor and technical changes.

EFFECTIVE DATE: October 1, 2008

FIRE PREVENTION CODE

Code Interpretations

The law requires the state to adopt a State Fire Prevention Code by October 1, 2008 to (1) enhance local fire marshals' enforcement capabilities and (2) prevent fire and other related emergencies. The act (1) allows the state fire marshal to issue official interpretations of the code, including the applicability of any provision, upon request, and (2) requires him to compile and index the interpretations and publish them at least quarterly.

Code Modifications and Waivers

The act allows the state fire marshal to grant requests for code exemptions, variations, or alternative or equivalent compliance when he determines that strict compliance is unwarranted or would entail practical difficulty or unnecessary hardship. The local fire marshal, within 15 days after getting such requests, must send them, along with written comments on their merits, to the state fire marshal, by first class mail. Any variation, exemption, or alternative compliance must ensure public safety.

Code Appeal Process

The act eliminates the Codes and Standards Committee's mandate to establish a process, which includes the committee, to hear appeals of the state fire marshal's or local fire marshals' enforcement of the fire prevention and safety statutes. The law still requires the committee to establish a process for appealing the state fire marshal's or local fire marshals' enforcement of the state Fire Safety Code. (The Fire Safety Code provides "for reasonable safety from fire, smoke, and panic therefrom" in regulated buildings.)

The act, instead, requires the state fire marshal to review local fire marshals' Fire Prevention Code decisions (1) when anyone appeals them or (2) when he believes the local officials misconstrued or misinterpreted any code provision. If, after reviewing a decision and consulting with the official, the state fire marshal determines that the official misconstrued or misinterpreted the code, he (1) must issue an official interpretation and (2) may issue any appropriate order. He must send a written copy of the determination or order to the local official by registered mail, return receipt requested. Anyone aggrieved by the state fire marshal's decision, including any enforcement decision, may appeal to Superior Court.

ABATEMENT ORDERS

When the state or a local fire marshal determines that a building condition violates the Fire Prevention Code, the act requires the official to order the building owner or occupant to remedy the condition, in accordance with applicable municipal building codes, ordinances, rules, and regulations. The act subjects the owner or occupant to imprisonment for up to six months, a fine of between \$200 and \$1,000, or both, and up to \$50 per day for each day a violation continues.

If the violator does not remedy the violation in a reasonable time the state or local official specifies, the local fire official must promptly notify, in writing, the state's prosecuting attorney for the municipality where the violation or condition exists of all the relevant facts. The state fire marshal, acting on his own or at the local

fire marshal's request, may apply for a court injunction to close or restrict the place or premises from public service or use until the violation or condition is remedied. Alternatively, the local fire marshal may ask the chief executive officer or local official authorized to institute actions on the municipality's behalf to apply for the injunction.

CITATIONS

As an alternative to issuing violation orders, the act allows code enforcement officials to issue citations for up to \$250 for Fire Prevention Code violations. The citation must be in writing, signed by the issuing official, and include the name and address of the building owner or occupant, if known; the specific offense charged; and the time and place of the violation. The violator must also sign the citation to acknowledge receipt. The issuing official must, if practicable, deliver a copy of the citation to the owner or occupant at the time and place of the violation, or use some other reasonable means of notification. An official may not issue a citation to a person cited for the same violation within the previous six months.

All fines for citations issued by the state fire marshal go to the General Fund. The state must remit to municipalities 90% of the fines for citations issued by local officials; 10% goes to the General Fund. Each Superior Court clerk or the chief court administrator must certify quarterly to the comptroller the amount due for the previous quarter to each municipality the office of the clerk or official serves.

UNSAFE BUILDING ORDERS

The act makes changes in the statutes pertaining to vacation and corrective orders and applies the provisions to manufacturing facilities, which were exempt under prior law.

Vacation Orders for Unsafe Buildings

The act expands the authority of local fire officials and police officers to order that a building be vacated because it poses a risk of injury or death. Currently they may do this if (1) the building is overcrowded, (2) exits are blocked, or (3) pyrotechnics are being used indoors. The act adds (1) insufficient or impeded exits, (2) storage of flammable or explosive material without a permit or above permit limits, and (3) shutting off or failing to maintain any fire protection or warning system required by the fire safety or fire prevention codes. With regard to pyrotechnics, the act allows the officials to vacate a building when pyrotechnics are being used without a permit, whether indoors or outdoors. The act requires the local officials to notify the state fire marshal if they anticipate that any of the above

conditions cannot be abated in four hours or less. By law, a violation of the order carries a fine of \$200 to \$1,000, imprisonment for up to six months, or both.

Corrective Orders for Unsafe Buildings

By law, when a local fire marshal ascertains building conditions (1) are likely to endanger life or property, (2) pose a fire hazard, or (3) violate the fire safety or prevention statutes or regulations, the official must order that the conditions be corrected. Under prior law, the building owner or occupant was subject to a fine of \$200 to \$1,000, imprisonment for up to six months, or both for these unsafe conditions and a possible \$50 for each day of a continuing violation. The act reduces the base penalty to a maximum of \$100, imprisonment for up to three months, or both. It retains the \$50 per day penalty for continuing violations.

MINOR CHANGES

The law allows local fire marshals and the state fire marshal to enter and inspect for code compliance buildings and "facilities of public service," manufacturing facilities, and occupancies regulated by the state Fire Safety Code. The act extends their authority to all buildings, processes, equipment systems, and other areas regulated by both the fire safety and fire prevention codes, thereby reflecting current practice. It also requires local fire marshals to inspect any other building within their jurisdictions on an authentic report that the building poses a fire hazard that could endanger life. The state fire marshal already has this authority in his jurisdiction.

PA 08-70—sHB 5163

Public Safety and Security Committee

AN ACT EXPANDING THE ENFORCEMENT AUTHORITY OF THE DIVISION OF SPECIAL REVENUE

SUMMARY: This act updates and makes changes in laws governing the (1) regulatory authority of the Division of Special Revenue (DSR) and (2) criminal enforcement authority of DSR special police officers and the State Police legalized gambling investigative unit.

DSR was established in 1979 to regulate gambling and has regulated charitable gaming since 1987. The act updates the 1979 law to reflect DSR's current regulatory authority over charitable gaming and conform to other DSR gambling enforcement statutes. It gives DSR explicit authority to administer the statutes governing

the Connecticut Lottery Corporation (CLC). It also gives DSR special police officers and the Department of Public Safety legalized gambling investigative unit the same criminal enforcement authority over charitable gaming and lottery violations that they already have over other gaming DSR regulates. A separate law, which the act does not change, gives DSR special police officers enforcement authority over lottery offenses (CGS § 29-18c).

EFFECTIVE DATE: Upon passage

BACKGROUND

Gambling Enforcement Authority

CGS § 12-557e requires the Gaming Policy Board to work with DSR to implement and administer the provisions of chapters 226b (pari-mutuel wagering), 229a (CLC), and CGS §§ 7-169 to 7-186 (charitable gaming). But other DSR enforcement statutes do not cite chapters 229a and §§ 7-169 to 7-186.

Until 1996, DSR had explicit authority to regulate the lottery. In 1996, the legislature created CLC as a quasi-public corporation and the provisions governing CLC and DSR were, for the most part, codified in separate chapters.

PA 08-73—sSB 179

*Public Safety and Security Committee
Judiciary Committee*

AN ACT CONCERNING THE LICENSING AND TRAINING OF PRIVATE DETECTIVES, GUARD SERVICES AND SECURITY PERSONNEL

SUMMARY: This act makes several changes in the private investigative and private security laws.

It explicitly requires security officers employed by non-security businesses to be licensed by the Department of Public Safety (DPS) if they (1) are uniformed and (2) perform security work in an area to which the public has unrestricted access or access only by paid admission. It explicitly prohibits any security officer required to be licensed from working as such before being licensed. It extends the licensing period from two to five years, and makes a corresponding adjustment in the fee, changing it from \$20 to \$50.

The act (1) defines private investigators, (2) requires them to be registered by DPS, and (3) allows DPS to administratively sanction them if they violate pertinent laws.

It specifies that, for licensing and regulatory purposes, a “licensee” is a person or corporation “engaged in the business” of providing private investigative or private security services.

Beginning October 1, 2008, it prohibits, with one minor exception, people not approved by DPS from teaching the required security officers’ licensure or firearm safety and use courses. It establishes a \$20 fee for getting and renewing the approval, which is valid for up to two years.

The act modifies the penalties for certain violations and imposes penalties for others, including imposing a \$75 per day penalty for teaching the security officer firearms safety and use course without the DPS commissioner’s approval. Under an existing statute, which the act does not change, the penalty for this same violation is up to \$5,000, imprisonment for up to five years, or both. The act allows fines for certain violations to be paid by mail.

It also makes miscellaneous minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2008

SECURITY OFFICER

Licensing and Registration

For licensing and regulatory purposes, security officers fall into two broad categories: (1) those employed by private security firms or companies (businesses) and (2) those employed by entities not in the private security business (e.g., hospitals or retail establishments) and sometimes called proprietary security officers. Prior law, based on its definition of security officers and related statutes, implicitly required the former to be licensed by DPS. The act specifically requires them to be licensed. By law, they must also be registered by DPS.

Prior law defined some proprietary security officers as “licensed and registered” depending on where they worked and whether they were uniformed, but other provisions in the law appeared to exclude them from licensing and, unless they were armed, registration requirements. The act explicitly requires proprietary security officers to be licensed if they (1) are uniformed and (2) perform security work in an area to which the public has unrestricted access (e.g., retail store) or access only by paid admission (e.g., movie theatre). Although the act’s definition of security officers seems to indicate that these proprietary security officers must be registered, in addition to being licensed, the act’s registration provision does not appear to apply to them, unless they are armed.

As is currently required for security officers employed by private security firms, the act requires security officers employed by nonsecurity businesses to be of good moral character and at least age 18.

The act prohibits anyone required to be licensed as a security officer to work unlicensed. It also eliminates a provision requiring security officers employed by

security companies to be licensed before the company applies to register them.

Firearm Permit for Armed Security Officers

By law, security officers who carry firearms on the job must get a special DPS permit. As a prerequisite for the special permit, an applicant must have a DPS gun permit and successfully complete approved firearm safety and use training.

The act allows the commissioner, after notice and hearing opportunity, to suspend or revoke the special firearm permit for permit violations. This includes (1) failure to take the required annual refresher training course and (2) carrying the firearm without the valid permits. Aggrieved parties may appeal revocation and suspension actions to New Britain Superior Court.

By law, upon hiring an armed security officer, the employer must register him or her with DPS. The act eliminates a provision allowing employers of unarmed proprietary security officers to register them with DPS.

Security Officer Identification Card

The act requires that a security officer, after completing licensure training, be issued an identification card (apparently by DPS) containing his or her name, birth date, address, full-face photograph, physical description, and signature. The security officer must carry it on the job and show it when any law enforcement official asks to see it.

License Fees

The act extends the licensing period from two to five years, changes the license fee from \$20 to \$50, and conforms the law to practice by making the fee nonrefundable.

SECURITY SERVICE BUSINESS LICENSE

The law requires anyone engaged in the security service business to be licensed by DPS. A license applicant must have, among other qualifications, (1) at least 10 years police officer experience or (2) at least five years supervisory or management experience in industrial security, a state or federal security agency, or a state or local police department. Under the act, any experience gained while operating unlicensed does not count toward the licensing requirement.

PRIVATE INVESTIGATORS

Definition and Registration

Prior law defined a "private detective agency" as a business that provided private detectives for

compensation. The act updates the law to more closely reflect current industry definition by defining the agency as a business that provides both private detectives and private investigators. It defines a "private investigator" as an employee who performs necessary services for conducting a private detective business or private detective agency. The act makes conforming changes, which include requiring licensees to (1) register private investigators with DPS (reflecting DPS' current practice of registering "investigatory employees") and (2) inform DPS when such employees are terminated.

The act changes two registration conditions. First, it eliminates a requirement that the commissioner find applicants suitable and requires instead that he register all qualified applicants. Secondly, it requires him to deny registration to any applicant convicted of a crime of moral turpitude instead of a crime involving the applicant's honesty and integrity.

The act eliminates the following classification of employees of private detective licensees, and thus removes them from DPS regulation: agent, operator, assistant, guard, watchman, and patrolman.

INSTRUCTOR APPROVALS

Beginning October 1, 2008, the act requires anyone teaching a security officer licensing or firearms safety and use course to be approved by DPS. It gives instructors until April 1, 2009 to be approved if they are teaching courses approved by the commissioner on or before September 30, 2008.

Under existing law, which the act does not change, the commissioner must approve the training and course instructors pursuant to regulations. Under existing regulations, the licensing instructor must have at least five years experience as an instructor or training manager in the security services industry, or equivalent experience or training. If teaching the first aid course, he or she must have successfully completed an appropriate first aid instruction or emergency medical training course offered by the American Red Cross or other approved provider (Conn. Agencies Reg. § 29-161x-4). The firearms instructor must have a gun permit and provide proof of successfully completing the required gun safety course (Conn. Agencies Reg. § 29-161z-5).

Approval Application and Fees

An applicant seeking initial instructor approval must complete a DPS form under oath. The form must include the applicant's (1) name, address, and birth date and place; (2) employment during the previous five years; (3) education or training in the required subjects; and (4) convictions for violations of the law. It must

also include any other information DPS regulations require to properly investigate the applicant's character, competence, and integrity.

The act bars approval of anyone (1) convicted of a felony, sexual offense, or crime of moral turpitude; (2) who has been denied "approval" as a security service licensee, a security officer, or instructor in the security industry; or (3) whose approval has been revoked or suspended.

An approved instructor seeking to renew his or her approval must complete a DPS-approved form. The form may require applicants to disclose any information the commissioner requires to determine their continued suitability to serve as instructors.

The act establishes a \$20 nonrefundable fee for getting and renewing an approval. An approval is valid for up to two years.

Address Changes

An approved instructor who changes his or her address must notify the commissioner within two business days after the change.

REVOCATION OR SUSPENSION OF PRIVATE INVESTIGATOR REGISTRATION AND INSTRUCTOR APPROVAL

The act allows the commissioner to suspend or revoke private investigator registration and security officer instructor approval, after notice and hearing opportunity, for:

1. violations of pertinent laws or regulations;
2. fraud, deceit, or misrepresentation;
3. material misstatement in the registration or approval application;
4. incompetence or untrustworthy business conduct; or
5. conviction for a felony or other crime (a) in the case of a private investigator, involving moral turpitude or (b), in the case of a security officer instructor, affecting the applicant's honesty, integrity, or moral fitness.

If the private investigator (but apparently not the instructor) has been convicted of 3rd degree assault or 2nd degree threatening, the commissioner must consider the facts and circumstances of the conviction before suspending or revoking the registration.

The commissioner may suspend or revoke the firearm permit instructor's approval, after notice and hearing opportunity, if he finds that the instructor violated the provisions governing approval.

Aggrieved parties may appeal revocation or suspension actions to New Britain Superior Court.

VIOLATIONS AND PENALTIES

Private Detective and Private Investigator Industry

The act reduces the penalty for private detective and private detective agency licensees who (1) employ unqualified private investigators or (2) fail to register, or inform DPS when they terminate, private investigators. Under prior law, the penalty was imprisonment for up to one year, a fine of up to \$5,000, or both. In addition, the commissioner could establish civil penalties of up to \$5,000. The act, instead, imposes a penalty of \$75 per offense, with each distinct violation and each day of a continuing violation being separate offenses.

Security Industry

The act reduces the penalty for security licensees who employ unqualified security officers, or fail to register or notify DPS when they terminate registered security officers. Under prior law, the penalty was imprisonment for up to one year, a fine of up to \$5,000, or both. The act, instead, imposes a penalty of \$75 per offense, with each distinct violation and each day of a continuing violation being separate offenses. It imposes the same penalties on (1) non-security businesses that violate these provisions, (2) licensees and non-security businesses that illegally employ unlicensed security officers, (3) security officers required to be licensed who work unlicensed, and (4) instructors who provide the security officer licensure training without the commissioner's approval.

Special Firearms Permit

Under existing law, which the act does not change, the penalty for violating the provisions governing the special gun permit for armed security officers is \$75 for each day of a violation. The act amends a separate statute imposing a fine of up to \$5,000, imprisonment for up to five years, or both for the same violation.

The act also imposes a penalty of \$75 per day on instructors who teach the security officer firearms safety and use course without the commissioner's approval. Another statute sets the penalty for the same violation at \$5,000, imprisonment for up to five years, or both.

Civil Penalties and Regulations

The act allows the commissioner to adopt regulations establishing civil penalties of up to \$5,000 for violations of the provisions governing security officers, except those pertaining to the special gun permit. (The commissioner already has this authority with regard to the gun permit. Also, by law, the commissioner must already adopt regulations concerning the approval of schools, course content,

number of hours, and course instructors with regard to the firearm safety and use course for armed security officers.)

Fines Payable by Mail

The act allows violators to mail in fines to the Centralized Infractions Bureau for the following violations:

1. failure to register a private investigator;
2. performing the duties of a licensed security officer before being licensed;
3. failure to apply to register a security officer within prescribed deadlines;
4. failure to notify DPS of terminated licensed, and registered security officers; and
5. employing an unlicensed security officer when licensure is required.

PA 08-131—HB 5646

*Public Safety and Security Committee
Labor and Public Employees Committee
Appropriations Committee
Planning and Development Committee*

AN ACT CONCERNING VOLUNTEER SERVICE BY PAID EMERGENCY PERSONNEL OR PAID FIREFIGHTERS

SUMMARY: This act allows municipalities with paid emergency personnel and municipalities with volunteer emergency personnel to enter into agreements authorizing paid personnel to serve during personal time as active members of volunteer fire departments in the municipality where they live.

In developing the agreements, municipalities must consider the model guidelines, which the state fire administrator must develop under existing law. (The guidelines that the office developed do not define “emergency personnel,” but they cover firefighters.)

The act allows municipalities to ask the labor commissioner to help resolve any issues arising from the agreements. He must do this within available appropriations and as he deems appropriate.

The act bars municipalities from entering into any contract prohibiting paid firefighters or paid emergency personnel from serving as active volunteer fire department members during personal time in the municipality where they live.

EFFECTIVE DATE: Upon passage

PA 08-32—sHB 5748

*Transportation Committee
Judiciary Committee*

AN ACT CONCERNING TEENAGE DRIVERS

SUMMARY: This act establishes several new requirements for 16- and 17-year-olds, and in some cases their parents or legal guardians, both before and after they get their drivers' licenses. It:

1. further restricts the passengers they may carry while being instructed under a learner's permit;
2. extends passenger restrictions that previously applied for the first six months after licensure to an entire year, but authorizes the motor vehicle commissioner to provide exceptions by regulation for single parents under age 18 transporting their children for certain purposes such as child care or medical appointments;
3. begins the nighttime hours when 16- or 17-year-olds cannot drive except for employment, religious, school-related, or certain other purposes at 11 p.m. instead of midnight (PA 08-150 subsequently made this earlier curfew apply to 16- and 17-year-olds who get their licenses on or after August 1, 2008);
4. for anyone issued a learner's permit on or after August 1, 2008, increases from 20 to 40 hours the amount of behind-the-wheel, on-the-road training a 16- or 17-year-old must get before qualifying for licensure;
5. requires license suspensions for any violations of post-licensure driving restrictions for 16- and 17-year-olds, instead of only for second or subsequent violations;
6. establishes mandatory license suspension requirements for 16- and 17-year-olds who violate certain traffic laws that, in some cases, are longer than the ones that apply to older drivers and, in other cases, apply only to 16- and 17-year-olds;
7. establishes a 48-hour summary suspension and license seizure for 16- and 17-year-olds who commit certain acts, and requires a parent or guardian to accompany them when they retrieve their licenses;
8. for 16- or 17-year-olds issued learners' permits on or after August 1, 2008, requires a parent or guardian to attend two hours of instruction on teen driving laws and related issues with the child before the teen can take the license test; and
9. requires anyone in a vehicle with a 16- or 17-year-old driver to wear a seat belt and increases the penalty for anyone in a vehicle being driven by someone under age 18 who violates the seat

belt law.

The act lengthens the administrative license suspension for the first time a 16- or 17-year-old refuses to take a blood alcohol test or takes the test and has an illegal blood alcohol level.

The act makes violations of laws on (1) learner's permit requirements and restrictions, (2) post-licensure restrictions, and (3) use of cell phones or electronic devices while driving, moving violations that can lead to the teen driver having to complete the driver retraining program.

It prohibits someone under age 18 who commits negligent homicide with a motor vehicle, evading responsibility following an accident that results in a death or serious physical injury, or driving under the influence of alcohol or drugs from being considered a youthful offender. However, for certain other serious motor vehicle violations, such as reckless driving and racing on a public road, it requires disclosure of a youthful offender's record to the Department of Motor Vehicles (DMV) for imposition of a license suspension.

The act also (1) allows the DMV commissioner to adopt regulations on the requirements for behind-the-wheel, on-the-road instruction and (2) makes a knowledge test on motor vehicle laws and rules of the road a discretionary instead of mandatory part of the license test. The latter change appears to make it possible to administer the full-knowledge test when a 16- or 17-year-old applies for a learner's permit instead of when the license examination is taken.

EFFECTIVE DATE: August 1, 2008

PASSENGER RESTRICTIONS

While Under Learner's Permit

The act prohibits a 16- or 17-year-old with a learner's permit from carrying any passengers except the person providing driving instruction, unless the additional passenger is a parent or legal guardian. It applies this restriction during the entire time the 16- or 17-year-old has the learner's permit.

Previously, restrictions on carrying passengers for 16- or 17-year-olds when they are learning to drive under a learner's permit were the same as those that applied for the first six months after they get their licenses. Specifically:

1. for the first three months the permit is held, a 16- or 17-year-old may only have in the car (a) a licensed driving instructor; (b) his parents or guardians, at least one of whom must be a licensed driver; or (c) one person who is at least age 20, has been licensed for at least four years, and has not had a driver's license suspension during those four years and

2. during the fourth through six months the permit is held, the 16- or 17-year-old may carry additional members of his immediate family, in addition to any of those noted above.

After Licensure

The act extends the passenger restrictions that apply to 16- and 17-year-olds after they are licensed for a full year instead of the first six months of licensure.

After a 16- or 17-year-old gets a driver's license, the prior law restricted the passengers he or she could have in the vehicle while driving as explained above. The restrictions to a licensed instructor, parents or guardians, or a single person age 20 or more applied for the first three months of licensure, as they did under the learner's permit. For the fourth through sixth month, additional immediate family members could be carried. After six months, the restrictions ended except that a 16- or 17-year-old may never transport more passengers than the number of vehicle seating positions with seat belts.

The act extends the first restriction to the first six months of licensure instead of the first three months. The authorization to carry other family members who are not parents or guardians applies for the seventh through 12th month of licensure. Thus, under the act, a 16- or 17-year-old is, in effect, prohibited from carrying any passenger who is under age 20 for the first year of licensure, instead of the first six months of licensure, unless that person is an immediate family member. A subsequent act, PA 08-150, limits these changes to anyone who gets a driver's license on or after August 1, 2008. A 16- or 17-year-old who gets a license before that date remains under the restrictions of the prior law.

The act authorizes the DMV commissioner to adopt regulations that provide exceptions to the passenger restrictions for a single parent under age 18 for purposes of transporting his or her child to day care, child care and education facilities, medical appointments, and other purposes the commissioner may determine.

DRIVER'S LICENSE SUSPENSIONS FOR 16- AND 17-YEAR-OLDS

Administrative Per Se License Suspension

By law, anyone who holds a driver's license is deemed to have given implied consent to have his blood, breath, or urine tested for the presence of alcohol or drugs. If, after being arrested for driving under the influence of alcohol or drugs and being apprised of his or her rights and given the opportunity to call an attorney, the person either refuses the test or takes it and the results show an "elevated blood alcohol content" the person is subject to an administrative driver's license

suspension imposed by DMV independently of any consequences that may result from adjudication of the criminal charge in court. This is called an administrative per se license suspension.

By law, anyone under age 21 who does not contact DMV for a hearing, fails to show up for a scheduled hearing, or who receives an adverse hearing decision is subject to a license suspension that is twice as long as the period imposed on someone age 21 or older for a similar type of violation.

The act makes this enhanced administrative license suspension even longer for a 16- or 17-year-old for a first per se offense. Specifically, the suspension for a first per se violation by a 16- or 17-year-old is increased from: (1) one year to 18 months for a test refusal, (2) 180 days to one year for a test result of .02% but under .16%, and (3) from 240 days to one year for a test result of .16% or more (See BACKGROUND).

Violation of Post-Licensure Driving Restrictions

By law, violation of any of the restrictions that apply to 16- and 17-year-olds after licensure (passengers, curfew, and seat belts) is an infraction. Previously for a second or subsequent violation, the commissioner could suspend the driver's license until the 16- or 17-year-old reaches age 18. The act, instead, requires the commissioner to suspend the license for 30 days for a first violation of the restrictions and for six months, or until age 18, whichever is longer, for a second violation. Thus, someone who commits a second violation less than six months before he turns 18 would serve a six-month suspension. Previously, these individuals could only be suspended for the period remaining until their 18th birthday.

Violation of Specified Traffic Laws

The act establishes a set of mandatory license suspensions for 16- and 17-year-olds convicted of (1) exceeding a posted speed limit by 20 miles per hour or more when the limit is under 65 miles per hour, (2) reckless driving, (3) racing a motor vehicle on a highway, and (4) using a cell phone or mobile electronic device while driving. The act, in effect, (1) increases suspension periods for 16- and 17-year-olds for reckless driving and motor vehicle racing over the current periods that apply to all drivers and (2) establishes license suspensions for speeding and use of cell phones by 16- and 17-year-olds where none currently exist. The mandatory suspensions are shown below.

<i>Violation</i>	<i>Current Suspension (All Drivers)</i>	<i>Suspension for 16- or 17-Year-Old Under the Act</i>
Speeding*	Not permitted by law until 4 th violation within two years unless ordered by the court 4 th violation—up to 30 days 5 th violation—up to 60 days 6 th or subsequent—up to 6 months	1 st violation—60 days 2 nd violation—90 days Subsequent—6 months
Reckless Driving	1 st violation—30 days Subsequent—90 days	1 st violation—6 months Subsequent—1 year
Racing on a Public Highway	1 st violation—30 days Subsequent—90 days	1 st violation—6 months Subsequent—1 year
Use of Cell Phone or Mobile Electronic Device While Driving	None	1 st violation—30 days 2 nd violation—90 days Subsequent—6 months

*By law, speeding occurs when someone drives (1) at a speed that endangers the life of any vehicle occupant but not someone outside the vehicle or (2) on any highway at more than 55 miles per hour (or more than 65 miles per hour if that is the speed limit on the highway). The act expands the definition of speeding to include someone under age 18 driving at 20 miles per hour or more above any posted speed limit less than 65 miles per hour.

By law, someone can be charged with “traveling unreasonably fast” under CGS § 14-218a if he is driving above the posted limit or at any speed, regardless of the speed limit, that is greater than reasonable for the road and weather conditions. A person who drives more than 55 miles per hour and exceeds the posted speed limit can be charged with speeding (CGS § 14-219) instead of traveling unreasonably fast. The main difference between the two is the fine structure. Under the act, someone under age 18 going 20 miles per hour above a speed limit set at less than 65 miles per hour would be cited for speeding. The act’s license suspension provision applies specifically to that infraction.

SUMMARY 48-HOUR LICENSE SUSPENSION FOR CERTAIN VIOLATIONS

The act establishes a 48-hour summary suspension of a 16- or 17-year-olds driver’s license if the teenage driver is cited for:

1. violating any of the driving restrictions that apply after licensure,
2. driving 20 miles per hour or more above a posted speed limit on any road posted for a speed of less than 65 miles per hour,
3. driving under the influence of alcohol or drugs or with an elevated blood-alcohol level (which is .02% or more for anyone under age 21),
4. driving recklessly in violation of CGS § 14-222, or

5. racing a motor vehicle on a public highway.

If the 16- or 17-year-old is cited for any of these violations, the police officer must seize the driver’s license for 48 hours on behalf of the DMV commissioner and may have the vehicle removed. The license seizure begins on the date and time the arrest is made or the summons or infraction complaint is issued. The driver’s license is considered suspended for 48 hours.

To regain the license, the 16- or 17-year-old and his or her parent or legal guardian must appear in person at the police department, state police barracks, or other designated location and sign a written acknowledgement of its return. (A subsequent act, PA 08-150, amends this provision to exempt an emancipated minor from the requirement for accompaniment by a parent or guardian when retrieving the license.) No restoration fee may be charged for return of the license. The police officer who seized the license must make a written report of the violation and the suspension action to the commissioner on a form, and in a time and manner, that the commissioner prescribes.

JOINT INSTRUCTION IN MATTERS RELATING TO TEEN DRIVING

By law, any 16- or 17-year-old must attend an eight-hour course in safe driving practices and the effects of alcohol or drugs on driving, among other things. This applies even if the teen is receiving driving instruction certified by a parent, guardian, or other responsible adult instead of through commercial driving instruction or a secondary school driver’s education program.

The act requires the commissioner to amend the regulations for this eight-hour course to include two hours of instruction concerning the laws and penalties that apply to drivers under age 18, the dangers of teenage driving, cognitive development of adolescents, the responsibilities and liabilities of parents of teenage drivers, and any other subjects he deems appropriate. It requires the parent or guardian of anyone under age 18 with a learner’s permit to attend this two-hour component of the course with the child. It also requires the 16- or 17-year-old to provide an affidavit signed by an official of the driving school or driver education program under penalty of false statement that a parent or guardian of the child attended the two hours of instruction with the child. The permit holder may not take the driver’s test unless this affidavit is provided. These requirements apply for any applicant issued a permit on or after August 1, 2008.

SEAT BELT REQUIREMENTS

By law, the driver and all front seat passengers in a motor vehicle must wear seat belts or, if appropriate, be in a child restraint system. The driver must also make sure that any rear seat passenger under age 16 is secured in a seat belt. The act requires any passenger, regardless of age, to wear a seat belt in a vehicle being driven by someone under age 18. It also increases the fine for anyone who violates the seat belt use requirements while being driven by someone under age 18. Previously, all violations of seat belt requirements were infractions with a fine of \$15 (total amount due for a violation with additional fees and assessments required by law is \$37). Under the act, violations by anyone in a vehicle being driven by someone under age 18 are infractions with a \$75 fine (total amount due would be \$123).

DRIVER RETRAINING PROGRAM

By law, anyone age 24 or younger who commits two or more moving violations or suspension violations must complete the DMV-certified driver retraining program or face a license suspension until the program has been completed. Anyone over age 24 must complete the program after three moving or suspension violations. The driver retraining program is conducted by four DMV-approved vendors.

The act adds to the list of moving violations that can lead to participation in the driver retraining program violations of (1) learner's permit requirements or post-licensure driving restrictions for 16- or 17-year-olds and (2) the prohibition on the use of any type of cell phone or mobile electronic devices by a 16- or 17-year-old while driving. By law, drivers under age 18 cannot use any cell phone or mobile electronic device, whether or not it is hands free.

YOUTHFUL OFFENDERS

Under the act, someone under age 18 who commits any of the following cannot be considered a youthful offender:

1. negligent homicide with a motor vehicle (CGS § 14-222a);
2. failure to stop and render assistance when knowingly involved in an accident that causes the death or serious physical injury of another person (CGS § 14-224(a)); and
3. operating a motor vehicle while under the influence of alcohol or drugs, or with an elevated blood alcohol level, which for someone under age 21 is a blood alcohol level of .02% or more (CGS §§ 14-227a or 14-227g).

Under the act, the records of any youth adjudged a youthful offender for a violation of any of the following must be disclosed to the DMV for administrative use in determining whether a driver's license suspension is warranted:

1. reckless driving (CGS § 14-222),
2. operating while under suspension (CGS § 14-215),
3. evading responsibility following an accident involving property damage or non-serious injury (CGS §14-224(b)),
4. racing a motor vehicle on a public road (CGS § 14-224(c)), and
5. disregarding a police officer's signal to stop and increasing speed in an attempt to escape or elude such officer (CGS § 14-223(b)).

The act requires the DMV commissioner to suspend the youth's license for six months for a first offense and one year for a second or subsequent offense. It prohibits such records from being further disclosed.

ADMINISTRATION OF KNOWLEDGE TEST TO 16- OR 17-YEAR-OLD

By law, a 16- or 17-year-old must take and pass at the time of application for a learner's permit a (1) vision screening and (2) knowledge test on motor vehicle laws and rules of the road. Prior law also required an applicant to pass an examination at time of licensure that must include a comprehensive test of motor vehicle laws and rules of the road. In practice, the knowledge test given when applying for a learner's permit is a short test consisting of 10 questions. DMV administers a full-knowledge test and a road test when the 16- or 17-year-old comes to DMV for the license examination. The act makes the knowledge test at time of licensure discretionary rather than mandatory. In effect, the change allows DMV to modify its current practice and administer the full-knowledge test when the learner's permit is issued.

BACKGROUND

Related Act

PA 08-150 essentially makes two changes in how the requirements of this act apply. It (1) exempts a 16- or 17-year old who has been emancipated in accordance with applicable state law from the requirement that a parent or guardian accompany the youth to recover a driver's license that has been confiscated by police under the 48-hour summary suspension provisions of the new law and (2) keeps anyone who receives a license before August 1, 2008 under the old rather than the new post-license restrictions (both the extended passenger restrictions and the earlier beginning for the prohibited driving hours).

Administrative Per Se License Suspension Periods

The license suspension periods that apply under the administrative per se law are shown below (CGS § 14-227b).

<i>Administrative Per Se License Suspension Periods</i>			
<i>Per Se Offense</i>	<i>First Offense</i>	<i>Second Offense</i>	<i>Third Offense</i>
Test Refused	6 months	1 year	3 years
Test Refused and Under Age 21	1 year	2 years	6 years
BAC is .08% or more but under .16%	90 days	9 months	2 years
BAC is .02% or more but under .16% and Under Age 21	180 days	18 months	4 years
BAC of .16% or more	120 days	10 months	2 years, 6 months
BAC of .16% or more and Under Age 21	240 days	20 months	5 years

PA 08-101—sHB 5746
Transportation Committee
Judiciary Committee
Energy and Technology Committee

AN ACT CONCERNING THE DEPARTMENT OF TRANSPORTATION

SUMMARY: This act:

1. establishes an enhanced penalty for certain traffic violations that occur in traffic incident management zones, and defines these zones;
2. authorizes the Department of Transportation (DOT) to temporarily lease use of the State Pier or other navigation property DOT owns or controls, pending the required approval of other state officials, and makes related changes;
3. authorizes the DOT commissioner to initiate harbor improvement projects on behalf of the state, creates a special account to fund the projects, and removes limits on state grants to municipalities for harbor improvement projects;
4. requires certain key individuals involved in a completed highway or bridge project to certify in writing that it has been constructed in substantial compliance to the project's plans and specifications;

5. makes several changes relating to bicyclist safety and funding bicycle and pedestrian access projects;
6. makes the DOT commissioner rather than railroads responsible for notifying municipalities about certain issues relating to rail crossings;
7. exempts buildings DOT acquires but does not use for office space from indoor air quality protocols enacted for state-owned or -leased buildings in 2007;
8. expands exemptions from certain state laws for tow trucks that are towing disabled trucks from the highway;
9. exempts vehicles operated by or through a community-based regional transportation system for the elderly established pursuant to PA 05-280 from regulation as livery motor vehicles (§ 11);
10. authorizes DOT to permit temporary signs, displays, or other devices along state highways for 60 days or less (§ 12);
11. extends for one year, until April 15, 2009, a requirement that DOT suspend the realignment of Route 113 between Access Road and Dorne Drive in Stratford (§ 16);
12. allows DOT to issue vehicle over-dimension permits (length, width, height, and weight) electronically and, for such electronically-issued permits, eliminates the requirement that the permit holder possess a paper copy, facsimile, or telegraphic confirmation of the permit (§ 7); and
13. repeals an obsolete statute requiring all DOT contracts for work on a state bridge to prohibit anyone from working more than 48 hours in any week on the work specified in the contract, except in an emergency (§ 31).

The act also makes several technical changes and modifications to commemorative road and bridge designations previously adopted by the legislature and repeals one prior designation.

EFFECTIVE DATE: October 1, 2008, except for the provision for electronic transmission of DOT permits, which is effective on July 1, 2008; and the temporary State Pier lease, harbor improvement project, and road and bridge name correction provisions, which are effective upon passage.

ENHANCED FINE FOR TRAFFIC OFFENSE IN TRAFFIC INCIDENT MANAGEMENT ZONE (§ 1)

By law, the court must impose an additional fee equal to 100% of the fine it imposes for certain designated traffic violations when they occur in a clearly designated and marked state highway

construction zone or utility work zone. The act establishes a similar requirement when they are committed in a “traffic incident management zone.”

It defines a traffic incident management zone as an area of the highway where temporary traffic controls or measures are installed under the authority of the transportation or public safety commissioner, or a local traffic authority, in response to a motor vehicle incident, natural disaster, hazardous material spill, or other unplanned incident. The zone must be delineated by signs, cones, flares, or flashing or revolving lights.

TEMPORARY AGREEMENTS FOR STATE PIER (§ 2)

Under prior law, the DOT commissioner could make facilities at the State Pier in New London available to others to promote intermodal transportation. The act, instead, authorizes the commissioner to lease or grant any interest at the State Pier or any navigation property the state owns or controls with the approval of the State Properties Review Board (SPRB), the Office of Policy and Management (OPM), and the attorney general. It allows the commissioner to execute a temporary lease after requesting SPRB and attorney general approval that would be effective only until the full agreement has received final approval. (PA 08-185 subsequently amended this provision to (1) require the OPM secretary to approve any such temporary lease and (2) specify that OPM, as well as the attorney general and the SPRB, make the final decision on the final lease or grant of interest).

The act specifies that any leases, with SPRB approval, may provide for building construction and that the commissioner may confer concessions privileges for goods, commodities, services, and facilities at the State Pier.

HARBOR IMPROVEMENT PROJECTS (§§ 8-10)

New Projects

The act authorizes the DOT commissioner to initiate harbor improvement projects on behalf of the state, or for the state on behalf of the federal government. It specifies that harbor improvement projects include the preparation of plans, studies, and construction to alter or improve state, municipal, and other properties in or adjacent to Connecticut waters, for the purpose of improving the state economy and infrastructure. These initiatives may be undertaken in addition to the municipal grants for harbor improvement projects authorized under existing law.

The act requires the Connecticut Maritime Commission to recommend and rank projects and submit them to the commissioner. DOT must contract to provide goods and services to harbors and waterways

for these projects, and fund these contracts. The commissioner may enter into agreements with other state agencies or municipalities to provide this funding.

DOT must administer all the contracts, which are subject to final negotiation regarding the project’s scope and budget. Under the act, contract periods may vary by contract. Payments must be made on a reimbursement basis no later than the dates of service of an executed contract, and appropriate documentation indicating that services have been rendered must be provided with payment requests. DOT may choose to release all or part of the funds as an upfront payment, provided funds are held in a non-interest-bearing account and spent no later than 60 days after it provides them.

Harbor Improvement Account

The act creates the harbor improvement account as a separate, non-lapsing General fund account. Deposits to the account must include (1) the proceeds of notes, bonds, or other obligations issued by the state for the purpose of harbor improvement or dredging projects; (2) General Assembly appropriations for such projects; and (3) any other funds required or permitted by law.

The commissioner must use the account to fund harbor improvement projects and for federal dredging projects. Funds used for the latter must (1) support, in full or in part, local or state matching requirements; (2) cover incremental costs for environmental regulatory requirements or management practices, including beneficial use; or (3) cover all or part of the costs where federal funds are inadequate. If the account is used to cover inadequate federal funds, the commissioner must pursue reimbursement from the federal government.

Removal of Limits on Municipal Grants

The act removes two restrictions on the state’s existing program for grants to municipalities for harbor improvement projects, specifically (1) a per-project requirement of two-thirds of the net cost of the project as approved by the commissioner and (2) a \$1 million limit on the total allowable state funding per municipality.

CERTIFICATION OF COMPLETED HIGHWAY AND BRIDGE PROJECTS (§ 17)

Upon completion of a highway or bridge project, the act requires a signed certification from the following individuals involved in the project:

1. the general contractor;
2. the DOT project engineer; and
3. either the DOT chief inspector, consultant resident engineer or chief inspector, or the municipal chief inspector or official.

The certification must be on a DOT-prepared form and must state that the individual certifies, to his or her best knowledge, information, and belief, that the completed project has been constructed in substantial compliance with the project’s contract plans, specifications, and any approved change orders.

BICYCLE-RELATED PROVISIONS (§§ 13-15)

Funding Bicycle and Pedestrian Access Projects

The act makes improving bicycle and pedestrian access throughout the state transportation system eligible for funding previously authorized by law for implementing priority transportation strategy projects and initiatives (i.e., “Tier 1” strategy projects).

Public Awareness Campaign

The act requires the transportation commissioner, within available appropriations and in consultation with bicyclist advocacy groups, to develop and implement a statewide “Share the Road” public awareness campaign to educate the public about the rights and responsibilities of motorists and bicyclists using the highways together.

Safe Passing of Bicyclists

By law, any vehicle overtaking another vehicle proceeding in the same direction must pass to its left at a safe distance and not move right until safely clear of the overtaken vehicle. The act specifies that in the case of a vehicle overtaking and passing a bicyclist, a safe distance is at least three feet.

NOTIFICATION REGARDING RAIL CROSSINGS (§ 3)

Prior law required railroads to notify the appropriate town or DOT annually, in writing, about rail crossings in the town and the town’s obligations to inspect and correct any malfunctioning gates, signals, or pavement markings that the town must maintain. The act makes the DOT, instead of the railroads, responsible for this notification and eliminates a requirement that DOT provide a list of towns to be notified to each railroad, private party, or corporation.

INDOOR AIR QUALITY PROTOCOL EXEMPTION (§ 4)

The act exempts DOT-leased or -owned buildings that it does not use for office space from provisions of a 2007 law that requires development of protocols for periodic indoor air quality assessment and possible remediation. In practice, DOT frequently acquires

structures as part of a proposed transportation improvement and leases them until completion of the construction when final disposition of the building is made. The leases make the tenant responsible for maintaining the buildings’ mechanical systems.

TOW TRUCK EXEMPTIONS (§§ 5 & 6)

Previously, licensed tow trucks (i.e., wreckers) were exempt from the state’s maximum vehicle length law when towing disabled trucks and trailers to the nearest garage for servicing, up to a distance of 25 miles. They also could exceed the state’s maximum vehicle weight laws by up to 20% if towing or hauling a disabled vehicle. The act modifies the length-law exemption to (1) apply to hauling as well as towing (some wreckers haul disabled vehicles on flatbeds rather than tow them) and (2) include vehicles that have been involved in an accident and are in the highway limits or are being removed by order of law enforcement personnel. The act also specifies that the vehicle must be hauled to the nearest licensed repair facility or to the motor carrier’s terminal. The 25-mile maximum distance remains unchanged by the act.

The act revises the weight law exemption to include vehicles involved in accidents or being removed by order of law enforcement personnel. It also eliminates the 20% allowance over the statutory weight limits and, instead, allows the wreckers to tow or haul any vehicle that does not exceed a gross vehicle weight of 80,000 pounds on five or more axles. A wrecker removing a vehicle or vehicle combination that exceeds 80,000 pounds on five or more axles may be exempt from the maximum weight laws as long as the wrecker has been issued a DOT annual overweight permit and it is operated in accordance the restrictions that apply to such permit holders.

ROAD AND BRIDGE NAME CORRECTIONS AND MODIFICATIONS (§§ 18-30)

The corrections and modifications for the previously designated commemorative names for various state roads and bridges are shown below.

<i>Commemorative Name</i>	<i>Correction or Modification</i>
§ 18—Lieutenant Sherrod E. Skinner Memorial Bridge	Changes bridge from Bridge 3405 over Route 372 in New Britain to Bridge 1083 on Route 71 over Route 571 in Berlin
§ 19—William F. Cribari Memorial Bridge in Westport	Corrects bridge number designation from 3149 to 1349
§ 20—Veterans Way in Sherman	Changes road segment from Route 37 center from Sawmill Road to Route 39 to Route 39 from Route 37 north to Spring Lake Road

<i>Commemorative Name</i>	<i>Correction or Modification</i>
§ 21—Veterans Way in Kent	Changes designation of “the intersection of Elizabeth Street and Route 341 to Route 7 to Cobble Lane” to Route 341 from Elizabeth Street to Route 7
§ 22—Sign for Milford Fine Arts Council	Changes sign designation from “Milford Fine Arts Council” to “Milford Center for the Arts”
§ 23—Corporal Stephen R. Bixler Memorial Highway in Suffield	Changes designation from Route 190 in Suffield from Route 75 to Route 159 to Route 190 from the beginning of Thompsonville Road at Mapleton easterly to Route 159
§ 24—Lance Corporal Lawrence Robert Philippon Memorial Highway in Farmington	Changes segment designation from “Route 4 from State Road 508 to the University of Connecticut Health Center” to Route 4 from State Road 508 in Farmington easterly to the intersection of Boulevard in West Hartford
§ 25—Wilfredo Perez Memorial Highway in Norwalk	Corrects designation for Bridge 0057 to “Spc. Wilfredo Perez Jr. Memorial Bridge”
§ 26—Officer Harvey R. Young Memorial Highway in South Windsor	Identifies previously unidentified road segment in South Windsor as Route 74 from Route 194 east to the South Windsor-Ellington town line
§ 27—Trooper James W. Lambert Memorial Highway	Changes road segment designation from “Route 6 in Bethel from Vail Road intersection to the Danbury line” to Route 6 from the Danbury line east to the intersection with Old Hawleyville Road
§ 28—Captain John Keane Memorial Highway in Waterbury	Changes road segment designation from Route 73 at the intersection with Aurora Street to Route 73 from the Waterbury-Watertown town line to East Aurora Street
§ 29—Patrick L. Brooks Memorial Bridge in West Hartford	Changes designation to “Firefighter Patrick L. Brooks Memorial Bridge”
§ 30—Vincent R. T. Arduini Memorial Bridge on Route 20 over Salmon Brook	Repeals designation

BACKGROUND

Connecticut Maritime Commission (CMC)

The 15-member CMC in DOT must (1) advise the commissioner, governor, and legislature on maritime policy and operations; (2) develop and recommend maritime policy to the governor and legislature; (3) support development of Connecticut’s maritime commerce and industries, including its deep water ports; (4) recommend investments and actions, including dredging, required to preserve and enhance deep water ports; (5) conduct studies to make recommendations on

maritime issues; and (6) support Connecticut port development, including identifying new opportunities, analyzing the potential for and encouraging private port investment, and recommending policies that support port operation.

PA 08-114—SB 285

Transportation Committee
Public Safety and Security Committee
Appropriations Committee
Judiciary Committee

AN ACT CONCERNING HIGHWAY WORK ZONE SAFETY

SUMMARY: This act creates two new offenses of (1) endangerment of a highway worker and (2) aggravated endangerment of a highway worker that apply when a driver commits certain acts in a highway work zone. It defines what constitutes a highway work zone and a highway worker. The latter generally includes both (1) people performing construction or maintenance activities and (2) public safety personnel working in the zone.

The act also creates a Highway Work Zone Advisory Council to recommend safety improvements in highway work zones.

EFFECTIVE DATE: October 1, 2008

HIGHWAY WORK ZONE AND HIGHWAY WORKERS

“Highway Work Zone”

The act defines a highway work zone as an area of a state highway where construction, maintenance, or utility work is being performed. It requires such a zone to be marked by signs, channeling devices, barriers, pavement markings, or work vehicles. The highway work zone extends from the first warning sign or high intensity rotating, flashing, oscillating, or strobe lights on a vehicle to an “END ROAD WORK” sign or the last temporary traffic control device.

“Highway Worker”

Under the act, a highway worker is anyone required to perform his job on state roads, state bridges, or in highway work zones. A highway worker specifically includes:

1. someone who performs maintenance, repair, or construction of state bridges, state roads, shoulders, medians, and associated rights-of-way in highway work zones;

2. someone who operates a truck, loader, or other equipment on state roads and bridges or in highway work zones;
3. someone who performs any other related maintenance, as required, on state roads and bridges or in highway work zones;
4. a state or local public safety officer who enforces work zone-related transportation management and traffic control;
5. a state or local public safety officer who conducts traffic control or enforcement operations on state bridges and roads, shoulders, medians, and associated rights-of-way; and
6. a state or local public safety officer or firefighter, an emergency medical services provider, or any other authorized person who removes hazards from state roads and bridges, shoulders, medians, and associated rights-of-way, or who responds to accidents or incidents on state roads and bridges, shoulders, medians, associated rights-of-way, or in highway work zones.

ENDANGERMENT OF A HIGHWAY WORKER

Endangerment

The act creates the offenses of endangerment of a highway worker and aggravated endangerment of a highway worker. To commit the offense of endangerment of a highway worker, a motor vehicle operator must commit any of the following acts in a highway work zone:

1. exceeding the posted speed limit by 15 miles per hour or more;
2. failing to obey a traffic control device erected to control vehicle flow through the work zone for any reason other than an emergency, avoiding an obstacle, or protecting another person's health and safety;
3. driving through or around the zone in a lane not clearly designated for use by vehicles moving through or around the zone; or
4. physically assaulting, attempting to assault, or threatening to assault a highway worker with a motor vehicle or other instrument.

In order for someone to be cited or convicted for endangerment of a highway worker, at least one highway worker must be in the highway work zone in proximity to the area where the act occurs. If convicted, the offender is subject to a fine of up to \$500 if no physical injury occurs or up to \$1,000 if there is a physical injury (see BACKGROUND).

Aggravated Endangerment

Under the act, someone commits the offense of aggravated endangerment of a highway worker when he is convicted of any of the aforementioned acts in a highway work zone and a highway worker is killed or seriously injured as a result. Conviction for the offense results in a fine of up to \$5,000 if a highway worker is seriously injured and up to \$10,000 if the worker is killed.

Exception

Someone cannot be cited or convicted for either of these offenses if his act or omission that otherwise would constitute an offense resulted, wholly or partially, from mechanical failure of the vehicle, or negligence of a highway worker or another person.

HIGHWAY WORK ZONE SAFETY ADVISORY COUNCIL

The act establishes a Highway Work Zone Advisory Council made up of the commissioners of transportation, public safety, and motor vehicles, or their designees; the presidents of the Connecticut Employees Union Independent and the Connecticut State Police Union, or their designees, and a representative of the Connecticut Construction Industries Association designated by the association's president.

The appointees must have knowledge and experience concerning highway work zones. Appointments must be made by November 1, 2008. The governor appoints the council's chairperson who must convene the council's first meeting by December 1, 2008.

The act requires the council to make ongoing recommendations to improve safety for highway workers, public safety officers, and drivers in highway work zones. The council must study and review:

1. current work design and safety protocols,
2. effective highway work zone design and safety protocols in other states,
3. implementing technology to improve zone safety,
4. using public safety officers to improve zone safety and available federal funding for work zone training and enforcement, and
5. other issues the council deems appropriate.

The act requires the council to meet at least quarterly and to report its recommendations to the transportation commissioner and Transportation Committee annually by January 15th.

BACKGROUND

Physical Injury and Serious Physical Injury

The law defines “physical injury” as an impairment of physical condition or pain. It defines “serious physical injury” as physical injury that creates a substantial risk of death, or that causes serious disfigurement, serious impairment of health, or serious loss or impairment of the function of a bodily organ (CGS § 53a-3).

PA 08-150—sSB 298

Transportation Committee

Judiciary Committee

Public Safety and Security Committee

Appropriations Committee

Environment Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE DEPARTMENT OF MOTOR VEHICLES

SUMMARY: This act:

1. makes it a misdemeanor to sell or disclose personal information from motor vehicle records for an unauthorized purpose and clarifies a related provision of the law;
2. makes several changes to PA 08-32, An Act Concerning Teenage Drivers, that clarify certain provisions of that law;
3. imposes motor vehicle ignition interlock requirements on anyone convicted of second-degree assault or second-degree manslaughter with a motor vehicle, and makes other changes related to the imposition of motor vehicle ignition interlock requirements;
4. includes DMV inspectors designated by the commissioner to enforce motor vehicle laws under several laws covering, among other things, the use of physical force or deadly force when making an arrest, resisting arrest, hindering an arrest, and assault on a public safety officer;
5. requires anyone applying for a Connecticut driver’s license who has not previously been licensed in Connecticut or elsewhere to take an eight-hour course on safe driving practices as a prerequisite to licensure;
6. expands and revises requirements for scrap metal processors receiving certain loads of scrap metal, imposes requirements on junk dealers and junk yard owners receiving certain types of metal goods, including beer kegs, and makes violations of the new and revised requirements misdemeanors;
7. requires applicants for auto recycling business licenses to certify that they are in compliance with environmental laws as a prerequisite for licensure, and establishes requirements for notifying the Department of Environmental Protection (DEP) and refusing licensure or granting conditional licensure if there is reason to believe a facility is not compliant;
8. exempts contracts originated or held by DMV-licensed motor vehicle dealers, repairers, or manufacturers from requirements that a contract provide notice and an acknowledgement by the other party that the contract contains a liquidated damages provision;
9. makes escort car drivers independent contractors, rather than employees, for purposes of unemployment compensation law, if they meet certain conditions;
10. allows DMV to extend the expiration dates of licenses, registrations, and other credentials under certain emergency or other circumstances;
11. creates a new special “Support Our Troops!” license plate and another to provide funding for nursing education and training programs;
12. eliminates the requirement that an antique, rare, or special interest motor vehicle must be registered in order for it to qualify for the maximum assessment of \$500 for property tax purposes;
13. exempts from state maximum width and length laws and the prohibition on towing more than two trailers vehicles used by the state or a municipality exclusively for removing leaves or other organic materials from a highway or road, as long as the operator is properly qualified to operate the combination of vehicles; and
14. applies the same penalty for failing to grant the right-of-way to a blind person as applies for failing to yield to a pedestrian using a crosswalk.

The act makes numerous changes to other motor vehicle laws. Specifically, it:

1. requires that the model year specified for a modified antique motor vehicle be the model year that the vehicle’s body most closely resembles (§ 5);
2. requires DMV to keep an updated copy of the International Registration Plan at its main office to be made available for public inspection (§ 6);
3. extends to commercial driving schools DMV regulations that previously applied only to secondary school driver education programs that require a teaching segment on the purposes

- and procedures of organ procurement organizations (§ 8);
4. modifies requirements for qualification for licensure as a driving instructor to include status with respect to the state child abuse and neglect registry and other factors;
 5. allows the commissioner to waive the fee for a set of replacement plates to someone who produces a police report indicating that the plates were stolen or mutilated regardless of the reason they were stolen or mutilated (§ 9);
 6. expands the types of permissible video displays in motor vehicles that can be seen by the driver;
 7. allows, rather than requires, that exhaust emissions inspections of heavy duty commercial motor vehicles be conducted in concert with vehicle weight and safety inspections and makes other minor changes (§ 13);
 8. explicitly allows DMV to accept certificates of title issued by Indian tribes that are officially recognized by the U.S. Bureau of Indian Affairs (§ 14);
 9. exempts municipally owned motor vehicles from DMV motor vehicle title and title-related fees (§ 15);
 10. specifies that (a) someone learning to drive a commercial motor vehicle under a learner's permit may not drive under instruction if he has been suspended (usually for medical reasons) and (b) the person providing the instruction must have a commercial driver's license of the proper class and with the endorsements necessary for the type of vehicle being driven (§ 7);
 11. authorizes DMV to establish a system to verify commercial motor vehicle insurance coverage electronically;
 12. makes it clear that someone who holds a commercial driver's license can also operate any other vehicles that can be operated with a lower classification non-commercial license (§ 20);
 13. authorizes the commissioner to allow marine dealers to issue boat trailer registrations through DMV's on line registration system, if the dealers are registered with the DEP commissioner;
 14. establishes a procedure for lienholders to release a security interest in a motor vehicle electronically, in addition to written form;
 15. incorporates federal standards regarding drug testing procedures for tests required of drivers of school buses and student transportation vehicles (STV) to make it clear what standards must be applied to STV drivers since many of them do not hold commercial driver's licenses (§ 23);
 16. allows the DMV commissioner to register certain kinds of large agricultural equipment as a "special mobile agriculture vehicle", establishes requirements for their operation, and exempts them from certain laws;
 17. modifies a requirement for providing title certificates for vehicles sold at motor vehicle auctions;
 18. increases the term of DMV-issued non-driver photo identification cards from four to six years, proportionately increases the fee from \$15 to \$22.50, and permits the commissioner to waive the fee for any applicant who is a resident of a homeless shelter or other facility, and requires the commissioner to adopt implementing regulations (§ 30);
 19. authorizes the DMV commissioner to waive the fee for any "suppressed" drivers' licenses or registrations he issues (suppressed licenses and registrations are issued to certain law enforcement personnel, usually performing undercover work, under an alias in order to protect their identity)(§ 40);
 20. requires model year 2007 and newer school buses to be equipped with a front bumper-mounted crossing control arm and requires the commissioner to establish additional requirements and standards for these arms by regulation (§ 44);
 21. allows the DMV commissioner to decline to issue a notice of registration suspension for failure to maintain required insurance coverage if the vehicle's registration is cancelled or if he cannot establish that the violation occurred for a period of more than 14 days (§ 42);
 22. allows the use of refrigerants in motor vehicle air conditioning that may be toxic or flammable as long as they are designated as safe alternatives under federal environmental regulations;
 23. revises laws on mopeds and motor-driven cycles;
 24. modifies requirements for holding meetings of the Motor Carrier Advisory Council; and
 25. adds several new definitions to the motor vehicle laws, including one defining an unregistered motor vehicle, and modifies others.
- EFFECTIVE DATE: October 1, 2008, except (1) the suppressed license and registration fee waiver, Motor Carrier Advisory Council, registration suspension notice discretion, and liquidated damages notification exemption provisions are effective July 1, 2008; (2) the changes to the teen driving law are effective on August 1, 2008; (3) the special mobile agriculture vehicle, escort vehicle drivers, and motor vehicle auction title

provisions are effective upon passage; and (4) the non-driver photo identification card provisions are effective January 1, 2009.

§ 3 — DISCLOSURE OF PERSONAL INFORMATION FROM DMV RECORDS

The law restricts the availability of personal information contained in DMV records to specific users identified in the law and for explicit purposes. The act makes it a class A misdemeanor (up to a \$2,000 fine, up to one year imprisonment, or both) for anyone, including any officer, employee, agent, or contractor of the DMV to sell, transfer, or otherwise disclose any personal or highly restricted personal information obtained from DMV files for any unauthorized purpose. By law, personal information includes someone's photograph or digitized image, Social Security number, license number, name, address other than the zip code, telephone number, or medical or disability information. Highly restricted personal information is under a greater degree of protection from disclosure and includes a picture or digitized image, Social Security number, and medical or disability information.

The act also explicitly prohibits anyone who receives personal or highly restricted personal information from DMV records from reselling or re-disclosing it for a purpose not authorized under the law or reasonably related to such a purpose. Prior law implied this prohibition but did not explicitly state it.

§§ 45-48 — CHANGES TO PA 08-32 (TEENAGE DRIVERS)

PA 08-32 establishes several new requirements with respect to 16- and 17-year-olds learning to drive and for the period after they are licensed until they reach age 18. It also revises some existing requirements for them. Among the changes are (1) extension of current restrictions on the number and type of passengers they can carry for the first six months of licensure to the first full year of licensure, (2) beginning the nighttime curfew period for them at 11:00 p.m. instead of midnight, and (3) a summary 48-hour suspension for any 16- or 17-year-old who commits certain serious traffic offenses or violates the post-licensure restrictions.

This act:

1. makes it clear that the new post-licensure restrictions of PA 08-32 apply to anyone licensed on or after August 1, 2008;
2. keeps anyone who receives a license before August 1, 2008 under the old rather than the new post-licensure restrictions; and
3. exempts a 16- or 17-year-old who has been emancipated in accordance with applicable

state law from the requirement that a parent or guardian accompany the youth to recover a driver's license that has been confiscated by police under the 48-hour summary suspension provisions of the new law.

§§ 57-60 & 62—MOTOR VEHICLE IGNITION INTERLOCK REQUIREMENTS

New Requirements for Imposition of Use of Ignition Interlock Device

By law, use of an ignition interlock device on all vehicles an offender drives can be part of the sanctions imposed on anyone who has been convicted of a second or third offense of driving while under the influence of alcohol (DWI). For a second conviction, it can be granted, if the person qualifies, to serve in lieu of the second and third years of the mandatory three-year license suspension. For a third conviction, DMV can grant it if the person's petition for license restoration is approved and at least six years of the mandatory permanent revocation has been served. If the commissioner grants the petition, the device must be installed and maintained in the driver's vehicles for 10 years from the date of the revocation.

This act imposes a mandatory use of an ignition interlock device for two years following the one-year license suspension that results from a conviction for (1) second-degree manslaughter with a motor vehicle or (2) second-degree assault with a motor vehicle, both of which involve driving while under the influence of alcohol or drugs as an element of the crime.

Ignition Interlock-Related License or Permit Restriction

The act permits the commissioner to restrict a driver's license or special permit for employment-related driving to operating only ignition interlock-equipped motor vehicles for any of several possible applications of the requirement contained in the law and this act. These include the following situations:

1. after a second DWI conviction and the required suspension has been served;
2. when a court has ordered someone to operate such vehicles as a condition of release on bail, probation, or participation in the pretrial alcohol education system;
3. when granted a reversal or reduction of suspension or revocation after a third DWI conviction;
4. when issued a license upon surrender of a license from another state that contains an interlock restriction;
5. after conviction for second-degree assault or second-degree manslaughter with a motor

- vehicle and the required suspension has been served; and
6. when permitted by the commissioner to get or retain a license subject to reporting requirements concerning the person's physical condition as required by the laws regarding review of licensees with medical conditions requiring review.

License Applicants Restricted in Other States

If someone applying for a Connecticut driver's license has a license or operating privilege that has been restricted in another state in a way that the commissioner deems similar to the restrictions imposed by a special operator's permit issued by Connecticut, the act allows the commissioner to issue him a Connecticut driver's license and special operator's permit. The permit must be held by the person for the time the commissioner prescribes.

The act also disqualifies someone from applying for a special employment driving permit following a court-ordered suspension for failure to appear for any court appearance rather than only a failure to appear for trial.

Re-Suspension for Failure to Comply with Interlock Requirements

The act makes anyone whose license has been suspended and subsequently restricted to use of only ignition-interlock-equipped vehicles subject to a re-imposition of the suspension for failure to install and use the device as required. The re-suspension must be for a period of time not to exceed the period of the original suspension.

§§ 49-54 — STATUS OF DMV INSPECTORS

By law, the DMV commissioner can designate salaried inspectors to enforce motor vehicle laws anywhere in the state. These designated inspectors undergo training and certification by the Police Officer Standards and Training Council. The act applies to any such DMV inspectors who have been designated for law enforcement duties by the commissioner and certified by the council the laws governing the following:

1. justifiable use of physical or deadly physical force by an officer or a person from whom an officer requests assistance when making an arrest or preventing an escape (CGS § 53a-19),
2. prohibiting the use of physical force to resist arrest (CGS § 53a-23),
3. assaulting a public safety officer or emergency medical personnel (CGS § 53a-167c),
4. interfering with an officer performing duties (CGS § 53a-167a), and

5. failing to assist an officer when requested (CGS § 53a-167b).

§ 28 — SAFE DRIVING PRACTICES COURSE FOR ALL NEW LICENSEES

By law, every 16- or 17-year-old applying for a driver's license must, among other things, complete an eight-hour course in safe driving practices, the nature and effects of alcohol and drugs on driving, and other things. The act requires anyone applying for a Connecticut license who has not previously been licensed here or in any other state or U.S. territory, regardless of age, to complete a similar course.

§ 55 — REQUIREMENTS FOR SCRAP METAL PROCESSORS

Previously, a scrap metal processor receiving a load of scrap metal had to photograph the vehicle delivering the load, including its license plate, and the load of scrap metal. The act expands the requirements for scrap metal processors and imposes new requirements for them and for junk dealers and junk yard owners. It makes violations of both the current and the new requirements a class C misdemeanor for a first violation, a class B misdemeanor for a second violation, and a class A misdemeanor for a third or subsequent violation (see Table on Penalties).

Specifically, the act:

1. requires a scrap metal processor, for all loads of scrap metal it purchases or receives, to record the weight of the metal, the price paid for it, and the identity of the person who delivered it;
2. limits the requirement for photographing the load only to loads of scrap metal that include wire that could be used for telecommunications or data transmission; and
3. requires the processor for a load of scrap metal that includes wire that could be used to transmit telecommunications or data to copy the vehicle's registration certificate in addition to photographing the delivery vehicle, its license plate, and the load.

In addition, the act:

1. requires a scrap metal processor, junk dealer, or junk yard owner or operator to immediately notify the law enforcement authority in the municipality of the name, if known, and the license plate number, if available, of anyone offering to sell them a bronze statue, plaque, historical marker, cannon, cannon ball, bell, lamp, lighting fixture, lamp post, architectural artifact, or similar item;

2. prohibits any of them from purchasing or receiving a stainless steel or aluminum alloy beer or other beverage keg if it is marked with an indicia of ownership of anyone other than the person or entity presenting it for sale; and
3. gives a scrap metal processor who purchases scrap metal that is subsequently determined to have been stolen and returned to its owner a cause of action against the person from whom the metal was purchased.

For purposes of the requirement regarding beer or beverage kegs, the act defines "indicia of ownership" as words, symbols, or a registered trademark printed, stamped, etched, attached, or otherwise displayed on the container that identifies its owner.

§ 10 — MOTOR VEHICLE RECYCLING BUSINESSES

The act requires an applicant for DMV licensure as a motor vehicle recycler to certify, to the best of his knowledge and belief, that all of the property used for operating the business complies with all applicable environmental laws and regulations under the DEP commissioner's jurisdiction. It requires the DMV commissioner to notify the DEP commissioner once he receives the application and certification. The notification must include the property's location and legal description.

The act requires the DEP commissioner to tell the DMV commissioner within 45 days of receiving the required notification if there is any reason to believe that the property proposed for licensure is not in compliance. If the DMV commissioner is informed of such noncompliance, he may refuse to issue the license or issue it with conditions acceptable to the DEP commissioner, including remediation of conditions causing the suspected violations.

§ 61 — CONTRACTS CONTAINING LIQUIDATED DAMAGES PROVISIONS

PA 07-210 prohibits any 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 from being 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 will be enforced signs his name or initials next to the

statement.

The requirement does not apply to (1) contracts between a consumer agency and an agency of the federal government, the state, or a political subdivision of the state; (2) negotiable instruments; or (3) contract provisions for late fees, prepayment penalties, or default interest rates.

The act extends this same exemption to contracts originated or held by a person, firm, or corporation licensed by DMV as a motor vehicle dealer, repairer, or manufacturer.

§ 43 — ESCORT VEHICLE DRIVERS

This act generally makes escort car drivers independent contractors, rather than employees, for purposes of unemployment compensation law, if they meet the act's conditions. These drivers, under permit from the Department of Transportation (DOT), accompany oversized or overweight vehicles on state highways. As independent contractors they are not eligible for unemployment compensation benefits and the entity that hires them is not required to pay unemployment taxes on the drivers' pay.

The act removes escort vehicle drivers from the definition of employee under the unemployment compensation law if they:

1. are engaged in the business or trade of providing such escort motor vehicle;
2. are, and were, free from control and direction by any other business or other person in connection with the actual performance of such services;
3. own their own vehicle and statutorily required equipment and exclusively employ this equipment in providing such services; and
4. are treated as independent contractors for all purposes, including federal and state taxation, workers' compensation, choice of hours worked, and choosing to accept referrals from multiple entities without consequence.

By law, to be considered an independent contractor a person must:

1. be free from control and direction in connection with the performance of the service, both under his or her contract of hire and in fact;
2. perform the service either outside the usual course of business of the employer or outside of all the employer's places of business; and
3. be customarily engaged in an independently established trade, occupation, profession, or business of the same nature as the service performed.

§ 18 — EXTENSION OF EXPIRATION OF DMV CREDENTIALS

The act authorizes the DMV commissioner to extend the expiration date or period of validity of any registration, license, permit, certificate, or other form or credential he issues (1) in the event of an emergency declared under applicable state law or (2) if the DMV office is closed or unable to perform transactions with the public in an effective or secure manner. The act requires the governor's approval for the commissioner to exercise this authority. If he exercises this authority, the commissioner must take any actions that are necessary or appropriate to inform the public and law enforcement agencies of the extensions.

§§ 24 & 25 — SPECIAL LICENSE PLATES

"Support Our Troops!" License Plate

The act establishes a "Support Our Troops!" license plate, beginning January 1, 2009, for purpose of expressing support for our troops. The plate must bear the words "Support Our Troops!" and the image adopted by the national association, Support Our Troops, Inc. The commissioner may adopt regulations governing the plates issuance, renewal, and replacement.

A \$60 fee must be charged for the plates, in addition to any other regular fee required for registration. The DMV may retain \$15 of this fee for producing, issuing, renewing, and replacing the plates. The other \$45 must be deposited in an account to be used by Support Our Troops, Inc. for specified purposes. No additional fee may be collected for renewal except for the normal registration renewal fee, nor may a fee be charged for transferring from an existing registration to the new plate. The commissioner may establish a higher fee for Support Our Troops! plates that (1) contain letters and numbers from a previously issued license plate, (2) contain letters in place of numbers (so-called "vanity" plates), or (3) are low-number plates designated by statute.

The act establishes a Support Our Troops! commemorative account as a separate nonlapsing General Fund account. The money deposited in the account must be used by Support Our Troops, Inc. for programs to assist troops, their families, and veterans. The organization may also receive private donations to the account. Funds in the account must be distributed to the organization by the Office of Policy and Management on a quarterly basis.

Nursing Plates

The act also requires issuance of a second special plate beginning January 1, 2009, with a design

determined by the Connecticut Nurses Foundation, with DMV approval. The purpose of the special nursing plate is to express support for the nursing profession, raise awareness of the nursing shortage, and provide scholarships for nursing education and training.

The fees and other requirements for issuing the nursing plates are the same as for the Support Our Troops! plates. The act establishes another General Fund account to receive the \$45 portion of the \$60 fee not retained by DMV. The fund may also receive private donations. The Connecticut Nurses Foundation must use the money in the nursing commemorative account to provide scholarships for nursing education and training.

§ 56 — PROPERTY TAX ASSESSMENTS FOR ANTIQUE, RARE, OR SPECIAL INTEREST VEHICLES

Previously, the property tax assessment of any motor vehicle that has been registered by DMV as an antique, rare, or special-interest motor vehicle must be capped at no more than \$500. The act eliminates the requirement that the vehicle must be registered for the cap to apply. By law, an antique, rare, or special-interest motor vehicle is defined as any motor vehicle that is 20 years old or older which has been preserved because of historic interest and which is not altered or modified from the original manufacturer's specifications.

§ 39 — EXEMPTIONS FOR LEAF TRAILERS

The act exempts certain vehicles used exclusively by the state, a municipality, or an agent or contractor of either, to remove leaves or similar organic material from any highway from laws: (1) establishing the maximum length and width of a vehicle that may use a highway without a special DOT permit; (2) regulating the towing or pushing of vehicles on the highway, including the prohibition on towing more than two trailers behind a motor vehicle; and (3) establishing special requirements for anyone operating a vehicle pulling tandem trailers. The exemptions apply as long as the vehicle combination is operated by someone who holds a commercial driver's license with a "T" endorsement, which permits the operation of vehicles with up to three trailing, non-power units.

§ 32 — RIGHT OF WAY FOR A BLIND PERSON

Under prior law, only a person who is wholly or partially blind could carry a cane that is white or white tipped with red on the street or other public place. A driver approaching or coming near to someone carrying such a cane, or being guided by a dog, had to slow down and stop if necessary to give the person the right of way.

Violations of the law could result in a fine of up to \$100. The courts established the actual fine to be levied at \$50.

The act repeals this law and, instead, incorporates it into the statute that establishes a driver's responsibility to yield to pedestrians using a crosswalk. By incorporation into this law, the act makes violations of requirements with respect to a blind pedestrian with a cane or guide dog infractions subject to a fine of \$90. Because of mandatory surcharges, fees, and other assessments, the total amount due for such violations would be \$181. The recodification means that revenues generated from these violations go to the Special Transportation Fund instead of the General Fund.

§ 11 — PRE-LICENSURE CHECKS FOR DRIVING INSTRUCTORS

Prior law required an applicant for licensure as a driving instructor to provide DMV with satisfactory evidence of good moral character and that he had never been convicted of a crime involving "moral turpitude." The act eliminates the latter requirement. Instead, it requires that the applicant submit evidence that he is of good moral character considering his criminal record and record, if any, on the state child abuse and neglect registry. It also requires that the applicant have no record of a conviction for a drug or alcohol-related offense in the four years prior to application.

§ 12 — VIDEO DISPLAYS IN MOTOR VEHICLES

Under prior law, a television screen or similar video display was prohibited in a motor vehicle where it could be seen by the driver except if it was for instrumentation purposes or was a closed video monitor used for backing with the monitor disabled within 15 seconds of the vehicle being shifted out of reverse. The act changes this latter exemption and, instead, exempts any:

1. closed video monitor used for backing or parking,
2. video display unit or device that can only be operated when the vehicle is stationary and is automatically disabled when the vehicle's wheels are in motion, or
3. video display unit or device that is used to enhance or supplement the driver's view of the area immediately surrounding the vehicle to assist in low-speed maneuvering around obstructions at not more than 10 miles per hour.

§ 19 — ELECTRONIC VERIFICATION OF INSURANCE COVERAGE

The act allows the DMV commissioner to establish a system to verify that a motor carrier has the insurance or other security coverage required by law through an electronic communications process. If the commissioner uses this system to inquire of an insurance company or any data source maintained by the U.S. Department of Transportation, he may accept the results in lieu of an actual filing of coverage by the commercial vehicle owner as required by law.

§ 21 — ON-LINE REGISTRATION OF TRAILERS BY MARINE DEALERS

The act authorizes the DMV commissioner to allow any marine dealer registered with the DEP commissioner to (1) sell trailers required to be registered under the motor vehicle laws, (2) issue temporary registrations, and (3) submit applications for permanent registrations through the DMV's online registration system as long as the dealer meets DMV requirements for participation in that system.

§ 22 — ELECTRONIC RELEASE OF SECURITY INTEREST

By law, a lienholder with a security interest in a motor vehicle must notify the DMV commissioner within 10 days after the security interest has been satisfied. The act allows the commissioner to develop a process for electronic transmission of these security interest releases. It requires a lienholder to execute release of the security interest and either mail, deliver, or transmit it electronically to the next lienholder or, if there is none, to the vehicle owner or to any person who delivers or electronically transmits to the lienholder an authorization from the owner to receive a certificate of title. The release still must be provided within 10 days and must contain the information the commissioner prescribes.

§§ 26 & 27 — REGISTRATION OF SPECIAL MOBILE AGRICULTURAL VEHICLE

The act allows the commissioner to register certain types of agricultural equipment as a "special mobile agriculture vehicle." It defines this as a vehicle with an operator and agriculture support materials operated incidentally on or across a public highway in conjunction with the commercial agriculture support operation. This operation is limited to services provided by a commercial entity to the agriculture industry for spreading or spraying materials to promote crop growth. It allows the commissioner to charge an annual registration fee of \$400 for such a vehicle.

A special mobile agriculture vehicle must display a registration plate on the rear. The commissioner may issue any limitation on its operation deemed necessary for its safe operation, but the act requires that its operation on a highway be restricted (1) to or from its place of storage, (2) to or from an agricultural location, or (3) from one agricultural location to another. The act also prohibits such vehicles from being operated on a highway during any time that headlights must be displayed. (By law, this is (1) from 30 minutes after sunset to 30 minutes before sunrise, (2) whenever there is insufficient light or unfavorable atmospheric conditions such that people or vehicles cannot be clearly discerned at a distance of 500 feet, or (3) during any period of precipitation, including rain, snow, or fog.)

The act exempts these vehicles from the equipment requirements that otherwise apply to registered motor vehicles and from the law establishing the maximum width and length of a vehicle using a highway without a special DOT permit. It authorizes the commissioner to make such a vehicle undergo an inspection prior to registration and at other times he deems necessary for its safe operation.

§ 29 — TITLES FOR VEHICLES SOLD AT AUCTION

The law prohibits any person, firm, or corporation from selling a motor vehicle at a public or private auction without furnishing the buyer, at the time of sale, a valid title certificate, assignment and warranty of title, or other evidence of title issued by another state or country disclosing the existence of any lien, security interest, or other encumbrance on the vehicle.

Notwithstanding this prohibition, the act allows a licensed new or used car dealer with a DMV auction permit to sell a vehicle at a wholesale dealer auction on the condition that the dealer will present a duly assigned title certificate to the purchaser within 14 days of the sale. If a dealer fails to present the title in this period, the act gives the purchaser the option of voiding the purchase. To do so, the purchaser must notify the dealer that he is exercising his option to void no more than two business days after expiration of the 14-day period. Once notification is received, the seller must refund the purchase price and is responsible for paying the purchaser's round-trip transportation costs as evidenced by invoices or payment receipts.

§ 31 — MOTOR VEHICLE AIR CONDITIONING REFRIGERANTS

Prior law prohibited motor vehicle air conditioning equipment from containing any refrigerant that is toxic to people or flammable. The act modifies this prohibition to allow use of refrigerants listed by the U.S.

Environmental Protection Agency (EPA) as a safe alternative motor vehicle air conditioning substitute for chlorofluorocarbon-12. Under federal law, the EPA has been given authority to develop the Significant New Alternatives Policy (SNAP) program to review alternatives to ozone-depleting substances and approve the use of alternatives which reduce the overall risk to public health and the environment. It has identified some safe alternative air conditioning refrigerants, but Connecticut law previously prohibited their use.

§§ 16 & 17 — MOPEDS AND MOTOR DRIVEN CYCLES

The act revises the law on bicycles with helper motors (commonly known as "mopeds"). It redefines a bicycle with a helper motor as a "motor-driven cycle." Previously, a bicycle with a helper motor had to (1) have a seat height of 26 inches or more, (2) be powered by a motor with less than 50 cubic centimeter piston displacement, (3) be rated at not more than two brake horsepower, (4) be capable of a maximum speed of no more than 30 miles per hour, and (5) have an automatic transmission. Instead, the act defines a motor-driven cycle as any motorcycle, motor scooter, or bicycle with an attached motor that has a seat height of at least 26 inches and a motor that produces no more than five brake horsepower.

Under this revised definition, certain models of motor scooters that were previously in a "gray area" with respect to whether they should be considered bicycles with helper motors or motorcycles are considered motor-driven cycles. Under the prior law, for example, a bicycle with a helper motor required only a driver's license to operate, but a motorcycle required a special license endorsement. Under the act, some small motor scooters for which previously it was unclear whether a motorcycle endorsement was required now only require a driver's license to operate.

The act requires anyone under age 18 operating a motor-driven cycle or who is a passenger on such cycle to wear DMV-approved protective headgear. Previously, this law applied only to someone under age 18 on a motorcycle. If the speed limit on a road is greater than the maximum speed of the motor-driven cycle, the act limits its operation only to the right hand traffic lane or on a usable shoulder on the right side of the highway, except if it is preparing to turn left at an intersection or into or from a private road or driveway.

§ 41 — MOTOR CARRIER ADVISORY COUNCIL MEETINGS

By law, the transportation, motor vehicles, public safety, revenue services, economic and community development, and environmental protection

commissioners, or their designees, constitute the Motor Carrier Advisory Council, which serves as a forum for the motor carrier industry and makes recommendations to the U.S. Congress, governor, and General Assembly. Other state agency commissioners, or their designees, can be invited to participate on the council.

Prior law required the council to convene a meeting (1) before each regular session of the legislature concerning legislative proposals of the various state agencies and the industry, (2) after the close of the session concerning impacts and implementation of any legislation affecting the motor carrier industry, and (3) at the call of the chairperson, provided the council must meet, notwithstanding the requirements for pre- and post-session meetings, at least semiannually.

The act instead requires the council chairperson to convene a regular meeting of the council semiannually before and after each regular session for the indicated purposes and specifies that any additional meetings may be convened at the call of the chair. This, in effect, appears to preclude a reading of the meeting requirement to require the council to meet before the session, after the session, and at least twice more during the year at the call of the chair.

§§ 1 & 2 — NEW AND REVISED DEFINITIONS

New Definitions

The act adds several definitions that apply generally to all motor vehicle laws. It defines a “camp trailer registration” as the type of registration issued to any trailer that is for non-business use and is limited to camp trailers and utility trailers. It defines a “commercial trailer registration” as the registration type issued to a commercial trailer. Finally, it defines a “student” as any person under age 21 who is attending a preprimary, primary, or secondary school education program.

The act adds a definition of “unregistered motor vehicle” to the general registration law. It defines an unregistered motor vehicle to include any vehicle that is not eligible for registration due to the absence of necessary equipment or other characteristics of the vehicle that make it unsuitable for highway operation, unless its operation is expressly permitted by law. By law, it is an infraction for anyone to operate an unregistered motor vehicle on a public highway.

Revised Definitions

The act redefines a “resident” for purposes of registering a motor vehicle as anyone who is a legal resident of the state, which the commissioner can presume from the fact that the person occupies a dwelling in Connecticut for more than six months of the year. Previously, a resident was defined as someone having a place of residence in the state that he occupied

for more than six months a year.

The act also redefines a “camp trailer” from a trailer designed and used exclusively for camping or recreational purposes to a trailer designed “for living or sleeping purposes” and used exclusively for camping or recreational purposes.

BACKGROUND

Ignition Interlock Devices

When an ignition interlock device is installed on a motor vehicle, it prevents the vehicle from starting unless a breath sample is provided that shows a blood-alcohol level below the threshold set for the device. In Connecticut, this threshold is .025% (The per se intoxication level is .08%). Sometime after the vehicle is started (usually six to 20 minutes) it requires provision of a second “in use” sample. If this sample is more than the threshold level, countermeasures such as blinking headlights, horn, or both are activated to draw attention to the vehicle.

Four DMV-approved vendors provide ignition interlock devices in Connecticut. The user typically has to pay an installation fee, a monthly lease payment, a charge for downloading the information stored in the device and for calibration (which in Connecticut occurs every 60 days), and in some cases a charge when the device is removed after the required period for its use has elapsed. The monthly fee for the device can vary depending on the length of the lease period.

International Registration Plan

The International Registration Plan is an interstate compact under which interstate motor carriers can register their vehicles in only one of the states where they operate. The registration fee is then shared proportionately in all the states in which they travel according to the proportion of miles they travel in each state. The state in which they register is considered the “base” state. The base state is responsible for dispersing the registration fee appropriately to the other member states.

PA 08-155—sHB 5734

Transportation Committee

Appropriations Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING NEW AND EXPANDED BUS TRANSPORTATION SERVICES THROUGHOUT CONNECTICUT

SUMMARY: This act establishes a program to be administered by the Department of Transportation

(DOT), within available budgetary resources, called the “Buses for 21st Century Mobility” program. The purpose of the program is to provide new and expanded bus transportation services. DOT must begin accepting applications from publicly funded transportation providers and nonprofit community transportation service providers on July 1, 2008.

The act also makes up to \$5 million in bonding previously authorized by law for implementing transportation strategy projects and initiatives (i.e., “Tier 1” strategy projects) available for purchasing vehicles for the Buses for 21st Century Mobility program. It does this by replacing the prior authorization for use of this funding for clean diesel bus retrofits.

EFFECTIVE DATE: July 1, 2008, except the change in the bonding authorization is effective upon passage.

BUSES FOR 21ST CENTURY MOBILITY PROGRAM

Program Scope

The act specifies that the new and expanded services include:

1. expanding existing services when a need has been demonstrated for expansion, including weekend and evening service and increased frequency of service;
 2. providing new services where a need has been demonstrated;
 3. new rail shuttle services;
 4. express bus commuter services;
 5. greater coordination of marketing and web-trip planning of transit services; and
 6. other bus transportation programs designed to increase bus riding opportunities for Connecticut residents.
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PA 08-40—HB 5438

*Select Committee on Veterans' Affairs
Labor and Public Employees Committee
Appropriations Committee*

**AN ACT CONCERNING MAKING PERMANENT
THE UNEMPLOYMENT BENEFITS FOR
MILITARY SPOUSES**

SUMMARY: This act makes permanent a military spouse's eligibility for unemployment compensation if he or she voluntarily leaves a job to accompany a spouse required to relocate for active-duty service in the U.S. Armed Forces. Prior law applied to spouses who left their jobs between July 1, 2007 and June 30, 2008. Under existing law, an employer's unemployment taxes are not directly affected by an employee who files claims under the act.

EFFECTIVE DATE: July 1, 2008

BACKGROUND

Reports on Cost of Providing Benefits

By law, the labor commissioner must submit quarterly reports, until June 30, 2009, on the effect of providing unemployment benefits for military spouses to the Office of Policy and Management secretary and the Appropriations, Labor, and Veterans' Affairs committees. The first report was due by January 1, 2008.

The reports must include (1) data on the number of people compensated under the spousal provision and (2) a description of the cost to the Unemployment Compensation Fund.

PA 08-57—sHB 5545

*Select Committee on Veterans' Affairs
Higher Education and Employment Advancement Committee
Education Committee
Government Administration and Elections Committee*

**AN ACT CONCERNING THE INTERSTATE
COMPACT ON EDUCATIONAL OPPORTUNITY
FOR MILITARY CHILDREN AND GRADUATE
DEGREES FOR MEMBERS OF THE
CONNECTICUT NATIONAL GUARD**

SUMMARY: This act (1) enacts and commits Connecticut to the terms of the Interstate Compact on Educational Opportunity for Military Children and (2) creates an Interstate Commission on Educational Opportunity for Military Children to administer and enforce the compact. It also expands the National Guard tuition waiver program at UConn and in the

Connecticut State University (CSU) system to include graduate programs (see BACKGROUND).

The compact provides a legal mechanism and creates uniform standards for schools and school boards to use to facilitate placement, enrollment, graduation, data collection, and other decisions involving children in kindergarten through grade 12 (K-12) when they move to other states because their parents are deployed on active duty in the U.S. Armed Services. The compact's stated purpose is to remove barriers to educational success imposed on such children because of their parents' frequent moves and deployment.

The compact applies to children of (1) active-duty armed forces members, including National Guard members and reservists on active duty under Title 10 of federal law; (2) veterans severely injured and medically discharged or retired, for one year after discharge or retirement; and (3) service members who die while on active duty or from active-duty injuries, for one year after death.

The compact addresses (1) the commission's purposes, powers and duties, organizational structure, operating procedures, and rulemaking functions; (2) oversight, enforcement, and dispute resolution; and (3) liability and other issues. It requires the commission to open its meetings to the public and its official records for public inspection. The commission may levy an annual assessment on member states to cover the cost of its operations, activities, and staff.

Any U.S. state or territory may join the compact, and any member state may withdraw from it by repealing the enacting legislation. The compact takes effect when 10 states have enacted it. It has the force and effect of statutory law and is binding on all member states. It supersedes conflicting laws in member states. EFFECTIVE DATE: Upon passage for the compact; July 1, 2008 for the tuition waiver for guard members.

COMPACT'S PURPOSE

The compact's stated purpose is to remove barriers to educational success imposed on children of military families (military children) because of their parents' frequent moves and deployment. It aims to:

1. facilitate their timely enrollment and ensure that they are not placed at a disadvantage because of (a) variations in age or entrance requirements or (b) difficulty transferring education records from previous school districts;
2. facilitate their placement so that they are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessments;

3. facilitate their qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;
4. facilitate on-time graduation;
5. provide for promulgating and enforcing administrative implementing rules;
6. provide for uniform information collection and sharing among member states, schools, and military families;
7. promote coordination with other compacts affecting military children; and
8. promote flexibility and cooperation among educational systems, parents, and students to achieve educational success for the students.

ARTICLE III—APPLICABILITY

Children

The compact applies to children in grades K-12 of:

1. active-duty members of the uniformed services (U.S. Army, Navy, Air Force, Marine Corps, Coast Guard, commissioned corps of the National Oceanic and Atmospheric Administration, and Public Health Services), including guard members and reservists on active duty under Title 10 of federal law;
2. members or veterans of the uniformed services severely injured and medically discharged or retired, for one year after such discharge or retirement; and
3. members of the uniformed services who die on active duty or from active-duty injuries, for one year after death.

The compact specifically excludes from its coverage children of (1) inactive guard members and reservists, (2) veterans and retired members of the uniformed services not included above, and (3) other U.S. Department of Defense (DOD) personnel and other federal agency civilian and contract employees not defined as active-duty members of the uniformed services.

Education Agencies and Schools

The compact applies to local education agencies. It defines these as state-constituted public authorities that control and direct public K-12 schools (i.e., local and regional school boards).

ARTICLE IV—EDUCATIONAL RECORDS AND ENROLLMENT

If a school cannot release official education records to parents for transfer purposes, the sending state's record custodian must give the parents a complete set of

unofficial records with uniform information as determined by the Interstate Commission. When the school in the receiving state gets these records, it must (1) place the student as quickly as possible, pending validation by the official records, and (2) ask the sending state for the official records. Within 10 days of receiving the request, or within a reasonable time the commission sets, the school must provide the official records.

The compact defines "educational records" as official student records, files, and data that a school or school board maintains, including records of all material kept in a student's cumulative folder. These include general identifying data, attendance and academic records, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

Receiving states must give students 30 days from enrollment, or a deadline the commission sets, to obtain state-required immunizations. For a series of immunizations, the initial vaccinations must be obtained within 30 days or a time reasonably determined under the commission's rules.

Students must be allowed to enroll at grade level in receiving states commensurate with their grade level, including kindergarten, in sending states at the time of transition. If they satisfactorily complete the prerequisite grade level in the sending state, they may enroll in the next highest grade level in the receiving state. If they transfer after the start of the school year, they must enroll at their validated level from a sending state's accredited school. These provisions apply regardless of the student's age.

ARTICLE V—PLACEMENT AND ATTENDANCE

Receiving schools must initially place transitioning military students in educational courses based on their enrollment in, and educational assessments conducted at, sending schools if the receiving schools offer the courses. This includes honors, International Baccalaureate, advanced placement, vocational, technical, and career pathways courses. The paramount considerations for placing a student should be to (1) continue the academic program he or she pursued in the sending school and (2) place him or her in academically and career challenging courses.

Receiving schools must initially honor student placement in educational programs based on (1) sending schools' current educational assessments or (2) participation and placement in like programs in sending states. These include gifted and talented and English as a second language programs.

Receiving schools may perform subsequent evaluations to ensure appropriate placement and continued course enrollment.

Federal Requirements

In compliance with the federal Individuals with Disabilities Education Act, receiving states must initially provide comparable services to students with disabilities based on their current individualized education programs.

In compliance with the federal Rehabilitation Act and Americans with Disabilities Act, receiving states must make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide students with equal education access. Receiving schools may perform subsequent evaluations to ensure appropriate student placements.

Course Waivers

The compact requires that local school board administrative officials be given flexibility to waive course and program prerequisites, or other preconditions, for placement in courses and programs offered under the local school board's jurisdiction.

School Absences

A student whose parent or legal guardian is called to active duty for, is on leave from, or "immediately returned" from, deployment in a combat or combat-support zone must be granted additional excused absences at the discretion of the local school board superintendent to visit with his or her parent or legal guardian "relative to such leave or deployment of the parent or guardian."

The compact defines "deployment" as the period one month before a service member's departure on military orders from his or her "home station" to six months after returning.

ARTICLE VI—ELIGIBILITY

Children with Noncustodial Parents/Transitioning Military Children

Under the compact, special power of attorney for the guardianship of a military child, executed under applicable law, is sufficient for enrollment and other purposes requiring parental participation and consent.

Local school boards cannot charge local tuition to a transitioning military child living with a noncustodial parent or other person standing *in loco parentis* in a jurisdiction other than that of the custodial parent. The child may continue to attend the school in which he or she was enrolled while living with the custodial parent.

The state and local school boards must facilitate the inclusion of transitioning military children in extracurricular activities, regardless of application

deadlines, to the extent they are otherwise qualified.

ARTICLE VII—GRADUATION

The state and local school boards must incorporate the following procedures to facilitate on-time graduation of military children. They must (1) waive specific courses required for graduation if the child satisfactorily completed similar course work in another local school board's jurisdiction or (2) provide reasonable justification for denial. If the board does not grant the waiver to a student who would qualify to graduate from the sending school, it must provide an alternative means of completing the required coursework so the student can graduate on time.

A receiving state must accept (1) exit or end-of-course exams required for graduation from the sending state; (2) national norm-referenced achievement tests; or (3) alternative testing, instead of its graduation testing requirements.

If, after all alternatives are considered, a military student transferring in his or her senior year who meets graduation requirements in the sending state is ineligible to graduate in the receiving state, the local school boards in both jurisdictions must ensure that the sending state's local school board provides the diploma to the student. If one of the states is not a compact member, the member state must use its best efforts to facilitate the on-time graduation of the student in accordance with pertinent compact provisions.

ARTICLE VIII—STATE COORDINATION

Each member state must create a state council or use an existing body or board to coordinate the state's participation in, and compliance with, the compact and commission activities.

Each member state may determine its council membership. But the membership must include the state education superintendent, a superintendent of a school district with a high concentration of military children, a military installation representative, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the council deems appropriate. A state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local school boards on the council.

Military Family Education Liaison and Compact Commissioner

Each state's council must appoint or designate a military family education liaison to help military families and the state implement the compact. The governor, or other person the state determines, must

appoint a compact commissioner to administer and manage the state's participation in the compact. The commissioner and military family education liaison are ex-officio council members, unless either is already a full voting council member.

ARTICLE IX—INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The compact creates the Interstate Commission on Educational Opportunity for Military Children. Its activities are “the formation of public policy and are a discretionary state function.” It is a body corporate and joint agency of the member states having all the responsibilities, powers, and duties under the compact and additional powers that a subsequent concurrent action of the participating states' respective legislatures may confer upon it, in accordance with the compact.

Membership

The commission consists of (1) voting members and (2) ex-officio, nonvoting, representatives of interested organizations.

It must have one voting representative from each member state. This member is the state's compact commissioner. Each member state represented at a commission meeting has one vote. A majority of the total member states constitutes a quorum for transacting business, unless the commission's bylaws set a larger quorum. A representative cannot delegate a vote to another member state, but if a commissioner cannot attend a meeting, the governor or state council may delegate voting authority to another person from the state for a specific meeting. The bylaws may provide for conducting commission meetings by telephone or electronically.

Ex-officio members, as defined in the bylaws, may include, representative organizations of military family advocates, local school board officials, parent and teacher groups, the DOD, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of military children.

Executive Committee

The commission must establish an executive committee, which may act on its behalf, except to make rules, when it is not in session. The committee must oversee the day-to-day activities of administering the compact. This includes enforcement and compliance with regard to compact provisions, bylaws, and rules, and performing other necessary duties.

The committee must include the commission's officers and other commission members, as the bylaws

require. These members serve one-year terms and have one vote each. DOD must serve as an ex-officio, nonvoting member.

Bylaws and Information Disclosure

The commission must establish bylaws and rules outlining conditions and procedures for making information and official records publicly available for inspection or copying. It may exempt from disclosure information or official records that would adversely affect personal privacy rights or proprietary interests.

Meetings

The commission must meet at least once each calendar year. Its chairperson may call additional meetings and must do so if a majority of member states asks for one.

The commission must give public notice of all its meetings. Meetings must be open to the public, except as the commission's rules or the compact otherwise provides. The commission and its committees may close a meeting, or portion thereof, if it determines by two-thirds vote that an open meeting is likely to:

1. relate solely to internal personnel practices and procedures,
2. disclose matters that state or federal law specifically exempts from disclosure,
3. disclose trade secrets or privileged or confidential commercial or financial information,
4. involve formally censuring someone or accusing him or her of a crime,
5. disclose personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy,
6. disclose investigative records compiled for law enforcement purposes, or
7. specifically relate to the commission's participation in a civil action or other legal proceeding.

The commission may direct its legal counsel or designee to certify that a meeting may be closed and the counsel or designee must cite each relevant criterion governing its closure.

The commission must (1) keep minutes that fully and clearly describe all matters discussed in a meeting and (2) provide a full and accurate summary of, and reasons for, actions taken, including a description of the views expressed and roll call vote record. The minutes must identify documents considered in connection with an action. All minutes and documents of a closed meeting must be sealed, subject to release by a majority vote of the commission.

Data Collection

The commission must collect standardized data on the educational transition of military children under the compact as its rules direct. The rules must specify the data to be collected, data exchange and collection methods, and reporting requirements. The data collection, exchange, and reporting, as far as reasonably possible, must conform to current technology and “coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.”

Violation and Noncompliance Reports

The commission must create a process for military officials, education officials, and parents to inform it when (1) any alleged violations of the compact or its rules occur or (2) a state or local school board does not address issues under the jurisdiction of the compact or its rules. This does not create a private right of action against the commission or member states.

ARTICLE X—COMMISSION’S POWERS AND DUTIES

The compact gives the commission the power to:

1. provide for dispute resolution among member states;
2. promulgate rules that have the force and effect of statutory law and are binding on all member states, and take all necessary actions to achieve the compact’s goals, purposes, and obligations;
3. issue advisory opinions on the meaning or interpretation of the compact, its bylaws, rules, and actions when a member state asks;
4. enforce compliance with the compact, and the commission’s rules and bylaws, using all necessary and proper means, including the judicial process;
5. establish and maintain offices in one or more of the member states;
6. buy and maintain insurance and bonds;
7. borrow, accept, hire, or contract for personnel services;
8. establish and appoint committees, including an executive committee, to act on its behalf;
9. elect or appoint officers, attorneys, employees, agents, or consultants, and fix their compensation, define their duties, and determine their qualifications;
10. establish personnel policies and programs relating to conflicts of interest, compensation rates, and personnel qualifications;

11. accept, receive, use, and dispose of donations and grants of money, equipment, supplies, material, and services;
12. lease, buy, and accept contributions or donations of, or otherwise own, hold, improve, or use, property;
13. sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property;
14. establish a budget and make expenditures;
15. adopt a seal and bylaws governing its management and operation;
16. report annually to member states’ legislatures, governors, judiciary, and state councils on its activities during the preceding year, including any recommendations it adopted;
17. coordinate education, training, and public awareness on the compact, its implementation, and operation for pertinent officials and parents;
18. establish uniform standards for reporting, collecting, and exchanging data;
19. maintain corporate books and records in accordance with its bylaws;
20. perform functions necessary or appropriate to achieve the compact’s purposes; and
21. provide for uniform information collection and sharing among member states, schools, and military families.

ARTICLE XI—ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Within 12 months after its first meeting, the commission, by a majority vote of members present and voting, must adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the compact’s purposes. The bylaws must:

1. establish the commission’s fiscal year;
2. establish an executive committee, and other committees as necessary;
3. provide for establishing committees and for governing any general or specific delegation of authority or commission function;
4. provide reasonable procedures for calling and conducting meetings and providing meeting notices;
5. establish titles and responsibilities of commission officers and staff;
6. provide a mechanism for winding up business and returning any leftover funds when the compact terminates, after paying and reserving for debts and obligations; and
7. provide start-up rules for initially administering the compact.

Commission Officers

Annually, the commission, by a majority vote of its members, must elect from its membership a chairperson, vice-chairperson, and treasurer, each having the authority and duties specified in the commission's bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, must preside at all commission meetings. These elected members serve without compensation or remuneration but, subject to the availability of budgeted funds, must be reimbursed for ordinary and necessary costs and expenses incurred performing commission business.

Executive Committee, Officers, and Personnel

The executive committee must have the authority and perform the duties outlined in the bylaws. It must, among other things:

1. manage the commission's affairs consistent with the commission's bylaws and purposes;
2. oversee "an organizational structure within, and appropriate procedures for the [commission] to provide for the creation of rules, operating procedures, and administrative and technical support functions"; and
3. plan, implement, and coordinate communication and activities with other state, federal, and local government organizations in order to advance the commission's goals.

The committee, subject to commission approval, may appoint or retain an executive director on terms and conditions, and for the compensation, the commission considers appropriate. The executive director must (1) serve as secretary to, but cannot be a member of, the commission and (2) hire and supervise other personnel the commission authorizes.

Liability and Immunity Issues

The commission's executive director and its employees are immune from suit and liability, either personally or in their official capacities, for property damage, personal injury, or other civil liability claims caused, arising from, or relating to an actual or alleged act, error, or omission that occurred, or that they had a reasonable basis for believing occurred, within the scope of their employment.

For the commission's executive director, employees, and representatives acting within the scope of their employment or duties, liabilities for acts, errors, or omissions within their state may not exceed the liability limits under the pertinent state's constitution and laws for state officials, employees, and agents. The commission is considered to be an instrumentality of the states for purposes of such actions.

The commission must defend its executive director, employees, and representatives in any civil action seeking to impose liability arising from an actual or alleged act, error, or omission that occurred, or that they had a reasonable basis for believing occurred, within the scope of their employment, duties, or responsibilities. The defense of commission representatives is subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by the commission representative.

To the extent not covered by the state involved, member state, or the commission, commission representatives or employees must be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, arising out of an actual or alleged act, error, or omission that occurred within the scope of their employment, or that they had a reasonable basis for believing occurred within such scope.

The above provisions do not apply in cases of intentional or willful and wanton misconduct.

ARTICLE XII—COMMISSION'S RULEMAKING FUNCTIONS

The commission must promulgate reasonable rules to effectively and efficiently achieve the compact's purposes. If it exercises rulemaking authority beyond the scope of such purposes or its powers under the compact, the action is invalid and has no legal effect.

The commission must make its rules under a rulemaking process that substantially conforms to the 1981 federal "Model State Administrative Procedure Act," *Uniform Laws Annotated*, Vol. 15, p. 1 (2000) as amended, as appropriate to the commission's operations.

Anyone may petition for judicial review of a commission rule within 30 days after it is promulgated. The filing of a petition does not stay or otherwise prevent the rule from taking effect, unless the court finds that the petitioner has a substantial likelihood of success. The court must give deference to the commission's actions consistent with applicable law. It cannot find the rule unlawful if it represents a reasonable exercise of the commission's authority.

If a majority of member states' legislatures rejects a rule by enacting a statute or resolution in the same manner used to adopt the compact, the rule has no further force and effect in any member state.

ARTICLE XIII—OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

Oversight

The compact and implementing rules have the force of statutory law. Member states' executive, legislative, and judicial branches must enforce the compact and take

necessary and appropriate actions to accomplish its purposes and intent.

Courts must take judicial notice of the compact and its rules in any judicial or administrative proceeding in a member state on compact provisions that may affect the commission's actions, powers, or responsibilities. The commission is entitled to receive all service of process, and has standing to intervene, in any such proceeding. Failure to provide service of process to the commission renders a judgment or order void as to the commission, compact, or promulgated rules.

Default

If the commission determines that a member state failed to perform its obligations or responsibilities under the compact, bylaws, or promulgated rules, it must (1) send written notice to the defaulting state and other member states of the nature of the default, the means and conditions for correcting it, and any commission action and (2) provide remedial training and specific technical assistance on the default.

If the defaulting state fails to cure the default, its membership must be terminated by a majority vote of the member states, and all its rights, privileges, and benefits under the compact are ended from the effective date of termination. Correcting the default does not relieve the state of obligations or liabilities it incurred when it was in default.

The commission may suspend or terminate a member state only after exhausting all other means of securing compliance. It must give notice of intent to suspend or terminate the state to (1) the state's governor and House and Senate majority and minority leaders and (2) each member state. The state is responsible for all assessments, obligations, and liabilities incurred through, and obligations that extend beyond, the effective date of suspension or termination.

The commission cannot bear costs for any state found to be in default or suspended or terminated, unless it and the state agree to this in writing.

A defaulting state may appeal commission actions by petitioning the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party must be awarded all litigation costs, including reasonable attorney's fees.

Dispute Resolution

The commission must attempt, if asked by a member state, to resolve compact disputes involving member states and between member and nonmember states. Its rules must provide for both mediation and binding dispute resolution, as appropriate.

Enforcement

The commission, in the reasonable exercise of its discretion, must enforce the compact and its rules. To enforce compliance with the compact or commission rules and bylaws against a defaulting state, it may, by majority vote of the members, initiate legal action in the U.S. District Court for the District of Columbia or, at its discretion, in the federal district where it has its principal offices. It may seek both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party must be awarded all litigation costs, including reasonable attorney's fees. The compact's remedies are not exclusive; the commission may avail itself of any other remedies available under state law "or the regulation of a profession."

ARTICLE XIV—FINANCING OF THE INTERSTATE COMMISSION

The commission must pay, or arrange to pay, the reasonable expenses of its establishment, organization, and ongoing activities. It may levy on, and collect from, member states an annual assessment to cover the cost of its operations, activities, and staff. The assessment must be sufficient to cover its annual approved budget. The commission must allocate the aggregate annual assessment, using a formula it establishes, and promulgate a rule binding on all member states.

The commission cannot (1) incur any obligations before securing adequate funds or (2) pledge any member state's credit, unless the state authorizes it to do so. It must keep accurate accounts of receipts and disbursements, which must be (1) subject to audit and accounting procedures established under its bylaws and (2) audited yearly by a certified or licensed public accountant. It must include the audit report as part of its annual report.

ARTICLE XV—EFFECTIVE DATE AND AMENDMENT

Any U.S. state or territory may join the compact, which takes effect and is binding when 10 states enact it. After that, it is effective and binding on any state that enacts it.

The commission may propose compact amendments for enactment by member states. Amendments take effect and are binding on the commission and member states when enacted into law by unanimous consent of member states.

Governors of nonmember states, or their designees, must be invited to participate in commission activities as nonvoters.

ARTICLE XVI—WITHDRAWAL AND DISSOLUTION

Withdrawal

Once it takes effect, the compact continues in force and binds all member states. A state may withdraw from the compact by repealing the statute that enacted it. The withdrawal cannot take effect until (1) one year after the effective date of the repealing statute and (2) the withdrawing state gives written notice to the governor of each member jurisdiction.

When repealing legislation is introduced, the withdrawing state must immediately give written notice to the commission chairperson. The commission must notify other member states within 60 days after receiving the notice.

The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations that extend beyond that date.

A state may be reinstated upon reenacting the compact or on a later date the commission determines.

Dissolution

The compact dissolves on the date when only one state remains a member. Upon dissolution, it becomes null and void and has no further force or effect. It must wind up its business and affairs and distribute any surplus funds in accordance with its bylaws.

ARTICLE XVII—SEVERABILITY AND CONSTRUCTION

The compact's provisions are severable and must be liberally construed to achieve their purposes. If any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions are enforceable.

The compact does not affect the applicability of other interstate compacts in which the states are members.

ARTICLE XVIII—EFFECT OF COMPACT AND OTHER LAWS

Other Laws

The compact does not prevent the enforcement of any other member state's law not inconsistent with the compact. It supersedes conflicting laws of any member state.

Binding Effect of the Compact

The commission's lawful actions, including its rules and bylaws, are binding upon member states. Agreements between the states and commission are binding in accordance with their terms. If any compact provision exceeds constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in that member state.

BACKGROUND

National Guard Tuition Waiver

By law, UConn, CSU, and regional community technical colleges must waive tuition in undergraduate programs for qualified, active Connecticut National Guard members. To qualify for a tuition waiver, the member must be (1) certified by the adjutant general, or his designee, to be in good standing and (2) enrolled in or accepted for admission to a degree-granting program.

PA 08-71—SB 48

Select Committee on Veterans' Affairs

*Higher Education and Employment Advancement Committee
Appropriations Committee*

AN ACT CONCERNING TUITION WAIVER BENEFIT FOR CHILDREN AND SURVIVING SPOUSES OF ARMED FORCES MEMBERS KILLED IN ACTION

SUMMARY: This act requires UConn, the Connecticut State University (CSU) system, and the regional community-technical colleges (CTC) to waive tuition for any Connecticut resident who is a dependent child or surviving spouse of a state resident killed in action while performing active military duty in the U.S. Armed Forces on or after September 11, 2001. Currently, the schools must waive tuition for eight other classes of students.

EFFECTIVE DATE: July 1, 2008

BACKGROUND

Tuition Waivers at UCONN, CSU, and CTC

Currently, these schools must waive tuition for:

1. dependent children of post-1959 missing-in-action or prisoner-of-war veterans;
2. wartime and certain combat or combat-support role veterans;
3. residents age 62 or older, under prescribed circumstances;

4. Connecticut State Police Academy students enrolled in academy law enforcement programs offered in coordination with the school;
5. active Connecticut National Guard members certified by the adjutant general to be in good standing (undergraduate program only);
6. dependent children of police officers, supernumeraries, auxiliary police officers, paid or volunteer firefighters, and municipal or state employees killed in the line of duty;
7. state residents who are dependent children or surviving spouses of specified terrorist victims who were state residents; and
8. dependent children of state residents killed in the July 29, 2005 Avon road multivehicle crash.

Attorney General's Opinion on Residency and Veterans' Benefits

In a 1991 opinion, the attorney general said that requiring residency for veterans' tuition waiver was unconstitutional. The statute at the time required the college boards to waive tuition for wartime veterans provided they were state residents when they entered the service, while serving, and when accepted for admission to the school.

PA 08-87—sSB 307

*Select Committee on Veterans' Affairs
Appropriations Committee*

AN ACT CONCERNING RECOGNITION OF VETERANS

SUMMARY: This act modifies the eligibility criteria for admission to the Veterans' Home in two ways. It adds certain federal criteria to the standards veterans must meet to be eligible for admission. And it extends eligibility for admission to certain current and former service members based on their entitlement to federal military retirement pay. It also extends eligibility for burial in the state veterans' cemeteries to these service members.

The act expands the program that requires the Connecticut National Guard's adjutant general and veterans' affairs commissioner to award service medals and ribbons to qualified wartime veterans by allowing the officials to make the awards posthumously.

It requires the adjutant general to issue an achievement ribbon to the National Guard soldier, airman, and noncommissioned officer of the year.

EFFECTIVE DATE: Upon passage for the posthumous awards; July 1, 2008 for the other provisions.

ADMISSION TO VETERANS' HOME

Veterans

Existing law defines a veteran as anyone honorably discharged or released from active service in the U.S. Armed Forces. Under prior law, any such veteran was eligible for admission to the Veterans' Home. The act requires that veterans also meet federal "active military, naval or air service requirements."

Under federal law, "active military, naval or air service" includes any period of:

1. active duty;
2. active duty for training purposes during which an individual was disabled or died from a disease or injury incurred or aggravated in the line of duty; and
3. inactive duty training during which an individual was disabled or died (a) from an injury incurred or aggravated in the line of duty or (b) from a heart attack, cardiac arrest, or stroke occurring during such training.

Other Service Members

The act extends eligibility for admission to the Veterans' Home to certain guard members and reservists who do not fall within state law's definition of veterans for admission purposes. Specifically, it extends eligibility to current and former armed forces members living in Connecticut who are entitled to military retirement pay under federal law (10 USC Ch. 1223). Under this federal law, certain National Guard members and reservists are entitled to retirement pay if:

1. they are at least age 60;
2. they performed at least 20 years of qualifying uniformed service (creditable retirement service);
3. in the case of people who completed such service before April 25, 2005, they performed the last six years of such service (eight for people who completed their service before October 5, 1994) as members of any category other than a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve; and
4. they are not entitled to military retirement pay under any other federal law.

Although the act extends eligibility for admission to the Veterans' Home to the above service members, it does not amend related statutes that address (1) application procedures, (2) payment for services, and (3) actions the commissioner must take when a person living in the Home cannot pay or dies owing money.

BURIAL IN A VETERANS' CEMETERY

By law, a person is eligible for burial in a state veterans' cemetery if he or she (1) was honorably discharged from or released under honorable conditions from active service in the U.S. Armed Forces, or any auxiliary branch of the armed forces; (2) completed at least 20 years of Connecticut National Guard service; or (3) was killed in action, or died as a result of an accident or illness sustained while performing active service in any capacity above. The act extends eligibility for burial to current and former service members entitled to military retirement pay under federal law (10 USC Ch. 1223).

As is currently the case for eligible persons, the act allows these service members to make burial requests to the commissioner by will or other communication. Alternatively, a spouse or next of kin may make the request on behalf of the deceased. The commissioner must grant the request.

Under existing law, one spouse of a deceased veteran is eligible for burial in a state veterans' cemetery. It appears that, under the act, spouses of service members who qualify for burial in a veterans' cemetery based on entitlement to military retirement pay are not eligible for burial in such cemeteries.

POSTHUMOUS AWARDS

The law requires the adjutant general and veterans' affairs commissioner to award a ribbon and medal to each wartime veteran who (1) lived in Connecticut when he or she was called to active duty or (2) is living in Connecticut when getting the award. Prior law prohibited posthumous awards. The act allows posthumous awards on or after July 1, 2005. (The intent of this provision may be to allow awards for people who die on or after July 1, 2005, but the act is not explicit.)

BACKGROUND

Active Service

State law does not define active service. For purposes of the laws governing the National Guard, federal law defines "active service" as service on active duty or full-time National Guard duty (10 USC § 101 (d)(3)).

Active Duty

State law does not define active duty. For purposes of the laws governing the armed forces, federal law defines "active duty" as:

1. full-time duty in the armed forces (other than for active-duty training);
2. full-time duty (other than for training) as a

commissioned officer of the Regular or Reserve Corps of the Public Health Service under specified circumstances;

3. full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration or its predecessor organization under specified circumstances;
4. service as a cadet at the U.S. Military, Air Force, or Coast Guard Academy or as a midshipman at the U.S. Naval Academy; and
5. authorized travel to or from such service (38 USC § 101(21)).

PA 08-104—HB 5044

*Select Committee on Veterans' Affairs
Transportation Committee*

AN ACT CONCERNING GOLD STAR FAMILY NUMBER PLATES

SUMMARY: This act eliminates the fee for the Gold Star Family license plate, which the legislature authorized in 2007 for immediate relatives of state residents killed in action while performing active military duty in the U.S. Armed Forces. Prior law required the Department of Motor Vehicles (DMV) to charge a fee to cover the cost of making the plates, in addition to the normal registration fee. DMV set the plate fee at \$10.

EFFECTIVE DATE: Upon passage

PA 08-121—sSB 305

*Select Committee on Veterans' Affairs
Transportation Committee
Planning and Development Committee
Appropriations Committee
Public Safety and Security Committee*

AN ACT CONCERNING MILITARY TRANSPORTATION

SUMMARY: This act allows Connecticut National Guard members qualified to operate military or commercial motor vehicles (CMV) for federal military purposes without a commercial drivers license (CDL) to also operate them without a CDL while performing state military duty. By law, military personnel (including National Guard members) operating CMVs solely in connection with their federal military duties may do so without a CDL.

The act allows more U.S. Armed Forces members to qualify for an existing motor vehicle local property tax exemption. Under prior law, the exemption applied to one motor vehicle owned or leased by, or held in trust

for, a member and garaged out-of-state. The act allows members to claim the exemption regardless of where they garage the vehicle. By law, a member must apply for the exemption in writing by December 31 following the property tax due date.

The act modifies an exemption from certain motor vehicle fines and fees currently available to certain armed forces members who did not renew their driver's license or vehicle registration or test their vehicle's emissions within deadlines. Prior law applied to active-duty personnel (including National Guard members called to active duty) who (1) lived in Connecticut and (2) were on federal active duty with the U.S. Armed Forces during Operations Desert Storm and Desert Shield from August 7, 1990 until the end of hostilities, as determined by the President or state law. The act, instead, applies the exemption to service members performing state active service, instead of federal service. Specifically, it exempts the armed forces of any state (i.e., the state's National Guard) called to active service in a state's armed forces. It similarly exempts members of any U.S. Armed Forces reserve component, but the act's legal effect in this case is unclear.

The act potentially shortens the time during which the exemption applies by setting the deadlines at 60 days after the service member is released from service instead of 60 days after he or she returns to Connecticut. EFFECTIVE DATE: Upon passage for the late fee provisions; July 1, 2008 for the other provisions.

BACKGROUND

Operating Commercial Motor Vehicles Without CDL

Federal law requires states to exempt drivers who operate commercial motor vehicles for military purposes from CDL standards. The exception applies to active-duty military personnel; reservists; National Guard members on active duty, including personnel on full-time guard duty, part-time guard duty, and National Guard military technicians (civilians required to wear military uniforms); and active-duty U.S. Coast Guard personnel. The exception does not apply to U.S. Reserve technicians (49 CFR 383.3(c)).

U.S. Armed Forces Reserve Component

The "reserve component" of the U.S. Armed Forces consists of reservists of each branch of the armed services. It also includes members of the National Guard, which is a reserve component of the regular army (32 USC § 101). But only National Guard members may be called to active service in the armed forces of a state.

War Termination Date

PA 94-245 set the termination date for Operation Desert Shield and Operation Desert Storm as June 2, 1994. But PA 03-85 adopted the federal definition of the Persian Gulf War, which includes both operations (CGS § 27-103). Federal law defines the Persian Gulf War as the period from August 2, 1990 until a date prescribed by the President or law (38 USC § 101(33)). No end date has been prescribed.

PA 08-1, June 11, 2008 Special Session—SB 1001
Emergency Certification

AN ACT CONCERNING THE MUNICIPAL SHARE OF THE REAL ESTATE CONVEYANCE TAX

SUMMARY: This act extends the expiration date of the basic 0.25% municipal real estate conveyance tax rate for two years, until July 1, 2010. In doing so, it also maintains the optional rate of up to 0.5% allowable in 18 eligible municipalities for the same two years.

Under prior law, the basic municipal rate was scheduled to drop from 0.25% to 0.11% on July 1, 2008. Because 18 towns are eligible to impose an additional tax of up to 0.25% on top of the basic rate, the maximum rate allowable in the 18 towns under prior law would have also dropped from 0.5% to 0.36% on that date.

EFFECTIVE DATE: Upon passage

BACKGROUND

Real Estate Conveyance Tax

With some exceptions, Connecticut law requires a person who sells real property for \$2,000 or more to pay a real estate conveyance tax when he or she conveys the property to the buyer. The tax has two parts: a state tax and a municipal tax. The applicable state and municipal rates are added together to get the total tax rate for a particular transaction.

In addition to the basic municipal tax rate of 0.25% until July 1, 2010 and 0.11% thereafter that applies in all towns, 18 specific towns have the option of levying an additional tax of up to 0.25%. The 18 towns are: Bloomfield, Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford, Meriden, Middletown, New Britain, New Haven, New London, Norwalk, Norwich, Southington, Stamford, Waterbury, and Windham.

PA 08-2, June 11, 2008 Special Session—SB 1000
Emergency Certification

AN ACT CONCERNING ADJUSTMENTS TO CERTAIN PETROLEUM PRODUCTS TAXES, PETROLEUM FRANCHISE AGREEMENTS, GASOLINE DISCOUNTS FOR CONSUMERS, HOME HEATING OIL AND PROPANE GAS CONTRACT DEPOSITS AND THE FUEL OIL CONSERVATION ACCOUNT

SUMMARY: This act eliminates a scheduled July 1, 2008 increase in the petroleum products gross earnings tax rate from 7% to 7.5%, thus maintaining the 7% rate

until the next scheduled increase to 8.1% on July 1, 2013.

The act declares that competitive pricing is essential to the functioning of a fair and efficient free market economy in the petroleum industry and bans gasoline franchise contracts from prohibiting gasoline dealers and distributors from offering discounts for using any method of payment.

The act modifies (1) the receivership and post-judgment remedy laws by increasing the amount that must be paid for certain consumer deposits and (2) the receivership laws by increasing the amount that a receiver must pay for wages owed. It specifies that “consumer deposits” include deposits made to a home heating oil or propane gas dealer under a prepaid or capped price per gallon contract.

By law, part of the growth in revenues from the petroleum products gross receipts tax above 2006 levels goes into a special account to be used to fund fuel oil conservation programs. The act modifies when funds are transferred into this account for FY 08 and makes minor changes to the board that administers it.

EFFECTIVE DATE: Upon passage

§§ 1 & 2 — PETROLEUM PRODUCTS GROSS EARNINGS TAX

The act eliminates an increase in the petroleum products gross earnings tax rate from 7% to 7.5% previously scheduled to take effect on July 1, 2008. It freezes the tax at 7% until July 1, 2013, when under prior law and this act, the rate is scheduled to increase to 8.1%.

The petroleum products gross earnings tax applies to the gross earnings from the first sale of petroleum products in Connecticut by petroleum products distributors. Taxed products include gasoline, aviation fuel, kerosene, benzol, distillate fuels, residual fuels, and crude oil. The tax also applies to products made from petroleum or petroleum derivatives, such as paint, detergents, antiseptics, fertilizers, nylon, asphalt, and plastics. Many petroleum products and uses are exempt, including most diesel fuel, home heating oil, and propane gas used for heating.

§§ 3 & 4 — CASH DISCOUNTS

The act declares that competitive pricing is essential to the functioning of a fair and efficient free market economy in the petroleum industry. It finds and declares that (1) certain petroleum product franchise agreements prohibit gasoline retailers and distributors from offering discounts based on a buyer’s payment method and (2) these provisions constitute unreasonable restraints on competitive pricing and inhibit the fair and efficient functioning of a free market economy within

the petroleum industry. The act declares such provisions in franchise agreements void and without effect because they are contrary to public policy. It specifically prohibits future agreements from including such provisions and voids them in existing ones.

The law states that it does not prohibit sellers of anything, not just gasoline, from offering a discount to induce a buyer to pay by cash, check, or similar means. The act specifies this also includes debit cards. The law also prohibits sellers from imposing a surcharge on a buyer who chooses to use any payment method, including cash, check, credit card, or electronic means.

§§ 5 & 6 — RECEIVERSHIP PROCEEDINGS AND POST-JUDGMENT REMEDIES

Whenever a court appoints a receiver for a business or organization, or when there are proceedings involving (1) the termination of an entity, (2) the insolvency of a person or entity, or (3) the inability of a person or entity to pay all creditors in full, the law requires payment of certain debts up to a statutory limit. The requirement applies to any debt due an individual for a deposit made in connection with the purchase, lease, or rental of goods or services purchased for personal, family, or household purposes that were not received. The act raises the cap on such payments from \$900 to the amount that federal bankruptcy law sets for paying the unsecured claims of individuals arising from deposits made for the same reasons, currently \$2,425. It also specifies that the covered deposits include payments made by a consumer to a home heating oil or propane gas dealer under a prepaid or capped price per gallon contract.

Prior law capped at \$600 required payments by a receiver for debts due for wages for work performed within the three months before an application was made to appoint a receiver. The act raises this cap to the cap in federal bankruptcy law, which is currently \$10,950. The law requires wages to be paid in full in court proceedings involving (1) the termination of an entity, (2) the insolvency of a person or entity, or (3) the inability of a person or entity to pay all creditors in full.

Federal law requires the caps in the bankruptcy law to be adjusted every three years in accordance with changes in the Consumer Price Index for All Urban Consumers; they were last adjusted in 2007.

§ 7—FUEL OIL CONSERVATION BOARD AND PROGRAMS

The law establishes a 13-member board to administer fuel oil conservation programs, which are funded from growth in revenue from the petroleum products gross earnings tax above its 2006 revenue. The law requires that a portion of this revenue be deposited

into a special account. The act: (1) requires one of the governor's appointees to the board to be a representative of an in-state biodiesel distributor rather than in-state generators, (2) places the board within the state comptroller's office for administrative purposes only, and (3) requires the fuel oil conservation account to be within the Restricted Grant Fund rather than the General Fund.

By law, the amount of money to be transferred to the account is capped at \$10 million in FY 08 and \$5 million for each fiscal year thereafter. The act eliminates a provision that requires the comptroller to deposit the money in the account before the accounts for the General Fund are closed each fiscal year. Instead, it allows the comptroller to deposit up to \$2.5 million into the account upon the act's passage, and requires any remaining amount due the account for FY 08 to be deposited as determined by the comptroller at the close of the fiscal year, but no later than October 1, 2008.

PA 08-3, June 11, 2008 Special Session—HB 6502 *Emergency Certification*

AN ACT CONCERNING COMPREHENSIVE ETHICS REFORMS

SUMMARY: This act:

1. generally permits state courts to revoke or reduce any retirement or other benefit due to state or municipal officials or employees who commit certain crimes related to their employment;
2. makes it a class A misdemeanor for public servants to fail to report a bribe;
3. expands illegal campaign finance practices to cover certain solicitations by chiefs of staff;
4. makes several changes to state codes of ethics such as limiting gift exceptions, prohibiting state contractors from hiring certain former public officials and state employees, restricting the Office of State Ethics' (OSE) authority to issue subpoenas, prohibiting *ex parte* communications during OSE hearings on ethics complaints, limiting Citizens' Advisory Board members who can act on ethics complaints, and subjecting the governor's spouse to the code;
5. requires OSE to provide mandatory training to legislators on the Code of Ethics for Public Officials; and
6. requires public agencies to post, on available web sites, meeting dates, times, and minutes required by law to be publicly disclosed.

EFFECTIVE DATE: October 1, 2008

§§ 1-5 — CORRUPT OFFICIALS AND EMPLOYEES

The act generally permits state courts to revoke or reduce any retirement or other benefit due to state or municipal public officials or employees or quasi-public agency members and directors who commit certain crimes related to their employment.

It requires the courts to order payment of any benefit or payment that is not revoked or reduced.

Exceptions to Reduction or Revocation

Under the act:

1. no revocation or reduction may prohibit or limit benefits that are the subject of a qualified domestic relations order (e.g., child support);
2. no pension may be reduced or revoked if the IRS determines that the action will negatively affect or invalidate the status of the state's or a municipality's government retirement plans under Section 401 (a) of the Internal Revenue Code; and
3. the pension benefits of a public official or employee who cooperated with the state as a whistleblower before learning of the criminal investigation may not be revoked or reduced if the court determines or the attorney general certifies that he or she voluntarily provided information to the attorney general, state auditors, or a law enforcement agency against a person more blameworthy than the official or employee.

Additionally, no pension may be revoked if the court determines that to do so would constitute a unilateral breach of a collective bargaining agreement. Instead the court may issue an order to reduce the pension by an amount necessary to (1) satisfy any fine, restitution, or other monetary order issued by the criminal court and (2) pay the cost of the official's or employee's incarceration.

Crimes Related to Office or Employment

The act requires the attorney general to apply to the Superior Court for an order to revoke or reduce the benefits of a public official or employee who, on and after October 1, 2008, is convicted of or pleads guilty or *nolo contendere* (no contest) in federal or state court to:

1. committing or aiding or abetting the embezzlement of public funds from the state, a municipality, or a quasi-public agency;
2. committing or aiding or abetting any felonious theft from the state, a municipality, or a quasi-public agency;
3. bribery connected to his or her role as a public official or employee; or

4. felonies committed willfully and with intent to defraud to obtain or attempt to obtain an advantage for himself or herself or others through the use or attempted use of his or her office.

The attorney general must notify the prosecutor in these criminal cases of the pension revocation statute and that the pension may be used to pay any fine, restitution, or other monetary order the court issues.

"Public officials" are (1) statewide elected officers, (2) legislators and legislators-elect, (3) judges, (4) gubernatorial appointees, (5) municipal elected and appointed officials, (6) public members and union representatives on the Investment Advisory Council, (7) quasi-public agency members and directors, and (8) people appointed or elected by the General Assembly or either chamber. Advisory board members and members of Congress are not public officials.

"State employees" includes employees of quasi-public agencies.

Sentencing Considerations

When determining whether to revoke or reduce a public official's or employee's benefits or payments, the court must consider:

1. the severity of the crime;
2. the amount of money the state, municipality, quasi-public agency, or anyone else lost as a result of the crime;
3. the degree of public trust reposed in the person by virtue of his or her position;
4. if the crime was part of a fraudulent scheme against the state or a municipality, the defendant's role in it; and
5. any other factors the court determines that justice requires.

After determining to reduce pension benefits, the court must consider the needs of an innocent spouse or beneficiary and may order that all or part of the benefits be paid to the spouse or beneficiary.

Pension Contributions

If an official's or employee's pension is revoked, the act entitles the person to the return of any contributions he or she made to it, without interest. But, the repayment cannot be made until the court determines that the individual has fully satisfied any judgment or court-ordered restitution related to the crime against the office. If the court determines that he or she has not, it may deduct the unpaid amount from the individual's pension contributions.

Collective Bargaining Agreements

Beginning October 1, 2008, the act prohibits collective bargaining agreements from containing any provision that bars the revocation or reduction of a corrupt state or municipal employee's pension.

§§ 6 & 7 — BRIBERY

The act makes it a class A misdemeanor for public servants to fail to report a bribe (see Table on Penalties). Public servants commit this crime when they do not report to a law enforcement agency as soon as reasonably practicable that (1) another person has attempted to bribe them by promising, offering, transferring, or agreeing to transfer to them any benefit as consideration for their decision, opinion, recommendation, or vote or (2) they knowingly witnessed someone attempting to bribe another public servant or another public servant committing bribe receiving. Under existing law, a person is guilty of bribe receiving if he or she solicits, accepts, or agrees to accept any benefit for, because of, or in consideration for his or her decision, opinion, recommendation, or vote.

The act expands the definition of "public servant" that applies to existing bribery and bribe receiving crimes, as well as this new crime, to include quasi-public agency officers and employees. Elected and appointed government officers and employees and people performing a government function, including advisors and consultants, are already covered.

§ 12 — CAMPAIGN FINANCE

The act makes it an illegal campaign practice for certain chiefs of staff to solicit contributions from certain people on behalf of, or for the benefit of, any state, district, or municipal office candidate. Under the act, the chief of staff (1) for a legislative caucus cannot solicit an employee of the caucus, (2) for a statewide elected official cannot solicit a member of the official's office, and (3) for the governor or lieutenant governor cannot solicit from any member of the official's office or from any state commissioner or deputy commissioner.

Under existing law, it is an illegal campaign finance practice for, among other things, state department heads and their deputies to solicit political contributions at any time, and for anyone to knowingly and willfully violate a campaign finance law. Campaign finance violators are subject to criminal penalties of up to five years in prison, a \$5,000 fine, or both for knowing and willful violations. They are also subject to civil penalties of up to \$2,000 per offense.

STATE ETHICS CODE

§§ 16 & 17 — Ethics Complaint Enforcement

Existing law requires OSE to conduct probable cause investigations, including hearings, when complaints of alleged ethics violations are filed. If probable cause is found, OSE's Citizens' Advisory Board initiates a hearing to determine whether there has been a violation. A judge trial referee conducts the hearing. Both OSE and its advisory board can subpoena witnesses and records during their respective proceedings.

Subpoenas. The act restricts OSE's authority to issue subpoenas by requiring it to get (1) approval from a majority of the advisory board members or (2) the chairperson of the board to sign the subpoena. It authorizes the vice chairperson to sign the subpoena if the chairperson is unavailable.

Ex Parte Communications. During the hearing on whether a violation has occurred, the act prohibits *ex parte* communications about the complaint or respondent between the board or any of its members and the judge trial referee conducting the hearing or a member of OSE's staff.

Voting on Existence of Violation. By law, the Citizens' Advisory Board, at the conclusion of the hearing, determines whether a violation occurred and, if so, imposes penalties. The act restricts the board members who can vote on whether a violation occurred to those who were physically present during the entire violation hearing.

The act makes a minor change by specifying the number of board members, rather than the fraction of the board, necessary to find a violation of the State Code for Lobbyists. The act requires six of the nine board members, rather than two-thirds of the members present and voting, to find a violation.

§§ 13 & 14 — Gifts

With several exceptions, existing law prohibits public officials, candidates for public office, and state employees from accepting gifts (generally anything valued at over \$10) from lobbyists. It prohibits public officials and state employees from accepting gifts from people doing, or seeking to do, business with their agency; people engaged in activities regulated by their agency; or prequalified state contractors. Existing law also prohibits these people from giving gifts to public officials and employees.

The act caps at \$1,000 the exception for gifts provided at celebrations of major life events by people unrelated to the recipient. Major life events include a ceremony commemorating an individual's induction into religious adulthood such as a confirmation or bar or bat

mitzvah, a wedding, a funeral, and the birth or adoption of a child. It does not include any event that occurs on an annual basis such as an anniversary (Conn. State Agency Regulations § 1-92-53).

§ 15 — *Employment Restrictions*

The act prohibits a party to a state contract or agreement from employing a former public official or state employee who substantially helped negotiate or award a contract valued at \$50,000 or more or an agreement for the approval of a payroll deduction. The prohibition applies to employees or officials who resign within one year after the contract or agreement is signed and ends one year after the resignation. Existing law already prohibits former officials and employees from accepting the job. The penalty for violations is a fine of up to \$10,000. First-time intentional violations are punishable by up to one year in prison, a \$2,000 fine, or both. Subsequent intentional violations are punishable by up to five years in prison, a \$5,000 fine, or both.

§§ 9 & 10 — *Governor's Spouse*

The act makes the governor's spouse subject to the State Ethics Code by extending the definition of "public official" to include him or her. Currently, "public officials" are statewide elected officers, legislators and legislators-elect, gubernatorial appointees, public members and union representatives on the Investment Advisory Council, quasi-public agency members and directors, and people appointed or elected by the General Assembly or either of its chambers. The term does not include judges, advisory board members, or members of Congress.

§ 8 — TRAINING

By December 31, 2010, the act requires OSE to establish and administer a program for providing mandatory training to legislators on the Code of Ethics for Public Officials. The program must provide for mandatory training of (1) newly elected legislators and (2) all legislators every four years beginning in 2011. However, the Legislative Management Committee must request OSE to train all legislators before the next regularly scheduled training if it determines that there has been a significant revision to the Code of Ethics for Public Officials.

ACCOUNTANTS AND ACCOUNTING		AIR POLLUTION	
Certified public accountants, reciprocity		Indoor air quality guidelines, DOT exemption	
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