



SUMMARY OF 2017 PUBLIC ACTS Part I of II



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NOTICE TO USERS

This publication, *Summary of 2017 Public Acts, Part I*, summarizes all public acts and one resolution act passed during the Connecticut General Assembly's September 2016 Special Session and the 2017 Regular Session. Special acts are not summarized.

The acts from the 2017 Special Session will be summarized in a separate publication, Part II. It is important to note that special session acts may change provisions of the acts passed in the regular session. See the summaries of the special session acts in Part II for a description of those changes.

Please note, the print version of the Public Act Summary book no longer contains a subject index. As a cost-saving measure and for greater efficiency, the Office of Legislative Research (OLR) is moving from print to electronic publications, which can be searched more easily. To search the publication online, please go to the OLR Website (<https://www.cga.ct.gov/olr>). Readers with specific questions or who do not have electronic access should contact the OLR Legislative Library at (860) 240-8888 or OLR at (860) 240-8400.

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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 a separate chapter. Within each chapter, summaries are arranged in order by public act number.

2017 VETOED ACTS

1. PA 17-153, An Act Concerning Roofing, Window and Siding Consumer Warranties and Post-Sale Warranty Work Reimbursement for Power Equipment Dealers (General Law Committee)
2. PA 17-159, An Act Establishing a Tax Credit for Donated Agricultural Food Commodities Produced or Grown by the Taxpayer (Finance, Revenue and Bonding Committee)
3. PA 17-170, An Act Concerning the Affordable Housing Land Use Appeals Procedure (Housing Committee) (OVERRIDDEN)
4. PA 17-227, An Act Concerning the Use of Combined Heat and Power and District Heating Systems and Requiring a Study of the Viability of New District Heating Networks in the State as Part of the Comprehensive Energy Strategy (Energy and Technology Committee)

TABLE ON PENALTIES

Crimes

The law authorizes courts to impose fines, imprisonment, or both when sentencing a convicted criminal. For most crimes, the court may also impose a probation term. For eligible offenders, the court may order participation in various programs, such as accelerated rehabilitation or the pretrial alcohol education program, and dismiss the charges upon the offender's successful completion of the program.

When sentencing an offender to prison, the judge must specify a period of incarceration. The prison terms below represent the range within which a judge must set the sentence. A judge may suspend all or part of a sentence unless the statute specifies it is a mandatory minimum sentence. The judge also sets the exact amount of a fine, up to the established limits listed below. Repeated or persistent offenses may result in a higher maximum than specified here

<i>Classification of Crime</i>	<i>Imprisonment</i>	<i>Fine</i>
Class A felony (murder with special circumstances)	Life, without release	up to \$20,000
Class A felony (murder)	25 to 60 years	up to 20,000
Class A felony (aggravated sexual assault of a minor)	25 to 50 years	up to 20,000
Class A felony	10 to 25 years	up to 20,000
Class B felony (1 st degree manslaughter with a firearm)	5 to 40 years	up to 15,000
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	up to 5 years	up to 5,000
Class E felony	up to 3 years	up to 3,500
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
Class D misdemeanor	up to 30 days	up to 250

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.

PA 16-1, September 2016 Special Session—SB-601
Emergency Certification

AN ACT CONCERNING THE CONNECTICUT STRATEGIC DEFENSE INVESTMENT ACT

SUMMARY: This act establishes a framework for providing financial incentives to eligible aerospace companies engaging in certain helicopter manufacturing projects. To receive the incentives, a company must, among other things, (1) have production facilities and a wholly owned subsidiary headquartered in Connecticut; (2) carry out its primary production for U.S. government helicopter programs in a Connecticut facility; and (3) meet annual employment, payroll, supplier spending, and capital investment requirements.

Under the act, an eligible company may receive up to \$140 million in grants and \$80 million in sales and use tax (i.e., sales tax) offsets for the manufacturing project over a 14-year term. The annual amount of incentives a company receives depends on the extent to which it meets or exceeds the specified performance requirements. The act authorizes a total of \$140 million in new state general obligation (GO) bonds for project grants (§2).

The act allows the Department of Economic and Community Development (DECD) to certify projects and enter into agreements with eligible companies to provide the incentives. It specifies what the agreements must contain, including the (1) amount of incentives that the company can receive each year, (2) requirements it must meet to receive them, and (3) financial penalties it faces if it fails to meet those requirements.

Lastly, the act requires periodic reports on, and legislative review of, approved projects.
 EFFECTIVE DATE: Upon passage

ELIGIBILITY CRITERIA

The act authorizes grants and sales tax offsets to taxpayers that take on an “aerospace manufacturing project.”

Eligible Taxpayers

Under the act, a taxpayer qualifies for the act’s incentives if it is an aerospace company with a wholly-owned subsidiary with headquarters and production facilities in Connecticut. A wholly-owned subsidiary’s eligibility extends to its subsidiaries and affiliates and any limited liability company the subsidiary owns. A company must also, at the time it applies for the act’s incentives:

1. employ at least 6,000 people in the state;
2. operate its primary helicopter production facility for its current U.S. government programs in Connecticut;
3. plan to bid on a federal contract to begin producing a relatively small number of newly developed and tested helicopters (i.e., low-rate production contract); and
4. have a wholly owned subsidiary with headquarters and production facilities in Connecticut before September 29, 2016.

Eligible Aerospace Manufacturing Projects

Under the act, an eligible company qualifies for the incentives if it engages in an “eligible aerospace manufacturing project,” which means that the company will, over a minimum 14-year period, carry out its primary production for current U.S. government helicopter programs in a Connecticut facility and meet minimum expenditure and employment requirements.

The company must be producing these helicopters as of the date of its assistance agreement with the state (see below). Under the act, “production” includes procurement, engineering, manufacturing, assembly, integration, and testing. The minimum expenditure requirements the company must meet during the 14 years pertain to capital expenditures, aggregate payroll, and supplier spend (i.e., the amount the company spends purchasing goods and services from its suppliers).

Certifying Project Eligibility

DECD must certify that a project meets the act’s criteria before it can award the company the incentives. Any company seeking certification must apply to the commissioner in a form acceptable to her. The application must describe the project and specify its term and costs. The commissioner may require the company to provide any additional information she needs to certify the company’s eligibility.

Only the commissioner may decide if a project meets the act's eligibility criteria. Her authority to make such a decision is neither a waiver of the state's sovereign immunity nor an authorization for a company to sue the state if she denies its application.

ASSISTANCE AGREEMENT

Under the act, the assistance agreement is the mechanism through which the commissioner provides incentives to an eligible company for complying with specified annual requirements during the agreement's 14-year term. The annual compliance year runs from July 1 to June 30 (compliance year). The commissioner's authority to enter into agreements with eligible companies expires January 31, 2017, but she may amend an agreement entered into before that date or extend its term.

Required Content

The assistance agreement must specify the conditions the company must meet to receive the incentives. These include requiring the company to maintain its primary helicopter production facilities and its subsidiary's headquarters in Connecticut and meeting specified employment, payroll, and supplier spend requirements ("minimum requirements"). The agreement must also:

1. describe the project and indicate how long it will take the company to complete it;
2. specify the minimum requirements the company must meet each compliance year;
3. state the company's commitment to maintain in Connecticut its subsidiary's headquarters and primary helicopter production facility for current U.S. government programs, as of the agreement's date;
4. identify the amount of grants and sales tax offsets for which the company is eligible, including the minimum requirements it must meet to receive these incentives;
5. specify, with respect to the grants, the terms and conditions requiring the company to submit specific information to the commissioner and allowing the commissioner to access and verify the accuracy of relevant company records;
6. specify the terms and conditions for repaying grants and paying any penalties for failing to comply with the agreement;
7. specify the terms and conditions for repaying any sales and use tax offsets and any other required financial penalties the commissioner may impose if the company fails to meet the agreement's terms;
8. specify how the company must notify the commissioner about any disputes under the agreement; and
9. include any other terms and conditions the commissioner requires.

Dispute Resolution

If a company disputes a claim under the assistance agreement, it may sue the state in Hartford Superior Court after notifying the commissioner as the agreement requires. The company must bring the action within two years of this notice. The act reserves all legal defenses to the state except sovereign immunity.

Conflicts with Other Statutes

The act specifies that the agreement's provisions supersede any conflicting laws (1) limiting the amount of assistance the commissioner may award under the Manufacturing Assistance Act (MAA), (2) requiring businesses to provide security for any MAA financing they receive, and (3) regarding obtaining legislative approval for economic development assistance exceeding specified thresholds.

INCENTIVES

The act authorizes grants and sales tax offsets for companies implementing a certified aerospace manufacturing project. A company may earn both types of incentives if it meets the assistance agreement's minimum requirements described above.

There are two types of grants: those for (1) meeting specific employment and spending targets (i.e., categorical grants) and (2) exceeding these targets (i.e., performance incentive grants). A company qualifies for up to \$120 million in categorical grants and \$20 million in performance incentive grants.

Categorical Grants

Basis. The act allows a company to qualify for four grants (employment, payroll, supplier spend, and capital expenditures) in each compliance year and authorizes the DECD commissioner to award up to \$140 million in grant payments over the assistance agreement’s 14-year term. The maximum annual grant for each grant category is \$2,142,857 (\$8,571,428 across all four categories).

The act establishes different compliance requirements for the grants. The employment, payroll, and supplier spend grants depend on whether the company meets the annual base level requirement the act sets for each grant, and the grant amount depends on the degree to which the company exceeds the base level requirement, up to a set annual target. The capital expenditure grant depends on whether the company’s capital expenditures for a year equals at least 90% of the annual requirement.

The act also establishes the formulas for calculating the grant amounts. The formulas for calculating these amounts are based on the extent to which the company meets the specified targets for each compliance year, which is the same as the state’s fiscal year.

Table 1 shows the base levels and targets for each grant category.

Table 1: Minimum Requirements and Targets for Employment, Payroll, Supplier Spend, and Capital Expenditures Grants

<i>Compliance Year (FY)</i>	<i>Employment Grant</i>		<i>Payroll Grant</i>		<i>Supplier Spend Grant</i>		<i>Capital Expenditures Grant</i>
	<i>Base Level</i>	<i>Target</i>	<i>Base Level (millions)</i>	<i>Target (millions)</i>	<i>Base Level (millions)</i>	<i>Target (millions)</i>	<i>Target (millions)</i>
19	\$6,500	\$7,084	\$611.0	\$681.0	\$300.0	\$353.6	\$76.0
20	6,500	6,684	611.0	655.5	300.0	328.5	76.0
21	6,500	6,582	611.0	658.5	300.0	333.1	76.0
22	6,500	6,696	611.0	680.0	300.0	362.7	76.0
23	6,500	6,978	611.0	718.5	300.0	400.0	78.0
24	7,000	7,276	700.0	763.0	300.0	433.7	79.0
25	7,000	7,537	700.0	806.0	410.0	469.7	81.0
26	7,000	7,720	700.0	842.0	410.0	497.8	82.0
27	7,000	7,773	700.0	864.5	410.0	522.7	84.0
28	7,000	7,773	700.0	882.0	410.0	548.9	86.0
29	7,000	7,773	700.0	900.0	410.0	576.3	87.0
30	7,000	7,794	700.0	920.5	470.0	605.1	89.0
31	7,000	7,924	700.0	954.5	470.0	635.4	91.0
32	7,000	8,032	700.0	986.8	470.0	667.1	93.0

Base Levels. A company receives the annual grant for a category only if it meets annual base levels for employment, payroll, and supplier spend categories, as shown in Table 1.

Under the act, the employee base level is the company’s average number of full-time employees (FTEs) in Connecticut (i.e., those working at least 35 hours per week, excluding temporary or seasonal workers or anyone who does not receive a federal W-2 form from the company). The average number of FTEs for each compliance year is calculated by adding the number of FTEs at the end of each quarter and dividing the total by four.

The payroll base level is the company's aggregate gross pay for FTEs in Connecticut for each compliance year.

The supplier spend base level is the amount the wholly owned subsidiary spends purchasing goods and services from its supply companies for each compliance year (i.e., total annual spend). Such purchases count toward this base level if the supply company is a commercial business with a "regular place of business" in Connecticut and supplies goods and services needed to support the (1) manufacturing of company products or (2) company operations. These companies do not include local, state, or federal revenue collection or taxing entities. The supply company has a regular place of business in Connecticut if it operates an office, factory, warehouse, or other space in the state at which it regularly and systematically does business in its own name through its employees (1) in regular attendance there and (2) carrying on its business in its own name. Regular places of businesses do not include (1) the location of a supply company's statutory agent for service of process; (2) temporary offices used only for the duration of the contract; and (3) offices maintained, occupied, or used by a supplier's affiliate.

Lastly, capital expenditures are the bona fide costs incurred by the company's wholly owned subsidiary and its subsidiaries for:

1. acquiring land, buildings, machinery, equipment, or any combination thereof;
2. making site and infrastructure improvements;
3. planning;
4. eligible research and development (R&D), including developing new products and markets (i.e., spending eligible for the state's R&D tax credit; see BACKGROUND); and
5. developing diversification strategies, including preparing plans for regional diversification strategies and hiring consultants needed to complete these plans and strategies.

If an expenditure qualifies for both the supplier spend base level and the capital expenditures target, the company may choose to count the expenditure toward either of the categories, but not both.

Calculating Grant Amounts. To receive any of the four grants, the company must meet the minimum requirements for a compliance year.

For the employment, payroll, and supplier spend grants, the commissioner must award the maximum grant for each of the categories if the company achieves the applicable target for each category. If the company achieves an employment, payroll, or supplier spend level below the target (but above the base level), the DECD commissioner must reduce the maximum grant amount based on the proportion of the target the taxpayer achieved. The act specifies how to calculate this: subtracting from the maximum grant an amount calculated by multiplying the maximum grant by a fraction, the numerator of which is the target level minus the actual level achieved and the denominator is the target level minus the base level.

For the capital expenditures grant, the DECD commissioner must award the company the maximum grant if it achieved 90% of the expenditure target for that compliance year.

Carry Forward of Supplier Spend and Capital Expenditures Exceeding Target Levels. The act allows the wholly owned subsidiary to annually carry forward supplier spend and capital expenditure amounts that exceed the targets for these categories. It may carry forward the excess amounts on a first earned, first used basis and apply the difference in any of the subsequent three compliance years.

Certified Amounts. The act requires the company to certify its actual employment, payroll, supplier spend, and capital expenditure amounts to the DECD commissioner, in accordance with the assistance agreement's requirements and subject to a third-party audit performed according to DECD's audit guide.

Performance Incentive Grants

The act allows the company to qualify for an annual performance incentive grant, up to \$20 million over the assistance agreement's term, for any year in which it meets the compliance year's minimum requirements, exceeds the employment and payroll targets, and meets the requirements for average payroll per employee defined in the assistance agreement. Under the act, each annual grant equals \$3,500 per employee that exceeds the target level for the compliance year, up to the maximum amounts shown in Table 2.

Table 2: Annual Maximum Performance Incentive Grants

<i>Compliance Year</i>	<i>Maximum Total Grant Per Year</i>	<i>Number of Jobs (Above Target) Required to Receive Maximum Performance Incentive Grant</i>
19	\$350,000	100
20	525,000	150
21	875,000	250
22	1,050,000	300
23	1,225,000	350
24	1,400,000	400
25	1,750,000	500
26	1,750,000	500
27	1,750,000	500
28	1,750,000	500
29	1,800,000	515
30	1,925,000	550
31	1,925,000	550
32	1,925,000	550

Production Schedule Changes. The act authorizes the DECD commissioner to deviate from the schedule, maximum amounts, and base and target levels for the grants if federal government action requires changes to the production schedule (presumably the schedule under the company’s federal contract for producing helicopters). The commissioner must (1) make changes proportional to the revised production schedule and (2) within 15 days file a report with the Commerce and Finance, Revenue and Bonding committees describing the changes.

Sales Tax Offsets

The act allows the DECD commissioner to authorize up to \$5.714 million per year in state sales tax offsets for a company’s state-certified aerospace manufacturing project (\$80 million total over the assistance agreement’s term). Under the act, if the company’s actual annual sales tax liability is less than \$5.714 million, it may carry forward, for up to three years, the difference between \$5.714 million, plus any carryforward from prior years, and its actual liability for the compliance year, after applying other exemptions. It must use the carry forward amount on a first earned, first used basis, before using any current year offset.

The commissioner, in consultation with the revenue services commissioner, must determine the form, timing, and manner of providing the offsets. An eligible company must calculate the offsets after deducting any sales tax exemptions applicable to its purchases. These offsets do not limit the company’s ability to claim the sales tax exemptions for which it otherwise qualifies under the law.

The DECD commissioner must tell the revenue services commissioner at the end of each compliance year whether the company (1) has met all of the minimum requirements necessary to qualify for the offset or (2) must repay the offset amount in accordance with the assistance agreement’s terms.

LEGISLATIVE OVERSIGHT

Reporting

The commissioner must include in the department’s annual legislative report information on the incentives she awarded under the act, including the number of projects awarded benefits and their status, and the extent to which the companies achieved their employment, payroll, capital expenditure, and supplier spend targets.

Legislative Review

The commissioner must submit a status report on approved aerospace manufacturing projects once every three years, starting by October 1, 2021, to the Commerce and Finance, Revenue and Bonding committees, which must hold a joint hearing on the report. The report must indicate the number and status of each approved project and identify the employment, payroll, supplier spend, and capital expenditure levels they achieved.

The committees must hold a joint informational hearing on the report, during which the commissioner must present the report and answer questions from committee members.

Additional Legislation

The commissioner must analyze other methods through which the state can offer sales tax offsets to stimulate business growth and create and retain jobs and may request necessary legislation.

§ 2 — BOND AUTHORIZATION

Amounts

The act authorizes up to \$140 million in state GO bonds over a 14-year period, as shown in Table 3, for the aerospace manufacturing project grants. Any issuance costs and capitalized interest may be added to the annual authorizations.

Table 3: Annual Bond Authorizations under the Act

<i>FY</i>	<i>Amount</i>
17	\$8,921,436
20	9,096,428
21	9,446,428
22	9,621,428
23	9,796,428
24	9,971,428
25	10,321,428
26	10,321,428
27	10,321,428
28	10,321,428
29	10,371,428
30	10,496,428
31	10,496,428
32	10,496,428

Bond Commission Approval

The bond commission must authorize the total bond issuance. In conjunction with this requirement, DECD must enter into a memorandum of understanding (MOU) with the Office of Policy and Management secretary and the state treasurer regarding the bonds and ask the Bond Commission to approve the MOU. The MOU may specify the extent to which federal, private, or other available funds should be added to the bond proceeds.

The MOU satisfies the standard approval requirements under the State General Obligation Bond Procedure act, and the bonds are subject to standard statutory conditions. The act deems the principal amount of the authorized bonds to be an appropriation and allocation of the bond amounts.

BACKGROUND

Eligible R&D Expenditures

The state's R&D credit generally applies to (1) federally deductible R&D spending a business incurs and (2) qualifying basic research payments it makes that are eligible for a federal R&D tax credit. In each case, the expenditures or payments must (1) be paid or incurred by the business for R&D and basic research conducted in Connecticut and (2) not be funded by any grant or contract with a public or private entity, unless the entity is included in a combined return with the business paying or incurring the expenses. In addition, the R&D spending must exclude any R&D expenses that the business claims under the research and experimental expenditures tax credit program.

PA 17-51—SB 1059
Emergency Certification

AN ACT CONCERNING DEFICIT MITIGATION FOR THE FISCAL YEAR ENDING JUNE 30, 2017

§ 1 — REGIONAL SERVICES GRANT PAYMENTS

Reduces the total amount of regional services grants allocated to COGs and transfers the savings to the General Fund for FY 17

§ 2 — FUND CARRYFORWARDS

Prohibits any FY 17 funds from being carried forward into FY 18 without OPM's approval

§§ 3 & 4 — TOBACCO FUND TRANSFERS

Redirects funds to the General Fund that were previously required to be transferred from the Tobacco Settlement Fund to the Tobacco Health and Trust Fund

§§ 5 & 6 — AMORTIZED GENERALLY ACCEPTED ACCOUNTING PRINCIPLES (GAAP) DEFICITS

Changes how the state pays off the GAAP deficits from FY 13 and 14

§§ 7-68 — TRANSFERS TO THE GENERAL FUND

Allows the OPM secretary to transfer moneys from various funds and accounts to the General Fund for FY 17

§ 44 — PROBATE COURT ADMINISTRATION FUND TRANSFER

Limits to \$3.4 million the amount that may be transferred from the probate fund to the General Fund for FY 17

§ 69 — EMPLOYMENT OPPORTUNITIES AND DAY SERVICES ACCOUNT

Requires the governor to restore \$1 million in reductions made during FY 17 to the Employment Opportunities and Day Services Account

§ 70 — NEGOTIATED SETTLEMENTS

Authorizes the comptroller to record as FY 17 revenue amounts received by August 15, 2017 from negotiated settlements

SUMMARY: This act makes various changes to address the projected General Fund deficit for FY 17. Among other things, it transfers money from various accounts and funds to the General Fund, reduces payments to fund the state's Generally Accepted Account Principles (GAAP) deficit, and records as FY 17 revenue certain amounts received by the state before August 15, 2017 from negotiated settlements.

The act also reduces grant payments to regional councils of governments (COGs) and restores certain rescissions made to the Employment Opportunities and Day Services account in the Department of Developmental Services (DDS).

EFFECTIVE DATE: Upon passage

§ 1 — REGIONAL SERVICES GRANT PAYMENTS

Reduces the total amount of regional services grants allocated to COGs and transfers the savings to the General Fund for FY 17

For FY 17, the act (1) reduces, from \$3.0 million to \$2.25 million, the total amount of regional services grants allocated to COGs and (2) transfers the difference (\$750,000) to the General Fund by June 30, 2017. The grants are funded through the Municipal Revenue Sharing Fund, and the grant amounts are based on a formula determined by the Office of Policy and Management (OPM) secretary.

§ 2 — FUND CARRYFORWARDS

Prohibits any FY 17 funds from being carried forward into FY 18 without OPM's approval

The act prohibits any FY 17 funds from being carried forward into FY 18 without the OPM secretary's approval.

§§ 3 & 4 — TOBACCO FUND TRANSFERS

Redirects funds to the General Fund that were previously required to be transferred from the Tobacco Settlement Fund to the Tobacco Health and Trust Fund

For FY 17, prior law required the disbursement of a specified amount of funds from the Tobacco Settlement Fund to the General Fund and the transfer of any remaining funds to the Tobacco Health and Trust Fund (THTF). The act instead redirects these remaining funds to the General Fund.

The act also authorizes the OPM secretary to transfer up to \$208,997 from the THTF to the General Fund for FY 17. By law, THTF funds are used to support and encourage the development of programs to reduce tobacco and substance abuse.

§§ 5 & 6 — AMORTIZED GENERALLY ACCEPTED ACCOUNTING PRINCIPLES (GAAP) DEFICITS

Changes how the state pays off the GAAP deficits from FY 13 and 14

The act changes how the state determines the amount it must pay each year to pay off the General Fund's unassigned negative balances (i.e., GAAP deficits) from FY 13, which reflects negative balances that accumulated before the state adopted GAAP in FY 14, and FY 14.

Prior law required the state to amortize the GAAP deficits in equal increments so that they were fully paid by FY 28. The act instead requires the OPM secretary to annually publish recommended schedules to fully amortize the balances by the FY 28 deadline. But for FYs 17-19, the act deems that \$1 is appropriated for paying off the deficits.

EFFECTIVE DATE: Upon passage

§§ 7-68 — TRANSFERS TO THE GENERAL FUND

Allows the OPM secretary to transfer moneys from various funds and accounts to the General Fund for FY 17

The act allows the OPM secretary to transfer funds from various funds and accounts to the General Fund for FY 17, as shown in Table 1.

Table 1: Transfers to the General Fund

<i>Agency</i>	<i>§</i>	<i>Source</i>	<i>Amount (up to)</i>
Administrative Services	45	Energy Conservation Project State Buildings Account	\$350,000
	46	Facilities Surplus Property Account	750,000
Agriculture	51	Animal Population Control Account	150,000
	67	Maintenance, Repair and Improvement Account	100,000
Banking	21	Foreclosure Prevention Account	847
	22	Seminars, Conferences and Symposiums Account	398
	52	State Banking Fund	4,000,000
Children and Families	36	Wilderness School Program Account	22,349
Connecticut Health and Educational Facilities Authority (CHEFA)	8	CHEFA	875,000

Table 1 (Continued)

<i>Agency</i>	<i>§</i>	<i>Source</i>	<i>Amount (up to)</i>	
Consumer Protection	19	Bedding and Filling Material Account	177,491	
	20	Privacy Protection Guaranty and Enforcement Account	150,000	
	56	New Automobile Warranties Account	530,000	
	57	Consumer Protection Enforcement Account	500,000	
	58	Real Estate Guaranty Account	400,000	
	61	New Home Construction Guaranty Fund	348,000	
	64	Connecticut Health Club Guaranty Fund	200,000	
	66	Home Improvement Guaranty Fund	190,000	
Correction	50	Industrial Fund	2,250,000	
	60	Correctional General Welfare Fund	350,000	
Division of Criminal Justice	40	Drug Assets Forfeiture Revolving Account	100,000	
Economic and Community Development	63	Miscellaneous Grants Account	204,000	
	65	Connecticut Economic Impact Analysis Account	200,000	
Emergency Services and Public Protection	47	Pistol Permits Photographic Costs Account	150,000	
	48	Court Reimbursements Account	50,000	
	49	Ammunition Certificates Account	150,000	
Energy and Environmental Protection	23	Miscellaneous Grants Account	5,659	
	24	Conferences and Seminars Account	108,541	
	25	Shad Study – Connecticut River Account	40,987	
	26	Restore Gillette Castle Paintings Account	3,500	
	27	Natural Diversity Base Inventories Account	2,635	
	28	Deer Program Account	208	
	29	Non-harvested Wildlife Account	1,792	
	30	Pharmaceutical Co-education Grants Account	100	
	31	Biomedical Research Projects Account	2,138	
	32	Special Contaminated Property Remediation and Insurance Fund	658,538	
	33	LBE (“Lead By Example”) Rebates Account	841,776	
	34	Wetlands Restoration and Projection Account	5,943	
	35	DEEP Admin.-MRI subaccount within the Maintenance, Repair, and Improvement Account	500,000	
	Insurance	59	Preferred Provider Network Account	400,000
		62	Utilization Review Fees Account	310,000
68		Insurance Department Education Account	55,000	
Judicial	12	Pretrial Account	250,000	
	41	Judicial Data Processing Revolving Fund	925,000	
	42	Community Service Labor Program Account	32,238	
	43	Probation Transition and Technical Violation Unit Account	4,000,000	
	44	Probate Court Administration Fund (see also § 44 below)	3,400,000	
Labor	9	Civil Penalties Account	150,000	
	10	Individual Development Account Reserve Fund	190,000	
Legislative Management	37	Legislator Reunion Account	873	
	38	Art at The Capitol Account	870	
	39	Connecticut Hall of Fame Account	5,719	
Mental Health and Addiction Services	11	Chronic Gamblers Treatment and Rehabilitation Account	100,000	
	13	Support Program for Shared Populations Account	50,000	
	14	Drug Assets Forfeiture Revolving Account	75,000	
Motor Vehicles	53	Emissions Enterprise Fund	3,000,000	
	55	School Bus Seat Belt Account	865,000	

Table 1 (Continued)

<i>Agency</i>	<i>§</i>	<i>Source</i>	<i>Amount (up to)</i>
Policy and Management	15	Municipal Reimbursement and Revenue Account	3,185,773
	16	Regional Planning Incentive Account	3,150,000
Revenue Services	18	Tax Incidence Study Account	52,126
Secretary of the State	17	Commercial Recording Administration Account	11,182
Social Services	7	UConn – Medicaid Partnership Account	200,000
Treasurer	54	Debt Service Retirement Account	925,000

§ 44 — PROBATE COURT ADMINISTRATION FUND TRANSFER

Limits to \$3.4 million the amount that may be transferred from the probate fund to the General Fund for FY 17

Prior law required the transfer to the General Fund of any Probate Court Administration Fund balance that, annually on June 30, exceeded 15% of the fund's authorized expenditures for the succeeding fiscal year. The act supersedes this requirement for FY 17 by limiting to \$3.4 million the amount that may be transferred from the probate fund to the General Fund.

§ 69 — EMPLOYMENT OPPORTUNITIES AND DAY SERVICES ACCOUNT

Requires the governor to restore \$1 million in reductions made during FY 17 to the Employment Opportunities and Day Services Account

The act, notwithstanding the governor's rescission authority, requires him, by June 30, 2017, to restore \$1 million in reductions made during FY 17 to Department of Developmental Services' Employment Opportunities and Day Services Account.

§ 70 — NEGOTIATED SETTLEMENTS

Authorizes the comptroller to record as FY 17 revenue amounts received by August 15, 2017 from negotiated settlements

The act authorizes the comptroller to record as FY 17 revenue up to \$15,112,936 of the revenue the state receives by August 15, 2017 from negotiated settlements entered into by the attorney general's office on the state's behalf. It requires this revenue to be deposited in the Budget Reserve Fund.

PA 17-34—SB 762

Aging Committee

AN ACT CLARIFYING THE ROLE OF THE OFFICE OF THE LONG-TERM CARE OMBUDSMAN IN THE MANDATED REPORTING OF ABUSE OF ELDERLY PERSONS AND DELETING OBSOLETE STATUTORY PROVISIONS

SUMMARY: Existing law requires certain professionals (mandated reporters) to notify the Department of Social Services when they reasonably suspect an elderly person (1) has been abused, neglected, abandoned, or exploited or (2) needs protective services. This act clarifies that representatives of the Office of the Long-Term Care Ombudsman are not mandated reporters of elder abuse. In doing so, the act conforms to state law and new federal regulations. By law, representatives of the Office of the Long-Term Care Ombudsman include regional ombudsmen, residents’ advocates, and employees of the office whom the State Ombudsman designates.

The act also makes technical changes, including replacing “patients’ advocate” with “residents’ advocate” to reflect current terminology.

EFFECTIVE DATE: Upon passage

BACKGROUND

State Law and Federal Regulations Governing the Long-Term Care Ombudsman Program (LTCOP)

Under state law, the LTCOP cannot disclose confidential information provided by a long-term care resident without his or her consent, the consent of his or her representative, or a court order. In instances of alleged abuse, the LTCOP may help the resident understand his or her options and encourage the resident to report, or allow the program to refer, the matter to the proper authority (e.g. protective services) (CGS §17a-419(2)).

New federal regulations exempt representatives of state LTCOPs from mandatory abuse reporting requirements subject to certain exceptions (45 C.F.R. § 1324.11(e)(3)(iv)). The regulations allow the representatives to report suspected abuse when the resident cannot communicate informed consent, does not have a representative to provide informed consent, and the LTCOP representative has reasonable cause to believe doing so is in the resident’s best interest (45 C.F.R. § § 1324.19(b)(5)-(b)(8)).

PA 17-62—SB 772

Aging Committee

AN ACT REQUIRING EMERGENCY GENERATORS IN CERTAIN HOUSING FOR THE ELDERLY

SUMMARY This act requires each privately owned, multifamily housing project in a municipality with a population between 130,000 and 134,999 to install and maintain at least one emergency power generator. The generator must be capable of providing at least four hours of sufficient electrical power to each (1) unit for heating, water, lighting, and critical medical equipment and (2) passenger elevator.

The act defines “privately owned, multifamily housing project” as real property that (1) consists of, or encompasses, a building at least 15 stories high with age-restricted dwelling units and (2) is wholly or partially subject to a mortgage insured under the federal National Housing Act.

EFFECTIVE DATE: October 1, 2017

PA 17-120—sHB 6992

Aging Committee

Banking Committee

AN ACT PROTECTING THE INTERESTS OF CONSUMERS DOING BUSINESS WITH FINANCIAL PLANNERS

SUMMARY: This act makes various changes affecting financial planners. It:

1. establishes advertising and disclosure requirements for financial planners not otherwise regulated by state or federal law;
2. prohibits these financial planners from expressing or implying special training, education, or experience serving senior citizens unless they meet certain education requirements;
3. requires these financial planners to disclose to consumers, upon request, whether they have a fiduciary duty with regard to each recommendation they make; and
4. requires the departments of banking (DOB) and consumer protection (DCP) to post on their respective websites links to certain information regarding financial planning professionals and consumers' rights.

EFFECTIVE DATE: Upon passage

ADVERTISING REQUIREMENTS

The act prohibits financial planners from using, in connection with an agreement to provide financial planning or investment advice for compensation, a certificate, professional designation, or advertisement expressing or implying special training, education, or experience in advising or serving senior citizens without meeting certain education requirements (see **BACKGROUND**). State law already prohibits individuals involved in securities transactions from doing this.

Under the act, a “financial planner” is a person offering individualized financial planning or investment advice to a consumer for compensation who is not otherwise regulated by state or federal law.

DOB AND DCP WEBSITES

The act requires the banking commissioner, to the extent practicable, to post on the department’s website links to educational materials on (1) financial planning and other designations, including associated prerequisites, and (2) requirements for investment advisers under the Connecticut Uniform Securities Act.

The commissioner must also include on the website, information about a consumer’s right to ask financial planners or other financial planning professionals to disclose fees and compensation as required by state and federal law.

The act requires the banking department to share the information it posts on its website with DCP, which must then post the information on its website.

BACKGROUND

Educational Requirements for Individuals Advertising Experience with Senior Citizens

The law prohibits individuals offering, selling, or purchasing securities, in connection with an agreement to provide financial planning or investment advice for compensation, from using a certificate, professional designation, or form of advertising expressing or implying special training, education, or experience in advising or serving senior citizens unless the individual has completed a course of study that:

1. resulted in an academic degree from an accredited higher education institution in a field related to advising or serving senior citizens, as determined by the banking commissioner or
2. relates to advising or serving senior citizens, as determined by the commissioner, and is provided by an organization accredited by the American National Standards Institute, National Commission for Certifying Agencies, an organization recognized as an accrediting agency by the U.S. Department of Education, or another organization approved by the commissioner (CGS § 36b-4(c)).

Related State Laws

Existing law regulates the conduct of many financial advisors. For example, the Connecticut Uniform Securities Act (CGS § 36b-2 et seq.) generally prohibits, in connection with the offer, sale, or purchase of a security, individuals from (1) engaging in fraud or deceit, (2) making untrue or misleading statements, or (3) engaging in a dishonest or unethical practice. It also requires “investment advisors” to disclose certain compensation and fee information. Investment advisors advise others on securities transactions for compensation and as part of a regular business.

Additionally, Insurance Department regulations prohibit insurance producers (i.e., agents) from using senior citizen-specific certifications or professional designations to mislead a purchaser when (1) soliciting, selling, or purchasing life insurance or annuities; (2) providing advice about purchasing or selling life insurance or annuities; or (3) issuing reports or analyses on life insurance or annuities (Conn. Agencies Reg., § 38a-432b-2).

PA 17-123—sHB 7020*Aging Committee***AN ACT REQUIRING THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE CONCERNING LONG-TERM CARE**

SUMMARY: This act makes various changes in the collection and reporting of long-term care data. It requires the:

1. Department of Social Services (DSS) commissioner to maintain a data collection system, within available resources and in accordance with federal law, to guide the development of the state’s long-term care strategic plan (§ 1);
2. Long-Term Care Planning Committee’s (LTCPC) statewide long-term care plan to include the number of people receiving long-term care services and supports in the community and the number of those receiving these services in institutions (§ 2);
3. LTCPC to report the above community and institution services information to the Aging and Human Services committees annually, beginning by January 1, 2018 (§ 2);
4. LTCPC, within available appropriations, to evaluate certain Medicaid long-term care expenditure data to help short- and long-term Medicaid expenditure forecasting (§ 2); and
5. aging commissioner to determine, among other things, the appropriate data and program outcome measures that fall prevention programs must collect and report to her (§ 3).

EFFECTIVE DATE: October 1, 2017

§ 1 – DSS DATA COLLECTION SYSTEM

The act requires the DSS commissioner, within available resources and in accordance with the federal Deficit Reduction Act of 2005, to maintain a data collection system to guide the department in developing its strategic long-term care plan. In maintaining the system, the commissioner must, as applicable:

1. establish a process to identify and report on participants in the federal Money Follows the Person (MFP) program who signed an informed consent agreement to participate (presumably to participate in data reporting);
2. ensure that individuals and agencies that identify candidates for MFP have access to (a) information regarding plans to transition participants from institutional to community living and (b) options for those ineligible for the program;
3. ensure that MFP participants are counted only once for reporting purposes, regardless of how many times they have been referred to the program;
4. establish a benchmark length of time that MFP participants may hold a “transition in process” status before being placed in a home in the community; and
5. identify steps to reduce the post-transition, premature death of MFP participants with chronic diseases or health conditions, including cardiac, pulmonary, and endocrinal conditions or diabetes.

§ 2 – LTCPC AND MEDICAID LONG-TERM CARE EXPENDITURES

The act requires the LTCPC to evaluate available data on average net actual Medicaid nursing home expenditures compared to those for home- and community-based Medicaid waiver recipients who require a nursing home level of care, including the number of individuals served. The committee must do this within available appropriations and to help short- and long-term Medicaid expenditure forecasting.

§ 3 – FALL PREVENTION PROGRAM

The act requires the aging commissioner to determine the appropriate data and program outcome measures that entities receiving a grant or entering into an agreement with the department to design, implement, or evaluate a fall prevention program must collect and report to her. She must also determine how frequently the entities must report.

By law, the State Department on Aging must administer a fall prevention program within available appropriations. The program must promote and support fall prevention research; oversee research and demonstration projects; and establish, in consultation with the Department of Public Health commissioner, a professional education program on fall prevention for healthcare providers.

BACKGROUND

LTCPC Statewide Long-Term Care Plan

By law, the LTCPC must establish a statewide long-term care plan and revise it every three years. The law specifies information the plan must include, such as (1) a long-term care system vision and mission statement, (2) the types of available long-term services and the amount of funding needed to meet the demand for these services, and (3) the number and types of providers needed to deliver them.

PA 17-8—sHB 6520
Banking Committee

AN ACT RAISING THE ASSET LIMITATION FOR COMMUNITY BANKS AND COMMUNITY CREDIT UNIONS

SUMMARY: By law, the state treasurer may establish a program to invest up to \$100 million in community banks or credit unions. This act raises the maximum asset limit for community banks and credit unions to participate in the program from \$500 million to one billion dollars.

By law, to be eligible for the program a community bank must be domiciled in the state, and a community credit union must be a (1) Connecticut credit union or (2) federal credit union that meets criteria in the Federal Credit Union Act and primarily serves a well-defined, local community; neighborhood; or rural district.

EFFECTIVE DATE: Upon passage

PA 17-26—sHB 7015
Banking Committee
Judiciary Committee

AN ACT CONCERNING DEBIT CARD FRAUD AND PENALTIES FOR COLLECTION OF RENTAL PAYMENTS ON FORECLOSED PROPERTY

SUMMARY: This act expands credit card crimes to cover crimes involving debit cards. It defines a “debit card” as any card, code, device, or other means of access, or combination of them that (1) is issued or authorized to debit an asset account held directly or indirectly by a financial institution and (2) the cardholder may use to obtain money, goods, services, or anything of value. The card itself does not have to be called a debit card. The act specifically covers payroll and ATM cards but excludes checks, drafts, or similar paper instruments and their electronic representations. The act also changes how notice of a card’s revocation must be sent for purposes of these crimes and expands certain credit card crimes to cover falsely loading payment cards (i.e., credit or debit cards) into digital wallets.

The act also makes it a form of larceny for a previous mortgagor of real property against whom a final foreclosure judgment has been entered to continue to collect rent after a final judgment if he or she has no right to do so. Generally, larceny crimes punish someone who wrongfully takes property from its owner, intending to deprive the owner of the property or appropriate it to someone else. The penalty for larceny varies, based on the value of property taken, from a class C misdemeanor to a class B felony (see Table on Penalties).

EFFECTIVE DATE: October 1, 2017

CREDIT AND DEBIT CARD CRIMES

The act expands the credit card crimes described in Table 1 to cover the same conduct involving debit cards.

Table 1: Credit Card Crimes Expanded by the Act to Cover Debit Cards

<i>Statutory Citation</i>	<i>Conduct</i>	<i>Penalty</i>
53a-128b	Knowingly making a false statement in writing, with the intent that it be relied on, about a person’s identity or financial condition to procure a card	Class A misdemeanor (see Table on Penalties)
53a-128c(a)	Taking a card from someone without the cardholder’s or issuer’s consent, or receiving a card knowing it was taken without consent and with intent to use, sell, or transfer it to another	Class A misdemeanor
53a-128c(b)	Receiving a card knowing it has been lost, mislaid, or delivered by mistake and keeping it with intent to use, sell, or transfer it to someone	Class A misdemeanor

Table 1 (Continued)

<i>Statutory Citation</i>	<i>Conduct</i>	<i>Penalty</i>
53a-128c(c)	Non-issuer selling a card or anyone buying a card from someone other than an issuer	Class A misdemeanor
53a-128c(d)	Obtaining control over a card as security for a debt, with intent to defraud	Class A misdemeanor
53a-128c(e)	Receiving cards issued in the names of at least two people that the person has reason to know were taken or kept under circumstances that amount to card theft or certain other card crimes	Class D felony
53a-128c(f)	Falsely making or embossing a card with intent to defraud	Class D felony
53a-128c(g)	Someone other than a cardholder or authorized person signing a card with intent to defraud	Class A misdemeanor
53a-128d	With intent to defraud: using a card obtained or retained through false statements to obtain money, goods, services, or anything of value; obtaining money, goods, services, or anything of value by representing without the cardholder's consent that he or she is the cardholder and the card has not in fact been issued; or using an illegally obtained or retained card or one known to be forged, expired, or revoked, as authority or identification to cash, attempt to cash, negotiate, or transfer a check or other money order that would violate checking laws	If value of money or property illegally obtained within six months is up to \$500: Class A misdemeanor If above value exceeds \$500 within six months: Class D felony
53a-128e(a)	Furnishing money, goods, services, or anything of value when (1) presented with a card obtained by theft or certain other illegal means or which the person knows is forged, expired, or revoked and (2) intending to defraud the issuer, participating party, cardholder, or someone else	If value of money or property illegally obtained within six months is up to \$500: Class A misdemeanor If above value exceeds \$500 within six months: Class D felony
53a-128e(b)	Falsely representing in writing to the card issuer, with intent to defraud, that money, goods, services, or anything of value was furnished upon the appropriate presentation of a card	If, within six months, difference in value of money or property furnished exceeds the value represented by up to \$500: Class A misdemeanor If above value exceeds \$500 within six months: Class D felony
53a-128f	Someone, other than cardholder, possessing or controlling at least two incomplete cards or purported distinctive elements of a card, intending to complete or use them to produce cards without the issuer's consent Possessing or controlling a distinctive element of a card or machinery, plates, or items designed to produce instruments purporting to be cards when the issuer has not consented to it	Class D felony

For all of these crimes, the act also expands who is considered a "cardholder." Under existing law, a cardholder is the person named on the card to whom or for whose benefit the card is issued. The act also includes a person who lawfully acquired the card if the card does not have the person's name on it.

Some of the crimes described above (e.g., CGS § 53a-128d) punish actions knowingly taken with a revoked card. The law presumes knowledge of a card's revocation four days after notice if it is mailed to the cardholder at his or her address on the card or last known address. The act eliminates a requirement that the revocation notice be sent by registered or certified mail, return receipt requested, or by airmail if the addressee is more than 500 miles away. By law, notice is presumed received 10 days after mailing by registered or certified mail if the address is outside the U.S., Puerto Rico, the Virgin Islands, the Canal Zone, or Canada.

DIGITAL WALLETS

The act expands the false statement crime described above (CGS § 53a-128b) to include false statements to procure the loading of a payment card into a digital wallet. By law, this crime is a class A misdemeanor.

The act also makes it a class D felony to falsely load, or cause false loading of, a payment card into a digital wallet, with intent to defraud. The act defines a "digital wallet" as a software application used on a computer or other device, including a mobile device, to store digital forms of payment cards that can be used to obtain money, goods, services, or anything of value.

Under the act, a person falsely loads or causes false loading of a payment card into a digital wallet when he or she stores or causes to be stored on a digital wallet the digital form of a payment card that (1) is falsely made or embossed by the person; (2) is taken, procured, received, or retained by the person under circumstances that amount to certain types of payment card fraud under the act; or (3) he or she knows is falsely made or embossed, forged, expired, or revoked.

PA 17-38—sSB 906

Banking Committee

AN ACT CONCERNING LEAD GENERATORS OF RESIDENTIAL MORTGAGE LOANS

SUMMARY: This act creates a license, administered by the Department of Banking, for a category of mortgage professionals who sell information identifying new customers for residential mortgage loans (i.e., "lead generators").

Starting January 1, 2018, the act prohibits any person from acting as a lead generator without this new license. It gives the banking commissioner investigatory and enforcement authority over licensees, including the authority to discipline those who fail to comply with the act, and prohibits them from engaging in certain conduct.

Among other things, the act also:

1. establishes license requirements and fees,
2. establishes related record keeping and notification requirements for licensees, and
3. requires lead generators to include a disclosure statement in their residential mortgage loan advertisements and lead solicitations.

The act's licensing requirement does not apply to:

1. federally insured banks and credit unions, including their wholly-owned subsidiaries and operating subsidiaries;
2. licensed mortgage lenders, mortgage correspondent lenders, and mortgage brokers, unless the person's license is suspended;
3. consumer reporting agencies; and
4. employees engaged in lead generator activities on behalf of a licensed lead generator or a person exempt from licensure.

The act also makes various technical and conforming changes.

EFFECTIVE DATE: October 1, 2017, except (1) January 1, 2018 for provisions on lead generator prohibited conduct and (2) upon passage for the repeal of the department's obsolete annual reporting requirement.

§§ 1 & 2 — DEFINITIONS

Lead Generator

Under the act, a "lead generator" is someone who receives, or expects, compensation or gain for:

1. selling, assigning, or transferring leads for residential mortgages;
2. generating or augmenting leads for other persons; or
3. referring consumers to other persons for a residential mortgage by online marketing, direct response advertising, telemarketing, or similar marketing service.

The act specifies that a licensed lead generator engaged in these activities is not acting as a mortgage lender, correspondent lender, broker, or loan originator or required to be licensed as one of these mortgage professionals, unless the lead generator:

1. gets compensation or a commission when the residential mortgage loan is granted or the loan application is received or
2. uses financial criteria particular to the consumer or the residential mortgage loan transaction to selectively place a lead or to steer a consumer to a specific person for a residential mortgage loan.

Trigger Lead

The act defines a “trigger lead” as a consumer report obtained under a federal law that governs when an entity can prescreen consumers for credit eligibility, where the report’s issuance is triggered by an inquiry made with a consumer reporting agency in response to a credit application, excluding consumer reports obtained by a small loan lender that holds or services the applicant’s existing debt.

§§ 3, 4, 6, 7, 14 & 15 — LICENSURE

Application Requirements and Fees (§§ 3, 4, 7 & 14)

A person who wants a lead generator license must apply to the banking commissioner using the Nationwide Mortgage Licensing System and Registry (hereafter referred to as “the system”) for licensing mortgage professionals.

The fee to get or renew a license is \$500. All fees are nonrefundable and are not prorated if the license is surrendered, revoked, or suspended before it expires. Applicants must also pay any fees or charges required by the system. Licenses must be renewed annually (see below).

Under the act, the banking commissioner must prescribe the initial and renewal application forms to be filed on the system along with appropriate fees.

Applicants must enter identifying information in the system about themselves, any control persons (e.g., directors), and qualified individuals. This includes (1) personal history and experience and (2) administrative, civil, or criminal findings by any jurisdiction. The act requires applicants to notify the commissioner on the system of any changes to the information included in the most recent application. The applicant must do this within 15 days of having reason to know of the change.

Application Abandonment and Withdrawal (§§ 4 & 15)

The act allows the commissioner to deem an application abandoned if the applicant does not respond to a request for information under law or regulation. The commissioner must notify the applicant on the system that he will take such action if the information is not submitted within 60 days after it is requested. The commissioner cannot refund an application fee paid before the application is abandoned. But the applicant may submit a new application.

Additionally, the act allows an applicant to withdraw an application, which takes effect when the commissioner accepts the withdrawal request on the system. The commissioner may deny an additional license application for up to one year after the effective date of the withdrawal.

Application Approval or Denial (§ 4)

The commissioner must approve a license when the applicant:

1. demonstrates that the character, reputation, integrity and general fitness of the applicant, and that of any control person, command the community’s confidence and warrant a determination that the applicant will operate honestly, fairly, and efficiently;
2. did not make a material misstatement in the application; and
3. meets any other requirements the commissioner sets.

If the commissioner fails to make these findings, he must deny the license and notify the applicant of the reasons for the denial.

License Expiration and Renewal (§§ 4 & 7)

Unless renewed, a lead generator license expires at the close of business on December 31 of the year it was approved. But if a license was approved on or after November 1, it expires on December 31 of the following year. The act requires licensees to apply for renewal between November 1 and December 31 annually.

Additionally, a license also expires if the licensee no longer meets the minimum licensure requirements or fails to pay the \$500 renewal fee. The commissioner may adopt procedures to reinstate such expired licenses consistent with system standards.

If a license expires because of a failure to renew, the commissioner may begin revocation or suspension proceedings or order the license to be suspended or revoked within one year after it expires.

Automatic License Suspension (§ 4)

Under the act, the commissioner may automatically suspend the license of a person whose fee payment is returned or deemed unaccepted by the system. He must notify the licensee of the (1) automatic suspension, pending proceedings for revocation or refusal and (2) opportunity for a hearing on the matter. The commissioner must also require the licensee to (1) take actions he believes will effectuate the purpose of these provisions, or (2) refrain from taking actions that would hinder them.

License Transfer and Surrender (§ 6)

The act prohibits a lead generator license from being transferred or assigned. It requires a licensee who intends to permanently stop acting as a lead generator during the licensure period (e.g., voluntary dissolution or bankruptcy) to file a request to surrender the license on the system within 15 days before the date of cessation. The surrender takes effect once the commissioner accepts the request. The requirement does not apply if the commissioner suspends the license.

Required Information Filing by Licensees (§ 6)

The act requires a licensee to use its legal name, unless the commissioner denies it, in which case the licensee must use another name the commissioner approves.

The act allows a licensee to change its name or address specified in the most recent filing on the system if the licensee files the change on the system at least 30 days in advance and the commissioner does not disapprove of the change in writing or request further information during the 30-day period. Within 15 days of having reason to know of any change in other information in its most recent submission to the system, the licensee must file the change with the system or notify the commissioner in writing if it cannot be filed.

As is the case for certain mortgage professionals under existing law, the act requires a lead generator to file information on the system or, if it cannot be filed, promptly notify the commissioner in writing of the following:

1. a bankruptcy filing or corporate restructuring;
2. a decrease in the licensee's net worth;
3. the filing of a criminal indictment against the licensee;
4. suspension or termination of the licensee's status as an approved seller or servicer by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or Government National Mortgage Association; and
5. the exercise of recourse rights by investors or subsequent assignees of residential 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.

In addition to the above, the licensee must notify the commissioner when it receives notices of any of the following:

1. a felony indictment or conviction of any of its officers, directors, members, partners, or shareholders who hold at least 10% of the licensee's stock;
2. an action by the attorney general of Connecticut, or another state, including the reasons for the action;
3. a bankruptcy filing by any of its officers, directors, members, partners, or shareholders who hold at least 10% of its stock;
4. a material adverse action with respect to any existing line of credit or warehouse credit agreement; or
5. a license denial, suspension, or revocation; a cease and desist order proceeding; or other formal or informal action by a government agency, including the reasons for the proceeding or action.

§ 11 — ADVERTISING

The act requires lead generators to clearly and conspicuously include the following statement in their residential mortgage loan advertisements and lead solicitations by mail, email, or through the licensee's website:

“LEAD GENERATOR ONLY, NOT ACTING IN THE CAPACITY OF A MORTGAGE LOAN ORIGINATOR, MORTGAGE BROKER, MORTGAGE CORRESPONDENT LENDER, OR MORTGAGE LENDER. INFORMATION RECEIVED WILL BE SHARED WITH ONE OR MORE THIRD PARTIES IN CONNECTION WITH YOUR RESIDENTIAL MORTGAGE LOAN INQUIRY.”

§§ 11, 12 & 16 — PROHIBITED CONDUCT

The act prohibits lead generators from:

1. accepting, in connection with a residential mortgage, an advance fee (i.e., direct or indirect compensation from a consumer for a residential mortgage loan prior to closing, such as loan fees, points, and transaction fees);
2. using, selling, leasing, exchanging, transferring, or releasing information received from a consumer in connection with a residential mortgage loan inquiry for purposes other than facilitating the loan transaction;
3. initiating an outbound telephone call using an automatic telephone dialing system or an artificial or prerecorded voice without the recipient's prior express written consent;
4. failing to transmit the lead generator's name and telephone number to any caller identification service in use by a consumer;
5. initiating an outbound telephone call to a consumer's residence between 9:00pm and 8:00am local time in the consumer's location;
6. failing to clearly and conspicuously identify the lead generator and the purpose of the contact in its written and oral communications with a consumer;
7. failing to provide a way for a consumer to opt out of any unsolicited email advertisements;
8. initiating an unsolicited email advertisement to a consumer more than 10 business days after receiving the consumer's opt-out request;
9. using a subject heading or email address in a commercial email that would likely mislead a recipient, acting reasonably under the circumstances, about a material fact about the message's sender, contents, or subject matter;
10. selling, leasing, exchanging, transferring, or releasing the email address or telephone number of a consumer who requested to opt out of solicitations;
11. collecting, buying, leasing, exchanging, transferring, or receiving an individual's Social Security or bank account number;
12. using information from a trigger lead (see definition above) when a lender uses a copy of a consumer credit report to solicit consumers who have opted out of firm offers of credit under the federal Fair Credit Reporting Act;
13. initiating a telephone call to a consumer on a federal or state “do not call” list, unless the consumer provided express written consent;
14. representing to the public, through advertising or other means or by providing information, including through business cards, stationery, brochures, signs, or other promotional items, that the lead generator can or will perform any other activity requiring licensure under the banking laws, unless the lead generator is licensed to perform that activity or is exempt from the licensing requirements;
15. referring applicants to, or receiving a fee from, a person required to be licensed under the banking laws but not licensed when the referral was made or service received;
16. helping an unlicensed person to conduct business that requires a license under the banking laws;
17. directly or indirectly employing a scheme, device, or artifice to defraud or mislead someone;
18. making a false, misleading, or deceptive statement or representation about a residential mortgage loan or engaging in bait and switch advertising; or
19. negligently making a false statement or knowingly or willfully omitting a material fact in connection with information or reports filed with a government agency or the system, or in connection with any investigation conducted by the commissioner or a government agency.

The act makes a violation of any of the above provisions an unfair or deceptive trade practice. This allows the consumer protection commissioner to take various actions, including (1) investigating complaints, (2) issuing cease and desist orders, (3) ordering restitution in cases involving less than \$10,000, (4) entering into consent agreements, (5) asking the attorney general to seek injunctive relief, and (6) accepting voluntary statements of compliance. It also allows individuals to sue. 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 violation of a restraining order.

§ 9 — LICENSEE RECORDS

The act requires a licensee to:

1. maintain adequate records of its lead generator activities at the office named in its license or
2. within five business days of the commissioner's request, make records available at that office or send them to the commissioner by registered or certified mail, return receipt requested, or express delivery carrier with a dated delivery receipt.

If requested, the commissioner may give the licensee more time to comply with the requirement.

The act also requires a licensee to keep the following records for at least two years:

1. copies of solicitation material, regardless of type, including business cards; phone scripts; mailers; emails; and radio, television, and internet advertisements;
2. records of contacts and attempts to contact consumers, including names, dates, methods and nature of contact, and any information the consumer provided or received; and
3. (a) names, addresses, and, if applicable, unique identifiers of any person who received, requested, or contracted for leads or referrals and (b) fees or consideration charged or received for services.

§§ 10 & 13 — COMMISSIONER'S OVERSIGHT

Disciplinary Action Against Licensee (§ 10)

The act allows the banking commissioner to take disciplinary action against a licensee for any reason he could deny a license application. He may also take such actions if the licensee or a control person, qualified individual, trustee, employee, or agent (1) makes a material misstatement in the application, (2) commits fraud or misrepresentation in connection with the licensee's lead generator business, or (3) violates any provision of the banking laws or regulations or any laws or regulations that apply to its business.

By law, disciplinary actions the commissioner may take include: denying, suspending, or revoking a license; issuing a civil penalty of up to \$100,000 per violation; ordering restitution; issuing cease and desist orders; bringing a court action to enforce compliance with the law; and seeking a court order imposing a penalty of up to \$100,000 per violation and restitution.

Commissioner's Authority to Remove an Individual (§ 10)

The act allows the commissioner to order a licensee to remove from office or employment an individual conducting business under the lead generator laws if he finds, after an investigation, that the person (1) violated the act or implementing regulations or (2) failed to meet the licensing requirements.

The commissioner must notify the person of the violation by registered or certified mail, return receipt requested, or express delivery service with a dated delivery receipt. Notice is deemed received (1) seven days after it is mailed or sent or (2) on the date the person received it, whichever is earlier. The notice must state the following:

1. the time, place, and nature of the hearing;
2. the legal authority and jurisdiction under which the hearing is held;
3. the particular sections of statute, regulations, or orders allegedly violated;
4. the matters asserted, in a short and plain manner; and
5. that the person can submit a written request for a hearing on the matters asserted within 14 days of receiving notice.

If the commissioner must take immediate action to protect consumers, the act allows him to suspend a person from office and require the person to take, or refrain from taking, certain actions. He must state the findings for such an action in the notice. The suspension or prohibition takes effect when the person receives the notice and, unless stayed by a court, remains in effect until the commissioner enters a permanent order or dismisses the matter.

The commissioner must hold a hearing if the person requests it, unless the person does not appear. If the person fails to appear or the commissioner finds there are grounds to remove the person after a hearing, he can order a licensee to remove the individual from office and employment in the lead generation business in Connecticut.

Investigations and Examinations (§ 13)

The act authorizes the commissioner to conduct certain investigations and examinations. For his license-related activities, inquiries, and investigations to determine compliance with the act, the commissioner may access accounts, records, information, and evidence including (1) criminal, civil, and administrative history information; (2) personal history and experience information; and (3) other documents, information, or evidence relevant to the inquiry, regardless of its location or who has it.

He may investigate violations or complaints under the act or, for an examination, he may review, investigate, or examine a licensee or person subject to these provisions as often as necessary to carry out the act's purposes. (This includes directing, issuing a subpoena, or ordering such persons to appear and testify under oath or produce documents.)

The act requires licensees and others subject to the act to make or compile reports and other information the commissioner needs for his investigations and examinations. This includes (1) accounting compilations and information lists and (2) data about residential mortgage transactions, in a format the commissioner chooses.

Under the act, the commissioner can control access to the documents and records of the person under investigation or examination. He can take possession of the records or put someone in charge at the place where they are usually kept. While the records are under the commissioner's control, no one can remove them or attempt to do so without his consent or a court order. The licensee or other owner of the records must have access to them as necessary to conduct ordinary business unless the commissioner reasonably believes they have been or are at risk of being altered or destroyed to conceal a violation.

For these investigations and examinations, the act also allows the commissioner to:

1. retain attorneys, accountants, and other professionals and specialists as examiners, auditors, or investigators;
2. enter into agreements or relationships with other government officials or regulatory associations to improve efficiencies and reduce regulatory burden by sharing resources; standardized or uniform methods or procedures; and records, information, and evidence obtained under these provisions;
3. use, hire, contract for, or employ public or private analytical systems, methods, or software;
4. accept and rely on reports by government officials in Connecticut and other jurisdictions; and
5. accept audits from independent certified public accountants for the licensee or other person subject to the lead generator provisions if the audit covers the same general subject matter as the examination and the commissioner can incorporate the audit in his reports.

The commissioner's authority applies regardless of whether a person acts or claims to act (1) under a Connecticut license or registration law or (2) with or without authority.

The act prohibits a licensee or other person under investigation or examination from knowingly withholding, abstracting, removing, mutilating, destroying, or secreting any records or information.

PA 17-124—sHB 7032

Banking Committee

AN ACT REGARDING THE OFFICE OF THE STATE TREASURER'S RECOMMENDED REVISIONS TO THE ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM

SUMMARY: This act allows the state treasurer to contract with another state to provide Connecticut residents with access to the other state's federally qualified Achieving a Better Life Experience (ABLE) account program. By law, the treasurer must establish such a program in Connecticut, but the Connecticut program has not yet been implemented.

The act also allows any eligible owner of a federally qualified ABLE account to be its designated beneficiary. Under prior law, a beneficiary had to be either a resident of Connecticut or a state without an ABLE account program which had contracted with Connecticut to provide ABLE accounts to its residents.

By law, the treasurer must annually report to the Finance and Public Health committees on the Connecticut Achieving a Better Life Experience trust, which among other things, holds payments and deposits intended for ABLE accounts. The act requires that the report, which must be made available to depositors and designated beneficiaries, include any contract with another state to provide ABLE account access to Connecticut residents.

The act also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2017 except for the changes regarding designated beneficiaries and certain minor and technical changes, which take effect upon passage.

BACKGROUND

ABLE and Federal Law

The 2014 federal ABLE Act allows states to establish and maintain qualified ABLE programs to:

1. encourage and help individuals and families save private funds to support individuals with disabilities to maintain health, independence, and quality of life and
2. provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not replace, benefits provided through private insurance, Medicaid, SSI, employment, and other sources (P. L. 113-295).

Generally, under federal law, qualified ABLE programs are exempt from federal taxation, and funds in ABLE accounts may not be considered when determining eligibility for benefits or assistance programs authorized by federal law unless the funds exceed \$100,000.

PA 17-142—sHB 7161

Banking Committee

AN ACT REQUIRING ADMINISTRATORS OF CERTAIN RETIREMENT PLANS TO DISCLOSE CONFLICTS OF INTEREST

SUMMARY: Starting January 1, 2019, this act requires companies that administer certain 403(b) retirement plans (see BACKGROUND) offered by a political subdivision of the state to disclose to each plan participant the (1) fee ratio and return, net of fees, for each investment under the plan and (2) fees paid to any person who, for compensation, provides investment advice to participants directly or through publications or writings. The administrators must make the disclosures upon enrollment and annually thereafter.

Under the act, “retirement plan” means any retirement plan created under section 403(b) of the Internal Revenue Code that is not made available through the state comptroller under state law.

PA 17-236, § 22, deems a company compliant with the above disclosure requirements if the company adheres to the Employee Retirement Income Security Act’s disclosure requirements in effect on July 1, 2017 and any subsequent amendments, provided the amended requirements are substantially similar to those in effect on July 1, 2017.

EFFECTIVE DATE: October 1, 2017

BACKGROUND

403(b) Deferred Compensation Plans

Section 403(b) of the Internal Revenue Code allows certain public school employees to elect to defer a portion of their current earnings and invest those earnings, tax-free, until withdrawn, usually at retirement. The 403(b) plans are similar to plans the code authorizes for private-sector employees (401(k) plans) and noneducational public employees (457 plans).

By law, the comptroller, if asked by a political subdivision of the state, must allow eligible employees of the subdivision to join the state’s 403(b) deferred compensation program for state education employees (CGS § 5-264(c)). Political subdivisions of the state include towns, cities, boroughs, special tax districts, fire districts, water districts, and similar entities.

PA 17-193—sHB 7146

Banking Committee

Judiciary Committee

AN ACT REQUIRING A CRIMINAL CONVICTION FOR CERTAIN OFFENSES BEFORE ASSETS SEIZED IN A LAWFUL ARREST OR LAWFUL SEARCH MAY BE FORFEITED IN A CIVIL PROCEEDING

SUMMARY: This act makes changes to the laws governing civil forfeiture of property seized in connection with criminal offenses.

Under the act, property seized during a lawful search may be subject to forfeiture proceedings only if the search results in an arrest.

The act requires the court to deny the state's petition to forfeit property and return the seized property to its owner unless the criminal proceeding results in a:

1. guilty plea or nolo contendere to any offense charged as a result of the same criminal information;
2. guilty verdict after a trial for the forfeiture-eligible offense which led to the seizure of the property and the property (a) was possessed, controlled, designed, or intended for use in the offense; (b) was or had been used in committing the offense; or (c) constitutes the proceeds of such an offense; or
3. dismissal resulting from completion of a pretrial diversionary program (e.g., the accelerated rehabilitation program).

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2017

PROPERTY SUBJECT TO FORFEITURE PROCEEDINGS

Applicability

The act applies to seized property taken during a (1) lawful arrest or (2) lawful search that resulted in an arrest for a criminal offense, except for certain drug paraphernalia, sale, and possession offenses that the state claims to be a nuisance and wants to dispose of or destroy.

The act also makes conforming changes to several criminal procedures, including those that apply to seized property constituting or derived from proceeds obtained:

1. by a person as a result of certain identity theft offenses;
2. in connection with certain drug and controlled substances (including selling and manufacturing) and money laundering offenses, or property used or associated with such offenses; and
3. in connection with certain sexual exploitation, prostitution, or human trafficking offenses, or property used to commit such offenses.

Lawful Searches Resulting in an Arrest

The act allows the chief state's attorney to petition the court to order forfeiture of property seized as a result of a (1) lawful arrest or (2) lawful search that results in an arrest. It eliminates the chief state's attorney's ability to petition for forfeiture after a lawful search that does not result in an arrest.

For certain offenses, prior law did not indicate whether the forfeiture provision could apply in connection with either a lawful arrest or search. These offenses include identity theft; trafficking in personal information; and fraudulently obtaining or altering a professional license, registration, or certificate. The act limits property subject to forfeiture for these offenses to property seized in connection with a (1) lawful arrest or (2) lawful search resulting in an arrest, thus making the lawful arrest and search provisions for these crimes consistent with those for other crimes.

FORFEITURE PROCEEDINGS

By law, forfeiture proceedings are civil suits in equity in which the court has jurisdiction over property. Any petition to the court to forfeit property associated with a crime must be brought by the chief state's attorney within 90 days of its seizure. The court must identify and notify the owner of the property and any other interested party.

Prior law required the court to hold a hearing on the petition at least two weeks after notifying the owner and interested parties. The act instead requires the hearing to be held within two weeks after the criminal proceeding is nolle, disposed of, or dismissed.

RETURN OF SEIZED PROPERTY

Under the act, seized property may be returned to its owner if the court (1) denies the state's forfeiture petition or (2) finds that the property was not associated with the criminal offense for which the seizure was conducted, with an exception for certain drug-related offenses.

Existing law, unchanged by the act, provides a process by which an owner may petition the court for the return of certain property seized during a criminal arrest or pursuant to a search warrant (see BACKGROUND).

Non-Drug Crimes

By law, the court must order seized property returned to its owner if it finds that the property (1) was not possessed, controlled, designed, or intended for criminal use; (2) is not or was not intended to be used to commit a crime; or (3) does not constitute criminal proceeds. The act specifies that the court must return property under these circumstances regardless of the findings in the related criminal proceeding.

By law, property must also be returned if the court finds it (1) has not been kept to violate, or in violation of, the law or (2) is the property of a person who is not the defendant.

DESTROYING OR DISPOSING OF SEIZED PROPERTY

By law, unchanged by the act, if the state meets its burden of proof, the court must find that the property is a nuisance and order that it be destroyed or disposed of to a charitable or educational institution or government agency or institution. Under the act, the court may not issue such an order unless one of the following is entered: (1) a guilty plea or nolo contendere to the offense or another charge in the same criminal information, (2) a guilty verdict after a trial for the forfeiture-eligible offense, or (3) a dismissal resulting from a completed pretrial diversionary program.

By law, the state may not destroy or dispose of the property if it is subject to a bona fide mortgage, lease, rent, lien, or security deposit and destroying or disposing it would violate the holder's rights.

BACKGROUND

Related Law

CGS § 54-36a provides a process for disposing of property seized in connection with a criminal arrest or seized pursuant to a search warrant. It includes specific provisions for the forfeiture of seized property such as stolen property, currency, fireworks, drugs, or drug paraphernalia. Among other things, the law generally requires law enforcement to inventory the seized property and provides a way for an owner to petition the court for its return.

PA 17-233—sHB 7141

Banking Committee

AN ACT CONCERNING SECURED AND UNSECURED LENDING

SUMMARY: This act makes various changes in the banking laws. Among other things, it:

1. applies prohibitions against certain conduct for mortgage servicers and student loan servicers to other licensees;
2. requires non-depository licensees (e.g., consumer collection agencies) to establish, enforce, and maintain policies and procedures that are reasonably designed to achieve compliance with applicable laws and regulations;
3. allows the banking commissioner to require the use of electronic bonds to participate in the Nationwide Mortgage Licensing System (hereinafter "system");
4. reduces by one hour the pre-licensing education hours required for mortgage loan originators, loan processors, and underwriters, and establishes when the education requirements must be retaken;
5. allows the commissioner to email certain notices to licensees and establishes when such a notice is deemed received; and
6. sets limits for money transmitters regarding virtual currency transactions and timeframes for remitting money.

The act also makes minor, technical, and conforming changes. It updates defined terms throughout the statutes for consistency (§§ 1, 7, 10, 12, 14, 16, 18, 22, 24, 29 & 32).

EFFECTIVE DATE: October 1, 2017, except the provision on the (1) mortgage servicers' required compliance policies and procedures is effective July 1, 2018 (as amended by PA 17-236 § 24) and (2) pre-licensing education requirements for mortgage loan originators, loan processors, and underwriters is effective January 1, 2019.

§ 2 — SYSTEM-BASED LICENSURE AND ELECTRONIC BONDS

The law allows the commissioner to (1) require persons in the financial services industry to be licensed through the system and (2) establish, by order, the necessary requirements to participate in the system (e.g., fee payments through the system and background checks). Under the act, the commissioner may also require the use of electronic bonds to participate in the system.

§§ 3-6 — COMMISSIONER'S EMAIL NOTIFICATION

Prior law generally required the commissioner to send certain notices by registered or certified mail, return receipt requested, or by an express delivery carrier that provides a dated delivery receipt. The act makes an exception by allowing the commissioner to provide notices to licensees by personal delivery. By law, "personal delivery" means delivery directly to the intended recipient or the recipient's designated representative, and includes email to an email address identified by the recipient as an acceptable means of communication.

Under the act, the commissioner may notify licensees by email of any:

1. violation of Connecticut banking laws or related regulations, rules, or orders found as a result of an investigation (§ 3);
2. license suspension, revocation, or nonrenewal (§ 4); or
3. violation he suspects has occurred, is occurring, or is about to occur (§ 5).

Email Notice Deemed Received (§ 6)

The act deems notice sent by email as received by the licensee on the date the individual to whom it was sent actually receives it, or seven days after the notice was sent, whichever is earlier.

Legal Entity. For a licensee that is not a natural person, the email address of the individual designated as primary contact by the licensee in the system's contact employee field constitutes an acceptable means of communication for personal delivery, and a notice sent by email to the primary contact at the designated email address constitutes notice under the act.

Natural Person. For a licensee who is a natural person, the email address identified by the licensee on the system constitutes an acceptable means of communication for personal delivery, and a notice sent by email to the designated email address constitutes notice under the act.

§ 8 — EDUCATION FOR MORTGAGE LOAN ORIGINATORS, LOAN PROCESSORS, AND UNDERWRITERS

Continuing Education

By law, an individual applying to be relicensed as a mortgage loan originator or loan processor or underwriter must meet a continuing education requirement. Under the act, an individual required to retake pre-licensing education, as outlined below, is not required to complete any outstanding continuing education requirements.

Pre-licensing Education

The act reduces, from 21 to 20, the minimum pre-licensing education hours that mortgage loan originators, loan processors, and underwriters must complete. By law, this includes at least one hour of education on relevant Connecticut law, approved and reviewed by the system.

20-Hour Pre-licensing Education Retake

The act outlines circumstances when the 20-hour pre-licensing education requirement must be retaken before an individual may be licensed as a mortgage loan originator, loan processor, or underwriter.

Specifically, the 20-hour pre-licensing education requirement must be retaken if the person:

1. does not obtain a mortgage loan originator license in any state or an active federal registration within three years after first completing the 20-hour pre-licensing education or
2. previously held but no longer holds an approved mortgage loan originator license in any state or an active federal registration, and does not obtain a mortgage loan originator license in any state or an active federal registration within three years after the date he or she last held such license or registration.

One-Hour Connecticut-Specific Pre-licensing Education Retake

The act also outlines circumstances when the one-hour Connecticut-specific pre-licensing education must be retaken before an individual may be licensed as a mortgage loan originator, loan processor, or underwriter.

Specifically, it must be retaken if the person:

1. does not obtain a license in Connecticut within three years after first completing the one-hour Connecticut-specific pre-licensing education; or
2. previously held an approved license in Connecticut and does not obtain a new license within three years after the date he or she last held such license.

§§ 11, 15, 17, 21, 23, 25, 31 & 33 — LICENSEES' PROHIBITED ACTS

Generally Prohibited Conduct

The act applies prohibitions against certain conduct for mortgage servicers and student loan servicers to other licensees. Under the act, sales finance companies, check cashers, money transmitters, debt adjusters, debt negotiators, and their control persons (e.g., directors) are prohibited from directly or indirectly:

1. employing any scheme, device, or artifice to defraud or mislead in connection with their regulated activities;
2. engaging in any unfair or deceptive practice in connection with their regulated activities;
3. obtaining property by fraud or misrepresentation;
4. failing to comply with any state or federal laws, rules, or regulations; or
5. negligently making any false statement or knowingly and willfully making any omission of material fact in connection with any (a) information or reports filed with a government agency or the system or (b) investigation conducted by the commissioner or another government agency.

The act generally prohibits non-depository licensees and their control persons from failing to comply with any demand or requirement made by the commissioner within his authority.

It also expressly prohibits sales finance companies, small loan licensees, check cashers, money transmitters, debt adjusters, debt negotiators, consumer collection agencies, and student loan servicers or their control persons from failing to establish, enforce, and maintain policies and procedures for supervising employees, agents, and office operations that are reasonably designed to achieve compliance with applicable laws and regulations.

Sales Finance Companies (§ 11)

The act additionally prohibits sales finance companies and their control persons from:

1. soliciting, advertising, or offering rates or other financing terms for a retail installment contract or a retail installment loan unless those rates or terms are actually available;
2. making any false or deceptive statement or representation, including about rates or other financing terms or conditions, or engaging in bait and switch advertising;
3. making any payment, threat, or promise to influence the independent judgment of anyone in connection with the business of a sales finance company; or
4. failing to truthfully account for money that belongs to a party to a retail installment contract or retail installment loan.

Check Cashers (§ 17)

In addition to the generally prohibited conduct listed above, the act also prohibits check cashers or their control persons from:

1. making any false or deceptive statement or representation in connection with a check cashing transaction or engaging in bait and switch advertising;

2. failing to truthfully account for moneys belonging to a party to a check cashing transaction; or
3. collecting, charging, attempting to collect or charge, or using or proposing any agreement purporting to collect or charge any fee prohibited by the check casher laws.

Money Transmitters (§ 21)

In addition to the generally prohibited conduct listed above, the act also prohibits money transmitters and their control persons from:

1. making any false or deceptive statement or representation in connection with a money transmission or engaging in bait and switch advertising;
2. failing to truthfully account for money belonging to a party to a money transmission transaction; or
3. failing to perform any written agreement with a party to a money transmission transaction.

Debt Adjusters and Debt Negotiators (§§ 23 & 25)

In addition to the generally prohibited conduct above, the act also prohibits debt adjusters and debt negotiators and their control persons from directly or indirectly failing to truthfully account for money that belongs to a debtor.

Debt Adjusters. The act prohibits debt adjusters from collecting any fee or charge or receiving money or a payment not specified in the written agreement with the debtor. It also specifies that existing prohibited acts that apply to debt adjusters apply to their control persons.

Debt Negotiators. The act also prohibits debt negotiators and their control persons from (1) failing to truthfully account for money that belongs to a debtor or mortgagor and (2) making any false or deceptive statement or representation in connection with debt negotiation or engaging in bait and switch advertising.

§ 9 — MORTGAGE LENDERS, CORRESPONDENT LENDERS, BROKERS, AND LOAN ORIGINATORS

Policies and Procedures Designed to Achieve Compliance

Under the act, any person, other than an individual, who is required to be licensed and is subject to the mortgage lender, correspondent lender, broker, and loan originator laws, and any qualifying individual or branch manager must establish, enforce, and maintain policies and procedures reasonably designed to achieve compliance with the statutory list of prohibited actions for mortgage lenders, correspondent lenders, brokers, and loan originators and loan processors and underwriters.

The act requires individuals to enforce such policies and procedures if they (1) are required to be licensed as mortgage loan originators; (2) are subject to the mortgage lender, correspondent lender, broker, and loan originator laws; and (3) supervise loan processors or loan underwriters.

Violation

Under the act, failure to establish, enforce, and maintain the required policies and procedures is a violation if such failure resulted in conduct that violated (1) any federal or state mortgage lender-, correspondent lender-, broker-, or loan originator-related laws or (2) the prohibited conduct for lead generators established by PA 17-38 (see BACKGROUND).

§§ 13 & 15 — SMALL LOAN LICENSEES

By law, small loan licensees engage in loan-related activities that involve making, offering, soliciting, brokering, arranging, placing, finding, assisting with, receiving payments for, purchasing, advertising, or accepting, leads, referrals, or applications of small loans.

Annual Percentage Rate (APR) (§ 13)

Under the law, loans between \$5,000 and \$15,000 issued by small loan licensees must not contain an APR that exceeds 25%. The act removes an erroneous reference to the federal Military Lending Act.

Control Persons (§ 15)

The act also specifies that the existing list of prohibited conduct that applies to small loan licensees also applies to their control persons.

§§ 19-21 — MONEY TRANSMISSION AND VIRTUAL CURRENCY

Money Transmitter License Application (§ 19)

The act eliminates prior law's requirement that a money transmitter's initial and renewal license application include the applicant's history of material litigation for the five-year period prior to the application date. Under prior law, "material litigation" meant any litigation that, according to generally accepted accounting principles, was deemed significant to a person's financial health and that the applicant was required to refer to in an annual audited financial statement, a report to shareholders, or a similar document.

Virtual Currency (§ 20)

Existing law requires a money transmitter to generally maintain permissible investments (e.g., cash) at least equal to the aggregate amount of its outstanding money transmissions in Connecticut. The act creates a different requirement for transmissions involving virtual currency (e.g., bitcoins).

The act requires licensed money transmitters engaged in receiving, transmitting, storing, or maintaining custody or control of virtual currency in Connecticut on behalf of someone else to hold at all times the same type and amount of virtual currency owed or obligated to that person.

Timeframe for Remitting Money (§ 21)

The act also requires a money transmitter to remit any money or monetary value to the person designated by the purchaser within seven calendar days after receiving it, unless otherwise directed by the purchaser.

§§ 26-28 — MORTGAGE SERVICERS

Service Costs and Fees (§ 26)

Under prior law, a mortgage servicer was required to file with the commissioner, at least annually, a current schedule of the ranges of costs and fees it charged mortgagors for its servicing-related activities. The act instead requires a mortgage servicer to file this schedule as part of its application and at any time the information changes.

Loss Mitigation Activities (§§ 26 & 27)

Prior law required mortgage servicers to file with the commissioner an annual report detailing their activities in the state, which had to include, among other things, information on loss mitigation activities, including details on workout arrangements undertaken. The act eliminates the requirement that mortgage servicers include the details on workout arrangements in the annual report.

The act also requires mortgage servicers to retain adequate records of their loss mitigation activities at their offices and, if requested by the commissioner, make the details on workout arrangements available at the office or send them to the commissioner within five business days after the request.

Policies and Procedures Designed to Achieve Compliance (§ 28)

The act requires mortgage servicers to establish, enforce, and maintain policies and procedures reasonably designed to achieve compliance with the list of prohibited acts for mortgage servicers. It requires mortgage servicers' qualifying individuals and branch managers to enforce such policies and procedures.

Under the act, a mortgage servicer's, qualifying individual's, or branch manager's failure to establish, enforce, or maintain such policies and procedures is a violation if the failure resulted in conduct that violated any federal or state mortgage servicer-related laws.

§§ 30 & 31 — CONSUMER COLLECTION AGENCIES

By law, a person that acts as a consumer collection agency in Connecticut must first obtain a license for its main office and each branch office where it conducts business. The act specifies that this applies whether the person acts as a consumer collection agency in Connecticut directly or indirectly.

The act also specifies that any conduct prohibited by law for consumer collection agencies also applies to their control persons.

§ 34 — CHECK CASHER LICENSE

The act prohibits the commissioner from issuing a check casher license if the applicant's name is likely to cause a consumer to reasonably believe that the applicant is endorsed by or affiliated with the state.

BACKGROUND

Related Act

PA 17-38 creates a new license category under the Department of Banking for “lead generators” (i.e., mortgage professionals who sell information identifying new customers for residential mortgage loans). Starting January 1, 2018, the act prohibits anyone from acting as a lead generator unless they obtain this license. PA 17-38 also establishes licensure requirements and a list of prohibited conduct for lead generator licensees, among other things.

PA 17-236—sHB 7019

Banking Committee

AN ACT CONCERNING THE DEPARTMENT OF BANKING'S ENFORCEMENT AUTHORITY, THE ISSUANCE OF CERTAIN REPORTS, REQUIRING THE RETURN OF CERTAIN PORTIONS OF SECURITY DEPOSITS AND MAKING MINOR REVISIONS TO THE BANKING STATUTES

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Authorizes the banking commissioner to impose a fine of up to \$100,000 per violation on any person who engages in dishonest or unethical practices

§ 17 — TENANTS' SECURITY DEPOSIT

Requires landlords, at the tenant's request, to return the portion of any security deposit that exceeds one month's rent if the tenant turned age 62 after paying the deposit

§ 18 — EXCESSIVE BLIGHT FINES AND NUISANCE ABATEMENT TASK FORCE

Establishes an eight-member task force to study methods to prevent the issuance of mortgages to people with excessive blight fines or who have violated nuisance abatement laws

§ 19 — STUDENT LOAN OMBUDSMAN

Requires the banking commissioner to report to the Banking Committee, by January 1, 2018, on a plan to implement the department's student loan ombudsman

§ 20 — LEAD ABATEMENT STUDY

Requires the Banking and Housing departments, within available appropriations, to study the development of a lead abatement interest rate reduction program

§ 21 — STATE-LICENSED ENTITY OR STATE AGENCY DEPOSITS

Allows Connecticut banks and Connecticut credit unions to accept deposits from state-licensed entities and state agencies

§ 22 — RETIREMENT PLAN DISCLOSURES

Amends PA 17-142 by adding a provision concerning compliance with certain required retirement plan disclosures

§ 23 — TASK FORCE MEMBERS' MILEAGE REIMBURSEMENT

Prohibits task force members from receiving a mileage reimbursement or transportation allowance for traveling to or from task force meetings

§ 24 — MORTGAGE PROFESSIONALS

Delays, until July 1, 2018, the effective date of a provision in PA 17-233 that requires certain mortgage professionals to establish, enforce, and maintain policies and procedures reasonably designed to achieve compliance with statutorily prohibited acts

§ 1 — COMMISSIONER'S ORDERS

Allows the banking commissioner to enforce orders he issues

The act codifies existing practice by specifying that the banking commissioner may enforce, in addition to the state banking laws and regulations, any orders he issues to mortgage lenders, correspondent lenders, and brokers.

EFFECTIVE DATE: October 1, 2017

§§ 2-4 — CONNECTICUT CREDIT UNIONS AND CONNECTICUT BANKS

Increases, from 20 to 25 years, the maximum maturity period Connecticut credit unions can establish for second mortgages and mobile home loans, updates the approval process for changes to their bylaws, and expands the types of documents Connecticut banks must file with the commissioner

Connecticut Credit Unions

The act increases, from 20 years to 25 years, the maximum maturity period state credit unions may establish for second mortgages and mobile home loans.

It eliminates the requirement that the commissioner provide the form on which Connecticut credit unions file proposed amendments to their bylaws. By law, unchanged by the act, Connecticut credit unions must file a copy of any proposed amendment with the commissioner within 10 days after its adoption.

The act also updates the process for approving changes to a credit union's bylaws by eliminating the requirement that the commissioner endorse his approval of the amended bylaws and return a copy to the credit union. (This change reflects current agency practice.)

Connecticut Banks

The act expands the types of documents a Connecticut bank must file with the commissioner as part of its annual audit. Existing law requires the bank's governing board to annually obtain an audit or examination by a certified or authorized public accountant. The accountant must submit a signed report to the board, which must submit a copy to the commissioner within a specified timeframe. Under the act, the governing board must submit, along with a copy of the report, any written communication:

1. on matters that the accountants must communicate to the bank's audit committee and
2. from the accountants to the governing board noting significant deficiencies and material weaknesses in the bank's internal controls.

EFFECTIVE DATE: Upon passage

§§ 5-11 — MINOR, TECHNICAL, AND CONFORMING CHANGES

Makes minor, technical, and conforming changes

The act makes minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage

§ 12 — RETAIL INSTALLMENT AND INSTALLMENT LOAN CONTRACTS

Expands the definition of "sales finance company" to include persons who transfer interest in retail installment or installment loan contracts but continue servicing such contracts or loans

Under existing law, a "sales finance company" is any person engaged in acquiring retail installment and installment loan contracts (see BACKGROUND). The act expands this definition to include companies that subsequently assign, convey, or transfer their interests in the contracts or loans but continue to service them. By doing so, the act subjects these contract or loan servicers to all the sales finance company licensure requirements, such as the application process, criminal history record checks, liability for investigation and examination costs, and a biennial license fee of \$800. It also subjects these servicers who violate these requirements to fines of up to \$500, imprisonment for up to six months, or both.

EFFECTIVE DATE: October 1, 2017

§ 13 — MONEY TRANSMISSION LICENSEES

Requires each money transmission licensee to establish an anti-money-laundering program that contains specific features

The act requires each money transmission licensee to establish an anti-money-laundering program that includes:

1. internal policies, procedures, and controls;
2. a designated compliance officer;
3. an ongoing employee training program; and
4. an independent audit function to test the program's effectiveness.

By law, money transmission licensees must comply with the federal Currency and Foreign Transaction Reporting Act, which requires reporting to combat money laundering and other criminal activities.

EFFECTIVE DATE: October 1, 2017

§§ 14 & 15 — CONSUMER COLLECTION AGENCIES

Requires consumer collection agencies to have a minimum tangible net worth of \$50,000 before licensure and prohibits them from retaining unlicensed consumer collection agencies

Existing law requires an applicant for a consumer collection agency license to submit a financial statement prepared by a public accountant. The act requires that the financial statement show that the applicant's tangible net worth is at least \$50,000.

It also prohibits consumer collection agencies from retaining, hiring, or engaging the services of an unlicensed consumer collection agency. Existing law prohibits creditors from doing so if they have actual knowledge that the consumer collection agency is unlicensed.

EFFECTIVE DATE: October 1, 2017

§ 16 — FINES FOR DISHONEST AND UNETHICAL PRACTICES UNDER THE UNIFORM SECURITIES ACT

Authorizes the banking commissioner to impose a fine of up to \$100,000 per violation on any person who engages in dishonest or unethical practices

The act authorizes the banking commissioner to impose a fine of up to \$100,000 per act on any person who has engaged in dishonest or unethical practices under state banking regulations. Existing law allows the commissioner to impose this fine for each violation of the Connecticut Uniform Securities Act (CUSA).

Under the act, when the commissioner finds that someone has engaged in a dishonest or unethical practice, he must follow existing law's procedures that apply to CUSA violations.

Notice Requirement

Following an investigation, the commissioner may notify (1) the individual who engaged in the dishonest or unethical practice, (2) the individual's control person, or (3) any other person that materially helped in the practice. The notice must be sent by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt. It is deemed received by the person on the date of actual receipt or seven days after the date it was mailed or sent, whichever is earlier.

The notice must include the following:

1. a reference to the title, chapter, regulation, rule, or order allegedly violated or the legal authority for the dishonest or unethical practice allegation;
2. a short and plain statement of the matter asserted or charged;
3. the maximum fine that may be imposed for the violation or unethical practice;
4. a statement indicating that the person may request, in writing, a hearing on the matters asserted within 14 days after receiving the notice; and
5. the time and place for the hearing.

Hearing, Order, and Fine

If the person requests a hearing within the time specified in the notice, the commissioner must hold a hearing unless the person fails to appear. The commissioner may, in his discretion, order a fine of up to \$100,000 per violation or dishonest or unethical act, in addition to any other available remedy, if he finds that the person (1) violated CUSA, or any related regulation, rule, or order; (2) engaged in a dishonest or an unethical practice; or (3) caused or materially assisted in the violation or practice. He may impose the same fine if the person fails to appear at the hearing.

The commissioner must send a copy of the order to any person named in the order by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt.

Dishonest and Unethical Practices

Under Connecticut banking regulations, dishonest or unethical practices include acts such as a broker-dealer:

1. executing a transaction on behalf of a customer without authority to do so;
 2. extending credit to a customer in violation of the Securities Exchange Act or Federal Reserve Board regulations;
- or

3. entering a transaction for its own account with a customer in a security at a price not reasonably related to the current market price of the security, or charging an unreasonable commission (Conn. Agencies Regs. §§ 36b-31-15a & 36b-31-15d).

EFFECTIVE DATE: Upon passage

§ 17 — TENANTS' SECURITY DEPOSIT

Requires landlords, at the tenant's request, to return the portion of any security deposit that exceeds one month's rent if the tenant turned age 62 after paying the deposit

The act requires landlords, at a tenant's request, to return the portion of any security deposit that exceeds one month's rent if the tenant turned age 62 after paying the deposit. Existing law prohibits a landlord from demanding a security deposit of more than one month's rent from a tenant age 62 or older.

EFFECTIVE DATE: October 1, 2017

§ 18 — EXCESSIVE BLIGHT FINES AND NUISANCE ABATEMENT TASK FORCE

Establishes an eight-member task force to study methods to prevent the issuance of mortgages to people with excessive blight fines or who have violated nuisance abatement laws

The act establishes an eight-member task force to study methods to prevent the issuance of mortgages to people fined for excessive blight or who have violated nuisance abatement laws.

The task force members are appointed as follows: (1) two each by the Senate president pro tempore and the House speaker and (2) one each by the Senate Republican president pro tempore, the Senate and House majority leaders, and the House minority leader. The members may be legislators.

All appointments to the task force must be made by August 10, 2017. The appointing authorities must fill any vacancies.

The House speaker and the Senate president pro tempore must select the task force chairpersons, who must schedule and hold the first meeting by September 9, 2017. Banking Committee staff must serve as the task force administrative staff.

The task force must report its findings and recommendations to the Banking Committee by July 1, 2018. It terminates on the date that it submits the report or July 1, 2018, whichever is later.

EFFECTIVE DATE: Upon passage

§ 19 — STUDENT LOAN OMBUDSMAN

Requires the banking commissioner to report to the Banking Committee, by January 1, 2018, on a plan to implement the department's student loan ombudsman

The act requires the banking commissioner to report to the Banking Committee, by January 1, 2018, on a plan to implement the department's student loan ombudsman position by July 1, 2018. By law, the commissioner must, within available appropriations, designate a student loan ombudsman within the Department of Banking to provide timely assistance to student loan borrowers.

EFFECTIVE DATE: Upon passage

§ 20 — LEAD ABATEMENT STUDY

Requires the Banking and Housing departments, within available appropriations, to study the development of a lead abatement interest rate reduction program

The act requires the Banking and Housing departments to study the development of a lead abatement interest rate reduction program to provide interest rate subsidies to owners who experience difficulty obtaining financing to abate lead because of the (1) high cost of such abatement, (2) failure to meet underwriting criteria, (3) decreased market value of an affected home, or (4) personal financial circumstances. The departments must conduct the study in consultation with the banking community and within available appropriations.

The Banking and Housing commissioners, by January 1, 2018, must report their findings to the Banking, Housing, and Planning and Development committees, including their recommendations for establishing, implementing, and administering such program.

EFFECTIVE DATE: Upon passage

§ 21 — STATE-LICENSED ENTITY OR STATE AGENCY DEPOSITS

Allows Connecticut banks and Connecticut credit unions to accept deposits from state-licensed entities and state agencies

The act expressly allows Connecticut banks and Connecticut credit unions to accept and store funds deposited by any state-licensed entity.

EFFECTIVE DATE: October 1, 2017

§ 22 — RETIREMENT PLAN DISCLOSURES

Amends PA 17-142 by adding a provision concerning compliance with certain required retirement plan disclosures

Starting January 1, 2019, PA 17-142 requires companies that administer certain 403(b) retirement plans (see BACKGROUND) offered by a political subdivision of the state to disclose the (1) fee ratio and return, net of fees, for each investment under the plan and (2) fees paid to any person who provides investment advice to plan participants directly or through publications or writings. The administrators must make the disclosures to each plan participant on enrollment and annually thereafter.

This act amends PA 17-142 by deeming a company compliant with the act's disclosure requirements if it adheres to the Employee Retirement Income Security Act's disclosure requirements in effect on July 1, 2017 and any subsequent amendments, provided the amended requirements are substantially similar to those in effect on July 1, 2017.

EFFECTIVE DATE: October 1, 2017

§ 23 — TASK FORCE MEMBERS' MILEAGE REIMBURSEMENT

Prohibits task force members from receiving a mileage reimbursement or transportation allowance for traveling to or from task force meetings

The act prohibits task force members, including those who are legislators, from receiving mileage reimbursement or a transportation allowance for traveling to or from task force meetings.

EFFECTIVE DATE: Upon passage

§ 24 — MORTGAGE PROFESSIONALS

Delays, until July 1, 2018, the effective date of a provision in PA 17-233 that requires certain mortgage professionals to establish, enforce, and maintain policies and procedures reasonably designed to achieve compliance with statutorily prohibited acts

The act delays from October 1, 2017 until July 1, 2018, the effective date of a provision in PA 17-233 that requires mortgage lenders, correspondent lenders, brokers, loan originators, and loan processors and underwriters to establish, enforce, and maintain policies and procedures reasonably designed to achieve compliance with the statutory list of prohibited acts for such licensees.

EFFECTIVE DATE: Upon passage

BACKGROUND

Retail Installment Contract

By law, a "retail installment contract" is any security agreement, made in Connecticut, including a mortgage, conditional sale contract, or other instrument evidencing an agreement to pay the retail purchase price of goods in installments over a period of time. It does not include a rent-to-own agreement (CGS § 36a-770).

Installment Loan Contract

An “installment loan contract” is any agreement made in Connecticut to repay in installments the amount loaned or advanced to a retail buyer to pay the retail purchase price of goods and by virtue of which a security interest is taken in the goods for the payment of the amount loaned or advanced. It does not include agreements to repay in installments loans made by the federal government (CGS § 36a-770).

403(b) Deferred Compensation Plans

Section 403(b) of the Internal Revenue Code allows certain public school employees to elect to defer a portion of their current earnings and invest those earnings, tax-free, until withdrawn, usually at retirement. The 403(b) plans are similar to plans the code authorizes for private-sector employees (401(k) plans) and non-educational public employees (457 plans).

By law, the comptroller, if asked by a political subdivision of the state, must allow eligible employees of the subdivision to join the state’s 403(b) deferred compensation program for state education employees (CGS § 5-264(c)). Political subdivisions of the state include towns, cities, boroughs, special tax districts, fire districts, water districts, and similar entities.

Related Act

PA 17-142 contains similar disclosure requirements for administrators of certain 403(b) retirement plans offered by political subdivisions of the state.

PA 17-19—SB 766
Committee on Children

AN ACT EXTENDING CERTAIN DEPARTMENT OF AGRICULTURE AND DEPARTMENT OF CHILDREN AND FAMILIES REPORTING DEADLINES

SUMMARY: Starting in 2018, this act delays, from January 1 to February 15, the annual deadline by which the children and families (DCF) and agriculture commissioners must report to the Committee on Children on the number of written reports of animal neglect or cruelty they receive from DCF employees and animal control officers, respectively.
EFFECTIVE DATE: July 1, 2017

PA 17-81—sSB 893
Committee on Children

AN ACT CONCERNING REVISIONS TO CERTAIN STATUTES REGARDING THE DEPARTMENT OF CHILDREN AND FAMILIES

SUMMARY: This act makes various changes in the laws governing the Department of Children and Families (DCF).

By law, DCF may, under certain circumstances, provide subsidies to (1) parents who adopt children with special needs and (2) relative caregivers who act as foster parents. The act:

1. eliminates the Subsidy Review Board and instead allows subsidy recipients aggrieved by a department decision related to a subsidy the opportunity for an administrative hearing in accordance with the Uniform Administrative Procedure Act (UAPA);
2. subjects all guardianship subsidies to the commissioner’s annual review;
3. permits, rather than requires, DCF to provide subsidies for youths ages 18 through 20 who fulfill certain requirements; and
4. allows DCF to require subsidy recipients to submit additional documentation to DCF for its review.

The act expands the list of entities to whom DCF, under certain circumstances, must or may disclose its records without the subject’s consent. It allows the department to charge a reasonable fee to disclose any record more than 100 pages long, but DCF must waive the fee if the requester is indigent.

The act also requires DCF to notify the appropriate credentialing agency of the results of an investigation of child abuse or neglect by a school employee or child care facility staff member.

Additionally, it (1) requires the commissioner to adopt regulations related to child care facilities DCF licenses and (2) makes several technical and conforming changes.

EFFECTIVE DATE: July 1, 2017

§§ 2-5 — ADOPTION AND GUARDIANSHIP SUBSIDIES

By law, DCF provides subsidies through its subsidized guardianship program to relative caregivers when a child has been in foster care for at least six consecutive months and neither parental reunification nor adoption is an appropriate permanency goal. Under certain circumstances, the department also provides a one-time subsidy or periodic subsidies, or both, to parents who adopt a child with special needs.

Subsidy Review Board

The act eliminates the Subsidy Review Board that heard appeals of DCF decisions regarding adoption or guardianship subsidies. Prior law (1) allowed licensed child placing agencies and adoptive parents to appeal to the board any subsidy decision the commissioner made and (2) required DCF to provide a board hearing to subsidy recipients aggrieved by a department decision. The act instead requires DCF to provide such an aggrieved recipient a hearing before the department that is conducted in accordance with the UAPA.

Guardianship Subsidy Duration

Under prior law, DCF had to provide subsidies through its subsidized guardianship program to certain foster caretakers (1) until the child turned age 18 or (2) through the child’s 21st birthday if he or she met certain educational or

training or federal requirements. Prior law also provided similar criteria under which successor guardians of foster children could continue to receive such subsidies up until the child turned age 21, subject to the commissioner's annual review.

The act subjects all guardianship subsidies to the commissioner's annual review. It eliminates the (1) requirement that DCF continue the subsidies for 18-, 19-, and 20-year-olds who fulfill certain education or training requirements and (2) separate subsidy criteria for children age 16 or older who are in the care of successor guardians.

Under the act, the commissioner may provide guardianship subsidies for 18-, 19-, and 20-year-olds if they are:

1. enrolled in a full-time approved secondary education program or an approved program leading to an equivalent credential,
2. enrolled full-time in a postsecondary or vocational education institution, or
3. participating full-time in a program or activity the commissioner approved that is designed to promote or remove employment barriers.

The act permits the commissioner to waive the enrollment or participation requirements based on compelling circumstances. Under prior law, she could only waive the criteria for the successor guardian subsidies.

Subsidy Review Requirements

By law, adoption subsidies for 18-, 19-, and 20-year-olds are subject to annual DCF review and adoption subsidies for children age 17 or younger are subject to biennial review. The act permits DCF, as part of the subsidy review process, to require that adoptive parents submit any additional documentation DCF deems necessary to complete these reviews.

By law, a subsidized guardian must annually submit a sworn statement to the commissioner that the child is still living with and receiving support from the guardian. The act permits DCF to require the guardian to submit any additional documentation the department deems necessary to verify this information.

§ 1 — RECORD DISCLOSURE

Required Disclosures

By law, under certain circumstances, DCF must disclose its records to certain entities without the subject's consent. The act requires DCF to make such disclosures to an attorney representing a parent, guardian, or child in a child abuse or neglect or termination of parental rights proceeding. But if the records do not pertain to the attorney's client or the client's child, the act prohibits the attorney from further disclosing the records without a court order.

The act specifies that if the records are confidential under federal law, they may not be disclosed to the attorney or client unless he or she is otherwise entitled to them. Additionally, the act specifies that its provisions do not limit the disclosures DCF must make under existing law to an attorney or guardian ad litem who represents a child or youth in litigation affecting the child's or youth's best interest.

The act requires DCF to disclose records without the subject's consent to the Department of Public Health (DPH) when notifying that department that the DCF commissioner has placed a DPH-licensed or -certified individual on the child abuse or neglect registry.

It similarly requires DCF to disclose records without the subject's consent to state agencies that license or certify individuals providing services to children or youths. Under existing law, the department must do this for agencies that license or certify individuals who educate or care for children or youths.

Permitted Disclosures

The law permits DCF to disclose records without the subject's consent to certain entities and under certain circumstances. Existing law permits DCF to make such disclosures to individuals or agencies that contract with DCF to identify and assess a potential foster or adoptive home for a child or youth, except that information about the child's or youth's parent may not be disclosed without the parent's permission. The act additionally allows DCF to make such disclosures, with the same limitation on parent-related information, to DCF-contracted entities to identify and assess a visiting resource for a child or youth.

The act also broadens the circumstances under which DCF may disclose records without the subject's consent to an individual or organization that provides medical, psychological, or psychiatric diagnosis and treatment. Under prior law, DCF could do so if the entity was treating an individual who the department had determined had perpetrated abuse or neglect or was unwilling or unable to protect a child from abuse or neglect. The act instead permits DCF to make the disclosures to such entities that are treating a "person." In this context, a person includes an individual named in the

record, his or her authorized representative if he or she is deceased, or the subject's parent or guardian if the subject is still a minor. As under prior law, the department may make such a disclosure only if it determines that doing so is necessary to accomplish the diagnosis or treatment objectives.

The act also permits DCF to disclose records without the subject's consent to locate an individual's missing sibling, aunt, uncle, first cousin, or grandparent. Under existing law (1) DCF may make these disclosures to locate an individual's missing parent or child and (2) the disclosures must be limited to information helping to locate the missing person.

§§ 6 & 7 — CHILD ABUSE AND NEGLECT INVESTIGATIONS

The law requires DCF to take certain steps related to investigations of alleged child abuse or neglect by a public school employee or a staff member of a private school or private child care facility or institution. The act requires DCF to share its investigation results with the appropriate credentialing agency if the employee or staff member investigated by DCF has a state-issued license or certificate or State Board of Education-issued permit or authorization or his or her employing school, institution, or facility has a state-issued license or approval.

The act also requires DCF to provide records of the investigation to the agency responsible for credentialing the (1) public school employee who was investigated and school where he or she works and (2) private school or child care facility staff member who was investigated and institution, school, or facility where the staff member works.

Existing law, unchanged by the act, requires DCF to notify, within certain timeframes, (1) the education commissioner and employing superintendent of the results of an investigation of alleged abuse or neglect by a public school employee and (2) private schools and public and private childcare facilities of the results of an investigation of alleged abuse or neglect by employees or staff members they employ.

§§ 8 & 9 — REGULATIONS

The act requires DCF to adopt child care facility licensing regulations that include minimum standards for (1) the facilities' physical requirements, (2) care and treatment of children cared for or boarded in the facilities, and (3) staffing. (These facilities do not include child day care facilities, which are licensed by the Office of Early Childhood.) The act also clarifies that DCF must adopt regulations for child-placing agencies, rather than for persons or entities that place children as required under prior law.

PA 17-92—sSB 895
Committee on Children
Judiciary Committee

AN ACT CONCERNING THE DEPARTMENT OF CHILDREN AND FAMILIES' STANDARDS AND REPORTING REQUIREMENTS

SUMMARY: This act requires the Department of Children and Families (DCF) commissioner to establish protocols to investigate and respond to reports of abuse or neglect of children from birth to age three. The protocols must include:

1. appropriate case supervision,
2. appropriate DCF staff visits to the children,
3. documentation of case activities related to the children's safety and well-being, and
4. a case supervision tool specific to the unique needs and risk status of the children.

The act also broadens the circumstances in which DCF must perform certain investigations related to child abuse and neglect proceedings. In such proceedings, existing law requires the court to schedule a preliminary hearing when it issues an order (1) to the child's parents or caregiver to appear in court to determine if the child should be temporarily placed outside the home during the proceedings or (2) ex parte (on behalf of one party) vesting the child's care and custody temporarily with a relative, agency, or other person. By law, the child's parent or guardian may, before such a hearing, request that DCF investigate placing the child with a relative as a licensed foster parent or temporary custodian. The act requires DCF to investigate any such relative before the preliminary hearing, rather than requiring that it do so only when practicable.

The act also (1) requires the department to include in the report it must submit to the court at the hearing any potential barriers to (a) licensing the relative as a foster parent or (b) granting him or her temporary custody of the child or youth and (2) specifies that the report is preliminary.

Additionally, the act (1) specifies information that DCF must submit for the court to consider regarding a child or youth placed in out-of-home care because of alleged abuse or neglect and (2) requires DCF, by January 1, 2018, to begin annually reporting to the Children's Committee on its foster care licensing practices.

EFFECTIVE DATE: July 1, 2017

DCF REPORTS TO THE COURT

Under the act, if DCF places a child or youth in out-of-home care based on alleged abuse or neglect, it must include in any report it submits to the court information about:

1. the safety and suitability of the child's or youth's placement, taking into account the law's requirements for such placements;
2. the child's or youth's medical, dental, developmental, educational, and treatment needs; and
3. a timeline to ensure those needs are met.

The information also must be submitted to the court (1) within 90 days of the child's or youth's placement in out-of-home care, (2) if the placement changes, and (3) if the commissioner files a permanency plan on behalf of the child or youth. The court must consider the information when making decisions on the child's or youth's well-being.

DCF REPORT TO THE CHILDREN'S COMMITTEE

Under the act, DCF's annual report to the Children's Committee must include:

1. its methods of ensuring it complies with foster care licensing laws and regulations;
2. its methods of assessing the needs of children and youths in foster care and providing support for foster parents to help them meet these needs;
3. the safeguards DCF uses when it seeks to license a relative caregiver with a (a) history of child abuse or neglect, (b) psychiatric illness, or (c) criminal record;
4. DCF's process for reversing a substantiated abuse or neglect finding or child abuse or neglect registry finding against a prospective relative caregiver;
5. for the preceding 12 months, the number of (a) child abuse and neglect reports involving children or youths in DCF-licensed foster homes, (b) such reports that were substantiated, and (c) foster home licenses that were revoked and applications that were denied;
6. the results of DCF's random audits of its licensing practices; and
7. information on the number and type of licensed foster home safety concerns the department identified through its assessment of its regulatory compliance system and any corresponding corrective actions it took.

PA 17-119—sHB 6741

*Committee on Children
Judiciary Committee*

AN ACT CONCERNING THE RIGHT OF COUNSEL TO ACCESS RECORDS IN CERTAIN ABUSE AND NEGLECT PROCEEDINGS

SUMMARY: This act requires appointed or assigned counsel in certain juvenile court proceedings involving child abuse or neglect to be granted immediate access to (1) certain records related to the child without securing further releases and (2) the child to consult privately with him or her.

Under the act, counsel must be granted access if a competent witness has accused the child's parent or guardian of (1) abusing the child or (2) neglecting or not caring for the child.

Under the act, related records include (1) Department of Social Services records and (2) medical, mental health, substance abuse treatment, law enforcement, and educational records. By law, attorneys who represent children in juvenile court must automatically be granted access to related court and Department of Children and Families records (CGS §§ 17a-28(g)(3) & 46b-124(b)).

EFFECTIVE DATE: October 1, 2017

PA 17-185—sHB 6999

Committee on Children

Judiciary Committee

AN ACT CONCERNING THE PROVISION OF INFORMATION ABOUT THE USE OF THERAPY DOGS TO COMFORT AND SUPPORT TESTIFYING WITNESSES IN CERTAIN CRIMINAL PROSECUTIONS

SUMMARY: This act requires the judicial branch to maintain on its website:

1. notice that the court may, in its discretion, permit a dog to comfort and support a testifying witness;
2. a link to the website of an organization that provides information on animal-assisted therapy resources; and
3. if applicable, a link to information on the Division of Criminal Justice’s website about such resources.

EFFECTIVE DATE: October 1, 2017

PA 17-190—sHB 7112

Committee on Children

AN ACT CONCERNING CHILDREN'S ADVOCACY CENTERS

SUMMARY: This act defines “children’s advocacy center” and allows such centers to assist multidisciplinary teams that investigate alleged child abuse, neglect, or trafficking.

Existing law permits the Department of Children and Families (DCF) and the appropriate state’s attorney to establish multidisciplinary teams for various purposes related to child abuse, neglect, and trafficking. The act specifies that the purposes of such teams include (1) providing protection to abused, neglected, or trafficked children and their families, not just to children as under prior law, and (2) advancing and coordinating the prompt investigation of alleged child trafficking as well as alleged child abuse or neglect as under existing law.

Under existing law, a multidisciplinary team consists of various professionals, including DCF, law enforcement, and health care representatives. The act also requires inclusion of a forensic interviewer and a child advocate, both of whom must be designated by the team members.

Additionally, the act specifies certain actions the state chapter of the National Children’s Alliance (see BACKGROUND) and multidisciplinary teams may take.

It also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2018

CHILDREN’S ADVOCACY CENTERS

Definition

Under the act, a children’s advocacy center is an entity that:

1. is accredited or granted associate or developing status by the National Children’s Alliance and
2. provides a child-focused, trauma-informed, facility-based program that fosters collaboration among members of a multidisciplinary team to interview and meet with children and their parents, guardians, or other caregivers to obtain and provide information to personnel charged with making decisions about (a) investigating and prosecuting alleged child abuse, neglect, or trafficking and (b) the safety, treatment, and provision of services to the alleged victims of these crimes.

Assistance Allowed

Under the act, children's advocacy centers may assist multidisciplinary teams by:

1. providing safe, private, child- and family-friendly settings;
2. establishing culturally competent policies and procedures;
3. helping to develop written protocols for an interdisciplinary and coordinated approach to investigations;
4. providing specialized medical evaluation and treatment, mental health services and support, and advocacy services to children at the centers or through coordination with, and referral to, other appropriate providers;
5. providing regular case review to aid in decision making, problem solving, systems coordination, and information sharing concerning the status of cases and services children and their families require; and
6. providing a tracking system to monitor case progress and outcomes.

The act also permits the advocacy centers to assist the teams by providing forensic interviews of children. Under the act, the interviews:

1. must be conducted by a trained forensic interviewer and recorded;
2. must solicit information in an unbiased, fact-finding manner that is culturally sensitive and appropriate for each child's developmental stage; and
3. may be observed when possible by team members involved in child abuse, neglect, or trafficking investigations.

STATE CHAPTER OF THE NATIONAL CHILDREN'S ALLIANCE AND MULTIDISCIPLINARY TEAMS

The act allows the multidisciplinary teams and state chapter of the National Children's Alliance to:

1. coordinate and facilitate the exchange of information among children's advocacy centers;
2. provide technical assistance to municipalities to support the establishment, growth, and accreditation of these centers;
3. educate the public and legislature on the needs of child abuse, neglect, and trafficking victims;
4. provide or coordinate multidisciplinary training opportunities that support a comprehensive response to alleged child abuse, neglect, or trafficking; and
5. annually submit a report to the legislature and the governor's task force on justice for abused children on each center's outcomes.

BACKGROUND*National Children's Alliance*

The National Children's Alliance is a national association and accrediting body for children's advocacy centers. In order to be accredited by the Alliance, a center must pass a site review and be evaluated on 10 operational standards. The Alliance may grant associate or developing status to centers that are seeking accreditation but have not implemented all of the required standards.

PA 17-210—HB 6997*Committee on Children***AN ACT CONCERNING THE WELL-BEING OF CHILDREN AFFECTED BY PRENATAL DRUG OR ALCOHOL EXPOSURE**

SUMMARY: This act requires the Department of Children and Families commissioner to develop and implement policies and procedures in accordance with federal law to secure the health, safety, and well-being of infants identified at birth as being affected by drug abuse, withdrawal symptoms related to prenatal drug or alcohol exposure, or fetal alcohol spectrum disorder.

The policies and procedures must advance these infants' best interests and include (1) securing substance use treatment for the infants, their mothers, and other caregivers and (2) ensuring that the infants grow up in substance-use-free homes.

The commissioner must report to the Public Health and Children's committees by February 1, 2018 on:

1. the policies and procedures she developed and implemented;
2. the number of cases involving such infants referred to her by health care providers since the act's passage (July 10, 2017);
3. gaps in notifying her in such cases;
4. gaps in services provided to such infants, their mothers, and other caregivers; and
5. recommendations to improve services.

EFFECTIVE DATE: Upon passage

DEFINITIONS

Under the act:

1. "drug abuse" means the ingestion of controlled substances without a prescription or authorization required under state law;
 2. "substance use" means the excessive use of drugs or alcohol in a way that causes harm to self or others; and
 3. "fetal alcohol spectrum disorder" means a range of health conditions, including fetal alcohol syndrome, that may affect an infant whose mother drank alcohol during pregnancy.
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PA 17-85—sSB 968
Commerce Committee

AN ACT ESTABLISHING A HEALTH DATA COLLABORATIVE WORKING GROUP

SUMMARY: This act makes permanent the Commission on Economic Competitiveness’s (CEC) Connecticut Health Data Collaborative working group (CHDC), which was created by SA 16-20 to examine several subjects related to digital infrastructure.

The act charges the CHDC with new responsibilities related to precision medicine and expands its membership by adding the state’s health information technology officer. The act also requires the CHDC to annually report, beginning by January 1, 2018, its findings and recommendations to the CEC and the Commerce, Energy and Technology, and Public Health committees.

EFFECTIVE DATE: Upon passage

RESPONSIBILITIES

The act requires the CHDC to examine and make recommendations on the following:

1. initiatives to support research and development for precision medicine and personalized health;
2. economic growth initiatives for in-state businesses working in bioscience, biopharma, biotech, genomics, clinomics, epigenomics, pharmacogenomics, the microbiome field, and related fields;
3. health data access, privacy, and security initiatives; and
4. advancements in health data and population health to promote efficient and innovative platforms for collecting health data to understand the interplay between genetic, behavioral, and environmental factors in disease incidence.

MEMBERSHIP

As under SA 16-20, the act requires the CEC’s chairpersons to appoint the CHDC’s members, which must include, at a minimum, representatives from the following industries and entities:

1. the insurance industry,
2. the healthcare industry,
3. the Connecticut Education Network,
4. broadband internet service providers,
5. the bioscience industry,
6. the Connecticut Technology Council, and
7. public or private universities and research institutions.

The act, like SA 16-20, also requires the consumer counsel, or his or her designee, to be in the working group. It adds the state’s health information technology officer to the working group. By law, the officer is responsible for coordinating state health information technology initiatives.

The CEC chairpersons must (1) make all appointments by July 30, 2017 and (2) select the CHDC’s chairperson. The chairperson must schedule the group’s first meeting, which must be held by August 29, 2017. The act permits CHDC members to be members of the group established by SA 16-20, legislature, or CEC.

PA 17-103—sHB 7230
Commerce Committee

AN ACT CONCERNING THE SECRETARY OF THE STATE'S ELECTRONIC BUSINESS PORTAL

SUMMARY: This act requires the Department of Economic and Community Development (DECD) to encourage entrepreneurship by promoting the secretary of the state’s electronic business portal and identify how the portal can be modified to make it easier for businesses to register with the secretary. DECD must do these things within available appropriations and in collaboration with the secretary’s office.

By law, the secretary must establish and maintain the portal to provide a single entry point for businesses registering with her office. The portal must provide explanatory information and electronic links to other state agencies and organizations designed to help businesses (1) obtain necessary licenses and permits, (2) identify taxes and other revenue possibilities and benefits, and (3) find relevant state financial incentives and programs.

EFFECTIVE DATE: October 1, 2017

PA 17-110—sHB 5583

Commerce Committee

AN ACT EXPANDING INVESTMENT ELIGIBILITY UNDER THE ANGEL INVESTOR TAX CREDIT PROGRAM

SUMMARY: This act (1) opens the angel investor tax credit program to Connecticut businesses in any industry, instead of just those in emerging technology industries, and (2) generally limits the amount of credits that may be awarded for investments in businesses in emerging technology industries.

By law, “angel investors” who invest at least \$25,000 in Connecticut Innovations, Inc. (CI)-approved businesses are eligible for a personal income tax credit equal to 25% of their investment, up to \$250,000. (“Angel investors” are investors who (1) review new or proposed businesses for potential investment, (2) are considered “accredited investors” by the Securities and Exchange Commission, and (3) may seek active involvement in their business investments.) A business must apply to CI for approval to receive credit-eligible cash investments. CI then certifies that the business meets the applicable criteria (e.g., is principally located in the state, has been in operation less than seven years, and has less than \$1 million in annual revenue).

Under prior law, only businesses engaged in bioscience, advanced materials, clean technology, photonics, and information technology (which the act terms collectively as “emerging technology businesses”) could get CI approval. Under the act, a business in any industry can get CI approval if it meets the applicable criteria.

By law, the angel investor tax credit program is capped at \$3 million per year, and investors apply to CI to have credits reserved for their investments in CI-approved businesses. Previously, all the credits were dedicated to emerging technology businesses, because only they qualified. Under the act, the amount of credits that CI may reserve each year for investments in emerging technology businesses is capped at 75% of the total amount of credits available that year (\$2.25 million), except that CI may exceed this cap if any unreserved credits remain after April 1 in each year.

EFFECTIVE DATE: July 1, 2017

PA 17-132—HB 7062

Commerce Committee

AN ACT CONCERNING THE DEVELOPMENT OF THE CONNECTICUT-MADE DESIGNATION

SUMMARY: This act requires the Department of Economic and Community Development (DECD) commissioner to develop a “CONNECTICUT-MADE” or “CT-Made” logo that Connecticut manufacturers and producers can use to promote products they manufacture or produce here. She must make the logo available to these businesses through an internet website, which, along with the logo, can be promoted by other state and local agencies and public and private institutions.

The commissioner must also develop guidelines for how businesses can use the logo to brand these products. In doing so, she may specify the types of products that businesses may brand as “CONNECTICUT-MADE” or “CT-Made” and the extent to which they can adjust the logo’s proportions or colors.

The act prohibits her from contracting with any third party to develop the logo or guidelines.

Prior law required the commissioner to establish and administer a Connecticut-made products marketing program and authorized her to make grants, within available appropriations, to people and businesses for incorporating the phrases, “CONNECTICUT-MADE” or “CT-Made” in their promotional and marketing activities. The act allows, rather than requires her to establish and administer the program and eliminates her authority to make the grants. It also eliminates a related annual reporting requirement.

EFFECTIVE DATE: October 1, 2017

PA 17-158—sHB 5584

Commerce Committee

AN ACT CONCERNING THE CREATION OF A SMALL BUSINESS HOTLINE

SUMMARY: This act requires the Department of Economic and Community Development (DECD) commissioner to establish and operate a hotline that provides individualized information and guidance to entrepreneurs and small business owners on how to start and develop a business, identify networking resources, and access technical and financial assistance from the state and quasi-public agencies. The act requires the commissioner to establish the hotline by October 1, 2017, and operate and staff it, within available appropriations, during normal business hours. It allows her to do these things in collaboration with a nonprofit organization.

The act also requires the commissioner to submit a report on the hotline to the Commerce Committee by January 1, 2019. The report must describe (1) the hotline’s services, (2) how DECD advertises the hotline to businesses, and (3) the most common types of assistance requested through the hotline. It must also provide statistics on the hotline’s call volume.

EFFECTIVE DATE: October 1, 2017

PA 17-162—sSB 961

Commerce Committee

AN ACT CONCERNING STATE HISTORICAL MUSEUMS AND THE RELOCATION OF BUSINESSES RECEIVING FINANCIAL ASSISTANCE FROM THE STATE

SUMMARY: This act tightens the criterion for determining whether businesses must repay, with a penalty, any state economic development assistance they received if they relocate outside Connecticut within a specified period. Under the act, a business must repay the assistance and a penalty if the Department of Economic and Community Development (DECD) commissioner determines it transferred a “substantial portion” of its operation, or those of any of its divisions, out of state. Under prior law, the business had to repay the assistance plus a penalty only if it transferred its entire operation or that of any of its divisions out of state.

By law, a business cannot receive economic development assistance unless it agrees not to relocate from Connecticut for 10 years after receiving the assistance, or the term of a state loan or loan guarantee, whichever is longer. If it relocates before the period expires, it must repay the entire amount of the assistance plus 5% (CGS § 32-5a).

The act also changes the law to reflect that DECD operates the Prudence Crandall, Old New-Gate Prison and Copper Mine, and the Eric Sloane and Kent Iron Furnace museums. Under prior law, DECD operated only the Henry Whitfield House museum, which it continues to do under the act.

EFFECTIVE DATE: Upon passage, except the change to the criterion for imposing the relocation penalty takes effect October 1, 2017.

PA 17-212—HB 7225

Commerce Committee

AN ACT CONCERNING MINOR AND TECHNICAL CHANGES TO COMMERCE-RELATED STATUTES

SUMMARY: This act repeals an obsolete provision requiring the Department of Economic and Community Development to establish a program to employ youths and young adults for specific bond-funded projects. The projects' bond authorizations were repealed by PA 14-98, and the program was not implemented.

The act also makes various technical changes to the economic development statutes.

EFFECTIVE DATE: Upon passage

PA 17-213—sHB 7226

Commerce Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING AWARDS FROM THE CONNECTICUT ARTS ENDOWMENT FUND

SUMMARY: This act adjusts the amount available each year for matching grants from the Connecticut Arts Endowment Fund, which provides the grants to nonprofit Connecticut arts organizations that raise a certain amount of funds from private donors (CGS § 10-407).

Under prior law, the amount available was the greater of the (1) total increase in the fund's market value, up to 5% of its total market value, or (2) fund's investment earnings. The act sets the amount at 4% of the fund's four-year average market value.

The act also eliminates a requirement that the state treasurer annually notify the Department of Economic and Community Development and the Connecticut Arts Council on the fund's total (1) increase in market value and (2) investment earnings for the prior fiscal year. Instead, she must only notify the department and council of the amount available for grant payments.

EFFECTIVE DATE: July 1, 2017

PA 17-214—sHB 7229

Commerce Committee

AN ACT CONCERNING THE CREATION OF CONNECTICUT BROWNFIELD LAND BANKS, REVISIONS TO THE BROWNFIELD REMEDIATION AND REVITALIZATION PROGRAM AND AUTHORIZING BONDS OF THE STATE FOR BROWNFIELD REMEDIATION AND DEVELOPMENT PROGRAMS

SUMMARY: This act establishes a framework for local nonprofit organizations to acquire and remediate contaminated property (i.e., brownfields) and sell the remediated property for redevelopment. As part of that framework, a nonprofit may access the same tools and incentives available to municipalities for remediating and redeveloping brownfields, but first must (1) be certified by the Department of Economic and Community Development (DECD) as a Connecticut Brownfield Land Bank (CBLB) and (2) enter into a land banking agreement with one or more municipalities.

Also, the act makes it easier for developers and other eligible parties to access DECD's Brownfield Remediation and Revitalization Program and makes several other administrative and conforming changes. It allows developers to remediate a brownfield one section at a time and receive the program's liability protection for that section, instead of having to remediate the entire brownfield before receiving any protection. The act also protects lenders from liability when they hold a mortgage or other security interest in a brownfield that a developer is remediating under the program.

EFFECTIVE DATE: July 1, 2017

§§ 1-13 — CONNECTICUT BROWNFIELD LAND BANKS

Overview

The act establishes a process for certifying nonstock corporations as CBLBs. (Under Connecticut law, a corporation is nonprofit if no distribution may be made to its members, directors, or officers.) An organization seeking CBLB certification must apply to DECD, and once certified, may:

1. acquire, retain, and remediate brownfields and sell the remediated property for a municipality's benefit;
2. educate government officials, community leaders, economic development agencies, and nonprofit organizations on brownfield redevelopment best practices; and
3. engage in other activities the act authorizes.

Applying for and Maintaining Certification (§ 2)

A nonprofit organization applying for CBLB certification must apply on a form DECD prescribes and provide:

1. its certificate of incorporation and bylaws,
2. a list of its current officers and directors,
3. the proposed land banking agreement with one or more municipalities,
4. proof that it has the financial and technical capacity to fulfill the purposes of a CBLB,
5. its proposed business plan, and
6. any other information the DECD commissioner deems necessary.

In deciding whether to approve or reject an application, the commissioner must consider:

1. whether the applicant has the financial and technical capability to fulfill the purposes of a CBLB,
2. the relative economic conditions of the municipalities the organization proposes to serve,
3. the degree to which these municipalities support the organization,
4. the quality of the CBLB's business plan, and
5. any other criteria the commissioner establishes to fulfill the act's purposes.

If the commissioner approves the application, she must issue a certificate granting the organization all the rights, privileges, and immunities the act grants certified CBLBs.

Certified CBLBs must submit a report to the commissioner annually, by January 31, that describes their activities for the previous year, including:

1. the CBLB's updated business plan and a list of current officers and directors,
2. the CBLB's complete operating and financial statements,
3. copies of any land banking agreements the CBLB entered into during the preceding year, and
4. any other information the commissioner deems necessary.

The commissioner must review the report to determine if it includes the required information. If it does not, she must notify the CBLB's officers by mail that she will decertify the organization 120 days after the mailing date unless the CBLB submits a revised report that she determines provides the required information. The commissioner may extend the 120-day deadline by an additional 60 days.

If the commissioner decertifies the CBLB, it cannot enter into any new land banking agreements, but continues to (1) enjoy its rights and (2) be bound by its obligations, with respect to any property it acquired under a land banking agreement it executed before it was decertified. A decertified CBLB may reapply for certification.

CBLB Directors and Officers (§ 3)

A CBLB must exercise its power through a board of directors, which must consist of between five and 11 members, each with knowledge and expertise in the land bank's purposes and activities. The board must elect from its members the chairperson and any other officers it deems necessary. It must also adopt bylaws and procedures needed to perform its functions. It may establish committees and subcommittees needed to conduct its business.

Members serve without compensation, but are entitled to reimbursement for the actual and necessary expenses they incur while performing their official duties. The members are not personally liable for CBLB's loans, other financial obligations, or environmental liabilities, nor are they subject to creditors' rights, which apply only against the CBLB.

Elected and appointed state and local officers may serve on CBLB boards, and their appointment neither terminates nor impairs their public duties. State and municipal employees also may serve on a board.

Board members may organize and reorganize a CBLB's executive, administrative, clerical, and other departments, and can specify the duties, powers, and compensation of the CBLB's employees, agents, and consultants.

CBLB's Purposes (§ 4)

The act gives CBLBs broad contractual, financial, and development powers, but not the power to take property by eminent domain. A CBLB may:

1. enter into land banking agreements with municipalities to acquire, retain, remediate, and sell land and buildings in those municipalities on their behalf;
2. enter into contracts and agreements with a municipality under which the municipality provides staff services to the CBLB or the CBLB provides such services to the municipality;
3. obtain grants or borrow money from private lenders, municipalities, and state and federal agencies to fund its operations;
4. secure the payment of some or all of its debt by procuring insurance or state and federal guarantees and making the necessary premium payments;
5. acquire property by purchase contracts, lease purchase agreements, installment sales contracts, land contracts, and through foreclosure of municipal tax liens; and
6. do all things necessary to fulfill its purposes and comply with applicable laws.

The act complements the CBLB's property acquisition powers by allowing municipalities to transfer or convey land and buildings and interests in them to a CBLB. A municipality may set the terms and conditions for transferring or conveying the property or property interests and conduct the transfer or conveyance according to its procedures. The municipality may do these things regardless of any conflicting statute, special act, charter, or home rule ordinance.

Tax Exemption (§ 5)

Since CBLBs must exercise their powers to benefit state residents, specifically to increase their commerce, wealth, and prosperity, the act deems the exercise of these powers an essential public function. Consequently, it exempts CBLBs from paying state and local taxes and assessments on (1) the revenue or property they receive, acquire, transfer, or use and (2) any income derived from these sources.

Specified Land Acquisition and Disposition Powers (§ 6)

A CBLB may acquire only brownfields and adjacent or nearby property identified in the land banking agreement between it and the municipality where the property is located. It must hold this property in its own name regardless of the entity that transferred it. The CBLB must also maintain an inventory of all the real property it acquires and allow the public to review and inspect it.

The CBLB must adopt policies and procedures specifying the terms and conditions for acquiring real property or property interests. Those terms and conditions may allow for different types of compensation, including: (1) monetary payments; (2) secured financial obligations, covenants, or conditions related to the property's current or future use; (3) contractual commitments imposed on the party the property is transferred to; and (4) other forms the CBLB's directors determine are in the CBLB's best interest.

The CBLB may also dispose of property it acquires as its land banking agreements allow. It can convey, exchange, sell, transfer, lease as lessee, grant, release and demise, and pledge as collateral any and all interests in, on, or to the property as long as the municipality where the property is located approves the transaction, as specified in the land banking agreement.

§§ 7-13 — CBLB ACCESS TO BROWNFIELD REMEDIATION TOOLS AND INCENTIVES

The act allows CBLBs to access the same brownfield remediation tools and incentives that are available to municipalities.

Local Option Property Tax Abatement (§ 7)

The act allows a municipality to forgive all or a portion of the principal and interest due on delinquent property taxes for a property a CBLB acquires or plans to acquire in the municipality. The law already allows municipalities to forgive the delinquent taxes on a property for a party that intends to acquire, investigate, and remediate it according to state standards. (The law also allows municipalities to (1) abate the property taxes for up to seven years on a property whose owner agrees to remediate it according to state standards and (2) tax a remediated property for up to seven years based on its pre-remediation fair market value.)

Conducting Environmental Site Assessments (§ 8)

The law sets conditions under which a municipality, or a licensed environmental professional (LEP) it employs, may enter a property, without liability, to assess or investigate it. The act allows a CBLB or an LEP it employs to assess or investigate a property under the same conditions as a municipality if:

1. the land banking agreement requires the property to be investigated and assessed or
2. the property's owner and the municipality or CBLB enter into a voluntary agreement allowing the property's environmental condition to be investigated or assessed.

As with municipalities, the CBLB or its LEP is not protected from liability for gross negligence or intentional misconduct. The CBLB or the LEP must, like a municipality, give the property owner 45 days' notice before entering the property.

Department of Energy and Environmental Protection (DEEP) Liability Relief Program (§ 9)

The act allows CBLBs to participate in DEEP's liability relief program, which protects certain entities that remediate a brownfield from liability for contamination that occurred before they acquired the property. Under prior law, the program was open only to municipalities, economic development agencies, municipally formed nonprofit economic development corporations, and nonstock or limited liability companies that municipalities or these corporations form and control.

Transfer Act Exemptions (§§ 10 & 11)

Under the act, properties municipalities convey to CBLBs are exempt from the transfer act. The transfer act requires parties to a real estate transaction involving contaminated property to notify DEEP about the contamination and identify the party that will investigate and remediate it. The law already exempted property that municipalities (1) foreclosed on and subsequently conveyed, (2) remediated under DECD's municipal brownfield grant program (CGS § 32-376), or (3) acquired by eminent domain.

Additionally, the act also sets conditions that exempt from the transfer act a property that a CBLB remediates and subsequently transfers. The transfer is exempt if the property was remediated under a DEEP or DECD liability relief program, is compliant with that program when the transfer occurred, and was not used to generate hazardous waste after entering the program.

Remedial Action and Redevelopment Municipal Grant Program (§ 12)

The act makes CBLBs eligible for DECD remedial action and redevelopment grants, which were previously available only to municipalities and local economic development agencies. The grants are for investigating, assessing, and cleaning up contaminated properties.

Abandoned Brownfield Cleanup (ABC) Program (§ 13)

The ABC program exempts participants from investigating and remediating contamination that emanated from the property before they acquired it and limits their liability to the state or third parties for the contamination in such cases provided they did not cause or contribute to the contamination or negligently or recklessly exacerbate it.

The act allows CBLBs to ask the DECD commissioner to determine if a property is eligible for the program's benefits regardless of the property's current owner. CBLBs can therefore recommend property regardless of whether they own it. The act also exempts CBLBs and municipal economic development agencies from having to meet the program's responsible party criteria (i.e., the party that contaminated the property cannot be determined, no longer exists, or is unable to remediate it).

§ 14 — BROWNFIELD REMEDIATION AND REVITALIZATION PROGRAM

Liability Protection for Remediated Portions of a Property

The act makes it easier for developers to remediate and develop a brownfield in sections by allowing them to investigate and remediate one section of the brownfield at a time and receive the program's liability protection for that section instead of waiting until they remediate the entire brownfield, as prior law required.

To receive liability protection for a remediated section, a developer must submit to the DECD and DEEP commissioners the same documents they would submit if they had investigated and remediated the entire brownfield. That is, the developer must submit a report indicating that the section was (1) investigated and remediated according to state standards (i.e., verification) or (2) investigated and remediated according to those standards except for contaminated groundwater, which is being remediated under a long-term remedy (i.e., interim verification). In both cases, the remediation must address hazardous substances that extend out from the remediated section to the brownfield's boundaries.

Furthermore, the developer must have complied with the requirements for preparing, submitting, and implementing the statutorily required investigation plan and remediation schedule. Specifically, the developer must notify the DEEP commissioner that the following tasks were completed on time:

1. the entire property was investigated according to the prevailing standards and guidelines for conducting such investigations within two years after the developer paid the first installment of the program's application fee,
2. the remediation plan for the entire brownfield was submitted to the commissioner, and
3. remediation began within three years after paying the first installment.

Lastly, the developer must demonstrate to the commissioners' satisfaction that the entire property will be remediated on time.

Liability Protection for Lenders

The act extends the program's liability protections to lenders to whom a developer conveys or has conveyed a security interest in a property the developer is remediating or has remediated. A lender receives these protections if the lender:

1. was not cited for polluting the state's waters;
2. did not contaminate the property or create the source that did; and
3. is not (a) affiliated with any person that contaminated the property or (b) responsible for the contamination source through any direct or indirect familial relationship or any contractual, corporate, or financial relationship other than holding the security interest.

Off-Site Releases

The act specifies that developers remediating brownfields do not have to investigate and remediate any hazardous substance, including plumes, beyond the boundaries of the brownfield. Prior law only exempted them from investigating and remediating plumes, which are flows of contaminated groundwater that extend outward from a source.

Fee Changes

The act changes the fees that must be paid before the program's liability protections can be extended to a party that acquires a property (i.e., transferee) while it is being remediated. Under prior law, the transferee had to pay the same fee as the property's initial owner. Under the act, the transferee must pay a \$10,000 fee or the balance of any unpaid fee, whichever is greater.

LEP Verification

The act requires that the LEP a developer retains to supervise the brownfield's remediation state in the remedial action report that he or she supervised the remediation and prepared the verification or interim verification report in compliance with the professional ethics and code of conduct for LEPs, as specified in DEEP regulations (CGS § 22a-133v(c)).

DEEP Audit Deadline

The act adjusts the deadline for the DEEP commissioner to audit a verification or interim verification report. If the commissioner decides to audit the verification, the law gives him up to 180 days to complete it. But if the commissioner requests additional information and the developer fails to provide it within 14 days of the commissioner's request, the 180-day period stops until the developer provides the information. If the developer fails to provide the requested information within 60 days of the commissioner's request, the commissioner may restart the audit. In these cases, the act extends the 180-day deadline by the number of days during which the audit was suspended.

Application Requirement

By law, a person who wants to have another person or property designated as eligible for the program's liability protections must apply to the DECD commissioner and provide various documents, including a title search, an environmental site assessment, and a current property inspection report. The act requires the applicant to provide the property inspection report only if the commissioner requests it.

PA 17-219—sSB 966

Commerce Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING ECONOMIC DEVELOPMENT PROGRAMS ADMINISTERED BY THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT, THE MINORITY BUSINESS INITIATIVE ADVISORY BOARD, THE STATE ECONOMIC STRATEGIC PLAN AND THE EVALUATION OF BUSINESS ASSISTANCE AND INCENTIVE PROGRAMS

SUMMARY: This act requires the Appropriations; Commerce; and Finance, Revenue and Bonding committees to hold hearings periodically on the economic impact of state economic development programs. The hearings are triggered when the Department of Economic and Community Development (DECD) and the state auditors submit certain reports to the committees (i.e., review committees).

The reports are DECD's statutorily required annual report to the legislature and a new report assessing the analysis that the auditors must prepare each time they audit DECD.

The act requires DECD to analyze the First Five Plus program's net return to the state and include that analysis in its biannual report on the program, which, by law, it must submit to the Commerce and Finance, Revenue and Bonding committees. The act also requires the committees to hold a hearing exclusively on the program, which combines financing and tax incentives under various programs into a comprehensive assistance package for business development projects that meet specified investment and job creation targets.

The act establishes a nine-member Minority Business Initiative Advisory Board to (1) advise the DECD commissioner about how to assist minority-owned businesses and (2) administer economic opportunity programs. It also requires DECD to allocate, in FYs 18 and 19, Small Business Express Program (EXP) funds to the board for its purposes.

The act allows the DECD commissioner to collaborate with Connecticut-based banks and a banking industry association on increasing financial assistance for small businesses through EXP, including selling EXP loans to collaborating private lenders. It also specifies that EXP borrowers can use working capital loans to pay rents.

Lastly, the act reduces the required content of DECD's four-year strategic economic development plan, changes the mix of information and analyses required in DECD's annual report, and eliminates several reports on specified issues DECD had to submit to the governor and legislature.

EFFECTIVE DATE: October 1, 2017, except the changes requiring a legislative hearing on the First Five Plus program take effect July 1, 2017, and those regarding the (1) Minority Business Initiative Advisory Board and (2) DECD's annual report, strategic plan, and three-year tax credit report take effect upon passage.

§§ 4, 8 & 10 — DECD ANNUAL REPORTING

The legislative hearings the act mandates are tied to changes it makes in the content of DECD’s comprehensive report to the legislature, which is due February 1 annually. The act changes the mix of data and analyses DECD must include in the report, eliminating many types of previously required data and analyses but also requiring more data and analyses about the impact of all economic development programs, not just those DECD administrators.

As under prior law, the act specifies the topics DECD must address in the annual report and the data and analyses DECD must include under each topic.

Content Eliminated

The kind of data and analyses DECD must include in the report varies by topic. The law prescribes the annual report’s structure and content, specifying the general topics it must cover and the data and analyses that must be included under each topic. The act requires the report to address many of the same topics that were required under prior law, but in many cases, without including the kind of data and analyses prior law required. Among other things, the act eliminates the requirement that the report include data about specific businesses, municipalities, and projects that received DECD funding and instead requires the report to identify the website where this information can be found. The act requires the report to include a reference to this data and the website address.

Table 1 describes the information the act eliminates for each reporting topic.

Table 1: Summary of Eliminated Reporting Requirements

<i>Topic</i>	<i>Eliminated Requirements</i>
Description and Assessment of State’s Economy for the Reporting Period	Retains topic but eliminates specified factors for describing and assessing the economy, such as a summary of the state’s competitiveness as a place to do business
Statement of DECD’s Economic and Community Development Objectives, Program Success Measures, and Standards for Providing Assistance	Eliminates topic
Analysis of DECD’s Economic Development Portfolio (i.e., businesses awarded DECD assistance)	Retains topic but eliminates: <ul style="list-style-type: none"> Names, addresses, and locations of DECD funded business development projects (but requires the report to identify the DECD website where this information is available) Data on jobs created, anticipated wage rates, and health plan benefits Portfolio analysis of average and median wages and wage ranges Wage analysis by municipality (requires wage analysis by industry instead) Proportion of total assistance granted to “high performance work organizations” Impact on job levels, gross state product and productivity, personal income, and property values
Analysis of Community Development Portfolio (i.e., municipalities and nonprofit entities awarded DECD assistance)	Retains topic but eliminates: <ul style="list-style-type: none"> Names, addresses, and locations of DECD-funded community development projects Community development investments, and the dollars they leveraged, by municipality Impact on job levels, gross state product and productivity, personal income, and property values

Table 1 (Continued)

<i>Topic</i>	<i>Eliminated Requirements</i>
Marketing, Business Recruitment, and Minority and Small Business Assistance	Eliminates topic and: <ul style="list-style-type: none"> • Description of efforts to market the state and assist small and minority businesses • Summary of business recruitment strategies
Economic Clusters	Eliminates topic and identification of existing economic clusters, the formation of new ones, and efforts to encourage their growth, including bond funds DECD spent on each cluster
Brownfields, Special Contaminated Property Remediation and Insurance Fund (SCPRIF), and Dry Cleaning Grant Program	Eliminates topic and summaries and data about the projects funded under these programs
Enterprise Zones	Eliminates topic and specific information about the program, including an assessment of the zones' performance
Biodiesel Producer Incentive Account Program	Eliminates topic and assessment of the program's performance
Fuel Diversification Program	Eliminates topic and assessment of the program's performance
Connecticut Credit Consortium	Eliminates topic and summary of lending activity
Permit Ombudsman	Eliminates topic and data on each applicant that received the permit ombudsman's assistance (and instead requires summary of assistance given to brownfield projects)

Consolidated Requirements

The act requires DECD to include in the annual report information it previously reported separately about specific programs and reduces other reporting requirements.

Instead of submitting a separate report about film industry tax credits, DECD must report about them in the annual report. In doing so, the act requires DECD to summarize its efforts concerning media and motion picture production in Connecticut and indicate the total (1) amount of credits it issued during the reporting period and (2) production costs and expenses credit recipients incurred in Connecticut.

The act similarly consolidates the requirements for reporting on the dry cleaning remediation program in the annual report statute and requires DECD to summarize only the program's activities for the reporting period. Under prior law, both the statute governing the program and the annual report statute required DECD to summarize the program's activities, provide specified data on grant applications and awards, and recommend whether the dry cleaning surcharge and grant program should continue.

New Content

Although the act eliminates many reporting requirements, it also adds new ones. It requires DECD to include (1) an overview of its tourism, arts, and historic preservation activities and (2) an economic impact analysis of each state economic development business assistance or incentive program, including those administered by other agencies that had 10 or more recipients or awarded over \$1 million in assistance during the prior fiscal year. Examples of economic development programs administered by other agencies include the Labor Department's Subsidized Training and Employment Program and Connecticut Innovations' Angel Investor Tax Credit.

The analysis of each program must include:

1. an analysis of the program's impact on the state's economy, including, if available, the number of new jobs it created and its estimated impact on the state's annual revenues;
2. an assessment of whether the program is meeting its statutory and programmatic goals and, if possible, the obstacles preventing it from meeting those goals;
3. recommendations about whether the program should be continued, modified, or repealed and the reasons for each recommendation;

4. recommendations for additional data that must be collected to improve the evaluation; and
5. a description of the methodologies used and the assumptions made to analyze the program.

For the analyses of its programs, DECD must also include how much it cost the state to borrow funds to finance them.

Report Distribution

The act requires DECD to submit the report annually, by February 1 to the governor, the auditors, and the review committees. Under prior law, it had to submit the report to the governor and the entire legislature annually by that date.

§§ 4 & 5 — EXPANDED LEGISLATIVE OVERSIGHT

The information and analyses DECD must include in its annual report, along with the requirement that it submit the report to the auditors, provide the basis for the legislative hearings the act requires. The hearings are triggered when the review committees receive DECD's annual report or the auditors' report described below.

Submission of Annual Report to Review Committees

Beginning March 1, 2018, the act requires the review committees to hold one or more separate or joint annual hearings on DECD's report, focusing on the analyses of DECD's community development projects and DECD's efforts to promote international trade. (This appears to be an incorrect reference with respect to DECD's efforts to promote international trade because the act requires only a summary of those efforts.)

Auditors' Triggered Legislative Reviews

The legislative hearings are also triggered when the committees receive an auditors' report about economic development programs, which must be based on the information in DECD's annual report.

Business Assistance and Incentive Programs. The auditors must assess the performance of business assistance and incentive programs (e.g., business tax credits, abatements, grants, loans, or other economic development assistance) and report the results to the review committees. The act refers to these assessments as "performance audits" and requires the auditors to conduct them according to generally accepted government auditing standards or other methods they deem appropriate. The auditors must prepare these performance audits whenever they audit DECD, either as part of the regularly scheduled audit or as a stand-alone audit.

DECD Annual Report Evaluation. Each time the auditors conduct a regularly scheduled audit of DECD, they must also evaluate the accuracy of those annual reports DECD submitted to the review committees since the last DECD audit. The evaluation must:

1. determine if there is evidence to support the accuracy of the report's data,
2. evaluate whether the incentive programs are being managed and operated so as to make it easy for taxpayers to comply with their requirements,
3. recommend how the agencies can improve their programs' administrative efficiency and effectiveness, and
4. evaluate whether the reports provide all the information the law requires.

The act specifically requires the evaluation to include the analyses of DECD's community development programs and international trade promotion efforts. (But, as noted above, this appears to be an incorrect reference with respect to the department's international trade promotion efforts.)

Auditor Reports and Legislative Hearings. The auditors must submit a report on each performance audit and annual report evaluation they complete to the governor, Office of Policy and Management (OPM) secretary, and review committees. They may submit these reports separately or as part of a statutorily required audit report. The act requires the review committees to hold at least one separate or joint hearing on these reports.

§ 1 — FIRST FIVE PLUS PROGRAM

The act expands legislative oversight of the First Five Plus Program by requiring DECD to provide more information in its biannual report to the Commerce and Finance, Revenue and Bonding committees and directing the committees to hold a joint hearing on the report.

Under the act, DECD must include in each biannual report an analysis of the net rate of return to the state for all First Five Plus-funded projects, taking into account the value of tax credits and forgiven loans. The reports must also include recommendations as to whether the legislature should modify or continue the program based on the net rate of return analysis and the other information the report provides, such as number of jobs created.

The first report with the net rate of return analysis is due September 1, 2017. The other reports are due January 1, 2018, September 1, 2018, January 1, 2019, and September 1, 2019. The program terminates June 30, 2019, unless the legislature extends or eliminates this sunset date.

The act requires the Commerce and Finance, Revenue and Bonding committees to hold a joint hearing on the most recent report by February 1, 2019.

§§ 6 & 7 — MINORITY BUSINESS INITIATIVE ADVISORY BOARD

Purpose

The act establishes a nine-member Minority Business Initiative Advisory Board within DECD. The board must (1) advise the commissioner on how to make technical assistance more available to minority-owned businesses and increase their access to capital and state contracts and (2) develop and administer financial literacy, minority employment, and entrepreneurship programs, which may include internship and externship, apprenticeship, entrepreneurship, and job-creation subsidy programs.

Composition

The board consists of the DECD commissioner or her designee; four representatives whom the commissioner appoints in consultation with the minority business community; and one member each appointed by the House speaker, Senate president pro tempore, and House and Senate minority leaders. The commissioner's appointees must meet at least one of the following criteria:

1. have skill, knowledge, and experience in business and business development, procurement, and state and federal contracting;
2. have skill, knowledge, and experience in developing minority-owned businesses;
3. be a member or hold an office in a community organization that serves minority populations with economic development, including entrepreneurial development, as part of its mission;
4. have business development education and training expertise;
5. represent a business or organization that primarily engages in business development; or
6. own a business.

Appointments

The commissioner and the legislative leaders must make their appointments by September 1, 2017. The members serve two-year terms, up to three terms consecutively. Each member whose term is expiring must continue to serve until the member's successor is appointed. The appointing authorities must fill any vacancies. Members are not compensated for their services.

Meetings

The commissioner must schedule the board's first meeting by September 30, 2017. The members must elect a chairperson, who may call board meetings as he or she deems necessary.

Funding

The act requires the commissioner to allocate funds from the EXP account to the board to fund its duties. She must allocate \$2 million from the account in FY 18 and \$1 million in FY 19. The board may use up to 5% of each year's allocation to cover the administrative costs it incurs in performing its duties.

§ 9 — ECONOMIC DEVELOPMENT STRATEGIC PLAN

Overview of Strategic Plan Structure and Content

The law requires DECD to prepare a four-year economic development strategic plan that, among other things, assesses the state's economic growth, sets goals for increasing it, and recommends how those goals can be achieved. The law also specifies the topics DECD must address in the plan and, for each topic, the data and analyses it must include. DECD must incorporate the act's changes in the plan's content beginning with the next four-year plan, which is due July 1, 2019.

Eliminated Requirements

The act eliminates certain requirements for specific data and analyses, thus giving the commissioner more discretion over how she addresses each strategic plan topic. It also eliminates requirements that the plan include evaluations of specified programs.

Table 2 identifies each strategic plan topic and describes the data, analyses, and program evaluations the act eliminates with respect to that topic.

Table 2: Summary of Eliminated Strategic Plan Information

<i>Topic</i>	<i>Eliminated Requirements</i>
Review and Evaluation of Connecticut's Economy	Specific conditions to be included in the review and evaluation, such as demographic, housing, and labor market analyses
Review and Analysis of Factors, Issues, and Forces Affecting Economic Development and Responsible Growth	Specific factors, issues, and forces to be included in the review and analysis, including transportation, health care delivery and cost, and capital availability
Review and Evaluation of the State's Economic Development Structure	Review and analysis of past and current economic, community, and housing development structures, whether they met their statutory responsibilities, and an assessment of how they affected economic development and responsible growth
Vision Statement for the State at Specified Future Intervals	Specified intervals for vision statement
Recommendations for Achieving Strategic Plan Goals	Plan implementation cost estimates and projected returns on investment
Review and Evaluation of Specified Economic Development Programs	Review and evaluation of the following programs: <ul style="list-style-type: none"> • Urban Jobs • Enterprise Zones • Railroad Depot Zones • Manufacturing Plants • Entertainment Districts • Enterprise Corridor Zones • R&D Matching Grant Program

§§ 2 & 3 — EXP-PRIVATE LENDER COLLABORATION

EXP provides loans and grants to small businesses under an expedited application process. The act allows the DECD commissioner to establish a new EXP component and allocate up to 10% of EXP funds to cover the component's administrative costs. It allows DECD to establish the component in consultation with Connecticut-based banks and a banking industry association. Such banks include out-of-state banks that have branches in Connecticut for taking deposits. The component may have lending limits and terms, matching fund requirements, and other conditions different from the ones for EXP's other components.

DECD must operate the component in collaboration with the Connecticut-based banks. The component may provide loan guarantees and short-term loans that businesses need to secure private financing (i.e., bridge loans) and other forms of financial assistance. Borrowers may use the financing available under this program only to purchase machinery and equipment, construct facilities or make leasehold improvements, cover relocation and working capital costs, pay rents, or cover other business-related expenses the commissioner authorizes.

The component may also include an arrangement under which DECD may transfer EXP loans to private lenders and, in the process, replenish the program's loan funds.

The act requires the commissioner, by February 1, 2018, to include in DECD's annual report (1) a description of the new component and (2) the number of Connecticut-based banks she consulted with and the extent of the consultation.

§§ 11-14 — ELIMINATED REPORTS

The act eliminates four DECD reporting requirements unrelated to its annual comprehensive report to the legislature. It eliminates the report DECD had to annually submit to the (1) Labor and Higher Education and Employment Advancement committees on how it collaborates with the technical high school system to address businesses' workforce training needs (CGS § 10-95h) and (2) governor and legislature on the extent to which the state and its regions depend on prime defense contracts (CGS § 32-58).

The act eliminates the requirement that DECD submit a separate, triennial report on state programs that provide tax incentives to businesses, including those administered by other agencies. Under prior law, DECD submitted this report to the governor, OPM, and certain legislative committees. Under the act, DECD must include information about all of these programs in its expanded annual report (CGS § 32-1r).

The act also eliminates the requirement that the governor annually report to the legislature on job conditions and how to improve them (CGS § 31-362).

BACKGROUND

Related Act

PA 17-226 also requires DECD to include economic impact analyses of all economic development programs in its annual report, requires the auditors to assess these analyses each time they audit DECD and report their findings to the review committees, and requires the committees to hold hearings each time they receive DECD's and the auditors' reports.

PA 17-242—sSB 963

Commerce Committee

AN ACT CONCERNING EDUCATIONAL AND ENVIRONMENTAL ISSUES RELATING TO MANUFACTURING

SUMMARY: This act requires the Department of Energy and Environmental Protection (DEEP) commissioner to issue a notice of intent to adopt hazardous waste regulations consistent with recently adopted federal Environmental Protection Agency (EPA) regulations. Current DEEP hazardous waste regulations largely align with EPA regulations that took effect in 2001.

The act also makes changes related to manufacturing workforce development. Specifically, it requires the (1) Board of Regents for Higher Education (BOR) to develop a plan to increase mechatronics course offerings and (2) Commerce Committee chairpersons to appoint and convene a working group to develop a program to train inmates in correctional facilities for manufacturing careers.

EFFECTIVE DATE: Upon passage, except that the provision on hazardous waste regulations is effective October 1, 2017.

§ 1 — HAZARDOUS WASTE REGULATIONS

By July 1, 2018, the act requires the DEEP commissioner to issue a notice of intent to adopt regulations that are consistent, except for any modifications he deems necessary, with the EPA's Hazardous Waste Generator Improvements

Rule as published in the Federal Register of November 28, 2016. Under existing law and the act, if the commissioner adopts regulations on activities for which the federal government has adopted standards or procedures, provisions that differ from the federal regulations must be clearly distinguishable either in the state regulations or in supporting documentation. DEEP must also explain why the provisions differ and make the explanation publicly available when the notice of intent is published (CGS § 22a-6(h)).

Under the act, if the commissioner has not issued the required notice before July 1, 2018, he must submit a report to the Commerce Committee by August 1, 2018. The report must include (1) an updated timeframe for adopting the regulations and (2) a summary of any public comments DEEP received during the process to issue the notice of intent.

A hazardous waste generator is any entity that produces, usually through an industrial process, waste deemed hazardous under federal or state regulations. Federal and state regulations establish hazardous waste management requirements for three categories of generators that vary based on the amount of waste generated and stored (conditionally exempt small quantity (now called “very small quantity generators” in the EPA regulations), small quantity, and large quantity generators, see BACKGROUND).

§ 2 — ONLINE MECHATRONICS COURSES

By January 1, 2018, the act requires the BOR to (1) develop a plan to offer online mechatronics courses at Central Connecticut State University and the community colleges and (2) submit the plan and any recommendations for related legislation to the Commerce and Higher Education committees. Mechatronics combines various engineering fields, including mechanical, electronics, controls, and computer. Mechatronics professionals design and repair robotics and computer-aided manufacturing equipment, among other things.

§ 3 — WORKING GROUP ON MANUFACTURING TRAINING FOR INMATES

The act requires the Commerce Committee chairpersons to appoint and convene a working group to develop a program to train inmates in the custody of the correction commissioner for manufacturing jobs.

Appointments must be made by August 10, 2017 and must include at least:

1. a college or university manufacturing instructor;
2. a person experienced in providing job training to inmates;
3. a technical high school manufacturing teacher;
4. a manufacturers’ association representative;
5. an owner or manager of a small manufacturing company (i.e., fewer than 100 employees);
6. an owner or manager of a large manufacturing company (i.e., more than 100 employees);
7. a representative of a private educational institution with a manufacturing program; and
8. the economic and community development, labor, and correction commissioners, or their designees.

The Commerce Committee chairpersons must select the working group’s chairperson, who must schedule the group’s first meeting, to be held by September 9, 2017.

The act requires the group to report its legislative recommendations on implementing the program to the Commerce, Judiciary, and Labor committees by January 15, 2018. The working group ends on that date or when it submits its report, whichever is later.

BACKGROUND

Current State Regulations and New Federal Rules

Hazardous waste generator regulations govern, among other things, (1) hazardous waste accumulation limits and storage methods; (2) waste treatment, disposal, and transport; (3) emergency preparation and personnel training; and (4) reporting and recordkeeping. Current state hazardous waste regulations generally incorporate by reference EPA rules that took effect in 2001 but are more stringent in some areas.

Among other things, the new federal rules:

1. provide more flexibility to conditionally exempt small quantity generators by allowing them to ship waste to a large quantity generator,
 2. allow small quantity generators that generate an atypical amount of waste in a given month because of a non-routine event to maintain their usual status and avoid the requirements associated with higher generator status,
 3. update emergency response and contingency planning provisions, and
 4. were reorganized and rewritten for purposes of clarity.
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PA 17-3—HB 7254
Education Committee

AN ACT REQUIRING SPECIAL EDUCATION TEACHERS TO COMPLETE A PROGRAM OF STUDY IN EVIDENCE-BASED STRUCTURED LITERACY INTERVENTIONS FOR STUDENTS WITH DYSLEXIA

SUMMARY: Beginning July 1, 2018, this act establishes additional requirements for applicants seeking a comprehensive special education or integrated early childhood and special education endorsement, whether they are already certified or applying to be certified as teachers. It requires them to complete a reading and language diagnosis and remediation program that includes supervised practicum hours and instruction in the detection of, and evidence-based structured literacy interventions for, dyslexic students.

Under existing law, unchanged by the act, current comprehensive special education endorsement applicants must (1) achieve a satisfactory score on the State Board of Education-approved reading instruction exam or a comparable reading instruction exam with equivalent standards and (2) complete an approved teacher preparation program specifically in the area in which they are seeking endorsement and be recommended for certification.

Under the act, dyslexia has the same meaning found in the State Department of Education’s guidance manual for individualized education programs under special education law. The manual defines dyslexia as a type of learning disability that is neurobiological in origin; affects reading, specifically spelling, decoding words, and fluent word recognition; and results from a significant deficit in phonological processing.

EFFECTIVE DATE: July 1, 2017

PA 17-13—sSB 908
Education Committee

AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS’ RECOMMENDATIONS FOR TECHNICAL REVISIONS TO THE STATUTES RELATING TO EDUCATION AND EARLY CHILDHOOD

SUMMARY: This act makes conforming and technical changes in the education and early childhood statutes.

EFFECTIVE DATE: July 1, 2017

PA 17-14—SB 910
Education Committee

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE DEPARTMENT OF EDUCATION

SUMMARY: This act makes the following changes to the education statutes:

1. removes any in-school suspension of a half day or more from the calculations of student chronic absentee rates done by local and regional boards of education (§ 1);
2. removes certain eligibility requirements for cooperative regional special education facilities seeking state school construction grants (§ 2);
3. allows teacher preparation program students to avoid taking the state reading, writing, and mathematics competency examination if they have qualified for a waiver based on criteria established by the State Board of Education (SBE) (§ 3);
4. removes obsolete language from the law allowing SBE to issue certificates of qualification and requiring temporary 90-day teaching certificate holders to attend a defunct teacher mentoring program (§§ 4 & 9);
5. changes the requirements that applicants must meet in order to qualify for the entry-level initial educator certificate (§ 8);
6. removes an annual reporting requirement for regional education service centers (RESCs) to submit Open Choice seat availability to SDE (§ 10);
7. continues an existing two-phase supplemental magnet transportation grant to the Sheff magnet schools and EASTCONN RESC with some payment adjustments in comparison to previous fiscal years (§ 11); and

8. beginning in the 2018-19 school year, moves annual administration of the statewide science mastery exam from grade 10 to 11 and removes the requirement that the science exam for grades 5, 8, and 11 be administered to public school students in March or April, instead requiring administration during the regular school day (§ 12).

The act also makes technical and conforming changes (including §§ 5-7 in their entirety).

EFFECTIVE DATE: July 1, 2017, except the provisions addressing supplemental magnet school transportation grants (§ 11) take effect upon passage.

§ 1 — CALCULATION OF STUDENT ABSENCES

By law, boards of education that face district or school chronic absenteeism must form attendance review teams to address this issue. The law establishes the manner in which the boards should calculate chronic absenteeism. Under the act, a student who serves an in-school suspension that is a half day or longer is no longer considered absent for purposes of this calculation.

§ 2 — CONSTRUCTION GRANTS

Existing law makes school districts eligible for state school construction grants to purchase, construct, or reconstruct a special education facility that serves students who live outside of the district or attend a private academy as part of a long-term, regional plan approved by SBE. The act removes requirements for the facility to be (1) SBE-approved and (2) adjunct to, or connected with, facilities for children in the regular school program.

§ 8 — INITIAL EDUCATOR CERTIFICATE REQUIREMENTS

Under prior law, an individual who completed a four-year bachelor's degree program was eligible for an entry-level initial educator certificate if the degree was (1) in an SBE-approved teacher education program, (2) SBE-approved, or (3) from a regionally accredited college or university or one accredited by the Board of Regents for Higher Education (BOR) or the Office of Higher Education (OHE). Individuals were also eligible if they completed OHE's alternate route to certification (ARC) program and took SBE-required and BOR-accredited teacher training equivalents (unless these equivalents were taken at out-of-state institutions).

The act instead allows an individual with a bachelor's degree in any subject area from a BOR- or OHE-accredited or regionally accredited institution to be eligible for an initial certificate, as long as he or she has completed either of the following:

1. an SBE-approved educator preparation program or a program approved by the appropriate governing body in the state where his or her higher education institution is located or
2. an ARC program approved either by SBE or the appropriate out-of-state governing body, and also satisfies either the state's temporary certificate or resident teacher certificate requirements.

§ 10 — RESC DATA REPORTING FOR THE OPEN CHOICE PROGRAM

The Open Choice program allows students from large urban districts to attend suburban schools, and vice versa, on a space-available basis in order to reduce racial, ethnic, and economic isolation; improve academic achievement; and provide public school choice. By law, RESCs must assist school districts in their respective regions with administering the program in exchange for an annual grant from SDE (CGS § 10-266aa).

The act removes RESCs' responsibility to annually report to SDE, by April 15, the number of spaces available for the following school year for out-of-district students to attend public schools in their respective regions under the Open Choice program.

§ 11 — SUPPLEMENTAL MAGNET SCHOOL TRANSPORTATION GRANT

Existing law allows the education commissioner to provide supplemental transportation grants to *Sheff* magnet schools and the EASTCONN RESC for *Sheff* magnet school transportation (CGS § 10-264i(a)(4)). For the past four fiscal years, the law has required that the commissioner appropriate the grants in two phases, with the first releasing up to 50% of the grant on or before June 30 and the second releasing the balance on or before the following September 1 upon completion of a comprehensive financial review by an auditor.

For FY 17, the act allows the commissioner to release a higher grant percentage in the first payment phase in comparison to previous fiscal years: up to 70%, rather than 50%, of the grant by June 30, 2017. Additionally, the act delays the deadline for releasing the grant balance in the second payment phase in comparison to previous fiscal years: on or before May 30, 2018 upon completion of a comprehensive financial review, rather than September 1, 2017.

PA 17-29—HB 7159

Education Committee

AN ACT CONCERNING CONNECTICUT'S SEAL OF BILITERACY

SUMMARY: This act requires the State Board of Education, by September 1, 2017, to establish criteria for local and regional boards of education to use when awarding the Connecticut State Seal of Biliteracy. The act allows boards to affix this seal on diplomas they award to high school students who achieve high proficiency in English and at least one foreign language, beginning with the graduating class of 2018. Under the act, “foreign language” refers to a world language other than English, including American Sign Language and any language spoken by a federally recognized Native American tribe.

The act requires any board that issues such a seal to include a designation on the recipient’s transcript indicating receipt of the seal.

EFFECTIVE DATE: July 1, 2017

PA 17-37—sSB 953

Education Committee

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE TASK FORCE ON PROFESSIONAL DEVELOPMENT AND IN-SERVICE TRAINING REQUIREMENTS FOR EDUCATORS

SUMMARY: This act makes changes in statutes on professional development and in-service training for teachers, administrators, and other professional staff who must be certified.

For professional development, the changes include:

1. requiring school districts’ professional development programs for certified employees to be consistent with the goals the district or employees identify;
2. eliminating the requirement that districts attest in writing to the State Department of Education (SDE) that they meet the state’s professional development requirements (in practice, districts have SDE-approved educator evaluation and support plans that include this information);
3. eliminating the requirement that SDE (a) notify a district of its failure to meet the professional development requirements and (b) audit district programs; and
4. eliminating the State Board of Education’s (SBE) authority to assess financial penalties against districts it finds out of compliance based on such SDE audits.

For in-service training, the act eliminates several topics prior law required districts to cover when providing such training to certified teachers, administrators, and other pupil personnel. (Some of these topics, as well as certain professional development requirements eliminated by the act, are covered by other statutory provisions and, in practice, may be covered by local education curricula.)

The act also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2017

PROFESSIONAL DEVELOPMENT

By law, school districts must make available, at no cost, at least 18 hours of professional development each school year to certified employees. They must do this according to a plan developed in consultation with professional development committees consisting of the districts’ certified employees and other appropriate members.

The act requires professional development to be consistent with goals the district or its certified employees identify, but eliminates specific requirements that districts:

1. determine specific professional development activities with the advice and help of their teachers, including their union representatives;
2. offer activities that give full consideration to SBE's priorities related to student achievement;
3. improve integration into teacher practice of (a) reading instruction, (b) literacy and numeracy enhancement, (c) cultural awareness, and (d) English language learner instruction strategies;
4. use teacher evaluation results and findings to improve teacher and administrator practice and provide professional growth; and
5. include training on implementing student individualized education plans and communicating related procedures to students' parents or guardians.

It also eliminates a separate professional development provision that required superintendents and administrators to receive at least 15 hours of training in the district's teacher evaluation and support program every five years.

IN-SERVICE TRAINING

The act eliminates several topics that prior law required school districts to include in in-service training for certified teachers, administrators, and other pupil personnel.

These include:

1. exceptional children's growth and development;
2. applying information technology to student learning and classroom instruction;
3. teaching language arts, reading, and reading readiness in kindergarten to grade three;
4. second language instruction in districts required to provide bilingual education;
5. the teacher evaluation and support program; and
6. cultural competency.

The act eliminates one in-service training requirement regarding suicide prevention, but leaves intact a separate suicide prevention requirement.

PA 17-41—sSB 912

Education Committee

AN ACT CONCERNING REVISIONS TO THE STAFF QUALIFICATIONS REQUIREMENT FOR EARLY CHILDHOOD EDUCATORS

SUMMARY: This act (1) delays the implementation of the two scheduled phases of higher level education requirements for school readiness staff and (2) makes it easier for staff to meet these requirements, primarily by accepting degrees from more out-of-state higher education institutions.

The act delays the start of the first phase by one year, from July 1, 2017 to July 1, 2018, and the second phase by one year, from July 1, 2020 to July 1, 2021.

The act creates the following additional ways for school readiness staff to meet the higher level requirements: (1) for the first phase only, by holding an associate degree with a concentration in early childhood from a regionally accredited institution (i.e., does not have to be a Connecticut-approved institution); (2) by holding a bachelor's degree with a concentration in early childhood education from a regionally accredited institution; or (3) by earning an early childhood teacher credential the act establishes.

The act modifies the law that allows staff to submit a degree for state review to determine if it satisfies the requirements by expanding it to allow the review of associate degrees. (Bachelor's degrees are already allowed.)

It also makes conforming and technical changes and leaves unchanged the law that grandfathers existing early childcare workers into meeting the higher level education requirements (see BACKGROUND).

EFFECTIVE DATE: July 1, 2017

EARLY CHILDHOOD DEFINITION

The act defines "concentration in early childhood education" as a program of study in early childhood education, including early childhood education, child study, child development, or human growth and development.

CURRENT SCHOOL READINESS STAFF REQUIREMENTS

Until the start of the first phase of the higher level requirements, existing law requires one person in each classroom to have certain credentials. The act modifies the current requirements by adding to the list of acceptable credentials an associate or a bachelor's degree with a concentration in early childhood education from a regionally accredited higher education institution (i.e., not necessarily a Connecticut-approved institution).

The law, unchanged by the act, already permits similar staff credentials. It allows an associate or four-year degree with 12 credits or more in early childhood education or child development. In either of these situations the coursework must be approved by the Office of Early Childhood (OEC) commissioner or the president of the Connecticut State Colleges and Universities after consultation with the OEC commissioner.

FIRST PHASE REQUIREMENTS

The first phase of the higher staff requirements establishes two groups of employees, with one group needing a higher level of education. The act makes changes affecting both groups.

Under prior law, at least 50% of classroom staff in each state-funded school readiness program had to have a higher level of education by holding either a:

1. teaching certificate with an endorsement in early childhood education or early childhood special education or
2. bachelor's degree with an early childhood education concentration from an institution both regionally and state accredited and from a program approved by the (a) Board of Regents (BOR) or Office of Higher Education (OHE) and (b) OEC.

The act modifies the bachelor's degree requirement by no longer requiring that it come from an institution that is accredited by, or has the program approved by, the state. It still requires that the institution be regionally accredited.

The act requires OEC to issue an early childhood teacher credential to applicants who hold an associate degree (or bachelor's) with a concentration in early childhood education from a higher education institution that is accredited regionally and from a program approved by (1) the BOR or OHE and (2) OEC. Under prior law this type of bachelor's degree satisfied the first phase requirements but was not called an early childhood credential as it is under the act. Also, under the act, staff with this credential count towards the 50% of classroom staff required to have a higher level of education. The act provides that if the early childhood teacher credential is based on an associate degree, the credential is valid until June 30, 2021 (the end of the first phase).

The act also makes minor changes in the first phase requirement for those who do not have a teaching certificate, a bachelor's degree, or the early childhood teacher credential. Under prior law, up to 50% of those employed in a state-funded school readiness program could meet the state qualification requirements if they held an associate degree with a concentration in early childhood education or a similar discipline from a higher education institution that was accredited regionally and by the BOR or OHE and from a program approved by (1) the BOR or OHE and (2) OEC. The act modifies this to an associate degree with a concentration in early childhood education from a regionally accredited institution, therefore no longer requiring accreditation or approval by the Connecticut state entities.

SECOND PHASE REQUIREMENTS

Overall, the act maintains prior law's approach for the second phase by requiring that all classroom staff in state-funded programs meet the qualifications by holding either (1) a teaching certificate with an endorsement in early childhood education or early childhood special education or (2) a bachelor's degree with an early childhood education concentration. As with phase one, the act modifies the bachelor's degree requirement by no longer requiring that it be from an institution accredited by, or from a program approved by, the state, thus making it easier for applicants who attended college out of state. It still requires that the institution be regionally accredited.

The act also authorizes OEC to issue an early childhood teacher credential to anyone who holds a bachelor's degree with a concentration in early childhood education from institutions that are accredited and approved in the same way as described above for the credential.

DEGREE REVIEW FOR SUFFICIENCY

The act expands the types of degrees that can be submitted for review in order for OEC to determine if the coursework is sufficient to meet the staffing requirements.

Under existing law, someone with a bachelor's degree in early childhood education or child development or a bachelor's degree and at least 12 credits in such topics can submit documentation to OEC for review and assessment to

determine whether the degree has a sufficient concentration in early childhood education to satisfy the phase one or two requirements. The act modifies this by also allowing those with associate degrees in early childhood education or child development or in other fields with the above mentioned coursework to submit for review a degree from a regionally accredited higher education institution.

BACKGROUND

Grandfathering

Two existing statutory provisions allow certain school readiness staff members to meet the higher education requirements (i.e., are grandfathered).

Under one provision, staff members are considered to have satisfied the requirements through June 30, 2025 if they have:

1. an associate degree with at least 12 credits in early childhood education or child development from a higher education institution accredited in Connecticut and regionally accredited and
2. been employed by the same school readiness program since at least 1995.

Beginning July 1, 2025, these staff members must hold a childhood development associate credential or an equivalent credential or otherwise meet the phase two requirements (CGS § 10-16p(b)(5)).

Under a second provision, staff members are considered to have met the requirements if they were employed by a program on or before June 30, 2015 and have a (1) bachelor's degree in early childhood education or child development or (2) bachelor's degree and at least 12 credits in early childhood education or child development (CGS § 10-16p(b)(3)).

PA 17-42—sSB 1026

Education Committee

AN ACT CONCERNING REVISIONS TO THE HIGH SCHOOL GRADUATION REQUIREMENTS

SUMMARY: This act maintains current graduation requirements, which require students to earn at least 20 credits to graduate, for another two years and subsequently delays implementation of heightened graduation requirements, which require students to earn at least 25 credits.

Prior law required students, beginning with the 2017-18 freshman class, to earn at least 25 credits in order to graduate. The act postpones implementation of this heightened 25-credit requirement to the 2019-20 freshman class. The act also changes several of the heightened requirements' academic content areas and credit minimums established in prior law and allows their fulfillment through successful demonstration of subject matter content mastery achieved through alternative educational experiences and opportunities.

The act also does the following:

1. postpones by two years the beginning of required remedial services for grades seven through 12 (beginning with classes graduating high school in 2023, rather than 2021);
2. requires the State Board of Education (SBE) to adopt statewide subject matter content standards that are reviewed and revised at least every 10 years; and
3. specifies that high school courses must meet these statewide subject matter content standards to fulfill graduation requirements and allows mastery-based courses to satisfy these requirements.

It also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2017

HEIGHTENED GRADUATION REQUIREMENTS

Table 1 below compares the heightened graduation requirements in prior law that were set to take effect with the freshman class entering high school in 2017-18 with the heightened requirements under the act set to take effect two years later with the freshman class entering high school in 2019-20.

Table 1: Comparison of Heightened Graduation Requirements

<i>Heightened Graduation Requirements in Prior Law (CGS § 10-221a)</i>	<i>Heightened Graduation Requirements under the Act</i>
Total minimum credits required: 25	Total minimum credits required: 25
Humanities: at least nine credits, including at least: <ul style="list-style-type: none"> • four in English, including composition; • three in social studies, including one in American history and at least one-half credit in civics and American government; • one credit in fine arts; and • one credit in a humanities elective 	Humanities: at least nine credits, including civics and the arts
Science, technology, engineering, and mathematics: at least eight credits, including at least: <ul style="list-style-type: none"> • four credits in mathematics, including algebra I, geometry, and algebra II or probability and statistics; • three credits in science, including at least one credit in life science and one in physical science; and • one credit in a science, technology, engineering, and mathematics elective 	Science, technology, engineering, and mathematics: at least nine credits
Career and life skills: at least three-and-a-half credits, including at least: <ul style="list-style-type: none"> • one credit in physical education; • one-half credit in health and safety education; and • two credits in career and life skills electives, such as career and technical education, personal finance, and public speaking 	Physical education and wellness: at least one credit Health and safety education: at least one credit
World languages: at least two credits*	World languages: at least one credit*
Senior demonstration project or an approved equivalent: one credit	Mastery-based diploma assessment: at least one credit
End of school year examinations in algebra I, geometry, biology, American history, and grade 10 English	N/A

**Existing law, unchanged by the act, allows students to earn up to four credits in fulfillment of the world language requirement (1) in grade six, seven, or eight; (2) through online coursework; or (3) privately through a nonprofit provider, as long as the student achieves a passing grade on an exam prescribed, within available appropriations, by the education commissioner.*

SUBJECT MATTER CONTENT MASTERY

The act allows boards of education to grant students credits in fulfillment of high school graduation requirements for successful demonstration of subject matter content mastery achieved through educational experiences and opportunities that provide flexible and multiple pathways to learning. These pathways include:

1. cross-curricular graduation requirements,
2. career and technical education,
3. virtual learning,
4. work-based learning,
5. service learning,
6. dual enrollment and early college,
7. courses taken in middle school,
8. internships, and
9. student-designed independent studies.

The act specifies that (1) a local or regional board of education determines whether to grant academic credit for demonstration of mastery through these pathways and (2) demonstration of mastery must be in accordance with the statewide subject matter content standards the act requires SBE to adopt.

PA 17-67—SB 949

Education Committee

AN ACT CREATING AN ADVISORY COUNCIL RELATING TO DIGITAL CITIZENSHIP, INTERNET SAFETY AND MEDIA LITERACY

SUMMARY: This act establishes a Digital Citizenship, Internet Safety, and Media Literacy Advisory Council within the State Department of Education.

The education commissioner appoints the members, who must include teachers; librarians; representatives from parent-teacher organizations; and people with expertise in digital citizenship, internet safety, and media literacy.

The council must recommend to the State Board of Education (1) best practices for digital citizenship, internet safety, and media literacy instruction and (2) ways to instruct students to safely, ethically, responsibly, and effectively use media and technology resources.

The act prohibits council members from receiving mileage reimbursement or a transportation allowance for traveling to council meetings.

EFFECTIVE DATE: July 1, 2017

PA 17-68—sSB 1014

Education Committee

Appropriations Committee

AN ACT CONCERNING VARIOUS REVISIONS AND ADDITIONS TO THE EDUCATION STATUTES

SUMMARY: This act makes numerous changes to a variety of education statutes, including:

1. extending the school security grant program another year to FY 18 (§ 1);
2. making certified teachers from another state, U.S. possession or territory, the District of Columbia, or Puerto Rico eligible for a temporary teaching certificate (§ 2);
3. extending the length of a resident teacher certificate from one to two years (§ 3);
4. specifying that an incarcerated parent is entitled, with exceptions, to access all the educational, medical, or similar records of his or her minor child kept by the school district (§ 4);
5. adding measures for the Auditors of Public Accounts (hereinafter “state auditors”) and local or regional boards of education (hereinafter “boards”) to more closely monitor private special education providers (§§ 6 & 7);
6. creating a private school transportation pilot program in school districts within 12 miles of the Montville, New Haven, Shelton, Stamford, and West Hartford school districts (§ 8);
7. extending to private schools the applicant and employee background check requirements that apply to public schools (§§ 9 & 10);
8. requiring boards to conduct an annual health information survey (§ 13);
9. requiring the motor vehicles commissioner to ensure that school bus companies are fulfilling their duty to monitor the commissioner’s periodic reports on drivers who have had their licenses withdrawn, suspended, or revoked (§ 15);
10. specifying that boards of libraries must adopt policies and rules for Internet usage and content access (§ 16); and
11. authorizing private schools to issue “certificates of age” (i.e., working papers) that allow minors to work in a variety of settings (§ 18).

It also makes a number of minor, conforming, and technical changes. A section-by-section analysis follows.

EFFECTIVE DATE: July 1, 2017, except the sections regarding the school security grant program and the creation of a standardized form for contacting former employers of job applicants are effective upon passage.

§ 1 — SCHOOL SECURITY GRANT PROGRAM

This act extends the school security infrastructure grant program to FY 18. Under prior law, the program expired at the end of FY 17. The program provides grants to develop or improve security infrastructure in schools, based on the results of school building security assessments conducted under the supervision of local law enforcement agencies (see BACKGROUND).

By law, the grants are available for public and private schools, charter schools, technical high schools, endowed academies that function as public high schools, and schools operated by regional educational service centers (RESCs). The act specifies that the grants are also available to private child care centers or preschools that have received threats.

§ 2 — OUT-OF-STATE TEACHER PERMIT

The act makes teachers who have taught for at least two years and hold an appropriate teaching certificate issued by another state, a U.S. possession or territory, the District of Columbia, or Puerto Rico eligible for a nonrenewable temporary teaching certificate in Connecticut. It makes the temporary certificate valid for one year and allows the State Board of Education (SBE) to extend it for an additional two years.

By law, the temporary certificate exempts applicants from the standard teacher requirements of completing a four-year degree in a teacher preparation program (or in an alternate route to certification program) and teacher testing, including specific subject area testing.

§ 3 — RESIDENT TEACHER CERTIFICATE

The act extends the life of the existing resident teacher certificate from one to two years.

By law, to qualify for a resident teacher certificate an applicant must (1) hold a bachelor's degree from a higher education institution accredited in Connecticut or regionally accredited, (2) have a minimum undergraduate college cumulative grade point average of 3.00, (3) have achieved a qualifying score on the appropriate SBE-approved subject area assessment, and (4) be enrolled in an SBE-approved alternate route to certification (ARC) program. Once a teacher has graduated from the ARC program, he or she becomes eligible for an initial educator certificate, the first of three levels of permanent teacher certificate.

§ 4 — INCARCERATED PARENTS AND ACCESS TO STUDENT RECORDS

By law, a minor student's parents or legal guardians are entitled to know about and access their student's educational, medical, or similar records unless the information is not disclosable because it concerns a student's alcohol or drug problem and was acquired by a teacher or nurse through professional communication with the student. The act specifies that an incarcerated parent is also entitled to this knowledge and access unless (1) the parent has been convicted of sexual assault in this or another state or (2) the parent is prohibited from such knowledge of, or access to, the student's cumulative record under a court order.

§ 5 — ADVISORY COUNCIL FOR TEACHER PROFESSIONAL STANDARDS

The act makes a technical change to the designation of two appointing authorities to the Connecticut Advisory Council for Teacher Professional Standards. The act changes the name of a union that appoints two members from the Connecticut Federation of Teachers-Connecticut to the American Federation of Teachers-Connecticut.

§§ 6 & 7 — PRIVATE SPECIAL EDUCATION PROGRAMS MONITORING

Audits

The act requires each board that has contracted with a private special education services provider to submit to an audit by the state auditors. The audit must examine the board's monitoring of student attendance in the private special education programs in order to ensure that proper services are being provided and to control costs. The board must allow the auditors to access all records and accounts necessary to conduct the audit.

Contract Provisions

For agreements entered into or amended on or after July 1, 2017, the act permits local boards to (1) require the private special education provider they contract with to provide monthly or quarterly reports detailing the services being provided and their frequency, (2) review and reconcile such reports to the contracted services covered in the agreement, and (3) conduct periodic site visits at the provider's location.

§ 8 — PRIVATE SCHOOL TRANSPORTATION PILOT PROGRAM

The act creates a 10-year private school transportation pilot program in five areas of the state. It requires, with certain conditions, school districts within 12 miles of the Montville, New Haven, Shelton, Stamford, and West Hartford school districts to provide school transportation for students to attend an equivalent private school located in the five named school districts.

Under the act, the board that provides the transportation must be reimbursed for the costs by either the students or by the private school in which the students are enrolled.

The act includes the following conditions:

1. requests for transportation must be made at least 30 days in advance to the student's home district,
2. the private school must be in one of the five named districts, and
3. a board of education is not required to provide transportation if fewer than 10 students make such a request.

The program begins in the school year starting July 1, 2017 and ends in the year that starts July 1, 2026. The act authorizes a board providing the transportation to designate one or more pick-up and drop-off locations within the town.

§§ 9, 10 & 11 — PRIVATE SCHOOL EMPLOYEE BACKGROUND CHECKS

The act extends to private schools the applicant and employee background check requirements that apply to public school education employers (i.e., boards of education, charter schools, and magnet schools) under existing law.

Existing law places some checks on all public school applicants and employees and places additional checks on applicants and employees who have direct contact with students. The act applies all of these checks, detailed below, to private school applicants and employees. Under prior law, private schools could choose to require job applicants to submit to state and national background checks.

Under the act, private school job applicants must submit to state child abuse and neglect registry checks before being hired and state and national criminal history records checks within 30 days of being hired. It also requires applicants to participate in, and consent to, a number of steps, including contacting former employers, to determine whether an applicant has a history of sexual misconduct or child abuse or neglect.

It requires the supervisory agent of the private school to pay for the state and national criminal history records checks, as provided in state law (CGS § 29-17a).

The act also applies to private schools several of the same hiring process procedures, prohibitions, and parameters that apply to public schools under existing law, including:

1. establishing specific procedures for hiring applicants for select positions with education employers, including temporary hires, substitute teachers, and contract employees;
2. establishing requirements for sharing information about applicants between education employers and SDE and among education employers;
3. requiring the applicant to consent to disclosure of required information by current and former employers and SDE;
4. granting immunity from civil and criminal liability to current and former employers and SDE that share information about applicants;
5. extending to private schools access to regional education service center (RESC) fingerprinting services and regulating fees for these services;
6. prohibiting a private school from entering into a resignation or severance agreement or any other agreement that has the effect of suppressing information related to an investigation of suspected employee abuse, neglect, or sexual misconduct;
7. establishing that any applicant who knowingly provides false information or fails to disclose required information is subject to discipline, including denial of employment, by the private school; and
8. requiring private schools to make a documented good faith effort to contact an applicant's current and former employers, provided that such effort requires no more than three telephonic requests made on three separate days.

The act extends to private schools, charter schools, and magnet schools the prohibition on offering employment to any applicant who had a contract terminated by, or who resigned from, any such school if the person was convicted of violating the law that mandates reporting on child abuse and neglect when an allegation of abuse, neglect, or sexual assault has been substantiated.

Standardized Forms

Under the act, and no later than June 30, 2017, SDE must make available to private schools a standardized question form to be used with current or former employers of education job applicants in order to obtain applicant background information. Existing law already requires SDE to make such a form available to public education employers.

§ 12 — TOWN AND BOARD OF EDUCATION AGREEMENTS ON NON-EDUCATIONAL FUNCTIONS

The act explicitly allows boards to enter into written agreements with the board of finance, board of selectmen, or similar entity of the town, as appropriate, to perform certain non-educational functions for the board. (Prior to this, nothing in statute prevented boards and other parts of town government from making such agreements.)

§ 13 — REQUIRED HEALTH INFORMATION SURVEY

Beginning with the school year that starts on July 1, 2017, the act requires each board to annually complete the SDE-issued Health Services Program Information Survey and submit it to SDE in a form and manner prescribed by the department.

§ 14 — SCHOOL NURSE ADVISORY COUNCIL MEMBERSHIP

The act makes a change to the membership of the School Nurse Advisory Council by eliminating the requirement that the representative from the Association of School Nurses of Connecticut must be employed at a private or parochial school.

§ 15 — DMV OVERSIGHT OF SCHOOL BUS COMPANY DRIVER MONITORING

The act requires the motor vehicles commissioner to ensure that school districts and the school bus companies they hire (i.e., carriers) are fulfilling their duty to monitor twice a month the commissioner's periodic reports on drivers who have had their licenses withdrawn, suspended, or revoked. It requires the commissioner to do this by: (1) conducting random compliance audits of carriers to determine whether a company is performing the required review of the driver suspension report, (2) maintaining a record of each carrier review for the previous two years, and (3) making the record publicly available upon request.

By law, bus companies that fail to review the commissioner's report as required are subject to civil penalties.

§ 16 — LIBRARY INTERNET USAGE POLICY

The act specifies that boards of libraries and public reading rooms must adopt policies and rules for Internet usage and content access by library patrons on library devices. By law, these boards adopt bylaws, rules, and regulations for the operation and governance of libraries and reading rooms.

§ 17 — NEW MEMBER FOR THE PERFORMANCE EVALUATION ADVISORY COUNCIL (PEAC)

The act adds a representative from the Connecticut Association of School Administrators (an administrators' union) to the membership of PEAC, the body charged in statute with helping SDE develop teacher evaluation and support guidelines. Under existing law, the council has representation from SDE and a number of education interest groups, including the Connecticut Association of Boards of Education; Connecticut Education Association; and Connecticut Association of Public School Superintendents.

§ 18 — PRIVATE SCHOOL AUTHORITY TO ISSUE WORKING PAPERS FOR MINORS

The act extends the authority to issue "certificates of age" (i.e., working papers; see BACKGROUND) for minors to work in a variety of settings to private school supervisory agents. Under prior law, only a public school superintendent could issue such papers pursuant to SBE procedures.

BACKGROUND

School Security Infrastructure Grant Program

PA 13-3 established this competitive state grant program to improve security infrastructure in schools. The program reimburses towns, state charter schools, technical high schools, incorporated or endowed high schools or academies, private schools, and regional education service centers for certain expenses incurred on or after January 1, 2013 to (1) develop or improve security infrastructure; (2) train personnel to operate and maintain the security infrastructure; and (3) buy portable entrance security devices, such as metal detectors.

Working Papers

By law, a superintendent of schools can issue working papers certifying a minor's age, which authorizes the minor to work in the following settings:

1. if the minor is at least 16 years old, in any manufacturing, mechanical, or theatrical industry; restaurant or public dining room; or in any bowling alley, shoe-shining establishment, or barber shop;
2. if the minor is at least 15 years old, in any commercial or retail establishment; and
3. if the minor is at least 14 years old, at any municipal or private golf course.

PA 17-82—sSB 911*Education Committee***AN ACT CONCERNING SERVICES FOR GIFTED AND TALENTED STUDENTS**

SUMMARY: This act requires the education commissioner to designate a State Department of Education (SDE) employee, preferably with experience working with gifted and talented students, to be responsible for giving local and regional boards of education, as well as parents and guardians of these students, information and assistance relating to awareness about, identification of, and services for gifted and talented students.

It also requires SDE to develop guidelines for providing school services to gifted and talented students, which SDE must make available to local and regional boards of education by January 1, 2018. The guidelines must include best practices for (1) addressing the intellectual, social, and emotional needs of these students and (2) providing teacher training and professional development.

EFFECTIVE DATE: July 1, 2017

PA 17-100—sHB 7202*Education Committee***AN ACT ESTABLISHING A DIVISION OF POSTSECONDARY EDUCATION PROGRAMS WITHIN THE TECHNICAL HIGH SCHOOL SYSTEM**

SUMMARY: This act creates a postsecondary educational programs division within the Connecticut Technical High School System (hereinafter "system") to administer any postsecondary educational program that (1) a technical high school offered during the 2016-17 school year or (2) the system's board approves on or after July 5, 2017.

The act requires that any student enrolled in the new division's programs either (1) have a high school diploma or its equivalent or (2) be at least age 21.

EFFECTIVE DATE: Upon passage

PA 17-101—HB 7205

Education Committee

AN ACT CONCERNING EARLY LITERACY

SUMMARY: This act requires the State Department of Education (SDE) to establish a reading readiness program, within available appropriations. The program must provide three tiers of support in early literacy to each school district designated as an alliance district and each school in the commissioner's network of schools. It requires SDE to (1) determine the reading readiness of each participating school and school district by considering a combination of factors provided in the act and (2) provide literacy supports based on each school or district's reading readiness.

The act requires the alignment of tiered literacy supports with the improvement plan developed for the network school or alliance district under either of those programs (see BACKGROUND).

The act also requires the results of reading instruction surveys, which must be taken by all teachers in positions requiring endorsements in (1) early childhood nursery through grade three or (2) elementary education, to be distributed to the teacher and the supervisor responsible for designing and facilitating the teacher's professional development. The act specifies that survey results are confidential, but it eliminates a provision of prior law requiring that the survey be conducted in a way that protects the teacher's anonymity.

By law and unchanged by the act, the survey results are not included in the teacher's annual evaluation and are exempt from disclosure under the Freedom of Information Act. Another law requires the survey results to be used to develop the teacher's professional development program (CGS § 10-148b).

EFFECTIVE DATE: July 1, 2017

READING READINESS PROGRAM

Factors in Determining Reading Readiness

Under the act, SDE must assess the reading readiness of kindergarten through third grade students at each school in the commissioner's network and each alliance district by considering any combination of the following:

1. whether the school or district has developed and is implementing a multiyear plan and allocated resources specifically for kindergarten through third grade early literacy;
2. whether teachers and administrators have been trained in the science of teaching reading, and the extent to which teachers and administrators have completed an SDE-designed program of professional development in scientifically-based reading research and instruction;
3. the level of access to external literacy coaches; and
4. whether the school or district has reading intervention staff.

Tiered Supports in Literacy

The act requires SDE to (1) identify the early literacy needs of each such school or school district in the program based on the results of the assessment the act requires and (2) provide tiered supports for early literacy. The three tiers to be provided are as follows:

1. Tier 1: universal supports to all 10 educational reform districts (the 10 lowest performing districts in the state), including online professional development modules aligned with the reading instruction survey, mentioned above, and other literacy modules and programs available in the state;
2. Tier 2: targeted supports, including (a) a two-year program of literacy leadership training for certain teachers and administrators, (b) targeted professional development in accordance with an SDE-designed reading instruction program using the results of the reading instruction survey, and (c) external coaching support using alliance district or commissioner's network funding; and
3. Tier 3: intensive supports, including multiyear SDE support and school or district commitment, including (a) the use of alliance district funding to support a kindergarten through third grade early literacy program, (b) technical support in the drafting and submission of alliance district reading plans, (c) identifying and including dedicated literacy coaches and reading interventionists, (d) targeted and intensive professional development, and (e) funds for assessment and instructional materials.

The tiered literacy supports must be aligned, as appropriate, with the plan developed for that school or district under either the commissioner's network program or the alliance district program.

BACKGROUND

Commissioner's Network of Schools and Alliance Districts

These are two SDE programs to provide state interventions in low performing schools and districts. The commissioner's network is for individual schools struggling to improve student achievement. The alliance districts are the 30 lowest performing school districts in the state.

PA 17-172—HB 7201*Education Committee***AN ACT CONCERNING THE ESTABLISHMENT OF REDUCED-ISOLATION SETTING STANDARDS FOR INTERDISTRICT MAGNET SCHOOL PROGRAMS**

SUMMARY: This act creates new student enrollment standards for determining state operating grant eligibility for all magnet schools in FYs 18 and 19 (i.e., the 2017-18 and 2018-19 school years), replacing three different categories of standards in prior law.

Prior law allowed the State Department of Education (SDE) to establish a magnet school operating grant program for two different types of magnet schools: (1) *Sheff* interdistrict magnet schools, located in the *Sheff* region (i.e., greater Hartford) and created in response to the Connecticut Supreme Court's *Sheff v. O'Neill* decision, and (2) non-*Sheff* interdistrict magnet schools, which have no location restrictions. While both types of magnet schools encourage racial, ethnic, and economic diversity, the law previously applied three different student enrollment standards when determining whether magnet schools were eligible for state operating grants: one for *Sheff* magnets and two for non-*Sheff* magnets that varied based on when the school was established.

The act replaces these three enrollment standards with a new set of standards. For FY 18, the act creates uniform standards for both *Sheff* and non-*Sheff* magnet schools, but in FY 19 it gives the education commissioner the authority to create alternative standards for reduced-isolation student enrollment for *Sheff* magnet schools in order to comply with the *Sheff* stipulation and order that will be in effect then. The act allows the commissioner to define "reduced-isolation student." Under the most recent stipulation, reduced-isolation setting means racial minorities can make up no more than 75% of the enrolled student body.

Under the act, these reduced-isolation setting standards must be created by the commissioner by July 1, 2017 and are not considered agency regulations. Beginning in FY 18, the act generally prohibits the commissioner from awarding operating grants to magnet schools that fail to meet these new standards, but it also gives her the discretion to award the grants to noncompliant schools while assisting them with their efforts to regain eligibility. The act also gives her the authority to impose a financial penalty for consecutive years of ineligibility.

Additionally, for FY 17, the act makes the Center for Global Studies at Brien McMahon High School in Norwalk eligible for the maximum full-time magnet school operating grant (i.e., \$7,085 per non-resident student; \$3,000 per resident student). By law, any magnet school that operates less than full-time, but at least half-time, is eligible for up to 65% of the maximum operating grant amount.

The act also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2017, except the provisions about operating grants for the Center for Global Studies at Brien McMahon High School take effect upon passage.

MAGNET SCHOOL OPERATING GRANT ELIGIBILITY STANDARDS

Table 1 compares state operating grant eligibility criteria for non-*Sheff* magnet schools under prior law with those under the act.

Table 1: Non-Sheff Magnet School State Operating Grant Eligibility

<i>Magnet School Type</i>	<i>Operating Grant Eligibility under Prior Law (CGS § 10-264I(a))</i>	<i>Operating Grant Eligibility under the Act (FYs 18 and 19)</i>
School operating prior to July 1, 2005	No more than 80% of enrolled students may come from a participating district	No more than 75% of enrolled students may come from a participating district. Enrolled students must meet the education commissioner’s new reduced isolation standards, which must contain a minimum 20% reduced-isolation student enrollment percentage, with an alternative minimum percentage at most 1% lower for certain non-compliant districts (see <i>Development of Reduced-Isolation Setting Standards</i> below)
School operating on or after July 1, 2005	No more than 75% of enrolled students may come from a participating district. At least 25%, but no more than 75%, of enrolled students may be racial minorities (i.e., of a race other than white, or of Hispanic or Latino ethnicity)	

Table 2 compares state operating grant eligibility criteria for *Sheff* magnet schools under prior law with those under the act.

Table 2: Sheff Magnet School State Operating Grant Eligibility

<i>Operating Grant Eligibility under Prior Law (CGS § 10-264I(a))</i>	<i>Operating Grant Eligibility under the Act</i>	
	<i>FY 18</i>	<i>FY 19</i>
The number of enrolled students that may come from a participating district must be no more than 75% of enrolled students identifying as black/African American or any part Hispanic (i.e., meets the <i>Sheff</i> 2013 stipulation reduced isolation standard)	Same as non- <i>Sheff</i> magnet schools (see Table 1 above)	No more than 75% of enrolled students may come from a participating district. Enrolled students must meet the education commissioner’s new reduced isolation standards, which may contain an alternative reduced-isolation student enrollment percentage that, among other things, comply with the <i>Sheff</i> stipulation or order in effect (see <i>Development of Reduced-Isolation Setting Standards</i> below)

Development of Reduced-Isolation Setting Standards

Under the act, the commissioner-developed standards must do the following:

1. define the term “reduced-isolation student” for purposes of the standards;
2. establish a requirement for the minimum percentage of reduced-isolation students that can be enrolled in an interdistrict magnet school program, as long as this percentage is at least 20% of total school enrollment; and
3. allow a magnet school to have a total school enrollment of reduced-isolation students that does not exceed 1% below the minimum percentage established by the commissioner, as long as the commissioner approves a plan designed to bring the number of reduced-isolation students in the magnet school into compliance with the minimum percentage.

For the 2018-19 school year, the standards must authorize the commissioner to establish an alternative reduced-isolation student enrollment percentage for a *Sheff* magnet school by May 1, 2018, as long as she does the following:

1. determines that this alternative percentage (a) complies with the *Sheff v. O’Neill* decision or any related stipulation or order in effect and (b) increases opportunities for Hartford resident students to access an educational setting with reduced racial isolation or other categories of diversity, including geography, socioeconomic status, special education, English language learners, and academic achievement and
2. approves a plan for such magnet school that is designed to bring the number of reduced-isolation students into compliance with this alternative percentage or the minimum described above.

The act requires the commissioner, by May 1, 2018, to submit to the Education Committee a report on each alternative reduced-isolation student enrollment percentage established for *Sheff* magnet schools.

Failure to Meet Reduced-Isolation Setting Standards

Under the act, in FYs 18 and 19, any *Sheff* or non-*Sheff* magnet school that fails to meet the commissioner's new reduced-isolation setting standards and exceeds the 75% participating district student enrollment cap is generally ineligible to receive a state operating grant; however, the commissioner may award the grant for an additional year or years if she (1) determines it is appropriate to do so and (2) approves a plan to bring the school into compliance with the reduced-isolation setting standards.

Under prior law, magnet schools that failed to meet reduced-isolation setting standards had different award eligibility exceptions. For noncompliant schools, the commissioner could award a grant for one additional year if she found good cause to do so and (1) more than 75% of the total enrollment was from one district or (2) less than 25% or more than 75% of the enrolled students were racial minorities. She could not award a grant for an additional consecutive year or years unless she found it appropriate for purposes of the state complying with the 2013 *Sheff* stipulation and order that required such a school to operate under a state-approved enrollment management plan that complies with the standard within an agreed upon period.

Financial Penalty

For FYs 18 and 19, if a magnet school fails to meet the commissioner-developed reduced-isolation setting standards for two or more consecutive years, the act allows the commissioner to impose a financial penalty on the school's operator, or take any other measure in consultation with the operator, as appropriate to help the operator come into compliance.

BACKGROUND

Interdistrict Magnet Schools

These schools have a program that (1) supports racial, ethnic, and economic diversity; (2) offers a special and high quality curriculum; and (3) requires enrolled students to attend at least half-time. Regional agricultural science and technology schools, technical high schools, and regional special education centers are not considered magnet schools (CGS § 10-264l(a)).

Sheff v. O'Neill Decision

In 1996, the Connecticut Supreme Court ruled in *Sheff* that the racial, ethnic, and economic isolation of Hartford public school students violated their right to a "substantially equal educational opportunity" under the state constitution (238 Conn. 1 (1996)). It ordered the state and the plaintiff's representatives to work out an agreement, which since has been renewed several times, for the voluntary desegregation of Hartford students.

2013 Sheff Stipulation and Order

This stipulated agreement between the *Sheff v. O'Neill* parties establishes a timetable for the state to make additional progress in reducing the racial, ethnic, and economic isolation of Hartford public school students. The agreement, known as Phase III, runs from December 13, 2013 to June 30, 2015. (It was since extended twice by the parties to run through June 30, 2017.)

Sheff Region

This region consists of the school districts of 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.

PA 17-173—sHB 7253
Education Committee
Appropriations Committee

AN ACT CONCERNING MINOR REVISIONS AND ADDITIONS TO THE EDUCATION STATUTES

SUMMARY: This act makes the following changes in the education statutes:

1. requires the State Department of Education (SDE) to provide local and regional boards of education with mastery exam scores by August 15 of each school year following the exam administration (§ 1);
2. postpones for two years, from July 1, 2016 to July 1, 2018, the requirement that a person hold a master's degree in a subject matter area determined by the State Board of Education (SBE) in order to earn a professional educator certificate (the highest level of public school teacher certification) (§§ 2 & 3);
3. establishes a specific date by which the education commissioner must annually submit reports to the Education Committee on the commissioner's network of schools and requires the commissioner to annually present the reports to the committee by a specific date (§ 4);
4. (a) requires public school superintendents to recommend in writing to the parents or guardians of a student that the child be examined by a licensed optometrist or ophthalmologist if the child is found to have a vision defect or eye disease during an in-school exam and (b) specifically allows an automated screening device to be considered equivalent to a Snellen chart screening and used in public school vision screenings (§ 5);
5. changes the frequency of private special education provider audits and requires boards of education and private providers to provide auditors with information necessary to conduct the audits (§§ 6-8);
6. adds the chief court administrator, or his designee, to the membership of the Interagency Council for Ending the Achievement Gap (see BACKGROUND) (§ 9);
7. allows boards of education to employ candidates for marital and family therapist licensure in their schools to provide services to students and their parents or guardians (§ 10);
8. allows boards of education to establish a "Pipeline for Connecticut's Future" program, in which boards of education must partner with local businesses to offer students on-site training and course credit (§ 11);
9. allows a board of education to request from the education commissioner a one-time probationary extension for an uncertified, acting superintendent under certain circumstances (§ 12);
10. establishes a task force to study issues related to high school interscholastic athletics programs (§ 13);
11. provides that certain teachers and school administrators who return to work for a board of education after retirement under the existing reemployment exceptions may keep their Teacher Retirement System (TRS) health insurance benefits during the reemployment but removes the assurance that they will be eligible for local health benefits offered by the employing board (§ 14); and
12. adds a representative from the Connecticut Association of Schools to the membership of SDE's Performance Evaluation Advisory Council, the body charged in statute with helping SBE develop teacher evaluation and support guidelines (§ 15).

The act also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2017, except the sections about special education provider audits (§§ 6-8), the Interagency Council for Ending the Achievement Gap (§ 9), superintendent probationary periods (§ 12), the athletics programs task force (§ 13), and the TRS health coverage (§ 14) take effect upon passage.

§ 4 — COMMISSIONER'S NETWORK REPORTS

By law, the "commissioner's network of schools" is a program that selects certain low-performing schools to craft turnaround plans aimed at improving student performance. The state supplies additional funds to help implement a school's turnaround plan once the education commissioner approves it.

Prior law required the commissioner to submit two annual reports to the Education Committee: one on the academic performance of each school in the network and another comparing and analyzing the academic performance of all schools in the network. Under the act, the reports are due February 1, 2018, and annually thereafter.

Additionally, prior law required the commissioner to submit a final report to the Education Committee on each school in the network after the schools' respective turnaround plans expire. In this report, the commissioner evaluates each plan and the school's academic performance under the plan and makes recommendations about the school's operation. The act specifies that the commissioner must submit these final reports no later than February 1 after the expiration of the respective turnaround plans.

The act also requires the commissioner to present these reports to the Education Committee by February 1 of each year, along with a report due January 1, 2020 under existing law in which the commissioner must evaluate the entire network and make recommendations about its operation.

§§ 6-8 — AUDITS OF SPECIAL EDUCATION PROVIDERS

By law, the state auditors must examine the records and accounts of private special education providers. The examination must include a compliance audit of whether the private provider expended state or local funds for allowable costs in accordance with (1) state and federal law and (2) the Individualized Education Program (IEP) or individual services plan for each child receiving special education and related services from the provider.

Under the act, the auditors must conduct such audits as often as they deem necessary using a risk-based approach, rather than auditing each provider at least once every seven years as required by prior law. (Existing law still limits the number of audits of a private provider to no more than once every five years, however, unless the auditors have found a problem with the provider's records and accounts.) The act also removes the requirement that half of these audits conducted in a year must be of SDE-approved private providers, and the other half be of non-approved private providers. Instead, it specifies that both types of providers must be audited.

Additionally, the act requires boards of education, as well as private providers, to give the auditors any information the auditors deem necessary to conduct the audit.

§ 12 — EXTENSION OF ACTING SUPERINTENDENT PROBATIONARY PERIOD

Existing law allows a board of education to appoint an uncertified, acting superintendent for a one-year probationary period with the education commissioner's approval. The act allows the board, at the conclusion of the probationary period, to request that the commissioner grant a one-time probationary period extension, up to one additional school year. In order to grant the extension, the commissioner must determine that the board has shown a significant need or hardship.

§ 13 — TASK FORCE ON INTERSCHOLASTIC ATHLETICS PROGRAMS

The act creates a 12-member task force to study the governance, financing, general conduct, and role of high school interscholastic athletics programs in Connecticut. The Education Committee's administrative staff must serve as the task force staff. The act establishes the task force study scope and membership.

Study Scope

The task force study must examine the following topics:

1. barriers to participation in sanctioned interscholastic athletic activities,
2. the impact of non-sanctioned activities on interscholastic sports participation,
3. financing of interscholastic athletic teams,
4. policies regarding school districts' performance reviews of interscholastic athletics,
5. the athletic season's length for specific sports and restrictions on participation in interscholastic athletics,
6. academic requirements for interscholastic athletics participation,
7. participant and spectator safety and sportsmanship, and
8. issues relating to participation by students enrolled in private schools and schools of choice.

The task force must report its findings and recommendations to the Education Committee by January 1, 2018. It terminates on that date or the date it submits the report, whichever is later.

Membership

The House speaker, the House majority and minority leaders, the Senate president pro tempore, the Senate Republican president pro tempore, and the Senate majority leader each appoint one member to the task force. The legislative leaders' six appointees may be legislators. Any vacancy must be filled by the appointing authority.

The following associations each have one representative on the task force:

1. Connecticut Interscholastic Athletic Conference,
2. Connecticut High School Coaches Association,
3. Connecticut Athletic Directors Association,
4. Connecticut Association of Boards of Education,

5. Connecticut Association of Public School Superintendents, and
6. Connecticut Parent Teacher Association.

The act requires that the legislative leaders appoint their members to the task force within 30 days after the act's passage (i.e., August 5, 2017). The House speaker and Senate president pro tempore must select the task force chairpersons, who must schedule and hold the first task force meeting within 60 days after the act's passage (i.e., September 4, 2017).

§ 14 — HEALTH CARE COVERAGE FOR REEMPLOYED RETIRED TEACHERS AND ADMINISTRATORS

The act makes changes to the health benefit eligibility for reemployed, retired teachers and administrators. Specifically, these changes affect eligibility for TRS health benefits and local health benefits offered by the employing board of education.

TRS Health Benefits

Under the act, certain teachers and school administrators who return to work for a board of education after retirement under the existing reemployment exceptions can continue their TRS health coverage during the reemployment.

Generally, retired public school teachers and administrators cannot return to work for a school district and continue to receive retirement benefits from the TRS. By law, there are four exceptions to this. It is allowed if one of the following criteria is met:

1. the employee's salary is capped at no more than 45% of the maximum salary for the position;
2. the employee has at least 34 years of credited service, is reemployed in an alliance district, and was already employed in that district on July 1, 2015;
3. the employee works for a board of education (a) in a position designated as a shortage area or (b) of a priority school district; or
4. the employee does not receive any retirement benefits during the reemployment (i.e., the employee "un-retires").

Under prior law, the reemployed employee could not receive TRS health coverage in any of the above situations. The act gives TRS health coverage to the first three groups by eliminating the prior law provision that prohibited such employees from receiving TRS health insurance coverage.

For the fourth group (the "unretired"), the act applies the above-mentioned provisions; however, another statute, unchanged by the act, only provides TRS health coverage to those receiving retirement benefits (CGS § 10-183t(a)). Therefore, the fourth group remains ineligible to receive TRS health coverage.

Local Health Benefits

The act also removes the requirement that the first three categories of reemployed retirees be eligible for the same health insurance benefits as active teachers employed by the school system. Under prior law, the first two categories were guaranteed these local health benefits, while the third category was eligible pending approval by the employing board of education.

By law, unchanged by the act, the fourth category of "un-retired" teachers remains eligible for these local health benefits.

BACKGROUND

Interagency Council for Ending the Achievement Gap

This council is charged with assisting the achievement gap task force in developing its master plan, implementing the plan, and submitting annual progress reports on plan implementation to the Education Committee (CGS § 10-16nn).

PA 17-194—HB 7156*Education Committee***AN ACT CONCERNING ACCESS TO STUDENT RECORDS FOR CERTAIN UNACCOMPANIED YOUTHS**

SUMMARY: This act requires local and regional boards of education to inform certain homeless students of, and provide access to, their educational records, including medical records, in the board's possession. The act applies to "unaccompanied youth," as defined under federal law, which includes a homeless child or youth not in the physical custody of a parent or guardian (42 U.S.C. § 11434a).

By state and federal law, the parents or guardians of a student under age 18 have access to school records for that student (with limited exceptions). Only students who are over age 18 or emancipated have the same rights as adults regarding record access.

EFFECTIVE DATE: July 1, 2017

PA 17-200—sHB 7207*Education Committee***AN ACT MAKING REVISIONS TO THE STUDENT DATA PRIVACY ACT OF 2016**

SUMMARY: This act makes the following changes in the education statutes governing student data privacy:

1. extends the date by which local or regional boards of education must begin entering into written contracts with entities with which they share student data (§ 1);
2. changes the deadline by which a board of education must electronically notify students and their parents or guardians about a breach of student data security from 48 hours to two business days after learning of the breach (§ 2);
3. requires the State Department of Education to provide guidance to boards of education on how to implement the (a) federal Family Educational Rights and Privacy Act (FERPA), which protects student education records, and (b) state's student data privacy laws (§ 3);
4. requires one of the Senate president pro tempore's appointments to the student data privacy task force to be an attorney with expertise in Connecticut school law, instead of a Connecticut high school student (§ 4); and
5. extends the task force reporting deadline and termination date (§ 4).

The act also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage, except the provisions about data security breach notice (§ 2) take effect July 1, 2017.

§ 1 — BOARD OF EDUCATION CONTRACTS WITH STUDENT DATA CONTRACTORS

Prior law required boards of education to enter into written contracts with contractors with whom they share student information, student records, or student-generated content beginning October 1, 2016. The act postpones this start date to July 1, 2018.

Additionally, the act specifies that any such contract entered into on and after July 1, 2018 rather than October 1, 2016 is void if it lacks any of the provisions required by law. Existing law requires the board to give the contractor reasonable notice to amend the contract to include the missing provisions, however. The act also specifies that a contractual provision is void if it conflicts with any of the provisions required by law, beginning on July 1, 2018, rather than October 1, 2016.

By law, these contracts must include specified provisions on student data security, ownership, and use, among other things.

§ 4 — TASK FORCE DEADLINES

The act extends the student data privacy task force's reporting deadline by one year, from January 1, 2017 to January 1, 2018. Under existing law, the task force must report to the General Law and Education committees on its findings and recommendations.

Also, the act changes the task force's termination date. It must terminate on the date it submits its report to the legislative committees, or on January 1, 2018, whichever is later. Prior law required the termination on the report submission date or by January 1, 2017, whichever was later.

By law, the task force must examine various student data privacy topics, including other states' strategies for training schools and student data services contractors in data security.

PA 17-215—HB 7251

Education Committee

Appropriations Committee

AN ACT CONCERNING REFORM DISTRICT TURNAROUND PLANS

SUMMARY: This act allows the State Department of Education (SDE) to develop a model school district responsibilities agreement by January 1, 2018. If the department does so, it must make the agreement available on its website and otherwise upon request for local and regional boards of education to use. Among other things, such an agreement must contain guiding principles and specific duties for boards of education and district administrators.

The act allows local and regional boards of education and their administrators to enter into such an agreement beginning with the 2018-19 school year. Any board that chooses to use the model agreement must notify the education commissioner.

The act also allows alliance districts to include additional provisions in the performance plans they must submit to the education commissioner when applying for alliance district funding and requires them to develop these plans, in part, by strategically using student academic performance data.

Additionally, the act specifies that if the State Board of Education (SBE) chooses to require training for boards of education in low-performing districts, the training must clarify the proper roles and functions of the board, the school, and district-level administrators.

EFFECTIVE DATE: July 1, 2017

SCHOOL DISTRICT RESPONSIBILITIES AGREEMENT

The act requires SDE to include at least the following provisions in its model school district responsibilities agreement, should it choose to develop one:

1. a statement of guiding principles on the proper roles and functions of the board of education, superintendent, and administrators;
2. an enumeration of the specific duties and responsibilities of the board, superintendent, and administrators; and
3. signature lines for the board members, superintendent, and other administrators to acknowledge that they understand and will comply with the agreement provisions.

The act also allows SDE, when developing the model agreement, to consider any existing school district responsibilities agreement used by a board with a demonstrated record of academic improvement.

TRAINING FOR BOARDS OF LOW-PERFORMING SCHOOL DISTRICTS

Existing law allows SBE to take various actions to aid low-performing school districts, one of which is to require local or regional boards of education to undergo training to improve their operational efficiency and their effectiveness as leaders of their respective districts' improvement plans. The act specifies that this training must also distinguish and clarify the proper roles and different functions of the (1) board, including its responsibility to develop district improvement plans and education policy, and (2) school and district-level administrators, including their responsibility to implement these improvement plans and policies.

ALLIANCE DISTRICT PLANS

The law allows alliance districts, the 30 districts in the state with the lowest student performance, to apply to the education commissioner for an increase in their education cost sharing grants. These districts must submit an improvement plan as part of their application.

The act requires alliance districts to develop these plans, in part, by strategically using student academic performance data. It allows the plans to include the model school district responsibilities agreement and leadership succession plans.

PA 17-220—sHB 7276

Education Committee

AN ACT CONCERNING EDUCATION MANDATE RELIEF

SUMMARY: This act alters or eliminates several state mandates placed on local and regional boards of education (hereinafter “boards”). Among other things, the act:

1. allows, rather than requires, boards to follow a uniform regional school calendar (§ 1);
2. expands the type of alternative education for expelled students that boards must offer and requires the State Board of Education (SBE) to develop alternative education standards (§§ 2 & 3);
3. reduces the number of school employees who must receive training in student restraint and seclusion practices and makes other changes to the training requirements (§ 5); and
4. shortens the former employer lookback period that boards must consider when conducting background checks of prospective employees (§ 6).

The act also requires the State Department of Education (SDE) to conduct a survey of digital reporting software used by school districts (§ 4).

It also makes conforming and technical changes.

EFFECTIVE DATE: July 1, 2017, except the alternative education for expelled students section (§ 2) is effective August 15, 2017, and the requirement for SBE to develop alternative education standards (§ 3) is effective upon passage.

§ 1 — UNIFORM REGIONAL SCHOOL CALENDAR

For school years beginning July 1, 2017 and thereafter, the act allows, rather than requires, boards to adopt a uniform regional school calendar developed by their respective regional education service center (RESC) (see BACKGROUND). Under prior law, all boards had to adopt the uniform calendar starting with the 2016-17 school year, or starting with the 2017-18 school year if employee contracts prevented implementation in 2016-17.

The act requires the education commissioner to report to the Education Committee, by July 1, 2017, and annually thereafter, on which boards have chosen to adopt a uniform regional calendar and any related legislative recommendations. Under prior law, the commissioner reported annually on the mandated adoption of the calendar.

§§ 2 & 3 — ALTERNATIVE EDUCATION FOR EXPELLED STUDENTS

Under PA 16-147, effective August 15, 2017, a board must offer, to any expelled student under age 16, an alternative educational opportunity during the expulsion period that is equivalent to the standard number of days and hours required in Connecticut public schools (i.e., 180 school days and 900 hours of school work).

This act modifies PA 16-147 (codified at CGS § 10-233d(d)) so that a board must instead offer either the standard number of days and hours to an expelled student (if the board already offers this) or an alternative educational opportunity in accordance with standards SBE develops. The act requires SBE to adopt the standards by August 15, 2017. The standards must include the kind of instruction and number of hours to be provided to an expelled student.

§ 4 — SURVEY OF DIGITAL REPORTING SOFTWARE

By January 1, 2018, the act requires SDE to survey boards on their use of digital school management and reporting software. The survey must include questions on whether a board uses a digital school management and reporting software for creating, submitting, and sharing digital copies of education-related documents with SDE and among authorized users. It must also include questions addressing whether the software:

1. allows authorized users to create and submit a complete digital copy of education-related documents to a portal and share the copy with (a) SDE and (b) a board when a student transfers;
2. provides 24-hour access to an unlimited number of authorized users;
3. allows boards to purchase supplementary programs; and

4. protects against unauthorized access, destruction, use, modification, or disclosure according to industry standards when an education-related document is created, submitted, and shared using the software.

SDE must compile the survey results and submit a report on its findings to the Education Committee. The report must include any recommendations, based on the results, regarding the statewide implementation of a uniform school management and reporting software.

The act defines “education-related documents” as a student’s education records and any report required under state education law, including the strategic school profile report and data included by law in the statewide public school information system.

§ 5 — RESTRAINT AND SECLUSION TRAINING

The act reduces the number of school district employees whom a board must train in the physical restraint and seclusion of students.

Prior law required a board to train all school professionals, administrators, and paraprofessionals in the proper means of student restraint and seclusion. The act instead requires a board to train the members of the crisis intervention team, who the act defines as any teacher, administrator, paraprofessional, and other school employee who has direct contact with students and is designated by the principal. Under prior law, a team included school professionals, paraprofessionals, and administrators trained in physical restraint and seclusion. The act requires each board to maintain a list of crisis intervention team members for each school.

The act also allows boards to train any other teacher, administrator, paraprofessional, or school employee in student restraint and seclusion. “School employee” includes a substitute teacher, superintendent, guidance counselor, psychologist, social worker, nurse, physician, or coach employed by a board, or any other employee who, in the regular performance of his or her duties, has regular contact with students.

The act delays, from July 1, 2015 to July 1, 2017, the date by which a board must begin the training and eliminates a provision that phases in the training over three years. It requires a board to provide the training during the 2017-18 school year and annually thereafter.

Under the act, the training must include information on the proper use of physical restraint and seclusion, as well as an annual overview of relevant laws and regulations regarding its use on students as required under existing law.

Prior law required the training to include plans for boards to provide training and professional development on preventing incidents that require restraint and seclusion and the proper means of physically restraining or secluding a student. The act delays the deadlines for the plans’ implementation from July 1, 2017 to July 1, 2018 and eliminates the references to professional development.

§ 6 — BACKGROUND CHECKS AND FORMER EMPLOYERS

By law, boards, charter school governing councils, and magnet school operators must obtain certain information from any job applicant seeking a position that involves direct student contact. The law requires a board, council, or operator to conduct employment history checks of all such applicants, including directly contacting former employers that either were boards, councils, or operators or employed the applicant in a position that included direct contact with children. The act narrows the definition of “former employer” to include only those the applicant has worked for in the previous 20 years before applying. Prior law did not establish any such time limit.

BACKGROUND

RESCs and Uniform Regional School Calendar

Each of the six RESCs in the state serves a different geographical region. The RESCs provide various services to boards.

By law, each RESC has to develop a uniform regional school calendar that includes the following:

1. at least 180 days of sessions in a school year (as already required by law);
2. a common start date for students of the last Wednesday in August, with a three-day flexible window before or after that Wednesday;
3. uniform days for statutorily required professional development and in-service training for certified employees;
4. up to three uniform school vacation periods during each school year, of which up to two must be one-week vacations and one must be during the summer;

5. Election Day in November as a professional development day when no students attend school; and
6. five flexible days for individual district needs.

PA 17-237—sHB 7271

Education Committee

Appropriations Committee

AN ACT CONCERNING THE ESTABLISHMENT OF THE TECHNICAL HIGH SCHOOL SYSTEM AS AN INDEPENDENT AGENCY

SUMMARY: This act converts the Connecticut technical high school system into an independent executive branch agency in two phases over a three-year period. It renames the system the “Technical Education and Career System” (“the system”) and renames the system’s high schools “technical education and career schools” (“system schools”).

The first phase of the transition occurs during FYs 18 and 19 (i.e., the 2017-18 and 2018-19 school years). During this phase, the system remains under State Board of Education (SBE) oversight and is advised by the 11-member system board, as under prior law. Under the act, the education commissioner retains her authority under existing law to hire and remove school system staff, including the system superintendent, and to make rules for the system’s funds management and expenditure. The system superintendent, serving a term that overlaps with the second phase of the transition by one year, is responsible for the system schools’ operation and administration. The system maintains the same budgeting process as under existing law, but it must create new accounts for educational and non-educational expenses. The act also requires SBE to hire a consultant for FY 18 to help the system board develop a transition plan to become an independent agency.

The second phase of the transition begins in FY 20 (i.e., the 2019-20 school year). During this phase, the act establishes the system as an independent executive branch agency that is no longer under SBE oversight, governed by an executive director who is appointed by the governor and responsible for the system’s operation, administration, and financial accountability. The previously appointed superintendent continues to be responsible for the system schools’ operation and administration for the first year of the second phase, as well as all other matters relating to education in the system. Thereafter, the superintendent appointed by the executive director is responsible for these matters. The system board’s membership is reconstituted, and the board maintains an advisory role on the topics of training matters, student attraction and retention, and student admissions. The system becomes a separate budgeted agency that is completely removed from the State Department of Education (SDE). The act changes its budgeting process by requiring system schools, the superintendent, and the executive director to each create and submit specific budgets for the system, culminating in the executive director’s creation and submission of a system-wide operating budget to the Office of Policy and Management (OPM).

Additionally, the act (1) establishes accountability and efficiency mechanisms for the system, (2) requires evaluation of existing career technical education standards and curriculum in the system and in local and regional school districts, and (3) modifies certification requirements for system teachers in occupational subject areas.

The act also makes technical and conforming changes (including §§ 21-24, 26-30, 32-36, 38-117 & 120 in their entirety).

EFFECTIVE DATE: Provisions about the first phase of the system transition (§§ 1, 3, 8, 16, 25, 31 & 37), legislative oversight (§ 11), uniform standards and curriculum for programs offered by boards of education (§ 13), efficiencies (§§ 15, 17 & 19), staff training (§ 18), teacher certification (§§ 118 & 119), and sections containing only technical and conforming changes take effect July 1, 2017; except technical and conforming changes to the expulsion statute take effect on August 15, 2017 (§ 76). Provisions on the second phase of the transition (§§ 2, 4-7, 9 & 10) and the Auditors of Public Accounts (§ 20) take effect July 1, 2019. Provisions about SDE’s review of system admissions policies and academic standards for programs offered by the system (§§ 12 & 14) take effect upon passage.

§§ 1, 3, 8, 16, 25, 31 & 37 — FIRST TRANSITION PHASE

System Board (§§ 1 & 3)

The act allows the system board, whose membership remains unchanged by the act in phase one, to recommend a candidate for system superintendent to the education commissioner. Under prior law, the education commissioner and the system board jointly recommended a candidate to SBE (CGS § 10-95(c)). The act requires the system board to recommend another candidate should the commissioner reject one.

The act also adds to and modifies certain areas of the system board's authority. It gives the board the authority to accept gifts, grants, and donations on behalf of the system, including in-kind donations, designated for the purchase of equipment or materials, the hiring of teachers, or the acquisition of real property and facilities construction. Existing law, unchanged by the act, also gives SBE the authority to accept any money or property bequeathed to the system schools, and requires SBE to transfer this money to the state treasurer for investment (CGS § 10-9(b)).

The act also allows the system board to enter into a new type of cooperative arrangement with boards of education, private occupational schools, higher education institutions, job training agencies, and employers. This type of arrangement is for the provision of postsecondary education or work experience.

The act eliminates the system board's authority to regulate student admissions to the system schools. It instead allows the board to recommend to the system superintendent policies governing student admissions that comply with state and federal law.

Superintendent (§§ 1 & 3)

Under the act, the superintendent appointed by the education commissioner during the first phase of the transition serves a term that expires on June 30, 2020 (i.e., through the first year of the second phase). The superintendent is responsible for the system schools' operation and administration, as well as all other matters relating to vocational, technical, technological, and postsecondary education in the system.

The act allows the system superintendent, in conjunction with the education commissioner, to arrange for training for the system board, when appropriate, to help the board conduct its business.

System Budget (§ 8)

Through FY 19, the act requires that the system continue to be budgeted as an agency separate from SDE as under existing law. However, it also requires that the budget contain two new, separate accounts: (1) an educational account for educational and school-based accounts and expenditures and (2) a non-educational account.

Additionally, beginning FY 18, the act requires the governor, when considering budgetary rescissions for executive branch agencies, to prioritize the system's educational and instructional staffing needs as identified in the annual statement submitted by the system superintendent. The act also requires the governor to make every effort to avoid impairing the system's educational mission and interrupting instructional time during this period.

State Board of Education Representation (§§ 1 & 37)

It is unclear under the act whether the system board chairperson or the system superintendent must serve as an ex-officio, non-voting member of SBE as a representative of the system. As of July 1, 2017, the act requires the (1) system board chair to serve as an ex-officio, non-voting member and (2) system superintendent to serve in the same position.

Programmatic Offerings (§ 1)

The act allows, rather than requires, the system to offer part-time and evening programs in vocational, technical, and technological education and training. It also allows part-time and evening programs in postsecondary education and training.

Bonding Requests (§ 25)

Existing law requires the State Bond Commission to vote on whether to authorize the issuance of at least \$2 million in unallocated General Assembly-approved bonds for the general maintenance and equipment for any school in the system. Prior law allowed the system board chairperson to request bond authorizations in excess of \$2 million if there (1)

was a sufficient balance of approved bonds and (2) were pending general maintenance and equipment transactions in excess of \$2 million.

The act allows the system superintendent, rather than the system board chairperson, to make such a request of the commission.

Transition Plan (§ 16)

For FY 18, the act requires SBE to hire a consultant who will do the following:

1. help the system board develop a transition plan for the system and
2. identify and provide recommendations on which services could be provided more efficiently through, or in conjunction with, another local or regional board of education; municipality; or state agency through a memorandum of understanding with the system.

By January 1, 2019, SBE must submit to the Education Committee a report on the transition plan and such identified services, along with any recommendations for legislation to implement them.

§§ 2-7 & 9-10 — SECOND TRANSITION PHASE

Governance (§§ 2, 4 & 7)

During the second transition phase, the act establishes the system as an executive branch agency outside SBE oversight, governed by an executive director (see §§ 3-6 below).

System Board (§§ 2, 3 & 5)

Membership. In the second phase of the transition, the act reconstitutes the membership of the 11-member system board. The governor appoints all members, rather than a few as under phase one, with the General Assembly's advice and subject to its confirmation or rejection, and appoints the chairperson as under existing law and transition phase one. Table 1, below, compares the reconstituted board with the board membership under existing law and the first phase.

Table 1: System Board Membership

<i>Board Membership under Existing Law (CGS § 10-95) and Transition Phase One (through FY 19)</i>	<i>Board Membership under the Act for Transition Phase Two (beginning FY 20)</i>
Four executives of Connecticut-based employers, nominated by the Connecticut Employment and Training Commission and appointed by the governor	Two executives of Connecticut-based employers, nominated by the Connecticut Employment and Training Commission
Five appointed by SBE	Commissioner of Education, or her designee
Commissioner of Economic and Community Development	Commissioner of Economic and Community Development, or her designee
Commissioner of Labor	Commissioner of Labor, or his designee
	Two with expertise in manufacturing or a trade offered by the system, or who are system alumni
	Four members with unspecified expertise

The governor may fill any vacancy. However, as under existing law for legislative confirmations, unless the General Assembly is in regular session, he may not appoint a person (1) who was nominated for an appointment subject to legislative approval and (2) whose nomination was rejected by the legislature during the last regular legislative session to the same or a similar vacancy.

Advisory Role. Under the act, the system board continues to serve in an advisory capacity to the system as under the first phase of the transition.

During the second phase, the system board advises the superintendent and executive director (see §§ 3-6 below) on vocational, technical, technological, and postsecondary training matters. The act allows the system board to create advisory boards to appoint committees necessary for it to efficiently conduct business. It also allows the system board to recommend to the executive director and superintendent policies to (1) attract and retain students who will pursue careers

that meet workforce needs and (2) govern the admission of students to any system school in compliance with state and federal law.

Student Achievement. The act requires the system board to continue to establish specific achievement goals for students at each grade level in system schools, a duty also required under existing law and the first phase. The board must measure each school's performance and identify a set of quantifiable measures to use to do so. The measures must include factors such as 10th or 11th grade student performance on the statewide mastery exam (i.e., the SAT), trade-related tests, dropout rates, and graduation rates.

Superintendent Hiring Process. For FY 20, the act continues to allow the system board to recommend a candidate for system superintendent as under the first phase of the transition. Starting on and after July 1, 2020 (the second year of phase two), however, the system board must recommend the candidate to the executive director rather than the education commissioner (see § 3 below). The act requires the system board to recommend another candidate should the executive director reject one.

Removed Authorities. The act transfers from the system board to the executive director the authority to enter into specified cooperative arrangements. It also transfers to the executive director the board's authority to accept gifts, grants, and donations on behalf of the system, but it requires the executive director to consult the board before doing so (see § 4 below).

Superintendent (§ 3)

Under the act, the superintendent appointed by the executive director on or after July 1, 2020 serves a three-year term that may be extended for up to three years at any one time. As under the first phase of the transition, the superintendent continues to be responsible for the system schools' operation and administration, as well as all other matters relating to vocational, technical, technological, and postsecondary education in the system.

For the second phase, the act transfers from the superintendent to the executive director the primary authority to arrange for system board training (see below).

Executive Director (§§ 3-6)

The act establishes an executive director, appointed by the governor, as the head of the system and agency. It gives the executive director the authority to appoint and prescribe the duties of any subordinates, agents, and employees as he or she finds necessary.

Under the act, the system's executive director has the following duties:

1. operation, administration, financial accountability, and oversight of the system in matters relating to the central office, system-wide management, and other non-educational matters;
2. organization of the system into bureaus, divisions, and other units as necessary to efficiently conduct system business (these units may be created, abolished, transferred, or consolidated as necessary);
3. review and approval of all system contracts;
4. establishment of a master system schedule that may be amended;
5. notifying the education commissioner and Education Committee if a system school is on probation or at risk of losing its accreditation from the New England Association of Schools and Colleges (under existing law and transition phase one, the commissioner notifies the committee); and
6. direct communication with the OPM secretary to request the creation or filling of staff positions included in the system operating budget.

The act also requires that (1) the review of requests for staff positions prioritize requests for instructional staff as identified in the superintendent's annual statement of staffing needs and (2) every effort be made to avoid interrupting instructional time during this review.

Additionally, the act gives the executive director the authority to do the following:

1. hire or reject any candidate for superintendent recommended by the system board;
2. enter into cooperative arrangements with boards of education, private occupational schools, higher education institutions, job training agencies, and employers to provide general education; vocational, technical, technological, or postsecondary education; and work experience;
3. accept gifts, grants, and donations for the system with the system board's approval, including in-kind donations, designated for purchasing equipment or materials, hiring teachers at system schools, or acquiring real property and constructing facilities; and
4. arrange, in conjunction with the superintendent, for training for the system board (which was the superintendent's authority under phase one of the transition).

System Budget (§§ 9 & 10)

The act makes the system a separately budgeted agency completely removed from SDE beginning in FY 20. As in the first phase of the transition, the second phase budget must contain two new, separate accounts: (1) an educational account for educational and school-based accounts and expenditures and (2) a non-educational account.

The act also changes the budgeting process in the second phase, particularly regarding (1) operating budgets for individual technical high schools in the system (“school budgets”); (2) the superintendent’s creation of a specialized budget for the system (“education budget”); (3) the executive director’s central office budget and system operating budget; (4) the submission of budget documents to the General Assembly; and (5) online posting of budget documents.

School Budgets. Prior law required each high school in the system to annually submit to the superintendent a proposed operating budget for the next school year. The act renames such budgets “school budgets,” which must contain a statement of school staffing needs as under existing law. The act requires the superintendent to use the proposed school budgets to create a school budget for the system (presumably, this is an “education budget;” see below).

Education Budgets. Under existing law and the first phase of the transition, the superintendent must submit a proposed operating budget for the system to the system board, which the board must review, amend, approve, and then submit to SBE, which SBE then must submit to OPM. Under the act, during phase two of the transition, the superintendent must instead prepare and submit an “education budget” to the executive director. The education budget must include (1) the school budget for each system school, (2) a statement of staffing needs for the schools, and (3) educational and school-based accounts and expenditures. The act defines these expenditures as funds used to (1) support instruction, programming, and curriculum within the system and (2) purchase supplies and equipment for school instruction.

The act requires the executive director to review the education budget and include it as part of the operating budget for the system (see below). The executive director must report any financial inconsistencies or irregularities discovered during the review to the OPM secretary, the Department of Administrative Services commissioner, and the Auditors of Public Accounts.

Central Office Budget. The act requires the executive director to prepare the system’s central office budget, which must include (1) non-educational and central office accounts and expenditures and (2) a staffing needs statement for the central office. The executive director must include this budget as part of the overall system operating budget.

Overall System Operating Budget. Under existing law and phase one of the transition, the system board sends the superintendent’s proposed system operating budget to SBE for review, and SBE then sends the budget to OPM with comments or recommendations for revisions. Under the act, in phase two the executive director must prepare a system operating budget and submit it directly to OPM in accordance with statutorily-prescribed guidelines.

Submission of Budget Documents. The act requires the executive director, rather than the system board, to annually submit a copy of the following documents to the Education and Appropriations committees as required under existing law: (1) an itemized school budget for each system school, including the statement of the staffing needs for each school; (2) the education budget; (3) the central office budget, including a statement of the office staffing needs; and (4) the system operating budget.

It also requires the executive director, rather than the superintendent, to semiannually submit the operating budget and expenses for each system school to OPM, the Office of Fiscal Analysis director, and the Education Committee.

Online Posting of Budget Documents. The act requires the executive director to post and update on the system website the system and central office operating budgets for the current school year. By law, unchanged by the act, the superintendent must post and update on the system website and on each system school’s website the operating budget for each system school for the current school year.

Programmatic Offerings (§ 2)

The act specifies that the system, rather than the system board as under prior law, offers programs in vocational, technical, technological, and postsecondary education and training.

§§ 11, 12 & 20 — ACCOUNTABILITY

Legislative Oversight (§ 11)

The act adds an additional subject to the annual report the superintendent must deliver to the Education, Higher Education and Employment Advancement, and Labor committees under existing law. The superintendent must provide information about the steps the system is taking to become an independent agency, including the actions that the system

board and superintendent have taken to create a budget process and maintain programmatic consistency for enrolled students.

Admissions Policy Review by SDE (§ 12)

The act requires SDE to review the system's admissions policy on enrolling (1) students with disabilities and (2) students who are receiving or eligible to receive special education and related services. The review must consider the following:

1. applicable principles of state and federal law,
2. the purposes and public character of the system, and
3. enrollment data of students in the system receiving special education and related services compared to state and district averages.

By January 15, 2018, SDE must submit the review, along with recommendations about modifying the admissions policy or any applicable statute or regulation, to the system superintendent, the system board, and the Education Committee.

Auditors of Public Accounts (§ 20)

The act requires the auditors, as often as they deem necessary, to examine the system's records and accounts. The auditors must report their findings in accordance with their statutorily prescribed duties.

§§ 13 & 14 — STANDARDS AND CURRICULUM

Programs Offered by Boards of Education (§ 13)

The act requires SDE to develop and update as necessary, beginning with the 2018-19 school year, uniform standards and curriculum for all career technical education programs offered by local or regional boards of education. It allows the department to adopt existing uniform standards and curriculum and requires all standards and curriculum to be aligned with professional certification requirements. SDE must (1) make these standards and curriculum available to any board of education that offers a career technical education program and (2) provide technical assistance to help implement them.

Programs Offered by the Technical Education and Career System (§ 14)

The act requires SDE to evaluate, within available appropriations, any existing standards relating to career technical education used by the system. The evaluation must examine whether the standards are (1) aligned with professional certification requirements and (2) uniform across the system. By October 1, 2018, SDE must report its findings and recommendations to the Education Committee.

§§ 15, 17 & 19 — EFFICIENCIES

Partnerships (§ 15)

For the purpose of establishing partnerships, reducing redundancies, and consolidating programmatic offerings, the act requires the system superintendent, beginning in the 2017-18 school year, to consult with (1) each regional community-technical college and (2) the local or regional boards of education in towns that (a) host a technical high school and (b) offer any career technical education programs.

Inventories (§§ 17 & 19)

FYs 18 and 19. The act requires the system superintendent to create and maintain an inventory of all technical and vocational equipment, supplies, and materials purchased or obtained and used to provide career technical education in each system school. It requires the system board to consult this list at the following times: (1) during the preparation of the system budget; (2) before purchasing or obtaining any new equipment, supplies, or materials; and (3) for the purpose of sharing equipment, supplies, and materials among system schools.

FY 20. Beginning in FY 20 and every fiscal year thereafter, the act requires the executive director to instead complete the above inventory. It requires the executive director, rather than the system board, to consult this list at the same times and for the same purposes.

Inventories Performed by SBE. The act expands SBE's list of duties in existing law to include establishing and keeping an inventory account of real and personal state property with a value of \$1,000 or more; securing such inventory to prevent theft or loss; and establishing controls over the disposal of such inventory. (As a state agency, SBE is already required to do this under existing law (CGS § 4-36).)

Staff Training (§ 18)

The act requires SDE, for FYs 18 and 19, to do the following:

1. provide training to individuals SDE employs within the system who will be responsible for performing central office and administrative functions for the system on and after July 1, 2019 (i.e., transition phase two) and
2. identify individuals within the system who can be trained to perform multiple functions or responsibilities for the system.

§§ 118 & 119 — TEACHER CERTIFICATION

The act requires SBE, on receiving a proper application, to issue an initial educator certificate (i.e., an entry-level certificate) to any applicant in the occupational subject endorsement area for vocational-technical schools who has completed six years of work experience in the field for which the certificate is to be endorsed. Work experience may include apprenticeship experience, as long as the applicant meets the statutory teacher certification requirements and state teacher certification regulation requirements.

The act also requires SDE to provide information and guidance to these applicants about how to present evidence that they have met these requirements when the applicant has completed an online program of study. SDE must make this information and guidance available on its website.

PA 17-35—SB 899

Energy and Technology Committee

AN ACT CONCERNING PUBLIC UTILITIES REGULATORY AUTHORITY ADMINISTRATIVE HEARINGS FOR PURCHASED GAS ADJUSTMENTS, ENERGY ADJUSTMENT CHARGES OR CREDITS AND TRANSMISSION RATES

SUMMARY: This act eliminates a requirement that the Public Utilities Regulatory Authority (PURA) hold an administrative proceeding to approve certain charges for electric distribution and gas companies. The act instead allows PURA to hold a hearing on the charges and only requires it to do so if requested by an electric distribution company, gas company, interested person, or member of the public. The act's provisions apply to purchased gas adjustments, energy adjustment charges or credits, and transmission rate changes (see BACKGROUND).

The act requires PURA to publish notice of an application for such a charge and any hearing five days before the hearing and allows, rather than requires, PURA to publish the notice in a newspaper that circulates in the company's service area.

By law, if PURA does not approve or deny these charges within a certain amount of time, the company may make the charges effective pending PURA's finding, or PURA can require the company to file an assurance and make the charges effective upon that filing. The act changes this time period from five days after the administrative proceeding to 15 days after PURA receives the application.

EFFECTIVE DATE: October 1, 2017

BACKGROUND

Adjustment Clauses and Transmission Rates

By law, PURA can approve an energy adjustment clause for electric companies and a purchased gas adjustment clause for gas companies. Among other things, these clauses adjust rates to account for changes in the cost of purchased power and natural gas.

The law requires PURA to design the retail transmission rate to provide for recovery of all Federal Energy Regulatory Commission-approved transmission costs, rates, tariffs, and charges and other transmission costs prudently incurred by an electric distribution company (CGS § 16-19b).

PA 17-45—sHB 7106

Energy and Technology Committee

AN ACT CONCERNING AUDIT REPORTS FILED WITH THE PUBLIC UTILITIES REGULATORY AUTHORITY

SUMMARY: By law, public utilities must have independent public accountants conduct an annual audit and submit the audit report to the Public Utilities Regulatory Authority (PURA). Under this act, telephone companies may instead file with PURA:

1. the annual consolidated report the telephone company's parent company submits to the U.S. Securities and Exchange Commission on the commission's Form 10-K (a report on the company's performance), provided the report includes an independently audited financial statement of the parent company; and
2. if the telephone company serves more than 75,000 customers, unaudited financial statements on operations specific to Connecticut.

EFFECTIVE DATE: Upon passage

PA 17-64—sSB 900

Energy and Technology Committee

AN ACT CONCERNING MINOR REVISIONS TO ELECTRIC SUPPLIER COMPLIANCE REQUIREMENTS REGARDING ENVIRONMENTAL LAWS, RENEWABLE PORTFOLIO STANDARDS AND ADVERTISING AND CONTRACT PROVISIONS, THE PUBLIC UTILITIES REGULATORY AUTHORITY'S REPORTING OF ELECTRIC RATES AND HYDROELECTRIC GENERATION AT CERTAIN DAMS

SUMMARY: This act makes several unrelated changes to the energy statutes.

First, it gives customers more time to cancel a renewed contract with a retail electric supplier without paying a fee. Prior law prohibited suppliers from charging a fee if a customer cancelled a renewed contract within seven business days after receiving the contract's first billing statement. The act instead prohibits fees if the customer cancels within the renewed contract's first two billing cycles.

The act also changes the conditions under which suppliers may advertise the renewable energy credits (RECs) they purchase. Prior law limited suppliers' REC advertising to the RECs they purchased beyond the state's renewable portfolio standard requirements (which require suppliers and electric companies to purchase a portion of their power from certain clean energy resources). The act instead requires the REC advertising to be done according to a methodology approved by the Public Utilities Regulatory Authority (PURA).

The act changes the deadline by which PURA, in consultation with the Office of Consumer Counsel, must report annually on the state of electric rate competition and the average rates for each customer class. Starting with the 2018 report, it requires the report to be submitted by April 1 each year, rather than by January 1.

And the act requires the Department of Energy and Environmental Protection (DEEP) commissioner to contract with an entity chosen by the towns of Avon, Burlington, and Canton (instead of contracting directly with these towns) to perform certain actions on the upper and lower Collinsville dams.

It also makes technical changes.

EFFECTIVE DATE: October 1, 2017

COLLINSVILLE DAMS

Prior law required the DEEP commissioner to execute an agreement, jointly or individually, with Avon, Burlington, and Canton allowing the towns to:

1. enter the Farmington River's upper and lower Collinsville dams and their associated structures, such as power or gate houses, to conduct physical examinations and studies to determine the feasibility of using them for hydroelectric generation and
2. install, operate, and maintain hydroelectric generating facilities and associated appurtenances at the dams without adjusting river flows.

The act instead requires the commissioner to execute an agreement with an entity chosen by the three towns that allows the entity to perform the same actions. The entity must be selected under a request for proposals issued jointly or individually by the towns on or after October 5, 2009.

PA 17-73—sSB 4

Energy and Technology Committee

AN ACT CONCERNING MUNICIPAL ELECTRIC UTILITY COOPERATIVES AND ESTABLISHING A MUNICIPAL ELECTRIC CONSUMER ADVOCATE

SUMMARY: This act requires a municipal electric energy cooperative (i.e., the Connecticut Municipal Electric Energy Cooperative (CMEEC)) to hold its meetings, public hearings, strategic retreats, or similar activities in Connecticut (see BACKGROUND). It also requires CMEEC, its member utilities, and member utilities' municipalities, to post notices, agendas, and minutes for meetings and public hearings on their websites. It requires CMEEC's cooperative utility board to approve, at a meeting, strategic retreats and similar activities.

Existing law requires CMEEC's cooperative utility board to include as members between two and six people from each member utility. The act requires one of those representatives to be a ratepayer appointed by the legislative body of the municipality where the member utility operates. The act includes certain requirements and restrictions on this appointment and makes conforming changes.

The act requires CMEEC to (1) have a forensic examination, conducted by a certified forensic auditor, that includes a review of its revenues and expenditures for the preceding five years and (2) report annually to the Energy and Technology Committee on the forensic auditor's most recent reports, CMEEC's annual report, and employee positions and salaries, among other things.

The act also creates the position of municipal electric consumer advocate to act as an independent advocate for consumer interests in all matters affecting CMEEC's customers, including electric rates. The act describes the consumer advocate's duties, selection, and qualifications. Under the act, CMEEC must pay up to \$70,000 for costs related to the consumer advocate in the first year and up to \$50,000 in subsequent years.

EFFECTIVE DATE: October 1, 2017, except for the municipal electric consumer advocate provisions, which are effective upon passage.

RATEPAYERS AS BOARD MEMBERS

Under prior law, the governing bodies of CMEEC's member utilities appointed the members of its cooperative utility board. The act requires the board to include one person appointed by the legislative body of each municipality where a member utility operates. For each representative it appoints, the municipal legislative body must prescribe the representative's (1) qualifications and (2) terms of office (both for the original representative and any successors). It must also prescribe and approve the representative's compensation, if any, by either CMEEC or the municipal legislative body. Each municipally appointed representative must be a commercial or residential ratepayer of the member utility operating in the legislative body's municipality. Under the act, the representative cannot hold an official position in, or be employed by:

1. the member utility's governing body,
2. the municipality in which the utility operates,
3. the governing body of any other member utility,
4. the municipality in which any other member utility operates, or
5. CMEEC.

The act makes conforming changes, extending certain provisions applying to member utilities and their representatives to municipal legislative bodies and their representatives. Like member utilities, municipal legislative bodies may (1) reimburse their representatives for travel expenses related to board member services and (2) remove their representative at any time, with or without cause. Like member utilities, municipalities must appoint representatives to the board for any municipal electric utility joining CMEEC, with the same terms and qualifications that apply to existing members. The act also extends to municipal legislative bodies' representatives provisions calculating the number of votes of each representative based on megawatt-hours purchased by the member utility in certain circumstances.

EVENT LOCATION AND POSTING REQUIREMENTS

Meetings and Public Hearings

Existing law allows CMEEC's cooperative utility board to hold meetings and public hearings as it deems desirable. The act requires the board to hold these meetings and public hearings in the state. It also requires CMEEC to post on its website and provide to participants (e.g., municipal utilities) notice of and the agenda for each meeting and public hearing, with any changes, at least five days before the meeting or hearing. The participants must post the information on their websites at least four days before the meeting or hearing and provide it to the municipalities where they operate. The municipalities must post it on their websites at least three days before the meeting or hearing.

Under the act, within five days after a meeting or public hearing, CMEEC must post the minutes on its website and provide them to participants. The minutes must include any actions taken, motions voted, and resolutions adopted. The act requires the participants to post the minutes on their websites within six days after the hearing or meeting and provide them to municipalities where they operate. The municipalities must post the minutes on their websites within seven days after the meeting or hearing.

Strategic Retreats and Similar Activities

Under the act, if CMEEC holds a strategic retreat or similar activity, it must do so in the state. The act requires CMEEC's cooperative utility board to approve, at a meeting, the retreat or activity, including its location, purpose, planned participants, entertainment, and gifts of any value. Under the act, any retreat or similar activity must include meetings to conduct business and must not include any entertainment or gifts other than those the board approved. Under the act, CMEEC must provide the board with an agenda, a list of attendees, and the meeting minutes within five days after the retreat or activity.

REPORTS AND AUDITS

Forensic Examination

The act requires CMEEC to have a forensic examination, conducted by a certified forensic auditor, that includes a review of CMEEC's revenue and expenditures for the preceding five years. The act requires the auditor to submit two reports. One report must include an opinion on CMEEC's financial statements and a management letter. The second must include an opinion on conformance of CMEEC's operating procedures with state law and CMEEC's bylaws and any recommendations for corrective actions needed to ensure conformance.

The act requires CMEEC to post the reports on its website and provide them to participants (e.g., municipal utilities) within seven days after receiving them. Participants must post the reports on their websites and provide them to their municipalities within five days after receiving them from CMEEC. The municipalities must post them to their websites within five days after receiving them from participants.

Report to the Energy Committee

The act requires CMEEC to submit an annual report to the Energy and Technology Committee that includes a list of the cooperative utility board's current members and officers and copies of CMEEC's:

1. most recent annual report;
2. most recent audited financial statements, management letter, and forensic auditor's reports;
3. conflict of interest policy, if it has one;
4. most recently filed IRS form 990, including all parts and schedules available for public inspection under federal law; and
5. bylaws.

Additionally, CMEEC's annual report to the committee must list each employee's position, salary, wages, and fringe benefit expenses.

MUNICIPAL ELECTRIC CONSUMER ADVOCATE

Establishment and Cost

The act establishes the position of municipal electric consumer advocate to act as an independent advocate for consumer interests in all matters affecting CMEEC's customers, including electric rates. Under the act, CMEEC must pay for costs related to the consumer advocate, including hourly fees and necessary expenses. The act limits such costs to \$70,000 for the first year and \$50,000 for each subsequent year, unless the consumer advocate demonstrates a substantial need and CMEEC's board approves it.

These provisions of the act do not prevent any interested person, including individual consumers or groups of consumers, from participating in any CMEEC meeting or hearing on their own behalf or through counsel.

The act requires CMEEC to promptly adopt any necessary changes in its rules, regulations, or other governing documents to carry out the act's requirements concerning the consumer advocate.

Duties

The act allows the consumer advocate to appear and participate in CMEEC matters or any other federal or state regulatory or judicial proceeding that may involve CMEEC customers. Under the act, in carrying out his or her duties, the consumer advocate:

1. has access to CMEEC's records and the right to make a reasonable number of copies of them;
2. may ask CMEEC's technical and legal experts for assistance; and
3. has the benefit of all other CMEEC information, except employment records and other internal documents not relevant to the consumer advocate's duties.

Selection and Qualifications

Beginning in 2017, the act requires the consumer counsel to select the consumer advocate before November 1 in each odd-numbered year for a two-year term to start on the following January. The act allows the consumer counsel to terminate the consumer advocate before the two-year term for misconduct, material neglect of duty, or incompetence.

Under the act, the consumer advocate must be a member of the state's bar with private legal experience in public utility law and policy. He or she must not have any conflict of interest under the Rules of Professional Conduct in representing CMEEC's consumers as a class. Under the act, the advocate must be independent of CMEEC's board and cannot be a CMEEC board member. CMEEC's board cannot remove the consumer advocate for any reason, and the act prohibits the board from directing or overseeing the consumer advocate's activities. CMEEC's board must cooperate with the consumer advocate's reasonable requests to enable the advocate to effectively perform his or her duties and functions.

Reports and Public Forums

The act requires the consumer advocate to prepare reports of his or her activities concerning CMEEC and, at the end of each calendar quarter, submit the reports to (1) CMEEC, (2) the chief elected official of each municipality where a CMEEC participant operates, and (3) the consumer counsel. The act requires CMEEC and the consumer counsel to post the reports on their websites.

The act also requires the consumer advocate to hold a public forum annually on the second Wednesday of October to describe his or her recent activities and to receive consumer feedback. The forum must be held where CMEEC holds hearings. The act requires CMEEC to publicize the forum (1) through an announcement at its preceding scheduled meeting, (2) on its website, and (3) in a notice on or attached to its consumer bills. The act allows the consumer advocate, if he or she deems it necessary, to hold additional public forums.

BACKGROUND

CMEEC

Among other things, CMEEC procures power for its member municipal utilities, which include Bozrah Light and Power, Groton Utilities, Jewett City Department of Public Utilities, South Norwalk Electric and Water, Norwalk Third Taxing District, and Norwich Public Utilities.

PA 17-138—HB 7105

Energy and Technology Committee

AN ACT CONCERNING WATER COMPANY RATE ADJUSTMENT MECHANISMS

SUMMARY: This act changes the methods the Public Utilities Regulatory Authority (PURA) uses to make certain determinations between rate cases for both public utilities and water companies.

The act expands and realigns the timeframe used to determine when a public utility's excessive return on equity requires PURA to determine the need for an interim rate decrease. Under the act, PURA must make such a determination if the public utility has excessive return on equity for the rolling 12-month period ending with the two most recent consecutive financial quarters, rather than a period of six consecutive months.

By law, a water company whose rates are determined by PURA may receive a water infrastructure and conservation adjustment (WICA) to help defray the costs of funding certain infrastructure projects between general rate cases. Under prior law, PURA had to reset the WICA to zero if the water company exceeded its allowable rate of return by more than 100 basis points for any calendar year. The act eliminates this provision and instead requires PURA to establish an earnings sharing mechanism when a company, after any revenue adjustment mechanism, exceeds its allowable rate of return by more than 100 basis points for the rolling 12-month period ending with the two most recent consecutive

financial quarters. Under the act, the earnings sharing mechanism must allow such excess return on equity to be shared equally between ratepayers and shareholders.

EFFECTIVE DATE: October 1, 2017

PA 17-144—HB 7036

Energy and Technology Committee

AN ACT PROMOTING THE USE OF FUEL CELLS FOR ELECTRIC DISTRIBUTION SYSTEM BENEFITS AND RELIABILITY AND AMENDING VARIOUS ENERGY-RELATED PROGRAMS AND REQUIREMENTS

SUMMARY: This act makes several changes to various clean and renewable energy initiatives. It allows electric distribution companies (EDCs; i.e., Eversource and United Illuminating), under certain conditions, to:

1. build, own, and operate new fuel cell generation facilities;
2. enter into power purchase agreements (PPAs) negotiated with people to build, own, and operate new fuel cell generation facilities; and
3. provide financial incentives to install fuel cell-powered combined heat and power systems. (The total generating capacity of all of these fuel cell projects cannot exceed 30 megawatts (MW) in the aggregate.)

The act authorizes the Department of Energy and Environmental Protection (DEEP) commissioner to solicit proposals from fuel cell, offshore wind, or anaerobic digestion facilities and if the proposals meet certain conditions, direct the EDCs to enter into contracts with them to procure energy, capacity, and environmental attributes, or any combination of them for up to 20 years.

The act changes the Class II Renewable Portfolio Standard (RPS) by:

1. limiting the types of facilities considered Class II renewable energy sources to trash-to-energy facilities;
2. requiring EDCs and retail electric suppliers to purchase 4%, rather than 3%, of their power from either Class I or Class II sources; and
3. lowering the alternative compliance payment for EDCs and suppliers that fail to do so.

The act extends, by one year, a program that requires EDCs to annually purchase \$8 million in Renewable Energy Credits (RECs) under 15-year contracts with certain clean energy generation projects.

It also requires the Office of Fiscal Analysis (OFA) to prepare a ratepayer impact statement for any bill before the General Assembly that would have a financial impact on electric ratepayers if passed.

EFFECTIVE DATE: July 1, 2017, except the provisions on Class II sources and DEEP's solicitations are effective upon passage and a conforming provision on OFA's ratepayer impact statements is effective July 1, 2019.

§ 1 — EDC FUEL CELL FACILITIES

Fuel Cell Plans

The act allows EDCs to submit to the Public Utilities Regulatory Authority (PURA) one or more plans to acquire new fuel cell electricity generation that begins operating on or after July 1, 2017. The plans must use a competitive process to provide distribution system benefits, including (1) avoiding or deferring distribution capacity upgrades and (2) enhancing distribution system reliability, such as voltage or frequency improvements. Plans must also give preference to proposals that efficiently use existing sites and supply infrastructure.

Fuel Cell Proposals

The act does not specify a timeline or procedure for PURA to review and approve the plans. But once PURA approves a plan, the EDC may submit the following to PURA:

1. one or more proposals to build, own, and operate new fuel cell generation;
2. proposed PPAs negotiated with people to build, own, and operate new fuel cell generation; or
3. proposals to provide financial incentives to install fuel cell-powered combined heat and power systems consistent with the state's Comprehensive Energy Strategy.

The total nameplate (generating) capacity rating of these fuel cell projects cannot exceed 30 megawatts in the aggregate. An EDC proposal to build, own, and operate a fuel cell must include the EDC's full projected costs and demonstrate that the facility is not supported in any form of cross subsidization by affiliated entities.

PURA must evaluate the proposals in a way that is consistent with its statutory principles for regulating utilities and setting rates. It may approve a proposal if it finds that it (1) was developed in a way that was consistent with the PURA-approved acquisition plan, (2) serves ratepayers' long-term interests, and (3) cost-effectively avoids or defers distribution system costs.

Cost Recovery

The act requires an EDC to recover the costs it incurs under the approved plan and proposals from all of its customers through a fully reconciling rate component until its next rate case, after which time any costs and investments for new fuel cell generation owned by the EDC must be recovered through the EDC's base distribution rates.

The act allows an EDC to resell or dispose of any energy products, capacity, and associated environmental attributes (i.e., RECs) it purchases. But if it does so, it must net the proceeds from the sale against the cost of payments made to projects under any long-term contracts entered into under the act's PPA provision. The difference plus any net costs incurred from providing financial incentives under the act must be credited or charged to the EDC's customers through a reconciling rate component that PURA determines. This rate component must be non-bypassable when switching electric suppliers.

The act allows an EDC to use any energy products, capacity, or environmental attributes produced by a facility to meet the needs of its standard service customers. An EDC may also keep any RECs issued by the New England Power Pool Generation Information System for any Class I renewable energy source acquired under the act to meet its RPS requirements. (The RPS requires EDCs and electric suppliers to obtain a portion of their power from certain renewable energy sources.)

§ 10 — DEEP SOLICITATION OF PROPOSALS

Procurement Authority

The law allows the DEEP commissioner to solicit proposals from providers of Class I run-of-the-river hydropower, landfill methane gas, or biomass resources. If the commissioner finds the proposals meet certain conditions, he may direct the EDCs to enter into up to 10-year agreements to purchase energy, capacity, and environmental attributes, or any combination of them, to meet up to 4% of the EDCs' load (i.e., demand). (DEEP has already solicited and selected proposals for parts of this procurement.)

The act expands this procurement authority to allow the commissioner to also solicit proposals from Class I fuel cells, offshore wind, or anaerobic digestion facilities; energy storage systems; or any combination of them and the energy sources originally authorized in the procurement. It prohibits the commissioner from selecting proposals for more than 3% of the EDCs' load from offshore wind resources and increases the maximum agreement duration from 10 to 20 years. The act also requires DEEP's reasonable costs for the solicitation and proposal review to be recovered through the non-bypassable federally mandated congestion charge on ratepayers' bills.

Factors for Consideration

The law requires the commissioner to consider various factors when selecting a proposal, such as whether the proposal is consistent with the state's goals to reduce greenhouse gas emissions. The act specifies that these emission-reduction goals include the development of combined heat and power systems. (It is unclear whether this addition has any legal effect.) The act also expands the factors the commissioner must consider to include:

1. whether the proposal promotes electric distribution system reliability and other distribution system benefits, including microgrids;
2. whether the proposal promotes policy goals outlined in the statewide solid waste management plan; and
3. the positive reuse of sites with limited development opportunities, including brownfields or landfills, as identified by the commissioner in the solicitation.

EDC Use of RECs

Prior law required the EDCs to sell any RECs they buy under an agreement in the regional market to be used by suppliers and electric companies to meet their Connecticut RPS requirements. The act instead allows the EDCs to either sell the RECs or keep them to meet its RPS requirements. In considering whether to sell or keep the RECs, an EDC must select the option that is in its ratepayers' best interests. If an EDC sells the RECs, it must credit its customers with the revenue from the sale.

§§ 2-5 — CLASS II RPS

The law designates certain types of renewable energy facilities as Class I, II, or III sources and, through the RPS, requires EDCs and electric suppliers to use specified amounts of energy from each class.

Class II Definition

The act limits Class II sources to trash-to-energy facilities by removing from the class (1) biomass facilities that began operating before July 1, 1998 and meet certain emissions requirements and (2) run-of-the-river hydropower facilities with a 5 MW or less capacity that began operating before July 1, 2003 and do not appreciably change river flow. It also specifies that the trash-to-energy facilities considered Class II sources must have the solid waste and Title V emissions permits required by law.

Class II RPS Requirement

The RPS law requires the EDCs and retail electric suppliers to procure (1) an increasing portion of their power from Class I sources through 2020 and (2) an additional portion of their power from either Class I or Class II sources. (EDCs can also meet these requirements by buying RECs.) Beginning in 2018, the act increases, from 3% to 4%, the amount of additional Class I or II power required.

Alternative Compliance Payment

By law, EDCs or suppliers that do not meet the RPS requirement must pay an alternative compliance payment (ACP). Under prior law, the ACP was 5.5 cents per kilowatt hour (kWh) for any shortfall. The act maintains the 5.5 cent per kWh ACP for failure to meet the Class I requirement, but starting on January 1, 2018, it creates a 2.5 cent per kWh ACP for failure to meet the Class II requirement (presumably, the requirement to procure additional power from Class I or Class II resources).

§ 9 — REC PROGRAM EXTENSION

Beginning in January 2012, the law required each EDC to annually enter into 15-year contracts to procure \$8 million in RECs from certain clean energy generation projects for six years (through 2017). The act extends the requirement for an additional seventh year. As was required during each of the program's previous six years, in year seven the EDCs must enter into a 15-year contract to procure \$8 million of RECs.

As under the law's requirement for year six, in year seven the act allows EDCs to procure (1) up to \$4 million in RECs from Class I generation projects that are less than 1 MW in size and emit no pollutants and (2) up to \$4 million in RECs from Class I technologies that are less than 2 MW in size and have emissions of no more than 0.07 pounds per megawatt-hour of nitrogen oxides, 0.10 pounds per megawatt-hour of carbon monoxide, 0.02 pounds per megawatt-hour of volatile organic compounds, and one grain (presumably of particulate matter) per 100 standard cubic feet (i.e., low emissions projects). All projects must also (1) be on the customer's side of the meter and (2) serve the EDC's distribution system.

When this program began in 2012, the law established a \$350 price cap per REC and allowed PURA to lower the cap by 3% to 7% annually in subsequent years. For year seven, the act allows PURA to lower the price cap by 64% at least 90 days before the EDC solicitation. As under the law that applied to the first six years, PURA must (1) provide notice and an opportunity for public comment and (2) consider such factors as the actual bid results from the most recent solicitation and reasonably foreseeable reductions in the cost of eligible technologies.

§§ 6-8 — RATEPAYER IMPACT STATEMENTS

The act requires OFA to prepare a ratepayer impact statement for any bill before the General Assembly that would, if passed, have a financial impact on electric ratepayers. Beginning with the 2019 legislative session, the act prohibits either chamber of the General Assembly from acting on a bill without a ratepayer impact statement, unless two-thirds of the chamber votes to dispense with the requirement for a statement. The statement must assess whether the bill will have a significant direct financial impact on the cost of electricity for the majority of Connecticut ratepayers.

The act also makes a conforming change.

PA 17-186—HB 7104

Energy and Technology Committee

AN ACT CONCERNING RENEWABLE PORTFOLIO STANDARD COMPLIANCE REQUIREMENTS

SUMMARY: By law, the state's renewable portfolio standard (RPS) requires electric distribution companies (i.e., Eversource and United Illuminating) and electric suppliers to demonstrate that a certain percentage of their energy each year comes from renewable resources. This act removes a provision from prior law that allowed companies to make up a deficiency in meeting the RPS in the first three months of the following calendar year, or otherwise as specified under New England Power Pool rules. The act also makes a conforming change.

EFFECTIVE DATE: July 1, 2017

PA 17-201—HB 7208

Energy and Technology Committee

AN ACT CONCERNING THE COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM

SUMMARY: This act makes several changes in the Connecticut Green Bank's Commercial Property Assessed Clean Energy Program (C-PACE), which finances energy efficient or renewable energy improvements on certain commercial properties in participating municipalities. The property owner repays the cost of the improvements through an assessment on the property, backed by a lien. The act:

1. expands the purposes for which C-PACE financing may be provided;
2. allows participating third-party capital providers to provide leases and power purchase agreements;
3. designates the program's liens "benefit assessment liens";
4. specifies that foreclosures on the liens are limited to late assessment payments and that liens for payments that will become due in the future survive the foreclosure;
5. specifies that when a property with a benefit assessment lien is subject to a property tax foreclosure or levy and sale, the lien for any late payments will be extinguished but the lien for payments due in the future will remain with the property; and
6. makes various minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2017

C-PACE FINANCING PURPOSES

The law allows the C-PACE program to finance "energy improvements," which include, among other things, the renovation or retrofitting of qualifying property to reduce energy consumption. The act expands this to include any improvement, renovation, or retrofitting to reduce energy consumption or improve energy efficiency.

THIRD-PARTY CAPITAL PROVIDERS

Prior law allowed third-party capital providers participating in C-PACE to provide loans to property owners for energy improvements. The act broadens this authorization to allow the providers to also provide other forms of financing, leases, and power purchase agreements (PPAs). (In general, PPAs are contracts in which a third-party developer owns, operates, and maintains a renewable energy system and a host customer agrees to place the system on its property and purchase its output for a predetermined period.)

BENEFIT ASSESSMENT LIENS AND FORECLOSURES

The act terms the liens created under C-PACE “benefit assessment liens” and requires the liens (presumably the assessments the liens secure) to be paid in installments. Prior law referred to installment payments only when financing agreements provided for benefit assessments.

By law, if assessments are paid in installments and an installment is late, the lien may be foreclosed to the extent of any unpaid installments plus related penalties, interest, and fees. If the lien is foreclosed, the lien survives the foreclosure judgment to the extent of any unpaid installments secured by the lien that were not subject to the judgment. The act specifies that these “unpaid installments” are those that are due and owing (i.e., late payments) and that the (1) lien is extinguished only with regard to installments that were due and owing on the judgment date and (2) unpaid installments that survive are those due after the judgment date.

Property Tax Foreclosures

By law, C-PACE benefit assessment liens take precedence over all other liens or encumbrances, except municipal property tax liens. The act specifies that when a property subject to a municipal property tax lien is foreclosed or enforced by levy and sale, the benefit assessment lien for any payments due and owing on the date of the judgment or levy and sale is extinguished. However, the lien for payments due after the judgment or levy and sale survives.

PA 17-227—HB 6304 (VETOED)

*Energy and Technology Committee
Appropriations Committee*

AN ACT CONCERNING THE USE OF COMBINED HEAT AND POWER AND DISTRICT HEATING SYSTEMS AND REQUIRING A STUDY OF THE VIABILITY OF NEW DISTRICT HEATING NETWORKS IN THE STATE AS PART OF THE COMPREHENSIVE ENERGY STRATEGY

SUMMARY: This act creates a process through which the electric distribution company that serves Bridgeport (i.e., United Illuminating (UI)) can own and operate a combined heat and power (CHP) system that supplies thermal heat to Bridgeport’s district heating company (i.e., the thermal energy transportation company authorized to provide thermal energy in Bridgeport through a district heating system). Under the act, a CHP system is a system that produces, from a single source, electric power and thermal energy that is used in processes that result in an aggregate reduction in electricity use. In general, a district heating system is a network of pipes that carries thermal energy from a central facility to other client buildings. (Thus, under the act, Bridgeport’s district heating company would deliver the waste heat generated by UI’s CHP system to client buildings connected to the district heating system.)

If UI decides to proceed with such a project, it must follow certain procedures, such as conducting a competitive bidding process to procure a CHP system and submitting a proposal to build the system to the Public Utilities Regulatory Authority (PURA) for review and approval by September 1, 2017.

Once the system is built, the act requires UI to deliver the following benefits generated by the system to the district heating company at no cost: (1) the total thermal energy generated by the unit; (2) all capacity payments received for the unit; and (3) any other attributes, including the environmental attributes (e.g., renewable energy credits (RECs)), associated with the electricity generated by the unit.

Under the act, UI may recover up to the full costs of the system and sell the electricity generated by it, as long as the costs are netted against the net proceeds and credited or charged to UI’s ratepayers through the non-bypassable federally mandated congestion charge on their electric bills.

The act also (1) allows a municipality, by vote of its legislative body, to abate all or a portion of the property tax for a property on which the CHP unit is constructed and (2) requires a study on the viability of new district heating networks in the state.

Lastly, the act requires future Comprehensive Energy Strategies (CES) to include a study on the viability of new district heating networks in the state, including recommendations for financing them. By law the commissioner must prepare a CES every three years, with the most recent one due by October 1, 2016. The act's requirement applies beginning with the CES due by October 1, 2019.

EFFECTIVE DATE: Upon passage, except the requirement regarding the CES is effective October 1, 2017.

PROPOSAL AND APPROVAL

The act allows UI to build, own, operate, and maintain a CHP system in Bridgeport that has a nameplate (generating) capacity rating up to 10 megawatts and may include fuel cells. If UI decides to proceed, it must conduct a competitive bidding process to procure a system from a manufacturer. The system must be configured for use with a district heating system and installed at a location that will maximize the efficient use of the system's thermal energy by Bridgeport's district heating company.

In addition, UI must:

1. submit a proposal to PURA to build the system by September 1, 2017;
2. before starting construction, enter into a thermal energy supply agreement with the district heating company, either directly or through the company's parent company, subsidiary, or affiliate, to deliver thermal energy;
3. install and operate a metering system for the system; and
4. ensure that the system achieves commercial operation within 16 months after it enters into the agreement with the district heating company.

PURA must evaluate any proposal it receives and approve it if it finds that the generating unit complies with the above requirements and serves the "long-term interests of ratepayers." Under the act, this means that the unit's capital cost to ratepayers, as determined by the competitive bidding process' results, do not exceed the capital cost to ratepayers of the PURA-approved UI fuel cell project in Bridgeport. The act prohibits PURA from approving any unit that is cross subsidized in any form by UI-affiliated entities. Under the act, if UI and the district heating company do not come to an agreement within two years after PURA's approval, the approval is deemed rescinded.

COST RECOVERY

The act prohibits UI from recovering more than the full costs of the CHP system, as approved by PURA. UI may sell or dispose of the electricity generated from the system as long as it nets the costs of payments against the proceeds from the sale and credits or charges the difference to its electric ratepayers. The cost calculation must take into account the investment; depreciable life; property taxes, including any abatements or exemptions; operation and maintenance costs; and debt and equity return on investment as determined by PURA. The net cost or revenue must be credited or charged to UI's ratepayers through the non-bypassable federally mandated congestion charge on ratepayer bills.

OTHER REQUIREMENTS

The act requires the district heating company, with UI's assistance, to (1) register the CHP system as a renewable energy source with PURA, (2) register any RECs in the New England Power Pool Generation Information System, and (3) certify how many RECs are generated by the CHP system based on the metering system installed and operated by UI.

It also requires any thermal service supply agreement between a customer and the district heating company or its parent, subsidiary, or affiliate to contain commercial and economic provisions sufficient to meet the customer's thermal energy needs, as mutually agreed to by the parties.

One year after any generating unit becomes operational, and every two years after that, the commissioner (presumably of the Department of Energy and Environmental Protection) must ask the district heating company to provide any data or information he needs to write a report, in accordance with the state's Freedom of Information Act, on the viability of new district heating networks in the state. The company must provide all requested information within 30 days of the request. Within 60 days of receiving the information, the commissioner must provide the report to the Energy and Technology Committee.

BACKGROUND

Related Act

PA 17-144 allows electric distribution companies (i.e., Eversource and United Illuminating), under certain conditions, to (1) build, own, and operate new fuel cell generation; (2) enter into power purchase agreements to build, own, and operate new fuel cell generation; and (3) provide financial incentives to install fuel cell-powered combined heat and power systems.

PA 17-21—SB 833
Environment Committee

AN ACT CONCERNING BEE INSPECTIONS

SUMMARY: This act makes changes in the statutes concerning beekeepers’ registration of bee hives and the state entomologist’s inspections of apiaries. It also increases fines for (1) failing to register the hives from \$5 to \$25 and (2) violating bee inspection provisions from \$50 to \$100 for a first violation, \$300 for a second violation, and \$500 for any subsequent violation (see BACKGROUND).

The act requires beekeepers to register their bee hives with the state entomologist when they acquire bees. Under existing law, unchanged by the act, they must also annually register the hives with the entomologist by October 1. The registration information includes the registrant’s name and address and where the bees are kept. By law, the entomologist must make the registration information publicly available. But under the act, he no longer has to forward the information to the town clerk in the municipality where the registrant lives.

The act expands the reasons the state entomologist or his appointed inspectors may examine, quarantine, treat, or destroy apiaries. Under prior law, they could take such action only because of disease. Under the act, they may do so if the apiaries are diseased or harboring insects, mites, or parasitic organisms that adversely affect bees and cause harm to the bee population, crops, or other plants.

EFFECTIVE DATE: Upon passage

ADDITIONAL BEE INSPECTION ACTIVITIES

By law, no one may receive a shipment of bees in the state unless the shipment is accompanied by a certificate of good health or, if not accompanied by one, the state entomologist inspects the bees. Under existing law, if any disease is found, the shipment must be returned to the consignor or sent to a state inspector for treatment or destruction. Under the act, if the shipment contains any insects, mites, or parasitic organisms that cause harm to bees, crops, or other plants, it must also be returned or forwarded for treatment or destruction. By law, a shipment of bees cannot be destroyed without reasonable notice to the consignor.

By law, no one may sell bees until the bees have been inspected by an authorized inspector, who must issue a certificate of good health if they are free of disease. Under the act, the certificate must also indicate that the bees are free of insects, mites, or parasitic organisms that cause harm to the bee population, crops, or other plants.

BACKGROUND

Bee Inspections

By law, inspectors must have access at reasonable times to any apiary or place where bees are kept or where honeycomb and appliances are stored. No one may resist or hinder the state entomologist’s or his appointed inspectors’ inspection activities.

PA 17-78—sSB 836
Environment Committee
Judiciary Committee

AN ACT CONCERNING CIVIL PENALTY REGULATIONS OF THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION AND THE DEADLINE FOR CERTAIN REPORTS UNDER THE PAINT STEWARDSHIP PROGRAM

SUMMARY: This act expands the Department of Energy and Environmental Protection (DEEP) commissioner’s authority to levy civil penalties to include penalties for violating the law on developing and implementing emergency action plans for high or significant hazard dams or similar structures.

The act also changes, from August 15 to October 30, the deadline by which the paint stewardship representative organization must annually report to the DEEP commissioner on the state’s paint stewardship program. By law, the report must, among other things, describe the methods used to collect, transport, and process postconsumer paint in Connecticut

and the volume and type of paint collected. The representative organization is the nonprofit organization that implements the program.

EFFECTIVE DATE: Upon passage

CIVIL PENALTIES

By law, the DEEP commissioner must adopt regulations establishing a civil penalty schedule for violations of various environmental statutes. The act adds to this list a law requiring owners of high or significant hazard dams to develop and implement an emergency action plan that they must update and file every two years with DEEP and the chief executive officer of any municipality that could be affected in an emergency (CGS § 22a-411a).

As under existing law, the commissioner must set penalties, designed to ensure immediate and continued compliance, that do not exceed the following maximum amounts:

1. up to (a) \$1,000 for each failure to file a plan and (b) \$100 for each day the violation continues and
2. up to \$25,000 per day for causing, engaging in, or maintaining a condition or activity in violation of the law on emergency action plans.

By regulation, a high hazard dam is one whose failure would result in probable loss of life, major damage to habitable structures or residences, damage to major utilities and roadways, or great economic loss. A significant hazard dam is one whose failure would result in possible loss of life, minor damage to habitable structures or residences, damage to local utilities and roads, or significant economic loss (Conn. Agencies Regs. § 22a-409-2(a)).

PA 17-113—HB 5884

Environment Committee

AN ACT PROHIBITING THE USE OF COAL TAR SEALANTS ON STATE AND LOCAL HIGHWAYS

SUMMARY: This act prohibits the use or application of sealants made from coal tar on any state or local highway. The transportation commissioner, together with the energy and environmental protection commissioner, may enforce the ban.

EFFECTIVE DATE: October 1, 2017

PA 17-117—sHB 6356

Environment Committee

Planning and Development Committee

Judiciary Committee

AN ACT CONCERNING PUBLIC NOTICE OF TREE REMOVAL ON MUNICIPAL PROPERTY

SUMMARY: This act bans the following activities on municipal property, except under certain specific circumstances: (1) pruning, removing, injuring, marking, or defacing trees or other natural objects; (2) posting notices; and (3) distributing or discarding advertisements and certain other materials. The ban on these activities already applies, under existing law, to public ways and grounds and, in certain cases, to private premises and property.

The act also extends to municipal property, and makes several changes in, the laws on cutting or removing trees and shrubs on public roads and grounds. And it changes notice requirements for when a utility (i.e., telephone, telecommunication, or electric distribution company) intends to prune or remove a tree or shrub in a public right of way.

Lastly, the act requires utilities to comply with its application and permitting provisions when managing vegetation in any part of a utility protection zone located on municipal property (see BACKGROUND). It subjects utilities to civil penalties, in addition to other penalties under law, if they do not comply with the act and existing law when managing vegetation in such zones unless they are pruning or removing trees that are in direct contact with an energized electrical conductor or with visible signs of burning.

EFFECTIVE DATE: Upon passage

PROHIBITIONS APPLYING TO MUNICIPAL PROPERTY

The act prohibits persons, firms, and corporations from conducting the following activities on municipal property unless they receive appropriate permission or authorization (see below):

1. attaching notices, advertisements, flyers, and similar items to utility poles or trees, shrubs, rocks, or other natural objects;
2. cutting, painting, or marking trees, shrubs, rocks, or other natural objects, except to protect them or the public;
3. using climbing spurs to climb an ornamental or shade tree;
4. removing, pruning, injuring, or defacing a shrub or ornamental or shade tree;
5. depositing or throwing any advertisement, refuse paper, camp or picnic refuse, junk, or other material, with certain exceptions; or
6. affixing to trees, rocks, or other natural objects a paper or advertisement other than a legally posted notice.

It subjects violators of these provisions to existing law's penalties for similar violations committed on public ways and grounds. Thus, a violation of any of the first three provisions is treated like an infraction and is punishable by a \$50 fine. A court may order anyone who violates the fourth provision to restore the land to its prior condition, or pay for the restoration, and pay damages of up to five times the cost of restoration or up to \$5,000. A violation of the fifth or sixth provision is punishable by a fine of up to \$250 for a first offense and is handled like an infraction. A subsequent violation is a class C misdemeanor (see Table on Penalties).

The act also extends to municipal property the following laws that apply to public ways or grounds under existing law:

1. deeming certain actions of agents or employees of persons, firms, or corporations to be those of the person, firm, or corporation, unless shown to be without their knowledge or consent; and
2. considering as a separate violation each instance of affixing a notice or willfully removing, pruning, injuring, or defacing shrubs or trees, or of throwing individual advertisements and other material.

PROCEDURE FOR CUTTING OR REMOVING TREES OR SHRUBS

The act requires anyone seeking to cut or remove trees or shrubs on municipal property to apply in writing to the town or borough tree warden or transportation commissioner ("authorizing authority") for permission to do so, just as they must do, under existing law, when the trees or shrubs are on public roads or grounds.

It also makes several changes to the law. Specifically, it requires that permit applications to cut or remove trees or shrubs on municipal property or near public roads or grounds be acknowledged by the authorizing authority (1) at the start of the public comment period or public hearing or (2) when the authorizing authority decides to forego the hearing.

Cases Involving a Public Utility

By law, when the applicant for such a permit is a public utility, a party aggrieved by the authorizing authority's decision has 10 days to appeal to the Public Utilities Regulatory Authority (PURA), which may confirm, change, or set aside the decision. PURA's decision is final.

Under the act, a tree warden's reasonable delay in making a decision on a permit application for public comment purposes or to review affected vegetation cannot be considered a denial or grounds for an appeal to PURA.

UTILITY PROTECTION ZONES

The act requires utilities to comply with its provisions, including applying in writing for permission to cut or remove trees or shrubs, when managing vegetation in any part of a utility protection zone located on municipal property. It subjects utilities that do not comply with the act's and existing law's requirements when managing vegetation in such zones to civil penalties of up to \$10,000 for each violation, in addition to other penalties under law. But it exempts them from these requirements if they are pruning or removing trees that are in direct contact with an energized electrical conductor or with visible signs of burning.

By law, a utility can prune or remove a tree or shrub in a utility protection zone, or along a public road, highway, or ground, as long as it first provides notice to the abutting property owner or private property owner. The law requires the utility to give the notice at least 15 business days before starting the work. The act specifies that, for such tree work in a public right-of-way, notice is not considered delivered until the application for the work is made and acknowledged as the law and the act provide.

BACKGROUND

Utility Protection Zone

The utility protection zone is a rectangular area extending horizontally for a distance of eight feet from an outermost electrical conductor or wire installed from pole to pole and vertically from the ground to the sky.

Vegetation Management

Vegetation management is the retention of trees or shrubs compatible with utility infrastructure and the pruning or removal of trees, shrubs, or other vegetation that pose a risk to the reliability of that infrastructure.

PA 17-133—sHB 7069

Environment Committee

Judiciary Committee

AN ACT CONCERNING CERTAIN REQUIREMENTS OF COMMISSION SALES STABLES

SUMMARY: This act revises the law governing the places where livestock animals are sold at private auction (i.e., “commission sales stables”), which the Department of Agriculture (DoAg) commissioner licenses and oversees. Livestock animals are camelids (e.g., llamas or camels) or hooved animals raised for domestic or commercial use. The act:

1. requires that all dairy and breeding animals at a commission sales stable, instead of just those older than six months, be identified;
2. establishes a 72-hour deadline for slaughtering animals after a sale;
3. requires commission sales stables to maintain certain records on animals sold or bought at the facility and make them available to DoAg for inspection;
4. explicitly prohibits commission sales stables from selling wild animals, captive cervidae (e.g., deer), pets and companion animals, and psittacine birds (e.g., parrots);
5. explicitly requires commission sales stables to obtain separate licenses to sell poultry or equines, as applicable, if they conduct those activities; and
6. allows the DoAg commissioner to adopt regulations regarding commission sales stables.

The act eliminates a requirement for female dairy or breeding animals that are at least six months old and sold by a commission sales stable to be vaccinated against brucellosis as calves. Existing law, unchanged by the act, requires all dairy and breeding animals to meet certain health requirements, including testing for brucellosis or being certified as brucellosis-free (see BACKGROUND).

The act also makes a technical change.

EFFECTIVE DATE: October 1, 2017

COMMISSION SALES STABLES

Animal Identification

The act requires that all animals offered for dairy or breeding purposes at a commission sales stable be identified, rather than only those older than six months. It allows identification by ear tag, as under existing law, or breed registration number if the animal is accompanied by the corresponding breed registration certificate. It eliminates tattoos as an identification method.

By law, violating the animal identification requirement is a class D misdemeanor (see Table on Penalties).

Slaughter Deadline

By law, slaughter animals may be sold only to owners or agents of slaughtering facilities. The act requires animals sold for slaughter to be moved to a slaughtering facility and slaughtered immediately or within 72 hours after the sale. Prior law required “immediate” slaughter but did not define it.

A violation of these provisions is a class D misdemeanor.

Recordkeeping Requirements

The act requires a commission sales stable licensee to maintain, for a three-year period from the date of sale, accurate records on each animal sold. The records must include the:

1. name and address of the seller and buyer;
2. name of the dealer, broker, or transporter and any other party involved in the transaction;
3. animal's official identification; and
4. destination or other disposition of the animal.

The licensee must make the records available to the DoAg commissioner, or his designee, for inspection within 24 hours after a request.

Under the act, anyone who does not provide the records as required, obstructs DoAg in performing its duties, or intentionally provides false or misleading information is subject to a fine of up to \$100 per day until accurate, complete information is provided.

Regulations

The act allows the DoAg commissioner to adopt regulations regarding commission sales stables. The regulations may include:

1. requirements for on-site inspections by the commissioner or his designee;
2. specifications for keeping and providing access to required records;
3. animal identification standards;
4. requirements concerning livestock and domestic poultry originating from out of state;
5. animal segregation requirements;
6. animal health, care, and handling standards;
7. sanitation standards;
8. facility design and construction requirements;
9. requirements for animals raised for food or fiber production other than livestock; and
10. penalties for violating any commission sales stable requirements that do not already have a prescribed penalty.

BACKGROUND

Dairy and Breeding Animal Health Requirements

By law, all dairy and breeding animals brought to a commission sales stable must meet certain health requirements. If they are from within Connecticut, the animals must be from herds:

1. under state supervision and tested for brucellosis and tuberculosis within the last 14 months;
2. tested for tuberculosis within the last 14 months and regularly tested under DoAg's brucellosis ring test program;
- or
3. certified by DoAg as brucellosis-free.

Dairy and breeding animals from outside the state must (1) meet the health requirements for imported cattle, (2) have a health certificate from the originating state, and (3) have a DoAg-issued import permit (CGS § 22-277).

PA 17-150—sSB 129

Environment Committee

AN ACT AUTHORIZING THE TAKING OF MUSHROOMS AT STATE PARKS AND ON OTHER STATE PROPERTY

SUMMARY: This act allows people to take mushrooms for their personal use from property under the control of the Department of Energy and Environmental Protection (e.g., state parks). Under the act, the state is not liable to a person, or his or her heirs or assigns, who does so.

EFFECTIVE DATE: October 1, 2017

PA 17-167—sHB 6334

Environment Committee

AN ACT REQUIRING THE REGISTRATION OF ANIMAL SHELTERS

SUMMARY: This act requires a person who wants to operate or maintain an animal shelter in Connecticut to register with the Department of Agriculture (DoAg) commissioner and comply with DoAg regulations on sanitation, disease, humane treatment of cats and dogs, and public safety protection. Under the act, an “animal shelter” is a private entity operating a building or facility used solely to house homeless animals for rescue or adoption but that is not in a private residence.

Under the act, DoAg must issue a registration to a person upon application and payment of a \$50 fee if the person complies with applicable state regulations and, for an initial registration, municipal zoning requirements. A registration lasts until the second December 31 following issuance, is renewable biennially by that date, and may be transferred to another premises with the commissioner’s approval.

The act authorizes the commissioner, or his agent, to inspect an animal shelter at any time. If, in his judgment, the shelter is not being maintained in a sanitary and humane manner that protects public safety, or if he finds that contagious, infectious, or communicable disease or other unsatisfactory conditions exist, he may (1) fine the shelter up to \$500 for each affected animal, (2) order that the conditions be corrected, and (3) quarantine the premises and animals.

Under the act, the commissioner may revoke or suspend the registration of a shelter that fails to comply with his regulations or orders or any state law relating to animals. Anyone aggrieved by a commissioner’s order may appeal to Superior Court. Anyone operating a shelter without a valid registration is subject to a fine of up to \$200.

Existing law establishes similar requirements and penalties for commercial kennels, pet shops, groomers, and animal training facilities.

EFFECTIVE DATE: October 1, 2017

PA 17-168—sHB 6347

Environment Committee

Public Health Committee

AN ACT CONCERNING PET OWNER ACCESS TO STATE AGENCY RECORDS OF INVESTIGATION FOR COMPLAINTS OF WRONGDOING BY VETERINARIANS

SUMMARY: This act allows the owner of an animal that is the subject of a Department of Public Health (DPH) investigation against a veterinarian to have access to information about the investigation. By law, with limited exceptions, DPH’s veterinarian investigations are confidential, exempt from disclosure under the Freedom of Information Act (FOIA), and may not be disclosed to a third party. The act specifies that the owner of an animal that is the subject of a DPH investigation against a veterinarian is not a third party for purposes of disclosure.

EFFECTIVE DATE: October 1, 2017

BACKGROUND

DPH Investigations of Veterinarians

State law requires DPH to investigate allegations of wrongdoing by veterinarians to determine if there is probable cause to issue charges and take disciplinary action against them. An investigation must be conducted within 12 months after DPH receives an allegation.

If DPH makes a finding of no probable cause or fails to make a finding within the 12-month period, the allegation, investigation, and related records remain confidential and no one may disclose knowledge of the investigation to a third party unless the veterinarian requests that it be disclosed.

If DPH finds there is probable cause to take disciplinary action, the allegation, investigation, and related records become public records, disclosable under FOIA.

By law, disciplinary action may include revocation or suspension of the veterinarian's license, reprimand, probation, or a civil fine of up to \$25,000 (CGS § 19a-17).

PA 17-184—HB 7066
Environment Committee

**AN ACT CONCERNING MINOR CHANGES TO THE POULTRY DEALER LICENSING STATUTE,
REGISTRATION OF POULTRY FLOCKS AND THE LABELING OF FARM STAND EGGS**

SUMMARY: This act changes the statutes on poultry and eggs by:

1. establishing a voluntary registration program for poultry flock owners to participate in the National Poultry Improvement Plan (NPIP) program, which seeks to prevent and contain avian disease breakouts (§ 2);
2. authorizing the agriculture commissioner to adopt regulations to implement the registration program (§ 2);
3. restricting when an owner can sell poultry or eggs as being disease-free or as participating in the NPIP (§ 3);
4. prohibiting farmers who sell eggs at certified farmers' markets from selling falsely labeled or adulterated eggs (§ 4); and
5. making minor changes to the definitions of certain terms used in the poultry dealer licensing statute (§ 1).

EFFECTIVE DATE: October 1, 2017, except for the provisions on selling eggs at farmers' markets and revising definitions, which are effective upon passage.

§ 1 — REVISIONS TO POULTRY DEALER LICENSING STATUTE

The act makes technical changes and corrections to the poultry dealer licensing statute. It removes a redundancy from the definition of "dealer" and corrects the definition of "producer" by referring to table eggs (i.e., eggs meant for human consumption) instead of hatching eggs. It also narrows the definition of "live bird market" to mean a retail establishment that sells live poultry directly to an end consumer or restaurant and slaughters the poultry on-site for that consumer or restaurant. Prior law defined it as a facility that slaughters and sells poultry or hatching eggs to the public or restaurants or sells live poultry for any purpose.

By law, dealers are those engaged in the commercial trade or transportation of live poultry or hatching eggs. They must obtain a license from the Department of Agriculture (DoAg). Producers are those who raise or keep poultry for food production, show, or exhibition. The law generally exempts producers from the dealer licensing requirement; however, producers who are haulers transporting live poultry or hatching eggs to a live bird market, distributor, or dealer must be licensed as dealers.

§ 2 — REGISTERING POULTRY FLOCKS

The act replaces prior law that governed DoAg's inspection and certification of poultry flocks with a voluntary registration program, under which poultry flock owners may register their flocks with DoAg to participate in the NPIP program. NPIP is a cooperative industry, state, and federal program that seeks to prevent, detect, and contain infectious and contagious diseases, such as avian influenza.

Under prior law, a poultry flock owner could have DoAg examine a flock for infectious and contagious diseases. Any diseased fowl were removed, destroyed, or quarantined, and the owner had to immediately clean and disinfect the premises of any such fowl. The examination was done at no cost to the owner. For a flock of 100 or more fowl, UConn's pathology department could charge the owner a portion of the laboratory costs, but these could be waived for an owner under age 18 or over age 65. For flocks of fewer than 100 fowl, the owner had to pay the full cost of the laboratory tests.

The act instead allows a poultry flock owner to register a flock with DoAg for an annual fee of (1) \$50 for a flock of 100 or more and (2) \$25 for a flock of fewer than 100. Registration fees are waived for owners age 18 or younger. Registered flocks are placed in the NPIP program. Owners are responsible for paying the full cost of laboratory testing needed to comply with NPIP standards or qualify for an avian disease status. If a flock fails to comply or qualify, the owner cannot sell or offer for sale any poultry until the DoAg commissioner or his agent determines it complies or qualifies.

The act exempts from its provisions any flock tested solely for entry into fairs, shows, or exhibits. It also authorizes the DoAg commissioner to adopt regulations implementing the registration program.

§ 3 — SELLING POULTRY OR EGGS AS DISEASE-FREE

Under the act, no one may sell or offer for sale any live poultry or hatching eggs as being disease-free or as participating in the NPIP unless they are participating in, and in good standing with, (1) the NPIP, as administered by the state of origin for the poultry or eggs, or (2) an avian disease monitoring program administered by an animal health authority for the state or country of origin for the poultry or eggs.

Under prior law, no one could sell or offer for sale any poultry, baby chicks, or hatching eggs as being disease-free unless the DoAg commissioner certified them as such.

§ 4 — SELLING EGGS AT CERTIFIED FARMERS' MARKETS

Under the act, farmers selling eggs at certified farmers' markets (i.e., those the DoAg commissioner authorizes) cannot (1) falsely label eggs or (2) offer for sale eggs that are adulterated (e.g., injurious to health or not fit for human consumption). By law, the DoAg commissioner may impose civil penalties for a violation (CGS § 22-7).

PA 17-208—HB 6333

Environment Committee

AN ACT CONCERNING CERTAIN AUTHORITIES OF THE DEPARTMENT OF AGRICULTURE RELATING TO THE FOOD SAFETY MODERNIZATION ACT

SUMMARY: This act allows the state Department of Agriculture (DoAg) to enforce the federal Food Safety Modernization Act's (FSMA) rules on produce safety (see BACKGROUND). These rules set standards for growing, harvesting, packing, and holding produce intended for human consumption. They generally apply to farms that sell an average of more than \$25,000 worth of produce per year during the previous three years. Under the act and the federal rules, "produce" means any fruit or vegetable, including mushrooms, sprouts, peanuts, tree nuts, and herbs, but excludes grains (21 C.F.R. § 112.3).

The act allows the DoAg commissioner to consult, collaborate, and enter into cooperative agreements with any government entity, as necessary, to carry out its provisions. It also allows the commissioner to inspect produce farms for compliance; issue inspection certificates; and issue orders, including orders to embargo, destroy, quarantine, or release produce.

The act also authorizes the DoAg commissioner, in consultation with the public health and consumer protection commissioners, to adopt any necessary implementing regulations.

EFFECTIVE DATE: July 1, 2017

AUTHORITY TO ENFORCE RULES AND ISSUE ORDERS

Under the act, DoAg may enforce FSMA's produce safety rules. DoAg may issue orders, including orders to embargo, destroy, quarantine, or release produce. Anyone aggrieved by a DoAg order may request a hearing in accordance with the Uniform Administrative Procedure Act.

The act specifies that it does not limit or interfere with (1) the consumer protection commissioner's authority under state law concerning food safety or (2) DoAg's, or its commissioner's, authority under state law, including the authority to issue an emergency order in response to a public health hazard.

PRODUCE FARM INSPECTIONS AND RECORD KEEPING

Inspections

The act allows DoAg to inspect produce farms that are subject to FSMA at reasonable hours to ensure compliance with the federal produce safety rules and any related state regulations. It allows DoAg to coordinate with a federal or state agency or state organization, municipality, or political subdivision to perform the inspections.

After an inspection, DoAg may issue a certificate to the farm indicating the date and place of inspection and any other information the commissioner deems necessary.

The act also allows DoAg to inspect a produce farm that is not subject to FSMA at the request of the farm's owner or operator. Under the act, an inspection request authorizes the commissioner to (1) inspect the farm in accordance with FSMA and (2) issue an inspection certificate.

Record Keeping

The act requires the owner or operator of a produce farm who is subject to FSMA or who requests an inspection to maintain records as required under FSMA, the federal produce safety rules, and any related state regulations DoAg adopts. The owner or operator must make the records available to DoAg at the request of the commissioner or his agent.

BACKGROUND

FSMA

FSMA (P.L. 111-353) was signed into law on January 4, 2011. It is meant to ensure the U.S. food supply is safe by focusing regulators on preventing, rather than responding to, contamination. The Food and Drug Administration has issued various FSMA rules, including those relating to:

1. preventive controls for human and animal food,
2. sanitary transportation of human and animal food,
3. produce safety,
4. accredited third-party certification,
5. foreign supplier verification programs for importers of human and animal food, and
6. strategies to protect food against intentional adulteration.

PA 17-218—SB 943

Environment Committee

AN ACT CONCERNING THE INSTALLATION OF CERTAIN SOLAR FACILITIES ON PRODUCTIVE FARMLANDS, INCENTIVES FOR THE USE OF ANAEROBIC DIGESTERS BY AGRICULTURAL CUSTOMER HOSTS, APPLICATIONS CONCERNING THE USE OF KELP IN CERTAIN BIOFUELS AND THE PERMITTING OF WASTE CONVERSION FACILITIES

SUMMARY: This act makes various changes in the environment and energy statutes. It does the following:

1. requires the Department of Energy and Environmental Protection (DEEP) commissioner and the Connecticut Siting Council to consider the impact of certain proposed energy-related projects on the environment, prime farmland or forest land, or agriculture, before allowing them to proceed;
2. requires the Public Utilities Regulatory Authority (PURA) to authorize additional funds for agricultural hosts using an anaerobic digestion Class I renewable energy source as a virtual net metering facility;
3. authorizes DEEP, with the state Department of Agriculture (DoAg), to help businesses apply to the federal Environmental Protection Agency (EPA) for approval of kelp oil as heating oil feedstock;
4. removes, from laws that apply to resources recovery facilities, facilities that use thermal, biological, or chemical processes to convert solid waste to energy or other products (“waste conversion facilities”); and
5. includes mixed municipal solid waste (MSW) composting facilities as waste conversion facilities.

The act also makes several technical and conforming changes.

EFFECTIVE DATE: July 1, 2017, except for the kelp oil provision, which is effective upon passage.

§§ 1 & 2 — ENVIRONMENTAL IMPACT CONSIDERATION

The act requires the DEEP commissioner, when considering proposals received after July 1, 2017 in response to certain energy-related solicitations, to consider (1) their environmental impact, including the impact on prime farmland and core forests, and (2) the reuse of sites with limited development opportunities, such as brownfields and landfills.

He must consider these factors in response to proposals from the following:

1. providers of Class I renewable energy sources (“Class I sources”) built on or after January 1, 2013 to meet up to 4% of power distributed by electric companies;
2. providers of Class I sources or large-scale hydropower to supply up to 5% of the load distributed by electric companies;
3. providers of Class I run-of-the-river hydropower, landfill methane gas, or biomass sources to meet up to 4% of the load distributed by electric companies; and
4. providers of passive demand measures (e.g., energy efficiency), Class I providers, Class III combined heat and power sources, large-scale hydropower, or natural gas resources, subject to various limits.

In practice, DEEP has already solicited and selected proposals for parts of these procurements.

Under the act, “prime farmland” is land that meets federal regulatory criteria for prime farmland (see BACKGROUND) and “core forest” is unfragmented forest land that is at least 300 feet from the boundary between forest land and non-forest land, as determined by the DEEP commissioner.

§§ 3 & 4 — SITING COUNCIL DECISIONS

Declaratory Ruling Approvals

The law generally requires developers to obtain a certificate of environmental compatibility and public need from the Connecticut Siting Council before they can build certain electric generating facilities.

For customer-side distributed resource and grid-side distributed resource projects, the law requires the council to approve a certificate by declaratory ruling as long as the project meets DEEP’s air and water quality standards (see BACKGROUND).

The act requires the council to additionally determine that these projects will not have a substantial adverse environmental effect. And if the project is a solar photovoltaic facility with a capacity of at least two megawatts (MW) on prime farmland, DoAg must represent in writing that the project will not materially affect the land’s status as prime farmland. DEEP must do the same for such a project proposed for forest land if DEEP finds the project will not materially affect the land’s status as core forest. The act allows DoAg and DEEP to consult with the U.S. Department of Agriculture (USDA) and soil and water conservation districts when evaluating these solar facility projects. The act’s additional requirements for solar facilities do not apply to facilities that DEEP selected in solicitations issued before July 1, 2017 for categories 1, 2, and 4, described above (see §§ 1 & 2).

Certification Decisions

The law requires siting council certification decisions to determine the nature of a facility’s probable environmental impact and specify every significant adverse effect on various aspects, such as ecological balance, public health and safety, and air and water purity. The act requires the decisions to also specify significant adverse effects on agriculture.

§ 5 — AGRICULTURAL VIRTUAL NET METERING EXPANSION

Existing law generally authorizes \$10 million per year for virtual net metering for all customer hosts (i.e., state, municipal, and agricultural customers) and an additional \$6 million per year for certain municipal customer hosts (see BACKGROUND).

Under the act, PURA must authorize an additional \$3 million per year for agricultural customer hosts that use an anaerobic digestion Class I renewable energy source as a virtual net metering facility (see BACKGROUND). The act authorizes PURA to apportion the additional funds to electric distribution companies based on the consumer load (i.e., approximately 80% to eligible Eversource customers and 20% to eligible United Illuminating customers). But at least half of the \$3 million must be used for anaerobic digestion facilities (1) located on dairy farms whose goal is to use 100% of the manure generated on the farm and (2) that complement the farm’s nutrient management plan. Existing law limits the capacity of agricultural virtual net metering facilities to three MW.

§ 6 — KELP OIL

The act allows DEEP, in consultation with DoAg, to help companies submit petitions to EPA to approve kelp oil as a feedstock under the fuel pathway for the Renewable Fuel Standard Program’s heating oil program (see BACKGROUND).

It provides that DEEP's assistance may include:

1. asking about the status of kelp and kelp oil for consideration as feedstock for heating oil by EPA;
2. providing relevant or required information that may support the petition; and
3. facilitating timely communications between other relevant state agencies, EPA, and a petitioning company.

§§ 7-10 — WASTE CONVERSION FACILITIES

Under prior law, a resources recovery facility was any facility using processes to reclaim energy from MSW. The act narrows the definition to facilities that combust MSW to generate electricity and eliminates a separate definition for mixed MSW composting facilities.

The act also creates a new category of "waste conversion facilities" which are facilities that use thermal, chemical, or biological processes to convert solid waste, including MSW, into electricity, fuel, gas, chemical, or other products.

In separating the types of solid waste facilities in this way, the act removes waste conversion facilities from requirements that applied to them as a resources recovery or mixed MSW composting facility, including a law requiring the DEEP commissioner to determine that such a facility is needed to meet the state's solid waste needs and will not result in substantial excess capacity ("determination of need" process, CGS § 22a-208d).

And as the act includes mixed MSW composting facilities as waste conversion facilities, it eliminates a law requiring DEEP to require, as a condition of granting a permit to build or expand such a composting facility, that items that could potentially contaminate the composting product be disposed of separately as part of a household hazardous waste collection and disposal program (CGS § 22a-208q).

BACKGROUND

Anaerobic Digesters

Anaerobic digesters convert manure or other organic products into methane, the principal component of natural gas. Methane can be used to generate electricity, among other things.

Customer-side or Grid-side Distributed Resources

By law, a "customer-side distributed resource" is (1) an electricity generator that can generate up to 65 MW on a retail end user's premises, including fuel cells, photovoltaic systems, and small wind turbines, or (2) a retail end user's electric demand reduction through conservation and load management. A "grid-side distributed resource" is an electricity generator that can generate up to 65 MW and is connected to the electric transmission or distribution system, including units used primarily to generate electricity to meet peak demand (CGS § 16-1).

Prime Farmland

Prime farmland means soils defined by USDA as best suited to produce food, feed, forage, fiber, and oilseed crops. In general, these lands have an adequate and dependable water supply, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks (7 C.F.R. § 657.5).

Renewable Fuel Standard Program

The federal Renewable Fuel Standard Program seeks to reduce greenhouse gas emissions and expand the use of renewable fuels. It requires a certain amount of renewable fuel to replace or reduce the amount of petroleum-based fuel and heating oil. For a fuel to be considered renewable under the program, EPA must first determine that it meets federal statutory and regulatory requirements, such as reducing greenhouse gas emissions beyond a certain amount. A renewable fuel pathway is comprised of the feedstock (i.e., renewable biomass), production process, and fuel type.

Virtual Net Metering

In general, virtual net metering allows customers to (1) receive a billing credit for excess power they generate (i.e., “run their meters backward”) and (2) share excess credits with certain other designated electric accounts. Existing law requires electric distribution companies (i.e., Eversource and United Illuminating) to make virtual net metering available, subject to a cap on credits, to agricultural electric customers that own their virtual net metering facilities and municipal and state agency customers that own, lease, or enter into a long term contract with virtual net metering facilities. Generally, virtual net metering facilities are renewable or clean energy systems that meet certain requirements.

PA 17-105—sHB 7263

Finance, Revenue and Bonding Committee

AN ACT CONCERNING REVISIONS AND TECHNICAL CHANGES TO THE TAX AND RELATED STATUTES, AND CERTAIN EXEMPTIONS FROM THE PROPERTY TAX

SUMMARY: This act makes the following unrelated changes in state laws, including:

1. making several minor changes to the state's tobacco settlement law;
2. allowing the ranking members of the Commerce and Finance, Revenue and Bonding committees to appoint designees to serve in their place on the Commission on Economic Competitiveness (§ 4);
3. making various technical corrections and changes to statutes on taxes and motor vehicle fines (§§ 5-9); and
4. exempting from property tax certain (a) household electronic devices and (b) paint coloring and mixing machinery and equipment.

EFFECTIVE DATE: October 1, 2017, except the change to the Commission is effective upon passage and the property tax exemptions are effective October 1, 2017 and applicable to assessment years beginning on or after that date.

§§ 1-3 — TOBACCO SETTLEMENT LAW CHANGES

The state's tobacco settlement law requires tobacco product manufacturers to either (1) enter into the master settlement agreement between Connecticut and four leading tobacco companies and comply with its terms and conditions (i.e., participating manufacturers) or (2) pay into a qualified escrow account a specified amount for each cigarette they sell in the state (i.e., nonparticipating manufacturers (NPM)). All manufacturers must annually certify to the Department of Revenue Services (DRS) commissioner and attorney general that they are complying with these requirements in order to have their "brand families" listed in the Connecticut Tobacco Directory and sell their products in the state.

NPM Sales Reports (§ 2)

The tobacco settlement law requires NPMs to demonstrate through their sales reports and invoices that their products are being sold legally throughout the country. It prohibits the DRS commissioner from listing an NPM's brand families in the directory if there are discrepancies between the NPM's nationwide sales on which federal excise tax has been paid and its sales documented in federally required sales reports. Under prior law, the maximum allowable discrepancy was the lesser of 5% of the NPM's total annual sales or one million cigarettes. The act instead sets the maximum allowable discrepancy at 2.5% of the NPM's total annual sales. It also makes technical changes to the sales reports used to assess the discrepancy.

Surety Bonds (§ 1)

Prior law required NPMs to file surety bonds with the DRS commissioner each quarter to have their brand families listed in the directory. The act authorizes them to provide an alternative form of security acceptable to the DRS commissioner (e.g., cash) and requires them to post either the bond or alternative security annually. The amount of the bond or security must be the greater of (1) \$25,000 or (2) the greatest amount of total escrow owed in any of the five calendar years before the bond's or security's posting, as prior law required for the quarterly surety bond.

The act also allows the DRS commissioner, in consultation with the attorney general, to release the bond or security once the NPM has met its escrow obligation.

Information Disclosures (§ 3)

The act broadens the information that the attorney general may disclose under the tobacco settlement law and adds to the entities to which he may disclose this information.

Prior law authorized him to disclose a licensed cigarette or tobacco product distributor's tax return or return information to an NPM. The act instead allows him to disclose this tax information about any person purchasing or selling taxable cigarettes or tobacco products, not just distributors, to both participating and nonparticipating manufacturers. By law, the attorney general may only disclose the tax information if it relates to the manufacturer's Connecticut sales.

The act also eliminates a requirement that disclosures pursuant to the NPM Adjustment Settlement Agreement (i.e., the May 24, 2013 settlement between the state and certain tobacco product manufacturers) be made only to an entity the agreement designates to serve as a data clearinghouse.

§§ 10 & 11 — PROPERTY TAX EXEMPTIONS

The act exempts the following items from property tax:

1. cellular mobile telephones, computers, and mobile electronic devices (e.g., text messaging and paging devices, personal digital assistants, video gaming devices, digital video disk players, and digital cameras) used by and belonging to a family and
2. machinery and equipment used to color or mix paint used by paint retailers, including spectrographic color matching machines, automatic colorant dispensers, paint shakers, and related computer equipment.

PA 17-147—sHB 7312

Finance, Revenue and Bonding Committee

AN ACT CONCERNING STATE TAXATION AND COLLECTION, TAX GAP COMPLIANCE, TAX PREPARERS AND FACILITATORS, CHANGES TO THE TAX AND RELATED STATUTES, A MENTAL HEALTH COMMUNITY INVESTMENT ACCOUNT AND MUNICIPAL BONDS

§ 1 — ORDER OF APPLYING PARTIAL PAYMENTS

Changes the order in which the DRS commissioner must apply partial tax payments

§ 2 — INCOME TAX ON NONQUALIFIED COMPENSATION

Subjects to the personal income tax certain deferred compensation attributed to services performed in the state

§ 3 — SALES TAX PERMIT RENEWALS

Requires sales tax permits to be renewed every two years instead of every five

§ 4 — WEEKLY SALES TAX REMITTANCE

Specifies methods for sales tax remittance

§ 4 — FILING SALES TAX RETURNS ON AN ANNUAL BASIS

Codifies the DRS rule for determining when sales tax must be annually remitted

§ 5 — SECURITY REQUIREMENT FOR WITHHOLDING TAX

Establishes conditions under which the DRS commissioner may require employers and payers to post a bond or other security to secure withholding tax payments

§§ 6 & 8 — INCOME TAX WITHHOLDING FOR PENSION AND ANNUITY PAYMENTS

Requires, rather than allows, income tax withholding for pension and annuity payments

§ 7 — INFORMATION RETURNS BY PAYERS OF NONPAYROLL AMOUNTS

Advances the date by which payers of non-payroll amounts that are not subject to income tax withholding must submit information returns to DRS

§ 9 — INFORMATION RETURNS ON CREDIT AND DEBIT CARD SALES (1099-K FORMS)

Requires certain entities to file with DRS copies of the annual federal information returns that report the payment transactions they process for Connecticut retailers

§ 10 — DRS TAX WARRANTS

Allows certain DRS tax warrants to provide for a continuous order to withhold intangible personal property for up to 180 days

§ 11 — PERIODIC CRIMINAL BACKGROUND CHECKS FOR CURRENT DRS EMPLOYEES

Requires current DRS employees to undergo periodic criminal background checks

§§ 12-14 — BED AND BREAKFAST OCCUPANCY TAX RATE

Imposes a uniform occupancy tax rate on rent charged at bed and breakfast establishments

§§ 15-18 — TAX PREPARERS AND FACILITATORS

Establishes a regulatory structure for tax preparers and facilitators

§ 19 — DELINQUENT TAXPAYER LIST

Requires the DRS commissioner to prepare a delinquent corporation business taxpayer list only upon OPM's request

§§ 20, 22, 32, 35, 37 & 38 — TAX REGULATIONS

Eliminates provisions requiring or allowing the DRS commissioner to adopt regulations on various tax provisions

§ 21 — DRS DATA MATCH PROGRAM

Makes administrative and policy changes to DRS's data match program

§ 23 — CAPTIVE REAL ESTATE INVESTMENT TRUSTS

Modifies the definition of a captive real estate investment trust (REIT) for corporation business tax purposes

§§ 24 & 25 — CORPORATION TAX FILING DEADLINES

Extends the deadlines for filing corporation business tax returns

§ 26 — DRY CLEANING DROP STORES

Exempts dry cleaning "drop stores" from the dry cleaning surcharge

§ 27 — UTILITY COMPANIES TAX

Aligns the determination of utility companies' gross earnings with the way income is classified in PURA's uniform system of accounts

§§ 28 & 30 — SUCCESSOR LIABILITY FOR CIGARETTE AND TOBACCO PRODUCTS TAXES

Makes people who buy certain cigarette or tobacco products businesses or product stock liable for back taxes

§ 29 — CIGARETTE TAX EXEMPTION FOR SALES TO U.S. VETERANS' HOSPITALS AND ARMED FORCES MEMBERS

Exempts certain cigarette sales from the cigarette tax as required by federal law

§ 31 — TOBACCO PRODUCTS TAX RECORDS

Tightens requirements for maintaining tobacco products tax records and establishes a civil penalty for any distributor or importer who fails to immediately produce or provide electronic access to records

§§ 33 & 34 — TRANSFERS OF THE USE TAX TO DEDICATED ACCOUNTS AND FUNDS

Extends to the use tax the required revenue diversion for certain dedicated accounts, according to the same amounts and schedules specified under existing law for the sales tax

§ 36 — SOURCING OF INCOME FROM REAL PROPERTY FOR INCOME TAX PURPOSES

Clarifies ownership requirements for the sourcing of income from certain real property

§ 38 — DEADLINES FOR FILING CERTAIN INFORMATIONAL RETURNS

Sets an earlier date by which certain employers and payers must file informational returns with DRS for personal income tax purposes

§ 39 — PENALTY WAIVER REQUESTS

Imposes a deadline for taxpayer submission of DRS penalty waiver requests

§ 40 — ENFORCING THE GROSS EARNINGS TAX THAT FUNDS PEGPETIA

Extends the penalty for willfully failing to pay the tax that funds the “public, educational, and governmental programming and education technology investment account”

§ 41 — RACKETEERING ACTIVITY

Extends the definition of racketeering activity under the Corrupt Organizations and Racketeering Act (CORA) to include violations of certain tobacco product-related crimes

§§ 42 & 43 — MENTAL HEALTH COMMUNITY INVESTMENT ACCOUNT

Allows income tax return contributions for mental health programs and services

§§ 44 & 45 — SECURITY REQUIREMENT FOR SALES AND USE AND ADMISSIONS AND DUES TAXES

Establishes conditions under which the DRS commissioner may impose the existing security requirement for the (1) sales and use tax and (2) admissions and dues tax

§ 46 — PENALTY FOR FAILING TO COMPLY WITH CERTAIN SALES AND USE TAX REQUIREMENTS

Authorizes the DRS commissioner to impose a civil penalty of \$500 per violation for failing to comply with certain sales and use tax requirements

§§ 47 & 48 — MUNICIPAL REFUNDING BOND MATURITY

Temporarily allows municipalities, by a two-thirds vote of their legislative bodies, to issue refunding bonds with a term of up to 30 years

§§ 49 & 50 — MUNICIPAL DEFICIT FINANCING

Excludes refunding bonds and tax anticipation notes from the municipal deficit financing law

SUMMARY: This act makes numerous tax law changes, including (1) shortening the validity period of sales tax permits; (2) establishing methods for weekly sales tax remittance; (3) requiring, rather than allowing, income tax withholding for certain pension and annuity payments; and (4) creating a regulatory structure for tax preparers and facilitators.

The act also (1) temporarily allows municipalities, by a two-thirds vote of their legislative bodies, to issue refunding bonds with terms of up to 30 years and (2) excludes certain types of municipal bonds from the municipal deficit financing law.

EFFECTIVE DATE: Various; see below.

§ 1 — ORDER OF APPLYING PARTIAL PAYMENTS

Changes the order in which the DRS commissioner must apply partial tax payments

The law requires delinquent taxpayers to pay penalties and interest in addition to any back taxes owed and specifies the order in which the DRS commissioner must apply a partial payment to these amounts. Under prior law, he had to apply the payment to any penalties first, then to interest on the unpaid tax, and any remaining balance to the tax. Under the act, the commissioner must still apply the payment to the penalties first, but he must apply the remaining balance first to the tax and then the interest.

EFFECTIVE DATE: July 1, 2018

§ 2 — INCOME TAX ON NONQUALIFIED COMPENSATION

Subjects to the personal income tax certain deferred compensation attributed to services performed in the state

The act requires taxpayers to include in Connecticut adjusted gross income, to the extent it is not properly includable in gross income for federal income tax purposes, compensation attributed to services performed in Connecticut that is deferred under a nonqualified entity's nonqualified deferred compensation plan. A nonqualified entity is generally a foreign corporation. A nonqualified deferred compensation plan is an arrangement between an employer and an employee or service provider to pay compensation in the future, thus deferring the tax liability on the compensation. Such plans exclude qualified employer plans (e.g., 457(b) plans) and bona fide vacation leave, sick leave, compensatory time, disability pay, and death benefit plans.

Federal law generally provides that any compensation that is deferred under a nonqualified entity's nonqualified deferred compensation plan is includable in gross income when the compensation is no longer subject to a substantial risk of forfeiture (26 U.S.C. § 457A). Under federal law, such deferred compensation earned and deferred before January 1, 2009 must be recognized for federal tax purposes by 2017.

EFFECTIVE DATE: July 1, 2017, and applicable to tax years beginning on or after January 1, 2017.

§ 3 — SALES TAX PERMIT RENEWALS

Requires sales tax permits to be renewed every two years instead of every five

Beginning with permits issued on or after October 1, 2017, the act shortens the period during which sales tax permits are valid from five to two years.

EFFECTIVE DATE: October 1, 2017

§ 4 — WEEKLY SALES TAX REMITTANCE

Specifies methods for sales tax remittance

The act specifies the methods taxpayers must use to remit sales taxes when the Department of Revenue Services commissioner requires them to do so weekly. Prior law let the commissioner prescribe the method for weekly remittance.

By law, a taxpayer, which can be a person or entity, is generally required to collect sales tax and must remit it on a monthly, quarterly, or annual basis, depending on the amount of sales tax it collects. But the commissioner can require a taxpayer to remit weekly if the taxpayer fails to remit it on time.

The act specifies that taxpayers that remit the tax weekly can still file claims for refunds and exercise the other rights the law affords them.

Methods for Weekly Remittance

Under the act, taxpayers that remit sales tax weekly must do so by establishing a separate account with a financial institution for depositing payments, unless they elect to use a certified service provider to remit the funds.

The act requires the commissioner to inform taxpayers of these options when he sends the notice, required by law, informing them that they must remit the tax every week. The notice must also include a list of all certified service providers, a description of how they can be contacted, and a form for electing to use a provider.

A taxpayer that chooses to remit the sales tax through a service provider must complete the form that accompanies the notice and return it to the commissioner within two business days after receiving it. Taxpayers that miss this deadline or do not return the form must establish an account with a financial institution as described below.

The commissioner cannot use the act's weekly sales tax remittance in place of the legally authorized methods for collecting delinquent taxes.

Under the act, a taxpayer's weekly remittance method is irrevocable and remains in effect until the commissioner notifies the taxpayer that he or she no longer must weekly remit the tax. Prior law fixed the period for weekly remittance at one year. The act allows the commissioner to relieve the taxpayer after one year if the evidence shows that the taxpayer continuously remitted the tax on a weekly basis for 12 months. But the act also allows the commissioner to relieve the taxpayer sooner.

Remittance through a Certified Service Provider

Under the act, taxpayers that choose to remit the tax through a service provider must select one that is certified by the Streamlined Sales Tax Governing Board, Inc. They have 30 days to (1) contract with a certified service provider and (2) begin weekly remittance. Upon request, the taxpayer must provide the commissioner with a copy of the contract, a statement authorizing the commissioner to contact the provider about the taxpayer, and any other information the commissioner needs about the taxpayer's arrangement with the provider.

The provider must electronically remit the taxes. It may, if the commissioner approves, keep a portion of the remitted tax, up to the amount it charged the taxpayer for its services.

Remittance through a Bank Account

Establishment. A taxpayer that chooses not to remit the taxes through a certified service provider must, within 30 days after receiving the commissioner's notice, establish an account with a financial institution exclusively for remitting the taxes. It may be with a bank, Connecticut credit union, federal credit union, an out-of-state bank that maintains a branch in Connecticut, or an out-of-state credit union that maintains an office in the state. The account may be a demand deposit, checking, negotiable order of withdrawal, or a share draft account. In any case, the account must be one that allows the depositor to make transfers or withdrawals by negotiable or transferable instrument, payment orders of withdrawals, electronic transfers, or other similar mechanisms for making payments of transfers to third parties.

The account must be separate from the taxpayer's other accounts and be designated for DRS under the taxpayer's name as trustee. The establishment of the account and the commissioner's authority to order payments from it do not affect the financial institution's right to recover uncollected funds credited to the account, including the right to remove funds from it as a charge-back to recover uncollected funds.

If the commissioner requests it, the taxpayer must provide the name of the financial institution where account is located, the account number, and any other account information the commissioner requires, including account balances, dates and amounts of credits and debits, and other account-related nonpublic personal information. The taxpayer, as the account's trustee, must also provide written consent to the financial institution authorizing it to disclose this account-related information to the commissioner. This authorization also serves as the statutorily-required consent the taxpayer must give to the financial institution before it can disclose financial records.

Deposits. After establishing the account, the taxpayer has up to two days to deposit in it the taxes collected or received on a given day. The taxpayer may deposit no other funds in the account except funds for its maintenance. Money in the account constitutes funds in trust for the state. As such, it is deemed property of the state, payable only to DRS, and no liens can be placed on the account.

Withdrawals. The taxpayer must obtain the commissioner's approval before withdrawing funds from the account for purposes other than remitting sales taxes. Doing so without the commissioner's prior approval is larceny, with each unauthorized withdrawal constituting a separate offense.

Account Status. The commissioner may request that a financial institution provide information about an account established for remitting the sales tax. But he must also identify, in consultation with banking industry representatives, acceptable methods for providing that information.

Failure to Remit Taxes. The act authorizes the commissioner to order the payment of funds from the account if the taxpayer fails to remit the tax and the commissioner determines that it might not be collected. The commissioner may do this to recoup only the delinquent taxes, not the associated penalties and interest charges that he may collect by other means the law authorizes.

In these cases, the commissioner may serve notice on the institution holding the account and order the payment from the account. The commissioner must determine, in consultation with banking industry representatives, acceptable ways to provide this notice.

Upon receiving the commissioner's notice, the financial institution must remove from the taxpayer's account the funds deposited there or an amount equal to the tax the commissioner ordered paid, whichever is less. The institution must remove the amount before midnight of the banking day following the banking day it received the notice (i.e., midnight deadline) and pay the amount to the commissioner within two business days after the midnight deadline.

If the institution fails or refuses to pay the requested amount, the commissioner may ask the attorney general to bring an action in the Superior Court for the Hartford Judicial District to compel the institution to pay the amount.

Taxpayer Rights. The act allows taxpayers to file a claim against the commissioner if he withdraws funds from an account that contains funds deposited for purposes other than remitting taxes.

The commissioner must notify a taxpayer about this right at the same time he notifies the institution about the payment due. He must do so by providing a written notice, which he may deliver in person, leave at the taxpayer's dwelling or usual business place, send by first class mail to the taxpayer's last-known address, or send by email or fax.

Claim Process. The taxpayer has up to 10 business days from the receipt of the notice to file a claim on a form the commissioner prescribes. If the taxpayer misses the 10-day deadline, he or she waives any demand against the state.

Within 10 business days of receiving a claim, the commissioner must determine if it is valid. If he determines that it is, he must return only those funds that are not remitted taxes. These funds are not the state's property and cannot be used to offset the taxpayer's liabilities.

If the commissioner determines the claim, or part of it, is not valid, he must send a notice to the taxpayer to that effect. The taxpayer may protest the denial by notifying the commissioner in writing within five business days after the denial was mailed and specifying the grounds for the protest. The commissioner then has up to 10 business days from the taxpayer's protest notice to reconsider the denial. He must notify the taxpayer in writing about his decision. If the commissioner denies the claim or returns only part of the money, he must specify his findings of fact and the basis for his decision.

The taxpayer may appeal the commissioner's decision to the Superior Court for the New Britain Judicial District, as the law specifies. The appeal is subject to the requirements of the Uniform Administrative Appeals Act.

Penalty Waivers. The act prohibits the commissioner from waiving any penalties imposed on taxpayers that must remit the sales tax on a weekly basis.

Electronic Filing

Taxpayers that must remit sales taxes weekly must continue to file their returns on a monthly or quarterly basis. The act requires them to do so electronically.

EFFECTIVE DATE: January 1, 2018

§ 4 — FILING SALES TAX RETURNS ON AN ANNUAL BASIS

Codifies the DRS rule for determining when sales tax must be annually remitted

The act codifies DRS's requirements for remitting sales tax on an annual basis, requiring taxpayers to remit the tax on an annual basis if they collected and remitted less than \$1,000 in sales tax for the 12-month period ending June 30. The act also requires these taxpayers to file returns annually by January 31 reporting the sales made during the previous calendar year.

EFFECTIVE DATE: January 1, 2018

§ 5 — SECURITY REQUIREMENT FOR WITHHOLDING TAX

Establishes conditions under which the DRS commissioner may require employers and payers to post a bond or other security to secure withholding tax payments

The act authorizes the DRS commissioner, under certain conditions, to require employers and payers to deposit securities (e.g., bonds or cash deposits) with the commissioner to ensure their compliance with withholding tax requirements. Under the act, the commissioner may impose the security requirement whenever an employer or payer required to deduct and withhold income tax (1) owes withholding taxes that have been finally due and payable for at least 90 days and for which any administrative or judicial remedies (or both) have been exhausted or have lapsed or (2) has failed to file at least one required withholding tax return. (The act imposes similar conditions for existing security requirements for other taxes. See §§ 44 & 45, below.)

The act gives the commissioner discretion to determine the type and amount of security required, up to six times the employer's or payer's estimated liability for the prior or future 12-month period. He may increase or decrease the security amount subject to these limitations.

Under the act, the commissioner may sell the security at public auction if necessary to recover any taxes, amounts required to be collected, interest, or penalty due. Notice of the sale may be served in person or by mail to the person depositing the security. Mailings must be made to the person's address listed in DRS records, in the same way DRS sends tax deficiency assessment notices. After the sale, the commissioner must return to the person depositing the security any surplus above the amounts due.

EFFECTIVE DATE: October 1, 2017

§§ 6 & 8 — INCOME TAX WITHHOLDING FOR PENSION AND ANNUITY PAYMENTS

Requires, rather than allows, income tax withholding for pension and annuity payments

Prior law allowed Connecticut residents receiving pensions or annuities to instruct the payer of the pension or annuity to withhold Connecticut income tax. Beginning January 1, 2018, the act instead requires income tax withholding by certain payers of pensions and annuities. These distributions include those from an employer pension, annuity, profit-sharing plan, stock bonus, deferred compensation plan, individual retirement arrangement, endowment, or life insurance contract.

The withholding requirement applies to payers of pension or annuity distributions that (1) maintain an office or transact business in Connecticut and (2) make taxable payments to resident individuals. Under the act, such payers must deduct and withhold from the taxable portion of any such distribution, as far as practicable, an amount substantially equal to the tax reasonably estimated to be due from the payee during the calendar year. With the exception of “lump sum distributions,” the method of determining the amount to be withheld must be the same as the method employers use for payroll withholding. A lump sum distribution must be taxed at the highest marginal rate unless (1) any portion of the distribution was previously taxed or (2) it is a rollover effected as a direct trustee-to-trustee transfer. The act defines lump sum distributions as payments from a payer to a resident payee of the payee’s entire retirement account balance, excluding any other tax withholding and administrative charges and fees.

EFFECTIVE DATE: January 1, 2018

§ 7 — INFORMATION RETURNS BY PAYERS OF NONPAYROLL AMOUNTS

Advances the date by which payers of non-payroll amounts that are not subject to income tax withholding must submit information returns to DRS

Under the act and existing DRS practice, payers making payments of non-payroll amounts to payees during the calendar year, other than those payers subject to income tax withholding, must provide to each payee, annually by the following January 31, a written statement showing the amount of non-payroll amounts paid, the amount deducted and withheld from such payments, and any other information the DRS commissioner requires (e.g., federal Form 1099-MISC, Miscellaneous Income). Under prior DRS practice, such payers were generally required to file copies of these forms with DRS by March 31. The act instead requires them to do so by January 31.

EFFECTIVE DATE: January 1, 2018

§ 9 — INFORMATION RETURNS ON CREDIT AND DEBIT CARD SALES (1099-K FORMS)

Requires certain entities to file with DRS copies of the annual federal information returns that report the payment transactions they process for Connecticut retailers

Federal law requires certain “reporting entities” to file with the IRS annual information returns that report the payment transactions they process for retailers (i.e., federal Form 1099-K). The act requires such entities processing payments for Connecticut retailers (i.e., participating payees) to file copies of these information returns with DRS within 30 days after filing them with the IRS, in the manner and form prescribed by the DRS commissioner. DRS previously received copies of such forms from the IRS about six months after they were filed.

The act’s reporting requirement applies to the same entities subject to the federal reporting requirement (i.e., payment settlement entities; third party settlement organizations; electronic payment facilitators; or other third parties acting on behalf of a payment settlement entity). These entities generally include domestic and foreign entities that process credit, debit, and payment card transactions on behalf of retailers.

Reporting entities that fail to file the returns within the prescribed timeframe are subject to a civil penalty of (1) \$50 for each failure if the return is submitted within one month after it was due and (2) an additional \$50 for each month or part of a month that the failure continues, up to \$250,000 per year per reporting entity. The commissioner may waive all or part of the penalties imposed if the reporting entity’s failure to timely file the return was not due to willful neglect, but rather based on reasonable cause. If the commissioner chooses to do so, he must follow the statutory procedure for waiving penalties over \$1,000.

EFFECTIVE DATE: July 1, 2017, and applicable to information returns due for calendar years beginning on or after January 1, 2017.

§ 10 — DRS TAX WARRANTS

Allows certain DRS tax warrants to provide for a continuous order to withhold intangible personal property for up to 180 days

Existing law allows DRS to issue a tax warrant on the intangible personal property (e.g., bank accounts, receivables, and securities) of a taxpayer who fails to pay state taxes and serve the warrant on a third person (e.g., bank or payment settlement entity) who possesses the property or is obligated to it in some respect.

The act allows such warrants to include an order to the third person to continually deliver the intangible property that is due and becomes due to the taxpayer during the 180 days immediately following the warrant's issuance date or until the tax is fully paid, whichever is earlier. The act specifies that such warrants have the same force and effect as executions issued under the existing post-judgment procedures law, as is the case with other DRS tax warrants.

EFFECTIVE DATE: July 1, 2017

§ 11 — PERIODIC CRIMINAL BACKGROUND CHECKS FOR CURRENT DRS EMPLOYEES

Requires current DRS employees to undergo periodic criminal background checks

The act requires current DRS employees, at least once every ten years, to undergo the same criminal background checks that existing law requires for prospective DRS employees. The checks include:

1. disclosing in writing any criminal convictions and pending charges and, if charges are pending, the court in which they are pending;
2. fingerprinting; and
3. submitting to state and national criminal records checks under Connecticut's uniform criminal records check procedure.

As with prospective employees, DRS must enforce these requirements consistent with the law prohibiting employers from requiring prospective employees to disclose information in certain erased criminal records (CGS § 31-51i).

EFFECTIVE DATE: Upon passage

§§ 12-14 — BED AND BREAKFAST OCCUPANCY TAX RATE

Imposes a uniform occupancy tax rate on rent charged at bed and breakfast establishments

The act applies a uniform 11% room occupancy tax to rent received by bed and breakfast establishments (B&Bs) and specifies that rent received by hotels, lodging houses, and B&Bs includes any meals that are included with the occupancy charge. Under the act, rent received by hotels and lodging houses continues to be subject to the current 15% room occupancy tax. Under prior DRS practice, B&B room occupancy charges that include lodging and meals at a fixed price were allocated according to a specified schedule such that the percentage allocated to meals is taxed at the general 6.35% sales tax rate and the percentage allocated to the room is taxed at the 15% occupancy tax rate (DRS Policy Statement 2003 (1)).

The act defines a B&B as a private operator-occupied house, other than a hotel or lodging house, with 12 or fewer rooms in which people are lodged for hire and a full morning meal is included in the rent. It also specifies that "lodging house" includes furnished residences in which people are lodged for hire, thus explicitly subjecting rent received for lodging in such residences to the room occupancy tax.

EFFECTIVE DATE: October 1, 2017, and applicable to sales occurring on or after that date.

§§ 15-18 — TAX PREPARERS AND FACILITATORS

Establishes a regulatory structure for tax preparers and facilitators

The act establishes a regulatory structure for most tax preparers and facilitators who are not otherwise regulated. It also prohibits a number of actions by anyone who provides tax preparation services, including those who are otherwise regulated.

Definitions

Under the act, "tax preparation services" means preparing or assisting in preparing another person's federal or state personal income tax return for a fee or other consideration. A person who provides tax preparation services is a "tax preparer."

The act defines “facilitator” as a person who, individually or with another person, (1) solicits, processes, receives, or accepts an application or agreement for a refund anticipation loan or refund anticipation check; (2) serves or collects upon a refund anticipation loan or a refund anticipation check; or (3) facilitates the making of such loans or checks in any other manner. “Facilitator” does not include any employee who provides clerical or comparable support services to a facilitator.

The act defines “refund anticipation check” as a check, debit card, stored value card, or other payment mechanism that (1) represents federal or state income tax refund proceeds; (2) is issued by a bank or other person that received a direct deposit of the tax refund or tax credits; and (3) is paid for by a fee or other consideration.

Under the act, a “refund anticipation loan” is a loan secured by, or that a creditor arranges to be repaid directly or indirectly from, the proceeds of a federal or state personal income tax refund. It includes any sale, assignment, or purchase of a tax refund at a discount or for a fee, whether or not the amount is required to be repaid to the buyer or assignee if the IRS or DRS denies or reduces the amount of the tax refund.

Prohibited Conduct

The act prohibits anyone who provides tax preparation services or acts as a facilitator, including those who are exempt from the act’s other provisions (see below), from doing the following:

1. imposing a fee or other consideration for making or facilitating a refund anticipation loan or refund anticipation check other than the originating creditor’s or bank’s fee;
2. engaging in unfair or deceptive acts in making or facilitating a refund anticipation loan or refund anticipation check, including making any statements contradicting the Taxpayer Bill of Rights under the Internal Revenue Code or the Connecticut Taxpayer’s Bill of Rights (CGS § 12-39n);
3. directly or indirectly arranging for a third party, other than the originating bank or creditor, to impose any interest, fee, or charge related to a refund anticipation loan or refund anticipation check;
4. taking or arranging for a creditor to take a security interest in a taxpayer’s property interest, other than the proceeds of a tax refund, to secure payment of a refund anticipation loan;
5. collecting an outstanding or delinquent refund anticipation loan for any creditor or assignee;
6. materially misrepresenting any fact in obtaining a tax preparer or facilitator permit (see below);
7. refusing or failing to return a taxpayer’s documents within a reasonable period of time;
8. refusing or failing to provide a taxpayer, for his or her own records, with a copy of any document requiring his or her signature within a reasonable time after signing the document;
9. failing to maintain a copy of a prepared return for a period of four years from the later of the return’s due date or completion date;
10. requiring or allowing a taxpayer to sign blank or incomplete tax forms;
11. requiring a taxpayer to designate the tax preparer or facilitator as the payee for a federal or state personal income tax refund; or
12. requiring a taxpayer to designate and use a specific bank, debit card, or stored value card provider for federal or state personal income tax refund purposes.

The act also prohibits anyone who provides tax preparation services or acts as a facilitator from including any of the following provisions in documents provided with respect to a refund anticipation loan or refund anticipation check, including in the loan application or agreement:

1. a hold harmless clause;
2. a confession of judgment clause;
3. an assignment of, or order for, payment of wages or other compensation for services;
4. a waiver of any provision of the federal Taxpayer Bill of Rights or the Connecticut Taxpayer’s Bill of Rights; or
5. a waiver of the right to injunctive, declaratory, or other equitable relief or relief on a class-wide basis.

Under the act, tax preparers must sign returns they prepare and include their IRS-issued tax identification number.

Penalties. The act allows the DRS commissioner to impose a civil penalty of up to \$500 per violation on any tax preparer or facilitator who violates the provisions described above. But he may waive the penalty if the violation is proven to be due to reasonable cause and was not intentional or due to neglect.

Permits

Beginning January 1, 2019, the act requires anyone who furnishes tax preparation services or acts as a facilitator, or advertises or solicits business as such, to hold a DRS-issued tax preparer permit or facilitator permit, respectively, unless the person is exempt (see below). For individuals who act as both a preparer and a facilitator, the commissioner must issue a single permit covering both activities.

Under the act, anyone seeking to obtain or renew a permit must apply to the DRS commissioner electronically in the form and manner the commissioner prescribes. Applicants must pay \$100 for an initial permit and \$50 when they renew their permit, which they must do every two years. The commissioner must notify an applicant in writing of his application decision within 60 days after he receives the application.

Under the act, if a permittee no longer provides tax preparation services or acts as a facilitator, he or she may apply to DRS for inactive permit status. Permittees with inactive permits may not provide tax preparation services or act as facilitators or advertise such services. Inactive permits do not need to be renewed, but can be reactivated with payment of a renewal fee.

The act requires DRS to maintain a public registry containing the names and principal business addresses of each permittee. Permittees are prohibited from advertising their permit as a DRS endorsement of their services.

Applicant Criteria. A permit applicant must (1) be age 18 or older; (2) hold a high school diploma; and (3) hold an IRS-issued preparer tax identification number, which must be used by the preparer or facilitator for each return, refund anticipation check, or refund anticipation loan he or she signs. The applicant must also provide evidence that proves, to the commissioner's satisfaction, that he or she has experience, education, or training in tax preparation services. Starting January 1, 2020, this evidence must include a certificate of completion of an IRS-administered annual filing season program.

The act also allows the DRS commissioner to issue permits to someone who proves he or she is an authorized tax preparer or facilitator in another state that has substantially similar professional requirements.

If any information a permittee provided to DRS becomes inaccurate, he or she must promptly provide updated information to the commissioner.

Permit Suspension, Revocation, or Denial. Beginning October 1, 2018, the act prohibits tax preparers or facilitators who are not exempt (see below) from doing any of the following:

1. engaging in a criminal act that is substantially related to their qualifications as a tax preparer or facilitator and that results in a conviction;
2. engaging in unprofessional conduct that is substantially related to their qualifications as a tax preparer or facilitator and that results in disciplinary action by the federal government, any state or jurisdiction of the United States, any other government agency, or a professional licensing board;
3. obtaining or attempting to obtain a tax preparer or facilitator permit by material misrepresentation or fraud; or
4. violating, attempting to violate, or assisting in the violation of the act's provisions regarding permits, activities by permittees, and disclosures.

If a tax preparer or facilitator does any of the above, the act allows the DRS commissioner to suspend, revoke, or deny the issuance of any permit. He may issue a written order notifying a preparer or facilitator that his or her permit is revoked or suspended for good cause. The notice must state that the permittee may request in writing a hearing, as long as he or she does so within 30 days after the order's date.

If the permittee requests a hearing, the act requires the DRS commissioner to convene one within 30 days after receiving the request, according to hearing procedures outlined in the Uniform Administrative Procedure Act. Within 60 days after receiving the request, the DRS commissioner must issue a final decision. Anyone aggrieved by the decision may appeal to the Superior Court.

Under the act, the commissioner may also discipline a tax preparer or facilitator by issuing a written warning or temporarily suspending his or her permit for up to one year.

Additionally, the act specifies that its provisions do not prevent the state from pursuing other available legal remedies against a tax preparer or facilitator.

Other Penalties. Beginning January 1, 2019, if the commissioner finds that a person acted as tax preparer or facilitator without a permit, he may impose a \$100 civil penalty for each day the person did so. If a preparer, facilitator, or a person who employs tax preparers (i.e., a "commercial tax return preparation business") employs a tax preparer or facilitator who does not hold the required permit, the commissioner may impose a civil penalty of \$500 per violation.

Confidentiality

The act generally requires the DRS commissioner to keep confidential any personal financial information, including tax returns and return information, he gathers while investigating alleged violations of the act's provisions. However, he may disclose such information if it is (1) necessary to investigate or prosecute an alleged violation or (2) otherwise expressly permitted by state or federal law.

Disclosures

Under the act, a tax preparer who is not exempt (see below) must provide a written disclosure to anyone requesting tax preparation services prior to providing the services. The disclosure must include:

1. the tax preparer's name, principal business address, and primary business telephone number;
2. an estimate of the total charge for all requested tax preparation services; and
3. a warranty that the tax preparer will securely store and transmit a taxpayer's personal and tax record information by encryption or other means.

Exemptions

The following individuals are exempt from the act's provisions, except as noted above (see "Prohibited Conduct"):

1. accountants who hold an active license issued by the State Board of Accountancy or a valid, active license or similar credential issued by another jurisdiction;
2. attorneys and anyone who provides tax preparation services under the supervision of an attorney;
3. individuals enrolled to practice before the IRS (i.e., under Circular 230);
4. employees of a local, state, or federal government agency while engaged in their official duties;
5. employees of, or assistants to, tax preparers or anyone exempt from the act's provisions, in the course of their official duties;
6. employees who act as tax preparers exclusively for the business purposes of their employer;
7. anyone who acts as a fiduciary for an estate; and
8. IRS-qualified tax preparers, including those sponsored by the Tax Counseling for the Elderly program or the Volunteer Income Tax Assistance program.

EFFECTIVE DATE: October 1, 2018, except the provisions described under "Prohibited Conduct" are effective October 1, 2017.

§ 19 — DELINQUENT TAXPAYER LIST

Requires the DRS commissioner to prepare a delinquent corporation business taxpayer list only upon OPM's request

The act (1) requires the DRS commissioner to prepare a list of delinquent corporation business taxpayers only if the Office of Policy and Management (OPM) secretary requests it and (2) allows the commissioner to decide whether to include the taxpayers' identification numbers. Under prior law, the commissioner had to submit the list, arranged sequentially by taxpayer identification number, to the secretary by July 15 annually.

EFFECTIVE DATE: Upon passage

§§ 20, 22, 32, 35, 37 & 38 — TAX REGULATIONS

Eliminates provisions requiring or allowing the DRS commissioner to adopt regulations on various tax provisions

The act eliminates requirements that the DRS commissioner adopt regulations concerning:

1. the disclosure of tax returns or return information for administrative purposes (§ 20);
2. sales and use tax exemption permits for businesses purchasing goods in Connecticut for business use or consumption outside the state (§ 32); and
3. the place for paying income taxes and filing income tax returns, declarations, statements, or documents (§ 37).

It eliminates laws authorizing him to adopt regulations concerning informational income tax returns filed by certain payers, including standards for determining which returns must be filed on magnetic media or another machine-readable format (see § 38, below). And it allows, rather than requires, him to issue regulations concerning the (1) taxation of personal property used in rendering telecommunications services (§ 22) and (2) administration and enforcement of municipal admissions taxes on pari-mutuel or off-track betting facilities (§ 35).

EFFECTIVE DATE: Upon passage, except the provision on informational income tax returns is effective upon passage and applicable to tax years beginning on or after January 1, 2017.

§ 21 — DRS DATA MATCH PROGRAM

Makes administrative and policy changes to DRS's data match program

Data Match Program Agreements

The act makes administrative and policy changes to DRS's "data match" program under which it and financial institutions exchange information about delinquent taxpayers. The act explicitly requires financial institutions to enter into agreements with DRS concerning program administration. But it also allows the commissioner to waive the requirement for any financial institution.

Information Exchange

The law requires the DRS commissioner to provide to each financial institution a list of people who owe taxes that are finally due and payable and for which all other administrative or judicial remedies have been exhausted or lapsed. The list must include each taxpayer's address, social security number, or other taxpayer identification number.

Under the act, this list must also include any information that is necessary or convenient to administer the program. The act also allows the commissioner's designee to provide this list.

By law, financial institutions must provide to DRS specified information on taxpayers who appear on the list. The act expands this information to include (1) taxpayer account numbers and balances (previously, institutions only needed to state whether an account balance exceeds \$1,000) and (2) any other information the commissioner requires to administer the program.

The law protects the institutions from liability for disclosing information to the commissioner. The act extends this protection to disclosures to the commissioner's designee.

Institutions' Disclosure to Other Parties

The act allows the financial institutions to disclose the information they receive through the program to certain service providers and government regulators, but it prohibits these parties from disclosing this information to other parties. To comply with the data match program's requirements, an institution may disclose the information to a service provider it retains to perform data processing and data receipt and transmission functions. It may also disclose the information to a government regulator that needs it to fulfill its regulatory duties.

EFFECTIVE DATE: Upon passage

§ 23 — CAPTIVE REAL ESTATE INVESTMENT TRUSTS

Modifies the definition of a REIT for corporation business tax purposes

By law, "captive REITs" (real estate investment trusts) are not entitled to a deduction for dividends paid in calculating their net income for Connecticut corporation tax purposes. A captive REIT is generally one that, among other things, has more than 50% of its voting power, beneficial interests, or shares directly or constructively owned or controlled by a single-entity corporation. For purposes of determining whether a REIT is a captive REIT, the act excludes any voting power, beneficial interests, or shares in a REIT held by a life insurance company in a segregated asset account.

EFFECTIVE DATE: Upon passage

§§ 24 & 25 — CORPORATION TAX FILING DEADLINES

Extends the deadlines for filing corporation business tax returns

The act extends the deadline for filing corporation business tax returns, which varies depending on whether a corporation must file a corresponding federal return, and makes a conforming change.

For those corporations that must file a federal return, the act extends the filing deadline to the 15th day, rather than the first day, of the month following the month in which their federal return for the income year is due. For corporations that do not have to file a federal return, the act extends the deadline from the 1st day of the fourth month succeeding the end of the income year to the 15th day of the fifth month of that income year.

EFFECTIVE DATE: Upon passage and applicable to income years beginning on or after January 1, 2017.

§ 26 — DRY CLEANING DROP STORES

Exempts dry cleaning “drop stores” from the dry cleaning surcharge

The act exempts from the 1% dry cleaning surcharge businesses that accept clothing or other fabrics to be dry cleaned by another establishment (i.e., “drop stores”).

EFFECTIVE DATE: October 1, 2017, and applicable to calendar quarters beginning on or after that date.

§ 27 — UTILITY COMPANIES TAX

Aligns the determination of utility companies’ gross earnings with the way income is classified in PURA’s uniform system of accounts

The act makes a number of minor and technical changes to generally align the determination of utility companies’ gross earnings (i.e., taxable income) with the way income is classified in the Public Utilities Regulatory Authority’s (PURA) uniform system of accounts, except with respect to electric transmission services income. Under prior law, income was classified as electric transmission services income according to the uniform system of accounts. Under the act, the DRS commissioner, in consultation with PURA, must determine which income is classified as such.

EFFECTIVE DATE: October 1, 2017

§§ 28 & 30 — SUCCESSOR LIABILITY FOR CIGARETTE AND TOBACCO PRODUCTS TAXES

Makes people and entities who buy certain cigarette or tobacco products businesses or product stock liable for back taxes

The act makes anyone who buys a cigarette dealer’s business or stock of cigarettes liable for unpaid cigarette taxes under the same provisions that already apply to buyers of a cigarette distributor’s business or product stock. In general, those provisions require the buyer to withhold enough money from the purchase price to pay the unpaid taxes until the seller provides either a DRS (1) receipt showing that all the outstanding taxes have been paid or (2) certificate stating that no taxes are owed. The buyer is personally liable for the tax if the buyer fails to withhold the appropriate amount from the purchase price. The liability equals the amount of the unpaid tax, up to the purchase price of the business or stock.

The act also establishes parallel requirements, with regard to unpaid tobacco products taxes, for purchasers of a tobacco products distributor’s or unclassified importer’s business or products stock. (“Tobacco products” include most forms of tobacco prepared for chewing or smoking. It does not include cigarettes or liquid nicotine containers used in e-cigarettes.)

EFFECTIVE DATE: July 1, 2017

§ 29 — CIGARETTE TAX EXEMPTION FOR SALES TO U.S. VETERANS’ HOSPITALS AND ARMED FORCES MEMBERS

Exempts certain cigarette sales from the cigarette tax as required by federal law

To conform with federal law, the act exempts from the cigarette tax cigarettes that are sold to U.S. veterans’ hospitals and members of the U.S. Armed Forces, if they are sold on a military base by an agency permitted by federal regulation to operate there.

EFFECTIVE DATE: Upon passage

§ 31 — TOBACCO PRODUCTS TAX RECORDS

Tightens requirements for maintaining tobacco products tax records and establishes a civil penalty for any distributor or importer who fails to immediately produce or provide electronic access to records

The act requires tobacco products distributors and importers to maintain tobacco products tax records on the premises where the products are possessed, stored, or sold and make them available at all times for the DRS commissioner and his authorized agents to inspect. Prior law required these distributors and importers to keep such records safely preserved to ensure their permanency and accessibility for inspection. By law, unchanged by the act, they must keep the records for three years in a form prescribed by the DRS commissioner.

The act establishes a civil penalty of \$1,000 per day for any distributor or importer who fails to immediately produce or provide electronic access to the records on the commissioner’s or agent’s request. It authorizes the commissioner to waive all or any part of the penalties if he is satisfied that the failure to provide the records was due to reasonable cause.

EFFECTIVE DATE: October 1, 2017

§§ 33 & 34 — TRANSFERS OF THE USE TAX TO DEDICATED ACCOUNTS AND FUNDS

Extends to the use tax the required revenue diversion for certain dedicated accounts, according to the same amounts and schedules specified under existing law for the sales tax

The act extends, to the 6.35% use tax, the requirement that the DRS commissioner direct a portion of the tax revenue to the Municipal Revenue Sharing Account (MRSA) and Special Transportation Fund (STF), using the same amounts and schedules specified under existing law for the sales tax as indicated in Table 1. In practice, DRS does not segregate sales tax revenue from use tax revenue.

Table 1: Sales and Use Tax Diversion to MRSA and STF under the Act

<i>MRSA</i>		<i>STF</i>	
<i>Applicable Months</i>	<i>% Diverted</i>	<i>Applicable Months</i>	<i>% Diverted</i>
May and June 2016	4.7%	December 2015 through September 2016*	4.7%
July 2017 and thereafter	7.9%	October 2016 through June 2017	6.3%*
		July 2017 and thereafter	7.9%

*For FY 17, the DRS commissioner must reduce each monthly deposit into the STF by \$4,166,667 (i.e., \$50 million in the aggregate).

The act similarly extends to the use tax the requirement that the DRS commissioner, for FY 17, cease directing portions of the use tax to the Regional Planning Incentive Account (RPIA), thus redirecting these amounts to the General Fund. As is the case with the sales tax diversion under existing law, the act requires the commissioner to resume the RPIA deposits (6.7% of the revenue generated by the hotel tax and 10.7% of the revenue generated by the rental car tax) for calendar quarters ending on or after July 1, 2017.

EFFECTIVE DATE: Upon passage

§ 36 — SOURCING OF INCOME FROM REAL PROPERTY FOR INCOME TAX PURPOSES

Clarifies ownership requirements for the sourcing of income from certain real property

By law, nonresidents must pay Connecticut income tax on gains or losses from the sale or disposition of an interest in an entity (i.e., partnership, limited liability company, or S corporation) that owns certain real property in Connecticut. The act specifies that the entity may own this property directly or indirectly. As under existing law, the gains or losses are considered taxable in Connecticut if such real property is valued at 50% or more of the fair market value of the entity's total assets in the preceding two years.

EFFECTIVE DATE: Upon passage

§ 38 — DEADLINES FOR FILING CERTAIN INFORMATIONAL RETURNS

Sets an earlier date by which certain employers and payers must file informational returns with DRS for personal income tax purposes

The act changes the date by which certain employers and payers must annually file informational returns with DRS for personal income tax purposes, moving it from the last day of February to January 31, thus aligning it to the deadline for employers filing income tax withholding data (i.e., federal W-2 forms) with DRS. By law, the filing requirement applies to individuals and entities (e.g., employers, mortgagors, and fiduciaries) making or crediting payments of \$600 or more (\$10 or more for interest or dividend payments) to anyone who may be subject to Connecticut personal income tax.

EFFECTIVE DATE: Upon passage, and applicable to tax years beginning on or after January 1, 2017.

§ 39 — PENALTY WAIVER REQUESTS

Imposes a deadline for taxpayer submission of DRS penalty waiver requests

This act implicitly imposes a one-year deadline for requesting a penalty waiver from the DRS commissioner. For those situations in which the law allows him to waive a penalty, the act prohibits the commissioner from considering any waiver request he receives more than one year after he notified the taxpayer about the penalty. If the taxpayer reported the penalty on a tax return, the one-year period begins on the return's filing date. The one-year timeframe for the

commissioner to consider waiver requests does not extend the deadlines for protesting or appealing a commissioner's decision.

EFFECTIVE DATE: July 1, 2017, and applicable to waiver requests received on or after that date.

§ 40 — ENFORCING THE GROSS EARNINGS TAX THAT FUNDS PEGPETIA

Extends the penalty for willfully failing to pay the tax that funds the “public, educational, and governmental programming and education technology investment account”

The law imposes a 0.25% tax on the gross earnings of cable-TV, satellite-TV, and certified video service providers to fund the “public, educational, and governmental programming and education technology investment account” (PEGPETIA). The act makes these taxpayers subject to the following penalties, which also apply to other types of state taxes under existing law:

1. for willfully failing to pay the tax, file returns, keep required records, or supply required information regarding the tax, a fine of up to \$1,000, imprisonment for up to one year, or both, in addition to any other penalties the law imposes or
2. for willfully delivering or disclosing to the commissioner or his authorized agent any list, return, account, statement, or other document known to be fraudulent or false, a class D felony (see Table on Penalties).

The act authorizes the DRS commissioner to collect the tax using administrative procedures the law provides for other taxes, including examining records, taking testimony under oath, issuing subpoenas, imposing penalties, and conducting hearings.

EFFECTIVE DATE: Upon passage

§ 41 — RACKETEERING ACTIVITY

Extends the definition of racketeering activity under the Corrupt Organizations and Racketeering Act (CORA) to include violations of certain tobacco product-related crimes

The act expands the definition of “racketeering activity” under CORA to include violations of certain tobacco product-related crimes. In doing so, it subjects a person or entity that engages in a pattern of these violations to prosecution under CORA. Specifically, the act expands the definition to include the following activities:

1. transporting for sale, selling, or offering for sale untaxed tobacco products that should be taxed at \$2,500 or more;
2. willfully attempting to evade tobacco products taxes or failing to pay tobacco product taxes of \$2,500 or more; and
3. willfully delivering or disclosing to the commissioner or his authorized agent any list, report, account, statement, or other document known to be materially fraudulent or false.

CORA subjects violators to (1) one to 20 years in prison, a fine of up to \$25,000, or both; (2) forfeiture of property acquired, maintained, or used in violation of CORA, including profits, appreciated value, and sale proceeds; and (3) forfeiture of any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise the violator established, operated, controlled, conducted, or participated in to violate CORA. Violators are also subject to the fines and penalties associated with the underlying crimes.

EFFECTIVE DATE: July 1, 2017

§§ 42 & 43 — MENTAL HEALTH COMMUNITY INVESTMENT ACCOUNT

Allows income tax return contributions for mental health programs and services

The act establishes a mechanism for collecting income tax return contributions to improve mental health programs and services designed to support people diagnosed with mental health conditions. Eligible recipient programs and services include residential services, job training and placement services, educational programs, and support groups.

The mechanism generates funds for these programs and services by allowing taxpayers to contribute a portion of their income tax refund to a separate, non-lapsing General Fund account established exclusively for this purpose (i.e., “Mental Health Community Investment Account”). The mental health and addiction services commissioner must use funds from the account, in consultation with nonprofit mental health organizations, for eligible programs and services.

The DRS commissioner must modify the tax return forms to allow taxpayers to contribute a portion of their refund to the account if they wish to do so.

EFFECTIVE DATE: July 1, 2017

§§ 44 & 45 — SECURITY REQUIREMENT FOR SALES AND USE AND ADMISSIONS AND DUES TAXES

Establishes conditions under which the DRS commissioner may impose the existing security requirement for the (1) sales and use tax and (2) admissions and dues tax

Prior law authorized the DRS commissioner to impose a security requirement, as he deemed necessary, to ensure taxpayer compliance with sales and use tax and admissions and dues tax requirements. The act establishes specific conditions under which the DRS commissioner may impose security requirements for these taxes. Under the act, the commissioner may require a taxpayer to deposit security if he or she (1) owes sales and use or admissions and dues taxes that have been finally due and payable for at least 90 days and for which any administrative or judicial remedies (or both) have been exhausted or have lapsed or (2) has failed to file at least three required tax returns. As under existing law, the security amount is capped at six times the taxpayer's estimated tax liability.

The act eliminates obsolete provisions concerning state- or federally-issued bearer bonds. Neither the state nor federal government currently issues such bonds.

EFFECTIVE DATE: Upon passage

§ 46 — PENALTY FOR FAILING TO COMPLY WITH CERTAIN SALES AND USE TAX REQUIREMENTS

Authorizes the DRS commissioner to impose a civil penalty of \$500 per violation for failing to comply with certain sales and use tax requirements

The law authorizes DRS to (1) examine the books and records of any person selling services or tangible personal property and any person liable for use tax, (2) investigate businesses to verify or determine how much sales and use tax they owe, and (3) require the filing of information reports on taxable goods and services relating to use tax liability. Under the act, if the DRS commissioner provides written notice to a person that specifies a deadline for complying with any of these examinations, investigations, or filings, and the person fails to meet the deadline for doing so, then the commissioner may impose a civil penalty of \$500 per violation. Each distinct violation, and each day that it continues, is a separate offense. The act allows DRS to collect the penalty in the same manner as it collects delinquent taxes.

EFFECTIVE DATE: July 1, 2017

§§ 47 & 48 — MUNICIPAL REFUNDING BOND MATURITY

Temporarily allows municipalities, by a two-thirds vote of their legislative bodies, to issue refunding bonds with a term of up to 30 years

Existing law allows municipalities to issue refunding bonds to pay off all or part of their bonds, notes, or other debt obligations and requires that the refunding bonds mature by the maturity date of the bonds, notes, or obligations which they are used to pay off. The law limits municipal bond terms to 20 years unless the general statutes or a special act expressly allows another term.

The act waives these limitations on refunding bond maturities by allowing municipalities, from July 1, 2017 to July 1, 2022, to issue refunding bonds with a term of up to 30 years if their respective legislative bodies adopt a resolution to do so by a two-thirds vote. Under the act, the resolution approving the bonds may include a provision securing the refunding bonds by a statutory lien on all of the municipality's tax revenues. The revenues are immediately subject to the lien without any further action or authorization by the municipality. The lien is valid and binding against the municipality; its successors, transferees, and creditors; and all other parties asserting rights to such revenues, regardless of whether they received specific notice of the lien, and without physical delivery, recording, or filing of the lien or any further action.

EFFECTIVE DATE: July 1, 2017

§§ 49 & 50 — MUNICIPAL DEFICIT FINANCING

Excludes refunding bonds and tax anticipation notes from the municipal deficit financing law

Existing law establishes conditions under which municipalities meeting certain criteria may issue bonds to cover a deficit or projected deficit. For purposes of these bonds, the act excludes the impact of any refunding bonds (described in §§ 48 & 49, above) in calculating a municipality's deficit or projected fiscal year deficit for any fiscal year ending on or after July 7, 2017 and by June 30, 2022.

The act excludes tax anticipation notes from the types of debt obligations included under the municipal deficit financing law. It also excludes from the calculation of a municipality's projected fiscal year deficit (1) estimated revenues from the proceeds of tax anticipation notes and (2) estimated expenditures from the principal payment of such notes. The same exclusions apply under existing law in calculating a municipality's deficit.

The act also makes technical changes.

EFFECTIVE DATE: Upon passage

PA 17-159—HB 5886 (VETOED)

Finance, Revenue and Bonding Committee

AN ACT ESTABLISHING A TAX CREDIT FOR DONATED AGRICULTURAL FOOD COMMODITIES PRODUCED OR GROWN BY THE TAXPAYER

SUMMARY: This act authorizes tax credits based on the value of fruit, vegetables, poultry, and other agricultural food commodities businesses grew or produced and donated to food banks or emergency feeding organizations located in Connecticut and recognized by the Department of Revenue Services (DRS). The credit equals 15% of the market value of the donated commodities in the income year the taxpayer claims the credit, up to \$5,000. It can be applied against the corporation business or personal income tax (excluding any required employer withholding).

To claim a credit, a taxpayer must provide any documentation supporting the claim that the DRS commissioner requires. Taxpayers who cannot claim the full credit in an income year may apply the unused portion to future taxes (i.e., carryforward) for the five immediately succeeding income years until they claim the full credit.

The act prohibits a taxpayer from donating commodities that are adulterated, are unfit for human consumption, or were embargoed or ordered destroyed by the state Public Health Department. It also prohibits a taxpayer from claiming a credit if it received any remuneration for a donated commodity.

For purposes of the act, a taxpayer can be the owner or partner of a business structured as an S corporation, partnership, or other type of business entity not liable for corporation business taxes on the income the entity generates. (These entities are often referred to as "pass-through entities" because they pass along income to their owners and partners, who are then liable for taxes on it.)

If the entity is structured as a limited liability company, has only one owner, and does not file a separate federal tax return ("disregarded entity"), the owner may claim the credit against the personal income or corporation business tax, depending on whether the owner is an individual or a corporation.

EFFECTIVE DATE: July 1, 2017 and applicable to income years beginning on or after January 1, 2017.

PA 17-164—sSB 1058

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE IDENTIFICATION OF EMERGING ECONOMIC TRENDS

SUMMARY: This act establishes a method to continuously analyze economic and business conditions and generate for legislators periodic reports that, among other things, recommend appropriate legislative and programmatic actions. The method must be implemented by a private research organization selected by the board of CTNext, a subsidiary of Connecticut Innovations that fosters innovation and entrepreneurship.

The act requires the organization to provide specific services. Among other things, it must track developments in the state's major industry sectors and develop contacts and working relationships with business organizations, unions, and academic institutions. When consulting academic institutions, the organization must assess the extent to which they interact with businesses and develop educational and training programs that meet business needs.

The organization must meet with the CTNext board at least quarterly. It must also submit a comprehensive annual report to the board that recommends specific steps to achieve the goals established through the assessment process. The board's chairperson and the organization's lead representative must present the report to the Commerce and Finance, Revenue and Bonding committees at a joint hearing, which various state officials must attend. The committees must include the organization's recommendations in the bills they propose during the next regular legislative session.

EFFECTIVE DATE: Upon passage

SELECTING AND OVERSEEING THE PRIVATE RESEARCH ORGANIZATION

The act requires CTNext's board of directors to select and oversee a private research organization to provide the services the act specifies. The board must issue a request for proposals to provide these services, select the organization to provide them, and enter into an agreement with that organization. The act does not set deadlines for completing these tasks or provide funds to compensate the organization.

The board must annually specify the organization's scope of work and may change it, as the board deems necessary or prudent in light of economic trends or developments, as long as the changes do not generate additional costs to the state.

RESEARCH ORGANIZATION

Required Services

The research organization must continually advise, guide, and assist the state in short- and long-term strategic economic planning by:

1. identifying emerging industries in which the state should make strategic investments based on the state's existing and potential strengths in the relevant workforce, education and research capacity, and mix of existing businesses and industries;
2. suggesting policy changes to support emerging industries and better meet the needs of established ones by bolstering the state's workforce and education and research capacity;
3. periodically and regularly assessing the health of the state's established industries and the potential threats they face;
4. forecasting short- and long-term business trends that could affect new and existing businesses;
5. developing opportunities and business strategies to attract, retain, and develop emerging and mature businesses and industries;
6. accelerating the pace at which new and emerging businesses innovate; and
7. periodically assessing the state's economic conditions to identify strengths, weaknesses, opportunities, and threats with respect to the above goals, and, based on that assessment, develop and promote policy recommendations.

Method

The act specifies the kinds of things the organization must do to meet the act's requirements. The organization must:

1. track and analyze developments in the state's major industry sectors, including health care and bioscience, financial services, insurance, venture capital, advanced manufacturing, aerospace, digital media and information technology, software development, data analytics, green technologies, and tourism;
2. consult with representatives of (a) public and private employee organizations about the development of the state's workforce and (b) public and independent higher education institutions in the state about developments in their sphere; and
3. develop contacts and working relationships with representatives of the above businesses, organizations, and institutions to be continually up-to-date and informed about emerging trends in their fields.

The organization must also have expertise in Connecticut economic history and forecasting, technology and technological advancements, strategic business planning and organizational development, investment and finance, the research and development process, and commercializing technology, or consult with experts in these fields.

In consulting with higher education representatives, the organization must examine the institutions' relationships with the state's major industry sectors. It must specifically examine the:

1. extent to which these institutions regularly communicate with businesses in the state's major industry sectors;
2. alignment of academic curricula, degree programs, and graduation rates in all the institutions' academic fields with the workforce and skill needs of the state's major industry sectors; and
3. institutions' responsiveness to these sectors' changing needs.

The organization must consider in its economic assessments the information it receives from the representatives of employee organizations and higher education institutions.

RESEARCH AND REPORTING

The act generally requires the organization to continuously gather and analyze economic information, periodically report to CTNext's board, and advise the board on the status of previously recommended actions.

Reporting

The organization must report quarterly to the board, updating it on the status of previously recommended legislative and programmatic changes. Its report must address any changes that state agencies implemented in response to its recommendations and whether the changes are achieving their goals or expected to do so. The organization must also inform the board about any economic or business problems or issues that could harm the state's major industry sectors.

The organization's fourth quarter report must also include the organization's recommendations for legislative and programmatic changes and actions aimed at achieving the state's economic development goals.

Lastly, the organization must submit an annual comprehensive report to the board that includes the information it gathered throughout the year. (The act does not specify a date by which the organization must start reporting.)

Public Hearing

Under the act, the CTNext board chairperson and a lead representative from the organization must present the organization's annual report to a joint hearing of the Commerce and Finance, Revenue and Bonding committees. Before the hearing, the lead representative must provide the committees' chairpersons with a list of the department heads, chief executive officers, presidents, deans, and comparable officials whose (1) state agencies or institutions are included in the report and (2) testimony the representative believes would be helpful to committee members. The committee chairpersons may also require representatives from other state agencies and institutions to testify at the hearing.

Committee members may question any individual who appears before them, including the lead representative and the chairperson of the CTNext board. The lead representative and the chairperson may also question the people testifying at the hearing.

Legislative Proposals

The act requires the Commerce and Finance, Revenue and Bonding committees to include the organization's recommendations in the bills they propose during the subsequent regular legislative session.

PA 17-226—sHB 7316*Finance, Revenue and Bonding Committee***AN ACT CONCERNING EVALUATION OF BUSINESS ASSISTANCE AND INCENTIVE PROGRAMS**

SUMMARY: This act requires certain legislative committees to hold public hearings on economic development programs periodically. The hearings are triggered when the Department of Economic and Community Development (DECD) and the state auditors submit certain reports to the Appropriations; Commerce; and Finance, Revenue and Bonding committees (i.e., the review committees).

The reports are (1) DECD's statutorily required annual report to the legislature, which, under the act, must include an economic impact analysis of all state economic development programs, not just those DECD administers, and (2) a new report assessing this analysis that the auditors must prepare each time they audit DECD.

The act also eliminates the requirement that DECD submit a separate, triennial report on state programs that provide tax incentives to businesses, including those administered by other agencies, to the governor, the Office of Policy and Management (OPM) secretary, and the review committees (CGS § 32-1r). Under the act, DECD must include information about all of these programs in its expanded annual report.

EFFECTIVE DATE: Upon passage

DECD ANNUAL REPORT

The act expands the kind of information DECD must include in its annual report, requires DECD to submit the report to the auditors and review committees (as well as the governor), and makes the report the basis for required legislative public hearings.

Content

Under the act, DECD must include in the report an economic impact analysis of each state economic development program that provides financial assistance or tax incentives, including other agencies' programs that had 10 or more recipients or awarded over \$1 million in assistance during the previous fiscal year. (Examples of such programs include the Labor Department's Subsidized Training and Employment Program and Connecticut Innovations' Angel Investor Tax Credit.)

The scope of the economic impact analysis varies depending on whether DECD or another agency administers the program. The analyses for all programs must include:

1. an assessment of whether the programs are meeting their statutory and programmatic goals and, if possible, any obstacles preventing them from meeting those goals;
2. recommendations about whether these programs should be continued, modified, or repealed and the reasons for each recommendation;
3. recommendations for additional data that must be collected to improve evaluations; and
4. a description of the methodologies used and the assumptions made to analyze the programs.

For the analyses of its programs, DECD must also include, if available, the number of new jobs the program created, how much it cost the state to borrow funds to finance the program, and the estimated impact the program had on the state's annual revenues.

Prior law required an economic impact analysis in the annual report but limited it to DECD's programs. It also specified the variables DECD had to use to determine the impact. PA 17-219 eliminates several of those variables and makes other changes to the annual report's content (see BACKGROUND).

Distribution

Under prior law, DECD had to submit the report to the governor and the legislature by February 1 annually. The act requires DECD to submit it by that date to the governor, the auditors, and the review committees, but not the entire legislature.

Legislative Hearings

The act requires the review committees, by March 1 annually, to hold at least one separate or joint public hearing on the economic impact analyses included in the annual report.

AUDITORS

Under the act, the auditors must audit the financial assistance and tax incentive programs' performance (i.e., conduct performance audits) and the annual report's accuracy each time they audit DECD.

Performance Audits

The performance audits must examine the extent to which the tax incentive programs are achieving their statutory purposes. The auditors must conduct these audits as part of a regular audit, but they may also conduct them at their discretion as a separate audit. They must conduct them according to generally accepted government auditing standards or other methods they deem appropriate.

DECD Annual Report Evaluation

As part of each regular audit, the auditors must also evaluate the accuracy of the annual reports DECD completed since their last DECD audit and the economic impact analyses included in them. The evaluation must:

1. determine if there is evidence to support the accuracy of the data in the report,
2. evaluate whether the tax incentive programs are being managed and operated so as to make it easy for taxpayers to comply with their requirements,
3. recommend how the agencies can improve their programs' administrative efficiency and effectiveness, and
4. evaluate whether the reports provide all the information the statute requires (CGS § 32-1m).

Auditor Reports and Legislative Hearings

The auditors must submit a report on each performance audit and annual report evaluation to the governor, OPM secretary, and review committees. They may submit these reports separately or as part of a statutorily required audit report.

The act requires the review committees to hold at least one separate or joint public hearing on each of these audit reports.

BACKGROUND

Related Act

Among other things, PA 17-219 requires the same economic impact analyses and legislative hearings that this act requires and eliminates report requirements that existed under prior law.

PA 17-240—HB 7318*Finance, Revenue and Bonding Committee*

AN ACT CONCERNING THE FAILURE TO FILE FOR CERTAIN GRAND LIST EXEMPTIONS, THE COMMUNITY HOUSING LAND BANK AND LAND TRUST PROGRAM AND THE TAX REVALUATION DEADLINE FOR THE TOWN OF ORANGE

SUMMARY: This act makes several changes in the Department of Housing's (DOH) Community Housing Land Bank and Land Trust Program (§ 4). Among other things, the act broadens the types of real property transactions that can be made by a nonprofit corporation participating in the program.

The act also extends the mandatory filing deadlines for taxpayers in Berlin, Danbury, and New Britain for certain property tax exemptions (§§ 1-3). It also allows Orange to delay a property tax revaluation scheduled for 2016 until the October 1, 2017 assessment year without extending the mandatory five-year deadline for the next revaluation (§ 5).

EFFECTIVE DATE: July 1, 2017, except that the revaluation delay provision takes effect upon passage and the changes to the Community Housing Land Bank and Land Trust Program take effect October 1, 2017.

COMMUNITY HOUSING LAND BANK AND LAND TRUST PROGRAM

The act makes several changes in the Community Housing Land Bank and Land Trust program.

Under prior law, nonprofit corporations that received state assistance under the program were not explicitly allowed to "transfer interests in" real property they acquired under the program. The act allows them to do so.

The act also allows the DOH commissioner to prescribe the terms and conditions under which title to real property, or interests in property, may be transferred to provide for the existing and future housing needs of very low-, low-, and moderate-income families ("eligible families"). The act specifies that developing market rate multifamily or single-family dwellings may serve this purpose.

Prior law allowed nonprofit corporations to convey to eligible families, limited equity cooperatives, and other corporations title only to the buildings and structures on real property they acquired under the program. The act additionally allows them to convey to these families and entities (1) land acquired under the program or (2) an interest (without title) in such land or the buildings and structures on it. As under existing law, these conveyances and transfers

generally do not require the DOH commissioner's approval, but must include terms and conditions that preserve the transferred property's affordability. The act specifies that (1) in setting the affordability terms and conditions, the nonprofit corporation may allow a portion of the units in a multifamily dwelling to be market rate and (2) nonprofit corporations must convey the property according to their written policies and procedures.

Under existing law, nonprofit corporations may convey title to real property (including any improvements) to (1) community land trust corporations and (2) with the DOH commissioner's approval, other nonprofit corporations. The act additionally allows nonprofit corporations, with the DOH commissioner's approval, to convey real property acquired under the program to "other entities" (presumably including for-profit corporations). Under the act, (1) transfers to nonprofit corporations or "other entities" must be made according to the transferor's written conveyance policies and (2) proceeds of conveyances to "other entities" must be deposited in the Community Housing Land Bank and Land Trust Fund.

EXTENSION OF FILING DEADLINES TO CLAIM CERTAIN PROPERTY TAX EXEMPTIONS IN SPECIFIED MUNICIPALITIES

Berlin

Beginning in the October 1, 2011 grand list year, the law exempts from the property tax machinery and equipment used for manufacturing, biotechnology, and recycling, regardless of when it was acquired (CGS § 12-81 (76)). But taxpayers must still include this property in their annual personal property declarations, which they must submit to tax assessors by November 1.

The act allows taxpayers in Berlin that missed this statutory filing deadline to claim the exemption for machinery and equipment that the municipality listed on its October 1, 2016 grand list. In order to claim the exemption, a taxpayer must file its declaration by July 31, 2017 and pay the statutory late fee. If the taxpayer does so, the city's tax assessor must verify whether the property qualifies for the exemption and approve it. The city must then refund any taxes the taxpayer paid on the property.

Danbury

Existing law allows municipalities to exempt from the property tax real and personal property leased to charitable, religious, or nonprofit organizations (CGS § 12-81(58)).

The act allows eligible charitable, religious, or nonprofit organizations in Danbury that missed the exemption application deadline to claim an exemption for property on the city's October 1, 2013 and October 1, 2014 grand lists. To do so, an eligible organization must file for the exemption by July 31, 2017. If it does, Danbury's tax assessor must verify the organization's eligibility and approve the exemption, and the city must refund any taxes the taxpayer paid on the property.

New Britain

By law, certain manufacturing and service facilities acquired, constructed, substantially renovated, or expanded in designated municipalities qualify for a partial property tax exemption. Eligible taxpayers must annually file for this exemption by November 1.

The act allows eligible taxpayers in New Britain that missed this statutory filing deadline to claim the exemption for property on the city's October 1, 2016 grand list. To do so, an eligible taxpayer must file for the exemption by July 31, 2017. If the taxpayer does this, New Britain's tax assessor must verify the facility's eligibility, approve the exemption, and refund any taxes paid on the property.

ORANGE REVALUATION DELAY

By law, municipalities must reassess property values at least once every five years (i.e., revaluation) (CGS § 12-62). The act allows Orange to delay a revaluation scheduled for the 2016 assessment year until the assessment year commencing October 1, 2017, if its legislative body approves the delay. Following a delay, the subsequent revaluation must take place as originally scheduled (i.e., as if there was no delay).

PA 17-244—SB 1051

Finance, Revenue and Bonding Committee

AN ACT CONCERNING CTNEXT PLANNING GRANTS-IN-AID AND INNOVATION PLACE DESIGNATION APPLICATIONS AND INVEST CT FUND TAX CREDIT TRANSFERABILITY

SUMMARY: This act allows CTNext, a Connecticut Innovations (CI) subsidiary, to accept additional rounds of applications under the innovation place program for planning grants and innovation place designations (§ 1). It also allows insurance companies that hold Invest CT tax credits to sell or otherwise transfer these credits to any taxpayer, rather than just to their affiliates, and makes a conforming change (§§ 2 & 3).

EFFECTIVE DATE: July 1, 2017

INNOVATION PLACE APPLICATIONS

Prior law required CTNext to accept one round of applications for planning grants and innovation place designation, which it already did. The act allows CTNext to accept additional rounds of these applications, on a schedule and according to deadlines it determines. For planning grants, the act specifies that CTNext may only accept applications until the money reserved for the grants is exhausted.

PA 16-3, May Special Session, established the innovation place program to foster innovation and entrepreneurship in compact, mixed-use geographic areas with startups, growth-stage businesses, anchor institutions, and access to public transit. Entities such as corporations, municipalities, and higher education institutions may submit applications for the designation of an innovation place.

INVEST CT TAX CREDITS

Under prior law, insurance companies that earned tax credits for investing in Invest CT funds (i.e., insurance reinvestment funds) could transfer the credits only to their affiliates. The act instead allows the companies to sell or otherwise transfer all or parts of these credits to any taxpayer or taxpayers. The act requires the transferee to claim the credits in the transferee's income year in which the transferee bought, was assigned, or was otherwise transferred the credit.

By law, Invest CT credits may be claimed against the insurance premiums tax or the surplus lines brokers tax.

PA 17-28—sHB 7114
General Law Committee

AN ACT CONCERNING THE SALE OF ENTERTAINMENT EVENT TICKETS ON THE SECONDARY MARKET

SUMMARY: This act places conditions on the sale of tickets to certain entertainment events, including generally prohibiting the sale of nontransferable tickets except through a paperless ticketing system that gives purchasers the chance to buy transferable tickets (e.g., paper tickets or e-tickets) at no additional cost.

It requires ticket sellers employing these systems to provide written secondary market (e.g., resale or trade) disclosure information to potential ticket purchasers, if applicable.

The act also prohibits anyone from denying a ticketholder admission to an entertainment event solely because the ticket was resold.

The restrictions apply to tickets for sporting events, concerts, and theatrical or operatic performances, but not for:

1. movies;
2. tickets sold or offered for sale to students of a public higher education institution for entertainment events held by, or on behalf of, the institution; or
3. concert or theater venues with seating capacities of less than 3,500 people, provided a duly authorized venue representative notifies the consumer protection commissioner in writing of the venue's intent to not comply with the act.

A violation of any of the act's provisions is deemed a violation of the Connecticut Unfair Trade Practices Act.

EFFECTIVE DATE: January 1, 2018

ENTERTAINMENT EVENT TICKETING SYSTEM

The act generally prohibits ticket sellers from using entertainment event ticketing systems that do not give purchasers the option to buy tickets that are transferable to anyone, at any price or time, without (1) additional fees and (2) the ticket seller's consent. However, ticket sellers may use a paperless system that does not automatically allow for independent transferability of tickets if, at the time of the initial sale, they offer purchasers the option to buy the same tickets in a transferable form.

BACKGROUND

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

PA 17-53—SB 867
General Law Committee

AN ACT CONCERNING NOTICE REQUIREMENTS FOR HOME HEALTH CARE REGISTRIES

SUMMARY: With one exception, this act requires homemaker-companion service registries to give consumers a written legal liability notice before commencing services, rather than within four days after supplying, referring, or placing an individual homemaker or companion with a consumer. If a bona fide emergency exists, prior law's four-day deadline applies, provided the registry details the specific nature of the emergency on a form approved by the Department of Consumer Protection and signed by the consumer or his or her authorized representative. The act also requires that the notice be in boldface type.

Existing law, unchanged by the act, requires the consumer to sign the notice, which, among other things, must (1) be in plain language; (2) detail the registry's legal liabilities to the homemaker or companion; and (3) advise the consumer that he or she may be considered an employer and responsible for paying taxes, Social Security, overtime and minimum wage, unemployment, workers' compensation, or other payments required by law. The notice must also include a statement advising the consumer to consult a tax professional if he or she is uncertain about his or her responsibility for these taxes or payments.

By law, a homemaker-companion service registry is a person or entity engaged in the business of supplying or referring an individual to, or placing an individual with, a consumer to provide nonmedical support or supervision services when the individual is either (1) directly compensated, in whole or in part, by the consumer or (2) treated, referred to, or considered by the supplying person or entity as an independent contractor.

EFFECTIVE DATE: October 1, 2017

PA 17-75—sSB 191

General Law Committee

AN ACT CONCERNING THE DEPARTMENT OF CONSUMER PROTECTION AND OCCUPATIONAL LICENSING

SUMMARY: This act eliminates the following Department of Consumer Protection occupational licenses, registrations, and certificates:

1. swimming pool assembler's license (CGS § 20-340e);
2. athlete agent registration, by repealing the Uniform Athlete Agents Act (CGS §§ 20-559 to -559s);
3. shorthand reporter's license, which was required to practice shorthand reporting in arbitration proceedings, administrative hearings, depositions, or other proceedings or matters in state courts (CGS §§ 20-650 to -656);
4. itinerant vendor's license and municipalities' specific authority to license itinerant vendors (CGS §§ 21-27 to -35); and
5. liquor wholesaler's salesman certificate, which was required by anyone who sold or offered to sell alcoholic liquor to a retailer (CGS § 30-17b).

Under the act, workers in these occupations no longer need a state credential.

The act also eliminates real estate student intern programs in which students enrolled in an accredited school who were directly supervised by a licensed real estate broker were, with the Real Estate Commission's approval, exempt from other real estate licensing requirements while enrolled in the program.

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: January 1, 2018

SWIMMING POOL ASSEMBLER'S LICENSE

The act eliminates the swimming pool assembler's license, which generally required anyone who, for financial compensation, assembled above-ground swimming pools more than 24 inches deep to be licensed and subjected these licensees to license and registration requirements similar to those that apply to swimming pool builder licensees under existing law, including registering as a home improvement contractor.

UNIFORM ATHLETE AGENTS ACT

The Uniform Athlete Agents Act governed relations among student-athletes, athlete agents, and educational institutions. Among other things, it required athlete agents to (1) make certain disclosures, (2) provide notice to educational institutions, and (3) give student-athletes the right to cancel the contract within a certain time period. It also prohibited certain criminal conduct (e.g., providing false or misleading information and providing things of value to student-athletes).

Athlete Agent Registration

Under prior law, anyone who entered into an agency contract with a student-athlete or recruited or solicited a student-athlete to enter into an agency contract had to register with DCP. Spouses, parents, siblings, grandparents, or guardians, and individuals acting solely on behalf of a professional sports team or organization were exempt from this requirement.

PA 17-76—sSB 353*General Law Committee***AN ACT ESTABLISHING AN APPRENTICE, JOURNEYMEN AND CONTRACTOR WORKING GROUP**

SUMMARY: This act reduces, by two, the number of licensed journeypersons or contractors required to supervise three or more apprentices for the following trades: electrical; plumbing; heating, piping, and cooling; sprinkler fitter; and sheet metal work (i.e., “hiring ratios”). The act retains the requirement of one journeyperson or contractor for one apprentice, and two journeypersons or contractors for two apprentices. Under the act, the Department of Consumer Protection (DCP) must amend its existing regulations to reflect the new hiring ratios.

The act also establishes a 10-member working group of industry trade group members to (1) discuss hiring ratios for apprentices, journeymen, and contractors, and (2) study the hiring ratio relief process. By December 1, 2017, and annually thereafter, it requires the working group to report to the General Law Committee on recommendations related to apprentices, journeymen, and contractors.

EFFECTIVE DATE: Upon passage

HIRING RATIOS

Under DCP regulations, apprentices may work only in the presence and under the direct supervision of licensed journeypersons or contractors (Conn. Agencies Regs., § 20-332-15a). Table 1 shows the statutory hiring ratios under prior law and the act for up to five apprentices.

Table 1: Hiring Ratios under Prior Law and the Act

<i>Apprentices</i>	<i>Licensed Journeypersons or Contractors</i>	
	<i>Prior law</i>	<i>The act</i>
1	1	1
2	2	2
3	5	3
4	8	6
5	11	9

And existing law, unchanged by the act, requires an additional three journeypersons or contractors in order to hire each additional apprentice.

WORKING GROUP

The act requires that the working group meet at least three times per year. The group’s 10 members must have equal representation from among the following union and nonunion industry trade groups:

1. International Brotherhood of Electrical Workers,
2. Independent Electrical Contractors of New England,
3. Associated Builders and Contractors of Connecticut,
4. Sheet Metal Local 40,
5. Sprinkler Fitters Local 669,
6. Connecticut Chapter of the American Fire Sprinkler Association,
7. United Association of Plumbers and Pipefitters Local 777,

8. Plumbing Heating and Cooling Contractors of Connecticut,
9. Connecticut Heating and Cooling Contractors, and
10. Connecticut State Building and Construction Trades Council.

The act requires members to be the business managers of each union industry trade group and the presidents of each nonunion industry trade group, or their designees.

Under the act, the (1) Senate president and House speaker each appoint two union members; (2) Senate and House minority leaders each appoint two nonunion members; and (3) Senate and House majority leaders appoint one union and one nonunion member, respectively.

Appointing authorities must make appointments within 30 days after the act's passage. Before doing so, they must consult with the General Law Committee's chairpersons and ranking members. Appointing authorities fill vacancies.

The working group selects its two chairpersons from its members. One chairperson must be a union member; the other, a nonunion member. The chairpersons must schedule the first meeting. The General Law Committee's administrative staff must serve in the same capacity for the working group.

PA 17-77—sSB 826

General Law Committee

AN ACT MAKING CHANGES TO DEPARTMENT OF CONSUMER PROTECTION STATUTES AND BANNING CERTAIN AUTOMATED TICKET PURCHASING SOFTWARE

SUMMARY: This act makes various unrelated changes to the Department of Consumer Protection (DCP) statutes. It:

1. exempts the Liquor Control Commission from a requirement that it submit decisions that are adverse to a party to the DCP commissioner for final approval, thus giving the commission the authority to make final decisions (§ 1);
2. eliminates the requirement that DCP provide certain inapplicable functions to the Liquor Control Commission (e.g., budgetary, management, and investigatory) (§ 2);
3. grants DCP and certain commissions additional enforcement powers (§§ 6, 9, & 13);
4. allows DCP to reinstate and renew certain lapsed licenses, permits, certifications, and registrations (§§ 12 & 16);
5. expands certain definitions to include additional registrants and licensees (e.g., sheet metal workers and real estate brokerage businesses) (§§ 4, 7, 8, & 10);
6. makes an individual who has physical custody of food when it becomes adulterated liable for cleanup costs (§ 13);
7. sets a minimum \$10,000 surety bond for homemaker-companion agencies (§ 11);
8. allows liquor wholesalers to send certain notices by certified mail (§ 3);
9. requires funeral home establishments to keep certain contract information electronically (§ 15);
10. conforms certain DCP statutes to federal or industry standards or current practices (§§ 4, 5, 7, 8, & 10);
11. prohibits anyone from using automated ticket purchasing software to purchase tickets on the Internet (§ 17); and
12. makes other minor, technical, and conforming changes (§ 14).

EFFECTIVE DATE: July 1, 2017, except the sheet metal provision is effective October 1, 2017, the automated ticket purchasing provision is effective January 1, 2018, and the funeral service contract provision is effective July 1, 2018.

§§ 1 & 2 — LIQUOR CONTROL COMMISSION

Proposed Final Decisions

PA 16-185 authorized the DCP commissioner to reject or modify actions taken by certain boards or commissions, including the Liquor Control Commission, if they exercise their statutory authority in a way that is adverse to a party (see **BACKGROUND**). By law, the boards and commissions submit such actions as proposed final decisions to the DCP commissioner, who subsequently issues the final decisions. The act exempts the commission from this requirement, thus allowing it to make final decisions.

By law, the Liquor Control Commission consists of three members, including the DCP commissioner, and does not include any active market participants.

DCP Duties and Powers

The act eliminates the requirement that DCP provide certain inapplicable functions to the commission as it does for other boards and commissions (e.g., budgetary, management, and investigatory). The Liquor Control Act already requires DCP to enforce liquor laws and allows the department to do whatever is reasonably necessary to carry out this purpose. It also sets out procedures for, among other things, investigating complaints and conducting hearings and appeals according to the Uniform Administrative Procedure Act (UAPA).

§ 3 — WHOLESALER TERRITORY ADJUSTMENTS BY CERTIFIED MAIL

The act allows certain liquor wholesaler notices to be sent by certified mail, rather than just by registered mail, return receipt requested. It applies to notices between DCP, manufacturer or out-of-state permittees, and wholesaler permittees to (1) terminate or diminish distributorship territories and (2) appoint additional wholesalers within a territory.

§ 4 — REAL ESTATE BROKERAGE BUSINESSES

The act explicitly allows limited liability partnerships to operate as real estate brokerage businesses in Connecticut. Existing law already allows individual licensed real estate brokers or salespeople to operate as a corporation, limited liability company, or partnership.

By law, real estate businesses must provide the Real Estate Commission the name of at least one licensed real estate broker who is in charge of the real estate brokerage business. The act also allows businesses to designate someone who is qualified to be licensed.

§ 5 — WATER BOTTLING STANDARDS

The act requires bottlers who process and package water for sale to do so according to updated federal guidelines (21 C.F.R. § 117) in addition to other federal guidelines and state regulations specified under existing law. The new guidelines address, among other things, good manufacturing practices, hazard analysis, and risk-based preventive controls for human food.

§ 6 — DCP GUARANTY FUNDS

The act allows the DCP commissioner, subject to the UAPA, to revoke, suspend, or deny any DCP license or registration, including that of the owner of a business entity holding a license or registration, when a licensee or registrant owes money to any guaranty fund or an account DCP maintains or uses.

These funds and accounts include the Home Improvement Guaranty Fund, New Home Construction Guaranty Fund, Connecticut Health Club Guaranty Fund, Real Estate Guaranty Fund, and privacy protection guaranty and enforcement account.

§§ 7 & 8 — DRUG WHOLESALERS AND DISTRIBUTORS

The act expands the registration requirements for drug wholesalers and distributors to conform to current prescription drug distribution practices and federal standards. It does this by broadening the definition of wholesaler or distributor to include medical device and oxygen providers, third-party logistics providers, and “virtual” manufacturers and wholesale distributors. By law, before issuing a certificate of registration for a wholesaler or distributor, the DCP commissioner must consider, among other things, the applicant’s criminal history, past experience, and compliance with regulations. The registration and annual renewal fee is \$190.

Under the act, a “medical device and oxygen provider” is anyone who distributes devices or oxygen under a medical order or prescription, except those with an active pharmacy license.

A “third-party logistics provider” is anyone who distributes drugs, devices, or cosmetics while taking possession, but not title, of them.

A “virtual manufacturer” is anyone who manufactures drugs, devices, or cosmetics for which he or she owns the (1) new drug application or abbreviated new drug application number (for prescription drugs) or (2) unique device identification number (for a prescription device, as available). The virtual manufacturer must also (1) contract with a contract manufacturing organization for the physical manufacturing of the items and (2) not be involved in the physical manufacturing or take physical possession or store the items at any time.

A “virtual wholesale distributor” is anyone who facilitates or brokers the transfer of drugs, devices, or cosmetics without taking physical possession of them.

§ 9 — PHARMACY COMMISSION

The act expands the Pharmacy Commission’s disciplinary authority by allowing it to place conditions on any license or temporary permit to practice pharmacy, license to operate a pharmacy, or pharmacy intern or technician registration on the same grounds for which it may take disciplinary actions under existing law (e.g., for violating certain drug or pharmacy laws or failing to maintain clean, orderly, and sanitary pharmacy premises). Under existing law, unchanged by the act, the commission may also refuse to issue or renew, revoke, or suspend such credentials and assess a civil penalty of up to \$1,000.

The act also expands the grounds for which the commission may discipline such licensees, permit holders, and registrants to include failing to demonstrate adherence to applicable provisions of national quality standards for pharmaceutical compounding, nonsterile and sterile preparations (i.e., U.S. Pharmacopeia, chapters 795 and 797).

§ 10 — SHEET METAL WORK DEFINITION

The act expands the scope of the sheet metal worker license by updating the “sheet metal work” definition to reflect current industry practices. It does so by expanding the definition to include:

1. onsite layout work on ductwork systems;
2. additional materials for ductwork systems, not just the ferrous and nonferrous ones under prior law; and
3. work on any ductwork components, devices, air louvers, or accessories, in accordance with the State Building Code.

The act also specifies that sheet metal work includes the installation, erection, replacement, repair, or alteration of onsite testing and balancing of related life safety components, environmental air heating, ventilating, and air conditioning systems by manipulating, adjusting, or controlling such system for optimum balance performance of any ductwork system.

§ 11 — HOMEMAKER-COMPANION AGENCY SURETY BOND

By law, homemaker-companion agencies must maintain a surety bond. The act sets the minimum coverage required for the bond at \$10,000 and requires it to include coverage of theft by an employee from a person receiving agency services.

By law, a homemaker-companion agency is (1) any public or private organization that employs people who provide companion or homemaker services or (2) a registry, which is any person or entity in the business of supplying, referring, or placing an individual to provide homemaker services. Such services include help with personal hygiene, cooking, household cleaning, laundry, and other household chores, but not home health care.

§ 12 — LAPSED CREDENTIALS

The act allows individuals to apply to have their licenses, permits, certifications, or registrations reinstated by DCP without an examination if (1) DCP receives the application and related fee within three years and (2) the law is silent on the reinstatement period. The automatic reinstatement period is the time within which DCP may reinstate a license without an examination.

Prior to reinstatement, the applicant must pay all back license and late fees, unless the applicant attests that he or she has not worked in the applicable occupation or profession in the state while the credential was lapsed, in which case the applicant must pay the current year’s renewal fee. If the applicant’s credentials have lapsed for more than three years, he or she must reapply for the credential.

§ 13 — ADULTERATED FOOD CLEANUP

The act makes a person who maintained physical custody of food at the time it became adulterated responsible for all (1) costs and expenses incurred as a result of the DCP investigation and actions to contain, remove, monitor, mitigate, and dispose of such adulterated food, as well as any associated legal expenses, and (2) associated costs and expenses of cleanup and disposal if the adulteration was caused by the discharge, spillage, or uncontrolled loss of a food product. On

the commissioner's request, the attorney general may bring a civil action to recover costs and expenses.

Under the act, the commissioner or her authorized agent may investigate and take samples of foods according to the procedures for adulterated food investigations. In addition to the seizure powers the commissioner already has, she or her authorized agent may seize, condemn, destroy, or render unsalable any adulterated food deemed poisonous, deleterious to public health, or otherwise unsafe.

If the person who maintained physical custody of the food when it became adulterated cannot be reasonably identified or contacted by DCP, the commissioner may contract with a third party to contain, remove, and dispose of the adulterated food to mitigate the impact on public health and safety.

§ 15 — FUNERAL SERVICE ESTABLISHMENT CONTRACTS

Existing law requires funeral service establishments to maintain a list of each escrow account established by a funeral service contract. The act requires them to maintain the lists electronically and also include any insurance policies these funeral service contracts established.

Under the act, the electronic list must be maintained in an electronically readable format. In addition to the information already required by law, the act requires each list to include the (1) beneficiary's name, address, date of birth, and Social Security number and (2) contract's value at the time of inception and a listing of any additional payments made pursuant to the contract.

The act requires such establishments to disclose this information on the request of the social services commissioner. Existing law already requires such disclosure to the attorney general or public health or DCP commissioners.

§ 16 — NEW HOME CONTRACTOR REGISTRATION RENEWAL

The act allows new home contractors to renew their registrations within six months after the registrations expire. The renewal fee must be charged on a prorated basis, depending on the renewal application date. By law, certificates expire biennially and are subject to a \$240 renewal fee.

§ 17 — PROHIBITED AUTOMATED TICKET PURCHASE SOFTWARE

The act prohibits anyone from using automated ticket purchasing software to buy tickets on the Internet. "Automated ticket purchasing software" means a device, computer program, or computer software that enables the automated purchase of tickets to entertainment events by bypassing or rendering inoperable security measures on an Internet website. A violation is deemed to violate the Connecticut Unfair Trade Practices Act (CUTPA, see BACKGROUND).

The 2016 federal Better Online Ticket Sales Act prohibits the use of software that circumvents a venue's attempt to limit the number of tickets a consumer may purchase.

BACKGROUND

Related Case

In *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, 135 S. Ct. 1101 (2015), the U.S. Supreme Court held that a state regulatory board made up of active market participants can claim state action immunity from federal antitrust actions only if it is subject to active supervision by the state. In rejecting the argument that entities designated by a state as an agency are exempt from the active supervision requirement, the Court noted that "the need for supervision turns not on the formal designation given by States to regulators but on the risk that active market participants will pursue private interests in restraining trade."

The Court identified certain required factors for active supervision, but noted that the overall inquiry on the adequacy of supervision depends on context. It also noted that an entity may be excused from the active supervision requirement in some situations, such as when the entity is electorally accountable.

CUTPA

This law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

PA 17-90—sSB 485*General Law Committee**Finance, Revenue and Bonding Committee*

AN ACT CONCERNING NOTICE TO THE DEPARTMENT OF CONSUMER PROTECTION REGARDING DEPLETION ALLOWANCES FOR WINE OR SPIRITS, REGISTRATION REQUIREMENTS FOR CRAFT BEER AND FARMERS' MARKET WINE SALES PERMITS

SUMMARY: This act makes several unrelated changes to the Liquor Control Act.

It allows manufacturer and out-of-state shipper permittees for alcoholic liquor other than beer to offer a floor stock or depletion allowance to a wholesaler without Department of Consumer Protection (DCP) approval, required under prior law, provided they give written notice to DCP before offering the allowance.

The act also:

1. allows manufacturer permittees to sell beer they manufacture in the state and sell for consumption on their premises without having to register or label the beer (see BACKGROUND);
2. increases, from three to 10, the number of farmers' market locations at which a farmers' market wine sales permittee may sell wine, if invited; and
3. allows the sale, dispensing, or consumption of alcoholic liquor two hours earlier, starting at 9:00 a.m. instead of 11:00 a.m., at events operating under a nonprofit golf tournament permit (e.g., Travelers Championship).

EFFECTIVE DATE: Upon passage, except the beer registration and label exemption provision is effective July 1, 2017.

BACKGROUND*Floor Stock and Depletion Allowances*

Manufacturer and out-of-state shipper permittees for products other than beer may give floor stock and depletion allowances to wholesalers.

A "floor stock allowance" is a rebate, discount, or other inducement given to a wholesaler to promote sales of or destroy stock already in the wholesaler's possession. A "depletion allowance" is a rebate, discount, or other inducement given to a wholesaler as a sales promotion (CGS § 30-94(b)).

Federal Alcohol and Tobacco Tax and Trade Bureau (TTB)

The TTB, which regulates and collects taxes on alcohol, issued a 2013 ruling that, among other things, clarified that certificate of label approval (COLA) requirements do not require brewers to obtain a COLA if the beer will not be shipped or delivered for sale to another state. But beer that is removed from the premises must comply with applicable federal marking, branding, and labeling requirements (TTB Ruling 2013-1).

PA 17-109—HB 5077
General Law Committee

AN ACT CONCERNING THE RETURN OF PRESCRIPTION DRUGS TO PHARMACIES

SUMMARY: This act requires the Department of Consumer Protection (DCP) commissioner, by July 1, 2018, and with the advice and assistance of the Commission of Pharmacy, to adopt regulations allowing licensed pharmacies to accept and dispose of unused prescription drugs.

The act restricts the number of retail pharmacy locations that may collect the drugs to 50 during the first year and an additional 50 in each subsequent year. It also requires the regulations to:

1. comply with federal law on accepting and disposing of unused prescription drugs at pharmacies (see, e.g., 21 C.F.R. § 1300 et seq.);
2. establish a tracking and monitoring system and security requirements for the drugs;
3. specify permissible locations within pharmacies for accepting and storing the drugs; and
4. establish a process to ensure the drugs are securely removed and destroyed, including allowing for agreements with law enforcement.

The act requires the DCP commissioner to consult with the energy and environmental protection commissioner before establishing the removal and destruction process in regulations.

EFFECTIVE DATE: Upon passage

PA 17-131—sHB 7052
General Law Committee
Public Health Committee

AN ACT PREVENTING PRESCRIPTION OPIOID DIVERSION AND ABUSE

SUMMARY: This act makes various changes to prevent and treat opioid drug abuse. Principally, it:

1. allows the Department of Consumer Protection (DCP) commissioner to share certain prescription drug monitoring program information with other state agencies for certain drug abuse studies (§ 1);
2. generally requires prescriptions for controlled substances to be transmitted electronically to a pharmacy, which must have the technology to accept such prescriptions (§ 3);
3. limits access to controlled substances by (a) allowing certain registered nurses employed by home health care agencies to destroy or dispose of them, (b) creating a process for patients to ask that opioids not be prescribed, and (c) generally reducing the amount of opioid drugs a minor may be prescribed (§§ 2, 4, & 5);
4. requires practitioners, when prescribing opioids, to discuss with all patients, rather than only minors, the risks associated with opioid drug use (§ 5);
5. requires the Department of Public Health (DPH), by October 1, 2017, to state on its website how a prescribing practitioner may obtain certification to prescribe take-home medications to treat opioid use disorders (e.g., Suboxone) (§ 6);
6. requires the Alcohol and Drug Policy Council (ADPC) to take certain actions to address opioid drug abuse (§ 7);
7. requires certain individual and group health insurers to cover specified medically necessary, inpatient detoxification services for an insured or enrollee diagnosed with a substance use disorder (§§ 8 & 9);
8. requires alcohol or drug treatment facilities to use admissions criteria developed by the American Society of Addiction Medicine (§ 10);
9. extends the date by which municipalities must amend their local emergency medical services (EMS) plans to require at least one EMS provider likely to arrive first on the scene of a medical emergency to carry an opioid antagonist and complete a training on how to administer it (§ 11); and
10. allows a prescribing practitioner authorized to prescribe an opioid antagonist to issue a standing order (i.e., non-patient specific prescription) to a pharmacy for dispensing opioid antagonists under certain conditions (§ 12).

The act also makes technical and conforming changes. A section-by-section analysis follows.

EFFECTIVE DATE: July 1, 2017, except that the provisions on (1) insurance coverage for substance use disorder and electronic prescription requirements take effect January 1, 2018; (2) standing orders for opioid antagonists and non-opioid directive provisions take effect October 1, 2017; and (3) drug monitoring information sharing and drug disposal took effect June 30, 2017.

§ 1 — PRESCRIPTION DRUG MONITORING PROGRAM INFORMATION SHARING

The act allows the DCP commissioner to provide certain controlled substance prescription information obtained as part of the prescription drug monitoring program (e.g., pharmacy records and certain patient information) to other state agencies. The sharing must be through an agreement between the DCP commissioner and the agency head and the information must be obtained for a study of (1) disease prevention and control related to opioid abuse or (2) morbidity and mortality caused by controlled substance overdose. The information transfer must be done in accordance with all applicable state and federal confidentiality requirements (e.g., the 1996 Health Insurance Portability and Accountability Act).

By law, under the prescription drug monitoring program, DCP collects information on controlled substance prescriptions to prevent improper or illegal drug use or improper prescribing.

§ 2 — CONTROLLED SUBSTANCE DISPOSAL BY CERTAIN NURSES

The act allows a registered nurse employed by a home health care agency, with a patient's designated representative's permission, to oversee the destruction and disposal of the patient's controlled substances. The nurse must use the recommendations for proper disposal of prescription drugs on DCP's website (e.g., adding undesirable substances such as salt, sawdust, or used coffee grounds).

The nurse must maintain written or electronic documentation of such destruction and disposal on a DCP-prescribed form for three years. This documentation must be kept with the patient's medical record.

The act specifies that these provisions do not prevent the nurse and patient's designated representative from depositing the patient's controlled substances in a statutorily authorized prescription drop box.

§ 3 — ELECTRONIC PRESCRIPTIONS FOR CONTROLLED SUBSTANCES

The act, with various exceptions, requires prescriptions for controlled substances to be electronically transmitted. "Electronically transmit" means to transmit by computer modem or other similar electronic device. Prior law allowed prescribers to issue prescriptions for controlled substances in writing, orally, or by electronic transmission. For written prescriptions, under prior law and the act, only original prescriptions are considered valid. Oral prescriptions must, among other things, be promptly reduced to writing.

Under the act, prescribing practitioners of controlled substances, within the scope of their license, generally must electronically transmit controlled substance prescriptions to a pharmacy. The prescriber must promptly print a hard copy of the prescription or create it in an electronic record. Electronically transmitted prescriptions must be consistent with the requirements of the federal Controlled Substances Act (21 U.S.C. § 801). All records must be kept on the prescriber's premises for three years and maintained in a form that is readily available for inspection, at reasonable times, by the DCP commissioner, her authorized agent, or other authorized personnel.

Exceptions

Under the act, as further explained below, prescribing practitioners are not required to electronically transmit a prescription when:

1. there are temporary technological or electrical failures making electronic transmission unavailable;
2. the prescriber reasonably determines that it is impractical for the patient to obtain substances prescribed by an electronically transmitted prescription in a timely manner and the delay would adversely impact the patient's medical condition;
3. the prescription is to be dispensed by an out-of-state pharmacy;
4. the prescription needs special attention and electronic transmission could negatively impact patient care (e.g., compounding); or
5. the prescriber demonstrates that he or she does not have the technological capacity.

The act allows any prescription under any of these exceptions to be issued as a written order or, to the extent allowed by federal law, as an oral order or transmitted by fax. Any oral or faxed order must be promptly written on a prescription blank or hardcopy printout, or created as an electronic record and filed by the pharmacist filling the order. Under the act, as under prior law, duplicates, carbon or photographic copies, and printed or rubber-stamped orders are not valid prescriptions.

Temporary Technological or Electrical Failure. Under the act, a prescribing practitioner is not required to electronically transmit a prescription when electronic transmission is not available because of temporary technological or electrical failures. Instead, the prescriber must, without undue delay, reasonably attempt to correct any cause for the failure that is within his or her control. A prescriber who issues a prescription under this exception must document the reason for failing to electronically transmit the prescription in the patient's medical record as soon as practicable, and must do so within 72 hours after the end of the technological or electrical failure.

"Temporary technological or electrical failure" means a computer system, application, or device failure or the loss of electrical power or any other service interruption to such system, application, or device that reasonably prevents the prescriber from using his or her certified application to electronically transmit the prescription.

Delay that Adversely Impacts Patient's Health. The act does not require electronic prescriptions when the prescriber reasonably determines that it would be impractical for the patient to obtain the prescribed substances by an electronically transmitted prescription in a timely manner and that such delay would adversely impact the patient's medical condition. If it is a controlled substance, the quantity must not exceed a five-day supply. A prescriber who issues a prescription under this exception must document the reason in the patient's medical record.

Out-of-state Pharmacy. The act allows a prescribing practitioner to issue a prescription that is not electronically transmitted if the prescription will be dispensed by an out-of-state pharmacy. The prescriber who issues a prescription under this exception must document the reason in the patient's medical record.

Certain Prescriptions that Need Special Attention. Under the act, a practitioner is not required to electronically transmit a prescription when doing so may negatively impact patient care, such as a prescription:

1. containing two or more products that a pharmacist must compound;
2. for direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion;
3. that contains long or complicated directions;
4. that the federal Food and Drug Administration (FDA) requires include certain elements; or
5. that is orally communicated to a pharmacist for a patient in a chronic and convalescent nursing home.

Lack of Technological Capacity. Under the act, prescribing practitioners are not required to electronically transmit prescriptions when they demonstrate, in a DCP-prescribed form and manner, that they do not have the technological capacity to do so.

"Technological capacity" means possessing a computer system, hardware, or device that can be used to electronically transmit controlled substance prescriptions consistent with the federal Controlled Substances Act.

Pharmacy Technology

The act requires pharmacies to accept a prescribing practitioner's electronically transmitted controlled substances prescription. All records must be kept on the pharmacy's premises and maintained separately from other business records in a form readily available for inspection, at reasonable times, by the DCP commissioner, her authorized agent, or other authorized personnel. The records must be kept on file for three years and may be stored electronically, provided they are maintained in the pharmacy's computer system for at least three years. If the electronically transmitted prescription is printed, it must be filed in the same way as pharmacies file filled controlled substance prescriptions, which is separately from other prescriptions.

§ 4 — VOLUNTARY NON-OPIOID DIRECTIVE FORM

The act requires DPH, in consultation with DCP and the Department of Mental Health and Addiction Services (DMHAS), to establish a voluntary non-opioid directive form and publish it on the DPH website for public use.

A "voluntary non-opioid directive form" means a form voluntarily filed by a patient with a prescribing practitioner that indicates the patient asks to not be issued a prescription or medication order for an opioid drug.

Under the act, anyone who does not wish to be issued a prescription or medication order for an opioid drug may file such a form with a prescribing practitioner. Upon receiving the form, the practitioner must document it in the patient's medical record.

Revocation

The form must allow a patient to appoint a duly authorized guardian or health care proxy to override a previously recorded voluntary non-opioid directive form. The patient, guardian, or health care proxy may revoke the directive orally or in writing at any time and for any reason.

Presumption of Valid Prescription

An electronically transmitted prescription to a pharmacy is presumed to be valid for the purposes of complying with these provisions. A pharmacist must not be held in violation of these provisions for dispensing a controlled substance contrary to a voluntary non-opioid directive form.

Immunity from Liability

The act immunizes prescribing practitioners acting with reasonable care from damages in a civil action for refusing to issue a prescription or medication order for an opioid pursuant to a voluntary non-opioid directive form. They also cannot be subject to criminal prosecution or be deemed to have violated their professional standard of care on the basis of such a refusal.

Under the act, no one acting in good faith as a duly authorized guardian or health care proxy may be held liable for civil damages or subject to criminal prosecution for revoking or overriding a voluntary non-opioid directive form.

The act also immunizes emergency departments' prescribing practitioners acting with reasonable care as either a patient's practitioner or the medical control officer for emergency medical services personnel. They are immunized from liability for civil damages, criminal prosecution, or being deemed to have violated the standard of care for issuing a prescription or administering a controlled substance with an opioid to a person who has a voluntary non-opioid directive form if in the professional's medical judgment an opioid was necessary and he or she had no knowledge of the form at the time of issuance or administration.

Disciplinary Action

Under the act, a prescribing practitioner who willfully fails to comply with a patient's voluntary non-opioid directive form may be subject to DPH disciplinary action.

By law, DPH can take the following actions, among others:

1. suspend or revoke the person's DPH license or permit,
2. issue a letter of reprimand to or censure the person,
3. place him or her on probation, or
4. impose a civil penalty of up to \$25,000 (CGS § 19a-17).

§ 5 — OPIOID DRUG PRESCRIPTIONS

Prescription Supply for Minors

The act generally reduces, from a seven-day supply to a five-day supply, the maximum amount of an opioid drug a practitioner may prescribe to a minor (i.e., under age 18).

As under existing law, practitioners may prescribe a larger supply of opioid drugs to a minor if, in their professional judgment, the drug is required (1) for palliative care or (2) to treat the person's acute medical condition, chronic pain, or cancer-associated pain.

Discussion of Opioid Addiction Risk

Existing law requires a prescribing practitioner, when issuing an opioid prescription, to discuss with minor patients along with their custodial parent, guardian, or legal custodian, if present, the risks associated with opioid drug use. The act additionally requires prescribers to have such discussions with adult patients. As under existing law, the act requires the practitioner to discuss:

1. the associated risks of addiction and overdose;
2. the dangers of taking opioid drugs with alcohol, benzodiazepines, and other central nervous system depressants; and
3. why the prescription is necessary.

§ 6 — CERTIFICATION TO PRESCRIBE AT-HOME OPIOID USE DISORDER TREATMENTS

By October 1, 2017, the act requires DPH to post information on its website about the ability of a prescribing practitioner to obtain certification to prescribe at-home medication to treat opioid use disorder (e.g., Suboxone). (The act

does not specify the type of certification or the certifying organization.) This information must include a list of educational requirements, available courses, and any waivers from these requirements.

§ 7 — ALCOHOL AND DRUG POLICY COUNCIL (ADPC)

By law, the ADPC is charged with (1) reviewing state policies on substance abuse treatment programs and criminal sanctions and programs and (2) developing and coordinating a statewide plan for these matters.

Opioid Fact Sheet

By October 1, 2017, the act requires the ADPC to develop a one-page fact sheet on opioid drugs that must:

1. be written in clear and readily understandable language and in at least 12-point font,
2. include the risks of taking an opioid drug and the symptoms of opioid use disorders, and
3. include services available in Connecticut for people experiencing these symptoms or who are otherwise affected by an opioid use disorder.

The council must make the fact sheet available on the DMHAS website for health care providers and pharmacists to use and encourage them to disseminate it to anyone the (1) provider treats for opioid use disorder symptoms, (2) provider issues a prescription for or administers an opioid drug or opioid antagonist, or (3) pharmacist dispenses an opioid drug or issues a prescription for or dispenses an opioid antagonist.

Feasibility Study

The act requires the ADPC to examine the feasibility of (1) developing a marketing campaign and making monthly public services announcements (PSAs) on opioid drugs and (2) establishing an electronic portal on the availability of substance use disorder treatment beds in Connecticut facilities. The council must report the results of the study to the Public Health Committee by January 1, 2019.

Marketing Campaign and PSAs. The council must examine the feasibility of developing a marketing campaign and making monthly PSAs on appropriate state agencies' websites and social media accounts and any radio and television stations broadcasting to Connecticut residents on:

1. the risks of taking opioid drugs and symptoms of opioid use disorder,
2. the availability of opioid antagonists in the state, and
3. services in Connecticut for people with or affected by opioid use disorder.

Electronic Information Portal. The council must also examine the feasibility of establishing an electronic information portal (i.e., Internet website or application) to serve as a single point of entry for information on the availability of:

1. beds at a Connecticut facility for people needing medical treatment for (a) detoxification for potentially life-threatening symptoms of alcohol or drug withdrawal and (b) rehabilitation or treatment for alcohol or drug dependency or intoxication and
2. slots for outpatient treatment using opioid medication, including methadone and buprenorphine, to treat opioid use disorder.

The examination must also include the portal's ability to be publicly accessible and provide real-time data on the availability of these beds and slots, including their types and location and wait times, if available.

Working Group on Safe Disposal of Opioid Drugs

The act requires the ADPC to convene a working group to advise the council on any legislative or policy changes to enable first responders or health care providers to safely dispose of a person's opioid drugs on the person's death. The council must report to the Public Health Committee on the working group's recommendations by February 1, 2018.

Working Group on Substance Abuse Treatment Referral Programs

The act requires the ADPC to convene a working group to study municipal police departments' substance abuse treatment referral programs. These programs refer people with an opioid use disorder or who are seeking recovery from drug addiction to treatment facilities. The study must identify any barriers these programs face as well as the feasibility of implementing such programs statewide. The council must report on the working group's findings to the Public Health and Public Safety and Security committees by February 1, 2018.

§§ 8 & 9 — INSURANCE COVERAGE FOR SUBSTANCE USE DISORDER

The act requires certain individual and group health insurance policies to cover medically necessary (1) medically monitored inpatient detoxification services and (2) medically managed intensive inpatient detoxification services for insureds or enrollees who have been diagnosed with a substance use disorder.

Under the act, “medically monitored inpatient detoxification” and “medically managed intensive inpatient detoxification” are defined in the same way as in the most recent edition of the American Society of Addiction Medicine Treatment Criteria for Addictive, Substance-Related and Co-Occurring Conditions.

The act applies to individual and group health insurance policies delivered, issued, renewed, amended, or continued in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; or (4) hospital or medical services, including those provided under an HMO plan. Because of the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

§ 10 — SUBSTANCE ABUSE TREATMENT FACILITY ADMISSIONS

The act requires an alcohol or drug treatment facility to use admissions criteria developed by the American Society of Addiction Medicine to assess whether to admit a person to the facility based on the services the facility is licensed to provide and the appropriate services required to treat the person.

§ 11 — LOCAL EMS PLANS

Under existing law, local EMS plans must require that EMS providers carry an opioid antagonist and complete a DPH-approved training on how to administer it if they are likely to arrive first on the scene of a medical emergency. The act clarifies that at least one EMS provider who is likely to arrive first on the scene, not all such providers, must carry an opioid antagonist and complete the training.

Under the act, “EMS provider” means a person, association, or organization that provides immediate or life-saving transportation and medical care away from a hospital to a victim of sudden illness or injury, and who may also provide invalid coach services. Providers include EMS personnel (e.g., paramedics, emergency medical technicians, and advanced emergency medical technicians) and resident state troopers.

Prior law required each municipality to amend its local EMS plan to include this requirement by October 1, 2016. The act extends the deadline to October 1, 2017.

§ 12 — STANDING ORDERS FOR OPIOID ANTAGONISTS

The act allows a prescribing practitioner authorized to prescribe an opioid antagonist (such as Narcan) to issue a standing order (i.e., non-patient specific prescription) to a pharmacy allowing licensed pharmacists to dispense an opioid antagonist that is:

1. administered nasally or by auto-injection;
2. approved by the FDA; and
3. dispensed by the pharmacist to a (a) person at risk of an opioid drug overdose or (b) family member, friend, or other person who may assist a person at risk of such an overdose.

Under the act, a pharmacist may dispense an opioid antagonist under a standing order only if he or she completes a DCP-approved training and certification program. Additionally, when dispensing the opioid antagonist, the pharmacist must train the person to administer it and keep a record of the dispensing and training under the law’s recordkeeping requirements. (Existing law already requires this for pharmacists trained by DCP to prescribe opioid antagonists, see BACKGROUND.) The pharmacist must also send a copy of the dispensing record to the prescribing practitioner who entered into the standing order agreement with the pharmacy. Additionally, the act requires the pharmacy to provide DCP with a copy of each standing order it enters into with a prescribing practitioner. Under the act, a prescribing practitioner who issues a standing order for an opioid antagonist is considered to have done so for a legitimate medical purpose in the usual course of his or her professional practice. And a pharmacist who accepts the standing order and dispenses the opioid antagonist is deemed not to have violated his or her professional standard of care. The act also authorizes the DCP commissioner to adopt regulations to implement its standing order provisions.

BACKGROUND

Controlled Substances

Controlled substances are drugs whose use and distribution are monitored because of their abuse potential or risk. Controlled substances are categorized in order of their abuse risk and placed into schedules. Drugs with the highest abuse potential, no medical use, and not prescribable are placed in Schedule I and those with the lowest abuse potential are placed in Schedule V.

Opioid Antagonist

By law, an opioid antagonist is naloxone hydrochloride (e.g., Narcan) or any other similarly acting and equally safe drug approved by the FDA to treat an opioid drug overdose (CGS § 17a-714a).

Prescriptive Authority for Pharmacists

By law, pharmacists may prescribe opioid antagonists if they do the following:

1. complete a DCP-approved training and certification program,
2. act in good faith,
3. train the recipient of the opioid antagonist to administer it,
4. maintain a record of the dispensing and training under the law's recordkeeping requirements, and
5. refrain from delegating or directing another person to prescribe the medication or provide the training to the recipient (CGS § 20-633c).

PA 17-153—sSB 821 (VETOED)

General Law Committee

Appropriations Committee

AN ACT CONCERNING ROOFING, WINDOW AND SIDING CONSUMER WARRANTIES AND POST-SALE WARRANTY WORK REIMBURSEMENT FOR POWER EQUIPMENT DEALERS

SUMMARY: This act sets certain payment conditions and time frames for warranties on residential roofing, windows, and siding. It also specifies that the warranty claims for farm, forestry, yard, and garden equipment include parts and hourly labor rates and prohibits suppliers from denying a warranty claim based on certain minor errors.

EFFECTIVE DATE: January 1, 2018

ROOFING, WINDOW, AND SIDING CONSUMER WARRANTY

The act requires manufacturers of residential roofing, window, or siding material who offer a consumer warranty for such material to pay any claim made for material and labor under the warranty within 30 days after they receive and approve the claim.

The manufacturer must approve or disapprove a claim within 30 days after receiving it. If a claim is not disapproved in writing by the 30th day after receipt, it is deemed to be approved and the manufacturer must pay it within the next 30 days.

Under the act, a manufacturer that pays under such a consumer warranty must pay the consumer the full price for any material and the hourly labor rate the consumer was charged, provided the (1) consumer provides the price and rate in writing and (2) total amount payable is no more than the amount the consumer paid for the original purchase and installation.

FARM, FORESTRY, YARD, AND GARDEN EQUIPMENT WARRANTY

By law, for farm, forestry, yard, and garden equipment warranties under a dealer agreement with a supplier, the supplier must pay any warranty claim made for parts and services within 30 days after it receives and approves the claim. The act specifies that the supplier must pay the dealer the full retail price for any parts and the hourly labor rate the dealer charges consumers for non-warranty repair work.

The act prohibits a supplier from denying a warranty or charging back a claim following a timely audit based solely on the dealer's failure to comply with a claim processing procedure, clerical error, or other administrative technicality as long as the failure does not call into question the claim's legitimacy. The supplier must allow the dealer to resubmit a denied claim based on reasonable supplier guidelines within 30 days after the initial claim denial or charge-back.

PA 17-160—HB 5928

General Law Committee

AN ACT ESTABLISHING A MANUFACTURER PERMIT FOR FARM BREWERIES

SUMMARY: This act establishes a farm brewery manufacturer permit, which allows Connecticut farms to manufacture, store, bottle, wholesale distribute, and sell beer manufactured on their property. A permittee may annually produce up to 75,000 gallons of beer.

The act requires farm brewery manufacturer permittees to use a certain amount of hops, barley, or other fermentables grown or malted in the state. After fulfilling these requirements, permittees may then advertise and sell their product as "Connecticut Craft Beer." The act also (1) sets the annual fee for a farm brewery manufacturer permit at \$300 and (2) prohibits permittees from selling or dispensing alcohol during certain times or on certain holidays.

Under the act, a farm brewery manufacturer permit allows for the offering and tasting of free beer samples and retail sales for both on- and off-premises consumption, although a town may prohibit the activities by ordinance or zoning regulation. Such permittees may also sell their beer at farmers' markets if they obtain a farmers' market beer sales permit.

And the act increases, from five to seven liters, the amount a farmers' market beer sales permittee may sell to a person per day at a farmers' market.

EFFECTIVE DATE: Upon passage

SCOPE OF A FARM BREWERY MANUFACTURER PERMIT

The act allows a farm brewery manufacturer permittee, from his or her single principal premises, to:

1. sell sealed bottles or other sealed containers of beer brewed on the premises to a wholesaler permittee;
2. offer free samples of beer manufactured by the permittee from bottles or other sealed containers to visitors and prospective retail customers for on-premises consumption, unless prohibited by municipal ordinance or zoning regulations;
3. sell, at retail, from the premises up to nine liters of beer per person per day in sealed bottles or other sealed containers for off-premises consumption (see BACKGROUND, *Off-premises Consumption Hours*); and
4. sell, at retail, beer by the glass and bottle to visitors for on-premises consumption.

The act also requires permittees to offer either (1) free potable water to anyone who requests it or (2) nonalcoholic beverages for sale.

CONNECTICUT CONTENT REQUIREMENT

The act requires permittees to use a certain amount of hops, barley, or other fermentables grown or malted in the state when manufacturing their beer. In the first year a permit is issued, a permittee must use at least 25% of a combination of hops, barley, cereal grains, honey, flowers, or other fermentables grown or malted within the state. The permittee must increase this amount to at least 50% in subsequent years. Any such beer may be advertised and sold by the farm brewery as "Connecticut Craft Beer."

FARMERS' MARKET SALES

The act allows a farm brewery permittee to sell the beer he or she manufactures at a farmers' market run by a nonprofit organization. To do so, the farmers' market must invite the permittee to sell the beer there and the permittee must obtain a farmers' market beer sales permit from the Department of Consumer Protection.

The act also increases, from five to seven liters, the quantity of beer a permittee may sell to a person per day at a farmers' market.

By law, a farmers' market beer sales permit allows permittees to make an unlimited number of appearances at a farmers' market, at up to three farmers' market locations each year. They may only sell sealed bottles for off-premises consumption. The nonrefundable filing fee for this permit is \$100, and the annual permit fee is \$250.

HOLDING TWO ALCOHOL PERMITS

By law, alcohol permittees are generally prohibited from holding alcohol permits in different permit classes, unless specifically exempted. The act allows a farm brewery manufacturer permittee to also hold a farmers' market beer sales permit.

BACKGROUND

Off-premises Consumption Hours

Off-premises sale and dispensing of alcohol are generally allowed only on Monday through Saturday, from 8:00 a.m. to 10:00 p.m., and Sundays, from 10:00 a.m. to 6:00 p.m. Permittees cannot sell or dispense alcohol on Thanksgiving Day, New Year's Day, or Christmas Day (CGS § 30-91(d)).

Related Act

PA 17-232 establishes a farm distillery manufacturer permit, which allows Connecticut farms to manufacture, store, bottle, wholesale distribute, and sell distilled alcohol or spirits they produce on their property, including whiskey, gin, vodka, and rum.

PA 17-182—sHB 7073

General Law Committee

AN ACT CONCERNING REMEDIES IN LAWSUITS AGAINST PROPERTY OWNERS BY SUBCONTRACTORS AND THE RELEASE OF RETAINAGE WITHHELD IN PRIVATE CONSTRUCTION CONTRACTS

SUMMARY: This act modifies the way in which contractors, subcontractors, and suppliers receive payment for work done under private construction contracts. By law, private-sector construction contracts must contain certain payment schedule provisions and may allow for withholding by the owner of up to 5% of the estimated amount of progress payments made for the life of the construction project (i.e., "retainage").

The act (1) requires that the contracts' payment provisions concerning subcontractors or suppliers apply to those who have a direct contractual relationship with the contractor, instead of with the owner; (2) restricts the amount due under certain claims to the amount owed to the contractor by the owner; and (3) expands the circumstances under which an owner, contractor, subcontractor, or supplier against whom a claim is made may refuse to place funds in escrow. It also establishes a 30-day deadline by which owners must pay retainage.

By law, a "construction contract" generally covers a contractual relationship between (1) an owner and contractor, (2) a contractor and subcontractor, or (3) a subcontractor and any other subcontractor (CGS § 42-158i(2)).

EFFECTIVE DATE: July 1, 2017 for the retainage provision; October 1, 2017 for the payment schedule and escrow provisions.

PAYMENT SCHEDULE AND CLAIMS

By law, each construction contract must include a provision requiring that owners pay amounts due to contractors, subcontractors, or suppliers for labor and materials within 30 days after receiving a written payment request. Under prior law, this provision applied to contractors, subcontractors, and suppliers in a direct contractual relationship with the owner. The act maintains this provision for contractors, but it applies the subcontractor and supplier provisions to those subcontractors or suppliers in a direct contractual relationship with the contractor.

If an owner fails to make a payment by the deadline, existing law allows a contractor, subcontractor, or supplier to pursue a claim against the owner for the amount due by sending notice by registered or certified mail. The act limits the payments from the owner in these circumstances to the amount owed to the contractor for work performed under the contract as of the date of the notice.

ESCROW

The act expands the circumstances under which an owner, contractor, subcontractor, or supplier against whom a nonpayment claim is made may refuse a request to place certain funds in escrow.

Existing law contains payment schedule provisions for amounts due under a nonpayment claim from (1) owners to contractors, (2) contractors to subcontractors and suppliers, and (3) subcontractors and suppliers to other subcontractors and suppliers. The party owing the debt, beginning 10 days after receiving a notice of claim, is liable for 1% interest per month on the amount as of the date of the notice. And, if requested, such party must place the amount due, plus the accruing 1% interest, in an interest-bearing escrow account.

The act allows such party to refuse the request to place the funds in escrow when the demanded funds are not due under the owner's contract with the contractor. Existing law also allows a refusal when the party making the demand has not substantially performed the work or supplied materials according to the contract's terms. However, such a party may be liable for the amount due, interest, and reasonable attorney's fees if the party is found to have unreasonably withheld payment.

RETAINAGE

The act requires owners to pay retainage no later than 30 days after the (1) owner or his or her authorized representative issues a certificate of final completion or (2) owner issues an equivalent written acceptance of the construction project work. The act subjects violators to existing law's enforcement provision for other retainage requirements. Specifically, it authorizes courts to award court costs and reasonable attorney's fees in any action to enforce the deadline (CGS § 42-158r).

By law, "retainage" is the amount withheld from progress payments conditioned on substantial or final completion of all work in accordance with a construction contract, but not amounts withheld for failing to comply with construction plans and specifications.

PA 17-231—HB 7070

General Law Committee

AN ACT CONCERNING MUNICIPALITIES AND BINGO GAMES, BAZAARS AND RAFFLES

SUMMARY: This act generally transfers the Department of Consumer Protection's (DCP) charitable gaming (e.g., bingo, bazaars, and raffles) investigation, oversight, and permitting functions to the municipality where the games are conducted. But DCP retains the (1) permitting and sales functions for sealed tickets and (2) regulatory authority over bingo product manufacturers and equipment dealers and raffle equipment dealers.

In transferring these powers, the act (1) allows the municipalities to set the permit fees, but caps the amount, and (2) eliminates the administrative hearing process for violations involving these games. It instead allows anyone aggrieved by an order to appeal to Superior Court.

Under prior law, DCP and the municipality shared certain regulatory oversight and permitting powers and permit fees for bazaars or raffles. Under the act, the municipality only needs to investigate the bazaar or raffle applicant's qualifications if the total aggregate prize exceeds \$7,500.

The act also makes minor, technical, and conforming changes.
EFFECTIVE DATE: January 1, 2018

CHARITABLE GAMING

The act generally transfers DCP's charitable gaming investigation, oversight, and permitting functions to the municipality where the games are conducted. The act eliminates the requirement that DCP adopt regulations on various matters related to charitable gaming.

In transferring DCP's functions to the municipality, the act specifies that the commissioner's responsibilities are given to the municipal official in the municipality where the games occur. A municipal official is the municipality's chief of police or, if there is no police department, the chief executive officer.

Elimination of Charitable Gaming Administrative Hearings (§§ 1(j) & 12)

The act eliminates the gaming administrative hearing process and instead allows anyone aggrieved by an order to appeal to the Superior Court where the municipality is located.

Prior law required the DCP commissioner, after an investigation, to send notice to the suspected violator of charitable gaming laws or regulations. The hearing had to occur at least (1) 30 days after the notice was mailed for bingo violations and (2) 14 days after the notice was mailed for bazaar or raffle violations. The commissioner had to conduct the hearing and appeal in accordance with the Uniform Administrative Procedure Act.

Gaming Law Violations or False Statement Penalties (§§ 1(j) & 12)

Prior law allowed the DCP commissioner to suspend or revoke a permit or impose a civil penalty of up to \$200 for violations of the charitable gaming laws or false statements made on any charitable gaming permit application or on any report the commissioner required. The act (1) transfers to the municipal official the authority to suspend and revoke a permit but not the authority to impose civil penalties and (2) allows the official to issue cease and desist orders for such violations or false statements.

BINGO

Inspection (§ 1(g))

The act eliminates the requirement that receipt and disbursement information the DCP commissioner acquires from a bingo operator's records be available to the emergency services and public protection commissioner upon her request.

Revenue (§ 1(i))

Under prior law, anyone who conducted bingo games had to pay DCP 5% of the gross receipts, minus the prizes awarded. The commissioner would then pay the municipality 0.25% of the total money wagered, less prizes awarded. Under the act, the municipality receives the entire 5%.

Registration and Permit Fees (§§ 1(f) & 5)

By law, organizations seeking to conduct bingo games generally must obtain a permit. Under certain conditions, parent teacher associations or organizations (PTOs) and senior organizations are exempt from the permit requirement, but must still register with DCP.

Under prior law, PTOs that wanted to conduct bingo games had to pay DCP an \$80 registration fee, while qualified organizations subject to the permit requirement had to pay DCP the corresponding permit fee depending on the permit class. The act instead allows the municipality to charge up to (1) \$75 for the PTO registration fee and (2) a certain amount for each permit for qualified organizations. Table 1 shows prior law's bingo fees and the amount the municipality may charge qualified organizations under the act.

Table 1: Bingo Permit Fees for Qualified Organizations

	<i>Prior Law</i>	<i>Under the Act</i>
Type	Permit Fees	Municipality may charge up to:
Class A	\$75	\$75
Class B	5 per day	10 per day
Class C	50	50

BAZAARS OR RAFFLES*Application Form (§ 7)*

Prior law required any organization applying to operate a bazaar or raffle to apply to DCP on a form that included, among other things, the (1) applicant's name and address, (2) types of games intended to be held, (3) place where the games would be held, (4) types of prizes offered, and (5) purpose of the bazaar or raffle. The act eliminates these requirements and instead requires the municipal official to prescribe the application form, which must include a description of the bazaar or raffle.

Class 7 Permits and Investigation of Qualifications (§ 8)

Under prior law, DCP solely issued permits and investigated the qualifications associated with class 7 permits. The act transfers the authority and fees associated with the class 7 permit from DCP to municipalities. For all permit classes, it requires the municipality to investigate the applicant's qualifications only if the total aggregate prize exceeds \$7,500.

Permit Fees (§ 9)

Table 2 shows (1) prior law's bazaar or raffle permit fees, including the amount that went to the state and municipality and (2) the maximum amount a municipality may charge for a permit under the act.

Table 2: Bazaar or Raffle Permit Fees

	<i>Prior Law</i>	<i>Under the Act</i>
Type	Permit Fees	Municipality may charge up to:
Class 1	\$25 to state 25 to municipality	\$75
Class 2	10 to state 10 to municipality	30
Class 3	10 per day to state 10 per day to municipality	60 per day
Class 4	5 to municipality Nothing to state	15
Class 5	40 to state 40 to municipality	120
Class 6	50 to state 50 to municipality	150
Class 7	100 to state Nothing to municipality	300

PA 17-232—HB 7072
General Law Committee

AN ACT ESTABLISHING A FARM DISTILLERY MANUFACTURER PERMIT

SUMMARY: This act establishes a farm distillery manufacturer permit, which allows Connecticut farms to manufacture, store, bottle, wholesale distribute, and sell distilled alcohol or spirits they produce on their property, including whiskey, gin, vodka, and rum. It sets the annual permit fee at \$300.

Under the act, permittees may produce up to 10,000 gallons of alcohol or spirits annually. They must grow at least 25% of the fruit or crops used to make them, and may not sell any other distilled alcohol or spirits they did not manufacture. And the act allows permittees to offer free samples and tastings and retail sales for off-premises consumption, unless the towns in which they are located prohibit such activities by ordinance or zoning regulation.

EFFECTIVE DATE: October 1, 2017

SCOPE OF A FARM DISTILLERY MANUFACTURER PERMIT

The act authorizes the farm distillery manufacturer permittee, from the single, principal premises of the farm where the spirits or alcohol are made, to do the following:

1. sell the alcohol or spirits in bulk;
2. sell and ship the alcohol or spirits to a retailer in original sealed containers of up to 15 gallons each;
3. offer free samples and tastings, for on-premises consumption, to visitors and prospective retail customers of up to two ounces per person per day; and
4. sell, at retail, up to four and one-half liters of the alcohol or spirits per person per day, in sealed bottles or other sealed containers for off-premises consumption.

Existing law generally allows off-premises sale and dispensing of alcohol only on Monday through Saturday, from 8:00 a.m. to 10:00 p.m., and Sundays, from 10:00 a.m. to 6:00 p.m. Permittees cannot sell or dispense alcohol on Thanksgiving Day, New Year's Day, or Christmas Day (CGS § 30-91(d)).

FRUIT, CROP, AND ACREAGE REQUIREMENTS

The act requires the permittee to grow an average crop of fruit or crops equal to at least 25% of those used to make the alcohol or spirits. These crops must be grown (1) on the permittee's farm, (2) on property under his or her ownership and control or leased by the backer of the farm distillery, or (3) by the permittee in the farm distillery's principal state (i.e., Connecticut). Under the act, an "average crop" is the average yield of the permittee's two largest annual crops in the preceding five years.

If the farm distillery consists of more than one property, its total acreage must be at least five acres.

BACKGROUND

Related Act

PA 17-160 establishes a farm brewery manufacturer permit, which allows Connecticut farms to manufacture, store, bottle, wholesale distribute, and sell beer manufactured on their property.

RA 17-1—HJ 100

Government Administration and Elections Committee

**RESOLUTION APPROVING A STATE CONSTITUTIONAL AMENDMENT TO PROTECT
TRANSPORTATION FUNDS**

SUMMARY: This resolution does the following:

1. maintains the Special Transportation Fund (STF) as a perpetual fund and prohibits the legislature from enacting any law authorizing the spending of STF funds for any purpose other than transportation;
2. requires the legislature to use the STF solely for transportation purposes, which includes paying debt service on state obligations incurred for such purposes; and
3. requires sources of funding, money, and receipts that must be legally credited, deposited, or transferred to the STF on or after the amendment's effective date to be credited, deposited, or transferred to the STF as long as state law authorizes the state, or any of its officers, to collect or receive these sources.

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 ensure (1) that all moneys contained in the Special Transportation Fund be used solely for transportation purposes, including the payment of debts of the state incurred for transportation purposes, and (2) that sources of funds deposited in the Special Transportation Fund be deposited in said fund so long as such sources are authorized by statute to be collected or received by the state?

EFFECTIVE DATE: The resolution will appear on the 2018 general election ballot. If a majority of those voting in that election approves the amendment, it will become part of the state constitution.

BACKGROUND

Related Resolution

The resolution is identical to a resolution the legislature passed in 2015 (RA 15-1, December Special Session). That resolution passed by a majority vote but did not receive the three-fourths vote of each chamber necessary to place it on the 2016 general election ballot.

STF

By law, the STF pays for state highway and public transportation projects. It is supported by a number of revenue streams, including the motor fuels tax; motor carrier road tax; petroleum products gross earnings tax; certain motor vehicle receipts and license, permit, and fee revenue (e.g., driver's license fees); the sales tax on private motor vehicle sales; motor vehicle-related fines and penalties; and a portion of state sales tax revenue (CGS §§ 13b-61, -61a, -61b, and 12-408(1)(L)).

By law, money in the fund must be used first for debt service on special tax obligation bonds and to pay for certain transportation projects. Remaining funds must be used to pay for (1) general obligation bonds issued for transportation projects, (2) budget appropriations for the departments of Transportation and Motor Vehicles, (3) Department of Energy and Environmental Protection boating regulation and enforcement, and (4) the Department of Social Services' transportation for employment independence program (CGS § 13b-69).

Statutory "Lockbox"

By law, the use of STF funds is restricted to transportation purposes. The legislature is prohibited from enacting any law authorizing the use of the funds for any purpose other than transportation (CGS § 13b-68(b)). But under the principle of "legislative entrenchment," it is unclear whether these statutory provisions are enforceable with regard to future legislatures.

Legislative entrenchment refers to one legislature statutorily restricting a future legislature's ability to enact legislation. The Connecticut Supreme Court has held that one such provision, a statute prohibiting general legislation from being included in an appropriations bill, was unenforceable. According to the court, "to hold otherwise would be to hold that one General Assembly could effectively control the enactment of legislation by a subsequent General Assembly. This is obviously not true, except where vested rights, protected by the constitution, have accrued under the earlier act" (*Patterson v. Dempsey*, 152 Conn. 431 (1965)).

PA 17-60—sSB 1030

Government Administration and Elections Committee

AN ACT CONCERNING STATUTORY REFERENCES TO THE LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

SUMMARY: This act repeals the following:

1. a requirement that, every 10 years, legislative committees of cognizance conduct sunset reviews of certain boards and commissions under their jurisdiction and
2. obsolete statutory references to the Legislative Program Review and Investigations (PRI) Committee, including (a) statutes on the committee's composition, powers, and duties and (b) requirements that the committee receive copies of certain reports. (The committee's funding was eliminated in the FY 17 budget.)

Additionally, the act requires that the Office of Policy and Management submit to the Auditors of Public Accounts, rather than PRI, a report on its efforts to maximize federal and other alternative revenues. It also suspends, until January 15, 2018, a requirement that the Committee on Children produce and publicly release an annual report card that evaluates state policies and programs affecting children.

The act also makes several technical and conforming changes.

EFFECTIVE DATE: July 1, 2017

PA 17-86—SB 983

Government Administration and Elections Committee

AN ACT CONCERNING APPEALS UNDER THE FREEDOM OF INFORMATION ACT INVOLVING NOTICE OF MEETINGS

SUMMARY: The Freedom of Information Act generally allows someone to file a complaint with the Freedom of Information Commission within 30 days after being denied the right to attend a public agency meeting. Under prior law, a person who alleged that a public agency held an unnoticed or secret meeting could file a complaint within 30 days after receiving "notice in fact" that a meeting was held. This act changes the deadline to 30 days after receiving "actual or constructive notice" of the meeting.

In a 2017 decision, the Connecticut Superior Court ruled that "notice in fact" means "actual notice to the person filing the appeal." It rejected the commission's argument that "notice in fact" includes both actual notice and "implied notice" (*Lowthert v. Freedom of Information Commission*, No. HHB-CV15-6030425-S (Conn. Super. Ct., January 17, 2017)).

EFFECTIVE DATE: October 1, 2017

PA 17-143—HB 7164

Government Administration and Elections Committee

AN ACT CONCERNING CERTAIN CERTIFICATIONS OF ENDORSEMENT OR NOMINATION AND CLARIFYING RESIDENCY REQUIREMENTS FOR CERTAIN STATE OFFICE CANDIDATES

SUMMARY: This act modifies election law certification procedures for endorsements, candidacies, and nominations by:

1. requiring that nomination certificates for single-town district legislative candidates in a vacancy election be filed with the secretary of the state, rather than with the town clerk;
2. deeming certain nominations and candidacies for nomination invalid if the applicable certificates are not filed with the secretary of the state by the statutory deadline; and
3. reducing, from two to one, the number of party officials who must sign certain certificates.

The act also eliminates the requirement that endorsed candidates for town committee member sign the endorsement certificate that, by law, parties must file with the town clerk (see BACKGROUND). It retains the signature requirement for candidates who receive their party's endorsement for statewide, legislative, or other municipal offices (§ 1).

Lastly, the act makes technical changes, including removing an erroneous reference to residency requirements for candidates for legislative office elected at a municipal election.

EFFECTIVE DATE: Upon passage

§§ 2 & 3 — VACANCY ELECTIONS

The act requires political parties to certify and file nominations with the secretary of the state, rather than with the applicable town clerk, for single-town district legislative candidates in a special election to fill a vacancy. Parties must already file these certificates with the secretary for multi-town district legislative candidates in vacancy elections.

The act requires the secretary of the state to mail the list of candidates to the applicable town clerk at least 34 days before a special election to fill such a vacancy. Prior law required the town clerk to mail the list to the secretary 32 days beforehand.

§§ 2 & 4 — INVALID CERTIFICATES

Under existing law, major party endorsements and minor party nominations are deemed invalid if the applicable certificates are not timely filed (CGS §§ 9-388, -391, and -452). The act similarly deems the following invalid if the applicable certificates are not filed with the secretary of the state by the statutory deadline:

1. nominations for legislative candidates in a special election to fill a vacancy for member or member-elect of the General Assembly and
2. candidacies for nomination, in a statewide or district office primary, for candidates who receive at least 15% of the delegate vote on a roll-call vote at the party convention.

By law, nomination certificates for legislative candidates to fill a vacancy must be submitted to the secretary of the state by the 36th day before the election. Certificates of candidacy for nomination for candidates who receive at least 15% of the delegate vote must be submitted to her no later than 4:00 pm on the 14th day after the party's convention. Candidates for district office include those running for representative in Congress.

§§ 1, 2, 5 & 6 — SIGNATURE REQUIREMENTS

The act eliminates a requirement that both the chairperson or presiding officer and the secretary of the endorsing town committee, caucus, or convention, whichever applies, sign certain certificates, thus conforming to existing requirements for other offices. Under the act, only one party official must certify the following:

1. selections for delegates to a state or district convention,
2. nominations for candidates to fill a vacancy for member or member-elect of the General Assembly, and
3. endorsements for candidates to fill a vacancy for judge of probate or either chamber of Congress.

BACKGROUND

Endorsements for Town Committee Member

By law, party endorsements of candidates for town committee member must be made between the 56th and 49th day before the primary. Parties must file the certified endorsements by the 48th day before the primary, which is held on the first Tuesday in March in even-numbered years (CGS § 9-425).

PA 17-149—SB 635*Government Administration and Elections Committee***AN ACT EXTENDING THE DEADLINE FOR APPROVAL OF PUBLIC-PRIVATE PARTNERSHIP PROJECTS**

SUMMARY: This act reestablishes, through January 1, 2020, the governor’s authority to approve up to five public-private partnership (P3) project agreements. This authority previously expired on January 1, 2016.

Generally, a P3 is an agreement between a state executive branch or quasi-public agency and a private entity to finance, design, construct, develop, operate, or maintain certain “facilities.” The agreement may authorize any combination of these functions for one or more facilities and must be approved by the governor. The governor cannot approve the agreement unless he finds it will create jobs and economic growth.

By law, the following are eligible facilities:

1. educational, health, early childcare, or housing facilities;
2. transportation systems, including ports, transit-oriented development, and related infrastructure; and
3. any other type of facility designated as a P3 by an act of the legislature (CGS § 4-255).

EFFECTIVE DATE: Upon passage

PA 17-204—sSB 1002*Government Administration and Elections Committee***AN ACT DESIGNATING VARIOUS DAYS, WEEKS, MONTHS AND STATE SYMBOLS**

SUMMARY: This act designates Gustave Whitehead’s No. 21 as the state pioneering aircraft and the Dilophosaurus as the state dinosaur. It also requires the governor to designate October as “National Disability Employment Awareness Month” to (1) recognize and celebrate businesses employing individuals with disabilities and (2) encourage other businesses to do so to reduce the unemployment rate among individuals with disabilities. Under the act, National Disability Employment Awareness Month replaces “National Employ the Handicapped Week,” which was previously the first week of October.

Under the act, the governor also must proclaim:

1. October 7 of each year to be Trigeminal Neuralgia Awareness Day to increase public awareness of trigeminal neuralgia’s symptoms and available treatments;
2. May 29 of each year to be Bob Hope Day to recognize Bob Hope’s efforts across the globe in support of United States military service members;
3. May 1 of each year to be Purebred Dog Day to honor purebred dogs and their breeders;
4. the third week in October of each year to be Male Breast Cancer Awareness Week to heighten public awareness of male breast cancer’s symptoms and available treatments;
5. May of each year to be Lyme Disease Awareness Month to heighten public awareness of Lyme disease’s symptoms and available treatments;
6. the second Friday in December of each year to be PJ Day to raise awareness of all hospitalized children in the state;
7. the third Monday in April of each year to be Patriots’ Day to commemorate the anniversary of the Battles of Lexington and Concord during the Revolutionary War;
8. March 13 of each year to be National K9 Veterans’ Day to honor federal, state, and local law enforcement K9 Corps units and their service to the country, state, and local communities;

9. March of each year to be Connecticut Maple Month to recognize the contribution of Connecticut maple producers;
10. November 26 of each year to be Fibrodysplasia Ossificans Progressiva Awareness Day to raise public awareness of the rare connective tissue disease; and
11. May of each year to be Jewish American Heritage Month to honor Americans of Jewish ancestry, their culture, and the contributions they have made to this country.

Suitable exercises may be held in the State Capitol and elsewhere as the governor designates.

EFFECTIVE DATE: Upon passage for the provisions naming a state pioneering aircraft and dinosaur; upon the passage of a biennial budget for the biennium ending June 30, 2019, for the day, week, and month proclamations; and October 1, 2017, for the disability employment awareness month provisions.

PA 17-235—HB 7248

Government Administration and Elections Committee

Judiciary Committee

AN ACT CONCERNING APPOINTMENTS TO THE CITIZEN'S ETHICS ADVISORY BOARD AND THE BOARD'S AUTHORITY IN ETHICS ENFORCEMENT PROCEEDINGS

SUMMARY: This act makes several changes affecting the Citizen's Ethics Advisory Board (CEAB) and the Office of State Ethics (OSE). It allows CEAB members to serve multiple terms and eliminates requirements that certain appointments to the board be made from a list prepared by a citizen group having an interest in ethical government. It also allows (1) CEAB members and OSE employees to make certain political contributions and (2) CEAB members to serve in unpaid state government positions during the one-year period after they leave the board. Additionally, it reduces, from six members to two-thirds of those members present and voting, the threshold required for the board to find a violation of the state codes of ethics or impose a civil penalty.

The act also (1) allows OSE to enforce civil penalties as money judgments and (2) allows, rather than requires, CEAB to delay the effect of a decision for up to seven days on an aggrieved party's request (§ 5).

Lastly, it makes technical and conforming changes, including specifying that board hearings must be held in accordance with the Uniform Administrative Procedure Act (§ 3).

EFFECTIVE DATE: October 1, 2017

§§ 1 & 2 — CEAB MEMBER TERMS

Under existing law, CEAB consists of nine members who serve staggered four-year terms. Prior law limited each board member to one four-year term. The act eliminates this prohibition and allows members to serve multiple terms. It similarly eliminates a provision limiting appointees named to fill a vacancy to the board to one full four-year term after completing the vacated term.

Under existing law, CEAB consists of three gubernatorial appointees and six legislative appointees (one each by the top six legislative leaders). The act eliminates a requirement that the majority leaders' appointments and one gubernatorial appointment be made from a list of nominees proposed by a citizen group having an interest in ethical government.

§ 4 — POLITICAL CONTRIBUTIONS BY CEAB MEMBERS AND OSE EMPLOYEES

Under prior law, CEAB members and OSE employees could not make contributions to anyone who is subject to the Code of Ethics, including people who left state service. The act limits this prohibition to contributions to state employees, public officials, or candidates for statewide office or the General Assembly.

§ 5 — SERVICE IN STATE GOVERNMENT

The act allows CEAB members to serve in volunteer unpaid state government positions during the one-year period after leaving the board. Prior law prohibited CEAB members from holding any position in state employment during this one-year period.

§§ 6-9 — FINDING A VIOLATION OR IMPOSING A CIVIL PENALTY

Prior law prohibited CEAB from finding a violation of the state codes of ethics, or imposing a civil penalty, except upon the vote of six of its nine members present and voting. The act changes this threshold, for both violations and civil penalties, to two-thirds of the members present and voting. By law, six members of the board constitute a quorum (CGS § 1-80(d)).

§§ 7 & 9 — ENFORCING CIVIL PENALTIES AS MONEY JUDGMENTS

The act allows OSE to enforce any civil penalty levied by CEAB as a money judgment. By law, money judgments may be collected through the courts in various ways, including (1) executions to collect money through bank accounts or wages or (2) liens on personal or real property, which may be foreclosed (CGS § 52-350a et seq.).

PA 17-238—sHB 7278

Government Administration and Elections Committee

AN ACT CONCERNING THE CONVEYANCE OF CERTAIN PARCELS AND EASEMENTS OF STATE LAND, THE REDEVELOPMENT OF PROPERTY IN THE TOWN OF PRESTON AND A REQUIREMENT TO APPRAISE CERTAIN MUNICIPAL PROPERTY PRIOR TO SALE

SUMMARY: This act does the following:

1. authorizes conveyances of Department of Transportation (DOT) property in Fairfield, New Haven, and Norwalk;
2. amends prior conveyances of state property in Bloomfield, East Hartford, Haddam, and Killingly;
3. requires the Military Department to grant two easements in Enfield; and
4. amends a prior transfer of state property in Hartford.

The act also requires municipalities to have certain real property that includes or is part of a watershed, or has a well or reservoir, appraised to determine its fair market value before selling it. It exempts, from state statutes establishing procedural requirements for modifying a redevelopment plan or transferring real property, certain actions taken by a redevelopment agency in Preston to redevelop property formerly owned by the state. Under the act, the redevelopment agency may also approve agreements granting certain property tax benefits.

Lastly, the act repeals a conveyance, passed in 2014, from the Department of Energy and Environmental Protection to Barkhamsted of a 2.6-acre parcel, including improvements, for a senior and community center and related purposes (§ 15).

EFFECTIVE DATE: Upon passage, except the provision on watershed and reservoir property sales is effective July 1, 2017, and applicable to sales occurring on or after September 1, 2017.

§§ 2, 4 & 6-9 — NEW CONVEYANCES

As described in Table 1, the act authorizes several conveyances of state property from DOT to the towns listed and for the purposes and costs noted.

Table 1: New Conveyances

<i>Section</i>	<i>Town</i>	<i>Description/Purpose</i>	<i>Cost</i>
2	Fairfield	7.23 acres for recreation and open space	Administrative costs
4	Norwalk	.251 acre and any improvements; no purpose specified	Fair market value, as determined by averaging the appraisals of two independent appraisers selected by the DOT commissioner, and administrative costs
6	New Haven	11 parcels totaling 7.93 acres for open space	Administrative costs

Table 1 (Continued)

<i>Section</i>	<i>Town</i>	<i>Description/Purpose</i>	<i>Cost</i>
7	New Haven	.58 acre; no purpose specified	Fair market value, as determined by averaging the appraisals of two independent appraisers selected by the DOT commissioner, and administrative costs
8	New Haven	Two parcels totaling .12 acre for open space; DOT retains a 20-foot easement for rail access safety	Administrative costs
9	New Haven	.195 acre for open space	Administrative costs

Each conveyance is subject to the State Properties Review Board’s (SPRB) approval within 30 days after the board receives the agency’s proposed agreement. Each property remains under DOT’s care and control until the conveyance is completed.

Except as noted below, the conveyances revert to the state if the recipient (1) does not use the property for the specified purposes, (2) does not retain ownership of the entire property, or (3) leases all or part of it. The Norwalk parcel and the .58-acre New Haven parcel are not subject to reversion (§§ 4 & 7). For these two parcels, the act requires the DOT commissioner to transfer any funds the department receives to the state treasurer for deposit in the Special Transportation Fund (STF).

§§ 1, 3, 10 & 11 — AMENDED CONVEYANCES

East Hartford (§ 1)

The act amends a conveyance, passed in 2015, of eight parcels (totaling 9.98 acres) from DOT to East Hartford for economic development purposes. It expands the parcels’ permitted use to include municipal purposes and allows the town to sell or lease the parcels for these purposes. (Existing law allows it to take these actions for economic development purposes.)

The act subjects any such lease or sale to requirements in existing law that (1) the transaction be for fair market value, as determined by the average of the appraisals of two independent appraisers selected by the DOT commissioner, and (2) any funds received by East Hartford be transferred to the state treasurer for deposit in the STF.

Killingly (§ 3)

The act amends a conveyance, first passed in 1995, of a .78-acre parcel and buildings from the former Department of Public Works (DPW) (now the Department of Administrative Services (DAS)) to Killingly. It (1) requires the town to use the parcel and buildings for economic development purposes and (2) allows the town to sell them for these purposes. Under prior law, the town had discretion to determine their use and was prohibited from selling them.

The act requires that (1) any sale of the parcel and buildings be for \$150,000 and (2) the funds Killingly receives from the sale be transferred to the state treasurer for deposit in the General Fund.

Bloomfield (§ 10)

The act amends a conveyance, first passed in 1993, of 15 properties from the former Connecticut Housing Authority to a municipal housing authority in Bloomfield. Under prior law, each of these properties (1) had to be used to provide housing for persons and families of low and moderate income and (2) reverted to the state if they were used for another purpose.

The act specifies that Bloomfield has, and is deemed to have had, full authority to convey two of these properties for any purpose. It requires that the property deeds reflect the removal of any previously recorded use restrictions.

The act requires Bloomfield to purchase property comparable to the two above properties for affordable housing purposes. If the purchased property is not used for affordable housing, then it must be conveyed to the state. The act also requires (1) that any deed for the purchased property include provisions to carry out these requirements and (2) Bloomfield to provide a copy of the deed to the Department of Housing (DOH) commissioner.

Under the act, if Bloomfield fails to meet these requirements by January 1, 2018, then it must place in escrow the greater of the (1) current fair market value of the two conveyed properties or (2) conveyed properties' fair market value as of June 13, 1993. If Bloomfield does meet the requirements by January 1, 2019, then the escrowed funds must be transferred to the DOH commissioner for a grant to an agency she designates and used to acquire or create housing for people or families of moderate income. Once the funds are transferred, Bloomfield is deemed to have met the act's requirements.

Haddam (§ 11)

The act amends a conveyance, first passed in 2005, of four parcels from the former DPW (now DAS) to Haddam. It adds to the conveyance a (1) .6-acre parcel and (2) 10-foot easement to drain to the .6-acre parcel, a smaller nearby parcel, and a drainage area. As under existing law for the previously conveyed property, the new parcel and easement must (1) be conveyed for administrative costs; (2) be used for municipal, recreational, and economic development purposes; and (3) revert to the state if Haddam does not (a) use the property and easement for the specified purposes or (b) retain ownership of the entire property and easement. The new conveyance and easement are subject to SPRB's approval within 30 days after receiving a proposed agreement from DAS.

§ 5 — ENFIELD EASEMENTS

The act requires the Military Department to convey to Enfield a (1) .195-acre temporary easement, for \$851, until the completion of the town's roadway reconstruction project, and (2) .017-acre permanent easement, for administrative costs. Enfield must use the easements to upgrade the drainage system associated with the roadway project.

The easements are subject to the following:

1. the state's right to (a) traverse the easements to access state lands and (b) place and maintain utilities, including electrical, water, sanitary sewer, telecommunications, and gas;
2. any rights and easements regarding the easements that the state deems necessary to meet its governmental obligations; and
3. SPRB's approval within 30 days after receiving a proposed agreement from the Military Department.

The easements revert to the state if the town (1) does not use them for the specified purpose, (2) does not retain ownership of the easements, or (3) leases all or part of them.

§ 12 — HARTFORD TRANSFER

SA 14-23 (§ 10) allowed the DAS commissioner to transfer to the Capital Region Development Authority (CRDA) custody and control of a parcel in Hartford. CRDA had to use it for housing or economic development purposes.

The act instead requires DAS to subdivide and then convey to the authority two parcels in Hartford, which total four acres, for administrative costs. The act specifies the manner in which DAS must subdivide the parcels and requires it to convey the parcels within 90 days after the DAS commissioner determines that a sufficient number of parking spaces (i.e., 300, or another number the commissioner determines to be sufficient) have been secured at an alternate location. The act allows parking on the conveyed parcels to continue temporarily until the commissioner makes the above determination. It specifies that the second of the conveyed parcels (totaling 2.7 acres) cannot be permanently used for parking.

As under existing law, CRDA must use the parcels for housing and economic development purposes. The act allows CRDA to begin marketing and permitting the parcels before the DAS commissioner's replacement parking determination. Under the act, the parcels revert to the state if the authority does not develop them within 10 years after the conveyance.

§ 13 — WATERSHED AND RESERVOIR PROPERTY SALES

The act requires municipalities to have certain real property that includes or is part of a watershed, or has a well or reservoir, appraised to determine its fair market value before selling it. The act applies to such property with an assessed value of more than \$250,000, or whose value has not been assessed by the town.

At least 60 days before the sale, the municipality must publish the appraisal on its website. If there is no website, publication must be done in whatever manner the municipality deems practicable. Under the act, a "municipality" is a town, consolidated town and city, or consolidated town and borough.

§ 14 — PRESTON

Existing law allows municipal legislative bodies to create a redevelopment agency for the purpose of producing a redevelopment plan for certain property in the municipality. The law prescribes the agency’s powers and duties, including procedures for modifying the plan or transferring real property.

The act exempts from these requirements certain actions taken by a redevelopment agency formed by Preston to redevelop property formerly owned by the state, through an agreement with the redeveloper that has been approved by the town’s legislative body. It allows the redevelopment agency to take the following actions:

1. approve, after a public hearing, modifications that substantially change the redevelopment plan previously approved by the legislative body and described in the agreement with the redeveloper, subject to the agreement’s requirements, and
2. make part of the redevelopment area any embedded or immediately adjacent parcels of real property acquired by the redeveloper for redevelopment purposes in accordance with the plan.

The act also specifies that the redevelopment agency need not consent to the transfer by the redeveloper of real property described in the redevelopment plan, if the transfer (1) is for redevelopment purposes in accordance with the plan and (2) satisfies the conditions applicable to the transfer as stated in the agreement.

The act allows Preston’s legislative body, by approving the agreement with the redeveloper, to authorize the redevelopment agency to approve agreements fixing real property tax assessments for property described in the agreement with the redeveloper. The agency may do so (1) within limits established by the agreement and without further action by the legislative body and (2) if permitted by state law on (a) tax exemptions and abatements for state property acquired by a municipality and (b) fixed assessments.

The act also specifies that the redevelopment agency’s existence cannot be discontinued before the agreement with the redeveloper expires.

PA 17-243—sSB 991

Government Administration and Elections Committee

AN ACT MAKING REVISIONS TO STATUTES CONCERNING THE DEPARTMENT OF ADMINISTRATIVE SERVICES

SUMMARY: This act makes several changes with respect to statutes affecting the Department of Administrative Services (DAS). It does the following, among other things:

1. requires DAS to consider offering surplus state property to abutting landowners before offering it for general sale;
2. expands the types of state-owned vehicles exempt from fuel-efficiency requirements to include all emergency vehicles;
3. for design-bid-build contracts, increases, from \$25,000 to \$100,000, the threshold at which the contractor must include a separate section for specific sub-classes of work; and
4. expands the circumstances under which DAS may grant an easement on state land.

The act also requires the State Marshal Commission, which is within DAS, to consult with the Judicial Department when adopting rules for conducting the commission’s internal affairs. By law, these rules must provide for, among other things, the provision of timely, consistent, and reliable access to a state marshal for people applying for certain restraining orders (§ 1).

The act additionally delays, from August 1 to August 30, the annual deadline by which state agencies and political subdivisions, other than municipalities, must notify DAS and other parties of their small contractor and minority business enterprise contracting set-aside goals for the current fiscal year (§ 5). (By law, municipalities are not subject to this reporting requirement.)

Lastly, the act makes technical changes.

EFFECTIVE DATE: Upon passage, except that the (1) State Marshal Commission provision is effective July 1, 2017, and (2) design-bid-build contracting provisions are effective October 1, 2017.

§ 2 — SURPLUS STATE PROPERTY

Existing law establishes numerous requirements concerning the disposition of surplus state property. Among other things, it requires DAS to first offer a surplus property to the municipality in which the property is located if no state agencies express interest in it. If the municipality declines to acquire the property, DAS may offer it to other parties through a sale, lease, exchange, or other agreement. The act requires DAS to consider offering surplus property to abutting landowners before offering it for general sale.

§ 3 — FUEL EFFICIENCY REQUIREMENTS

The act expands the types of state-owned vehicles exempt from state fuel-efficiency and emissions requirements to include all emergency vehicles. Prior law exempted only those vehicles used by the Department of Emergency Services and Public Protection (DESPP) that the DESPP commissioner, subject to the DAS commissioner's approval, designated as necessary for the department's mission.

Specifically, the act exempts vehicles from the following agencies if used for law enforcement or emergency purposes: Board of Pardons and Paroles, Board of Regents for Higher Education, Children and Families, Correction, Developmental Services, DESPP, Energy and Environmental Protection, Judicial Department, Mental Health and Addiction Services, Motor Vehicles, Social Services, State Capitol Police, Transportation, UConn, and the UConn Health Center. Unlike prior law, the act does not require the DAS commissioner to approve these designations or explain why the fuel-efficiency and emissions requirements should not apply.

Additionally, existing law requires the DAS commissioner to submit an annual report about the state vehicle fleet to the Energy and Technology, Environment, and Government Administration and Elections committees. The act eliminates a requirement that the report include a listing of vehicles exempt from state fuel-efficiency and emissions requirements and the commissioner's explanation for these exemptions.

§ 4 — DESIGN-BID-BUILD CONTRACTS

Existing law requires that state public works contracts using the design-bid-build delivery method include plans and specifications detailing all labor and materials to be furnished under the contract. Under prior law, the specifications had to have separate sections for the following classes of work if the awarding authority estimated that they would exceed \$25,000: (1) masonry; (2) electrical; (3) mechanical, other than heating, ventilating, and air conditioning; and (4) heating, ventilating, and air conditioning. The act increases this threshold to \$100,000 and renames the third class "plumbing."

§ 6 — EASEMENTS

Under prior law, DAS could grant easements on state land, in connection with a department project, to public service companies, owners of district heating and cooling systems, and municipal water and sewer authorities. The act (1) eliminates the requirement that the easement be in connection with a DAS project and (2) allows the department to also grant easements to telecommunications companies.

Under existing law, the easements are subject to approval by the agency with control of the land and State Properties Review Board. The act additionally requires approval by the Office of Policy and Management.

PA 17-56—sHB 7128

Higher Education and Employment Advancement Committee

**AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR
TECHNICAL REVISIONS TO THE HIGHER EDUCATION STATUTES**

SUMMARY: This act replaces obsolete references to the president of the Board of Regents for Higher Education with the current correct title, “president of the Connecticut State Colleges and Universities.” It also adds to the Office of Higher Education’s responsibilities the administration of the Kirklyn M. Kerr grant program, which provides grants to assist Connecticut students pursuing degrees in veterinary medicine. Existing law, unchanged by the act, also assigns this program’s administration to UConn (CGS §§ 10a-19g & 10a-19h).

The act also makes various technical and grammatical changes.

EFFECTIVE DATE: Upon passage

PA 17-63—sSB 870

Higher Education and Employment Advancement Committee

**AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE BOARD OF REGENTS FOR HIGHER
EDUCATION**

SUMMARY: Beginning in FY 18, this act authorizes the UConn and Connecticut State University System (CSUS) foundations to invest state funds, which the Office of Higher Education (OHE) deposits into its Endowed Chair Investment Fund, to benefit endowed chairs at their respective institutions (§ 7). Under prior law, the state treasurer invested these funds.

The act also reassigns the following duties from the Board of Regents for Higher Education (BOR) to OHE:

1. administering various grant and loan forgiveness programs (§§ 2-4),
2. publishing information about public technical high school and higher education academic programs related to green jobs (§ 5), and
3. researching and developing new programs and methods for academic fields relating to public education (§ 1).

It eliminates the requirement that BOR and UConn annually report to the Education Committee on a joint use plan for a higher education center at Naugatuck Valley Community College (§ 6).

Additionally, the act repeals a requirement that BOR promulgate regulations for determining financial need for tuition waivers (§ 9) and transfers from BOR to the UConn board of trustees the requirement to establish an endowed chair in infectious diseases at the UConn Health Center (§ 8).

It also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage, except the provisions affecting the Endowed Chair Investment Fund and the endowed chair in infectious diseases take effect July 1, 2017.

ENDOWED CHAIR INVESTMENT FUND

By law, OHE may establish and administer the Endowed Chair Investment Fund, which contains \$500,000 to \$1 million in state funds for each matching contribution privately raised by UConn or CSUS for an endowed chair. OHE must approve applications for these endowed chair positions prior to transferring state funds to the institutions’ foundations. Interest earned on the funds invested by the state treasurer supports the endowed chair.

Transfer and Investment of State Funds (§ 7)

Beginning in FY 18, the act allows the foundations to use an alternative investment method for the state funds deposited by OHE. Under the act, either:

1. OHE, on the foundations’ request for each approved endowed chair, must transfer these funds to the foundations for the foundations to invest themselves or
2. as under prior law, the state treasurer invests these funds and allocates the interest earned on them to the foundations on request. (The act specifies that this is an annual allocation.)

Under either investment method, the act maintains the requirement under prior law that the foundations use any interest income earned on the state funds to support their respective endowed chairs.

Under the act, foundations that request a transfer of state funds from OHE for the purpose of their own investment must do the following:

1. account for these funds separately from the private matching contributions,
2. hold them as a permanently restricted asset for the endowed chair, and
3. manage them in accordance with the Connecticut Uniform Prudent Management of Institutional Funds Act (UPMIFA, see BACKGROUND) and in a manner consistent with their own investment and expenditure policies.

Under the act, when the market value of the state funds is less than the principal value at the close of the fiscal year, the foundation (1) may not use any interest income earned to support an endowed chair and (2) must restore the principal balance to its original amount. (It is unclear whether this restoration must occur at the close of the fiscal year or at the beginning of the following fiscal year.)

Reporting Requirements (§ 7)

The act requires the UConn and CSUS boards of trustees to submit an annual report to OHE and the Higher Education and Employment Advancement Committee about their management of their endowed chair funds. It does not specify the date when the first report is due.

Under existing law, unchanged by the act, for foundations that choose to receive only the interest from state funds invested by the state treasurer, the report must include endowed chair expenditures.

For foundations that choose to receive state funds to invest themselves, the report must include (1) expenditures; (2) the balance of state funds and non-state matching contributions in each of the two previous fiscal years; and (3) the amount of interest income earned for the state funds and non-state matching contributions for the previous fiscal year.

DUTIES REASSIGNED FROM BOR TO OHE

Grant and Loan Forgiveness Program Administration (§§ 2-4)

The act reassigns administration of the following grant and loan forgiveness programs from BOR to OHE: (1) Engineering Connecticut; (2) You Belong; and (3) the Connecticut Green Technology, Life Science, and Health Information Technology Loan Reimbursement Program (see BACKGROUND).

Green Jobs Requirements (§ 5)

The act also requires OHE, rather than BOR, in consultation with the State Department of Education, to annually prepare and publish the following on its website: (1) a list of every green jobs course, certificate, and degree program offered by technical high schools and public higher education institutions and (2) an inventory of green jobs-related equipment used by such schools and institutions.

Public Education Research and Program Development (§ 1)

The act transfers from BOR to OHE the responsibility for gathering information on new programs and education methods being developed in public schools and colleges in Connecticut and nationwide. Under the act, OHE must maintain current records of this information and publicize it, as well as use the information to encourage and help develop new and improved programs and education methods in order to recruit, prepare, and train or retrain personnel for these programs.

BACKGROUND

Connecticut Uniform Prudent Management of Institutional Funds Act (UPMIFA)

State law requires state college- or university-affiliated foundations to establish and adhere to an investment and spending policy consistent with the Connecticut UPMIFA (CGS § 4-37f(10)(D)).

UPMIFA applies to institutions, which are defined as entities organized and operated exclusively for charitable purposes; government or governmental subdivisions, agencies, or instrumentalities, to the extent that they hold funds exclusively for a charitable purpose; and trusts that had both charitable and non-charitable interests, after all non-charitable interests have terminated (CGS §§ 45a-535 to 45a-535i).

“Engineering Connecticut”

This program provides student loan reimbursement grants to individuals who graduated from higher education institutions with undergraduate or graduate degrees in engineering, are employed in Connecticut as engineers, and satisfy certain other eligibility requirements (CGS § 10a-19e).

“You Belong”

This program provides student loan reimbursement grants to doctoral program graduates employed in Connecticut in economically valuable fields, as determined by the Department of Economic and Community Development (CGS § 10a-19f).

Connecticut Green Technology, Life Science, and Health Information Technology Loan Reimbursement Program

This program reimburses federal and state educational loans up to a specified amount for state residents who graduated with an associate or bachelor’s degree in a related field on or after May 1, 2010, and have been employed in Connecticut in one of these fields for at least two years after graduation (CGS § 10a-19i).

PA 17-130—sSB 948

Higher Education and Employment Advancement Committee

AN ACT AUTHORIZING GUIDELINES FOR PROGRAMS TO REDUCE STUDENT COSTS AND EXEMPTING CONSTITUENT UNIT QUALIFIED, REVENUE AND NONMONETARY CONTRACTS FROM CERTAIN STATUTORY REQUIREMENTS

SUMMARY: This act limits the applicability of certain state contracting requirements for UConn and the Board of Regents for Higher Education (BOR). Generally, it allows UConn and BOR to enter into certain goods and services contracts without (1) obtaining specified certifications from bidders and contractors or (2) complying with competitive bidding or negotiation requirements. In the latter case, UConn and BOR must first adopt policies for entering into or amending the goods and services contracts covered by the act.

The act also allows the Office of Higher Education, UConn, the Connecticut State University System, the regional community-technical college system, and Charter Oak State College to each establish guidelines encouraging the state’s public higher education institutions to implement programs that reduce students’ textbook and educational resource costs (§ 1).

Lastly, it makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2017, except the provision on guidelines for reducing textbook and educational resource costs is effective January 1, 2018.

§ 2 — DEFINITIONS

Table 1 lists definitions relevant to the act’s provisions.

Table 1: Related Definitions

<i>Term</i>	<i>Definition</i>
Qualified contract	A contract that is entered into under the state law governing goods and services purchases by public higher education institutions for any of the following: (1) equipment, supplies, or contractual services; (2) a personal service agreement; or (3) a personal property lease
Revenue contract	A contract in which a constituent unit of higher education or higher education institution receives monetary consideration from the other entity
Nonmonetary contract	A contract where neither the constituent unit (or higher education institution) nor the other entity provides monetary consideration
State and certain other institutional funds	Any (1) funds appropriated or bonds authorized by the legislature; (2) revenue generated from tuition; (3) funds collected from student fees, housing fees, or dining services; (4) revenue generated from athletic sponsorship deals or ticket sales; or (5) revenue collected from the clinical operations of the UConn Health Center and John Dempsey Hospital

§§ 2 & 5-11 — CONTRACTING CERTIFICATIONS

Covered Contracts (§ 2)

The act allows UConn and BOR to enter into certain goods and services contracts (“covered contracts”) without obtaining specified certifications from bidders and contractors. Covered contracts are qualified contracts meeting certain criteria, as well as revenue and nonmonetary contracts that are not qualified contracts.

With respect to qualified contracts, the exemption applies to those entered into or amended on or after July 1, 2017, that (1) do not involve the expenditure of state and certain other institutional funds; (2) are for purchasing equipment, supplies, or services or leasing personal property (a) to be used outside the U.S. and (b) where the other party to the contract is located outside the U.S.; or (3) are a collaboration with another entity.

In the last case, the collaboration must involve at least two of the following: philanthropic support, sponsored research, research collaboration, employment opportunities for students, or some other substantial value to the constituent unit or state.

Covered Certifications (§§ 2 & 5-11)

The certifications covered by the act concern (1) gifts, (2) consulting agreements, (3) state ethics laws, and (4) nondiscrimination and affirmative action requirements. Each of these certifications is described in further detail below.

Gifts (§§ 2 & 6). By law, any principal or key personnel of a person, firm, or corporation that submits bids or proposals for a state public works or goods and services contract, or a lease or licensing arrangement, with a total value of more than \$500,000 in a calendar or fiscal year must certify that (1) no gifts were given in connection with the contract; (2) there were no attempts to circumvent the gift prohibition; and (3) the bids or proposals are being submitted without fraud or collusion. The certifications must be made under penalty of false statement, and failure to make them disqualifies the bidder or proposer from the contract.

The act eliminates these certification requirements for the covered contracts described above. However, an existing executive order subjects all state contracts with a value of \$50,000 or more to these requirements (see BACKGROUND). It is unclear how the act and the executive order interact with respect to the requirements.

In addition, for covered contracts, the act appears to eliminate a requirement that the awarding agency official or employee responsible for executing the contract certify that the selection process was devoid of collusion, gift giving (received or promised), compensation, fraud, or inappropriate influence.

Consulting Agreements (§§ 2 & 10). The act exempts covered contracts from certain affidavit requirements in existing law concerning consulting agreements. Under these requirements, any principal or key personnel of a person, firm, or corporation that submits bids or proposals for a goods and services contract with a total value of \$50,000 or more

in a calendar or fiscal year must attest in an affidavit, under penalty of false statement, whether a consulting agreement has been entered into in connection with the contract. The affidavit must include specified information about any such agreement, including its basic terms, as well as the consultant's name and status as a former state employee or public official. Failure to submit the affidavit disqualifies the bidder or proposer from the contract.

The act exempts covered contracts from these requirements.

State Ethics Laws (§§ 5 & 11). By law, contractors and bidders for large state construction or procurement contracts (i.e., those costing more than \$500,000) must affirm that (1) they received a state ethics laws summary from the contracting state or quasi-public agency and (2) their key personnel have read and understand the summary and agree to comply with the ethics laws. Similarly, large state construction or procurement contractors must obtain these affirmations from their subcontractors and consultants and provide them to the state contracting agency. Failure to submit the affirmation disqualifies the contractors, bidders, subcontractors, and consultants from the contract.

For covered contracts that are subject to the ethics requirements, the act establishes an alternative affirmation. Specifically, rather than obtaining the above affirmations, UConn and BOR may instead require that the contract contain the following language:

Any person who is a party to the contract, and any key employees, subcontractors and consultants working under the contract, shall comply with the provisions of the state code of ethics set forth in sections 1-84, 1-86e and 1-101nn of the general statutes.

Nondiscrimination and Affirmative Action (§§ 7-9). By law, all contractors with state contracts must file a representation or documentation with the awarding agency indicating that they comply with state nondiscrimination laws. Additionally, each state contract must contain specified language that the contractor agrees to, among other things, (1) not discriminate against various protected classes; (2) take affirmative action and state that it is an "affirmative action-equal opportunity employer"; (3) provide labor unions and vendors with a notice of the contractor's nondiscrimination-related commitments; (4) comply with nondiscrimination- and affirmative action-related laws; and (5) provide the Commission on Human Rights and Opportunities with requested access to, among other things, records and accounts concerning the contractor's employment practices and procedures.

The act allows UConn and BOR, rather than obtaining the representation and documentation and inserting the specified language, to instead require that a covered contract contain the following affirmation:

Each party agrees, as required by sections 4a-60 and 4a-60a of the Connecticut General Statutes, not to discriminate against any person on the basis of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, sexual orientation, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such party that such disability prevents performance of the work involved. Each party agrees to comply with all applicable federal and state of Connecticut nondiscrimination and affirmative action laws, including, but not limited to, sections 4a-60 and 4a-60a of the Connecticut General Statutes.

§§ 3 & 4 — COMPETITIVE BIDDING

The law establishes several requirements that UConn and BOR must follow when purchasing goods and services. Generally, these purchases must be based on competitive bids or competitive negotiation. Purchases of \$50,000 or less generally must be made in the open market but must be based, when possible, on at least three competitive quotations.

Policy-Based Exemptions

The act, subject to the requirements below, exempts from competitive bidding and negotiation requirements the covered contracts described above, other than revenue or nonmonetary contracts. To exempt the contracts, the UConn Board of Trustees and BOR must comply with policies that the respective boards adopt for entering into or amending them.

Before adopting these policies, the Board of Trustees and BOR must provide interested persons a reasonable opportunity to present their views. The act allows a person whose legal rights or privileges are interfered with or impaired by the policies to seek a declaratory judgment in Superior Court on the policies' validity or application. Each board must post its policy on the board's website.

State Contracting Standards Board

By law, UConn and BOR are generally not subject to the State Contracting Standards Board's (SCSB's) authority, except for the state law on privatizing services, which, among other things, requires state contracting agencies to develop a cost-benefit analysis and a business case before privatizing a state service. However, the law requires SCSB to adopt regulations, by January 1, 2011, to apply specified SCSB-related statutes to UConn and BOR (CGS § 4e-47).

The act specifies that the policies UConn and BOR adopt (1) do not exempt them from any SCSB statutes that apply to them (i.e., the privatization law) and (2) supersede the regulations described above. (To date, the board has not adopted these regulations.)

Annual Report

The act requires UConn and BOR to report to the Government Administration and Elections and Higher Education and Employment Advancement committees annually, beginning by January 1, 2018. At a minimum, the report must describe (1) any policies they adopt, (2) any revisions or amendments in the previous fiscal year to previously adopted policies, and (3) each contract entered into under the policies in the previous fiscal year.

BACKGROUND

In May 2015, Governor Malloy issued Executive Order 49. Among other things, the order subjects state contracts with a value of \$50,000 or more in a calendar or fiscal year to the gift certification requirements that existing law (CGS § 4-252) establishes for contracts with a value of \$500,000 or more (see *Gifts* (§§ 2 & 6) above).

PA 17-139—HB 7120*Higher Education and Employment Advancement Committee***AN ACT CONCERNING POSTSECONDARY CAREER SCHOOLS**

SUMMARY: This act makes the following changes to laws governing private occupational schools:

1. changes the definition of "private occupational school" (§ 1);
2. applies the same financial reporting requirements for barbering and hairdressing schools enrolling fewer than 10 students to any type of non-accredited private occupational school with these enrollment numbers (§§ 2 & 4);
3. modifies student records maintenance requirements for private occupational schools and allows the Office of Higher Education (OHE) executive director to enforce them through assessment of administrative penalties (§ 5); and
4. establishes a deadline by which students may apply to OHE for a tuition refund after their private occupational school becomes insolvent or closes and requires the OHE director to issue a full, rather than full or partial, refund (§ 6).

It also makes several technical and conforming changes.

EFFECTIVE DATE: July 1, 2017

§ 1 — DEFINITION OF PRIVATE OCCUPATIONAL SCHOOL

The act specifies that the definition of "private occupational school" includes postsecondary institutions that advertise vocational instruction in any trade or occupation, in addition to offering instruction in these areas as described in prior law.

Additionally, the act narrows the definition by specifying that instruction offered in the arts or recreation, including the training of students to provide such instruction, is excluded. It does not define instruction in "arts" or "recreation."

§§ 2 & 4 — FINANCIAL REPORTING REQUIREMENTS

By law, all private occupational schools must submit statements to OHE detailing their financial condition when initially applying for a certificate of authorization to operate and also annually thereafter. The law generally requires that these financial statements be reviewed or audited by an independent licensed certified accountant or independent licensed

public accountant.

Under existing law, non-accredited barbering or hairdressing schools that enroll fewer than 10 students annually must have their financial statements compiled, rather than reviewed or audited, by such an accountant. The act applies this same requirement to any non-accredited private occupational school that enrolls fewer than 10 students.

§ 5 — STUDENT TRANSCRIPTS AND RECORDS

School Records Maintenance

Under existing law, private occupational schools must maintain all school records, including student or academic transcripts, in a manner approved by OHE.

The act requires such schools to maintain separate, duplicate files on each alumnus and enrolled student, including a copy of each alumnus's and student's transcript. (Prior law did not specify alumni records maintenance requirements, but rather referred to student records in general.) Under the act, the transcript of a currently enrolled student must contain the student's name, address, program of study, program length, grade point average, and completed courses.

By law, the OHE executive director may visit these schools, unannounced, during business or school hours to verify that they are maintaining records and information required by law. If during such a visit the executive director determines that a school has not maintained, preserved, or protected these records, then the act allows him to assess an administrative penalty on the school of up to \$500 for each day of noncompliance, under existing procedures for assessing penalties on such schools.

Additionally, the act requires a private occupational school to transfer all transcripts described above to the OHE executive director immediately if the school ceases operations. The act specifies that all other student records the school possesses should either be filed with the executive director or their whereabouts described in writing for him. (Under prior law, this "file or describe" option applied to student transcripts as well.)

OHE Records Maintenance

The act specifies that the OHE executive director must maintain all records, files, and other private occupational school documents in a manner consistent with OHE's mission and responsibilities.

§ 6 — TUITION REFUNDS

When a private occupational school becomes insolvent or closes abruptly, preventing a student from finishing a course or unit of instruction, the law allows the student to apply to the OHE executive director for a tuition refund. The act establishes a deadline for these refund applications of two years from the date when the school became insolvent or ceased to operate. Additionally, for applicants who the executive director determines are entitled to a refund, the act requires issuance of a full refund for the uncompleted course or unit of instruction. Prior law gave the executive director discretion to issue either a full or partial refund. Under existing law, unchanged by the act, the refund is paid to the extent the private occupational school student protection account (see BACKGROUND) has reached the level necessary to pay outstanding approved claims.

BACKGROUND

Private Occupational School Student Protection Account

This account is used to refund tuition to students unable to complete a course at a private occupational school because the school becomes insolvent or ceases operation. It is funded by quarterly assessments on private occupational schools and certain other fees (CGS § 10a-22u).

PA 17-156—sHB 5116*Higher Education and Employment Advancement Committee***AN ACT CONCERNING PUBLIC ACCESS TO HIGHER EDUCATION AND EMPLOYMENT DATA**

SUMMARY: This act requires the Higher Education Coordinating Council to use existing data networks when producing periodic reports and affordability indices with the Department of Labor (DOL) about Connecticut public higher education institutions that are required under existing law. By law, these reports must address the employment status, job retention, and earnings of students enrolled in academic and noncredit vocational courses and programs, both prior to enrollment and after course and program completion, who leave UConn and the Connecticut State Colleges and Universities (CSCU) upon graduation or otherwise. The council must produce the affordability indices for public higher education annually and base them on statewide median family income.

Under the act, the council must make the reports accessible on a website in aggregate form with guidance from the Planning Commission for Higher Education. (Presumably, the “aggregate form” requirement concerns personally identifiable student information contained in the reports.)

EFFECTIVE DATE: October 1, 2017

BACKGROUND*Higher Education Coordinating Council*

This council consists of the two Board of Regents for Higher Education (BOR) vice-presidents (i.e., the Connecticut State University System vice-president and the regional community-technical college system vice-president), Office of Policy and Management secretary, education commissioner, UConn president, UConn chief academic officer, UConn Board of Trustees chairperson, BOR chairperson, and CSCU president.

The council meets annually. By law, it must (1) identify, examine, and implement savings in administrative functions carried out by the higher education system, including methods to simplify and reduce duplication in each constituent unit’s administrative functions and (2) develop accountability measures for each constituent unit and each public higher education institution (CGS § 10a-6a).

Planning Commission for Higher Education

The commission develops and ensures the implementation of a strategic master plan for higher education. The plan must address degree attainment, the number of people entering the workforce, and the achievement gap. The plan must provide specific strategies for meeting its goals and consider the impact of education trends on higher education in Connecticut (CGS § 10a-11b).

PA 17-191—sHB 7119*Higher Education and Employment Advancement Committee***AN ACT CONCERNING THE AUTHORITY OF THE EXECUTIVE DIRECTOR OF THE OFFICE OF HIGHER EDUCATION RELATING TO TEACH-OUT PLANS AND ON-SITE REVIEW OF ACADEMIC PROGRAMS**

SUMMARY: This act expands the Office of Higher Education (OHE) executive director’s authority over higher educational institutions that (1) are in danger of closing or (2) apply to OHE for program modifications, nonsubstantive changes, licensure, or accreditation in fields requiring a license to practice in Connecticut.

Existing law allows OHE’s executive director to take action to assist students attending a private occupational school that closes without meeting all the requirements in state law, including failing to provide evidence of student refunds and course completion. Among the actions the director may take is the facilitation of a “teach-out,” defined as the completion of a course or program of study in which a student was enrolled (CGS § 10a-22m(a) & (d)). The purpose of a teach-out is to ensure that current students can complete their programs despite the closure.

The act allows the OHE executive director to require any institution, not just a private occupational school, to facilitate a teach-out if (1) it is not regionally accredited, (2) it is exhibiting financial and administrative signs that it is in danger of closing, and (3) the OHE executive director previously discussed a teach-out with the institution.

Additionally, the act expands the OHE executive director's authority over applications from institutions relating to fields requiring licensure to practice in Connecticut. By law, certain private higher education institutions must submit applications to OHE for approval of program modifications; nonsubstantive changes (i.e., new certificate programs, baccalaureate minors, or undergraduate or graduate options); licensure; and accreditation (see BACKGROUND). The act allows the executive director or his designee to require of any program application for a field with practitioners who must be licensed to practice in Connecticut (1) evidence that the program meets state or federal licensing requirements and (2) a focused or onsite review. Under prior law, the executive director could only require a focused or onsite review for program applications in health-related fields that require a license to practice in Connecticut.

EFFECTIVE DATE: July 1, 2017

BACKGROUND

Application Exemption

The law exempts, until July 1, 2018, certain nonprofit independent higher education institutions from OHE's approval process for new programs of higher learning and program modifications. To be exempt, institutions must meet the following criteria:

1. be eligible to participate in the Federal Family Education Loan program;
2. not have a financial responsibility score of less than 1.5, as determined by the U.S. Department of Education, for the most recent fiscal year for which the necessary data is available; and
3. have been located in Connecticut and accredited as a degree-granting institution in good standing for at least 10 years by a regional accrediting association recognized by the U.S. education secretary (CGS § 10a-34(l)).

PA 17-206—sHB 7212

Higher Education and Employment Advancement Committee

AN ACT CONCERNING THE PROMOTION OF LOAN FORGIVENESS PROGRAMS

SUMMARY: This act requires public service employers that have more than 10 full-time employees to provide (1) informational material about certain federal student loan forgiveness programs to new hires two weeks after their start date and (2) certain loan forgiveness certification forms to current employees upon request. The Office of Higher Education (OHE) must create or copy informational material, make it available online, and distribute it to public service employers.

The act defines "public service employers" as organizations, agencies, or entities that are public service organizations (see BACKGROUND), including local and regional boards of education. The act does not apply to federal or tribal nation government organizations, agencies, or entities; or tribal nation institutions of higher education.

The act specifies that it (1) allows public service employees to report their employers to OHE for alleged violations and (2) does not affect the attorney general's authority to pursue an action to enforce the act.

EFFECTIVE DATE: July 1, 2017

LOAN FORGIVENESS INFORMATIONAL MATERIAL

OHE Duties

The act requires OHE to distribute to public service employers informational material that increases awareness of the federal Public Service Loan Forgiveness (PSLF) and Teacher Loan Forgiveness (TLF) programs (see BACKGROUND). At a minimum, the material must include the following:

1. a standardized letter notifying employees of the PSLF or TLF program eligibility and participation requirements and recommending that employees contact a student loan servicer for additional information,
2. a detailed fact sheet describing the PSLF or TLF program that also contains OHE's telephone number and email address for reporting alleged employer violations, and

3. a “frequently asked questions” document about the PSLF or TLF program.

Under the act, OHE must either create the material or use federal agency-designed documents that meet the above requirements. The act also requires OHE to make the material available on its website and, every two years, verify its accuracy and update any incorrect or obsolete information.

Public Service Employer Duties

The act requires public service employers that employ more than 10 full-time employees to disseminate the OHE-provided informational material to new employees two weeks after their start date. Dissemination may occur by mail, email, or in person. Employers must also (1) conspicuously display the OHE-provided fact sheet on their premises and (2) provide the PSLF employment certification form to current employees on request. The act defines this form as the one used by the U.S. Department of Education to certify an individual’s employment at a public service organization for purposes of the PSLF program.

Under the act, if OHE receives a complaint of an alleged violation by an employer, it must be investigated within 30 days and made publicly available. OHE must order corrective actions to an employer for a violation, and the employer may contest such actions ordered within 15 days after their issuance.

BACKGROUND

Public Service Organization

As defined in federal regulation, a “public service organization” for purposes of public service loan forgiveness is any of the following:

1. a federal, state, local, or tribal government organization, agency, or entity;
2. a public child or family service agency;
3. a tribal college or university;
4. a federally tax-exempt, nonprofit organization that does not engage in religious activities, unless they are qualifying activities unrelated to religious instruction, worship services, or proselytizing; or
5. a private organization that provides certain public services.

Such public services include emergency management, military service, public safety, public interest law, early childhood education, public services for individuals with disabilities and the elderly, public health, public education, and public library services (34 C.F.R. § 685.219(b)).

Public Service Loan Forgiveness

This federal program forgives the remaining balance of certain federal student loans upon application after 10 years of monthly payments for individuals who work full-time for public service employers. The first group of individuals will be eligible for loan forgiveness in October 2017 (34 C.F.R. § 685.219).

Teacher Loan Forgiveness

This federal program forgives up to \$17,500 for certain federal student loans for individuals who teach full-time for five consecutive academic years in certain elementary and secondary schools and educational service agencies that serve low-income families and meet other qualifications (34 C.F.R. § 685.217).

PA 17-229—sHB 7053

Higher Education and Employment Advancement Committee

AN ACT CONCERNING THE PUBLICATION OF TRANSFER AND ARTICULATION PROGRAMS IN THE STATE AND THE MEMBERSHIP AND DUTIES OF THE PLANNING COMMISSION FOR HIGHER EDUCATION

SUMMARY: This act requires (1) the Office of Higher Education (OHE) and public higher education institutions to publish information regarding transfer and articulation programs on their respective Internet websites and (2) the

Connecticut State University System (CSUS) to provide information on transfer and articulation programs to all students admitted to any CSUS regional community-technical college (CTC). It also requires each higher education institution that receives federal funds to provide a link to its most recent National Center for Education Statistics (NCES) profile on its website.

The act reconstitutes and expands the membership of the Planning Commission for Higher Education and places it within OHE. Furthermore, it modifies certain commission duties and activities, including requiring that a subcommittee develop an annual affordability index for public higher education.

It also authorizes OHE to accept private or public donations or grants for commission administration. Lastly, it makes conforming and technical changes.

EFFECTIVE DATE: January 1, 2018

TRANSFER AND ARTICULATION AGREEMENTS

The act requires OHE to publish on its website links to the transfer and articulation programs developed by CSUS and UConn. Also, UConn and each CSUS institution must include on their respective websites links to OHE's website and provide information on the transfer and articulation programs.

Information for Students

The act requires CSUS to provide any student accepted into a CTC with information about the transfer and articulation programs between the CTCs and CSUS four-year universities.

Reporting Requirement

Starting by January 1, 2018, the act requires CSUS and UConn to each annually submit a report to the Higher Education and Employment Advancement Committee that analyzes the transfer and articulation programs used by CTC students who transferred to a four-year public higher education institution. At a minimum, the reports must address (1) enrollment of transfer students; (2) the average number of credits accepted by the four-year public institution; and (3) the graduation rates of transfer students.

HIGHER EDUCATION INSTITUTIONAL PROFILES

The act requires each higher education institution in the state that receives federal funding under the Higher Education Act of 1965 to provide a link on its website to the institution's most recent institutional profile provided on the NCES Integrated Postsecondary Education Data System (IPEDS) website. This requirement effectively covers all in-state public and private institutions.

IPEDS provides data on higher education institutions' admissions policies, tuition rates, faculty-to-student ratios, and other information that allows different institutions to be compared.

PLANNING COMMISSION FOR HIGHER EDUCATION RECONSTITUTION

By law, the commission develops and ensures implementation of a strategic master plan for higher education that must address degree attainment, the number of people entering the workforce, and the achievement gap.

The commission consists of voting and nonvoting members. The act changes the number of members and how they are appointed.

Voting Members

Under prior law, the commission had 17 voting members: the legislative leaders appointed 12 and the governor appointed five. Under the act, the commission instead has 19 voting members, some of whom are appointed by virtue of their position.

The act gives the following nonvoting members voting status as of January 1, 2018:

1. the CSUS president, or a designee from the Board of Regents (BOR);
2. the UConn president, or a designee from UConn's Board of Trustees (BOT); and
3. the BOR and BOT chairs, or their designees.

The act also adds the CSUS and UConn provosts to the commission as voting members.

Table 1, below, includes the other 13 voting commission members and their appointing authorities under the act.

Table 1: Commission Members and Appointing Authorities

<i>Appointing Authority</i>	<i>Number of Appointments</i>	<i>Appointee Qualifications</i>
Connecticut Conference of Independent Colleges (CCIC) president	Two	President, vice president, or chair of the board of a large independent institution of higher education President, vice president, or chair of the board of a small independent institution of higher education
Education commissioner	Two	Representative from a private occupational school Private occupational school teaching faculty representative
CSUS president	Two	CSUS teaching faculty representative CTC faculty representative
UConn president	One	UConn teaching faculty representative
Senate president pro tempore	One	Large manufacturing employer representative
Senate majority leader	One	Information technology or digital media employer representative
Senate minority leader	One	Small business employer representative
House speaker	One	Large financial or insurance services employer representative
House majority leader	One	Health care employer representative
House minority leader	One	Small business employer representative

Under Senate Rule 18(a), any statutory reference to the minority leader of the Senate means the Senate Republican president pro tempore.

Nonvoting Members

The act adds the following nonvoting members to the commission:

1. a State Board of Education (SBE) member selected by the SBE chairperson;
2. the state technical high school system superintendent, or the superintendent's designee;
3. the Connecticut Innovations, Inc., chief executive officer or his designee; and
4. the OHE director.

The act removes the Connecticut Conference of Independent Colleges (CCIC) board chair, or his designee, as a nonvoting member.

As under prior law, the following continue as nonvoting members:

1. the education, economic and community development, and labor commissioners, or their designees;
2. the CCIC president, or her designee;
3. the chairpersons and ranking members of the Higher Education and Employment Advancement Committee; and
4. the Office of Policy and Management (OPM) secretary, or his designee.

Commission Chair and Vice Chair

Under the act, (1) the governor, rather than the commission members, appoints the commission chair and (2) the commission members appoint the vice chair.

Commission Placed in OHE and Member Expenses Eliminated

The act places the commission in OHE and states that the commission is responsible for implementing any policies it develops.

The act eliminates the ability of commission members to be compensated for expenses they incur in performing their duties.

COMMISSION DUTIES

The act modifies certain commission duties. Under prior law, the commission had to establish specific goals for 2015 and 2020 to, among other things, increase the number of people earning a bachelor's degree or other degrees or certificates and eliminate the achievement gap. The act requires the commission to also set such goals for 2025.

Under the act, the commission, when developing the higher education strategic master plan, may consider, in addition to other items listed in statute, developing policies to promote the transfer and articulation program and the statewide guaranteed admission program.

The act also removes the specific requirement that the master plan recommend changes to funding policies, practices, and accountability to align with the goal of evaluating performance-based incentive funding for higher education.

New Subcommittees

Prior law required the commission, in consultation with OPM, to establish working groups by January 1, 2016. The act instead requires the commission, by January 1, 2018 and in consultation with OPM, to establish two standing subcommittees: one for data, metrics, and accountability and one for the master plan. It also allows the commission to establish working groups as necessary to support the subcommittees. The act authorizes the commission's chairperson and vice-chairperson to appoint the members of the standing subcommittees and any working groups, and it allows people who are not commission members to be appointed to the subcommittees.

Data, Metrics, and Accountability Subcommittee. The data, metrics, and accountability standing subcommittee must (1) build upon the work of the Higher Education Coordinating Council and Preschool through 20 Workforce Information Network (P20 WIN) in the subcommittee's use of measures and data and (2) use such measures to assess each public higher education institution's progress toward meeting the commission's goals.

The subcommittee must collaborate with the Labor Department to (1) produce periodic reports, capable of being sorted by student age, employment status, job retention, and earnings of students enrolled in academic and noncredit vocational courses and programs who leave public institutions of higher education either through graduation or otherwise, both prior to enrollment and after completion of the courses and programs, and (2) develop an annual affordability index for public higher education based on statewide median family income.

The subcommittee must submit annual reports to the commission and the constituent units.

Strategic Master Plan Subcommittee. The other standing subcommittee must focus on the higher education strategic master plan, including analyzing the plans submitted since 2014 and making recommendations to the commission on key areas. The commission may recommend key focus areas to the subcommittee each year and require the subcommittee to report to the commission on these key areas.

Advisory Committees. Under the act, the commission may appoint advisory committees with representatives from public and independent higher education institutions to study methods and proposals for coordinating these institutions' efforts to implement the commission's goals as stated in statute.

The commission may also review its goals and plans and determine how best to align its work with that of the Higher Education Innovation and Entrepreneurship Working Group and the Higher Education Entrepreneurship Advisory Committee.

AUTHORITY TO ACCEPT GIFTS AND DONATIONS

The act authorizes OHE to solicit and accept gifts and donations from any public or private source for commission administration. OHE may solicit and accept for use any (1) gift of money or property made by will or other means and (2) grant of money, services, or property from the federal government; the state; any state political subdivision; or any private source.

The funds must be deposited in an account to be known as the “Planning Commission for Higher Education Fund,” which is a separate, non-lapsing account in the General Fund.

PA 17-170—sHB 6880 (VETOED; OVERRIDDEN)*Housing Committee***AN ACT CONCERNING THE AFFORDABLE HOUSING LAND USE APPEALS PROCEDURE**

SUMMARY: This act makes several changes to the affordable housing land use appeals procedure (“procedure”), which requires planning and zoning commissions to defend their decisions to deny affordable housing developments or approve them with certain conditions. Generally, the act makes it easier for municipalities to qualify for a temporary suspension of (i.e., moratorium), or exemption from, the procedure. It also extends the length of moratoria for certain municipalities. Some of the changes to the procedure terminate on September 30, 2022, as described below.

The act also:

1. requires all municipalities to adopt an affordable housing plan every five years,
2. aligns the definition of “median income” applicable to the incentive housing zone (IHZ) statutes to the affordable housing land use appeals procedure statutes, and
3. makes technical and conforming changes.

EFFECTIVE DATE: Upon passage; except that the (1) “median income” provision applies to IHZs and related grants approved by the Department of Housing (DOH) after July 24, 2017 and (2) specified moratorium-related provisions sunset on September 30, 2022.

EXEMPTION FROM THE PROCEDURE

By law, a developer cannot appeal under the procedure in a municipality (1) in which DOH determines at least 10% of the housing stock is affordable or (2) that obtains a moratorium.

The act requires DOH to count homes in “resident-owned mobile manufactured home parks” as part of a municipality's affordable housing stock (i.e., toward the 10% threshold) and makes such homes eligible for housing unit-equivalent (HUE) points toward a moratorium. (To obtain a moratorium, a municipality needs to increase its affordable housing supply by a certain amount, measured in HUE points.)

Under the act, “resident-owned mobile manufactured home parks” are parks with homes located on deed restricted land and, at the time a loan for the purchase of the land was issued, the loan required 75% of the units (parcels of land) to be leased to households earning 80% or less of the median income. Furthermore, of these income-restricted units in a resident-owned mobile manufactured home park, either:

1. 40% must be leased to households earning 60% or less of the median income or
2. 20% must be leased to households earning 50% or less of the median income.

The act also establishes a HUE point value for homes in these parks (see Table 2 below). It does not specify how long the required deed restrictions must last.

Under existing law, deed-restricted mobile homes count toward the 10% exemption threshold if the necessary restriction is for at least 10 years and requires the units to be sold or rented at prices so that low- and moderate-income individuals or families will pay no more than 30% of their income for them (i.e., the units are deemed affordable).

MORATORIA

Under existing law, a municipality is eligible for a moratorium each time it shows it has added a certain number of affordable housing units over the applicable time period (for first moratoria: since July 1, 1990). Newly built set-aside and assisted housing developments count toward the moratorium, as do units subject to certain deed restrictions. (Moratoria are not applicable to certain assisted housing development proposals.)

Five Year Moratoria

Under prior law, all statutory moratoria lasted for four years. The act lengthens the duration of moratoria for municipalities with at least 20,000 dwelling units, as of the last decennial census, and that previously obtained a moratorium under CGS § 8-30g. Under the act, second and subsequent moratoria in these municipalities last five years.

Lower HUE Points Requirement

Under prior law, a municipality was eligible for a moratorium if it showed it added affordable housing units, measured in HUE points, equaling the greater of (1) 2% of the housing stock, as of the last decennial census, or (2) 75 HUE points.

The act lowers the 2% standard to 1.5% for municipalities that have adopted an affordable housing plan (see below) and have at least 20,000 dwelling units, if the municipality is applying for its second or subsequent moratorium under CGS § 8-30g.

Through September 30, 2022, the act lowers, from 75 to 50, the minimum number of HUE points municipalities need to qualify for a moratorium.

Calculating HUE Points Toward a Moratorium

Under the procedure, base HUE points are weighted based on unit affordability, population served, and ownership type. Table 1 shows the types of units that count toward a moratorium under existing law, as well as their point value.

Table 1: Base HUE Points

<i>Unit Type</i>		<i>HUE Point Value (per unit)</i>
Owned or rented market-rate unit in a set-aside development		0.25
Owned or rented elderly unit restricted to households earning no more than 80% of the median income*		0.50
Owned family unit restricted to households earning no more than:	80% of the median income	1.00
	60% of the median income	1.50
	40% of the median income	2.00
Rented family unit restricted to households earning no more than:	80% of the median income	1.50
	60% of the median income	2.00
	40% of the median income	2.50

*Median income means the lesser of the state median income or the area median income, after adjustments for family size.

Homes in Resident-Owned Mobile Manufactured Home Parks. The act establishes HUE point values for homes in resident-owned mobile manufactured home parks, based on the occupants' income, as shown in Table 2. (Under the act, it is unclear whether the points are allocated based on occupancy on the day the municipality applies for a moratorium, or on another date.)

Table 2: Points for Homes in Resident-Owned Mobile Home Parks

<i>Unit Type</i>	<i>Base HUE Point Value (per unit)</i>
Owned or rented homes occupied by households earning 80% or less of the median income*	1.5
Owned or rented homes occupied by households earning 60% or less of the median income	2.0
Owned or rented homes not otherwise eligible for points	0.25

*Median income means the lesser of the state median income or the area median income, after adjustments for family size.

By law unchanged by the act, eligible mobile manufactured homes qualify for HUE points based on the general criteria that apply to all housing units, which vary depending on home affordability, population served, and ownership type.

Incentive Housing Development (IHD) Units. Through September 30, 2022, the act allows income-restricted ("restricted") units in an IHD to count toward a moratorium and applies the existing point schedule to them (see Table 1). An IHD is a residential or mixed-use development located within an IHZ in which at least 20% of the units are restricted for at least 30 years. (CGS § 8-30g generally requires units to be deed-restricted for at least 40 years.)

Bonus HUE Points. Under existing law, certain rental family units in set-aside developments are eligible for bonus HUE points. Bonus points are awarded in addition to the base HUE points a unit receives.

Through September 30, 2022, the act makes three additional categories of units eligible for bonus HUE points, as shown in Table 3.

Table 3: Bonus HUE Points

<i>Unit Type</i>	<i>Bonus HUE Point Value (per unit)</i>	
	<i>Prior Law</i>	<i>Act</i>
Owned or rented restricted family units in an IHD	No bonus	0.25 bonus
Owned or rented restricted family units with at least three bedrooms	No bonus	0.25 bonus
Owned or rented restricted elderly units, if at least 60% of restricted units used toward the moratorium are family units	No bonus	0.50 bonus
Rental family units in a set-aside development, if the developer applied for local approval before July 6, 1995	Bonus equal to 22% of the total points awarded to such development	No change

MUNICIPAL PLANNING REQUIREMENT

The act requires each municipality (regardless of whether it is exempt from the procedure), at least once every five years, to prepare or amend and adopt an affordable housing plan. The plan must specify how the municipality will increase the number of affordable housing developments in its jurisdiction. The act does not specify which municipal body must adopt the plan.

In preparing their plans, municipalities may hold informational meetings or organize other activities to keep residents informed. If a municipality holds a public hearing on a plan's adoption, at least 35 days before the hearing, it must (1) file a copy of the draft plan and any amendments to it in the town clerk's office and (2) post the draft on the municipality's website, if one exists. Similarly, a municipality must file any plan it adopts in the town clerk's office and post the plan on its website, if any.

Municipalities must regularly review and maintain their plans, making geographical, functional, or other amendments as needed. If a municipality does not update its plan at least once every five years, its chief elected official must submit a letter to the DOH commissioner explaining why.

DEFINITION OF MEDIAN INCOME FOR INCENTIVE HOUSING DEVELOPMENTS

The act aligns the definition of “median income” applicable to IHDs with that under the affordable housing land use appeals procedure. Under prior law, restricted units in an IHD had to be affordable to individuals earning 80% or less than the area median income (AMI). The act instead requires restricted units in an IHD to be affordable to individuals earning 80% or less of the AMI or state median income (SMI), whichever is less.

An IHZ is an overlay zone that allows developers to build, as a matter of right, high-density housing close to existing or planned infrastructure. DOH may make grants to municipalities that adopt, or are working to adopt, IHZ regulations (CGS § 8-13m et seq.).

BACKGROUND

Affordable Housing Developments

Under CGS § 8-30g, an “affordable housing development” means a housing development that is (1) assisted housing or (2) a set-aside development. “Assisted housing” means housing that receives government assistance to construct or rehabilitate low- and moderate-income housing, or housing occupied by individuals receiving rental assistance (e.g., “Section 8”). A “set-aside development” is a development in which, for at least 40 years after initial occupancy, at least (1) 15% of the units are deed restricted to households earning 60% or less of the AMI or SMI, whichever is less and (2) 15% of the units are deed restricted to households earning 80% or less of the AMI or SMI, whichever is less.

PA 17-171—HB 6881

Housing Committee

Judiciary Committee

AN ACT CONCERNING THE PROVISION OF ESSENTIAL SERVICES BY LANDLORDS

SUMMARY: This act allows tenants to procure reasonable substitute housing starting 48 hours, rather than two business days, after a landlord fails to provide required essential services such as heat, hot water, or electricity. If a landlord committed the same breach within the previous six months for the same essential service, existing law, unchanged by the act, allows a tenant to procure the substitute housing immediately. A tenant need not pay rent during the noncompliance period and can recover the cost of substitute housing, up to the amount of rent abated.

By law, tenants may also (1) procure the essential service during the landlord’s noncompliance period and deduct its actual and reasonable cost from future rent payments or (2) terminate a rental agreement if the landlord’s failure is willful, and recover up to two months’ rent or double the actual damages, whichever is greater.

In all cases, existing law requires the tenant to properly notify the landlord and specify the breach. The protections apply only when the landlord’s failure is not caused by conditions beyond his or her control.

Generally, “tenant” means a lessee, sublessee, or person entitled under a rental agreement to occupy a dwelling unit or premises; “landlord” means an owner, lessor, or sublessor of a dwelling unit or premises. For purposes of a tenant’s remedies for a landlord’s failure to provide essential services, existing law and the act include in these definitions mobile manufactured home park (1) residents (both owners and renters) and (2) owners and licensees.

EFFECTIVE DATE: October 1, 2017

PA 17-177—sHB 7060

Housing Committee

Judiciary Committee

AN ACT PROHIBITING THE DISCLOSURE OF IDENTIFYING INFORMATION OF DEPARTMENT OF HOUSING PROGRAM PARTICIPANTS

SUMMARY: This act establishes protections for information about people who apply for, receive assistance from, or participate in Department of Housing (DOH) programs (i.e., “clients”).

Except as described below, the act prohibits employees and contractors covered by its provisions from (1) soliciting, disclosing, receiving, or using any information about DOH clients, including a list of their names or (2) authorizing, knowingly permitting, participating in, or acquiescing in the use of such information. A “covered employee” is any employee of a public agency, as defined in the Freedom of Information Act (FOIA) (see BACKGROUND), and a “covered contractor” is one that has entered into a contract with such an agency.

The prohibitions apply to information (1) directly or indirectly derived from the records, papers, files, or communications of the state or one of its agencies or subdivisions or (2) acquired in the course of performing official duties.

The act creates two exceptions to its disclosure prohibitions. Specifically, it authorizes the disclosure of information about DOH clients by covered employees and contractors for:

1. reasons directly connected to administering DOH programs and in accordance with department regulations or
2. research or investigatory purposes authorized by the commissioner or General Assembly, provided the disclosure does not directly or indirectly identify clients.

EFFECTIVE DATE: Upon passage

BACKGROUND

Public Agency

Generally, under FOIA, a public agency is any (1) state, municipal, regional, or quasi-public agency or (2) entity that is the functional equivalent of such agencies (CGS § 1-200(1)).

PA 17-18—sHB 7121

Human Services Committee

AN ACT CONCERNING REVISIONS TO THE STATE'S SAFE HAVEN LAWS

SUMMARY: This act makes various changes to the safe haven law, which requires hospitals to designate a place in their emergency departments where a parent or a parent's legal agent can surrender an infant up to 30 days old without facing arrest for abandonment (CGS § 17a-57 et seq.). Among its changes, the act:

1. requires the Department of Children and Families (DCF) to identify a prospective adoptive parent for a safe haven infant within one business day after receiving notice of the infant's surrender to the hospital, if such a parent is available;
2. specifies circumstances in which the DCF commissioner may require DNA tests to determine the infant's parentage and otherwise requires the department to ask a court to order such testing;
3. limits the circumstances in which DCF may remove a safe haven infant from a prospective adoptive parent's home if the infant has been in his or her care for at least 30 consecutive days and allows the prospective adoptive parent to request a hearing before the removal;
4. clarifies the information a hospital employee may disclose about a safe haven surrender if the employee believes the infant was abused or neglected; and
5. prohibits DCF from disclosing information about the parents of a safe haven infant to a prospective adoptive parent or foster parent without a court order, unless otherwise required by law.

Under the act, a "prospective adoptive parent" is a foster parent awaiting the placement of, or who has, a child or children placed in his or her home under the safe haven law for adoption purposes. A "foster parent" is a person licensed by DCF or approved by a DCF-licensed child-placing agency to care for one or more children in a private home.

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2017

SURRENDERS

Prospective Adoptive Parents (§ 1)

By law, designated emergency department employees must notify DCF within 24 hours after taking physical custody of a safe haven infant, and DCF in turn must immediately take care and control of the infant on receiving the notice. Under the act, in order to achieve safety and permanency for the infant, DCF must identify a prospective adoptive parent within one business day after receiving the notice, provided such a parent is available.

Permissible DNA Testing (§ 2)

Under the act, if a person claiming to be a safe haven infant's parent or lawful agent requests reunification with the infant within 30 days after the surrender, the commissioner may require the parent and infant to submit to DNA tests to determine parentage. The tests must be performed by a hospital, accredited laboratory, qualified physician, or other qualified person the commissioner designates. The person seeking reunification must pay for the test, except DCF must pay for it if the commissioner determines that the requester is indigent.

The act otherwise prohibits the commissioner from subjecting the infant to genetic testing to determine parentage or familial relationship without a court order.

§§ 3 & 4 — REMOVALS

The act prohibits DCF from removing a safe haven infant from a prospective adoptive parent with whom the infant has been placed for at least 30 consecutive days unless:

1. the department possesses specific allegations and other verified affirmations of fact that give it reasonable cause to believe that (a) the infant is suffering from serious physical illness or injury or is in immediate physical danger and (b) immediate removal is necessary for the infant's safety;
2. the prospective adoptive parent consents to the removal; or
3. the infant's biological parent has been identified and the court has granted that parent's request for reunification with the infant.

Under the act, if DCF decides to remove a safe haven infant from a prospective adoptive parent's home after such a 30-day period, that parent may ask the department to conduct a removal hearing. The prospective parent must make the request in writing within 10 days of receiving written notice of the department's decision to remove the infant. DCF must conduct the hearing within 30 days of receiving the request. The infant must remain in the prospective parent's care pending the hearing's outcome unless one of the above grounds for removal applies.

The hearing is an administrative proceeding conducted by DCF in accordance with the Uniform Administrative Procedure Act to determine if removing a child from a prospective adoptive parent is in the child's best interest. The act requires the DCF commissioner to adopt regulations for such hearings.

§ 2 — INFORMATION DISCLOSURES

The act generally prohibits any hospital employee from disclosing information about a safe haven infant, the parent or lawful agent, or facts and circumstances under which the emergency department took custody of the infant. But the act also specifies that hospital employees must disclose this information if they have reasonable cause to suspect the infant has been abused or neglected, in keeping with their legal responsibilities as mandated reporters of child abuse and neglect. Prior law generally prohibited a hospital employee who took custody of a safe haven infant from disclosing information about the parent, agent, or infant if the parent or agent requested that the information not be disclosed.

Existing law, unchanged by the act, requires hospital employees to disclose to (1) DCF all the medical information the parent provided and (2) the Department of Public Health the infant's name and birthdate so that the department can seal the infant's birth record, if the baby was registered in the state vital records system before the surrender.

The act specifies that it does not prohibit (1) hospital personnel from entering medically relevant information in the infant's medical record or (2) discussion or disclosure that hospital personnel may have with anyone if it pertains to the infant's medical care and treatment.

PA 17-20—SB 804

Human Services Committee

AN ACT CONCERNING A SOCIAL WORK IN-HOME SUPPORT PROGRAM

SUMMARY: This act renames the Department of Social Services' (DSS) community-based services program as the "Social Work In-Home Support" program. The program, which is funded through a federal block grant, provides non-medical home care services to adults, ages 18 through 64, who have physical or mental disabilities.

The act makes anyone participating in a Medicaid home- and community-based services program ineligible for the Social Work In-Home Support program unless a particular service is not otherwise available under the Medicaid program. Connecticut currently has 10 home- and community-based Medicaid waiver programs.

The act also eliminates a provision that required the DSS commissioner to disqualify from the block grant-funded program people who were receiving the program's services on October 1, 2000 and who were eligible for, and could be enrolled in, the personal care assistance Medicaid waiver program. It makes a conforming change to require that DSS post regulations on its website and on the eRegulations system rather than in the Connecticut Law Journal.

EFFECTIVE DATE: July 1, 2017

PA 17-27—sHB 7037

Human Services Committee
Judiciary Committee

AN ACT CONCERNING WITHHOLDING WORKERS' COMPENSATION INCOME FOR CHILD SUPPORT

SUMMARY: By law, an employer must take certain actions if an employee whose income is withheld to enforce a child support order makes a workers' compensation claim. Specifically, the employer must promptly notify the dependent (i.e., spouse, former spouse, or child owed the support) or judicial branch's Support Enforcement Services, as directed.

This act requires the employer to also include a copy of the income withholding order with the first report of occupational illness or injury to the workers' compensation benefits carrier. The carrier must withhold funds pursuant to the order and pay the withheld funds to the Department of Social Services' Office of Child Support Services.

EFFECTIVE DATE: January 1, 2018

PA 17-30—sHB 7237

Human Services Committee

AN ACT CONCERNING AN ADVISORY BOARD FOR PERSONS WHO ARE DEAF OR HARD OF HEARING

SUMMARY: This act renames the Commission on the Deaf and Hearing Impaired as the “Advisory Board for Persons Who are Deaf or Hard of Hearing.” The act also changes the board’s membership; expands its duties; and requires it to advocate, strengthen, and advise the governor and the General Assembly, rather than the Department of Rehabilitation Services (DORS), on state policies affecting individuals who are deaf or hard of hearing and their relationship to the public, industry, health care, and educational opportunity.

The act increases, from seven to eight, the number of voting members needed for a quorum. It also removes a requirement that members be reimbursed for their expenses. Under the act, the governor fills any vacancies, rather than the officer authorized to make the original appointments.

The act delays the initial review of the board under the state’s sunset law from July 1, 2017 to July 1, 2020. Existing law requires the Human Services Committee to conduct a review of the board every 10 years after its initial review.

EFFECTIVE DATE: Upon passage

BOARD MEMBERSHIP

Under prior law, the board had 21 members, three of whom were non-voting and seven of whom were state agency heads. Under the act, the board has 15 members, all of whom are voting and appointed by the governor. (PA 17-146 increases the board’s membership from 15 to 16 by adding the director of the Connecticut Chapter of We the Deaf People.) Table 1 compares the board’s membership under prior law with that under the act. Under the act, the board has three chairs: (1) the DORS commissioner, (2) the governor’s liaison to the disability community, and (3) a board member chosen by a majority of the board.

Table 1: Membership Changes

<i>Under Prior law</i> Commission on the Deaf and Hearing Impaired	<i>Under the Act</i> Advisory Board for Persons Who are Deaf or Hard of Hearing
State Agency Heads	
<ul style="list-style-type: none"> • Department of Public Health (DPH) commissioner, or designee • Department of Social Services (DSS) commissioner, or designee • Department of Mental Health and Addiction Services (DMHAS) commissioner, or designee • Department of Education (SDE) commissioner, or designee • Department of Developmental Services (DDS) commissioner, or designee • Department of Children and Families (DCF) commissioner, or designee • Department of Labor (DOL) commissioner, or designee 	<ul style="list-style-type: none"> • DORS commissioner, or designee (chair)

Table 1 (Continued)

<i>Under Prior law</i> Commission on the Deaf and Hearing Impaired	<i>Under the Act</i> Advisory Board for Persons Who are Deaf or Hard of Hearing
Medical, Educational, or Interpreting Professionals	
<ul style="list-style-type: none"> • State Board of Education's (SBE) consultant for the education of children who are hearing-impaired or deaf children (non-voting) • President of the Connecticut Council of Organizations Serving the Deaf (non-voting) • Superintendent of the American School for the Deaf (non-voting) • Licensed physician specializing in otolaryngology, appointed by the governor 	<ul style="list-style-type: none"> • SBE's consultant for the education of children who are hearing-impaired or deaf, or designee • President of the Connecticut Council of Organizations Serving the Deaf, or designee • Executive director of the American School for the Deaf, or designee • President of the Connecticut Association of the Deaf, or designee • President of the Connecticut Registry of Interpreters for the Deaf, or designee • A healthcare professional who works with people who are deaf or hard of hearing • An interpreting professional who serves people who are deaf or hard of hearing • The governor's liaison to the disability community (chair) • An educator who works with children who are deaf or hard of hearing
Parents	
<ul style="list-style-type: none"> • Parent of a student in a predominantly oral education program, appointed by the governor • Parent of a student at the American School for the Deaf, appointed by the governor • Parent of a student in a public school hearing impaired program, appointed by the governor 	<ul style="list-style-type: none"> • Parent of a student in a predominantly oral education program • Parent of a student at the American School for the Deaf
Individuals Who are Deaf or Hard of Hearing	
<ul style="list-style-type: none"> • A parent who is deaf, appointed by the governor • Six additional people who are deaf, appointed by the governor 	<ul style="list-style-type: none"> • A person who is deaf • A person who is hard of hearing • A person who is deaf and blind

BOARD DUTIES

The act requires the board to monitor services for people who are deaf or hard of hearing and refer people with complaints about interpreter qualifications and registration to Connecticut's protection and advocacy system (i.e., Disability Rights Connecticut, Inc.).

The act also requires the board to periodically meet with the DPH, DSS, DMHAS, SDE, DDS, DCF, and DOL commissioners, or their designees to discuss best practices and service gaps for people who are deaf or hard of hearing.

Under the act, the board must report recommendations to the governor and the Human Services Committee on:

1. technical assistance and resources for state agencies to serve people who are deaf or hard of hearing,
2. public policy and legislative changes needed to address gaps in services, and
3. interpreter qualifications and registration required by state law.

PA 17-96—HB 7192

Human Services Committee

AN ACT CONCERNING A PROTECTION AND ADVOCACY SYSTEM FOR PERSONS WITH DISABILITIES

SUMMARY: PA 16-66 eliminated the Office of Protection and Advocacy (OPA) and the Board of Advocacy and Protection for Persons with Disabilities. It instead established, starting July 1, 2017, a nonprofit entity (Disability Rights Connecticut (DRC), Inc.) to serve as the state's protection and advocacy system and client assistance program for individuals with disabilities. It also transferred OPA's investigatory responsibilities to the Department of Rehabilitation Services.

This act effectuates OPA's elimination by removing numerous statutory references to the office, including provisions concerning, among other things: (1) membership on various councils, committees, and task forces; (2) authority to apply to Superior Court to appoint a receiver for nursing homes or residential facilities for individuals with intellectual disabilities; and (3) joint review and approval, with the state building inspector, of applications to waive certain State Building Code accessibility standards.

Additionally, the act:

1. transfers various responsibilities from OPA to DRC, Inc.;
2. adds the executive director of DRC, Inc., or his or her designee, to the membership of the Long-Term Care Advisory Council, thereby increasing the council's membership to 28;
3. specifies that the Department of Developmental Services (DDS) commissioner, or his designee, may investigate reports of abuse or neglect of individuals ages 18 to 60 with autism spectrum disorder receiving services from the Department of Social Services' (DSS) Division of Autism Spectrum Disorder Services and requires DDS to provide DSS with an evaluation report of such investigations;
4. modifies the circumstances in which information from the DDS abuse and neglect registry may be disclosed to DSS;
5. requires OPA, by June 30, 2017, to transfer closed case files to the Office of Policy and Management (OPM) for retention and destruction and notify former clients affected by such file transfers;
6. requires DRC, Inc. to annually report to the governor on the status of services for individuals with disabilities, DRC, Inc.'s operation, and administrative and legislative recommendations;
7. specifies the confidentiality of certain probate court records regarding petitions to place an individual with intellectual disability with DDS for residential support services, and makes other minor changes;
8. modifies the process for towns to apply to the secretary of the state for a waiver from polling accessibility requirements;
9. requires the state building inspector to post on the Department of Administrative Services website its decision to waive certain State Building Code accessibility requirements; and
10. repeals (a) provisions establishing OPA and the Board of Advocacy and Protection for Persons with Disabilities and (b) an obsolete reporting requirement regarding revisions to State Building Code accessibility standards.

The act also makes various minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2017, except that the provisions on the (1) DDS abuse and neglect registry, (2) transfer of closed case files from OPA to OPM, and (3) minor and technical changes regarding the review of DDS clients' residential placements take effect upon passage.

§ 4 — POLLING PLACE ACCESSIBILITY

By law, a town's registrar of voters or legislative body must select polling places that are accessible to individuals with physical disabilities. Under prior law, if no such site was available that could reasonably be made accessible, the registrar or legislative body could file a waiver application with the secretary of the state (SOTS). SOTS then had to refer the application to OPA for review within seven days of receiving it, and OPA had to inform SOTS of its approval or disapproval of the waiver within 30 days after receiving it.

The act instead requires the waiver application to be filed with and approved by the town's building official. The official must then file a copy of an approved application with SOTS. The act requires SOTS, within 30 days after the application is filed, to file a written objection to the waiver if she has reason to believe it should not be granted.

§§ 5-8, 17, 21, 32, 33, 36 & 37 — TRANSFER OF CERTAIN OPA RESPONSIBILITIES

The act transfers, from OPA to DRC, Inc. various responsibilities, including, among other things:

1. participating on the Advisory Council for Special Education, Children's Behavioral Health Advisory Committee, and Autism Spectrum Disorder Advisory Council;
2. receiving reports from the State Board of Education on the use of restraint or seclusion on special education students;
3. receiving reports from the Department of Mental Health and Addiction Services (DMHAS) on certain client injuries and deaths; and
4. notification of a court petition for limited temporary guardianship of a person with intellectual disability unable to consent to certain medical care.

§§ 11-13 — DDS ABUSE AND NEGLECT INVESTIGATIONS

Abuse and Neglect Registry

By law, DDS maintains a registry of the names of any person fired from his or her job because of a substantiated abuse complaint against him or her. These are individuals who were employed by DDS, or an agency, organization, or individual who DDS licenses or funds. By law, the information is available only to certain agencies and employers for specified purposes. Previously, the information was available to DSS's Division of Autism Spectrum Disorder Services for protective services determinations. The act instead makes the information available to DSS for purposes of determining whether a job applicant appears on the registry.

DDS Investigations

By law, the DDS commissioner may investigate reports of abuse or neglect of individuals ages 18 to 60 with autism spectrum disorder receiving services from DSS's Division of Autism Spectrum Disorder Services. The act authorizes the commissioner to designate someone to conduct these investigations and makes related conforming changes.

Upon completing the investigation, existing law requires the DDS commissioner to prepare written findings, including a determination of whether abuse or neglect occurred. The act permits, instead of requires, the report to also include recommendations on whether protective services are needed. Additionally, the act requires DDS to provide the DSS commissioner with an evaluation report of an investigation involving a person who receives division services.

The act also makes related minor, technical, and conforming changes.

§§ 15 & 16 — COURT ORDERED DDS PLACEMENTS

By law, any interested party may file a petition with the probate court to place a person with intellectual disability with DDS for placement in the least restrictive, appropriate setting. Under prior law, the petition and related probate court records, except for the name of the respondent's guardian, were sealed and only available to the respondent, his or her counsel or guardian, and DDS. The act additionally makes the records available to the Office of the Probate Court Administrator and other parties to the case and their counsel. Under the act, if the court appoints a legal representative, the names of the representative and the protected person are public.

Under existing law, the court may additionally disclose the records for cause after providing a hearing, with notice of the hearing sent to the respondent, respondent's counsel, and DDS. The act requires the court to also notify the legal representative of the hearing.

By law, once the petition is filed, the court must immediately schedule a hearing, to occur within 30 days, and notify certain parties. The act (1) adds the petitioner to the individuals who must receive notice and (2) allows the court to provide notice at its discretion to any other person with an interest in the respondent, instead of requiring such notice for anyone who has shown such interest.

By law, if the court orders an individual to be placed with DDS, the department must arrange for an interdisciplinary team to evaluate the individual and determine his or her level of need. Prior law required DDS to place the individual on a waiting list for residential support services. The act instead requires DDS to place the individual as soon as possible. Under existing law and the act, if no such placement is available within 60 days, DDS must advise the court and continue to report to the court every 30 days until the placement is made.

The act also makes related minor and technical changes to update statutory terminology.

§ 41 — DRC, INC. ANNUAL REPORT

The act requires DRC, Inc. to annually report to the governor on the status of services for individuals with disabilities, DRC, Inc.'s operation, and administrative and legislative recommendations on protecting the rights and welfare of persons with disabilities living in Connecticut. DRC, Inc. must submit the first report by July 1, 2018 and report by each January 1 thereafter and at any other time the governor requests.

§ 43 — TRANSFER OF OPA CLOSED CASES TO OPM

By June 30, 2017, the act requires OPA to transfer legal title to, and custody of, closed case files to OPM. Under the act, "closed case files" are all files currently in OPA's possession that must be retained after July 1, 2017 as prescribed by the records retention schedule filed with the public records administrator, and that are not:

1. open client files pertaining to OPA's protection and advocacy and client assistance program functions transferring to DRC, Inc.;
2. investigation records transferring to the abuse and investigation division;
3. files related to the Fatality Review Board transferring to DDS; and
4. non-records, such as copies, as defined by the public records administrator.

Compliance with the act's closed case file provisions constitutes an absolute defense in any legal or administrative action resulting from transferring or destroying closed case files.

Notification of Former OPA Clients

The act requires OPA, by June 30, 2017, to provide written notification by first class mail to former clients whose files are being transferred to OPM. The notice must inform the client that:

1. OPA is abolished as of July 1, 2017;
2. the client's files are being transferred to OPM and he or she may contact the office to retrieve them; and
3. if the client chooses not to retrieve the files, they may be retained and destroyed according to the applicable records retention schedule on file with the public records administrator.

Client Confidentiality

The act requires OPM to take appropriate measures to ensure client confidentiality of the files in its custody. Such measures include procedures ensuring that (1) documents in the files are not viewed by non-attorneys and (2) confidential information in the files is not unlawfully disclosed. It allows OPM to use the State Library's records center to store the files, and to enter into a memorandum of understanding with the library outlining the proper handling of the files to ensure client confidentiality.

All files transferred to OPM must be retained and destroyed according to the OPA records retention schedule on file with the public records administrator as of June 30, 2017.

PA 17-122—sHB 7007*Human Services Committee***AN ACT CONCERNING AN INNOVATION INCENTIVE PROGRAM FOR NONPROFIT PROVIDERS OF HUMAN SERVICES**

SUMMARY: This act allows the Office of Policy and Management (OPM) secretary to establish an incentive program for human services providers that (1) have state contracts of no more than \$1 million and (2) provide direct services to no more than 150 people enrolled in state-funded assistance programs in specific geographic regions of the state. Under the act, such programs include those that provide services to individuals with intellectual, physical, or mental disabilities, or autism spectrum disorder.

The act's incentive program may allow providers to keep a portion of any savings they realize from the contracted cost of services as long as they meet their state contract's requirements. The incentive program may also require that (1) providers use 50% of the savings they retain to expand services and (2) future contracted amounts for the same type of service are not reduced solely to reflect the savings a provider achieves.

EFFECTIVE DATE: July 1, 2017

PA 17-135—HB 7190

Human Services Committee

AN ACT CONCERNING MEDICAID PROVIDER AUDITS AND ELECTRONIC VISIT VERIFICATION

SUMMARY: This act places limits on medical assistance (e.g., Medicaid) provider audits by (1) prohibiting the Department of Social Services (DSS) from applying agency policies or other criteria to audits of claims submitted before the policies or other criteria were distributed to providers and (2) temporarily prohibiting DSS from extrapolating overpayments related to electronic visit verification (EVV).

The act also requires the DSS commissioner to report to the Human Services Committee on the implementation of the state-required EVV system by July 1, 2018. The report must include (1) any problems with system implementation, (2) recommendations to resolve identified problems, and (3) cost savings identified due to the EVV system.

EFFECTIVE DATE: July 1, 2017, except EVV provisions are effective upon passage.

DISTRIBUTION OF DSS POLICIES

The act prohibits the DSS commissioner from applying an agency policy, guideline, bulletin, manual provision, or other criteria when making determinations in a medical assistance provider audit unless it was promulgated and distributed, with its effective date, to a provider before the provider performed the service included in the audited claim.

TEMPORARY EVV-RELATED AUDIT RESTRICTION

The act temporarily prohibits the DSS commissioner from extrapolating overpayments caused by errors related to implementing a state-required EVV system, which, under the act, is a system also required by federal law that verifies the date, time, and site of a provider visit and services offered to a client in a Medicaid-funded and DSS-administered home or community-based service program. Generally, extrapolation means projecting the total value of submitted claims based on a sample of the claims.

The act prohibits DSS from extrapolating overpayments due to errors related to EVV by (1) non-medical providers from January 1, 2017 to May 1, 2017 and (2) medical home health care providers from April 1, 2017 to August 1, 2017.

Under the act, non-medical providers are Medicaid-enrolled home care providers who are not licensed by the Department of Public Health (DPH). Medical home health care providers are Medicaid-enrolled, DPH-licensed providers with Medicare certification to provide medically skilled home health care services under a registered nurse's supervision.

PA 17-2—sHB 7025

Insurance and Real Estate Committee

AN ACT AUTHORIZING DOMESTIC INSURERS TO DIVIDE

SUMMARY: This act allows a domestic insurer to divide into two or more insurers and allocate assets and obligations, including insurance policies, to the new companies (i.e., “new” or “resulting” insurers). It does so by creating a process that is legally distinct from a merger, consolidation, dissolution, or formation. Under the new process, resulting insurers are deemed legal successors to the dividing insurer and any assets and obligations are allocated to them as a result of succession and not by direct or indirect transfer.

The act requires dividing insurers to develop a plan of division, which must be approved first by the dividing insurer and then by the insurance commissioner. The act establishes the plan’s required components and specifies the effects of the division, including how obligations and interests are allocated. It also:

1. prohibits the commissioner from approving a plan unless each new insurer created by the division is issued a license;
2. specifies how the commissioner must apply the state’s Uniform Fraudulent Transfer Act (UFTA) in assessing the division;
3. makes certain documents submitted to her for the division confidential;
4. requires the dividing insurer to pay for any division-related expenses the commissioner incurs; and
5. allows the commissioner to permit the formation of a domestic insurer established solely to, simultaneously with a division, merge or consolidate with an existing domestic insurer.

The act also authorizes the commissioner to adopt implementing regulations and makes conforming changes.

EFFECTIVE DATE: October 1, 2017

PLAN OF DIVISION

Components (§ 2)

Under the act, an insurer may divide into two or more resulting insurers (i.e., a new insurer or a dividing insurer that survives a division) according to a plan of division, subject to the commissioner’s approval. The plan must include:

1. the name of the domestic insurer seeking to divide and each resulting insurer that the proposed division creates;
2. for each resulting insurer, the proposed “private organic rules” and, if the insurer will be a filing entity, the proposed “public organic document” (see below);
3. the allocation of (a) property that will not be commonly owned by all resulting insurers and (b) policies and other liabilities of the domestic insurer to which not all of the resulting insurers will be jointly and severally liable;
4. how interests in the new insurers will be distributed among the dividing insurer or its interest holders;
5. a reasonable description of policies or other liabilities, “capital,” “surplus,” and other “property” proposed for allocation to resulting insurers, including how reinsurance contracts are to be allocated;
6. all terms and conditions required by state law and the dividing insurer’s “organic rules;” and
7. all other terms and conditions of the division.

Under the act, “private organic rules” are rules, whether or not recorded (i.e., inscribed on a tangible medium, stored electronically, or by other means, and retrievable in perceivable form) that govern an entity’s internal affairs, are binding on all of its interest holders, and are not part of the entity’s public organic document, if any. A “public organic document” is the public record and any amendments or restatements, that creates an entity when filed. “Capital” is the capital stock component of statutory surplus, as defined in the National Association of Insurance Commissioners Accounting Practices and Procedures Manual (NAIC manual). “Property” is all property, including real, personal, mixed, tangible, and intangible property, and any right or interest to any property, including rights under contracts or binding agreements. “Surplus” is the total statutory surplus, less capital stock, adjusted for the par value of any treasury stock, calculated in accordance with the NAIC manual.

The act requires the plan to include additional information based on whether the insurer will survive the division. If so, the plan must also include:

1. all proposed amendments, if any, to the dividing insurer’s public organic documents and private organic rules;
2. if the dividing insurer intends to cancel some, but not all, “interests” in the dividing insurer, the way it will cancel the interests; and

3. if the dividing insurer intends to convert some, but not all, interests in the dividing insurer into any combination of interests, securities, obligations, money, other property, interest or security acquisition rights, a statement disclosing how it will convert these interests.

Under the act, “interests” means a governance or transferable interest in an unincorporated entity or a share or membership in a corporation. A “governance interest” is the right under an entity’s organic law or rules, other than as governor, agent, assignee, or proxy, to (1) receive or demand access to entity information, including its books and records; (2) vote for the entity’s governors; or (3) receive notice of or vote in the entity’s internal affairs or other issues. A “transferable interest” is the right under an entity’s organic law to receive distributions from the entity.

If the domestic insurer will not survive the division, the plan must include how the dividing insurer will cancel or convert its interests in the dividing insurer into interests, securities, obligations, money, other property, interests or securities acquisition rights, or any combination of these.

The act also (1) allows a plan of division’s terms to be made dependent on objectively ascertainable facts not in the plan and (2) subjects the plans to certain existing requirements for corporate documents filed with the secretary of state, including what constitutes objectively ascertainable facts.

Approving and Filing the Plan (§ 3)

The act prohibits an insurer from filing a plan of division with the commissioner unless it has been approved according to the insurer’s organic rules or, if its organic rules do not provide for division approval, all organic laws and rules for approval of a merger. “Organic law” is any section of the general statutes governing the dividing insurer’s internal affairs, excluding the act’s provisions and certain entity merger, conversion, and domestication laws. “Organic rules” are the dividing insurer’s private organic rules and public organic document.

The act authorizes insurers to file plans without the approval of interest holders unless the:

1. dividing insurer’s organic rules require such approval;
2. plan amends the organic rules to require it;
3. domestic insurer will not survive the division and all interests and other securities and obligations of the new insurer will be owned solely by the dividing insurer; or
4. domestic insurer has only one class of interests outstanding and each new insurer’s interests and other securities and obligations will not be proportionally distributed to the interest holders.

In certain circumstances, the act requires divisions to be treated as mergers. If an insurer’s organic rules adopted before October 1, 2017 require a specific number or percentage of governors or interest holders to approve a merger, or impose other special procedures for a merger proposal or adoption, the insurer must adhere to the merger provisions in proposing or adopting a plan of division.

Additionally, if the dividing insurer has certain debt or obligations with provisions that (1) require the obligee’s consent to a merger or (2) treat a merger as a default, those provisions apply to the division as if it was a merger. This applies to any of the following if they were issued, incurred, or executed by the domestic insurer before October 1, 2017: debt securities; secured or unsecured notes or similar evidence of indebtedness for money borrowed; indentures or other contracts relating to indebtedness; or provisions of any other type of contracts except insurance policies, annuities, or reinsurance agreements.

The act specifies that any provisions of such debt or the dividing insurer’s organic rules concerning merger approvals amended on or after October 1, 2017 must apply to a division only according to its express terms.

Commissioner’s Approval (§ 4)

Under the act, a division is not effective until approved by the insurance commissioner. She may first, if she deems it to be in the public interest, require reasonable notice and a public hearing. (With certain exceptions, the act requires hearings to be conducted according to the state’s Uniform Administrative Procedure Act.) Upon approving the plan, she must issue the dividing insurer a certificate of approval on a form she prescribes.

The commissioner must approve a plan of division unless she finds the:

1. interest of any policyholder or interest holder will not be adequately protected or
2. proposed division constitutes a fraudulent transfer under UFTA, which is designed to protect creditors (see BACKGROUND).

If the dividing insurer will survive the proposed division, the commissioner must apply UFTA to the dividing insurer only in its capacity as a resulting insurer. The act prohibits the commissioner from applying UFTA to the dividing insurer if it will not survive the proposed division.

In applying UFTA to each resulting insurer, the commissioner must treat (1) the resulting insurer as a debtor, (2) liabilities allocated to the resulting insurer as obligations incurred by a debtor, (3) the resulting insurer as not having received a reasonably equivalent value in exchange for incurring such obligations, and (4) property allocated to the resulting insurer as remaining property.

Confidentiality (§ 4)

Except for a plan of division and its incorporated materials, the act requires all information, documents, materials, and copies submitted to, obtained by, or disclosed to the commissioner in connection with a plan's approval to be confidential and unavailable for public inspection.

Expenses (§ 4)

Dividing insurers must pay all expenses the commissioner incurs in reviewing and approving a division, including expenses for attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff who may be reasonably necessary to conduct the review. The act allows a dividing insurer to allocate these expenses in a plan of division in the same manner as any other liability (e.g., assign them to one of the newly created companies).

Licensure (§ 4)

The act appears to require new insurers to meet current state licensing requirements. It does so by prohibiting the commissioner from approving a plan unless she has issued licenses to the new insurers that the division will create. However, she may waive licensing requirements if the new insurer is a non-surviving party to a merger.

Non-Surviving Party to a Merger (§§ 4 & 10)

The act establishes conditions under which the commissioner may approve the creation of a new insurer as a party to a merger or division and exempt it from state licensure requirements. The commissioner may permit the formation of a domestic insurer established for the sole purpose of merging or consolidating with an existing domestic insurer simultaneously with an approved division. An insurer formed in this way is deemed to exist before the merger and division take effect, but only as a party to the merger and division. Any policies, annuities, or reinsurance agreements allocated to this insurer must become obligations of the surviving insurer at the same time the division and merger are effective. In such cases, the act (1) allows the commissioner, at the request of the dividing insurer, to waive existing licensing, merger, consolidation, and other state insurance laws and (2) exempts such insurers from licensure requirements. The act deems the plan of merger approved by the new insurer if it was approved by the dividing insurer as part of the division.

By law, an insurance company merger is not effective until a certificate of merger is filed with the secretary of the state (CGS § 38a-154). The act requires that this certificate state that the merger was approved pursuant to these provisions.

Certificate of Division (§ 5)

Once the commissioner approves a division, the act requires the dividing insurer's officer or duly authorized representative to sign a certificate of division, which must be delivered to the secretary of the state. The certificate of division is effective when filed with the secretary or on a later date that is (1) specified in the plan of division and (2) within 90 days after the filing. A division is effective when the certificate takes effect.

The certificate of division must include:

1. the name of the dividing insurer and each new insurer the division creates;
2. whether the dividing insurer will survive the division;
3. the division's effective date;
4. statements that the dividing insurer and commissioner, respectively, approved the division according to the act's provisions;
5. a reasonable description of the dividing insurer's capital, surplus, other property and policies, and other liabilities allocated to resulting insurers; and
6. a statement that the dividing insurer, within 10 days after filing the plan of division, provided reasonable notice to each reinsurer that is a party to a reinsurance contract allocated in the plan.

In certain circumstances, the certificate must include additional information. If the dividing insurer survives and is a filing entity (i.e., an entity created by filing a public organic document), the certificate must include any amendments to its public organic documents approved as part of the plan of division. For each new resulting insurer that is a filing entity, the certificate must include its public organic documents, excluding the name and address of an incorporator of a corporation, organizer of a limited liability company, or similar person with respect to other entities. If the new insurer is a domestic limited liability partnership, the certificate must include its certificate of limited liability partnership.

Any new insurer's public organic document must satisfy state law. However, the act specifies that it need not be signed or include any provision unnecessary for a restatement of the document.

AMENDING OR ABANDONING A PLAN OF DIVISION

The act allows an insurer, under certain circumstances, to amend or abandon a plan of division.

Amending a Plan of Division (§ 2)

A dividing insurer may amend a plan in accordance with the plan's procedures. Absent such procedures, a dividing insurer may amend the plan in any manner determined by the dividing insurer's governors. (The act defines a "governor" as a person under whose authority an entity exercises its powers and under whose direction the entity manages its business and affairs.)

Under the act, an interest holder that was entitled to vote on or consent to approval of the plan of division is also entitled to vote on any amendment changing:

1. the amount or kinds of interests, securities, obligations, money, other property, interests or securities acquisition rights that interest holders receive;
2. the resulting insurer's public organic document or private organic rules in effect after the division, except for changes that do not require interest holder approval under its organic law or rules; or
3. any other terms or conditions of the plan that, if changed, would adversely affect the interest holders in any material respect.

Abandoning a Plan of Division (§ 2)

A dividing insurer may abandon an approved plan of division without any action by the interest holders and in accordance with the plan's procedures, or in the absence of procedures, as determined by the dividing insurer's governors.

If the dividing insurer has already delivered a certificate of division to the secretary, it may abandon the plan by delivering to her a certificate of abandonment. The certificate of abandonment is effective when filed, upon which the dividing insurer is deemed to have abandoned the division.

The act prohibits a dividing insurer from abandoning a plan of division once it becomes effective.

CONSEQUENCES OF A DIVISION

Effects (§ 6)

The act establishes the effects of the division, as follows:

1. If the dividing insurer survives the division, it continues its corporate existence and its public organic document and private organic rules, if any, must be amended according to the certificate of division and plan of division, respectively.
2. If the dividing insurer does not survive the division, it ceases to exist.
3. Each new insurer created by the division comes into existence and must hold any capital, surplus and other property allocated to it as a successor to the dividing insurer, and not by direct or indirect transfer. Its public organic document and private organic rules become effective and, if it is a limited liability partnership, its partnership also becomes effective. (The act defines "transfer" to include an assignment, conveyance, sale, lease, and encumbrance, including a mortgage or security interest, gift, or transfer by operation of law.)
4. The dividing insurer's capital, surplus, and other property (a) vests, if it is allocated by the plan of division, in resulting insurers according to the plan or remains vested in the dividing insurer; (b) if not allocated by the plan, remains vested in the dividing insurer, if the dividing insurer survives, or is allocated to, and vests equally in, the resulting insurers as tenants in common if the dividing insurer does not survive; or (c) vests in accordance with the act's provisions without transfer, reversion or impairment.

5. The dividing insurer's policies and other liabilities are allocated to resulting insurers, as discussed below, as successors to the dividing insurer and not by direct or indirect transfer.
6. Interests in the dividing insurer that are converted or canceled by the division are converted or canceled, and interest holders are entitled only to the rights provided to them under the plan of division and any appraisal rights the act grants (see below).

Once a division takes effect, a resulting insurer to which a cause of action is allocated may be substituted or added in any pending action or proceeding to which the dividing insurer is a party when the division becomes effective.

Insurer Responsibility (§ 7)

When a division becomes effective, a resulting insurer is individually responsible for the policies and other liabilities (1) it issues, undertakes, or incurs in its own name after the division and (2) allocated to or remaining with it by the plan of division. It is jointly and severally responsible with the other resulting insurers for the dividing insurer's policies and other liabilities not allocated by the plan.

If a division breaches a dividing insurer's obligation, all of the resulting insurers are liable, jointly and severally, for the breach. However, the act specifies that the breach does not affect the division's validity and effectiveness.

Additionally, under the act:

1. a direct and indirect allocation of capital, surplus, property, or policies or other liabilities in a division is not a distribution under the dividing or resulting insurer's organic law and
2. the dividing insurer's liens, security interests and other charges on the capital, surplus or other property are not impaired by the division, regardless of any otherwise enforceable allocation of policies or other liabilities.

Collateral (§§ 6 & 7)

Under the act, any capital, surplus, or other property allocated to a new insurer that is collateral for an existing, effective financing statement is not effective until a new financing statement naming the new insurer as a debtor is effective under the Uniform Commercial Code (UCC).

Resulting insurers are bound by any dividing insurer's security agreement that attaches security interest to after-acquired collateral. This provision applies to binding security agreements governed by Article 9 of the UCC as enacted in any jurisdiction.

Limitations (§§ 6 & 7)

Under the act and except as provided in the dividing insurer's organic law or rules, the division does not grant any rights that an interest holder, governor, or third party would have upon a dissolution, liquidation, or winding up of the dividing insurer.

The interests in, and any securities of, the new insurers must be distributed to the dividing insurer, if it survives the division. If it does not, the interests and securities of the new insurer must be distributed to the holders of common interest or other residuary interest of the dividing insurer that do not assert their proportional appraisal rights. However, the plan of division may specify alternative methods of distributing these interests and securities.

Except in accordance with the plan and approved by the commissioner, an allocation of a policy or other liability does not:

1. affect the rights of a policyholder or creditor owed payment on the policy, or payment of any other type of liability or performance of the obligation that creates the liability, except that those rights are available only against a resulting insurer responsible for the policy, liability, or obligation or
2. release or reduce the obligation of a reinsurer, surety, or guarantor of the policy, liability, or obligation.

SHAREHOLDER, STOCKHOLDER, AND INTEREST HOLDER RIGHTS

Appraisal Rights and Fair Value (§ 8)

Under the act, if the dividing insurer is a business corporation, its shareholders are entitled to appraisal rights and payment of the fair value of their shares.

If the dividing insurer is not a business corporation, its interest holders are entitled to contractual appraisal rights to the extent provided by the dividing insurer's organic rules, plan of division, or by action of its governors. If the dividing insurer's organic law does not include provisions for conducting appraisal rights proceedings in such a case, the act specifies that state appraisal rights laws apply to the extent practicable or as otherwise provided in the insurer's organic rules or plan of division.

BACKGROUND

UFTA

The Uniform Fraudulent Transfer Act (CGS § 52-552 et seq.) protects creditors by, among other things, providing ways to determine and prohibit certain fraudulent transfers. It provides criteria for determining transfers that are fraudulent as to present creditors, identifies factors to consider in determining actual intent to defraud, and prohibits transfers made either with the intent to defraud or without receiving a reasonably equivalent value in exchange for the transfer under certain economic conditions.

PA 17-15—sSB 946

Insurance and Real Estate Committee

AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL AND OTHER CHANGES TO THE INSURANCE AND RELATED STATUTES

SUMMARY: This act makes several minor, technical, and conforming changes to the insurance statutes. Among other things, it specifies:

1. that health carriers (i.e. insurers and HMOs), instead of performing monthly updates, must update and maintain provider directories in accordance with existing, more detailed provisions enacted in PA 16-205 (§ 3);
2. the type of individual health insurance policies that must cover chiropractic services (§ 97); and
3. that certain examination provisions that apply to insurers under existing law also apply to (a) health care centers (i.e., HMOs), (b) corporations or associations collecting an insurer's underwriting data, and (c) any corporation engaged in certain insurance and securities transactions (§ 4).

The act also (1) removes obsolete references to health insurance conversion provisions (i.e., provisions allowing conversion of job-based insurance to an individual policy if eligibility for the job-based insurance is lost) (§§ 12 & 102) and (2) adds credit and travel insurance to limited lines insurance, which under existing law also includes any other line of insurance that the commissioner finds necessary to comply with certain nonresident licensing laws (§ 80).

EFFECTIVE DATE: October 1, 2017

PA 17-55—sHB 7124

Insurance and Real Estate Committee

AN ACT CONCERNING HEALTH INSURANCE COVERAGE FOR FERTILITY PRESERVATION FOR INSUREDS DIAGNOSED WITH CANCER

SUMMARY: This act expands the range of people eligible for infertility coverage under certain individual and group health insurance policies.

By law, these policies must cover the medically necessary costs of diagnosing and treating infertility. Through its definition of "infertility," prior law limited coverage to those who are presumably healthy and unable to conceive, produce conception, or sustain a successful pregnancy during a one-year period. The act removes the "presumably healthy" limitation, thus extending infertility coverage to those who are not healthy. It appears also to extend coverage to anyone who requires medically necessary infertility treatment.

The act applies to policies delivered, issued, renewed, amended, or continued in Connecticut on and after January 1, 2018, that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; or (4) hospital or medical services, including those provided under an HMO plan. Because of the federal Employee Retirement Income Security Act, state insurance benefit mandates do not apply to self-insured benefit plans.

The law, unchanged by the act, allows (1) insurers to impose certain specified limits on infertility coverage and (2) religious employers and individuals to exclude infertility coverage from their policies if it is contrary to their religious tenets.

EFFECTIVE DATE: January 1, 2018

PA 17-59—sSB 809

Insurance and Real Estate Committee

AN ACT ENABLING THE INSURANCE COMMISSIONER TO ADOPT REGULATIONS CONCERNING CREDITS FOR REINSURANCE AND MAKING MINOR CONFORMING CHANGES TO STATUTES CONCERNING REINSURANCE

SUMMARY: This act authorizes the insurance commissioner to adopt regulations under which a domestic insurer may count reinsurance as a credit (for an asset) or reduction (for a liability) on certain financial statements, including annual reports to the commissioner. Except under limited circumstances (see below), prior law prohibited such insurers from doing so if they did not meet one of six sets of statutory criteria.

The act also changes the circumstances under which a stock or mutual insurer may exclude reinsurance in risk exposure calculations. It does so by (1) eliminating the prohibition on insurers including the risk held by reinsurers not authorized to do business in Connecticut and (2) allowing insurers to include the risk held by reinsurers that meet requirements set in law or in regulations adopted under the act.

Reinsurance is a transaction in which an insurance company transfers a portion of risk (the ceding insurer) to another insurance company (the reinsurer) so that a large loss does not fall on any one company.

EFFECTIVE DATE: October 1, 2017

§§ 1-3 — REGULATIONS FOR CREDITING REINSURANCE

Prior law allowed an insurer to count reinsurance as a credit for an asset or a reduction for a liability if the reinsurer met one of six sets of statutory requirements pertaining to minimum surplus, licensing, filing, and examinations. The act allows the commissioner to create an additional set of requirements in regulations relating to the valuation of assets or reserve credits and the circumstances in which credit can be reduced or eliminated. The regulations may also determine the amounts and forms of security supporting reinsurance agreements relating to the following:

1. life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;
2. universal life policies that permit a policyholder to keep the policy in force over a secondary guarantee period;
3. variable annuities with guaranteed death or living benefits;
4. long-term care policies; or
5. any other life insurance, health insurance, or annuity products for which the National Association of Insurance Commissioners (NAIC) adopts credit or reinsurance requirements.

Under the act, the criteria pertaining to life insurance policies may apply to reinsurance agreements that include insurance policies issued on or after January 1, 2015. For policies issued before January 1, 2015, the regulations may apply only if the insurer is ceding all or part of the risk in connection with a reinsurance agreement made on or after January 1, 2015.

Additionally, the regulations may require the ceding insurer to calculate the forms and amounts of security supporting reinsurance agreements according to the NAIC Valuation Manual, to the extent applicable.

However, the act prohibits regulations from applying to risk ceded to (1) a certified reinsurer or (2) an assuming reinsurer that (a) maintains at least \$250 million in capital and surplus, determined in accordance with the NAIC Accounting Practices and Procedures Manual, and (b) is licensed in at least 26 states or is licensed in at least 10 states and licensed or accredited in a total of at least 35 states.

Additional Regulatory Requirements for Insurers Not Meeting Statutory or Regulatory Criteria

Prior law allowed an insurer to claim credits for assets and reductions for liabilities ceded to a reinsurer that did not meet any of the six statutory criteria described above based on an insurer's liabilities and the security held for the insurer under a reinsurance contract.

Under the act, these insurers may claim credits for assets and reductions for liabilities under these circumstances only if the risk is ceded to a reinsurer that does not meet any of the seven criteria described above (i.e., the six statutory criteria and the set of criteria the commissioner may adopt in regulation under the act). However, the act also allows the commissioner to adopt additional regulatory criteria for these insurers as long as the criteria are consistent with the other regulatory criteria she may adopt under the act.

§ 4 — DOMESTIC REINSURER REQUIREMENT

By law, a stock or mutual insurer may not expose itself to loss on any one risk greater than 10% of its paid-up capital. Prior law allowed the insurer to exclude risk insured by a Connecticut-licensed reinsurer from the amount of risk subject to the 10% limit. The act eliminates this exemption and instead allows such insurers to exclude, when calculating this risk exposure, any risk reinsured by a reinsurer that meets either the (1) statutory requirements for reinsurance credits or (2) any regulations for reinsurance credits adopted under the act.

PA 17-114—HB 5963

Insurance and Real Estate Committee

AN ACT INCREASING THE MINIMUM AMOUNT OF INSURANCE COVERAGE REQUIRED TO ISSUE A MOTOR VEHICLE OPERATOR'S LICENSE OR CERTIFICATE OF MOTOR VEHICLE REGISTRATION

SUMMARY: This act increases the minimum amount of auto insurance a person must maintain to receive or retain a driver's license or motor vehicle registration. State law requires that a driver maintain liability and uninsured and underinsured motorist (UI/UM) coverage. Liability coverage covers bodily injury to other people and property damage.

Prior law required minimum liability coverage of \$20,000 per person and \$40,000 per accident for bodily injury and \$10,000 per accident for property damage. The act increases these minimums to \$25,000, \$50,000, and \$25,000, respectively. In doing so, it also increases the minimum amount of UI/UM coverage required from \$20,000 per person and \$40,000 per accident to \$25,000 and \$50,000, respectively. UI/UM coverage covers bodily injury to the vehicle owner, relatives living with the owner, and passengers injured in an accident caused by (1) an uninsured driver, (2) a driver whose bodily injury liability coverage limits are insufficient, or (3) a hit-and-run driver.

The act also makes technical changes.

EFFECTIVE DATE: January 1, 2018 and applicable to policies delivered, issued, renewed, amended, or endorsed in Connecticut on and after that date.

BACKGROUND

Penalties for Driving without Required Insurance

By law, a person who operates a vehicle without the required insurance is subject to a fine of between \$100 and \$1,000 (CGS § 14-213b). However, an owner of a vehicle with a commercial registration who knowingly operates or permits the operation of the vehicle without the required insurance commits a class D felony (see Table on Penalties).

Failing to maintain insurance as required by law is a class C misdemeanor (CGS § 38a-371). Failing to carry proof of insurance in a vehicle is an infraction, subject to a \$50 fine (CGS § 14-13).

In addition, a person's vehicle registration and driver's license may be suspended for failing to maintain insurance, and an uninsured vehicle may be impounded if it has a suspended registration (CGS §§ 14-12g and 14-12h).

PA 17-121—HB 7002

Insurance and Real Estate Committee

AN ACT CONCERNING PERSONAL RISK INSURANCE RATE FILINGS

SUMMARY: This act extends the sunset date for the "flex rating" law for personal risk insurance policies (e.g., home, auto, marine, or umbrella) from July 1, 2017 to July 1, 2021. The flex rating law allows property and casualty insurers,

until the law sunsets, to file new personal risk insurance rates with the insurance commissioner and begin using them immediately, without prior approval, under certain circumstances.

EFFECTIVE DATE: June 30, 2017

BACKGROUND

Flex Rating Law

Under the flex rating law, a personal risk insurance rate cannot (1) increase or decrease by more than 6% statewide, (2) increase by more than 15% in any individual territory, and (3) apply on an individual insured basis. An insurer can apply for a rate increase within the flex rating band only (1) on or after a policy renewal and (2) after notifying the affected insureds. The notification must specify the effective date of the increase.

If the insurance commissioner determines rates are inadequate or unfairly discriminatory, she must order the insurer to stop using the flex rating rate change by a specified future date. The order must be in writing and explain the finding. If she issues the order more than 30 days after the insurer submitted the filing, the law requires the order to apply prospectively only and not affect any contract issued before its effective date.

PA 17-125—sHB 7013

Insurance and Real Estate Committee

Finance, Revenue and Bonding Committee

AN ACT ESTABLISHING STANDARDS TO ALLOW THE INSURANCE COMMISSIONER TO DESIGNATE CERTAIN DOMESTIC INSURANCE COMPANIES AS DOMESTIC SURPLUS LINES INSURERS

SUMMARY: This act allows the insurance commissioner to designate a domestic insurance company as a “domestic surplus lines insurer” subject to certain conditions. To be so designated, the insurer must have a policyholder surplus of at least \$15 million and be acting pursuant to a board of directors’ resolution. Such a designation allows the insurer to market surplus lines insurance in Connecticut, which was not allowed under prior law. Surplus lines insurance, also referred to as nonadmitted insurance, provides coverage for high-risk needs that is not available in the traditional, licensed (i.e., admitted) market.

The act also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2017

DOMESTIC SURPLUS LINES INSURERS

Under the act, surplus lines insurance policies written by domestic surplus lines insurers are subject to a 4% gross premium tax but are exempt from the 1.75% premium tax applicable to domestic insurers generally. Additionally, the act specifies that Connecticut’s financial and solvency requirements apply to domestic surplus lines insurers unless otherwise provided by law.

Under the act, domestic surplus lines insurers may only write policies in accordance with state surplus lines laws and from state-licensed surplus lines brokers. They may also write surplus lines policies in other jurisdictions where eligible.

The act specifies that a domestic surplus lines insurer is an unauthorized or nonadmitted insurer under state law and for purposes of the 2010 federal Nonadmitted and Reinsurance Reform Act (15 U.S.C. § 8206), which requires states to adopt uniform requirements and procedures for allocating and collecting premium taxes on nonadmitted insurance policies.

Under the act, surplus lines insurance issued in the state by a domestic surplus lines insurer is not covered by the Connecticut Insurance Guaranty Association Act. (The guaranty association protects insurance consumers from financial loss if an insurance company becomes insolvent.) The act also specifies that domestic surplus lines insurance is exempt from requirements for rates, rating plans, policy forms, cancellation, and nonrenewal to the same extent as surplus lines insurance issued by an insurer domiciled in another state.

PA 17-140—sHB 7126

Insurance and Real Estate Committee

AN ACT REGULATING TRANSPORTATION NETWORK COMPANIES AND TAXICABS

SUMMARY: This act (1) creates a new regulatory structure for transportation network companies (TNCs) (e.g., Uber and Lyft) and (2) modifies certain aspects of taxi and livery vehicle (e.g., limousines) regulations.

Regarding TNCs, the act does the following, among other things:

1. requires TNCs to annually register with the Department of Transportation (DOT);
2. requires TNCs to obtain background checks on TNC drivers and prohibits them from allowing certain individuals to be TNC drivers (e.g., individuals with certain criminal convictions);
3. establishes operating requirements for TNCs related to driver identification and signage, driver impairment, nondiscrimination, and fares, including dynamic pricing; and
4. establishes insurance requirements for TNCs and TNC drivers.

Regarding taxis and livery vehicles, the act does the following, among other things:

1. allows taxis to use applications (“apps”) on cell phones or other devices to calculate rates, subject to DOT standards;
2. requires DOT to adopt regulations (a) allowing taxis and livery vehicles to use tiered rates and offer discounts and (b) concerning taxi appearance, identification, and markings; and
3. allows "F" endorsement applicants to temporarily drive taxi or livery vehicles under certain conditions.

Finally, the act requires (1) DOT to study for-hire accessible transportation for people with disabilities and (2) the state to remit to municipalities half of the collected fines related to certain for-hire transportation crimes.

EFFECTIVE DATE: October 1, 2017, except provisions regarding (1) TNC registration, TNC driver qualifications and requirements, TNC insurance, and taxi and livery regulations are effective January 1, 2018 and (2) the DOT study is effective July 1, 2018.

§§ 1 & 6-7 — DEFINITIONS

Table 1 lists the terms that the act defines that are relevant to its TNC provisions.

Table 1: Relevant Definitions

<i>Term</i>	<i>Definition</i>
Transportation network company (TNC)	A company, corporation, partnership, trust, association, sole proprietorship, or similar organization that operates in Connecticut and uses a digital network to connect TNC riders to TNC drivers to provide prearranged rides; it does not include a taxicab certificate holder or livery permit holder
Prearranged ride	The transportation by a TNC driver of a TNC rider that (1) begins when the TNC driver accepts a request from the TNC rider through a digital network, (2) continues while the TNC driver transports the TNC rider, and (3) ends when the last TNC rider exits the TNC vehicle
Digital network	Any online-enabled application, website, or system offered or used by a TNC to enable the provision of prearranged rides
TNC driver	Anyone who (1) is not a TNC employee and (2) uses a TNC vehicle to provide a prearranged ride
TNC vehicle	A vehicle that (1) is owned, leased, or otherwise used by a TNC driver while he or she is connected to a digital network or providing a prearranged ride and (2) has four doors, is no older than 12 model years, and is designed to transport eight passengers or fewer, including the driver; TNC vehicles are explicitly excluded from the definitions of “taxicab” and “motor vehicle in livery service”
TNC rider	An individual or individuals who use a digital network to connect to a TNC driver and receive a prearranged ride between points the individual or individuals choose
Potential TNC rider	An individual or individuals who use a digital network to request a prearranged ride but have not yet entered the TNC vehicle

§§ 2-5 — TRANSPORTATION NETWORK COMPANIES

The act establishes a regulatory structure for TNCs separate from that which applies to taxis and livery vehicles under existing law.

Registration (§ 2)

Beginning January 1, 2018, the act requires TNCs to annually register with DOT and pay a nonrefundable (1) \$50,000 initial fee and (2) subsequent \$5,000 annual renewal fees. (PA 17-203 lowers the initial registration fee to \$5,000.) The registration form must be prescribed by the commissioner and include the following:

1. the TNC's name, address, and phone number;
2. if the company is registered out-of-state, the name, address, and phone number of the TNC's in-state agent for service of process;
3. the name, address, and phone number for the TNC's main contact for DOT; and
4. information that demonstrates, to the DOT commissioner's satisfaction, that the TNC meets the act's TNC requirements and any regulations DOT adopts to implement the act's provisions.

Registered TNCs must file registration amendments with DOT to report any material changes in any information contained in the registration. TNCs must do so within 30 calendar days after they reasonably should know about the change.

Revoking or Suspending a Registration. Under the act, the DOT commissioner may suspend, revoke, or refuse to renew a TNC's registration if he determines the TNC has intentionally done the following:

1. misled, deceived, or defrauded the public or the commissioner;
2. engaged in untruthful or misleading advertising;
3. engaged in unfair or deceptive business practices; or
4. violated any of the act's TNC provisions or corresponding regulations.

Before such enforcement actions, the TNC must be notified and given an opportunity for a hearing, which must be held according to the Uniform Administrative Procedure Act (UAPA). Any TNC whose registration has been suspended may apply to DOT for reinstatement after 90 days.

Fine. Any TNC that operates in Connecticut without a valid registration or with a suspended registration is subject to a fine of up to \$50,000.

TNC Driver Requirements (§§ 3 & 4)

Application and Background Check. Under the act, before allowing a person to act as a TNC driver on its digital network, a TNC must require the person to submit an application that includes his or her name, address, date of birth, driver's license number, and motor vehicle registration.

The TNC must also obtain a background check on each applicant by doing one of the following:

1. conducting, or having a consumer reporting agency regulated under the federal Fair Credit Reporting Act conduct, a driving record check and a local, state, and national criminal history records check, including a search of publicly accessible state and national sex offender registries, or
2. arranging for the applicant's fingerprints to be submitted to the (a) FBI for a national criminal history records check and (b) State Police Bureau of Identification for a state criminal history records check.

Under the act, a TNC must conduct or arrange one of the above criminal history records checks at least once every three years after permitting a person to act as a TNC driver.

Disqualification. The act prohibits a TNC from allowing a person to act as a TNC driver on its network if he or she, in the three years before applying, (1) committed more than three moving violations; (2) committed one or more serious traffic violations (e.g., reckless driving); or (3) had his or her license suspended for refusing a chemical analysis (e.g., breathalyzer test).

TNCs are also prohibited from approving the driver application of anyone who:

1. has been convicted, in the seven years before applying, of driving under the influence, fraud, sexual offenses, using a motor vehicle to commit a felony, acts of violence, or acts of terror;
2. is included on the state sex offender registry or National Sex Offender Public Website;
3. does not hold a valid (a) driver's license or (b) registration for each vehicle he or she plans to use as a TNC vehicle; or
4. is younger than age 19.

Under the act, a TNC driver must report to a TNC any violation, suspension, conviction, or other incident that would disqualify him or her under the above criteria within 24 hours of the incident. A TNC that receives such a report or becomes aware of such an incident must prohibit the person from acting as a TNC driver until he or she meets the above qualifications.

No Commercial License or Registration Required. The act prohibits the Department of Motor Vehicles (DMV) commissioner from requiring TNC drivers to hold commercial driver's licenses or instruction permits or register a TNC vehicle as a commercial vehicle.

Vehicle Safety Certification. Before using a vehicle as a TNC vehicle, the act requires a driver to certify to a TNC that the following equipment is in good working condition:

1. foot brakes and emergency brakes;
2. steering mechanism;
3. windshield, rear window, and other glass;
4. windshield wipers;
5. headlights, tail lights, turn indicator lights, and brake lights;
6. front seat adjustment mechanism;
7. doors;
8. horn;
9. speedometer;
10. bumpers;
11. muffler and exhaust system;
12. tires, including tread depth;
13. interior and exterior rearview mirrors; and
14. seatbelts and air bags for the driver and passengers.

TNC drivers must recertify every two years, and a TNC must maintain certifications for at least three years.

Penalties. Under the act, any person who holds himself or herself out to be a TNC driver without being authorized by a TNC to use its digital network is guilty of a class B misdemeanor (see Table on Penalties). The act requires the state to remit to the municipality that issued a summons for such a violation 50% of the fines it collects from the violation (see below).

TNC Operating Requirements (§§ 3 & 4)

Identification and Signage. The act requires a TNC to provide, through its digital network, a potential TNC rider with a picture of the driver and the license plate number of the TNC vehicle that will be used to provide the prearranged ride. The TNC must do so after the potential rider submits a prearranged ride request and before he or she enters the vehicle. While providing a prearranged ride or connected to a digital network, a TNC driver must display a company-issued removable decal, which must be (1) large enough to be read at least 50 feet away from the vehicle during daylight hours and (2) reflective, illuminated, or otherwise visible in the dark.

Fares and Dynamic Pricing. Under the act, a TNC may charge a fare for a prearranged ride only if the company, through its digital network, (1) shows the potential TNC rider the fare or how the fare is calculated and the rates being charged and (2) allows the potential rider to receive a fare estimate before a prearranged ride.

The act restricts a TNC's use of dynamic pricing (i.e., offering prearranged rides at prices that differ according to ride demand and driver availability). Specifically, it prohibits a TNC from increasing the price of a ride by more than 2.5 times the usual price during a disaster emergency or transportation emergency declaration by the governor or an emergency declaration by the U.S. president. It also requires a TNC that implements dynamic pricing to do the following through its digital network:

1. notify potential riders when dynamic pricing is in effect before the request can be submitted,
2. provide a fare estimator that allows a potential rider to estimate the ride's cost under dynamic pricing, and
3. include a feature that requires a potential rider to confirm that he or she understands that dynamic pricing will be applied.

Payment and Receipts. The act requires a TNC, on the driver's behalf, to provide an electronic receipt to a TNC rider within a reasonable period of time after a prearranged ride. The receipt must include (1) the ride's origin, destination, duration, and distance and (2) an itemization of the total fare paid.

Under the act, TNCs may not accept or solicit cash payments from TNC riders, and prearranged ride payments must be made through a digital network.

Street Hails. The act prohibits TNC drivers from soliciting or accepting a request for transportation that is not accepted through a digital network (e.g., drivers cannot accept street hails).

Nondiscrimination and Accessibility for People with Disabilities. The act requires a TNC to adopt, and notify all TNC drivers of, a policy that prohibits discrimination against TNC riders, potential riders, and drivers on the basis of age, color, creed, destination, intellectual or physical disability, national origin, race, sex, sexual orientation, or gender identity. Drivers must comply with this policy and all applicable laws on nondiscrimination against TNC riders or potential riders.

Under the act, TNCs must provide potential TNC riders with an opportunity to indicate that they need a wheelchair-accessible TNC vehicle. If the company cannot arrange such a ride, it must direct the potential rider to an alternative provider of wheelchair-accessible transportation, if available.

The act prohibits TNC drivers from charging an additional fee for providing prearranged rides to a person with physical disabilities because of the person's disabilities or related accommodations. Drivers must also comply with all applicable laws related to transporting service animals and accommodate them at no extra charge.

Drug and Alcohol Policy. Under the act, a TNC must implement, and drivers must comply with, a policy that prohibits drivers from using, or being under the influence of, drugs or alcohol while connected to a digital network or providing a prearranged ride. A TNC must provide notice of the policy on its website, including procedures for a TNC rider to report a driver whom the rider reasonably suspects was under the influence of drugs or alcohol while providing a prearranged ride.

If a TNC receives a report that a driver violated its drug and alcohol policy, it must suspend, as soon as possible, the driver's access to its digital network and investigate the incident. The suspension must last until the investigation is complete. If the investigation confirms that the driver violated the policy, the TNC must permanently ban his or her access to the digital network.

Fatigued or Impaired Driving. The act requires TNCs to implement, and TNC drivers to comply with, a policy prohibiting a driver from providing prearranged rides when his or her driving ability is impaired by illness, fatigue, or any other condition likely to impede safe driving.

The act also prohibits a TNC driver from using a digital network or providing prearranged rides for more than 14 consecutive hours or more than 16 hours in a 24-hour period.

TNC Record Retention (§ 3)

The act requires TNCs to maintain records concerning each (1) prearranged ride for at least three years after the ride was provided, (2) TNC driver for at least three years following the date he or she last accessed the digital network, and (3) TNC vehicle for at least three years after it was last used to provide a prearranged ride.

A TNC must also keep all records related to drug and alcohol policy enforcement, including any investigations, for at least three years from the receipt of the complaint.

Audit. The act allows the DOT commissioner or his designee to audit the records TNCs must maintain under the act. DOT may audit the records up to four times a year. The department must provide reasonable written notice of any audit, and the audit must occur at the TNC's place of business or at an in-state location jointly selected by the company and DOT.

The act prohibits DOT from requiring a TNC to disclose information that identifies or would tend to identify any TNC driver or rider, unless the rider's or driver's identity is needed to resolve a complaint or investigate an audit finding to ensure compliance with the act's TNC-related requirements and any corresponding regulations. Under the act, records obtained during an audit are generally confidential and not subject to the Freedom of Information Act (FOIA), but the commissioner may disclose such records under the following circumstances:

1. to law enforcement for law enforcement purposes, as long as they are disclosed in cooperation with the TNC;
2. to any state or federal agency for any action taken by the DOT commissioner to enforce the act's TNC requirements or corresponding regulations;
3. at the request of a state or federal agency conducting an audit or investigation under their legal authority, as long as the DOT commissioner gives the TNC the opportunity to object and propose an alternative means of cooperating with disclosure; or
4. pursuant to a court order.

The commissioner must provide written notice to the TNC before disclosing these records. He must also redact any information that FOIA exempts from disclosure (i.e., records listed in CGS § 1-210(b)), including trade secrets and commercial and financial information, unless disclosure is expressly required under the above provisions.

Personal Information Disclosure (§ 3)

The act prohibits a TNC from disclosing any TNC rider's personally identifiable information unless doing so is permitted under the company's publicly disclosed privacy policy, if any. If a disclosure is not covered by the policy, a TNC must obtain a rider's consent before disclosing such information.

Regulations (§ 3)

The act allows the DOT commissioner to adopt regulations implementing the act's TNC provisions concerning, among other things, ride requests; vehicle decals; fares and receipts; dynamic pricing; nondiscrimination policies; wheelchair-accessible vehicle requests; records retention and confidentiality; DOT audits; TNC disclosure of personal information; limits on TNC drivers' hours; and prohibitions against taxis and livery vehicles from being used as TNCs.

Insurance Provisions (§ 5)

The act requires TNC drivers to be covered by automobile insurance that (1) meets the act's minimum coverage requirements (see Table 2 below) and (2) recognizes that the driver is a TNC driver. (PA 17-203 requires that the policy (1) be primary and (2) recognize that the driver is a TNC driver or otherwise transports passengers for compensation.) This insurance requirement may be satisfied by one or more insurance policies maintained by a TNC, a TNC driver, or a combination of both. Under the act, the insurance must be provided by (1) an insurer authorized to write auto insurance policies in Connecticut or (2) a surplus lines insurer that has a credit rating of at least "A-" from A.M. Best or an "A" or similar rating from another rating agency approved by the Insurance Department.

Coverage Requirements. The act imposes coverage requirements that differ according to a TNC driver's activities, as shown in Table 2.

Table 2: TNC Insurance Coverage Requirements

<i>Driver Activity</i>	<i>Coverage Requirements</i>
Driver is connected to a digital network and available to receive prearranged ride requests but is not providing a prearranged ride	At least \$50,000 for personal injury to or death of one person At least \$100,000 for personal injury to or death of more than one person due to one accident At least \$25,000 for property damage Uninsured and underinsured motorist coverage as required by state law
Driver is providing a prearranged ride	At least \$1 million, per accident, for personal injury, death, and any property damage Uninsured and underinsured motorist coverage as required by state law

Under the act, if a TNC driver's policy has lapsed or does not meet the act's requirements, the TNC's policy must provide coverage beginning with the first dollar of the claim, and the insurer that provides the coverage must defend the claim. Coverage under a TNC's insurance policy cannot be contingent on a driver's insurer processing or denying the claim first.

Proof of Coverage. The act requires a (1) TNC driver, whenever he or she is connected to the digital network or providing a prearranged ride, to carry proof of insurance coverage that satisfies the act's requirements and (2) TNC that provides coverage to a driver to ensure it provides him or her with such proof. In the event of an accident, a TNC driver must disclose to directly interested parties, insurance companies, and investigating police officers (1) his or her insurance card and (2), on request, whether he or she was connected to a digital network or providing a prearranged ride at the time of the accident or collision.

Exclusions. The act allows insurers to exclude from coverage under an automobile insurance policy any loss or injury that occurs while a TNC driver is (1) connected to a digital network and available to receive requests for prearranged rides or (2) providing a prearranged ride. They may exclude, among other things, liability coverage for bodily injury, death, or property damage; personal injury protection; uninsured and underinsured motorist coverage; medical payments coverage; collision physical damage coverage; or comprehensive physical damage coverage. The act specifies that it does not (1) require insurers to use specific policy language or refer to the act to exclude such coverage, as long as they clearly and conspicuously disclose the exclusions, or (2) invalidate or limit any for-hire transportation exclusions contained in an automobile insurance policy, including policies used or approved for use in the state before January 1, 2018.

Under the act, an insurer that excludes coverage as described above has no duty to defend or indemnify a claim against a TNC driver that is expressly excluded in an insurance policy. The act grants insurers that defend or indemnify claims against such a driver the right to sue any other insurers that provided insurance to the TNC driver at the time of the loss to recover what they paid (i.e., “right of subrogation”). If there is disagreement between a TNC driver’s insurer and a TNC insurer over which company must defend a claim, the TNC’s insurer has the duty to defend the claim. (PA 17-203 eliminates this provision.)

Disclosures. A TNC must disclose the following to a person, in writing or electronically, before he or she may act as a TNC driver on its digital network:

1. the insurance coverage the TNC provides while TNC drivers are connected to the digital network or providing prearranged rides, including the types of coverage and any limits;
2. that a driver’s personal auto insurance policy might not cover the driver when he or she is connected to the digital network or providing a prearranged ride; and
3. that, if the TNC driver’s vehicle has a lien on it, using the vehicle without physical damage coverage may violate the contract terms with the lienholder.

In a claims coverage investigation, the act requires TNCs to immediately disclose, on request from a directly involved party or the TNC driver’s insurance company, the exact times the driver connected to and disconnected from a digital network in the 12 hours before and immediately after an accident. Insurers that write TNC policies must disclose, on request by any other insurance company providing coverage, the applicable coverage; exclusions; and limits.

§§ 4 & 8-10 — REMITTING CERTAIN FINES TO MUNICIPALITIES

The act requires the state to remit 50% of the fines it collects for the following crimes to the municipality that issued the summons:

1. operating a taxi or advertising taxicab services without a taxi certificate, or allowing an unauthorized person to operate a taxi the certificate holder controls (class A misdemeanor, see Table on Penalties);
2. holding oneself out as a livery vehicle operator without a livery permit (class B misdemeanor);
3. holding oneself out as a household goods carrier without a certificate and with the intent to obtain a benefit or to injure or defraud another (class B misdemeanor); and
4. holding oneself out to be a TNC driver without being authorized by a TNC to use its digital network (see “*Penalties*” above).

Each Superior Court clerk or the chief court administrator, or any other official the administrator designates, must certify to the comptroller, by the 30th of January, April, July, and October, the amount due for the previous quarter to the towns it serves.

The act also removes language specifying that holding oneself out to be a livery vehicle operator with the intent to injure or defraud another is a class B misdemeanor.

§§ 3, 11 & 12 — TAXIS AND LIVERY VEHICLES

The act modifies certain aspects of the current taxi and livery service regulatory structure and specifically excludes TNCs from this structure. By law, a “taxicab” includes any motor vehicle operated on any street or highway on call or on demand, accepting or soliciting passengers indiscriminately for transportation for-hire between points along streets or highways as directed by the passenger. The term “motor vehicle in livery service” (i.e., livery vehicle) includes motor vehicles used by an entity that represents itself to be in the business of transporting passengers for-hire, except, among other things, taxis or motor buses.

Taxi and Livery Regulations (§ 11)

Taxi Fare Calculation Equipment. Current DOT regulations require taxis to have a functioning taxi meter with which to calculate fares (Conn. Agencies Regs. § 13b-96-38). The act instead allows DOT to prescribe standards for taxi fare calculation equipment, including taxi meters or a cell phone or electronic device with an online-enabled app or access to a website used to calculate rates and charges. It also requires, rather than allows, the commissioner to adopt regulations on taxi operation and equipment.

Rates and Charges. Prior law authorized DOT to prescribe reasonable rates and charges for taxis and to adopt regulations establishing fares and service. The act (1) mandates, rather than allows, the adoption of these regulations and (2) requires that the regulations also allow taxis to charge fares at tiered rates (i.e., separate premium and non-premium rates based on time periods, events, or dates) and to offer discounts or promotions for the convenience, protection, and safety of passengers and the public. The regulations must require any taxi owner or operator who uses tiered rates to post the rates (1) on its website and online-enabled app and (2) in the taxi in a location visible to the passenger.

Under current DOT regulations, taxi certificate holders and livery permit holders must file a schedule of rates and charges with DOT, which cannot be changed without DOT approval, and cannot charge more than these approved rates. The regulations also require taxis to display a decal that lists the rates and livery services to calculate rates from their headquarters (Conn. Agencies Regs. §§ 13b-96-37 & 16-325-7).

Markings. By October 1, 2018, DOT must submit regulations on taxi appearance, identification, and markings to the Regulation Review Committee. (PA 17-203 eliminates a requirement that rooftop lights and other taxi markings be permanently affixed to a taxi.)

Public Passenger Endorsements (§ 12)

Temporarily Driving without an "F" Endorsement. By law, in order to drive a taxi or livery vehicle, a person must hold the (1) proper class of license for the vehicle he or she intends to operate and (2) applicable public passenger endorsement (i.e., an "F" endorsement for taxi and livery vehicles).

Under the act, a taxi certificate holder or livery permit holder who is seeking to employ a person who has applied for an "F" endorsement may, under certain conditions, allow the person to drive a taxi or livery vehicle, for up to 90 days after the application's date, before DMV approves the application.

To do so, a certificate or permit holder must confirm that the person meets the requirements to hold an "F" endorsement under DMV regulations by (1) conducting, or having a third party consumer reporting agency regulated under the federal Fair Credit Reporting Act conduct, a local, state, and national criminal history records check on the person, including a search of state and national sex offender registries, and (2) reviewing the person's official DMV driving record that is dated no more than seven days before the review. If approved by the certificate or permit holder, a person must carry and present, on request, a copy of his or her application and background check while driving a taxi or livery vehicle.

Codifying Regulations. Under current DMV regulations, all applicants for public passenger license endorsements, such as endorsements to drive a motor bus, service bus, or taxi or livery vehicle, must be fingerprinted and have their backgrounds checked. However, prior law required such a check only for school transportation-related endorsements. The act codifies the requirement that all public passenger endorsement applicants be fingerprinted and have their backgrounds checked.

Using Taxis or Livery Vehicles as TNC Vehicles (§ 3(i))

The act prohibits taxi certificate holders and livery permit holders from using or allowing someone to use a taxi or livery vehicle as a TNC vehicle.

§ 13 — DOT STUDY ON ACCESSIBLE TRANSPORTATION

The act requires DOT to study how to implement and fund a service level from taxis and TNCs for people with disabilities that is equivalent to the service level provided to the general public. Specifically, DOT must examine and develop recommendations regarding:

1. the viability of a per-trip surcharge on taxi, livery, and TNC services to fund the service level;
2. assuring equivalent taxi and TNC service for people with disabilities with regard to response times, fares, geographic service areas, service hours, and days of service;

3. establishing an accessibility program fund to hold any surcharge revenue and disburse it to TNCs and taxis to (a) reimburse them for the costs of converting or purchasing vehicles to provide fully wheelchair accessible rides (i.e., with a ramp or lift) and (b) compensate taxi and TNC drivers who allot the time necessary to assist people with boarding the accessible vehicles; and
4. initiating the use of prearranged rides for assembling and managing a comprehensive transportation system for people with disabilities within the Medicaid population that provides an option for transportation to medical facilities.

DOT may consult with any experts within the study's scope, including (1) UConn faculty members; (2) representatives of the Disability Rights Education and Defense Fund, American Association of People with Disabilities, and National Council of Independent Living; and (3) taxi drivers and owners, livery vehicle drivers and owners, and TNCs and TNC drivers.

DOT must submit its findings and recommendations to the Transportation Committee by January 1, 2019.

BACKGROUND

Related Act

PA 17-203 lowers the initial TNC registration fee, modifies several of this act's insurance provisions, and allows taxi rooftop lights and markings to be removable instead of permanent.

PA 17-154—SB 546

Insurance and Real Estate Committee

AN ACT CONCERNING PARTICIPATING PROVIDER DIRECTORIES AND PROVIDERS ACCEPTING NEW PATIENTS ON AN OUTPATIENT SERVICES BASIS

SUMMARY: This act requires a health carrier's (e.g., insurer or HMO) provider directories to specify whether a health care provider is accepting new patients on an outpatient basis. The law already requires directories to indicate whether a provider is accepting new patients.

By law, a health carrier must post on its website a current provider directory for each of its network plans. A carrier must provide a printed copy of a directory, or information from it, at the request of a covered individual or his or her authorized representative. The provider directories must include information specified by law.

EFFECTIVE DATE: January 1, 2018

PA 17-157—HB 5140

Insurance and Real Estate Committee

AN ACT CONCERNING REIMBURSEMENTS TO HEALTH CARE PROVIDERS FOR SUBSTANCE ABUSE SERVICES

SUMMARY: This act requires certain health insurance policies to pay out-of-network health care providers eligible for reimbursement directly for the diagnosis or treatment rendered in Connecticut of a substance use disorder. It does so by deeming that an insured receiving such a diagnosis or treatment has assigned his or her reimbursement benefits and other rights under the health insurance policy to the provider.

Under the act, providers may collect from the insured any copayment, deductible, and other out-of-pocket costs due under the policy but are prohibited from otherwise billing; charging; collecting a deposit from; seeking compensation, remuneration, or reimbursement from; or having any recourse against the insured for the diagnosis or treatment.

EFFECTIVE DATE: January 1, 2018

APPLICABILITY

The act applies to individual and group health insurance policies issued, delivered, renewed, amended, or continued in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses, or

(4) hospital or medical services, including those provided through an HMO. (Due to the federal Employee Retirement Income Security Act, state insurance mandates do not apply to self-insured benefit plans.)

By law, these health insurance policies must cover the diagnosis and treatment of mental or nervous conditions, including substance use disorders, provided by (1) a licensed physician, advanced practice registered nurse, psychologist, clinical social worker, marital and family therapist, or professional counselor; (2) certain certified marital and family therapists or independent social workers; or (3) licensed or certified alcohol and drug counselors.

PA 17-169—HB 6432

Insurance and Real Estate Committee

AN ACT CONCERNING DISCLOSURES BY REAL ESTATE BROKERS AND REAL ESTATE SALESPERSONS IN COMMERCIAL TRANSACTIONS AND NOTICES OF COMMISSION RIGHTS

SUMMARY: This act delays when a real estate broker or salesperson acting as an agent must disclose whom he or she represents in commercial real estate transactions. It also changes when commercial real estate brokers must file notices of commission rights with town clerks.

The act also makes minor and conforming changes.

EFFECTIVE DATE: January 1, 2018

DISCLOSURES

Under prior law, a broker or salesperson acting as an agent in a real estate transaction had to disclose in writing whom he or she was representing at the beginning of the first personal meeting about a (1) purchaser's or lessee's specific needs or (2) seller's or lessor's real property. The act maintains this requirement for transactions involving residential real property (i.e., one- to four-family residential real estate located in the state) but delays it for commercial real estate transactions (i.e., transactions involving the sale, exchange, lease, or sublease of real, nonresidential property). Under the act, disclosures in commercial real estate transactions must be made before a prospective purchaser or lessee signs the purchase contract or lease, respectively. The act requires the consumer protection commissioner to adopt implementing regulations as she deems necessary.

By law, the disclosures (1) are not required if the other party is also represented by a real estate broker or salesperson and (2) must be signed by prospective purchasers or lessees.

COMMISSION RIGHTS

By law, a real estate broker that files a notice of commission with the town clerk of the town in which the property is located has certain rights to any commission charged with respect to a commercial real estate transaction (i.e., the broker can file a lien). Under prior law, the broker had to file the notice within 30 days of the execution of the lease or the tenant's occupancy, whichever is later. The act instead requires a broker to file the notice within 60 days of the lease's execution, the tenant's occupancy, or the rent commencement date specified in the lease, whichever is later.

PA 17-187—HB 7024

Insurance and Real Estate Committee

AN ACT REGULATING THE OFFER AND DISSEMINATION OF TRAVEL INSURANCE

SUMMARY: This act establishes licensing and regulatory requirements for people and businesses engaged in the travel insurance businesses. It requires limited lines travel insurance producers (i.e., individuals and businesses selling, soliciting, or negotiating travel insurance in Connecticut) to obtain a license from the insurance commissioner. The act establishes a \$100 initial application fee, \$650 license fee, and \$650 license renewal fee. (It does not specify for how long a license is valid before it must be renewed.)

The act imposes certain restrictions and requirements on travel retailers (i.e., businesses making, arranging, or offering travel services) that offer and disseminate travel insurance to Connecticut residents. These include requiring them to (1) be designated by a licensed producer if they do not employ a licensed producer or are not licensed to sell insurance in Connecticut and (2) make certain travel insurance brochures or other written material available to prospective insureds.

The act also establishes certain requirements for travel insurance producers that are businesses. These include requiring them to (1) maintain a registry of their designated travel retailers and (2) impose certain disclosure and training requirements on employees and representatives of their designated travel retailers. These requirements do not apply to individuals licensed as producers.

A violation of the act by an individual or business entity licensed as a producer is deemed an unfair or deceptive insurance practice; a violation by a travel retailer is an unfair or deceptive trade practice (see BACKGROUND).

EFFECTIVE DATE: October 1, 2017

LIMITED LINES TRAVEL INSURANCE LICENSE

The act allows an individual or business entity to apply to the insurance commissioner for authorization to act as a limited lines travel insurance producer and sell, solicit, or negotiate travel insurance through an insurance company licensed or authorized to conduct business in Connecticut. Under the act, travel insurance is an individual, group, or master insurance policy that covers the following personal risks incident to planned travel:

1. interruption or cancellation of a trip or an event;
2. loss of baggage or personal effects;
3. damage to accommodations or rental vehicles; or
4. sickness, accident, disability, or death occurring during travel.

Individuals and businesses must submit an application to the commissioner, along with the required fee, on a form and in a manner the commissioner prescribes. The commissioner may not approve an application unless the applicant has paid all applicable licensing and filing fees. A business applicant must have complied with any insurance producer fingerprinting requirements of its state of residence for its president, secretary, treasurer, designated compliance employee (described below), and any other officer or person directing or controlling the applicant's insurance operations.

The act authorizes the commissioner to approve or deny applications. An authorization remains in force until she (1) suspends or revokes it or (2) suspends, revokes, or refuses to renew the individual's or insurance company's business license or authorization.

TRAVEL RETAILERS

Requirements for Offering and Disseminating Travel Insurance

The act imposes certain restrictions and requirements on travel retailers (e.g., travel agents) that offer and disseminate travel insurance to Connecticut residents. The act defines "offer and disseminate," as it relates to travel insurance, as giving general travel insurance information or providing general travel insurance services, including the following:

1. providing descriptions of the coverage and price of travel insurance,
2. processing policy applications,
3. collecting policy premiums, or
4. performing other travel insurance activities allowed in Connecticut that do not require a license.

Under the act, a travel retailer that (1) is not licensed or authorized to conduct insurance business in Connecticut or (2) does not employ a licensed insurance producer may offer and disseminate travel insurance to Connecticut residents only if it is designated by a licensed producer to offer and disseminate travel insurance on the producer's behalf and its travel insurance-related activities are limited to those authorized by the act.

The act specifies that employees or authorized representatives of travel retailers do not have to be licensed as insurance producers as long as they do not (1) evaluate or interpret a policy's terms, benefits, or conditions; (2) evaluate or provide advice on a prospective customer's existing insurance coverage; or (3) hold themselves out as licensed insurance producers or insurance experts.

Required Information Disclosures to Prospective Insureds

The act requires a travel retailer to make available to prospective insureds brochures or other written materials that provide the insurer's and producer's identity and contact information and explain that:

1. it is not necessary to purchase travel insurance in order to buy any of the travel retailer's other products or services and
2. the travel retailer may provide general travel insurance information, including a description of the coverage and price, but is not qualified or authorized to answer questions about the policy's terms and conditions or evaluate the adequacy of the customer's existing insurance.

The act also requires designated travel retailers to disclose additional information to policy purchasers, as described below.

Compensation

The act allows designated travel retailers to receive compensation from a producer or insurer issuing a travel insurance policy for services related to offering and disseminating travel insurance, as agreed to by the retailer and producer or insurer.

REQUIREMENTS APPLICABLE TO LIMITED LINES TRAVEL PRODUCERS THAT ARE BUSINESS ENTITIES

Designated Travel Retailer Registry

Under the act, a limited lines travel producer that is a business entity must establish and maintain, on a form prescribed by the commissioner, a registry of its designated travel retailers at the time its license application is approved. The producer must update the registry annually and include the names, addresses, and contact information of (1) each designated travel retailer and (2) the officers or individuals directing or controlling its designated travel retailers' operations. The registry must also include (1) each designated travel retailer's federal tax identification number and (2) the producer's certification that the designated travel retailer has not engaged in certain conduct prohibited by federal law (e.g., falsifying insurance records). Upon the commissioner's request, the producer must make the registry available during its regular business hours to her or her designee for inspection and examination.

Compliance

The producer is responsible for its designated travel retailers' actions and must use reasonable means to ensure that producers comply with the act. Producers must also designate an employee, who is also a licensed insurance producer, as the individual responsible for ensuring such compliance, including supervising the producer's designated travel retailers.

Employee Training

Under the act, limited lines travel insurance producers that are business entities must require employees and authorized representatives of their designated travel retailers to receive instruction or training on offering and disseminating travel insurance. The instruction or training may be reviewed by the commissioner and must include, at a minimum, information about the types of travel insurance the retailer offers, ethical sales practices, and required disclosures to prospective customers.

Required Disclosure to Policy Purchasers

Producers that are business entities, as well as designated travel retailers, must provide to travel insurance policy purchasers (1) a description or copy of the policy's material terms, claim filing process, and review or cancellation process and (2) the insurer's and producer's identity and contact information.

BACKGROUND

Connecticut Unfair Insurance Practices Act (CUIPA)

CUIPA (1) prohibits engaging in unfair or deceptive insurance acts or practices and (2) authorizes the insurance commissioner to issue regulations, conduct investigations and hearings, issue cease and desist orders, ask the attorney general to seek injunctive relief in Superior Court, impose fines, revoke or suspend licenses, and order restitution.

Fines may be 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 if knowingly committed. The law also imposes a fine of up to \$50,000, in addition to or instead of a license suspension or revocation, for violating a cease and desist order.

Connecticut Unfair Trade Practices Act (CUTPA)

CUTPA (1) prohibits businesses from engaging in unfair and deceptive acts or practices and (2) allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

PA 17-198—sHB 7183

Insurance and Real Estate Committee

AN ACT CONCERNING CAPTIVE INSURANCE COMPANIES, SHORT-TERM CARE INSURANCE, PERSONAL AND COMMERCIAL RISK INSURANCE, PREFERRED PROVIDER NETWORKS, AND MAKING MINOR AND TECHNICAL CHANGES TO CERTAIN INSURANCE-RELATED STATUTES

SUMMARY: This act makes various changes in insurance laws. Among other things, it:

1. allows the insurance commissioner to waive capital and paid-in surplus requirements for certain captive insurers and lowers the minimum surplus requirements for sponsored captives (§ 2),
2. establishes “dormant captive insurers” and allows them to apply for a certificate of dormancy (§ 1),
3. establishes group short-term care insurance policies (§ 4),
4. increases the financial solvency requirements for preferred provider networks (PPNs) (§ 10),
5. requires dental and vision insurance carriers to follow network adequacy requirements (§ 31), and
6. requires the insurance commissioner to credit overpayments of public health and health and welfare fees (§§ 32 & 33).

It also makes other minor, technical, and conforming changes.

EFFECTIVE DATE: Various; see below.

§ 1 — DORMANT CAPTIVE INSURERS

Under the act, a “dormant captive insurer” is a pure, sponsored, or industrial insured captive insurer that has stopped transacting insurance business and has no insurance liabilities associated with insurance policies issued, before, during, or after it files an application for a certificate of dormancy. Generally, a captive insurer is an insurance company or entity formed to insure or reinsure the risk of its owner, parent company, or affiliated company.

The act allows a dormant captive insurer domiciled in Connecticut to apply for a certificate of dormancy from the insurance commissioner. A certificate of dormancy must be renewed every two years and is void if the dormant captive insurer fails to renew the certificate or conducts insurance business.

Certificate of Dormancy

The act requires a dormant captive insurer that receives a certificate of dormancy to (1) possess and maintain unimpaired paid-in capital and surplus of at least \$25,000 and (2) pay the applicable license renewal fee. (Renewal license fees are set by law and vary based on license type.)

Under the act, a dormant captive insurer, by March 15 annually, must also submit to the commissioner a report on its financial condition in a form and manner she prescribes. The report must be verified by two executive officers.

EFFECTIVE DATE: July 1, 2017

§ 2 — UNIMPAIRED PAID-IN CAPITAL AND SURPLUS FOR SPONSORED CAPTIVE INSURERS

The act reduces, from \$500,000 to \$225,000, the amount of unimpaired and paid-in capital and surplus a sponsored captive insurer must maintain to obtain a license from the insurance commissioner. By law, a “sponsored captive insurer” is a captive insurance company (1) in which the minimum paid-in capital and surplus is provided by one or more sponsors, (2) that insures its participants through separate participant contracts, and (3) that funds its liability to each participant through protected cells and separates each cell’s assets from the assets of other cells and the captive insurer as a whole.

The act also allows the commissioner, at her discretion, to allow any type of captive insurer, except a risk retention group, to maintain less than the statutorily required unimpaired paid-in capital and surplus. In doing so, the commissioner must consider the type, volume, and nature of the insurer or reinsurer’s business. (A “risk retention group” is a captive insurer formed under the federal Liability Risk Retention Act.)

EFFECTIVE DATE: July 1, 2017

§ 3 — SPONSORED CAPTIVES

The act establishes additional processes for maintaining the independence of separate “cells” during the conservation, rehabilitation, or liquidation of a sponsored captive insurer. In general, these situations are governed by the state Insurers Rehabilitation and Liquidation Act.

By law, a sponsored captive insurer funds its liability to each participant through protected cells, with each cell’s assets independent of those of other cells. Under the act, a sponsored captive insurer’s assets and liabilities must, at all times during a conservation, rehabilitation, or liquidation, be kept separate from the assets and liabilities of other protected cells or the sponsored captive insurer. Under prior law, cells had to be independent to the extent the commissioner determined they were separable.

The act also prohibits a sponsored captive insurer’s general account assets from being used to pay any expense or claim attributable solely to one or more of its protected cells unless the sponsor consents and the commissioner has granted prior written approval. If a sponsored captive insurer’s general account assets are used to pay such expenses, the sponsor cannot be required to contribute additional capital and surplus to the captive’s general account. Under the act, the (1) sponsor must satisfy the minimum capital and surplus required to maintain its license and (2) sponsored captive insurer’s capital and surplus must be available at all times to pay its expenses or claims.

Creditors

Under the act, a sponsored captive insurer’s creditor has recourse against any assets attributable to a protected cell if it is a creditor of that cell. But a creditor of a protected cell does not have recourse against assets attributable to another cell or in the captive’s general account.

Under the act, a sponsored captive insurer’s obligation to a creditor extends only to the protected cell’s assets, and not to any other cell’s assets or the sponsored captive insurer’s general account. If a sponsored captive insurer has an obligation relating solely to its general account, a creditor is entitled to recourse only against that account.

The act also specifies that establishing protected cells, by itself, does not constitute (1) fraudulent conveyance, (2) evidence of intent to defraud creditors, or (3) the conduct of business by a sponsored captive insurer for any other fraudulent purposes.

EFFECTIVE DATE: July 1, 2017

§ 4 — SHORT-TERM CARE INSURANCE POLICIES

The act establishes group short-term care insurance policies and creates filing, disclosure, and other requirements identical to those currently required of individual short-term care policies. These policies provide coverage for 300 days or less, on an expense-incurred, indemnity, or prepaid basis, for necessary care or treatment of an injury, illness, or loss of functional capacity provided by a certified or licensed health care provider in a setting other than an acute care hospital. They do not include policies primarily providing (1) supplemental Medicare coverage or (2) coverage for basic medical-surgical expenses, hospital confinement indemnities, major medical expenses, disability income protection, accidents only, specified accidents, or limited benefits.

Filing Requirements

The act requires insurers and other entities (i.e., fraternal benefit societies, hospital service corporations, medical service corporations, and HMOs) to file copies of short-term care insurance policy forms, risk classifications, and premium rates with the insurance commissioner before delivering or issuing them to Connecticut residents. It also requires the insurance commissioner to adopt regulations establishing review procedures for the forms. ("Forms" include applications, policies, certificates, riders, and endorsements.)

Disapproving of Forms

Under the act, the commissioner must disapprove any forms that (1) do not comply with the law, (2) contain unfair or deceptive provisions, or (3) contain provisions that misrepresent the policy. In such cases, she must notify the insurer in writing, specifying the reasons for her disapproval and ordering that no short-term care insurer deliver or issue a Connecticut policy on, or containing, the disapproved form. Any insurer aggrieved by the commissioner's order may request a hearing within 30 days' after receiving it, as under existing law.

Approval of Rate Filings

The act requires the commissioner to adopt regulations stating that rates cannot be excessive, inadequate, or unfairly discriminatory. Filed rates are not effective until the commissioner approves them in accordance with these regulations, and she may disapprove rates that fail to meet these standards.

Required Disclosure

The act prohibits insurers and other issuing entities from issuing or delivering a short-term care policy or certificate without first providing, at the time of solicitation or application, a full and fair written disclosure of the policy's or certificate's benefits and limitations. For short-term care policies with premium rate revisions or rate schedule increases, the disclosure must also include:

1. a statement, in at least 12-point bold face type, that the policy does not provide long-term care insurance coverage and is not a long-term care insurance policy or certificate or a Connecticut Partnership for Long-Term Care insurance policy or certificate;
2. a statement that the policy or certificate may be subject to future rate increases, including an explanation of potential future premium rate revisions and the policyholder's or certificate holder's options in such a case; and
3. the premium rate or rate schedule applicable to the applicant until the issuer files a request with the commissioner for a premium rate or rate schedule revision.

Applicants must sign an acknowledgment, at the time of the application, that the insurer or other issuing entity has disclosed this information. If the application method does not allow for a signature (e.g., an electronic application), the applicant must sign an acknowledgement when the policy or certificate is delivered.

Regulations

In addition to regulations for policy forms and rate standards, the act also requires the commissioner to adopt short-term care insurance regulations on (1) permissible loss ratios and exclusionary periods, (2) the circumstances in which a policy or certificate is renewable, and (3) the benefits payable in relation to an insured's other insurance coverage.

Managed Residential Communities

The act prohibits insurers and other entities from refusing to accept or reimburse short-term care insurance claims submitted by, or prepared with the help of, a managed residential community solely because the community submits or prepares the claim. Upon an insured's written request, these issuing entities must also (1) disclose to an insured's managed residential community the insured's coverage eligibility and (2) provide the community with a copy of an initial claim acceptance or denial at the same time they provide one to the insured.

EFFECTIVE DATE: October 1, 2017

§ 5 — HEALTH CARE CENTERS

The act allows health care centers (i.e., HMOs) to offer health care services (1) directly or indirectly or (2) by methods permitted under the federal Health Maintenance Organization Act unless otherwise determined by regulation. Prior law required HMOs to provide care (1) directly or indirectly and (2) by methods permitted by the federal act unless otherwise determined by regulation. The federal act, among other things, requires payments by insureds to be fixed without regard to the frequency, extent, or kind of health service received. Thus, this act allows HMOs to charge coinsurance.

EFFECTIVE DATE: July 1, 2017

§ 6 — PERSONAL AND COMMERCIAL RISK INSURANCE DISCLOSURES

Under the act, an insurer renewing a personal or commercial risk insurance policy with terms less favorable than an insured's current policy must send a conditional renewal notice clearly identifying any reduction in coverage limits and any added or revised coverage provisions that reduce coverage or increase deductibles. The notice must be sent by registered or certified mail, or proven by a certificate of mailing, to the address shown in the policy at least 60 days before renewal.

EFFECTIVE DATE: October 1, 2017

§ 7 — COMMUTATION OF REINSURANCE AGREEMENTS

By law, an insurer in hazardous financial condition or that meets certain other criteria may be placed under the insurance commissioner's supervision. If the supervised insurer is liquidated, the court-appointed liquidator (e.g., the commissioner) may void certain transfers that unfairly benefit some creditors over others, as long as the transfers are made:

1. within one year of the liquidation date or
2. for insurers already subject to a rehabilitation order, within two years of the rehabilitation petition or one year from the liquidation petition, whichever is shorter.

Under the act, transfers under commutations of reinsurance agreements approved by the commissioner or her designee may not be voided. A commutation of a reinsurance agreement eliminates all present and future reinsurance obligations between the parties.

EFFECTIVE DATE: July 1, 2017

§§ 8 & 34 — INSURERS REHABILITATION AND LIQUIDATION ACT (IRLA) AND REPEALER

The act repeals an outdated provision (CGS § 38a-18) and allows the commissioner to take possession of an insurer in certain situations, including insolvency, pursuant to the IRLA. IRLA generally provides more detailed procedures for when and how the commissioner can supervise, rehabilitate, or liquidate an insurance company.

EFFECTIVE DATE: July 1, 2017

§ 9 — ANNUAL MALPRACTICE CLOSED CLAIM REPORT DUE DATE

The act delays the deadline, from March 15 to June 30, for the commissioner's annual medical malpractice closed claims report to the Insurance and Real Estate Committee.

EFFECTIVE DATE: July 1, 2017

§ 10 — PREFERRED PROVIDER NETWORK (PPN) SOLVENCY AND LICENSING

The act increases the financial solvency requirements for a PPN by requiring that it maintain (a) a minimum net worth of \$500,000, instead of \$250,000, and (b) at least four months, instead of two months, worth of payments to participating providers.

Preferred Provider Network

By law, a PPN pays claims for the delivery of health care services; accepts financial risk for doing so; and establishes, operates, or maintains an arrangement or contract with providers relating to the services the providers render and the amounts they are paid. It does not include a managed care organization, workers' compensation preferred provider organization, independent practice association, physician hospital organization, clinical laboratory, or pharmacy benefits manager.

Minimum Net Worth

By law, a PPN conducting business in Connecticut must maintain a specified minimum net worth. Prior law required it to maintain either (1) the greater of \$250,000 or 8% of its annual expenditures or (2) another amount the insurance commissioner determined. The act increases the required dollar amount from \$250,000 to \$500,000.

The law also requires a PPN to maintain or arrange for a letter of credit, bond, surety, reinsurance, reserve, or other financial security acceptable to the commissioner for paying outstanding amounts owed to participating providers. Prior law required this to be the greater of:

1. two months of payments owed to participating providers based on the two months within the past year with the greatest amounts owed,
2. the actual outstanding amount owed to participating providers, or
3. another amount the commissioner determined.

The act increases the first condition to four months of payments owed based on the four months within the past year with the greatest amounts owed.

Licensing Deadlines

The act also requires (1) PPNs to apply to be licensed by the insurance commissioner annually by May 1, instead of March 1, and (2) the commissioner to issue or renew PPN licenses annually by July 1, instead of May 1.

EFFECTIVE DATE: July 1, 2017

§§ 11-30 — TECHNICAL CHANGES

The act makes technical and conforming changes throughout the HMO laws to specify that all HMOs are subject to all the laws in Chapter 698a, Part I, of the general statutes, including laws concerning insolvency.

EFFECTIVE DATE: July 1, 2017

§ 31 — DENTAL AND VISION CARRIERS' NETWORK ADEQUACY

The act requires dental and vision carriers to abide by network adequacy requirements. These previously applied only to certain health carriers.

Network Adequacy Requirements

Prior law excluded dental and vision carriers from certain network adequacy requirements. The act changes the definition of "health benefit plan" to include dental and vision carriers, thus requiring them to, among other things, (1) establish and maintain adequate provider networks to assure that all covered benefits are accessible to covered individuals without unreasonable travel or delay and (2) ensure that covered individuals have access to emergency services at all times. Additionally, dental and vision carriers must provide benefits at the in-network level of coverage when a nonparticipating provider performs covered services for a covered individual because a participating provider is not available in the network. The commissioner must review and determine the sufficiency of the provider network.

EFFECTIVE DATE: Upon passage

§§ 32 & 33 — OVERPAYMENT OF PUBLIC HEALTH AND HEALTH AND WELFARE FEES

By law, domestic insurers and HMOs must annually, by February 1, pay to the insurance commissioner a public health fee. These fees are used to pay for certain Department of Public Health programs, including needle and syringe exchange and breast and cervical cancer detection and treatment. In addition, domestic insurers and HMOs, third-party

administrators, and exempt insurers must pay annually, by February 1, a health and welfare fee to the commissioner. These fees are used to provide vaccines and antibiotics, among other things.

Under the act, the commissioner must credit an overpayment towards the respective fee due the next fiscal year if the entity (1) overpaid by more than \$5,000 and (2) notifies the commissioner by June 1 of the overpayment amount, providing sufficient evidence to prove it overpaid.

The commissioner must, within 90 days of receiving the notice and supporting evidence, determine and notify the entity of whether it overpaid. Under the act, failure to notify the commissioner by June 1 constitutes a waiver of any claim against the state for overpayment. The act specifies that it does not prohibit or limit an entity's appeal rights.

EFFECTIVE DATE: Upon passage and applicable to any fee due on or after February 1, 2017.

PA 17-203—sSB 807

Insurance and Real Estate Committee

AN ACT CONCERNING TRANSPORTATION NETWORK COMPANIES AND TAXICABS

SUMMARY: This act modifies the regulatory framework established by PA 17-140 for transportation network companies (TNCs) (e.g., Uber and Lyft) that, among other things, requires them to register with the state and maintain insurance coverage. The act does so by:

1. lowering a TNC's initial registration fee from \$50,000 to \$5,000;
2. specifying that the auto insurance that PA 17-140 requires the TNC or TNC driver to maintain must be primary;
3. allowing the insurance policy, rather than recognizing that the driver is a TNC driver as required under PA 17-140, to instead recognize that the driver otherwise uses a vehicle to transport passengers for compensation; and
4. eliminating a provision that would have required a TNC's insurance policy to defend a claim when the company's and driver's insurance policy disagreed over who has the duty to defend.

The act also modifies taxi marking requirements by allowing rooftop lights and other required markings (e.g., a taxi company phone number) to be removable. Under prior law, lights and other markings had to be permanently attached to the taxi. It also eliminates a requirement that the taxi company phone number appear in three-inch type.

Additionally, the act requires the Department of Motor Vehicles (DMV) commissioner to consult with the Department of Transportation (DOT) commissioner before adopting regulations on rooftop lights. However, it does not appear that DMV has jurisdiction over taxis' rooftop lights. Existing DOT regulations set taxi identification requirements, including those for rooftop lights (Conn. Agencies Regs. § 13-96-44). (PA 17-140 also directs the DOT commissioner to submit to the Regulations Review Committee regulations on taxi appearance, identification, and markings by October 1, 2018.)

EFFECTIVE DATE: January 1, 2018, except that the taxi marking provision is effective October 1, 2017

PA 17-228—HB 7023

Insurance and Real Estate Committee

AN ACT CONCERNING STEP THERAPY FOR PRESCRIPTION DRUGS PRESCRIBED TO TREAT STAGE IV METASTATIC CANCER

SUMMARY: This act prohibits individual and group health insurance policies from requiring the use of step therapy for cancer drugs prescribed to treat covered individuals diagnosed with stage IV metastatic cancer, provided the drugs are in compliance with approved federal Food and Drug Administration indications. (Step therapy establishes a sequence for prescribing drugs for specific medical conditions that generally requires patients to try less expensive drugs before higher cost drugs.)

The act also allows a health care provider treating a covered individual with stage IV metastatic cancer to deem step therapy clinically ineffective. However, this appears to have no legal effect because the act prohibits insurance policies from requiring step therapy in such cases.

The act applies to individual and group health insurance policies delivered, issued, renewed, amended, or continued by an insurer, hospital service corporation, medical service corporation, health care center (i.e., HMO), or other entity that provides coverage for prescription drugs.

EFFECTIVE DATE: January 1, 2018

PA 17-7—sSB 976
Judiciary Committee

AN ACT CONCERNING CONSERVATOR ACCOUNTABILITY

SUMMARY: This act authorizes the probate court administrator, within available appropriations, to audit an account of a “conservator of the estate.” By law, a “conservator of the estate” is generally a person the probate court appoints to supervise the financial affairs of someone (1) found to be incapable of managing his or her own affairs or (2) who asks the court to make such an appointment, including temporary conservators.

The act establishes processes for the probate court, probate court administrator, and conservator related to such audits and requires the probate court administrator to pay the audit’s cost from the Probate Court Administration Fund.

It also requires the probate court administrator, in consultation with the Connecticut Probate Assembly, to adopt standards of practice to guide all court-appointed conservators in performing their duties. The act authorizes the probate court to consider evidence of a conservator’s failure to adhere to these standards in determining whether the conservator has breached a fiduciary duty, but specifies that such failure does not, on its own, constitute such a breach.

The act also makes technical changes.

EFFECTIVE DATE: January 1, 2018, except the provisions that require the probate court to adopt standards of practice for court-appointed conservators is effective July 1, 2017 and compliance with and enforcement of the standards are effective July 1, 2018.

PROBATE COURT’S AUDIT OF A CONSERVATOR OF THE ESTATE ACCOUNT

Selection of Account and Assignment of Auditor

The act allows the probate court administrator to randomly select accounts to audit or to use other criteria that he deems effective in deterring and detecting fiduciary wrongdoing. The administrator may select for audit a pending account but may not select one that has been approved by the probate court.

When the administrator selects an account for audit, he must:

1. assign an auditor from the list of qualified auditors the law requires him to maintain,
2. notify the probate court before which the account is pending,
3. continue any previously scheduled hearing on the account pending the audit outcome, and
4. provide notice of the audit and continuance to all parties by first-class mail.

Conservator’s Cooperation

The act requires a conservator of the estate whose account is subject to audit to cooperate with the auditor and give the auditor access to all related records. The auditor must notify the probate court, in writing, if the conservator fails to cooperate and send a copy of this notification to each party and attorney of record. The court, on its own motion or that of a party, may issue orders to compel the conservator to cooperate and remove a conservator who fails to do so.

Auditor’s Report

An auditor must complete the audit and report the findings to the probate court within 90 days after receiving notice of the auditing assignment. The court may extend the deadline, on the auditor’s request, if it finds that additional time is needed to complete the audit.

Hearing on the Account and Auditor’s Report

The probate court, upon receiving the auditor’s report, must send a copy of it and a hearing notice to all parties. The audit report must be admissible in evidence, subject to the right of an interested party to require that the auditor appear as a witness, if available, and be subject to examination.

The court must hear and decide the conservator’s account and determine the rights of the conservator and the parties, including relief authorized by law. By law, in any action pertaining to the appointment of an auditor to examine a fiduciary’s account, the probate court has all the powers available to a Superior Court judge in these matters.

Auditors' Compensation

The act requires the probate court administrator to pay for an audit from the Probate Court Administration Fund, subject to the chief court administrator's approval. It also allows the probate court administrator to establish the auditors' hourly rates and allowable expenses as he sees fit.

PA 17-12—sSB 888*Judiciary Committee***AN ACT CONCERNING LIABILITY FOR DAMAGE CAUSED BY A DOG ASSIGNED TO A LAW ENFORCEMENT OFFICER**

SUMMARY: The state's dog bite statute (see BACKGROUND) creates a rebuttable presumption that a member of a law enforcement officer's household where the officer keeps a dog assigned to him or her by the town, state, or federal government is not the dog's keeper. This act specifies that the statute's rebuttable presumption applies to the members of the household of any officer, employee, or other person paid by or acting as an agent of the State Police, State Capitol Police, municipal police, or Department of Correction. Thus, in an action against these household members for damage done by a dog, the plaintiff must prove that the household member was the dog's keeper and had exclusive control of the dog when the damage was sustained.

(A "rebuttable presumption" is an assumption of fact accepted by the court until disproved.)

EFFECTIVE DATE: October 1, 2017

BACKGROUND

Dog Bite Statute

The law imposes strict liability on the owner or "keeper" of a dog for any damage to a person or property the dog causes, except in cases where the damage was done to someone who was teasing, tormenting, or abusing the dog or committing trespass or another tort (CGS § 22-357). By law, a "keeper" is any person, other than the owner, harboring or possessing a dog (CGS § 22-327(6)).

If the owner or keeper of the dog that caused the damage is a minor, the minor's parent or guardian is strictly liable. If an action is brought under this statute on behalf of a minor younger than age seven, it must be presumed that he or she was not committing a trespass or other tort, or teasing, tormenting, or abusing the dog, and the burden of proof is on the defendant.

PA 17-16—SB 982*Judiciary Committee***AN ACT CONFIRMING AND ADOPTING VOLUMES 1 TO 13, INCLUSIVE, OF THE GENERAL STATUTES, REVISED TO 2017**

SUMMARY: This act formally adopts, ratifies, confirms, and enacts the General Statutes revised to January 1, 2017.

EFFECTIVE DATE: Upon passage

PA 17-17—sSB 1032

Judiciary Committee

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION CONCERNING A TECHNICAL REORGANIZATION OF STATUTES INVOLVING THE ILLEGAL SALE OF CONTROLLED SUBSTANCES

SUMMARY: This act makes technical and clarifying changes to the laws on illegal drug sales and certain other crimes related to controlled substances.

EFFECTIVE DATE: October 1, 2017

PA 17-24—sSB 980

Judiciary Committee

AN ACT CONCERNING INTIMIDATING A WITNESS

SUMMARY: This act increases, from a class C felony to a class B felony, the penalty for intimidating a witness (see Table on Penalties).

By law, a person intimidates a witness when he or she uses, or threatens or attempts to use, physical force against the witness or another person intending to (1) influence, delay, or prevent the witness's testimony or (2) cause the witness to testify falsely, withhold testimony, elude a summons to testify, or fail to appear. The person must believe that an official proceeding is pending or about to start. The law defines "official proceeding" as one held or that may be held before any legislative, judicial, administrative, or other agency or official authorized to take evidence under oath.

EFFECTIVE DATE: October 1, 2017

PA 17-25—HB 6002

Judiciary Committee

AN ACT CONCERNING "SEXTING" BY A CHILD

SUMMARY: This act removes the lower age limit associated with the law concerning certain acts of possession or transmission of child pornography by a minor ("sexting"). In doing so, the act subjects minors under age 13 who possess or transmit child pornography as prohibited under these provisions to misdemeanor, rather than felony, charges. It designates as a class A misdemeanor (see Table on Penalties) such conduct by a (1) sender who is age 15 or younger and the subject of the depiction and (2) recipient who is age 17 or younger.

Under prior law, the class A misdemeanor classification applied only if the (1) sender was age 13 through 15 and the subject of the depiction and (2) recipient was age 13 through 17. Minors younger than age 13 were subject to felony charges for such acts and, if convicted, sex offender registration.

By law, conduct that constitutes sexting is the:

1. knowing possession of a visual depiction of child pornography that the subject of the depiction knowingly and voluntarily sent to the recipient by an electronic device capable of transmitting a visual depiction, including a cell phone, computer, or computer network or system; and
2. knowing and voluntary transmission, by means of such an electronic device, of a visual depiction of child pornography.

EFFECTIVE DATE: October 1, 2017

BACKGROUND

Definitions

By law, "child pornography" means any visual depiction, including any photograph, film, videotape, picture, or computer-generated image or picture, produced by electronic, digital, mechanical, or other means, of sexually explicit conduct, where the production involves the use of a person younger than age 16 engaging in sexually explicit conduct.

Whether the subject of the depiction was younger than age 16 at the time it was created is a question to be decided by the trier of fact.

A “visual depiction” includes undeveloped film and videotape and information of any kind in any form, including computer software, capable of conversion into a visual image, and includes encrypted data (CGS § 53a-193).

Possession of Child Pornography

The felony offense of possession of child pornography is divided into three degrees, depending on the number of visual images that the defendant knowingly possesses. The offenses range from a class B to a class D felony.

PA 17-31—sHB 7299

Judiciary Committee

AN ACT CONCERNING STRENGTHENING LAWS CONCERNING DOMESTIC VIOLENCE

SUMMARY: This act makes various changes in certain laws concerning crimes against an individual. Specifically, it:

1. expands the conduct that constitutes stalking to include conduct that causes a reasonable person to suffer “emotional distress,”
2. specifies that 1st or 2nd degree stalking may occur through the use of electronic or social media,
3. broadens the strangulation statutes to include suffocation that occurs when a person obstructs another person’s nose or mouth,
4. increases the penalty for violating the conditions of release when the violation involves certain conduct, and
5. requires a presentence investigation for anyone convicted of a family violence felony for which a prison sentence may be imposed and prohibits such a defendant from waiving the investigation.

It also makes conforming and technical changes.

EFFECTIVE DATE: October 1, 2017

STALKING

3rd Degree Stalking (§ 2)

Under existing law, a person is guilty of 3rd degree stalking when he or she recklessly causes another person to reasonably fear for his or her physical safety by willfully and repeatedly following or lying in wait for the other person. The act expands the conduct that constitutes 3rd degree stalking to include any such conduct that would cause another person to reasonably suffer emotional distress. Third degree stalking is a class B misdemeanor (see Table on Penalties).

Under the act, “emotional distress” means significant mental or psychological suffering or distress that may require medical or other professional treatment or counseling.

2nd Degree Stalking (§ 1)

The act expands the conduct that constitutes 2nd degree stalking to include knowingly engaging in a course of conduct that is directed at a specific person and would cause a reasonable person to suffer emotional distress.

Under existing law, a person also commits 2nd degree stalking, a class A misdemeanor, by (1) knowingly engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his, her, or a third person’s physical safety or (2) intentionally, and for no legitimate purpose, engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear that his or her employment, business, or career is threatened.

1st Degree Stalking

By law, a person is guilty of 1st degree stalking, a class D felony, when, among other things, after a conviction for 2nd degree stalking, he or she again commits 2nd degree stalking (CGS § 53a-181c). Because the act expands the conduct that constitutes 2nd degree stalking (see above), it correspondingly expands the conduct that constitutes the 1st degree crime.

STRANGULATION OR SUFFOCATION

3rd Degree Strangulation or Suffocation (§ 5)

A person commits 3rd degree strangulation, a class A misdemeanor, if he or she recklessly restrains another person by the throat or neck and impedes the victim's breathing or blood circulation. The act adds suffocation to this crime and expands the conduct that constitutes the crime to include impeding another person's breathing or blood circulation by recklessly obstructing his or her nose or mouth.

2nd Degree Strangulation or Suffocation (§ 4)

A person is guilty of 2nd degree strangulation, a class D felony, when he or she intentionally and actually impedes another person's breathing or blood circulation by restraining the victim by the throat or neck. The act adds suffocation to this crime and expands the conduct that constitutes it to include intentionally and actually impeding another person's breathing or blood circulation by obstructing his or her nose or mouth.

1st Degree Strangulation or Suffocation (§ 3)

The act adds suffocation to the 1st degree strangulation crime. By law, a person commits the 1st degree crime if he or she commits the 2nd degree crime and (1) has previously been convicted of the 1st or 2nd degree crime or (2) either causes serious physical injury or uses or attempts to use a dangerous instrument in committing the crime.

Because the act expands the conduct that constitutes the 2nd degree crime (see above), it correspondingly expands the conduct that constitutes the 1st degree crime. First degree strangulation is a class C felony.

Unlawful Restraint and Assault (§ 5)

Under the act, as is the case under existing law for strangulation, no one may be found guilty of 1st degree suffocation and assault or 1st or 2nd degree unlawful restraint for the same incident. However, the person may be charged with all three crimes in the same information (charging document). By law, "assault" means, among other things, (1) 1st, 2nd, or 3rd degree assault; (2) 2nd degree assault with a firearm; or (3) assault of a pregnant woman.

VIOLATING THE CONDITIONS OF RELEASE (§§ 6 & 7)

The act increases the penalty for 1st and 2nd degree violation of release conditions if the violation involves (1) restraining another person or the person's liberty or (2) threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the other person. Under the act, a violation that involves this conduct increases the penalty from:

1. a class D felony to a class C felony for the 1st degree crime and
2. a class A misdemeanor to a class D felony for the 2nd degree crime.

By law, unchanged by the act, it is a 1st degree violation of release conditions for a person (1) charged with a felony and (2) released on nonfinancial conditions set by a bail commissioner, court, or police officer in family violence cases, to intentionally violate one or more of the conditions. It is a 2nd degree violation for a person (1) charged with a misdemeanor or motor vehicle violation punishable by imprisonment and (2) released on nonfinancial conditions set by a bail commissioner, court, or police officer in family violence cases, to intentionally violate one or more of the conditions.

PRESENTENCE INVESTIGATION (§ 8)

Except for murder with special circumstances, existing law requires a probation officer to conduct a presentence investigation for anyone convicted of a felony for the first time in Connecticut. A presentence report includes information on the circumstances of the offense; the victim's attitude; and the defendant's criminal record, social history, and present condition.

The act (1) requires a presentence investigation for anyone convicted of a family violence felony for which a prison sentence may be imposed and (2) prohibits the defendant from waiving it.

By law, a “family violence crime” is a crime that, in addition to its other elements, contains an element of family violence (i.e., an incident between family or household members that either causes physical injury or creates fear that physical injury is about to occur, but generally does not include verbal abuse or arguments).

PA 17-32—sHB 7309

Judiciary Committee

AN ACT CONCERNING HUMAN TRAFFICKING

SUMMARY: This act makes various changes in laws that pertain to human trafficking. The act principally:

1. adds to the Trafficking in Persons Council’s membership and expands its charge;
2. adds to the types of conduct punishable as a trafficking in persons crime and increases the penalty for the crime;
3. reduces the penalty for patronizing a prostitute when the victim is a trafficking victim;
4. creates a new crime (“commercial sexual abuse of a minor”), punishable as either a class A or class B felony (see Table on Penalties), and repeals the class C felony penalty for the crime of patronizing a prostitute for conduct involving a minor;
5. expands the list of people and entities required to post a notice about services for human trafficking victims and imposes a penalty for violations;
6. requires the Department of Children and Families (DCF) commissioner to consult with the Department of Emergency Services and Public Protection (DESPP) commissioner in developing an educational and refresher training program related to human trafficking; and
7. requires the attorney general to develop and report on a proposed certification to include in state contracts to conform, to the extent legally feasible, with the provisions of federal Executive Order 13627, Strengthening Protections Against Trafficking in Persons in Federal Contracts.

It also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2017, except the provision on the attorney general’s proposed certification is effective upon passage.

§ 1 — TRAFFICKING IN PERSONS COUNCIL

Membership

The act increases the council’s membership from 25 to 27 by adding an adult trafficking victim, appointed by the governor, and the education commissioner or her designee.

Responsibilities

By law, the council must (1) coordinate the collection, analysis, and dissemination of human trafficking data and (2) meet to provide updates and progress reports and consult with governmental and non-governmental organizations to develop recommendations on state and local trafficking efforts.

The act adds to the council’s responsibilities by requiring it to develop:

1. a list of key trafficking victim indicators;
2. a standardized curriculum and conduct training for doctors, nurses, pharmacists, pharmacy technicians, emergency medical services personnel, teachers, school counselors, school administrators, and DCF and Department of Public Health (DPH) personnel to (a) identify human trafficking victims using the list of key indicators and (b) assist the victims;
3. training for DCF and DPH personnel on methods to identify foster care children who may be at risk of becoming trafficking victims, and conducting such training; and
4. a plan for mental health, support, and substance abuse programs for individuals identified as trafficking victims and those arrested for prostitution.

Plan for Trafficking Victims' Programs

Under the act, the plan for mental health, support, and substance abuse programs for trafficking victims must provide for the:

1. diversion of trafficking victims and prostitution offenders into community-based treatment and support services, including substance abuse recovery, housing, healthcare, job training, treatment and mental health support; and
2. dismissal of any related criminal charges against the accused after the successful completion of the program.

Reporting Recommendations

Starting by January 1, 2018, the act requires the council to include the plan and any related legislative recommendations in its annual report to the legislature.

The act also requires the council to examine the challenges faced by trafficking victims who do not have legal immigration status. It allows the council to include in any of its annual reports recommendations for services that could benefit those individuals and legislation to provide such services.

§ 2 — TRAFFICKING IN PERSONS

The act expands the trafficking in persons crime to include the commission of a sex trafficking act.

Under the act, “sex trafficking” is the recruitment, harboring, transportation, or provision of a person for the purpose of engaging in sexual conduct with another person for a fee.

Under existing law, unchanged by the act, one way to commit the trafficking in persons crime is to compel or induce someone under age 18 to engage in sexual contact that is prostitution or illegal sexual contact with a third person.

The act also increases, from a class B felony to class A felony, the penalty for the trafficking in persons crime.

§§ 3 & 10 — PATRONIZING A PROSTITUTE

Patronizing a Prostitute

Under prior law, patronizing a prostitute was a class C felony if the victim was a minor (under age 18) or a trafficking victim.

By law, other cases of patronizing a prostitute are a class A misdemeanor punishable by up to one year in prison and a mandatory \$2,000 fine.

When Victim is a Minor. The act repeals the class C felony penalty under the patronizing a prostitute statute for conduct that involves a minor but imposes stricter penalties under a new crime the act creates, “commercial sexual abuse of a minor” (see § 4 below).

Trafficking Victim. The act reduces, from a class C felony to a class A misdemeanor, the penalty for patronizing a prostitute when the victim is a trafficking victim. It expands the trafficking in persons crime to include commission of a sex trafficking act and imposes a stricter penalty (see § 2 above).

Patronizing a Prostitute from a Motor Vehicle

The act repeals the law on patronizing a prostitute from a motor vehicle and the corresponding impoundment statute. The repealed provisions are addressed under existing patronizing a prostitute and forfeiture laws. Under prior law, patronizing a prostitute from a motor vehicle carried the same penalty as other cases of patronizing a prostitute described above.

§ 4 — COMMERCIAL SEXUAL ABUSE OF A MINOR

Under the act, a person is guilty of commercial sexual abuse of a minor when the person:

1. pays a fee to a minor or third person as compensation for a minor (under age 18) engaging in sexual conduct with such person;
2. pays or agrees to pay a fee to a minor or a third person with the understanding that in return for such fee the minor will engage in sexual conduct with such person; or
3. solicits or requests to engage in sexual conduct with a minor, or any other person that such person reasonably believes to be a minor, in return for a fee.

Under the act, commercial sexual abuse of a minor is a (1) class B felony if the victim is age 15, 16, or 17 and (2) class A felony if the victim is under age 15.

§ 5 — HUMAN TRAFFICKING VICTIM SERVICES NOTICE

Notice

The act adds to those people and entities required to post a notice developed by the Office of the Chief Court Administrator about services for human trafficking victims.

Existing law requires posting by any publicly or privately operated service plazas, hotels, motels, similar lodgings, and businesses that offer to sell materials or promote performances for adult audiences. The act also requires operators of the following services to post the notice:

1. an establishment that provides massage services for a fee;
2. a public airport;
3. an acute care hospital emergency room;
4. an urgent care facility;
5. a passenger rail or bus service station;
6. an employment agency that offers personnel services to any operator required to post the notice; and
7. an establishment that provides services performed by a nail technician.

With certain exceptions, the law requires someone to post the notice if he or she holds an on-premises consumption permit for the retail sale of alcohol. The act eliminates prior law's exception for railroads and airlines.

Under existing law, the notice must be posted in plain view in a conspicuous location where sales occur. The act expands this to include locations where the labor and services are provided or performed, tickets are sold, and other transactions occur.

By law, this notice must state the toll-free state and federal anti-trafficking hotline numbers that someone can use if he or she is forced to engage in an activity and cannot leave.

Penalty

Under the act, anyone who fails to comply with the notice provision is subject to a fine of \$100 for the first offense and \$250 for a subsequent offense. Additionally, violators are subject to any license, permit, or certificate suspension or revocation proceeding that an appropriate authority may initiate.

§ 6 — DCF EDUCATIONAL TRAINING PROGRAM

The act requires the DCF commissioner, in consultation with the DESPP commissioner, to develop and approve an educational and refresher training program to accurately and promptly identify and report suspected human trafficking.

The program must include a video presentation that offers awareness of human trafficking issues and guidance to:

1. law enforcement personnel;
2. Superior Court judges;
3. prosecutors, public defenders, and attorneys who represent criminal defendants;
4. hospital emergency room and urgent care facility staff who have contact with patients; and
5. local or regional board of education, University of Connecticut, or Connecticut state college or university employees who have contact with students.

These individuals must complete the (1) initial educational training by July 1, 2018 and (2) refresher training annually thereafter. New hires must complete the initial educational training within six months after their start date, or by July 1, 2018, whichever is later.

§ 7 — ATTORNEY GENERAL'S PROPOSED CERTIFICATION

The act requires the attorney general to:

1. develop a proposed certification to include in state contracts that conforms, to the extent legally feasible, with the provisions of federal Executive Order 13627, Strengthening Protections Against Trafficking in Persons in Federal Contracts (see BACKGROUND);
2. do so in consultation with the administrative services commissioner, the Office of Policy and Management secretary, and any other state agencies or interested parties the attorney general deems necessary; and

3. starting January 1, 2018, submit a report reflecting the proposed certification, along with any related recommendations, to the Judiciary and Government Administration and Elections committees.

BACKGROUND

Federal Executive Order 13627

This order required the Federal Acquisition Regulatory Council to amend federal regulations to strengthen the effectiveness of the government's zero-tolerance policy on trafficking in persons by federal contractors and subcontractors in solicitations, contracts, and subcontracts for supplies or services. Among other things, it:

1. expressly prohibits federal contractors, contractor employees, subcontractors, and subcontractor employees from (a) using misleading or fraudulent recruitment practices, (b) charging employees recruitment fees, or (c) denying an employee access to the employee's identity documents, such as passports or drivers' licenses;
2. requires contractors and their subcontractors, by contract, to agree to cooperate fully with the enforcement agencies responsible for audits and investigations; and
3. requires contractors and subcontractors to (a) notify specific federal agencies if they become aware of certain activities and (b) maintain a compliance plan.

PA 17-40—SB 816

Judiciary Committee

AN ACT CONCERNING THE APPLICATION OF THE UNIFORM COMMERCIAL CODE TO CERTAIN FUNDS TRANSFERS UNDER THE ELECTRONIC FUND TRANSFER ACT

SUMMARY: This act addresses a gap in how state and federal law apply to remittance transfers (see BACKGROUND) by allowing state law to apply whenever federal law does not.

State law (Uniform Commercial Code (UCC) Article 4A) generally governs commercial fund transfers but, under prior law, did not apply if any part of the transfer was governed by the federal Electronic Fund Transfer Act (EFTA). EFTA applies to remittance transfers, which are a type of electronic transfer of funds, but in some circumstances EFTA does not govern all parts of a remittance transfer.

The act applies state law (specifically, UCC Article 4A) to a remittance transfer unless the transfer is covered by EFTA as an electronic fund transfer. The act applies EFTA's provisions when there is an inconsistency between state and federal law regarding a fund transfer.

EFFECTIVE DATE: October 1, 2017

BACKGROUND

Remittance Transfers

Federal law defines a "remittance transfer" as the electronic transfer of funds, to a designated recipient, that is initiated by a remittance transfer provider at the request of a sender located in any state whether or not the (1) sender holds an account with the remittance transfer provider or (2) remittance transfer is also an electronic fund transfer (15 U.S.C. § 1693o-1).

UCC Article 4A

Article 4A of the UCC governs funds transfers. It establishes the rights and responsibilities of the parties to a funds transfer, including the parties' payment obligations and allocation of risk of loss for unauthorized or improperly executed payment orders. Article 4A was drafted principally to govern funds transfers involving commercial entities (CGS § 42a-4A-101 et seq.).

EFTA

EFTA (P.L. 95-630) provides a basic framework establishing the rights, liabilities, and responsibilities of participants in electronic fund and remittance transfer systems. Its primary objective is the protection of individual consumer rights (15 U.S.C. § 1693 et seq.).

Under EFTA, an “electronic fund transfer” is any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account (15 U.S.C. § 1693a).

Dodd-Frank Act Amendments

The Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) amended EFTA to create new protections for consumers who send remittance transfers, including transfers to designated recipients located in a foreign country. It thus excluded from the UCC some remittance transfers previously covered by the UCC.

PA 17-47—sHB 7196*Judiciary Committee***AN ACT CONCERNING NONADVERSARIAL DISSOLUTION OF MARRIAGE**

SUMMARY: This act makes changes in the conditions for nonadversarial divorce actions. In so doing, it extends this divorce option to certain parties who (1) have been married for nine years or less instead of eight years or less and (2) own property with a total combined net fair market value of less than \$80,000 instead of less than \$35,000.

The law limits this divorce option to parties who do not have a defined benefit pension plan. The act defines a “defined benefit pension plan” expressly for the purpose of nonadversarial divorce actions.

Additionally, under the act, if a judge terminates a nonadversarial divorce action and places the matter on the Superior Court’s regular family docket, the parties do not have to pay any new filing fees, file a complaint, or serve process.

The act also makes changes related to marriage or civil union dissolution, legal separation, and annulment actions on the regular docket. It:

1. allows parties to waive service of process;
2. requires the chief court administrator to prescribe the waiver-of-service form;
3. clarifies proper service of process for certain Department of Correction (DOC) inmates; and
4. specifies that any child custody, care, education, visitation, maintenance, or support agreements the parties submit to the court must be final.

It also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2017

NONADVERSARIAL DIVORCE*Conditions*

A nonadversarial divorce is an expedited court process that allows a judge to enter a divorce decree without a hearing if the parties to the marriage file a notarized joint petition to begin the divorce process and meet certain criteria. Under prior law, parties were eligible for this option if:

1. they had not been married for more than eight years;
2. the marriage had broken down irretrievably;
3. neither party was pregnant;
4. the parties did not have or adopt any children prior to, or during, the marriage;
5. neither party had any interest or title in real property;
6. the total combined fair market value of all property owned by either party, excluding all encumbrances, was less than \$35,000;
7. neither party had a defined benefit pension plan;

8. neither party had filed for bankruptcy;
9. neither party was applying for or receiving Medicaid benefits;
10. no other action for dissolution of marriage, civil union, legal separation, or annulment was pending in any jurisdiction;
11. no civil restraining order or protective order between the parties was in effect; and
12. at least one party was a Connecticut resident.

The act changes the first and sixth conditions listed above. In doing so, it extends this divorce option to parties who have been married for nine years or less and whose property has a total combined net fair market value of less than \$80,000.

It also defines a “defined benefit pension plan” for the purpose of nonadversarial divorce actions as a pension plan in which an employer promises to pay a specified monthly benefit upon an employee’s retirement that is predetermined by a formula based on the employee’s earnings history and tenure of service.

Termination of the Nonadversarial Process and Transfer to the Superior Court Docket

By law, if the parties wish to have a settlement agreement incorporated in a nonadversarial divorce decree, they must submit it to the court with a joint petition and attest, under oath, that its terms are fair and equitable. If the court cannot find the agreement to be fair and equitable on its face, it may terminate the nonadversarial divorce action and place the matter on the Superior Court’s regular family docket.

If the court does so, the act (1) prohibits the court from imposing any new fees, (2) exempts the parties from the requirements to serve process and file a complaint, and (3) applies all other provisions that govern dissolution of marriage or civil union or legal separation.

SERVICE OF PROCESS

Service Waiver

The act allows a party to a dissolution of marriage or civil union, legal separation, or annulment to waive the service of process of the summons and complaint required to start such an action. The person may do so by (1) signing a written waiver of service on a form prescribed by the chief court administrator and (2) filing an appearance with the court. The action must meet all other legal requirements.

DOC Inmates

The act clarifies that process must be served on the administrative services commissioner if a party to a dissolution of marriage or civil union, legal separation, or annulment is in DOC custody and is a patient in a psychiatric hospital.

PA 17-48—sHB 7245

Judiciary Committee

AN ACT CONCERNING THE REVISOR’S TECHNICAL CORRECTIONS TO THE GENERAL STATUTES

SUMMARY: This act makes various technical changes in statutes governing the claims commissioner, State Department of Education, and home improvement contracts, among others.

EFFECTIVE DATE: October 1, 2017

PA 17-49—HB 7250

Judiciary Committee

AN ACT CONCERNING DESECRATION OF AN ABANDONED CEMETERY

SUMMARY: This act expands the crime of interference with a cemetery or burial ground to include desecrating an abandoned cemetery (see BACKGROUND). It applies to abandoned cemeteries the same actions that constitute interference with a cemetery or burial ground under existing law:

1. intentionally destroying, mutilating, defacing, injuring, or removing all or part of a tomb, monument, gravestone, or other structure placed or designed for a memorial, or any burial fence, railing, curb, or other enclosure or
2. wantonly or maliciously disturbing the contents of any tomb or grave.

Under existing law for cemeteries and burial grounds, the crime does not apply to actions that are authorized by the (1) owner of the burial lot; (2) deceased's lineal descendants; or (3) municipality, cemetery association, or person or authority responsible for controlling or managing the cemetery or burial ground. However, the act does not grant any exceptions for actions taken with respect to abandoned cemeteries.

Under existing law, interference with a cemetery or burial ground is a class C felony, which is punishable by up to 10 years in prison, a fine of up to \$10,000, or both. The law specifies that a person who commits this crime must be fined at least \$500.

EFFECTIVE DATE: October 1, 2017

BACKGROUND

Abandoned Cemetery

By law, an abandoned cemetery is one that meets one of the following criteria:

1. no burial has occurred during the previous 40 years, and the lots or graves have not been maintained during the last 10 years except for maintenance by the municipality in which it is located;
2. no lots have been sold in the last 40 years, and most lots or graves have not been maintained during the last 10 years except for maintenance by the municipality; or
3. one burial has occurred in the past 40 years when a permit was issued after the burial.

PA 17-50—SB 1021

Judiciary Committee

AN ACT REVISING THE UNIFORM FRAUDULENT TRANSFER ACT

SUMMARY: The Uniform Fraudulent Transfer Act protects creditors by, among other things, providing ways to determine which transfers and obligations are fraudulent and allowing the court to void these transfers and obligations (CGS § 52-552a et seq.).

Under this act, transfers and obligations against a higher education institution are not voidable if the transfer was made or obligation was incurred by a minor or adult child's parent or guardian on the child's behalf for his or her undergraduate education. The act thus limits the ability of a creditor of a parent or guardian to have tuition payments voided to fulfill a debt to the creditor.

EFFECTIVE DATE: October 1, 2017

PA 17-54—sHB 5442

Judiciary Committee

AN ACT CONCERNING THE LEGAL AGE TO MARRY IN THIS STATE

SUMMARY: This act (1) prohibits anyone under age 16 from being issued a marriage license under any circumstances and (2) narrows the circumstances in which such a license may be issued to a 16- or 17-year-old.

Under prior law, a 16- or 17-year-old could be issued a marriage license if the registrar of vital statistics had on file the written consent of the minor's parent or guardian. If the minor was under age 16, he or she also needed the written consent of the probate judge where the minor resided. (The probate judge's written consent alone could suffice for a minor's marriage license if no parent or guardian was a U.S. resident.)

Under the act, a minor under age 16 may not be issued a marriage license. A 16- or 17-year-old may only get a marriage license if the probate court where the minor resides approves a petition filed on the minor's behalf by his or her parent or guardian. The court must schedule a hearing on the petition and notify the minor, his or her parents or guardians, and the other party to the intended marriage. The minor and the petitioning parent or guardian must attend the hearing, and the court may, at its discretion, also require the other party to the marriage to attend the hearing. After a hearing on the petition, the court may approve the license if it finds that the:

1. petitioning parent or guardian consents to the marriage,
2. minor (a) consents to the marriage based on an understanding of the nature and consequences of the marriage and (b) is sufficiently capable of making that decision,
3. minor's decision to marry is voluntary and made without coercion, and
4. marriage would not be detrimental to the minor.

Under existing law, unchanged by the act, emancipated minors are treated as adults for marriage purposes and therefore are not subject to these restrictions. (By law, a minor must be at least age 16 to be emancipated.)

The act also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2017

PA 17-57—sHB 7131

Judiciary Committee

AN ACT EXPEDITING CHILD SUPPORT MODIFICATION ORDERS FOR INCARCERATED OR INSTITUTIONALIZED OBLIGORS

SUMMARY: By law, "IV-D child support cases" are cases in which the Department of Social Services' (DSS) Bureau of Child Support Enforcement provides child support enforcement services for children who are Temporary Family Assistance (TFA) or Medicaid beneficiaries or in foster care.

This act streamlines the child support modification process when an obligor (i.e., person owing child support) in such a case is institutionalized or incarcerated for more than 90 consecutive days. Under the act, the obligor's existing support order (i.e., a court or agency order requiring the obligor to pay child support) is modified to zero while he or she is institutionalized or incarcerated and reinstated to the prior amount 90 days after his or her release. Under prior law, a modification or reinstatement required a judicial hearing.

The act specifies steps that a DSS support enforcement officer must follow for the modification and reinstatement to take effect. This includes (1) filing certain affidavits with the Family Support Magistrate Division (FSMD) and (2) providing notice to the child's custodian and the obligor. The act also creates a process for the court or family support magistrate to hear and rule on any modification or reinstatement objections.

EFFECTIVE DATE: October 1, 2017

CHILD SUPPORT ORDER MODIFICATION

For a child support modification under the act to take effect, a support enforcement officer must provide notice to the child's custodian and file an affidavit with FSMD.

Notice

The officer must serve the modification notice to the custodian or send it by certified mail, return receipt requested. The notice must clearly and simply state that the:

1. support order will be modified unless the custodian, within 15 days after receiving the notice, objects on the grounds that the obligor (a) has sufficient income or assets to comply with the existing order or (b) is incarcerated or institutionalized for an offense against the custodian or child and
2. custodian may object by delivering a signed objection form or other written notice or motion to the officer within 15 days after receiving the notice.

Affidavit

After providing such notice, the officer must file an affidavit with FSMD stating the dates the obligor's imprisonment or institutionalization started and is expected to end. The affidavit must also state that:

1. the officer's diligent search failed to identify any income or assets that could satisfy the support order during that time,
2. the offense for which the obligor is incarcerated or institutionalized was not against the child who is the subject of the support order or the child's custodian, and
3. notice of the modification was provided to the child's custodian and the officer did not receive an objection form.

CHILD SUPPORT ORDER REINSTATEMENT

Under the act, the court must reinstate a modified support order to the original amount 90 days after the obligor is released, provided the support officer files an affidavit with FSMD stating (1) the date the institutionalization or incarceration ended and (2) that notice was provided to the obligor and the officer did not receive an objection form.

Before filing an affidavit to reinstate a support order, an officer must (1) serve notice to the obligor or send it to him or her by certified mail, return receipt requested or (2) send notice by first class mail, postage prepaid, to the Connecticut correctional facility in which the obligor is incarcerated. The notice must clearly and simply state that the:

1. support order will be reinstated to the prior amount 90 days after release unless the obligor objects before then on the grounds that he or she has insufficient income or assets to comply with the order and
2. obligor may object to the reinstatement by delivering a signed objection form or other written motion to the officer before the 90-day deadline.

OBJECTIONS

If the officer receives an objection or motion from the (1) custodian about a support order modification or (2) obligor about a support order reinstatement, the officer must promptly arrange with the FSMD clerk for a hearing, send a file-stamped copy of the objection or motion to DSS, and notify all parties of the hearing date. The court or family support magistrate must promptly hear the objection and determine whether to modify or reinstate the support order in accordance with the child support guidelines.

Any objection filed under the act constitutes a proper motion to modify a child support order.

PA 17-71—sSB 981

Judiciary Committee

AN ACT CONCERNING STRATEGIC LITIGATION AGAINST PUBLIC PARTICIPATION AND A SPECIAL MOTION TO DISMISS

SUMMARY: This act enables a party in a civil action to file a special motion to dismiss a claim, counterclaim, or cross claim that is based on the party, in connection with a matter of public concern, exercising the party's right (1) of free speech, (2) to petition the government, or (3) of association. With limited exceptions, the court must stay discovery upon receiving such a motion and provide an expedited hearing on it. The court must also issue a ruling as soon as practicable.

The act establishes the standard under which the court must grant the motion. The act also requires the court to award costs and reasonable attorney's fees to the (1) moving party, including costs and fees related to the filing, if it grants the motion and (2) opposing party if it denies the motion and finds it frivolous and solely intended to cause unnecessary delay.

The act does not:

1. apply to an enforcement action the attorney general brings in the name of the state or one of its subdivisions (e.g., a municipality or borough);
2. affect or limit the court's authority to award sanctions, costs, attorney's fees, or any other relief available under any statute, court rule, or other authority;
3. affect, limit, or preclude the right of the party filing the motion to any defense, remedy, immunity, or privilege otherwise authorized by law;

4. affect the substantive law governing any asserted claim;
5. create a private right of action; or
6. apply to a common law or statutory claim for bodily injury or wrongful death, except for claims (a) for emotional distress unrelated to such injury or death or that are joined with a cause of action other than for such injury or death or (b) for defamation, libel, or slander. These provisions do not prohibit a plaintiff who brings a claim for bodily injury or wrongful death from filing a special motion to dismiss a counterclaim.

EFFECTIVE DATE: January 1, 2018 and applicable to any civil action filed on or after that date.

DEFINITIONS

For the act's purposes:

1. "matters of public concern" are issues related to (a) health or safety; (b) environmental, economic, or community well-being; (c) government, zoning, and other regulatory matters; (d) a public official or figure; or (e) an audiovisual work;
2. "right of free speech" means communicating, or conduct furthering communication, in a public forum on a matter of public concern;
3. "right to petition the government" means communication (a) in connection with an issue under consideration or review by a government body, (b) that is reasonably likely to encourage consideration or review of a matter of public concern by such an entity, or (c) that is reasonably likely to enlist public participation in an effort to cause such an entity to consider an issue; and
4. "right of association" means communication among individuals who join together to collectively express, promote, pursue, or defend common interests.

SPECIAL MOTION TO DISMISS

Filing

Under the act, any party filing a special motion to dismiss must do so within 30 days of the date the complaint was returned or the counterclaim or cross claim was filed. The court may extend this deadline if the party seeking the motion shows good cause.

Discovery

The act generally requires the court to stay all discovery when the motion is filed, and the stay remains in effect until the court grants or denies the motion and any interlocutory appeal. But the court may order specified and limited discovery upon (1) its own motion or (2) a party's motion and a showing of good cause.

Expedited Hearing

The court must conduct an expedited hearing on a special motion to dismiss. The hearing must be held within 60 days after the motion is filed unless the:

1. parties agree to a later hearing date;
2. court, for good cause shown, is unable to schedule the hearing during the 60-day period; or
3. court ordered specified and limited discovery, in which case the hearing must be held within 60 days after the discovery must be completed.

Ruling

When ruling on a special motion to dismiss, the court must consider the parties' pleadings and supporting and opposing affidavits attesting to the facts upon which the liability or defense is based.

The court must grant such a motion if the moving party makes an initial showing, by a preponderance of the evidence, that the opposing party's complaint, counterclaim, or cross claim is based on the moving party exercising, in connection with a matter of public concern, its right under the state or U.S. Constitution (1) to free speech, (2) to petition the government, or (3) of association. But the court is not required to grant the motion if the opposing party (1) sets forth with particularity the circumstances that gave rise to the complaint, counterclaim, or cross claim and (2) demonstrates to the court that there is probable cause, considering all valid defenses, that such party will prevail.

Under the act, the court's findings and determinations on the motion are not admissible as evidence at any later stage of the proceeding or in a subsequent action.

PA 17-72—sSB 26
Judiciary Committee

AN ACT CONCERNING SWATTING

SUMMARY: This act expands the crime of falsely reporting an incident in the first degree, which is a class D felony (see Table on Penalties), to include making such a report with the intent to cause a “large scale emergency response” (i.e., “swatting”). Under the act, the court may order individuals convicted of swatting that resulted in a large scale response to make financial restitution to the state and local departments and agencies that provided the emergency response. The court must order the restitution under terms it deems appropriate if any of the responding agencies or departments request restitution and the court finds that they incurred costs associated with the response.

EFFECTIVE DATE: October 1, 2017

FALSELY REPORTING AN INCIDENT AND SWATTING

Under existing law, a person is guilty of falsely reporting an incident in the first degree when, knowing the information is false or baseless, he or she:

1. initiates or circulates a false report or warning of an alleged occurrence or impending occurrence of a fire, explosion, catastrophe, or emergency under circumstances in which it is likely to alarm or inconvenience the public or
2. reports, by word or action, to any official or quasi-official agency or organization that handles emergencies involving danger to life or property, an alleged occurrence or impending occurrence of a fire, explosion, or other catastrophe, or emergency that did not occur or does not exist.

The act additionally prohibits any of the above actions that are done with the intent to cause a large scale emergency response. (This is commonly known as swatting.)

Under the act, (1) a “large scale emergency response” is an on-site response by five or more first responders to a falsely reported incident and (2) “first responders” include peace officers, firefighters, ambulance drivers, emergency medical responders, emergency medical technicians, and paramedics.

RESTITUTION

Any restitution the court orders under the act must be based on easily ascertainable damages for actual expenses related to the emergency response. When determining appropriate restitution terms, the court must consider:

1. the offender's financial resources and the burden restitution will place on his or her other obligations;
2. the offender's ability to pay based on installments or other conditions;
3. the rehabilitative effect the restitution payment will have on the offender;
4. the payment method; and
5. other circumstances, including the financial burden and impact on the department or agency, that make the restitution terms appropriate.

The act requires the court to record its findings regarding each of the above factors. It permits the court to forgo setting restitution terms if it cannot determine appropriate terms based on the offender's current financial resources or ability to pay based on installments or other conditions.

Under the act, any restitution the court orders must be imposed or directed by a written court order containing the amount of actual expenses the court determined were associated with the response. The order must direct the delivery of a certified copy by certified mail to the agency or department. The act specifies that these restitution orders are enforceable in the same manner as other restitution orders under existing law.

PA 17-87—sSB 1003

Judiciary Committee

AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES CONCERNING THE CRIMINAL JUSTICE SYSTEM

SUMMARY: This act makes the following unrelated changes to criminal laws and procedures:

1. adds alcohol sales or delivery to minors to those activities that may be the basis for a state action to abate a public nuisance (§ 1);
2. allows certain drug or alcohol analysis test reports to be signed electronically (§ 2);
3. expands the types of law enforcement officers who must be indemnified by their employers (§ 3);
4. extends how long a person may enforce a court order that an offender provide financial restitution to a victim (§ 4);
5. makes it 2nd degree larceny for someone to take property from a conserved person by embezzlement, false pretenses, or false promise (§ 5);
6. extends to victims of the crime of sexual assault in a spousal or cohabiting relationship two protections regarding keeping their names and other identifying information confidential (§§ 6 & 7);
7. reconstitutes the Eyewitness Identification Task Force and expands its scope to include the use of emerging technologies in law enforcement (§ 8); and
8. repeals a duplicative reporting requirement concerning Medicaid fraud recoveries (§ 9).

EFFECTIVE DATE: October 1, 2017, except upon passage for the task force provisions (§ 8) and July 1, 2017 for the repeal of the Medicaid fraud reporting requirement (§ 9).

§ 1 — STATE ACTION TO ABATE A PUBLIC NUISANCE

By law, the state can bring an action to abate a public nuisance on any real property on which, within the previous 365 days, there have been three or more (1) arrests for certain crimes; (2) arrest warrants issued for certain crimes that are not isolated incidents, indicating a pattern of criminal activity; or (3) municipal citations issued for certain violations. Examples of crimes that subject a property to a nuisance abatement action include various prostitution-, drug-, and firearm-related crimes and the unauthorized sale of alcohol.

The act adds the following to those crimes that can be the basis for a nuisance abatement action: (1) sale or delivery of alcohol to a minor by an alcohol permit holder or his or her employee or agent and (2) unauthorized sale, delivery, or giving of alcohol to a minor, including through the internet (CGS § 30-86(b)(1) and (2)).

The law authorizes various types of relief to abate a public nuisance, such as allowing a court to (1) appoint a receiver to manage the property while a nuisance action is pending, (2) order the closing of the property or some part of it, and (3) impose civil fines or imprisonment for certain intentional violations of nuisance abatement orders (CGS § 19a-343 et seq.).

§ 2 — ELECTRONIC SIGNATURE ON TEST REPORTS

Existing law requires the Department of Emergency Services and Public Protection's (DESPP) Division of Scientific Services analytical personnel or U.S. Bureau of Narcotics qualified toxicologists, pathologists, and chemists to sign and date original reports, for use in criminal cases, of tests on controlled drugs or bodily fluids believed to contain alcohol. The act specifies that the reports may be signed electronically or in writing.

§ 3 — INDEMNIFICATION

The act expands the types of law enforcement officers entitled to indemnification from their employers if they are prosecuted for a crime allegedly committed in the course of their duty and who are found not guilty or have the charges dismissed.

Prior law provided that the State Police, local police, Capitol Police, and certain other appointed special policemen for the Capitol complex were entitled to this indemnification. The act expands the law to also include the following:

1. Division of Criminal Justice inspectors;
2. Mashantucket Pequot and Mohegan tribes' police officers; and

3. officers of any other state, municipal, or other government entity with a primary function that includes enforcing criminal or traffic laws; preserving public order; protecting life and property; or preventing, detecting, or investigating crime (such as Department of Motor Vehicles inspectors).

§ 4 — ENFORCING RESTITUTION ORDERS

The act extends by 10 years the period in which someone can enforce and collect a court order that an offender pay financial restitution to a victim. Under the act, such order is enforceable for 20 years from the date of the order's entry or offender's release from prison, whichever is longer. Under prior law, such orders were enforceable for 10 years from either of these dates, whichever was longer.

§ 5 — LARCENY FROM A CONSERVED PERSON

By law, there are six degrees of larceny. The penalties vary from a class C misdemeanor to a class B felony, generally based on the value of the property taken illegally.

Under existing law, one way to commit 2nd degree larceny is to take property (regardless of its value) by embezzlement, false pretenses, or false promise from someone who is age 60 or over or someone who is blind or has a physical disability. The act extends this to taking property in the same manner from a conserved person, defined as someone for whom a probate court has appointed a conservator because the person is incapable of managing his or her own affairs or caring for himself or herself.

By law, 2nd degree larceny is a class C felony (see Table on Penalties).

§§ 6 & 7 — NAMES OF SEXUAL ASSAULT VICTIMS

The act extends to victims of the crime of sexual assault in a spousal or cohabiting relationship two protections that existing law gives to certain sexual assault and other victims regarding their names and other personal information.

First, the act prohibits requiring such a victim to divulge his or her address or phone number during a trial or pretrial evidentiary hearing arising from the crime if the judge finds the (1) information is not material, (2) victim's identity is satisfactorily established, and (3) victim's current address will be given to the defense in the same way it is in cases involving other offenses.

Second, the act generally makes confidential the victim's name, address, and other information the court determines is identifying, but it allows the following:

1. a court to order disclosure;
2. the accused to have access to the information in the same way as for cases involving other criminal offenses; and
3. the victim's name, address, and information concerning the order to be entered in the protective order registry (which makes the information available to certain officials and others but otherwise limits disclosure) if a protective order is issued during the prosecution.

By law, these two protections already apply to the names, addresses, and information of victims of other specified sexual assault crimes; voyeurism; risk of injury to a minor; and family violence crimes.

§ 8 — EYEWITNESS IDENTIFICATION AND EMERGING TECHNOLOGIES TASK FORCE

A 2011 law established the Eyewitness Identification Task Force to study and report on issues concerning eyewitness identification in criminal investigations and the use of sequential live and photo lineups. Subsequent acts expanded the task force's functions and allowed it to continue until June 30, 2016.

This act reconstitutes the task force as the Eyewitness Identification and Emerging Technologies Task Force. It requires the task force to assist the Police Officer Standards and Training Council (POST) and the State Police in developing policies and guidelines for law enforcement agencies on:

1. eyewitness identification procedures (the prior task force had a similar function),
2. the use of other emerging technologies to promote effective law enforcement and how to prevent the criminal use of these technologies, and
3. other related topics the task force deems appropriate.

The act requires the task force to report its findings and recommendations to the Judiciary Committee as the task force deems appropriate. As with the prior task force, the reconstituted task force can solicit and accept gifts, donations, grants, or funds from public or private sources to help perform its duties.

The act also eliminates obsolete reporting requirements.

Membership

The act maintains the same appointment categories as under prior law and adds the director of DESPP's Division of Scientific Services. Thus, the task force must consist of the following members or their designees:

1. the Judiciary Committee chairpersons and ranking members;
2. the chief state's attorney;
3. the chief public defender;
4. the victim advocate;
5. an active or retired judge appointed by the Supreme Court chief justice;
6. a municipal police chief appointed by the Connecticut Police Chief Association's president;
7. the director of DESPP's Division of Scientific Services;
8. a POST representative;
9. a State Police Training School representative appointed by the DESPP commissioner;
10. a representative of the criminal defense bar appointed by the Connecticut Criminal Defense Lawyers Association's president;
11. a Connecticut Innocence Project representative; and
12. six members of the public, each appointed by one of the six legislative leaders. (These appointments must include a dean from a Connecticut law school and a social scientist.)

§ 9 — REPEAL OF DUPLICATIVE MEDICAID FRAUD LEGISLATIVE REPORT

The act repeals a statute that required the chief state's attorney to annually report to the Appropriations Committee on the Division of Criminal Justice's monetary recoveries resulting from its investigations of fraud related to the Department of Social Services' (DSS) medical assistance programs (CGS § 51-279e).

Another law, unchanged by the act, requires the chief state's attorney to report similar information on Medicaid fraud recoveries as part of a report the DSS commissioner must annually submit together with the chief state's attorney and the attorney general (CGS § 17b-99b).

BACKGROUND

Related Act

PA 17-99, § 18, allows enforcement of a financial restitution order up to 10 years after the termination of the offender's probation.

PA 17-88—SB 1020*Judiciary Committee***AN ACT CONCERNING THE ENFORCEMENT OF A DEFAMATION JUDGMENT ENTERED BY A COURT OUTSIDE OF THE UNITED STATES**

SUMMARY: This act establishes the conditions under which a Connecticut court may recognize a foreign defamation judgment. In doing so, it affords a person subject to the enforcement of such a judgment the same or greater free speech and free press protections as do the U.S. Constitution and Connecticut Constitution.

The act also establishes the requirements needed for the court to have personal jurisdiction over such a matter.

Under the act, a "foreign defamation judgment" is any defamation judgment, decree, or order of a court of a foreign country which is entitled to full faith and credit in Connecticut.

EFFECTIVE DATE: October 1, 2017

CONDITIONS FOR A COURT TO RECOGNIZE A FOREIGN DEFAMATION JUDGMENT

Under the act, in order to enforce a foreign defamation judgment, a Connecticut court must first determine the following: that the defamation law applied in a foreign country's court provided the defendant with the same or greater protections for free speech and free press provided by the United States Constitution and the Connecticut Constitution. If the court does not make this finding, it cannot recognize a foreign defamation judgment, regardless of the provisions of

the Uniform Foreign-Money Claims Act and the Uniform Enforcement of Foreign Judgments Act.

The act defines a “foreign country” as any country other than the United States, the Commonwealth of Puerto Rico, or any territory or insular possession subject to U.S. jurisdiction.

CONNECTICUT COURTS’ JURISDICTION

Under the act, a Connecticut court has personal jurisdiction over any person who obtains a foreign defamation judgment against a person or entity who:

1. is a Connecticut resident,
2. has assets in Connecticut,
3. is subject to Connecticut’s jurisdiction, or
4. may have to take action in Connecticut to comply with the judgment.

The jurisdiction is for the purpose of recognizing a foreign defamation judgment and rendering declaratory relief with respect to someone’s liability for such a judgment.

PA 17-91—sSB 884

Judiciary Committee

AN ACT ADOPTING THE CONNECTICUT UNIFORM RECOGNITION OF SUBSTITUTE DECISION-MAKING DOCUMENTS ACT AND REVISING THE CONNECTICUT UNIFORM POWER OF ATTORNEY ACT

SUMMARY: This act establishes the “Connecticut Uniform Recognition of Substitute Decision-Making Documents Act” and makes it applicable to any substitute decision-making document created before, on, or after October 1, 2017.

Under the act, a “substitute decision-making document” is a record created by an individual to authorize a decision maker to act for the individual with respect to property, health, or personal care.

The act:

1. establishes the conditions under which a substitute decision-making document executed out-of-state may be considered valid in Connecticut;
2. specifies which law to apply when determining the meaning and effect of such a document and the authority of the decision maker;
3. allows a person to (a) accept a substitute decision-making document in good faith and (b) make specific requests, such as asking for an English translation of the document;
4. requires a person to accept a purportedly valid document within a reasonable time, except under specified circumstances; and
5. establishes penalties and available remedies for violations.

The act revises the Uniform Power of Attorney Act (UPOA) by (1) allowing the use of forms substantially similar to the statutory forms; (2) broadening the list of activities that require a power of attorney’s specific grant of authority; and (3) revising the statutory forms, including adding provisions for digital devices, digital assets, user accounts, electronically stored information, and intellectual property.

It also (1) requires the probate court, under certain circumstances, to reinstate an agent’s authority under a power of attorney that was previously limited or suspended because of a conservatorship and (2) allows banks and credit unions to charge certain fees for disclosing a customer’s digital assets.

The act also makes minor and technical changes.

EFFECTIVE DATE: July 1, 2017, except for the substitute decision-making provisions, which are effective October 1, 2017 and applicable to any document created before, on, or after that date.

§§ 1-10 — UNIFORM SUBSTITUTE DECISION-MAKING DOCUMENTS ACT

Applicable Law (§§ 2-4)

Property. Under the act, a substitute decision-making document for property executed out-of-state is valid in Connecticut if, when the document was executed, the execution complied with the law of the relevant jurisdiction. The “relevant jurisdiction” is the jurisdiction indicated in the document or, if no jurisdiction is indicated, the law of the jurisdiction in which the document was executed.

“Property” means anything that may be owned, whether real, personal, legal, or equitable, or any associated interest or right.

Health or Personal Care. Under the act, a substitute decision-making document for health or personal care, including the appointment of a health care representative that is executed out-of-state is valid in Connecticut if, at the time the document was executed, the execution complied with Connecticut law or the law of the relevant jurisdiction.

“Health care” means a service or procedure to maintain, diagnose, treat, or otherwise affect an individual’s physical or mental condition.

“Personal care” means an arrangement or service to provide an individual with shelter, food, clothing, transportation, education, recreation, social contact, or assistance with daily living activities.

Meaning, Effect, and Authority. Under the act, a substitute decision-making document’s meaning and effect and the decision maker’s authority are determined by the law of the relevant jurisdiction.

Under the act, except as otherwise provided by law, a photocopy or electronically transmitted copy of an original substitute decision-making document has the same effect as the original.

A “decision maker” is a person authorized to act for an individual under a substitute decision-making document, whether classified as a decision maker, agent, attorney-in-fact, proxy, representative, or a person with another title. A decision maker includes an original decision maker, a co-decision maker, a successor decision maker, and a person to whom or which a decision maker’s authority is delegated.

“Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency or instrumentality, or other legal entity.

Document Acceptance (§§ 5 & 6)

Good Faith Acceptance. Under the act, except as provided under laws that govern a power of attorney, health care proxy, and health care representative, a person who accepts a substitute decision-making document in good faith (i.e., honesty in fact) without actual knowledge that the document or the purported decision maker’s authority is void, invalid, or terminated, may assume that the document and the decision maker’s authority are genuine, valid, and still in effect.

Permitted Requests. The act allows a person asked to accept a substitute decision-making document to request and, without further investigation, rely on:

1. the decision maker’s assertion of a fact about the document, the decision maker, or the individual for whom a decision will be made;
2. a translation of the document if the document contains language other than English; and
3. a legal opinion on any matter of law concerning the document if the person provides in a record the reason for the request.

Under the act, “record” means information inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form.

Reasonable Response Time. With some exceptions, the act requires a person asked to accept a substitute decision-making document to accept it within a reasonable time if it purportedly meets the act’s validity requirements. The act prohibits anyone from requiring an additional or different form of document as the source of any authority the substitute decision making document grants.

A person may refuse to accept a substitute decision-making document if the person:

1. does so in compliance with UPOA;
2. would otherwise not be required in the same circumstances to act if asked by the individual who executed the document;
3. knows the decision maker’s authority or the document has been terminated;
4. asked for the decision maker’s assertion of fact, a translation, or a legal opinion and was refused;
5. believes in good faith that the document is not valid or the decision maker does not have the authority to request a particular transaction or action; or

6. makes, or knows that another person has made, a report to an agency responsible for investigating allegations of abuse, neglect, exploitation, or abandonment stating a belief that the individual for whom a decision will be made may be subject to abuse, neglect, exploitation, or abandonment by the decision maker or a person acting for or with the decision maker.

Penalties for Violations and Available Remedies (§§ 6 & 7)

A person that refuses to accept a substitute decision-making document in violation of the act is subject to (1) a court order mandating its acceptance and (2) liability for reasonable attorney's fees and costs incurred in an action or proceeding that mandates such acceptance.

The act's remedies are not exclusive and do not abrogate any right or remedy under any other Connecticut law.

Effect on Other Laws (§§ 8 & 9)

The act specifies that persons applying and construing its provisions must consider the need to promote uniformity among the states regarding this subject area.

It also specifies that its provisions modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce Act (ESIGN), except for the consumer disclosure requirements (15 U.S.C. § 7001, et seq.; see BACKGROUND). The act does not authorize the electronic delivery of the notices described under ESIGN, such as court orders, notices, or official documents (15 U.S.C. § 7003(b)).

§ 11 — AGENT'S AUTHORITY UNDER UPOA

By law, an agent under a power of attorney may perform certain activities on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent this authority and if doing so is not otherwise prohibited.

Digital Device, Digital Asset, User Account, and Electronically Stored Information

The act requires an express grant of authority before an agent may exercise any power the principal may have over any of the principal's digital devices, digital assets, user accounts, or electronically stored information, including any user account and digital asset that currently exists or may exist as technology develops. This applies to such device, asset, account, or information in the principal's name or that the principal owns or lawfully uses jointly with another individual. The powers include, as the agent determines necessary or advisable:

1. changing and circumventing the principal's user name and password to gain access to such user accounts and information;
2. transferring or withdrawing funds or other assets among or from such user accounts; and
3. opening new user accounts in the principal's name.

Under the act, the principal may give his or her lawful consent and authorize the agent to access, manage, control, delete, and terminate any electronically stored information and communications of the principal to the extent fully allowable under federal, state, or international privacy laws; the Connecticut Uniform Fiduciary Access to Digital Assets Act; or other laws.

The agent is authorized to take any actions the principal may take under all applicable terms of service, terms of use, licensing, and other account agreements or laws. To the extent a specific reference to any federal, state, local, or international law is required to give effect to these provisions, the principal may provide that he or she intends to refer to such law, whether it exists, comes into existence, or is amended after the power of attorney is executed.

Intellectual Property

The act requires an express grant of authority before an agent may act as if he or she is the owner of the principal's intellectual property interests, including copyrights, contracts for payments of royalties, and trademarks. These actions include the exercise of all powers with respect to intellectual property that the principal could exercise if present, including:

1. registering and transferring ownership;
2. recording documents to effectuate or memorialize such transfer;
3. granting and revoking licenses;

4. entering, terminating, and enforcing agreements;
5. defending ownership; and
6. conferring agency upon professionals to represent the principal's interests before governmental agencies.

Limitation on an Agent's General Authority

The act prohibits all agents, unless authorized by a power of attorney, from exercising authority to create in the agent, or a dependent of the agent, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise. Prior law prohibited only agents who were not ancestors, spouses, or descendants of the principal from such actions.

§ 12 — UPOA STATUTORY FORMS

The act allows the use of a document substantially similar to either the statutory "short form" or "long form" to create a statutory power of attorney that has the meaning and effect prescribed under UPOA. The law specifies that UPOA must not be construed to bar the use of any other or different form of power of attorney desired by the parties concerned.

The act revises both statutory forms and in so doing, broadens the list of powers the documents may grant or deny. Specifically, the act adds language to both forms that:

1. reflect the change to the limitation on an agent's general authority described above,
2. allow the designation of a conservator of the principal's estate, and
3. direct whether a bond for the conservator, including sureties, is required.

The act further broadens the specific actions an agent may perform by adding, to the statutory long form, language by which a power of attorney may grant an agent authority over the person's (1) digital devices, digital assets, user accounts, and electronically stored information and (2) intellectual property. It also adds language to the "notice" section of the long form that expressly states that any person or entity that is authorized by statute may apply to the probate court for an accounting.

§ 13 — TERMINATION OF CONSERVATORSHIP

By law, a conserved person may petition the probate court to terminate a conservatorship. Existing law requires the probate court to terminate the conservatorship of the estate if, after notice and a hearing, the court finds that the conserved person is capable of managing his or her own affairs. Prior law allowed the court to reinstate the authority of any agent under a power of attorney that the court previously limited or suspended because of the conservatorship. The act instead requires the court to reinstate the agent's authority unless it finds that doing so is not in the conserved person's best interest.

§ 14 — FEES FOR DISCLOSING DIGITAL ASSETS

By law, a "custodian" of digital assets is the person that carries, maintains, processes, receives, or stores a user's digital assets. The law allows a custodian, at its discretion, to assess a reasonable administrative charge for the cost of disclosing such assets. Under the act, a custodian that is a financial institution (i.e., bank or credit union) may charge a fee for doing so consistent with the terms of its deposit agreement with a customer.

BACKGROUND

ESIGN Act

The federal ESIGN Act (P. L. 106-229) provides that a contract or signature may not be denied legal effect, validity, or enforceability solely because it is in electronic form. A state statute, regulation, or other rule of law may modify, limit, or supersede ESIGN's provisions. It generally does not apply to a contract or other record that governs the creation and execution of wills, codicils, or testamentary trusts.

PA 17-97—HB 7194

Judiciary Committee

AN ACT CONCERNING EXCEPTIONS TO THE TEN-YEAR REPOSE PERIOD FOR CERTAIN PRODUCT LIABILITY CLAIMS

SUMMARY: This act extends the time a person has to bring a product liability lawsuit in certain situations involving workplace injuries.

Existing law establishes a 10-year repose period that generally bars a product liability lawsuit against a party (e.g., the manufacturer) more than 10 years after that party last had possession or control of the product, unless the claimant can prove that the harm occurred during the product's useful safe life. Under prior law, this useful safe life exception did not apply to claimants entitled to workers' compensation coverage. The act eliminates this prohibition, thus allowing a claimant entitled to workers' compensation to bring a lawsuit after the 10-year repose period under the useful safe life exception.

Under existing law and unchanged by the act, (1) the 10-year repose period can be extended pursuant to an express written warranty and (2) a longer repose period applies to asbestos-related claims.

By law, in addition to the time limitations noted above, a product liability claimant generally must bring a lawsuit within three years of the date the injury or damage was first sustained or discovered, or should have been discovered in exercising reasonable care.

EFFECTIVE DATE: October 1, 2017

PA 17-98—sHB 7195

Judiciary Committee

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE TASK FORCE TO STUDY METHODS FOR IMPROVING THE COLLECTION OF PAST DUE CHILD SUPPORT

SUMMARY: This act requires the State Marshal Commission to implement policies and procedures to increase state marshal participation in serving *capias* orders (i.e., orders compelling someone to appear in court).

The act also requires the comptroller to facilitate the electronic processing of federal and state court income withholding orders, including certain child support orders. It specifies that a child support withholding order sent to the labor commissioner through the federal electronic system constitutes proper legal process for the purpose of withholding from an obligor's unemployment compensation child support he or she owes.

EFFECTIVE DATE: July 1, 2017, except the provision on *capias* orders is effective upon passage.

CAPIAS ORDERS

The act requires the State Marshal Commission, in consultation with the State Marshals Advisory Board, to implement policies and procedures to increase state marshal participation in serving *capias* orders, such as requiring that state marshals serve a minimum percentage of such orders.

By law, the commission and advisory board must establish state marshals' professional standards, including training requirements and minimum fees for serving process.

ELECTRONIC INCOME WITHHOLDING ORDER (E-IWO) PROCESS

Comptroller: State Employees' Compensation

By law, the comptroller may use an electronic system to pay state employees. Under the act, such an electronic system must, within available appropriations, facilitate the electronic processing of federal and state court income withholding orders, including child support orders sent through the e-IWO process (see BACKGROUND).

Labor Commissioner: Unemployment Compensation

By law, the labor commissioner must withhold from a person's unemployment compensation the child support owed based on the amount (1) specified by the person in his or her initial unemployment claim, (2) determined by a state or

local child support enforcement agency, or (3) required by legal process properly served on the commissioner. The act specifies that a child support withholding order sent to the commissioner through the e-IWO process is considered proper legal process for the purpose of withholding outstanding child support from an obligor's unemployment compensation.

BACKGROUND

e-IWO Process

The federal Office of Child Support Enforcement implemented the e-IWO process, which enables states to send and employers to receive income withholding orders electronically. It also allows employers to notify states about the status of existing income withholding orders.

Related Laws

Title IV-D of the federal Social Security Act established the Child Support Enforcement program (42 U.S.C. § 301 et seq.). The program, which receives both state and federal funding, provides services related to the establishment, modification, and enforcement of child support orders.

PA 17-99—sHB 7198

Judiciary Committee

AN ACT CONCERNING COURT OPERATIONS, VICTIM SERVICES, FRAUDULENT FILINGS AND TRANSFERS OF AN INTEREST IN REAL PROPERTY TO A TRUST

SUMMARY: This act makes unrelated changes to various laws, including those that deal with court operations, victim services, fraudulent filings, and the transfer of property held in trust.

For court operations, the act primarily establishes the appropriate venue for certain housing matters.

With regard to victim services, the act makes the following changes, among others:

1. expands the powers and duties of the Office of Victim Services (OVS);
2. creates a new process for victims seeking enforcement of financial restitution orders;
3. makes more victims eligible for victim compensation from OVS by expanding the types of injuries, crimes, and situations that are compensable;
4. allows up to an additional \$5,000 above the maximum \$15,000 personal injury award for certain child-victims; and
5. (a) allows OVS to waive consideration of available health insurance when determining victim compensation and (b) requires health care providers to suspend debt collection from victims in certain circumstances.

The act (1) makes it a crime, punishable as a class D felony (see Table on Penalties), to file a false record on a municipal land record or under the Uniform Commercial Code (UCC) and (2) gives victims a cause of action to petition the court to invalidate such a record.

The act also makes changes to various unrelated statutes. It:

1. expands (a) the availability of civil protection orders to certain stalking victims and (b) victims' access to juvenile records;
2. excuses individuals who served as federal jurors during the three prior years from serving as state jurors; and
3. establishes the validity of any conveyance of interest in real property by, or to, trusts and trustees.

It additionally makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2017, except (1) January 1, 2018 for the fraudulent reporting provisions and (2) upon passage for the provisions on family support magistrates, the Willimantic courthouse, housing matters moving to judicial district courts, and the publication of sentence review decisions.

§ 1 — CIVIL PROTECTION ORDERS

By law, victims of sexual abuse, sexual assault, or stalking are eligible for civil protection orders if they are not eligible for civil restraining orders (which are available only to family and household members).

The act makes two changes related to civil protection orders. It (1) creates a specific definition of “stalking” for the purpose of civil protection orders that expands their availability to additional stalking victims and (2) allows applicants to request that their location be kept confidential.

Stalking Definition

Under the act, stalking victims are eligible for civil protection orders if they reasonably fear for their safety because someone who is not a family or household member willfully harasses, follows, lies in wait for, surveils, monitors, or sends unwanted gifts or messages to such individuals directly, indirectly, or through a third person, by any method, device, or other means and does so more than once in a threatening, predatory, or disturbing manner. To be eligible for a civil protection order under prior law, a stalking victim had to be a victim of 1st, 2nd, or 3rd degree stalking as defined in the penal code (see BACKGROUND).

Confidential Applicant Location Information

By law, an applicant for a civil protection order must submit an affidavit stating, under oath, the specific facts of the case. The act allows the applicant to ask the court to keep his or her location information confidential by attesting that its disclosure would jeopardize the health, safety, or liberty of the applicant or his or her children. It requires the chief court administrator to prescribe the form for making such requests.

§§ 2 & 3 — VICTIM ACCESS TO JUVENILE RECORDS

The act expands victim access to juvenile records in delinquency matters. It (1) gives victims the right to access specified information without a court order, (2) creates a process by which a party may object to the release of such information, and (3) specifies other information that the court may release and factors it must consider before doing so.

Under the act, a “victim” is (1) a person who is the victim of a delinquent act; (2) his or her legal representative; (3) a parent or guardian, if the person is a minor; or (4) a victim advocate.

Victim’s Right to Access Records

Under prior law, the victim of a child’s delinquent act could request access to the child’s related juvenile records, and such records had to be available to the same extent that a criminal defendant’s records are available to a crime victim.

Under the act, whether a matter is disposed of in or outside of the courtroom, the victim of a child’s delinquent act must have access to the following without the need for a court order:

1. the name and address of the child and the child’s parents or guardian;
2. any charges pending against the child when the victim requests information related to the delinquent act;
3. information on the disposition of the matter related to the delinquent act; and
4. any court order pertaining to the victim, including any “no contact” order between the child and the victim.

The act allows the victim to use this information in a subsequent civil action for damages related to the child’s delinquent act. However, as under existing law, the victim must not further disclose this information unless authorized by the court.

Objection to Disclosure Without a Court Order

The act allows a prosecutorial official or an attorney representing the child, including a public defender, to file an objection with the court requesting that the above information not be disclosed because its disclosure may jeopardize an ongoing criminal investigation or the safety of the child, a witness, or another person.

The act requires the court to state on the record the specific reason for sustaining any objection to the disclosure.

Records the Court May Disclose and Factors It Must Consider

The act allows the court, for good cause shown, to give victims access to other juvenile records, such as police reports, arrest warrants, search warrants, and related affidavits associated with the warrants that involve the victim. It prohibits the victim from further disclosing this information without a court order.

The act requires the court, in determining whether good cause exists, to consider:

1. the child's age,
2. the degree of victim injury or property damage caused by the child's delinquent act,
3. whether a compelling reason exists for disclosure or nondisclosure of the information in the records, and
4. whether the release of the information would jeopardize an ongoing criminal investigation.

When making a good cause determination, the court may not consider whether the victim has an alternate means of ascertaining the information.

§§ 4 & 20 — SCHOOL VIOLENCE PREVENTION PROGRAM

By law, the school violence prevention program is a pretrial diversionary program for students charged with an offense involving the use or threatened use of physical violence in or on school property or at a school-sponsored activity.

Under prior law, the program consisted of at least eight group counseling sessions in anger management and nonviolent conflict resolution. The act eliminates the eight-session minimum requirement and makes a conforming change.

§ 5 — FAMILY SUPPORT MAGISTRATES

Starting January 1, 2017, the law required the governor to nominate and the legislature to appoint nine family support magistrates to serve five-year terms. Prior to that date, the governor appointed the nine magistrates to serve three-year terms without legislative approval.

The law requires family support magistrates serving on December 31, 2016 to continue to serve until their three-year terms expire unless they are removed from office. After their terms expire, they must continue to serve until (1) a successor is appointed or (2) the legislature disapproves their reappointment. (The law allows the governor to nominate family support magistrates for reappointment.)

Under the act, if a family support magistrate continues to serve after the expiration of the three-year term and is nominated by the governor for reappointment, the magistrate's five-year term must begin on the date that the legislature approves the nomination for reappointment. Prior law did not specify when a subsequent term commences.

COURT OPERATIONS

Venue for Housing Matters (§§ 6, 11-16, 51 & 52)

The act makes various changes to laws pertaining to the court venue for housing matters and makes conforming changes in related laws.

Transfer of Housing Cases (§ 6). Under the act, a judge presiding over a housing case who determines that the case is not a housing matter may transfer the case only to the regular docket in a judicial district court. Under prior law, the judge could transfer such a case to either the geographic area court or the judicial district court.

Civil Actions for Windham and Ashford Residents (§ 11). The act allows a plaintiff to file civil actions in either the Windham or Tolland judicial district court if the plaintiff or defendant is from either town. Previously such residents could only file their civil actions in the Windham judicial district court.

Housing Matters in Judicial District Courts (§ 11). By law, with some exceptions, all civil process must be returned to specific judicial district courts. The act generally requires civil process for actions involving housing matters, except for those described below, to be returned to the judicial district where the property is located, except process must be returned to:

1. either the judicial district of Hartford or New Britain, at the plaintiff's option, if the premises are located in Avon, Canton, Farmington, Newington, Rocky Hill, Simsbury, or Wethersfield;
2. the judicial district of New Haven, if the premises are located in Milford, Orange, or West Haven (after filing the action, the plaintiff or defendant may request a change in venue to the New Haven or Waterbury judicial districts); and
3. the judicial district of Ansonia-Milford, if the premises are located in Ansonia, Beacon Falls, Derby, Oxford, Seymour, or Shelton.

Housing Matters in Geographic Area Courts (§§ 15 & 52). Under the act, in any judicial district in which housing matters are heard on a separate docket (as described below), the venue generally must be in the housing session for the judicial district for an action pertaining to one or more violations of (1) any state or municipal health, housing, building, electrical, plumbing, fire or sanitation code, including in commercial properties, or (2) any other statute, ordinance, or

regulation regarding the health, safety, or welfare of any occupant of any housing. However, the New Haven judicial district court is the venue for any such action for premises located in Milford, Orange, or West Haven.

In all other judicial districts, when such actions are on the criminal docket, the venue must be the geographic area where the premises are located.

The act also repeals a law that establishes the geographic area courts where actions pertaining to landlord-tenant, summary process, and local health and building code violations are returnable.

Housing Matters on a Separate Docket in Judicial District Courts (§ 16). Under existing law, housing matters must be heard on a separate docket in the Hartford, New Britain, New Haven, Fairfield, Waterbury, and Stamford-Norwalk judicial districts. Under the act, the judge assigned to hear housing matters in the:

1. Hartford judicial district must hear them in New Britain,
2. New Haven judicial district must hear them in Waterbury, and
3. Fairfield judicial district must hear them in Stamford-Norwalk.

Under the act, the records, files, and other documents pertaining to housing matters must be maintained separately from other court records. Housing matters do not have to be heard in the courthouse to which the process is returned and where the pleadings are filed.

The Willimantic Courthouse (§§ 7 & 12-14)

The act removes statutory references to the Willimantic courthouse, which closed on October 31, 2016.

Jury Duty (§ 10)

The act adds two circumstances under which a Connecticut resident may be excused from jury duty by disqualifying, for the jury year starting September 1, 2017, and each jury year after that, someone who served in federal court in Connecticut during the three prior jury years as a (1) federal juror on a matter that has been tried by a jury or (2) federal grand juror.

Anyone claiming disqualification based on such service must provide proof of federal jury service to the jury administrator.

Alternative Program for Certain Motor Vehicle Offenders (§ 39)

By law, the court, at its discretion, may refer offenders charged with certain motor vehicle violations or certain alcohol-related offenses to an alternative incarceration program, which provides defendants with a forum to hear from victims of underage drinking, drunk driving, distracted driving, or other motor vehicle violations.

Under existing law, the court may do so on the motion of the defendant, state's attorney, or prosecuting attorney, if the defendant is under age 21 and has not participated in the program before. The act expands eligibility for the program, to include defendants who were under age 21 when the offense was committed but older than 21 when the motion was filed. (PA 17-79 makes this diversionary program unavailable to anyone (1) charged with using a handheld cellphone while driving or (2) who, at the time of the violation, holds a commercial driver's license or instruction permit or is operating a commercial motor vehicle.)

By law, this program is not available to defendants charged with (1) driving under the influence of alcohol or drugs; (2) a motor vehicle violation that caused serious injury or death; or (3) unless good cause is shown, a motor vehicle violation classified as a felony.

Obsolete Language, Functions, and Reports (§§ 8-9 & 51-52)

The act eliminates various obsolete or redundant requirements, replacing them in some cases with modernized or electronic alternatives.

Sentence Review Decisions. The act eliminates the requirement for the Reporter of Judicial Decisions to select sentence review decisions for publication in the Connecticut Law Journal or Connecticut Supplement. In practice, these sentence review decisions are available to the public as Superior Court decisions are.

Supreme Court Records and Briefs. The act eliminates the requirement for the Reporter of Judicial Decisions to get Supreme Court records and briefs, bind them, and send copies to the State Library and each law library. It instead requires the chief clerk of the Supreme Court to electronically provide the State Library with publicly available briefs of all Supreme and Appellate Court cases, in a format and on a schedule mutually agreed to by the chief clerk of the Supreme Court and the state librarian.

Serious Juvenile Offender Report. The act eliminates the requirement that the judicial branch report quarterly to the legislature on serious juvenile offenders. The Juvenile Justice Policy Oversight Committee now collects this data.

Volunteer Lawyer Program. The act eliminates this program, which was established to protect people injured by a civil wrong. OVS now serves in this role.

Tort Victims Prior to July 1, 1993. The act eliminates language specifying that such victims are not precluded from seeking victim compensation.

§§ 17-19 — VICTIM FINANCIAL RESTITUTION

The law allows a court, when imposing a sentence of probation or conditional release, to order an offender to make financial restitution to a victim. The act creates a process for victims to seek enforcement of such an order that is similar to the process for seeking enforcement of a judgment in a civil action.

The act also allows the Judicial Branch's Court Support Services Division (CSSD), if authorized by a judge, to set the restitution amount, specify the manner of payment, and notify the victim that the restitution order may be enforced in the same manner as a judgment in a civil action.

Statute of Limitations. Under prior law, a person could enforce a financial obligation order within 10 years after the (1) offender's release from confinement or (2) entry of the order and sentence, whichever is longer. Under the act, the enforcement period is within 10 years after the (1) offender's release from confinement or termination of probation or (2) entry of the order and sentence, whichever is longer.

Filing of Order and Affidavit. The act requires the party seeking enforcement of the financial obligation order to file a copy of the order of restitution and an affidavit with the Superior Court.

The agency or entity monitoring payment of the obligations must prepare the affidavit on a form prescribed by the chief court administrator. The affidavit must (1) attest to the terms of restitution and manner of performance fixed by the court or CSSD and (2) identify the amount of the obligation that has been paid and the amount that is owed.

Notice. Within 30 days after filing the judgment and the affidavit with the court, the act requires the party seeking enforcement of the order to notify the offender at his or her last known address by registered or certified mail, return receipt requested.

Proceeds Distribution. The act prohibits the court from distributing the proceeds of an execution earlier than 30 days after proof of service has been filed. Under the act, the court may not collect a fee for the filing of an execution, and a marshal's fees for service of an execution must be the same as those in other civil actions.

§§ 21-38 & 40 — OVS COMPENSATION

Compensation Time Frames (§ 28)

Under existing law, to be eligible for compensation, a victim must report the crime to the police within five days of the incident or within five days of when a report could reasonably be made. But a sexual assault victim may still be eligible for compensation if he or she instead (1) told a medical or mental health provider or an advocate about the assault or (2) went to a health care facility to have a sexual assault forensic exam done. The act increases, from 72 hours to 120 hours, the time within which a sexual assault victim must go to the facility to be eligible for compensation.

Under the act, a victim of sexual assault, prostitution, or trafficking may also be eligible for compensation if he or she fails to report the crime but disclosed the injury to one of the professionals specified in existing law and the act, such as a doctor, nurse, or domestic violence or sexual assault counselor.

By law, a victim generally must apply to OVS for compensation within two years of the date of the incident.

Qualifying Injuries, Crime Locations, and Situations (§§ 21 & 25-28)

The act expands the types of injuries, crimes, and situations that make a victim eligible for victim compensation from OVS.

Injuries. By law, homicide victims and victims who suffer personal injury are generally eligible for compensation. A deceased victim's dependents are considered victims for the purpose of the claim. The act further expands the group of individuals eligible for victim compensation by classifying aunts, uncles, nieces, and nephews as relatives who may be considered the deceased victim's dependents. Under existing law, "relatives" include spouses, parents, grandparents, stepparents, and children. To be considered a dependent, the relative must have been at least partially dependent on the victim's income.

Under prior law, “personal injury” included (1) actual bodily harm and mental anguish that is a direct result of bodily injury or (2) injury to a disabled person’s guide or assistance dog. The act broadens the compensation eligibility criteria by expanding the definition of personal injury and including as eligible victims those who:

1. suffered actual bodily harm;
2. experienced mental or emotional impairment that requires treatment through services and is directly attributable to a threat of physical injury or the direct victim’s death (i.e., “emotional harm”); or
3. have a disability and whose service animal was injured or died.

Compensation Limits. Prior law generally limited crime victim compensation to a maximum of \$15,000 for personal injuries. The act allows OVS or a victim compensation commissioner, under certain circumstances, to award up to an additional \$5,000 above the \$15,000 maximum award. Under the act, the additional amount is allowed if, when the application for compensation or financial restitution is filed, the victim is a minor who has additional medical or mental health counseling needs (see BACKGROUND).

The act additionally allows victims who sustain only emotional harm to be awarded a maximum of \$5,000 in compensation for medical and mental health care.

Under existing law, unchanged by the act, (1) crime victim compensation is generally limited to \$25,000 for death and (2) OVS or a victim compensation commissioner may award amounts above the statutory maximum for good cause shown and upon a finding of compelling equitable circumstances.

Circumstances and Location of Crime. Under existing law, a victim may be eligible for crime victim compensation if he or she sustained personal injury or died as a result of (1) a crime as defined in state law or (2) a crime involving international terrorism as defined in federal law. The act adds any crime that occurred outside of U.S. territory, if (1) it would be considered a crime in Connecticut, (2) the victim is a Connecticut resident, and (3) the country in which the crime occurred does not have a compensation program for which the victim is eligible.

Other Permissible Compensation Situations. The act adds the following to the grounds on which OVS or, on review, a victim compensation commissioner, may order compensation:

1. a personal injury or death that resulted from the operation of a water vessel, snow mobile, or all-terrain vehicle operated by someone under the influence of alcohol or drugs (instead of just a motor vehicle as under prior law);
2. when (a) a victim discloses a personal injury from alleged violations of prostitution or trafficking in persons laws to a doctor; nurse; psychologist; police officer; mental health professional; emergency medical service provider; marriage or family therapist; domestic violence, sexual assault, alcohol and drugs, or professional counselor; clinical social worker; Department of Children and Families employee; or school principal, teacher, or guidance counselor and (b) OVS or the commissioner, as the case may be, reasonably concludes that the violation occurred;
3. when a victim discloses a personal injury from alleged violations of sexual assault laws to a school principal, teacher, or guidance counselor;
4. a personal injury suffered by a domestic violence, sexual abuse, sexual assault, or stalking victim (a) as reported in an application granted by the court for a restraining order or civil protection order, the supporting affidavit, or in the court record or (b) as disclosed to a domestic violence or sexual assault counselor;
5. pecuniary loss an injured victim or relatives or dependents of an injured victim suffered from attending related criminal court proceedings, not only those pecuniary losses due to attending such a proceeding related to a deceased victim as under prior law;
6. pecuniary loss due to a crime scene cleanup; and
7. loss of up to one week’s wages by a deceased victim’s parent or guardian.

Insurance as a Collateral Source (§ 25)

Under prior law, OVS, in determining victim compensation, was required to consider the amount a victim receives from other sources, including health insurance. The act expands this requirement by allowing OVS to consider all types of insurance.

And it simultaneously allows OVS to waive the consideration of health insurance as a collateral source in a domestic violence, sexual assault, or child abuse case in which the victim or the claimant believes that the dissemination of treatment information associated with a health insurance claim would cause undue harm.

Existing law, unchanged by the act, prohibits OVS from considering life insurance benefits.

Collection of Health Care Provider's Debt (§ 38)

The act requires a health care provider; its attorney, employees, or agent; and any collection agency acting on the provider's behalf to promptly stop efforts to collect any debt that resulted from treatment of injuries associated with a pending victim compensation claim. They must do so as soon as they become aware of the collection efforts and receive notice from OVS that the debtor has a pending claim.

The collection efforts must be discontinued until (1) a compensation award is made, (2) the claim is approved without payment, or (3) the claim is determined to be not compensable. Any applicable statute of limitations for the collection of the debt must be tolled during the collection suspension period.

Under the act, a "health care provider" is any person or organization licensed or certified to provide health care services, including (1) institutions such as hospitals, hospice facilities, residential care homes, nursing homes, home health care agencies, and assisted living agencies, and (2) state-run health care institutions or facilities.

Attorneys' and Other Providers' Compensation (§ 24)

By law, OVS or, on review, a victim compensation commissioner, may determine and allow reasonable attorney's fees of up to 15% of the compensation award.

The act requires the victim's attorney to (1) communicate with providers about outstanding balances after attorney's fees are deducted and (2) ensure payment to the providers as documented by OVS. (Presumably, payment is from the award balance.)

Office of Victim Services (§§ 22, 29, 34, 36 & 37)

Powers and Duties. The act makes the following changes to OVS's powers and duties:

1. authorizes OVS to direct each university or college health service center, community health center, or hospital to prominently display posters in a conspicuous location giving notice of the availability of victim compensation and assistance (under prior law, OVS had the authority to direct hospitals to display such posters in their emergency rooms);
2. requires OVS to develop a request form to obtain the data existing law requires the office to obtain from the state's attorney and police to review a compensation application;
3. eliminates the requirement that OVS direct medical examinations of victims in order for the victims to receive compensation;
4. removes the requirement that OVS consult with the Criminal Justice Division in assigning victim advocates;
5. requires OVS to (a) inform victims of their rights and available services and (b) maintain a victim notification system and a toll-free number for victims to access the information, replacing prior law's requirement that OVS provide victims with a notification clearinghouse;
6. allows OVS to email its decision to the applicant and deems the delivery complete upon sending the email, unless OVS or a compensation commissioner learns that the email was not delivered;
7. reduces, from six to four, the number of times per year that the state advisory council must meet to recommend legislation to improve OVS's program;
8. requires OVS to (a) maintain, within available appropriations, the existing sexual assault forensic examiners program to train examiners of sexual assault victims who are patients at participating health care facilities, rather than at acute care facilities, as under prior law, or (b) establish, within available appropriations, a training program for health care professionals in nonparticipating health care facilities on the care and collection of evidence from adolescent and adult sexual assault victims;
9. eliminates the requirement that OVS and the Department of Correction's Victim Services Unit use certified, rather than regular, mail to notify people who asked to be notified when an inmate applies for release, sentence reduction or review, or exemption or removal from sex offender registration; and
10. allows OVS to expedite the processing of a claim if it determines that the claimant would otherwise experience undue hardship, replacing prior law's "emergency award" process.

Victim Impact Statements and Advocates (§§ 35 & 40)

The act eliminates a requirement that a victim impact statement, prepared with a victim advocate's assistance, be placed in the court file.

Under the act, a victim advocate must receive, upon request, a copy of any police report that the Office of the Chief State's Attorney, the Department of Emergency Services and Public Protection, municipal police departments, or any other law enforcement agency has that the victim advocate needs to perform his or her responsibilities and duties.

Prosecuting Authority (§§ 22 & 25)

By law, a victim has the right to submit to the prosecutor a statement about his or her injuries, financial losses, and loss of earnings directly resulting from the crime. The act requires the prosecutor to file the statement with the sentencing court, and the statement must be made a part of the record the court considers at sentencing.

The act also eliminates a provision under prior law that allowed a prosecutor to ask OVS to suspend acting on a claim on the grounds that a prosecution for an offense arising out of the claim had started or was imminent.

§§ 46-49 — FRAUDULENT FILING

Filing a False Record (§ 46)

The act creates a new class D felony, filing a false record. A person commits the crime by filing a false record against real or personal property. Specifically, to be guilty, a person must, with intent to defraud, deceive, injure, or harass another person, file, or cause to be filed with a municipality, a record he or she knows, or reasonably should know, is false.

Under the act, a person is guilty of filing a false record under the Uniform Commercial Code (UCC) when, with intent to defraud, deceive, injure, or harass another, he or she files, or causes to be filed, with the secretary of the state or a municipality, a record he or she knows, or reasonably should know, is false. For the act's purposes, a "record" is information inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form, including any record recorded in a town clerk's office.

Court Process for Victim of a Fraudulent Filing (§§ 47-49)

The act establishes identical court procedures for victims of a fraudulent UCC or municipal land record filing.

Petition. A victim of fraudulent filing may petition the Tax and Administrative Appeals Session of the Superior Court to invalidate a false filing or related amendment. Petitioners must (1) include as part of the petition a certified copy of the filing and any amendment that they seek to invalidate and (2) send a copy of the petition to all parties named in the filing. There are no court fees to petition for a hearing.

Court Review and Hearing. The court must review the petition and determine whether cause exists to doubt the validity of the filing or amendment (i.e., record). The court must, within 60 days after determining that cause exists, hold a hearing to determine whether to invalidate the record or grant other appropriate relief.

Good Cause Factors. In determining whether cause exists to doubt the validity of a record, the court may consider factors that include whether:

1. the record is related to either a valid existing or potential commercial, financial, or real estate transaction or judgment of a court of competent jurisdiction;
2. the same individual is named as both debtor and creditor;
3. an individual is named as a transmitting utility (e.g., an electric company); and
4. the record has been filed with the intent to defraud, deceive, injure, or harass a person, business, or government entity.

Judgment. If the court determines after a hearing that the record identified in the petition is not valid, it must (1) render a judgment that the record is void in its entirety and (2) direct the record's custodian, when feasible, to note that the record is invalid. The court may grant any other relief it deems appropriate. The petitioner must provide a copy of the petition and the judgment to the record's custodian.

§ 50 — TRUST PROPERTY

Conveyance by a Trust or Trustee

By law, when executed by a duly authorized trustee, any conveyance of real property made by a trust must be treated as if it were made by the trustee. The act specifies that the reverse is also true (i.e., any conveyance made and executed by a properly authorized trustee must be treated as if the transfer was made by the trust).

Recording of Trust Instruments

The act requires the town clerk to index an instrument by the name of the trust and trustee identified in the instrument if the grantor, grantee, releasor, releasee, assignor, assignee, transferor, or transferee is a trust.

Under the act, in the absence of evidence in the land records indicating otherwise, it must be presumed that the (1) person who executed the instrument on the trust's behalf was properly authorized to do so and (2) trust on whose behalf the person acted contained a provision giving the trustee or trustees the power to convey an interest in real property.

BACKGROUND

Stalking Crimes

By law, a person commits:

1. 3rd degree stalking, a class B misdemeanor, when he or she recklessly causes another person to reasonably fear for his or her physical safety by wilfully and repeatedly following or lying in wait for the other person;
2. 2nd degree stalking, a class A misdemeanor, by (a) knowingly engaging in certain conduct directed at a specific person that would cause a reasonable person to fear for his, her, or a third person's physical safety or (b) intentionally, and for no legitimate purpose, engaging in certain conduct directed at a specific person that would cause a reasonable person to fear that his or her employment, business, or career is threatened; and
3. 1st degree stalking, a class D felony, when he or she commits 2nd degree stalking and (a) was previously convicted of 2nd degree stalking, (b) violates a court order in effect at the time of the offense, or (c) the victim is under age 16 (CGS § 53a-181c et seq.).

Related Acts

PA 17-31 (1) expands the conduct that constitutes stalking by including conduct that causes "emotional distress" and (2) specifies that electronic or social media are among the methods, devices, or means by which conduct that constitutes stalking may occur.

PA 17-79 makes the diversionary program for certain motor vehicle offenders unavailable to anyone (1) charged with using a handheld cellphone while driving or (2) who, at the time of the violation, holds a commercial driver's license or instruction permit or is operating a commercial motor vehicle.

PA 17-87 extends by 10 years the period during which a victim can enforce and collect financial restitution.

PA 17-102—sHB 7214*Judiciary Committee***AN ACT CONCERNING HARASSMENT OF A GUIDE OR ASSISTANCE DOG OR THE HANDLER OF SUCH DOG**

SUMMARY: This act makes it a class C misdemeanor (see Table on Penalties) to intentionally interfere with a blind, deaf, or mobility impaired person's use of a guide or assistance dog. The punishable actions include intentionally harassing or annoying a (1) blind, deaf, or mobility impaired person; (2) guide or assistance dog that accompanies such person; or (3) person training a dog as a guide or assistance dog.

A person training a guide or assistance dog includes someone who:

1. is employed, and authorized to engage in designated training activities, by a guide dog organization or assistance dog organization that complies with the membership criteria for a professional association of guide or assistance dog schools, and who carries photographic identification indicating that employment and authorization, or
2. volunteers for a guide or assistance dog organization that authorizes the volunteer to raise dogs to become guide or assistance dogs and has the dog identified with ID tags, ear tattoos, bandanas on puppies or coats on adult dogs, or leashes and collars.

The law gives individuals who are blind, deaf, or mobility impaired the right to be accompanied by a guide or assistance dog while travelling on public transportation or in any place of public accommodation. This same right extends to individuals accompanied by such dogs for training purposes.

The act also makes several minor, technical, and conforming changes.
EFFECTIVE DATE: October 1, 2017

PA 17-104—HB 7243

Judiciary Committee

AN ACT CONCERNING SPECIAL MOBILE EQUIPMENT LIENS

SUMMARY: Subject to certain procedures, existing law allows bailees to sell at auction personal property left in their custody (e.g., left at a repair shop) if the owner does not reclaim it and satisfy the lien. This act creates a specific process for bailees to follow if the property is “special mobile equipment” (i.e., certain types of heavy construction equipment; see BACKGROUND).

Under the act, if the owner or anyone else with a right to the property has not applied to dissolve the lien within 30 days after completion of the work on the property, the bailee must immediately send a written notice to the bailor. The notice must be sent by certified mail, return receipt requested, and indicate the (1) equipment’s identification number, (2) date the equipment was left with the bailee, (3) date the work was completed, (4) lien amount, and (5) name of the owner or other person who authorized the work.

The act also requires the bailee to conduct a search for lienholders under the Uniform Commercial Code. If the equipment is subject to a security interest (e.g., a loan), the bailee must notify each lienholder by certified mail, return receipt requested, that the bailee has the equipment and has a lien upon it for repair and storage charges.

Under the act, the general rules for public auctions of property held by bailees continue to apply to special mobile equipment (e.g., procedures for advertising the sale in a newspaper and disbursing the sale proceeds). As under existing law for auctions of motor vehicles, the act requires the bailee to notify any lienholders at least 10 days before the sale, by certified mail, return receipt requested.

If the bailee does not comply with these requirements, the act voids any such sale of the equipment.

EFFECTIVE DATE: October 1, 2017

BACKGROUND

Special Mobile Equipment

By law, “special mobile equipment” is a vehicle that is not designed to transport people or property, and only incidentally moves or operates over a highway. This includes, among other things, ditch-digging and well-boring equipment and many kinds of road construction and maintenance machinery, such as asphalt spreaders, bucket loaders, street sweepers, and leveling graders. The term does not include house trailers; dump trucks; or truck-mounted transit mixers, cranes, and shovels (CGS § 14-165).

PA 17-106—sHB 7284

Judiciary Committee

AN ACT CONCERNING STATE IDENTIFICATION FOR INMATES UPON REENTRY

SUMMARY: This act requires the motor vehicles and correction commissioners, within available appropriations, to ensure that an inmate has a state identification card or a driver’s license when he or she is released from a correctional facility after serving any part of a prison term for a misdemeanor or felony conviction. This requirement only applies if the inmate requests and qualifies for the card or license and pays any associated fee.

EFFECTIVE DATE: October 1, 2017

PA 17-108—sHB 7311

Judiciary Committee

AN ACT CONCERNING LIMITED LIABILITY COMPANIES AND BUSINESS CORPORATIONS

SUMMARY: This act makes numerous changes to statutes governing business corporations and limited liability companies (LLCs). Principally, it (1) revises the Connecticut Business Corporation Act (§§ 1-24, 44 & 45) and (2) makes minor and technical changes to the Connecticut Uniform LLC Act, which was passed in 2016 and took effect July 1, 2017 (§§ 25-42).

With respect to corporations, the act does the following:

1. establishes standards for director liability that are separate from standards for director conduct (§§ 1 & 2),
2. establishes a statutory process for corporations to ratify and validate certain defective actions (§§ 3-10),
3. allows a corporation's certificate of incorporation to waive or limit a requirement that directors and officers disclose certain outside business opportunities (§§ 11-14),
4. establishes a process for a merger or share exchange to take place without shareholder approval (§§ 15-19),
5. allows the certificate of incorporation or bylaws to require that any or all internal corporate claims be brought exclusively in certain courts (§ 20), and
6. makes minor changes to certain definitions (§§ 21-24, 44 & 45).

The act also requires the secretary of the state (SOTS) to report to the Judiciary Committee, by January 1, 2018, on potential funding sources that may be available to modify and update, or replace, the CONCORD commercial records database in order to promote and enhance the implementation of business friendly initiatives (§ 43). Lastly, it makes numerous minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage for the SOTS report; July 1, 2017 for the Uniform LLC Act provisions; and October 1, 2017 for the corporation-related provisions.

§§ 1-24, 44 & 45 — CONNECTICUT BUSINESS CORPORATION ACT

Standards for Director Conduct and Liability (§§ 1 & 2)

Prior law prescribed standards of conduct that corporate directors had to follow and provided that a director was generally not liable for actions, or failure to take actions, if he or she acted in conformance with these standards. The act (1) instead establishes separate standards for director liability and (2) makes minor changes to the conduct standards (e.g., explicitly requiring a director, unless limited by confidentiality and professional ethics rules, to disclose certain material information to other board or committee members if the information is not known to them).

With respect to liability, the act requires that the party asserting liability against a director establish that no defense interposed by the director precludes liability. These defenses are based on the following:

1. provisions in the certificate of incorporation that (a) limit the amount of money damages a director may personally be liable for or (b) allow him or her to pursue outside business opportunities (see §§ 11-14 below) and
2. provisions in existing law that allow a director, under certain circumstances, to participate in a conflicting interest transaction or take advantage of a business opportunity.

The party asserting a director's liability must also establish that the challenged conduct consisted of or was the result of at least one of the following:

1. an action not in good faith;
2. a decision the director (a) did not reasonably believe to be in the corporation's best interests or (b) was not informed about to an extent he or she reasonably believed appropriate;
3. a lack of objectivity due to a relationship (e.g., familial or business) with, or lack of independence from, another person with a material interest in the challenged conduct, and the director did not establish that the challenged conduct was reasonably believed to be in the corporation's best interest;
4. the director's sustained failure to devote attention, or timely attention, to ongoing oversight of the corporation's business and affairs; or
5. the director receiving a financial benefit to which he or she was not entitled, or any other breach of his or her duties to deal fairly with the corporation and its shareholders.

The act also establishes additional burdens on the party asserting liability (e.g., proving harm) based on the type of damages sought.

The act specifies that it does not alter (1) a director's liability under provisions in existing law that provide for liability in specific instances, such as unlawful distributions or transactional interests, or (2) the burden of proving

fairness or lack thereof in instances where fairness is at issue. Additionally, it does not affect any corporation or shareholder rights under the U.S. Code or other provisions in state law.

Ratifying and Validating Defective Corporate Actions (§§ 3-10)

The act establishes a statutory process under which corporations may ratify or validate defective corporate actions, including an overissue of shares. It specifies that these provisions are not the exclusive means for ratifying or validating defective actions and explicitly authorizes the Superior Court to declare defective actions valid.

Definitions. Table 1 lists the definitions of certain terms relevant to this process.

Table 1: Related Definitions

<i>Term</i>	<i>Definition</i>
Corporate action	Any action taken by or on behalf of the corporation
Defective corporate action	(1) A corporate action purportedly taken that is within the corporation's power (and was within its power at the time it was purportedly taken) but is void or voidable because of a failure of authorization or (2) an overissue (see below)
Failure of authorization	Failure to authorize, approve, or otherwise effect a corporate action in accordance with state corporation laws, the corporation's certificate of incorporation or bylaws, a corporate resolution, or any plan or agreement to which the corporation is a party, if and to the extent the failure would render the corporate action void or voidable
Overissue	The purported issuance of shares of a class or series (1) exceeding the number of shares the corporation had the power to issue at the time of the issuance or (2) not then authorized for issuance by the certificate of incorporation
Putative shares	Shares of any class or series created or issued as a result of a defective corporate action that (1) would be valid but for the failure of authorization or (2) cannot be determined by the board of directors to be valid shares

Process. To ratify a defective corporate action, the board of directors must take an action that states the following:

1. the defective action to be ratified and, if applicable, the number and type of putative shares purportedly issued;
2. the date of the defective action and nature of the authorization failure; and
3. that the board of directors approves the ratification of the defective action.

Under the act, the quorum and voting requirements that apply to the directors' ratifying action are the same as those that apply to the action to be ratified. The act also specifies the conditions under which the board may abandon ratification.

The act establishes a separate process for ratifying the election of the corporation's initial board of directors. Under this process, a majority of the persons exercising directors' powers at the time of ratification may take an action that states the following:

1. the name of the person or persons that first acted in the corporation's name as its initial board of directors;
2. the date on which they first took such action or were purported to have been elected as the initial board, whichever is earlier; and
3. that the ratification of the election of the initial board of directors is approved.

Shareholder Approval. The act requires shareholder approval for the ratification of all defective corporate actions if such approval would have been required for the initial action. It establishes notice, quorum, voting, and other procedural requirements for shareholders' approval of the ratification (e.g., notice of the timeframes for bringing claims related to the validation).

If the ratification of a defective action does not require shareholder approval, the act requires the corporation to notify all holders of valid and putative shares of the ratification. The act specifies the notice's required contents.

Ratification Resulting in an Overissue. Under the act, if ratifying putative shares would result in an overissue, the corporation must also amend its certificate of incorporation to (1) increase the number of shares of a class or series or (2) create a new class or series.

Filings. Under the act, if a defective corporate action would have required a filing under state corporation laws, then the corporation must file a certificate of validation with SOTS, regardless of whether a filing was previously made. The certificate must identify:

1. the defective action and the date it was taken, including information about any putative shares issued;
2. the nature of the failure of authorization;
3. a statement that the defective action was ratified under the act's provisions, including the date of ratification and shareholder approval, if applicable; and
4. information about any previous filings relating to the action.

If a filing was not previously made but would have been required to effect the defective action, then such a filing must be attached to the certificate. The act specifies that the certificate of validation amends or substitutes for any other required filing with respect to the defective action.

Effect of Ratification. Under the act, ratification becomes effective upon the later of (1) shareholder approval or, if shareholder approval is not required, when notice to the shareholders becomes effective and (2) the time at which the certificate of validation becomes effective. The act refers to this as the "validation effective time." Unless ordered by the court, the validation effective time is not affected by pending judicial proceedings.

A defective corporate action ratified under the act is deemed a valid corporate action as of the date of the defective action. Putative shares are deemed identical shares or fractions of valid shares as of the time they were purportedly issued. The act makes actions taken in reliance on the defective action, as well as subsequent defective actions resulting directly or indirectly from the original defective action, valid as of the time taken.

Court Action. The act allows the Superior Court to (1) determine the validity and effectiveness of any corporate action or defective corporate action, or ratification of a defective action; (2) determine the validity of any putative shares; and (3) modify or waive the act's procedures for ratifying defective corporate actions. It requires that any action challenging the ratification of a defective action or putative shares be brought within 120 days after the validation's effective date.

Notice of Directors' and Officers' Business Opportunities (§§ 11-14)

Existing law provides a safe harbor for a director considering possible involvement (whether directly or indirectly) with a prospective business opportunity that might constitute a "corporate opportunity." It allows a director to present a business opportunity to the board or its shareholders for consideration. A director who receives a disclaimer of the corporation's interest in the matter may pursue the opportunity on his or her own behalf with protection from damages or other remedies in a lawsuit brought by the corporation or its shareholders. (Under the common law corporate opportunity doctrine, a corporation has a right to act before its director does on certain business opportunities that come to the director's attention.)

The act expands this safe harbor protection to cover a corporation's officers, not only its directors. It also allows corporations to include in the certificate of incorporation a provision that limits or eliminates a director's, officer's, or other person's duty to offer the corporation potential business opportunities before these persons pursue the opportunity themselves. In order to apply such a provision to an officer or person related to the officer, the board of directors must approve the application, after the provision's effective date, by action of qualified directors following existing procedures for authorizing conflict of interest transactions. The board may also limit any application to officers or persons related to them.

Existing law generally defines "qualified directors" as those who, with respect to certain actions, are disinterested and independent (i.e., have no conflict of interest). For purposes of limiting or eliminating an officer or related person's corporate opportunity duties, the act defines "qualified director" as one (1) to whom the limitation or elimination of an officer's duties to offer potential business opportunities would not apply and (2) who does not have a material relationship with any other person to whom the limitation or elimination would apply.

Existing law defines a "director's conflicting interest transaction" as, among other things, one in which the director knew that a related person was a party or had a material financial interest. The act makes various changes to the law's definition of "related person" for purposes of conflicting interest transactions and corporate opportunities. First, it expands the definition to include people related to officers and other individuals, not just people related to directors as under prior law. It also adds the following familial relations with respect to the individual or individual's spouse: stepchild, stepparent, grandparent, stepsibling, half-sibling, aunt, uncle, niece, or nephew, or the spouse of any such individual. Finally, it removes a reference to trusts or estates to which a related person is a substantial beneficiary.

The act also makes various minor and technical changes (e.g., requiring that the certificate of incorporation include the mailing address, not just the street address, of the corporation's initial registered office).

Shareholder Approval of Two-Step Mergers (§§ 15-19)

Generally, a two-step merger is one in which the buyer first makes a tender offer to acquire the target company's stock. In the second step, the buyer commences a "back-end" merger to acquire the target company's stock not acquired under the tender offer. Under prior law, the plan for such a merger or share exchange was generally subject to shareholder approval.

The act establishes a process under which a plan of merger or share exchange may be effectuated without shareholder approval unless the certificate of incorporation provides otherwise.

Definitions. Table 2 lists the definitions of certain terms relevant to this process.

Table 2: Related Definitions

<i>Term</i>	<i>Definition</i>
Parent	A person that owns, directly or indirectly, through one or more wholly owned subsidiaries, all of a corporation's outstanding shares
Purchase	With respect to shares tendered in response to an offer, "purchase" means that the offeror has irrevocably accepted them for payment and (1) if the shares are represented by certificates, the offeror or agent has physically received the certificates, or (2) if the shares do not have certificates, the shares have been transferred to the offeror's or agent's account, or the offeror or agent has received an agent's message relating to the shares
Wholly owned subsidiary	With respect to a person, a wholly owned subsidiary is an entity of or in which that person owns, directly or indirectly, through one or more wholly owned subsidiaries, all of the outstanding shares or interests

Process. Under the act, each of the following requirements in the process must be met.

1. The plan must expressly permit or require that it be effected under the act's provisions as soon as practicable after the tender offer (see *Tender Offer* below).
2. Another party to the merger, the acquiring corporation in the share exchange, or a parent of such entities, must offer to purchase any and all outstanding shares that, absent the act's provisions, would be entitled to vote on the merger or exchange. The offer may exclude shares owned at the commencement of the offer by (a) the corporation; (b) the offeror or offeror's parent; or (c) a wholly owned subsidiary.
3. The offer must disclose that shares of the corporation not tendered in response to the offer will be acquired for the same consideration set forth in the tender offer (see *Outstanding Shares* below).
4. The offer must remain open for at least 10 days.
5. The offeror must purchase all shares properly tendered and not properly withdrawn.
6. After the tender offer closes, the buyer must own enough shares to cast at least the minimum number of votes on the merger or exchange that would otherwise be required for approval under existing law and the certificate of incorporation (see *Tender Offer* below).
7. The offeror or wholly owned subsidiary merges with or into the corporation, or effects an exchange in which it acquires shares of the corporation.
8. Shares of the corporation not tendered in response to the offer must be acquired for the same consideration set forth in the tender offer (see *Outstanding Shares* below).

Tender Offer. Under the act, the shares identified below must be collectively entitled to cast at least the minimum number of votes on the merger or exchange that would otherwise be required for approval under existing law and the certificate of incorporation. These include the following shares:

1. shares purchased by the offeror in accordance with the offer;
2. shares otherwise owned by the offeror or offeror's parent or wholly owned subsidiary; and
3. shares subject to an agreement that are to be transferred, contributed, or delivered to the offeror, parent, or subsidiary in exchange for shares in the offeror, parent, or subsidiary.

Outstanding Shares. Under the act, each share of each class or series of shares that the offeror offers to purchase, but does not purchase, must be converted into the same amount and kind of securities, interests, obligations, rights, cash, or other property to be paid or exchanged in accordance with the offer for each share of the class or series tendered in response to the offer. The act specifies that certain types of shares (e.g., those owned by the offeror) do not need to be converted into, or exchanged for, consideration.

Other Provisions. The act allows a certificate of incorporation to limit or eliminate, for a merger or share exchange, the separate voting rights possessed by certain classes or series of shares. This provision does not apply if the merger or exchange (1) includes what is or would be in effect an amendment to the certificate of incorporation and (2) does not effect a substantive business combination.

Lastly, the act makes numerous minor, technical, and conforming changes governing mergers and share exchanges. For example, it specifies (1) that shareholders are entitled to appraisal rights (i.e., a judicial determination of a share's fair value) in connection with the mergers and exchanges authorized under the act and (2) how shareholders must assert their appraisal rights. It also specifies that a certificate of incorporation cannot limit or eliminate appraisal rights if the class or series does not have the right to vote separately on the action as a voting group alone or as part of a group.

Forum for Internal Corporate Claims (§ 20)

The act allows a corporation's certificate of incorporation or bylaws to require that any or all internal corporate claims be brought exclusively in one or more Connecticut courts or any additional courts in Connecticut or other jurisdictions with which the corporation has a reasonable relationship.

The act specifies that such a provision does not apply if the specified courts do not have the requisite personal and subject matter jurisdiction. It allows a claim to be brought in a state court not specified in the provision if (1) the court has personal and subject matter jurisdiction and (2) none of the specified state courts has such jurisdiction. The act prohibits the certificate of incorporation or bylaws from barring the use of Connecticut courts for internal corporate claims or requiring that they be determined by arbitration.

The act defines an internal corporate claim as follows:

1. a claim based on a violation of a duty under state law by a current or former director, officer, or shareholder in such capacity;
2. a derivative action or proceeding brought on behalf of the corporation;
3. an action that asserts a claim under the state's corporation laws or the certificate of incorporation or bylaws; or
4. any other action asserting a claim governed by the internal affairs doctrine.

Definitions (§§ 21-24, 44 & 45)

The act makes several minor and technical changes to definitions used in the Connecticut Business Corporation Act. For example, it adds definitions to conform to other changes made by the act (e.g., "acquired" and "acquiring" corporation). It also makes certain definitions (e.g., "merger" and "share exchange") applicable to the entire act, rather than just a specific group of statutes as under prior law.

§§ 25-42 — CONNECTICUT UNIFORM LLC ACT

In 2016, the legislature enacted the Connecticut Uniform LLC Act (PA 16-97), which became effective July 1, 2017, and replaced prior state law governing LLCs. This act makes several minor and technical changes to the uniform act, including the following:

1. replacing the phrase "certificate of good standing" with "certificate of legal existence" and eliminating provisions that specify the certificate's required contents;
2. replacing several references to "statement" with references to "certificate";
3. specifying that the fee for a certificate of legal existence for a foreign LLC is the same as the fee for a certificate for a domestic LLC (\$50);
4. requiring a foreign LLC to disclose, in its annual report filed with SOTS, the street and mailing address it uses in its home jurisdiction (it must already disclose this information in its registration certificate);
5. eliminating a requirement for a foreign LLC to file an amendment to its registration certificate with SOTS if its address, registered agent, or agent's address changes (under existing law, these changes are disclosed using other forms, such as a change of agent certificate);

6. specifying that the deadline for a merging LLC to amend or abandon the merger is when the certificate of merger becomes effective, rather than when it is delivered to SOTS; and
7. requiring only the surviving LLC, rather than each merging LLC, to deliver a certificate of merger to SOTS.

Additionally, prior law required a foreign LLC to apply to SOTS for a registration transfer if it merged into a foreign entity that is not registered to transact business in Connecticut or converted to a foreign entity required to register with the secretary. The act limits the use of a registration transfer to mergers in which the foreign LLC merges into another foreign LLC.

PA 17-111—sHB 5743

Judiciary Committee

AN ACT CONCERNING HATE CRIMES

SUMMARY: This act makes several changes to the state’s hate crime laws, including enhancing penalties in some cases. Among other things, the act:

1. modifies the elements of certain hate crimes that deprive someone of his or her rights (§ 1);
2. imposes minimum fines for certain hate crimes, including deprivation of rights; desecration of property; cross burning; and 1st, 2nd, and 3rd degree intimidation based on bigotry or bias (§§ 1 & 5-7) (see Table on Penalties);
3. allows the court to cancel or reduce the minimum fines the act imposes if the court states on the record its reasons for doing so (§§ 1 & 5-7);
4. enhances the penalty for desecrating a house of religious worship (§ 1);
5. increases the penalty for 1st and 2nd degree threatening when the threat affects a house of worship, religiously-affiliated community center, or day care center (§§ 3 & 4);
6. increases, from a class A misdemeanor to a class E felony, the penalty for 3rd degree intimidation based on bigotry or bias (§§ 5-7);
7. allows the court, as a condition of probation or conditional release, to require hate crime offenders to participate in certain programs (§ 2); and
8. replaces the Hate Crimes Advisory Committee with a new State-Wide Hate Crimes Advisory Council within the Office of the Chief State’s Attorney (§§ 8 & 9).

EFFECTIVE DATE: October 1, 2017

§ 1 — DEPRIVATION OF RIGHTS AND DESECRATION OF PROPERTY

The act makes various changes to the elements of certain hate crimes that deprive someone of his or her rights, as well as enhances penalties for deprivation of rights and desecration of property.

By law, it is a crime to deprive someone of any legally guaranteed right because of his or her religion, national origin, alienage, color, race, sex, gender identity or expression, sexual orientation, blindness, or mental or physical disability.

Under prior law, this crime included placing a burning cross or simulation of one on public property, or on private property without the owner’s written consent. The act makes this a crime only if the person acted with the intent to intimidate or harass someone or a group of people.

Under existing law, this crime also included placing a noose or simulation of one on public property, or on private property without the owner’s written consent, and with the intent to harass someone because of his or her religion, national origin, alienage, color, race, sex, sexual orientation, blindness, or physical disability. The act adds “gender identity or expression” and “mental disability” to the list of protected classes.

By law, unchanged by the act, this crime additionally includes intentionally desecrating any public property, monument, or structure; religious object, symbol, or house of worship; cemetery; or private structure owned by someone else.

Enhanced Penalties

Under prior law, the crimes described above were generally class A misdemeanors, but they were class D felonies if the property damage exceeded \$1,000. The act enhances this penalty by imposing a minimum fine of \$1,000 whether the crime is a misdemeanor or a felony.

The act further enhances the penalty for intentional desecration of a house of religious worship, as shown in Table 1.

Table 1: Intentional Desecration of a House of Religious Worship

<i>Property Damage Resulting from the Crime</i>	<i>Classification</i>	<i>Minimum Fine under the Act</i>
\$10,000 or less	Class D felony (up to five years in prison, a fine of up to \$5,000, or both)	\$1,000
More than \$10,000	Class C felony (one to 10 years in prison, a fine of up to \$10,000, or both)	\$3,000

The act prohibits the court from canceling or reducing the minimum fines unless the court states on the record its reasons for doing so. The act also specifically allows the court to order the offender to pay financial restitution to the victim.

§ 2 — CONDITIONS OF PROBATION AND CONDITIONAL DISCHARGE

By law, a court, as a condition of probation or conditional discharge, may require an offender to participate in certain programs if he or she is convicted of (1) intimidation based on bigotry or bias, (2) deprivation of rights or property (including through cross burning or placing a noose on property), or (3) deprivation of a person’s civil rights by a person wearing a mask or hood.

Under prior law, the court could require such an offender to participate in an anti-bias crime education program. The act instead allows the court to require the offender to participate in (1) an anti-bias or diversity awareness program or (2) a community service program designed to remedy the damage caused by the commission of a bias crime, or otherwise related to the defendant’s violation.

§§ 3 & 4 — THREATENING CRIMES

1st Degree Threatening

By law, 1st degree threatening includes threats to commit a violent crime or a crime using a hazardous substance with intent to cause, or with reckless disregard of the risk of causing, (1) evacuation of a building, place of assembly, or public transportation facility; (2) serious public inconvenience; or (3) for hazardous substance crimes, terror in a person.

The act increases, from a class D felony to a class C felony, the penalty for such 1st degree threatening if the threat was made with intent to cause the evacuation of the building or grounds of a house of religious worship, religiously-affiliated community center, or day care center during operating hours or when the buildings or grounds are being used (1) to provide religious or community services or (2) for activities sponsored by the house of worship, community center, or day care.

Under the act, a “religiously-affiliated community center” is real property that is (1) used for providing recreational, social, or educational services and (2) owned or leased by a nonprofit organization that holds the property out as being affiliated with an organized religion.

By law, unchanged by the act, such 1st degree threatening is already a class C felony if the threat was made with the intent to cause the evacuation of a preschool, school, or higher education institution.

2nd Degree Threatening

By law, 2nd degree threatening consists of (1) intentionally causing, or attempting to cause, someone to fear imminent serious physical injury by physical threat or (2) threatening to commit a violent crime with intent to terrorize someone or in reckless disregard of the risk of doing so.

The act increases, from a class A misdemeanor to a class D felony, the penalty for this crime if the threatened person was in the building or on the grounds of a house of religious worship, religiously-affiliated community center, or day care center during operating hours or when the buildings or grounds are being used (1) to provide religious or community services or (2) for activities sponsored by the house of worship, community center, or day care center.

By law, such 2nd degree threatening is already a class D felony if the threatened person was in the building or on the grounds of a preschool, school, or higher education institution.

§§ 5-7 — INTIMIDATION BASED ON BIGOTRY OR BIAS

Under existing law, the crimes of 1st, 2nd, and 3rd degree intimidation based on bigotry or bias address certain actions that intimidate or harass another person because of his or her actual or perceived race, religion, ethnicity, disability, sexual orientation, or gender identity or expression. The act adds “sex” to the list of protected classes. It also (1) expands the conduct covered by the 1st and 2nd degree crimes and (2) increases certain penalties for the 1st, 2nd, and 3rd degree crimes.

1st Degree Intimidation

Under prior law, a person committed the 1st degree crime of intimidation based on bigotry or bias if he or she, maliciously and with specific intent to intimidate or harass another person because of any of the attributes listed above, whether actual or perceived, caused serious physical injury to that person or a third person. The act expands the conduct covered by the 1st degree crime to include intimidation that causes non-serious, instead of just serious, physical injury.

2nd Degree Intimidation

Under existing law, a person commits the 2nd degree crime if he or she acts maliciously and with specific intent to intimidate or harass another individual because of that individual’s actual or perceived race, religion, ethnicity, disability, sexual orientation, or gender identity or expression by:

1. making physical contact with the victim;
2. damaging, destroying, or defacing property; or
3. threatening to do either of these things, and the victim has reasonable cause to believe he or she will carry out the threat.

The act adds to this definition the intimidation or harassment of a group of people, instead of just an individual.

Increased Penalties

The act enhances the penalty for 1st, 2nd, and 3rd degree intimidation based on bigotry or bias by imposing a minimum fine depending on the degree of the crime, as shown in Table 2. It also increases, from a class A misdemeanor to a class E felony, the penalty for the 3rd degree crime.

Table 2: Intimidation Based on Bigotry or Bias

<i>Crime</i>	<i>Classification under Prior Law</i>	<i>Classification under the Act</i>	<i>Minimum Fine under the Act*</i>
1 st degree	Class C felony (one to 10 years in prison, a fine of up to \$10,000, or both)	Unchanged	\$3,000
2 nd degree	Class D felony (up to five years in prison, a fine of up to \$5,000, or both)	Unchanged	\$1,000
3 rd degree	Class A misdemeanor (up to one year in prison, a fine of up to \$2,000, or both)	Class E felony (up to three years in prison, a fine of up to \$3,500, or both)	\$1,000

*Unless the court states on the record its reasons for canceling or reducing the minimum fine.

§§ 8 & 9 — STATE-WIDE HATE CRIMES ADVISORY COUNCIL

The act eliminates the Hate Crimes Advisory Committee and replaces it with a new State-Wide Hate Crimes Advisory Council. It puts the council within the Office of the Chief State’s Attorney for administrative purposes only.

The council must meet at least semiannually to encourage and coordinate programs to increase community awareness, reporting, and combating of hate crimes. (The Hate Crimes Advisory Committee had a similar charge.)

Members and Appointments

The council members include the following individuals, or their designees:

1. the chief state's attorney and chief public defender;
2. the emergency services and public protection commissioner;
3. the Connecticut Bar Association, George W. Crawford Black Bar Association, South Asian Bar Association of Connecticut, Connecticut Asian Pacific American Bar Association, and Connecticut Hispanic Bar Association presidents; and
4. the Connecticut Police Chiefs Association president.

Additionally, the governor must appoint up to 30 representatives of organizations committed to decreasing hate crimes, improving diversity awareness, or representing the interests of groups within the state protected by Connecticut's intimidation statutes (§§ 5-7 of the act). He must also appoint two council members as chairpersons.

Recommendations and Reporting

The act requires the council to make recommendations for legislation concerning hate crimes, such as:

1. restitution for victims of such crimes;
2. community service designed to remedy damage caused by, or related to the commission of such crimes; and
3. additional alternative sentencing programs for first-time offenders and juvenile offenders.

The council must report its recommendations to the Judiciary and Public Safety committees annually starting by October 1, 2018.

PA 17-129—SB 930

Judiciary Committee

AN ACT CONCERNING THE RECEIPT OF ANNUAL REPORTS ON ANTI-HUMAN TRAFFICKING FROM LAW ENFORCEMENT AGENCIES

SUMMARY: Starting October 1, 2017, this act requires the Chief State's Attorney's Office and each municipal police chief to annually report on anti-human trafficking efforts to the Trafficking in Persons Council. Prior law required each state's attorney and municipal police chief to report this information to the Children's and Judiciary committees. The act clarifies that the report must include the number of referrals received, rather than made, on alleged human trafficking.

By law, the council must (1) identify criteria for providing services to trafficking victims and (2) consult with government and private organizations to develop recommendations to strengthen state and local efforts to prevent human trafficking, protect and assist victims of trafficking, and prosecute traffickers (CGS § 46a-170(d)).

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2017

PA 17-134—HB 7080

Judiciary Committee

AN ACT CONCERNING LEGAL PROTECTIONS FOR PERSONS ENTERING PASSENGER MOTOR VEHICLES TO RENDER EMERGENCY ASSISTANCE TO CHILDREN

SUMMARY: Under certain circumstances, this act provides an affirmative defense against civil damages or criminal penalties for entering another person's passenger motor vehicle, including forcibly, to remove a child. It covers the person's actions or omissions in removing the child as long as the person:

1. reasonably believes, at the time of entry, that entering the vehicle is necessary to remove the child from imminent danger of serious bodily injury;
2. uses no more force than is reasonably necessary, under the circumstances the person knows at the time, to enter the vehicle to remove the child;

3. reports the entry and related circumstances to a law enforcement or public safety agency within a reasonable time after entering the vehicle; and
4. takes reasonable steps to ensure the child's safety, health, and well-being after removing the child from the vehicle.

The affirmative defense provided under the act is in addition to defenses or immunities available under federal, state, or common law but does not apply to acts or omissions constituting gross, willful, or wanton negligence. Under the act, a person may still be liable for civil damages if he or she attempts to provide aid to the child in addition to the actions the act authorizes.

EFFECTIVE DATE: October 1, 2017

DEFINITIONS

Under the act:

1. a "passenger motor vehicle" is a motor vehicle used for private transportation of people and their belongings, designed to carry up to 10 passengers, including the operator, in comfort and safety and
2. a "public safety agency" is a functional municipal or state division that provides firefighting, law enforcement, ambulance, medical, or other emergency services.

PA 17-136—sHB 7082

Judiciary Committee

AN ACT CONCERNING PROBATE COURT OPERATIONS

SUMMARY: This act makes changes to various unrelated laws that govern probate court operations. It:

1. gives probate court employees the same whistleblower protections available under existing law to employees of the state, quasi-public agencies, and large state contractors (§ 1);
2. extends the specialized services of the six regional children's probate courts to probate courts not served by them under prior law (§§ 3-6);
3. gives the probate court jurisdiction over proceedings to liquidate structured settlements in cases that involve people under conservatorship or guardianship (§ 16);
4. creates a process by which a guardian may seek authority to manage certain protected persons' finances (§§ 18-20);
5. amends the notice requirement in certain probate court proceedings (§§ 2, 10 & 11);
6. expands the list of motions, petitions, and applications that are subject to a probate court fee (§ 9);
7. requires the electronic transfer of cases from one probate court to another (§§ 12-15); and
8. requires individuals serving on the Probate Court Administration's panel of auditors to be state licensed as certified public accountants or public accountants (§ 21).

It also makes minor, technical, and conforming changes, including updating statutory references to probate court and probate judges for consistency and repealing an obsolete statute dealing with release of identifying adoption records (§§ 7, 8, 17, 22 & 23).

EFFECTIVE DATE: January 1, 2018, except the provisions on whistleblower protections, regional children's probate courts, and probate court notices are effective October 1, 2017.

§ 1 — WHISTLEBLOWER PROTECTION

The act extends to probate court employees the whistleblower protections available under existing law to employees of the state, quasi-public agencies, and large state contractors.

In doing so, the act:

1. allows probate court employees to report to the state auditors any corruption, unethical practice, mismanagement, gross waste of funds, abuse of authority, or danger to public safety in the court;
2. prohibits state officers or employees from retaliating against a probate court employee who discloses such information or who testifies in or provides assistance in a whistleblower complaint;
3. allows probate court employees to file a complaint with the Commission on Human Rights and Opportunities if such retaliation takes place and amend the complaint if additional retaliation occurs;

4. protects employees from civil liability for good faith disclosures made in their reports under these provisions; and
5. subjects employees to disciplinary action, including dismissal, for knowingly and maliciously making false charges.

The act requires each probate court to post notice of whistleblower protections in a conspicuous place readily viewable by the court's employees.

By law, in whistleblower cases, the state auditors must review the information an employee discloses and report their findings and recommendations to the attorney general, who may investigate any information he receives or derives from the auditors' report.

§§ 3-6 — REGIONAL CHILDREN'S PROBATE COURTS

Funding

The act allows administrative judges for children's probate courts, if authorized by the Probate Court Budget Committee, to employ the number of employees required for the court to operate efficiently. Under prior law, judges needed the probate court administrator's approval to employ these individuals.

The law authorizes the probate court administrator to establish seven regional children's probate courts to handle children's matters (i.e., guardianship, parental rights, adoption, paternity claims, emancipation of minors, and voluntary admission matters). Six such courts operate in Hartford, Meriden, New Haven, New London, Waterbury, and Windham.

The act eliminates reimbursement for towns that establish a separate facility for these courts if they present vouchers to the probate court administrator.

Family Specialists

The act changes the job title of a "probate court officer" to "family specialist." The law specifies various job functions for them, including (1) conducting conferences with parties, their attorneys, Department of Children and Families (DCF) representatives, and social service providers; (2) facilitating the development of family plans and visitation plans; (3) helping families access community services; and (4) filing specific reports with the court.

The act allows (1) regional children's probate courts and (2) probate courts that are not located in a region served by a regional children's probate court to employ family specialists if the Probate Court Budget Committee authorizes them to do so. Under the act, for probate courts outside a region served by a regional children's probate court, the family specialist, with the probate court judge's consent, may perform the job functions for that probate court.

§ 16 — STRUCTURED SETTLEMENT LIQUIDATION

The act gives the probate court jurisdiction over proceedings to liquidate structured settlements in cases that involve people under conservatorship or guardianship.

Prior law allowed, with the Superior Court's approval, the recipient of a structured settlement, or such person's guardian or conservator, to transfer the right to receive periodic payments to a third party (transferee) in return for a lump sum cash payment.

Under the act, a transferee seeking to have a court-appointed conservator or guardian transfer structured settlement payment rights must apply for approval in the probate court having jurisdiction over the conservator or guardian. The act requires the court to give notice of the time and place of the hearing by first class mail to the (1) interested parties and (2) parties to the conservatorship or guardianship matter. The court must hear and decide the matter in accordance with the civil procedures for transfer of structured settlements.

§§ 18-20 — ASSET MANAGEMENT BY GUARDIANS

The act (1) allows the guardian of a person with intellectual disability (i.e., a protected person) to manage the protected person's assets if the value does not exceed \$10,000 and (2) creates a process by which a guardian may seek authority to do so. Under prior law, guardians were not allowed to assist a protected person with his or her finances.

A guardian seeking to manage a protected person's assets must file a petition in the probate court that appointed him or her as a guardian. If the petition is filed simultaneously with a guardianship petition, the court may conduct one hearing on both petitions.

Hearing Notice

The court must assign a time and place for the hearing within 45 days after the petition is filed. At least seven days before the hearing, the court must direct service of notice upon the respondent by a state marshal, constable, or indifferent person. Notice must also be sent by first class mail to the (1) petitioner (i.e., guardian); (2) protected person's spouse, parents, and children; (3) protected person's siblings or their representatives, if the protected person's parents are deceased; and (4) person in charge of the facility where the protected person resides. The court in its discretion may direct notice to other persons having an interest in the protected person.

Hearing

At the hearing, the court must receive evidence of the protected person's ability to manage his or her finances, including a written report or testimony by a Department of Developmental Services assessment team.

The protected person is entitled to counsel and has the right to attend the hearing, except that the court may exclude the protected person from portions of the hearing where testimony would be seriously detrimental to his or her emotional or mental condition.

If the court finds by clear and convincing evidence that the protected person has \$10,000 or less in assets and is "unable to manage his or her finances," it may:

1. authorize the guardian to hold and manage all or any part of the protected person's income and assets for the person's benefit and
2. assign other specific duties to the guardian with respect to the protected person's finances.

Under the act, "unable to manage his or her finances" means the inability of a person with intellectual disability to receive and evaluate information or make or communicate decisions to such an extent that the person is unable, even with appropriate assistance, to manage his or her finances.

Probate Bond and Asset Inventory

The court may require the guardian to post a probate bond to secure the faithful performance of his or her fiduciary duties.

Unless excused by the court, the guardian must (1) file an inventory of the protected person's assets within 60 days after the date on which the decree granting authority is mailed and (2) submit periodic accounts at least once every three years and more frequently if required by the court. At the end of each three- year period there must be a hearing on all periodic accounts not previously allowed (i.e., approved) and any final accounts.

Duration of Authority

The guardian must inform the court, in writing, within 30 days after the protected person's assets first exceed \$10,000. The guardian's authority to manage the protected person's finances terminates on the date on which the assets first exceed \$10,000. However, the court may grant up to a 60-day extension if someone petitions it to appoint a conservator.

§§ 2, 10 & 11 — NOTICE IN CERTAIN PROCEEDINGS

Notice to Psychiatric Institutions (§ 2)

Under prior law, in a probate court proceeding involving a person involuntarily confined to a Connecticut psychiatric institution, all process had to be served to the (1) confined person in person and (2) superintendent of the institution by registered or certified mail. If the institution is the party initiating the proceeding, the act allows process to be served to the superintendent of the institution by first class mail rather than by registered or certified mail.

Removal of Parent as Guardian (§ 10)

By law, in probate court proceedings involving the removal of a parent as guardian of a minor child, the court must order notice of the hearing to be given to the DCF commissioner, both parents, and the child, if over age 12, within a prescribed timeframe.

Under prior law, (1) if the notice could not reasonably be delivered, the court was required to order it to be published and (2) if the parents resided out of state or were absent, the court was allowed to order the notice to be published in a newspaper that circulated at the parents' last-known residence. The act (1) allows, instead of requires, the court to publish notice if it cannot reasonably be delivered and (2) specifies that any published notice must be in a newspaper that circulates at the parents' last known address or, if that is not known, where the application was filed. This conforms with the notice provisions in other children's matters.

Involuntary Representation (§ 11)

Existing law specifies the interested parties to whom the court must direct notice of a hearing in an involuntary representation case, including the respondent's children and, if none, the parents and, if none, the siblings or their representatives. The act requires the probate court judge, in such a case, to order notice to the respondent's next of kin when he or she has no children, parents, or siblings. (An "involuntary representation" is the appointment of a conservator after a court finds that person is incapable of managing his or her affairs or of caring for him or herself.)

§ 9 — PROBATE COURT FILING FEES

The act establishes a \$225 fee to file each of the following motions, petitions, or applications in a probate court:

1. with respect to a power of attorney, to (a) compel an account by an agent (i.e., attorney-in-fact), (b) review an agent's conduct, (c) construe the power of attorney, and (d) mandate acceptance of the power of attorney;
2. with respect to an adult with intellectual disability, to authorize a guardian to manage the person's finances; and
3. to approve the transfer of structured settlement payment rights.

The act also establishes a \$150 fee to register an order from another state for a conservator of a person, a conservator of the estate, or both types of orders for the same person at the same time.

§§ 12-15 — CASE TRANSFER

The act requires electronic, rather than paper, transfer of files between probate courts, including files pertaining to guardianship and conservatorship matters.

Under prior law, the transferring court was required to copy, certify, and deliver all documents to the receiving court. Under the act, when a court issues an order to transfer a file, it must transmit a digital image of each document in the file, using the document management system maintained by the Office of the Probate Court Administrator. Upon receipt of the electronic documents, the receiving court assumes jurisdiction over the matter.

§ 21 — AUDITOR ELIGIBILITY

By law, the probate court administrator must provide to the probate court a list of persons eligible to serve on the court's panel of auditors. The act eliminates the requirement for the administrator to promulgate regulations concerning the compilation of the list. It instead requires individuals on the list to be certified public accountants or public accountants licensed by the State Board of Accountancy.

The act allows the probate court administrator to establish hourly rates and allowable expenses for the auditor's compensation.

PA 17-141—sHB 7132

Judiciary Committee

AN ACT CONCERNING THE PROVISION OF NOTICE OF A CLAIM FOR COMPENSATION BY AN EMPLOYEE TO AN EMPLOYER OR A WORKERS' COMPENSATION COMMISSIONER

SUMMARY: The law generally requires a private-sector employee seeking workers' compensation benefits to submit a written notice of claim for compensation to either a workers' compensation commissioner or the employer's last known residence or place of business. This act allows private-sector employers to notify employees, in a posting, of the location to which employees must send the notice (presumably a specific address). The posting must be in a workplace location

that prominently displays other labor law posters required by the labor department. The act requires those employees who mail the notice to their employer to do so by certified mail.

Under the act, employers who opt to post such an address must also forward it to the Workers' Compensation Commission, which must post the address on its website. Employers are responsible for verifying that the information posted at the workplace location is consistent with the information posted on the commission's website.

By law, within 28 days after receiving an employee's written notice of claim, an employer must either (1) file a notice contesting liability with the compensation commissioner or (2) begin paying workers' compensation benefits to the injured employee (and retain the ability to contest the claim for up to one year). Employers who take neither of these actions within 28 days of receiving the notice are conclusively presumed to have accepted the claim's compensability. Under the act, if an employer posts an address where employees must send a notice of claim, the countdown to the 28-day deadline begins on the date that the employer receives the notice at the posted address.

EFFECTIVE DATE: October 1, 2017

PA 17-145—sHB 7044

Judiciary Committee

AN ACT CONCERNING PRETRIAL JUSTICE REFORM

SUMMARY: This act makes various changes in laws concerning pretrial detention, including:

1. barring courts from prohibiting a bond from being posted by surety for certain crimes (in other words, barring courts from requiring cash-only bail for such crimes);
2. limiting the circumstances in which a court can impose financial conditions of release for someone charged only with a misdemeanor that is not a family violence crime;
3. generally shortening the time within which defendants who cannot make bail and who were charged only with a misdemeanor must receive a bail review hearing, from within 30 days after the person's detention to within 14 days after his or her arraignment; and
4. requiring the court, at a bail review hearing for such a defendant, to remove the financial conditions on the person's release unless the court makes certain findings.

The act also requires the Office of Policy and Management's under secretary for criminal justice policy and planning to study the feasibility of establishing an assistance program for indigent criminal defendants detained before trial for allegedly having committed minor crimes. He must undertake the study in consultation with the Connecticut Sentencing Commission, the Bail Association of Connecticut's board of directors, and licensed surety bail bond agents and tenured property bail agents who are not members of the association. The study must explore possible funding sources for the program. By January 1, 2018, the under secretary must report on the study's results to the Judiciary Committee.

The act also makes minor and technical changes.

EFFECTIVE DATE: July 1, 2017, except upon passage for the study provisions.

§ 1 — CONDITIONS OF RELEASE

Under existing law, when an arrested person is presented to court for a bailable offense, the court must promptly order the person's release on the first of the following conditions it determines to be sufficient to reasonably ensure his or her appearance in court:

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

The act makes two changes that limit, in certain circumstances, the conditions of release that a court can impose. First, the act limits the circumstances when courts may impose financial conditions of release on a defendant charged only with a misdemeanor other than a family violence crime (see *Misdemeanor Defendants* below). Second, it bars a judge from prohibiting a bond from being posted by surety.

The act also modifies the factors the court may consider in determining the conditions of release. Under prior law, one such factor was the person's prior record of appearance in court after being admitted to bail. The act instead allows the court to consider such prior court appearances regardless of whether they occurred after the person was admitted to bail.

The above provisions do not apply to individuals arrested for the following crimes:

1. a class A felony;
2. a class B felony, except for 1st degree promoting prostitution or 1st degree larceny;
3. a class C felony, except for 2nd degree promoting prostitution, bribery of a juror, or bribe receiving by a juror;
4. the following class D felonies: 2nd degree assault, with or without a firearm; 2nd degree assault, with or without a firearm, of an elderly, blind, disabled, or pregnant person or a person with intellectual disability; 3rd degree sexual assault; 1st degree unlawful restraint; 3rd degree burglary, with or without a firearm; reckless burning; 3rd degree robbery; or criminal use of a firearm or electronic defense weapon; or
5. a family violence crime.

By law, when presented with someone arrested for any of these crimes, the court must order release if any one of certain conditions is met to reasonably ensure that the person will appear in court and that the safety of other people will not be endangered. In determining what conditions are appropriate, the court may consider additional factors beyond those allowed for other crimes (CGS § 54-64a(b)).

Misdemeanor Defendants

The act prohibits a court from imposing financial conditions of release on a defendant charged only with a misdemeanor unless the (1) person is charged with a family violence crime, (2) person requests such conditions, or (3) court makes a finding on the record that there is a likely risk that any one of certain events will occur. Specifically, these risks include that the person will:

1. fail to appear in court;
2. obstruct or attempt to obstruct justice, or threaten, injure, or intimidate a prospective witness or juror or attempt to do so; or
3. engage in conduct that threatens his or her own safety or that of someone else.

In making such a finding, the act allows the court to consider the person's criminal history, including (1) any prior convictions for 1st degree failure to appear or (2) convictions during the preceding 10 years for 2nd degree failure to appear. The court may also consider the person's other pending criminal cases, if any.

§ 2 — BAIL REVIEW HEARING

Individuals Charged with Misdemeanors

Prior law generally required a bail review hearing within 30 days after detention for a defendant who had not made bail and who was charged only with a misdemeanor. The act shortens this period to within 14 days following the person's arraignment unless the person waives the return to court.

Under the act, when a defendant charged only with a misdemeanor is presented in court for the bail review hearing, the court must remove the financial conditions on the person's release unless the court finds on that record that there is a likely risk that the individual will:

1. fail to appear in court;
2. obstruct or attempt to obstruct justice;
3. threaten, injure, or intimidate a prospective witness or juror or attempt to do so;
4. engage in conduct that threatens the safety of someone else; or
5. for misdemeanors that are not family violence crimes, engage in conduct that threatens the defendant's own safety.

Under the act, these provisions do not apply to someone detained for (1) extradition due to criminal charges in another state or (2) violating parole pending a parole revocation hearing. By law, the bail review period for such a defendant is 45 days.

Under existing law, unchanged by the act, anyone who has not made bail may ask at any time for a hearing on a motion to modify bail.

Individuals Charged with Class D or Class E Felonies

The act specifies that defendants charged with a class D or E felony may waive their right to a bail review hearing.

PA 17-163—sSB 979

Judiciary Committee

AN ACT CONCERNING NOTIFICATION TO SCHOOLS AND INSTITUTIONS OF HIGHER EDUCATION OF RESTRAINING ORDERS, CIVIL PROTECTION ORDERS AND STANDING CRIMINAL PROTECTIVE ORDERS AFFECTING STUDENTS

SUMMARY: This act makes three changes regarding court notification to educational institutions when the court issues certain protection orders.

Under prior law, a court, at the victim's request, was required to notify the victim's school or higher education institution when it issued a civil restraining order, civil protection order, family violence protective order, or criminal protective order (see BACKGROUND). The act instead requires the notification only if the applicant provides the court with the school's or institution's name and address.

For civil restraining orders, the act additionally requires the court to provide the notice, under the conditions described above, to the school or institution in which the victim's minor child protected by the order is enrolled.

The act also expands the court's duty to notify schools or higher education institutions by requiring the court to provide notification, under the conditions described above, when it issues standing criminal protection orders and orders prohibiting harassment of a witness in a criminal case (see BACKGROUND). Prior law did not require notices in these cases.

EFFECTIVE DATE: January 1, 2018

COURT NOTIFICATION

Under prior law, if a victim protected by a civil or criminal order of protection was enrolled in a public or private elementary or secondary school or higher education institution, the court, at the victim's request, had to fax or send by another means a copy of the order or the information in it to the:

1. school or higher education institution at which the victim was enrolled;
2. president of the higher education institution; and
3. special police force, if any, at the higher education institution.

The act requires the court to send the notice only if the victim provides it with the school's or institution's name and address.

BACKGROUND

Civil Restraining Order

A family or household member may apply for a civil restraining order for relief from physical abuse, stalking, or a pattern of threatening from another family or household member (CGS § 46b-15).

Civil Protection Order

A victim of sexual abuse, sexual assault, or stalking may apply for a civil protection order if he or she is not eligible for the restraining order described above (CGS § 46b-16a).

Family Violence Protective Order

At the recommendation of the family relations office or the State Attorney's Office, a court may issue a family violence protection order in family violence cases to protect a victim from threats, harassment, injury, or intimidation. This order is issued at the time of arraignment during a criminal proceeding (CGS § 46b-38c).

Criminal Protective Orders

Courts may independently issue, on behalf of a victim, a (1) protective order after a person is arrested for certain crimes or (2) standing criminal protective order after a person is convicted of certain crimes (CGS §§ 54-1k and 53a-40e).

Orders Prohibiting Harassment of a Witness in a Criminal Case

Upon application of a prosecutorial official, a court may issue an order prohibiting the harassment of a witness in a criminal case. The court may issue a temporary restraining order if it finds reasonable grounds to believe that (1) an identified witness is being harassed or (2) an order is necessary to prevent witness tampering or intimidation. It may issue a protective order if, after a hearing, it finds that the order is necessary to prevent witness tampering or intimidation (CGS §§ 54-82q and 54-82r).

PA 17-205—sSB 1022*Judiciary Committee***AN ACT ESTABLISHING A PILOT PROGRAM TO PROVIDE ENHANCED COMMUNITY SERVICES TO THOSE IN THE CRIMINAL JUSTICE SYSTEM**

SUMMARY: This act requires the chief state's attorney to (1) create a pilot program to identify and track homeless, addicted, or mentally ill individuals entering the criminal justice system; (2) establish policies and procedures to implement the program; and (3) report to the Judiciary Committee, by February 1, 2019, on its implementation.

Under the act, the pilot program must serve the geographical area (GA) courts for Hartford, New Haven, New London, and Norwich in the judicial districts of Hartford, New Haven, and New London (which includes the Norwich GA court).

The act requires the state's attorney for these judicial districts to:

1. screen cases to identify and track homeless, drug addicted, or mentally ill arrestees for intensive assistance and
2. refer the arrestees to diversion programs, counseling, treatment, housing assistance, and reentry programs to stabilize them and prevent future arrests.

Under the act, the (1) state's attorney for each judicial district retains the discretion to dispose of cases in any manner, focusing on incarceration alternatives, and (2) court keeps jurisdiction over the cases to ensure compliance with any ordered treatment or counseling.

EFFECTIVE DATE: October 1, 2017

PA 17-216—sHB 7256*Judiciary Committee***AN ACT CONCERNING REVISIONS TO CERTAIN CRIMINAL JUSTICE STATUTES AND THE REPORTING OF THE DEATH OF ANY PERSON IN STATE CUSTODY**

SUMMARY: This act makes various changes to laws concerning certain crimes and criminal investigations, including:

1. clarifying that the maximum prison term for a first conviction of aggravated sexual assault of a minor is 50 years;
2. making it an affirmative defense, rather than a standard defense, that an assault of a health care employee was a direct manifestation of the defendant's disability;
3. prohibiting the use of the above affirmative defense by individuals with a disability manifested only by repeated criminality or antisocial conduct;
4. changing certain procedures concerning court filings after law enforcement officials are granted ex parte court orders compelling disclosure of cell phone and internet records;
5. expanding the circumstances under which courts must disclose erased criminal records, such as requiring disclosure to counsel in habeas proceedings if evidence of erased charges may become relevant; and
6. eliminating a requirement that the chief state's attorney adopt certain regulations.

Additionally, the act requires any executive branch department head and the state Supreme Court's chief justice to promptly notify the Division of Criminal Justice if someone dies while in the care, custody, or control of anyone under the department head's or chief justice's jurisdiction (§ 1).

The act also makes minor and technical changes.

EFFECTIVE DATE: October 1, 2017

§ 2 — AGGRAVATED SEXUAL ASSAULT OF A MINOR

The act clarifies that the maximum prison term for a first conviction of aggravated sexual assault of a minor is 50 years.

An existing law on felony penalties provides that this crime is punishable by a prison term of 25 years to 50 years (CGS § 53a-35a). Under prior law, the statute defining the offense provided that someone convicted of this crime had to be sentenced to a 25-year mandatory prison term for a first offense. The act amends the law defining the offense to specify that the 25-year term is a mandatory minimum, and thus, in accordance with CGS § 53a-35a, the maximum sentence is 50 years.

Under existing law, unchanged by the act, there is a mandatory 50-year prison term for a subsequent offense.

§ 3 — ASSAULT OF A HEALTH CARE EMPLOYEE

Under existing law, assault of a health care employee is a class C felony (see Table on Penalties). A defendant may claim as a defense that he or she has a mental or physical disability or intellectual disability and the conduct was a clear and direct manifestation of the disability.

The act makes two changes to these provisions. First, it provides that the defense is an affirmative defense. By law, a defendant has the burden of establishing an affirmative defense by a preponderance of the evidence, while the state has the burden of disproving other defenses beyond a reasonable doubt (CGS § 53a-12).

Second, under the act, an abnormality manifested only by repeated criminal or antisocial conduct is not a qualifying mental disability for purposes of this defense.

§ 4 — COMPELLED DISCLOSURE OF CELL PHONE AND INTERNET RECORDS

By law, a law enforcement official can apply for an ex parte court order (i.e., issued without a hearing or prior notice to anyone except the applicant) to compel phone and internet providers to disclose certain information about their customers' accounts or activities for use in criminal investigations. After the court issues such an order, the law enforcement official must mail notice of the order within 48 hours to the person whose records were sought, unless the official requests a 90-day delay for certain reasons (e.g., notification would endanger someone's safety).

Prior law required the official to file a copy of the notice with the court that issued the order. The act instead requires the official to file the notice with the geographical area court where anyone who could be arrested in relation to the order would be presented. It also requires the notice to include the case number assigned to the investigation.

Under existing law, if the official who requested the order receives information in response to it, he or she must file a return with the court within 10 days, including an inventory of the information received. The act requires the return and inventory to (1) include the investigation case number and (2) remain sealed until the notice is filed.

The act also makes technical changes to these provisions, including changes to conform to changes made in PA 16-148.

§ 5 — DISCLOSURE OF ERASED CRIMINAL RECORDS

The act requires the court to disclose erased criminal records to:

1. the petitioner's and respondent's attorneys in connection with any habeas corpus proceeding or other collateral civil action in which evidence about a nolle or dismissed criminal charge may become relevant and
2. the prosecutor and defense counsel in connection with (a) false statement charges or (b) proceedings on sentence enhancement for an offense committed while the person was on release (see BACKGROUND, *Related Case*).

The act also requires, rather than allows, the court to disclose erased records to:

1. a defendant in an action for false arrest arising out of the erased proceeding and
2. the prosecutor and defense counsel when the records are connected to a perjury charge that the prosecutor alleges to have arisen from testimony at trial.

The court must order disclosure of any such records upon a proper motion.

As under the existing law on disclosure of erased records, such disclosure is subject to any records destruction program under which the records may have been destroyed.

§ 6 — ELIMINATION OF REGULATION REQUIREMENT

By law, a law enforcement agency must inform the chief state's attorney and the appropriate state's attorney if it is conducting an investigation that may affect a judge or Judicial Branch employee. The chief state's attorney must then inform the chief court administrator of the investigation, as long as the disclosure does not compromise the investigation.

The act eliminates the requirement that the chief state's attorney adopt regulations to implement these provisions.

BACKGROUND

Related Case

In *State v. Apt* (319 Conn. 494 (2015)), the state had sought to enhance a defendant's sentence for a crime committed while the defendant was released on bond for an earlier arrest (see CGS § 53a-40b). Before the hearing on the sentence enhancement, the original charge on which the defendant was released on bond was dismissed, and the records of it erased.

The Connecticut Supreme Court ruled that the state could not use the erased records to prove that the defendant was on release when he committed the later crime and, therefore, eligible for the sentence enhancement. But the court also ruled that the state could seek to prove eligibility for the sentence enhancement using other evidence.

Related Act

PA 17-221 sets conditions for law enforcement officials, in criminal investigations, to install and use a cell site simulator device to obtain geo-location data for a cell phone or other electronic device.

PA 17-217—HB 7262

Judiciary Committee

AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO VICTIM NOTIFICATION

SUMMARY: This act requires courts to make more information available to crime victims about sentencing and proposed plea bargains. It also requires the Department of Correction (DOC) to make general offender sentencing information available to the public (e.g., information on eligibility for, and application of, earned risk reduction credits).

Under the state constitution, crime victims have a right to be notified of court proceedings and information about the arrest, conviction, sentence, imprisonment, and release of the accused (Conn. Const. Art 1, § 8(b)). The act specifies the information the court must provide the victim at sentencing when a convicted defendant receives a definite or total effective prison term of more than two years. The court must indicate (1) the maximum period of imprisonment that may apply to the defendant and (2) whether the defendant may be eligible to earn risk reduction credits or apply for release on parole.

The act also requires the state's attorney, assistant state's attorney, or deputy assistant state's attorney in charge of a case to provide the above information if the terms of a proposed plea agreement provide for the imprisonment term stated above. By law, the state's attorney must provide the victim, on request, with the terms of a proposed plea agreement in writing before the court accepts it.

EFFECTIVE DATE: October 1, 2017

GENERAL OFFENDER SENTENCING INFORMATION

Under the act, DOC must make general offender sentencing information available to the public. This must include:

1. the procedures for releasing someone;
2. presentence confinement credit and application information;
3. eligibility for, and application of, earned risk reduction credits;

4. parole eligibility standards;
5. the statewide automated victim information and notification system (CT SAVIN); and
6. any other information the commissioner deems pertinent.

CT SAVIN is a fully automated judicial branch service that helps keep crime victims and interested individuals informed of the progress of criminal cases through the court process.

PA 17-221—sHB 7291

Judiciary Committee

AN ACT CONCERNING THE USE OF CELL SITE SIMULATOR DEVICES BY LAW ENFORCEMENT OFFICIALS TO CONDUCT CELLULAR TELEPHONE SURVEILLANCE

SUMMARY: This act sets standards for law enforcement conducting surveillance using a “cell site simulator device” (generally, a device that uses radio waves for certain purposes, such as tracking a cell phone’s movements, intercepting its communications, or simulating a cell tower).

The act allows law enforcement officials to install and use a cell site simulator device to obtain geo-location data (defined below) only for up to:

1. two weeks under an ex parte court order (without notice to anyone except the applicant) issued under a probable cause standard or
2. 48 hours without a court order in exigent circumstances.

The act also specifies that the state’s wiretapping and electronic surveillance law applies to interceptions of wire communications using cell site simulator devices (§ 1). Under this law, a prosecutor can ask a three-judge panel to approve a wiretap in connection with investigating certain crimes. The panel may issue an ex parte wiretap order if its members unanimously agree that the application contains sufficient factual allegations to establish probable cause that several factors are met.

EFFECTIVE DATE: October 1, 2017

DEFINITIONS

Cell Site Simulator Device

Under the act, a “cell site simulator device” is a device that transmits or receives radio waves in order to do any of the following:

1. identify, locate, or track the movements of a communications device;
2. intercept, obtain, access, or forward the communications, stored data, or metadata of a communications device;
3. affect a communications device’s hardware or software operations or functions;
4. force transmissions from, or connections to, a communications device;
5. deny a communications device access to other communications devices, communications protocols, or services; or
6. spoof or simulate a communications device, cell tower, cell site, or service.

The act specifies that the term includes (1) an international mobile subscriber identity catcher or other invasive cell phone or telephone surveillance or eavesdropping device that mimics a cell phone tower and sends out signals to cause cell phones in the area to transmit their locations, identifying information, and communications content, and (2) a passive interception device or digital analyzer that does not send signals to a communications device under surveillance.

The term does not include a device that an electric company (i.e., Eversource or United Illuminating) uses or installs to the extent the company uses it to measure electrical usage, provide services to customers, or operate the electric grid.

Geo-Location Data

Existing law defines geo-location data as information on an electronic device’s location (both real-time and historical) that is wholly or partly generated by, derived from, or obtained by operating such a device, including a cell phone surveillance device. The act specifies that this includes data generated by, derived from, or obtained by using a cell site simulator device.

USE OF CELL SITE SIMULATOR DEVICES TO OBTAIN GEO-LOCATION DATA

Under existing law, law enforcement officials (e.g., prosecutors or police officers) may apply for an ex parte court order to compel telecommunications carriers or electronic communication or remote computing service providers to disclose geo-location data associated with a subscriber's or customer's call-identifying information. The court can grant these orders under a probable cause standard, authorizing the disclosure of up to two weeks' worth of such data. Law enforcement officials can request such a company to disclose up to 48 hours of such data without a court order in exigent circumstances.

The act prohibits law enforcement officials from installing and using cell site simulator devices to obtain geo-location data except (1) under an ex parte court order or (2) in exigent circumstances without a court order. As described below, the legal standards and time frames are similar to those under existing law for disclosure by carriers or service providers.

Ex Parte Court Orders

The act allows law enforcement officials to apply for an ex parte court order to allow the installation and use of a cell site simulator device to obtain geo-location data. The judge must grant the order if the official swears under oath that (1) there is probable cause to believe that a crime has been or is being committed and (2) the geo-location data associated with a subscriber's or customer's call-identifying information is relevant and material to an ongoing criminal investigation. Any such order may authorize the installation and use of such a device for up to 14 days.

The act requires the law enforcement official to have the order signed by the authorizing judge within 48 hours of issuance or by the next business day, whichever is earlier. The order must include the case number assigned to the investigation, the date and time it was issued, and the judge's name.

Exigent Circumstances

Under the act, law enforcement officials may install and use a cell site simulator device to obtain geo-location data for up to 48 hours without a court order when (1) facts exist to support the belief that the data is relevant and material to an ongoing criminal investigation, (2) the official believes that exigent circumstances exist, and (3) the facts support that belief.

If the official seeks to install and use such a device beyond 48 hours for the same investigation, he or she must apply for a court order as described above. When applying for such a court order, the official must file with the application a statement under oath, attesting to the facts and beliefs about the exigent circumstances that existed and supported the use of the device for up to 48 hours. The statement must indicate the date and time that the device was used.

Other Provisions

Under the act, certain other provisions of existing law on disclosure of geo-location data apply when law enforcement officials obtain such data by using cell site simulators. Specifically, the act provides that:

1. a law enforcement official who receives information by using such a device (a) may retain it for more than 14 days only if it relates to an ongoing criminal investigation and (b) must disclose it to defense counsel,
2. each law enforcement official must report to the chief state's attorney by January 15 annually on specified information regarding such ex parte orders issued during the previous year, and
3. the chief state's attorney must compile the data from the individual reports and report it to the Judiciary Committee by January 31 annually.

BACKGROUND

Related Act

PA 17-216 changes certain procedures on court filings after law enforcement officials are granted ex parte court orders compelling disclosure of cell phone and internet records.

PA 17-223—sHB 7304

Judiciary Committee

AN ACT CONCERNING COMPUTER EXTORTION BY USE OF RANSOMWARE

SUMMARY: This act creates a specific class E felony offense for computer extortion involving ransomware (see Table on Penalties). Under the act, this offense consists of introducing ransomware into a computer, computer system, or computer network and demanding payment to (1) remove the ransomware; (2) restore access to the computer, system, or network or data contained therein; or (3) otherwise remediate the ransomware’s impact. These actions may also be considered computer crimes, computer-related offenses, and extortion under existing law (see BACKGROUND).

The act defines “ransomware” as any computer contaminant or lock placed or introduced without authorization into a computer, computer system, or computer network that restricts the authorized person’s access to the affected computer, system, network, or data contained therein. It does not include (1) authentication required to upgrade or access purchased content or (2) blocking access to subscription content in the case of nonpayment.

The act defines a “computer contaminant” as any set of computer instructions designed to modify, damage, destroy, record, or transmit data held by a computer, computer system, or computer network without the data owner’s intent or permission.

EFFECTIVE DATE: October 1, 2017

BACKGROUND

Computer Crimes

The law designates various actions as computer crimes, including unauthorized use of a computer or computer network with the intent to (1) temporarily or permanently remove, or otherwise disable, computer programs, software, or data or (2) cause a computer to malfunction regardless how long the malfunction persists. Any such action is punishable as a (1) class A or B misdemeanor depending on the amount of property damage the action causes or (2) class D felony if the action was malicious and caused more than \$2,500 in property damage (CGS § 53-451).

Computer-Related Offenses

The law designates various actions as computer-related offenses, including (1) accessing a computer system without authorization, (2) stealing or interrupting computer services, (3) misusing computer system information, and (4) destroying computer equipment. The penalties range from a class B misdemeanor to a class B felony depending on the amount of damage to, or value of, the property or computer services (CGS §§ 53a-250 et seq.).

Extortion

By law, obtaining property by extortion consists of compelling or inducing someone to deliver property to the actor or another person by instilling fear that, if the property is not delivered, the actor will take certain measures, including damaging the property or inflicting other harm. Obtaining property by extortion constitutes 1st degree larceny, a class B felony (CGS §§ 53a-119 and 53a-122).

PA 17-224—HB 7305

Judiciary Committee

AN ACT CONCERNING REVISIONS TO VARIOUS PROVISIONS OF THE GENERAL STATUTES

SUMMARY: The Common Interest Ownership Act (CIOA) allows unit owner associations of common interest communities to adopt rules apart from their declarations and bylaws. This act narrows CIOA’s definition of “rule” and clarifies the permissible scope of such rules.

Prior law provided that the rules governed the conduct of individuals or entities or the use or appearance of property. The act instead specifies that the rules regulate (1) conduct occurring within the common interest community or (2) the use, maintenance, repair, replacement, modification, or appearance of the common interest community.

Under existing law, unchanged by the act:

1. common interest communities must follow certain procedural requirements when adopting rules,
2. there are certain limits on matters that may be adopted as rules, and
3. an association's internal business operating procedures need not be adopted as rules (CGS § 47-261b) (see BACKGROUND, *Related Case*).

The act also makes technical changes to the Connecticut Uniform Power of Attorney Act and a law on tax exemptions for open space land.

EFFECTIVE DATE: October 1, 2017

BACKGROUND

Common Interest Ownership Act

CIOA governs condominiums and other common interest communities formed in Connecticut on and after January 1, 1984 (CGS § 47-200 et seq.). Certain CIOA provisions (including its definitions) also apply to common interest communities created in Connecticut before January 1, 1984 but do not invalidate provisions of the communities' governing instruments in existence on that date. Common interest communities created before that date can amend their governing instruments to conform to portions of CIOA that do not automatically apply (CGS §§ 47-214, -216 and -218).

Related Case

In a 2016 case, the state Supreme Court held that a common interest community's standard foreclosure policy was a "rule" within the meaning of the existing CIOA definition rather than an internal business operating procedure, and thus its adoption was subject to CIOA's procedural requirements for rules (*Neighborhood Association, Inc. v. Limberger*, 321 Conn. 29 (2016)).

PA 17-225—sHB 7308

Judiciary Committee

AN ACT CONCERNING CAMERA AND RECORDING DEVICES AND EQUIPMENT USED BY POLICE

SUMMARY: This act expands a grant program administered by the Office of Policy and Management (OPM) secretary that reimburses municipalities for, among other things, purchasing body cameras for use by sworn members of municipal police departments. Generally, it (1) expands the types of equipment eligible for the program to include electronic defense weapon recording equipment and first-time purchases of dashboard cameras; (2) expands the program's coverage to include additional law enforcement personnel; and (3) extends the program by one year, to FY 19. Under the act, however, any reimbursements must be provided within available resources.

The act also establishes a 26-member task force to examine the use of body cameras by state and municipal police. It must report its findings and recommendations to the Judiciary and Public Safety committees by February 1, 2018.

With respect to municipal police departments that use body cameras, existing law requires their use when police officers interact with the public in a law enforcement capacity, with certain specified exceptions (e.g., encounters with undercover officers or informants). Under the act, body cameras must be used in accordance with the department's policy, if it is adopted in accordance with guidelines maintained by the Department of Emergency Services and Public Protection (DESPP) commissioner and Police Officer Standards and Training Council (POST).

Lastly, the act makes minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage, except that the municipal police department policy provision and a technical change are effective October 1, 2017.

GRANT PROGRAM

Existing law requires the OPM secretary to administer a grant program to reimburse municipalities for, among other things, purchasing body cameras for use by sworn members of municipal police departments. The act expands the program to cover (1) purchases of electronic defense weapon recording equipment and (2) use of body cameras and other recording devices by constables, police officers, or other persons who perform criminal law enforcement duties under the supervision of a resident state trooper serving the municipality. It also expands the program to cover any municipality

making a first-time purchase of one or more dashboard cameras with a remote recorder. However, it also stipulates that the reimbursement be provided within available resources.

Under the act, “electronic defense weapon recording equipment” means an electronic defense weapon (e.g., a stun gun) that is equipped with electronic audio and visual recording equipment. A “dashboard camera with a remote recorder” is a camera that (1) attaches to a dashboard or windshield of a police vehicle, (2) electronically records video of the view through the vehicle’s windshield, and (3) has an electronic audio recorder that may be operated remotely.

Reimbursement Methodology

The act extends the grant program’s deadline and modifies the equipment for which municipalities may receive reimbursement.

Prior law required that the grants reimburse municipalities that purchase the following:

1. during FY 17, (a) enough body cameras in sufficient quantities (see below), at up to 100% of the costs and (b) for digital storage services at up to 100% of the costs (provided that reimbursement for such services is limited to the cost for up to one year);
2. (a) from January 1, 2012, through June 30, 2016, such equipment in an amount no greater than described above, and (b) additional body camera equipment during FY 17, if enough equipment is purchased to allow each sworn officer to have a device when interacting with the public in a law enforcement capacity, at an additional amount up to 100% of the costs; and
3. in FY 18, such equipment if the municipality was not reimbursed under the other provisions, at up to 50% of the costs. (For digital storage services, reimbursement is based on the cost of services for up to one year.)

The act instead requires that grants, within available resources, reimburse municipalities that purchase the following:

1. during FYs 17 and 18, 100% of the cost of body cameras (if a sufficient quantity is purchased, see below), electronic defense weapon recording equipment, digital data storage devices or services (provided that reimbursement for such services is limited to the cost for up to one year), and first time purchases of one or more dashboard cameras with a remote recorder;
2. (a) from January 1, 2012 through June 30, 2016, 100% of the cost of body cameras and digital data storage devices or services, in an amount no greater than described above and (b) 100% of the cost of additional body cameras during FY 17 and 18, if the body cameras were purchased in sufficient quantities as described below; and
3. in FY 19, body cameras, electronic defense weapon recording equipment, digital data storage devices or services, or first time purchases of dashboard cameras with a remote recorder if the municipality was not reimbursed under the above provisions, at up to 50% of the costs. (For digital storage services, reimbursement is based on the cost of services for up to one year.)

“Sufficient Quantity” of Body Cameras for Reimbursement Purposes

Under prior law, municipalities could receive reimbursement for body cameras if they were purchased in a sufficient quantity to ensure that each sworn member of the municipality’s police department was supplied with such equipment while interacting with the public in his or her law enforcement capacity. The act instead allows municipalities to receive reimbursement for equipment that was purchased in sufficient quantity to ensure that sworn police department members, constables, police officers, or other individuals who perform criminal law enforcement duties under the supervision of a resident state trooper serving the municipality are supplied with the equipment for such purposes.

Under the act, the number of cameras sufficient for these purposes must be determined by (1) the police chief if the municipality has an organized police department or (2) the first selectman or borough warden, as the case may be, if there is no police chief.

TASK FORCE

The act establishes a 26-member task force to examine the use of body cameras by state and municipal police. Specifically, it must examine (1) whether the state statute on body cameras should be expanded or otherwise amended, including whether the statute or a different statute should address the use of electronic defense weapon recording equipment; (2) training associated with using such equipment; and (3) data storage and freedom of information issues associated with the data created by the use of such equipment.

The task force must report its findings and recommendations to the Judiciary and Public Safety committees by February 1, 2018. It terminates on the date it submits the report or February 1, 2018, whichever is later. Table 1 lists the task force’s membership.

Table 1: Task Force Membership

<i>Member</i>	<i>Appointing Authority</i>
Chairpersons and ranking members of the Judiciary and Public Safety committees, or their designees (eight members total)	N/A
Chief state’s attorney, or his designee	N/A
Chief public defender, or her designee	N/A
Chairperson of the Freedom of Information Commission, or his designee	N/A
One active or retired judge	Chief Justice of the Supreme Court
One municipal police chief	President of the Connecticut Police Chiefs Association
One representative of POST	Not specified
One representative of the State Police Training School	DESPP commissioner
One representative of the criminal defense bar	Connecticut Criminal Defense Lawyers Association
Six members of the public	One member by each of the six legislative leaders
A sworn police officer who is a member of the Connecticut State Police Union	Senate president pro tempore
A sworn police officer who is a member of a municipal police department that serves a municipality with 75,000 residents or more	House speaker
A female sworn police officer	Senate Republican president pro tempore
A sworn police officer who is a member of a municipal police department that serves a municipality with fewer than 75,000 residents	House minority leader

PA 17-239—sHB 7302
Judiciary Committee

AN ACT CONCERNING ISOLATED CONFINEMENT AND CORRECTIONAL STAFF TRAINING AND WELLNESS

SUMMARY: This act prohibits the Department of Correction (DOC) from placing any individual under age 18 on administrative segregation status.

Under the act, “administrative segregation status” is the DOC practice of placing an inmate on restrictive housing status after determining that the inmate can no longer be safely managed in the facility’s general population. “Restrictive housing status” is a designation that provides for closely managing and separating an inmate from other inmates.

The act also requires the DOC commissioner, by January 1, 2019, to study and submit a report to the Judiciary Committee regarding the use and oversight of all forms and phases of housing for inmates on restrictive housing status.

The act additionally requires DOC to:

1. at least annually, submit to the Office of Policy and Management’s (OPM) Justice Policy & Planning Division specified information on restrictive housing and administrative segregation;
2. publish, on its website, the formula for calculating an inmate’s mental health score and the description of any form and phase of housing used at any of its correctional facilities for inmates on restrictive housing status; and
3. within available appropriations, provide certain training to, and promote wellness measures for, DOC employees who interact with inmates.

The act's prohibition on administrative segregation status for people under age 18 does not apply to inmates who are on "special circumstances high security status" because they were convicted of a capital felony or murder with special circumstances. The act also excludes these inmates from the reports it requires DOC to submit to OPM and information it requires DOC to publish on its website.

EFFECTIVE DATE: January 1, 2018

DOC REPORTING REQUIREMENTS

The act requires DOC at least annually to submit to the Criminal Justice Policy & Planning Division various aggregated and anonymized information on inmates on restrictive housing and administrative segregation status, as described below.

Inmate Demographic Information

This information must include the number of inmates on restrictive housing status in the state's correctional facilities on the first day of each of the previous 12 months, sorted by (1) age, (2) gender identity, (3) ethnicity, (4) any mental health score calculated by DOC, and (5) the form and phase of housing in which the inmate is held while on restrictive housing status. Also, DOC must submit, for each correctional facility, information separated into the same categories on the number of inmates who, during the previous calendar year, spent more than a total of 15 days on administrative segregation status.

Duration of Isolated Confinement

The statewide data must include the number of inmates on administrative segregation status who have spent a total of the following days on such status:

1. one to 15 days;
2. 16 to 30 days;
3. 31 to 180 days;
4. 181 to 365 days;
5. 366 to 730 days;
6. 731 to 1,095 days;
7. 1,096 to 1,460 days;
8. 1,461 to 1,825 days;
9. 1,826 to 2,190 days;
10. 2,191 to 2,555 days;
11. 2,556 to 2,920 days;
12. 2,921 to 3,285 days;
13. 3,286 to 3,650 days; and
14. more than 3,650 days.

Efforts to Reduce Administrative Segregation

The information DOC provides must also include actions it has taken during the previous 12 months to minimize reliance on administrative segregation and mitigate the harmful effects of this status on inmates, staff, and the public.

TRAINING AND WELLNESS

The employee training DOC develops under the act must cover the following subjects:

1. recognizing mental illness symptoms,
2. psychiatric medications' potential risks and side effects,
3. de-escalation techniques to safely manage individuals with mental illness,
4. de-escalation and communication techniques to divert inmates from situations that may lead to placement on administrative segregation status,
5. consequences of untreated mental illness, and
6. short- and long-term psychological effects of being in administrative segregation.

The act also requires DOC, within available appropriations, to take measures to promote the wellness of employees who interact with inmates, including employee assistance programs, peer support programs, and stress management training.

PA 17-118—sHB 6668

Labor and Public Employees Committee

AN ACT CONCERNING PREGNANT WOMEN IN THE WORKPLACE

SUMMARY: This act expands the employment protections provided to pregnant women under the state’s anti-discrimination law. It requires employers to provide a reasonable workplace accommodation for a pregnant employee or applicant, unless the employer demonstrates that the accommodation would be an undue hardship. The act also prohibits employers from (1) limiting, segregating, or classifying an employee in a way that would deprive her of employment opportunities due to her pregnancy or (2) forcing a pregnant employee or applicant to accept a reasonable accommodation if she does not need one. It also eliminates certain employment protection provisions related to transfers to temporary positions for pregnant workers.

It defines “pregnancy” as pregnancy, childbirth, or related conditions, including lactation.

Under the act and existing law, an employer includes the state, municipalities, and any private employer with three or more employees (CGS § 46a-51).

The act also requires (1) employers to notify employees of their rights under the act and (2) the Commission on Human Rights and Opportunities (CHRO) to develop instruction courses and conduct ongoing public education efforts to inform employers, employees, employment agencies, and job seekers about their rights and responsibilities under the act.

It also makes several conforming and technical changes.

EFFECTIVE DATE: October 1, 2017

PROTECTIONS FOR PREGNANT EMPLOYEES AND APPLICANTS

Reasonable Accommodation

The act prohibits employers from failing or refusing to make a reasonable accommodation for a pregnant employee or applicant, unless the employer demonstrates that the accommodation would be an undue hardship. It defines “undue hardship” as an action requiring significant difficulty or expense when considering the (1) accommodation’s nature, cost, and effect on the employer’s operations and (2) employer’s overall financial resources, size, and facilities.

Under the act, “reasonable accommodations” include:

1. being allowed to sit while working,
2. more frequent or longer breaks,
3. periodic rest,
4. assistance with manual labor,
5. job restructuring,
6. light duty assignments,
7. modified work schedules,
8. temporary transfers to less strenuous or less hazardous work,
9. time off to recover from childbirth, or
10. break time and appropriate facilities for expressing breast milk.

(By law, all employers, regardless of size, must make reasonable efforts to provide a private room for an employee to express breast milk or breastfeed (CGS § 31-40w).)

Additional Protections

The act also prohibits employers from:

1. limiting, segregating, or classifying an employee in a way that would deprive her of employment opportunities due to her pregnancy;
2. discriminating against an employee or job applicant on the basis of her pregnancy in the terms or conditions of employment;
3. denying employment opportunities to a pregnant employee or applicant because she requested a reasonable accommodation;
4. forcing a pregnant employee or applicant to accept a reasonable accommodation if she does not (a) have a known pregnancy-related limitation or (b) require a reasonable accommodation to perform her job’s essential duties;

5. requiring a pregnant employee to take a leave of absence instead of providing a reasonable accommodation; and
6. retaliating against a pregnant employee based on her request for a reasonable accommodation.

CHANGES TO EXISTING EMPLOYMENT PROTECTIONS FOR PREGNANT WORKERS

The act eliminates a provision that made it a discriminatory practice to fail or refuse to make a reasonable effort to transfer a pregnant employee to an available temporary position when there is reasonable belief that continued work in the existing position may cause injury to the employee or to her fetus. It also removes the requirement that employers inform employees that they (1) must give the employer notice of a pregnancy in order to be eligible for a temporary transfer and (2) have the right to appeal a transfer.

Existing law, unchanged by the act, prohibits an employer from, among other things, (1) terminating a woman's employment because of her pregnancy; (2) refusing to grant the employee reasonable leave for disability resulting from the pregnancy; and (3) failing to reinstate the employee to her original job or an equivalent one upon her return (with some limitations).

EMPLOYEE NOTIFICATION

The act requires employers to provide employees with written notice of their right to be free from discrimination in relation to pregnancy, childbirth, and related conditions, including the right to a reasonable accommodation. Notice must be given to (1) new employees when they start work; (2) existing employees within 120 days of the act's effective date; and (3) any employee who notifies her employer of her pregnancy, within 10 days of her notification.

An employer may comply with the notice requirements by displaying a poster in a conspicuous place, accessible to employees, at the workplace with the required information in both English and Spanish.

The act authorizes the labor commissioner to adopt regulations to establish additional notice requirements.

PA 17-152—SB 548

Labor and Public Employees Committee

AN ACT CONCERNING HAIRDRESSERS AND COSMETICIANS

SUMMARY: This act creates an apprenticeship path to obtaining a hairdresser and cosmetician license. Under the act, a person may be licensed if he or she has (1) completed eighth grade, (2) completed a Labor Department-approved apprenticeship in accordance with the state's apprenticeship law (see BACKGROUND), and (3) passed a written exam approved by the Department of Public Health (DPH).

Alternatively, under existing law, unchanged by the act, a person may be licensed if he or she has (1) completed ninth grade, (2) completed at least 1,500 hours of study in an approved hairdressing and cosmetology school, and (3) passed the DPH-approved exam.

EFFECTIVE DATE: October 1, 2017

BACKGROUND

Apprenticeship Programs

By law, an approved apprenticeship program must require:

1. each apprentice to work at and learn a specific trade under a written agreement with an employer or an employer-employee joint apprenticeship committee;
2. the agreement to provide for at least 2,000 hours of work in approved trade training consistent with the industry or joint labor-industry standards, plus supplemental hours of related instruction; and
3. participating employers and apprentices to annually register with the Labor Department.

Related regulations also establish work training standards, policies, and procedures for employer apprenticeship programs (Conn. Agencies Regs., §§ 31-51d-1 to -12).

PA 17-181—sHB 6907

Labor and Public Employees Committee

AN ACT CONCERNING THE INTERSTATE PASSENGER CARRIER LAW

SUMMARY: This act exempts certain professional drivers from coverage under the state’s unemployment law. As exempted workers, these drivers do not accrue unemployment benefits for their service, and businesses using them are not required to pay unemployment taxes or meet the unemployment law’s requirements, other than its recordkeeping requirements, for their service. The act specifies that it does not affect any state income tax requirements.

The exemption applies to drivers under a contract with another party if the driver:

1. drives a vehicle that (a) can transport at least eight passengers, including the driver, and (b) has a gross vehicle weight rating over 6,000 pounds;
2. owns the vehicle or holds it under a “commercially reasonable” bona fide lease that is not with the contracting party or a related entity;
3. is paid based on factors that can include mileage-based rates, a percentage of any rate schedules, time spent driving, or a flat fee;
4. can refuse to work without consequence and can accept work from many contractors without consequence; and
5. is not considered an employee under the unemployment law’s “ABC” test (see BACKGROUND).

When determining if a driver meets the ABC test, the act prohibits the labor commissioner from considering a driver an employee solely because the driver chooses to perform services only for the contracting party.

Under the act, commercially reasonable means the lease, loan, or loan guarantee for the driver’s vehicle has terms equal to those typically available for a retail trucking equipment lease or purchase in the state.

EFFECTIVE DATE: October 1, 2017

BACKGROUND

ABC Test

The state’s unemployment law presumes a worker to be an employer’s employee unless the worker meets the ABC test’s three requirements. The worker must be free from the employer’s control and direction (part A); perform a service outside the employer’s usual course of business or outside of all the employer’s places of business (part B); and be customarily engaged in an independently established trade, occupation, profession, or business of the same nature as the service being performed for the employer (part C). Workers who satisfy all three provisions of the ABC test are generally considered independent contractors exempt from the state’s unemployment law.

PA 17-207—HB 5590

Labor and Public Employees Committee

Appropriations Committee

AN ACT CONCERNING THE WORKFORCE DEVELOPMENT SYSTEM IN THE STATE OF CONNECTICUT

SUMMARY: This act creates a Workforce Training Authority and a related Workforce Training Authority Fund to (1) develop and implement job training programs for businesses relocating to Connecticut and (2) train or retrain workers in Connecticut to achieve workforce development goals set by the Connecticut Employment and Training Commission (CETC).

It codifies in statute two existing programs, the Connecticut Preschool through Twenty and Workforce Information Network (CP20 WIN) and the Connecticut Early College Opportunity Program (CT-ECO).

It (1) requires the Department of Labor (DOL) to analyze job training program information and submit various reports to the governor and specified legislative committees and (2) makes other changes to laws related to workforce development.

EFFECTIVE DATE: Various, see below.

§§ 7, 8 & 9 — WORKFORCE TRAINING AUTHORITY AND WORKFORCE TRAINING AUTHORITY FUND

Overview

The act creates a Workforce Training Authority and related Workforce Training Authority Fund and designates DOL as the fund administrator. The act allows the fund to provide training assistance to eligible recipients that the authority approves and reimburse the administrator for administrative costs.

The act establishes a 16-member board to oversee the authority; sets certain board procedures, including how administrative costs will be paid; and outlines the application and approval process for eligible recipients.

Board Members

The board consists of 11 appointed members and the following five members who hold a seat by virtue of their position: the correction, economic and community development (DECD), and labor commissioners and the Connecticut State Colleges and Universities (CSCU) and UConn presidents. Any member may designate someone to represent him or her. The labor commissioner serves as the board's chairperson.

Table 1 identifies the appointed members and the appointing authorities.

Table 1: Workforce Training Authority Appointed Board Members

<i>Appointing Authority</i>	<i>Number of Appointees</i>
Governor	Four
Senate president pro tempore	One
Republican Senate president pro tempore	One
Senate majority leader	One
Senate minority leader	One
House speaker	One
House majority leader	One
House minority leader	One

Each legislative appointee must have skill, knowledge, or experience in industries and sciences related to insurance, financial services, bioscience, advanced manufacturing, digital media, green technology, and tourism. (Presumably, skill, knowledge, or experience in one of the named areas is sufficient.)

All initial appointments must be made by October 1, 2017. An appointed member serves a term coterminous with that of the appointing authority. Each member holds office until a successor is appointed. The appointing authority must fill vacancies for the balance of an unexpired term.

Board Procedures

The chairperson must call the first board meeting by December 1, 2017, and the board must meet as the chairperson deems necessary. Board members are not compensated for their services.

A majority of the members constitute a quorum for transacting business or exercising any board power. Once a quorum is established at a meeting, the board can act by a majority of the members present at such a meeting for transacting business or exercising any power, except as provided below (see below, *Expenditures*).

Under the act, it is not a conflict of interest for a trustee; director; partner; officer; shareholder; public official acting in his or her official capacity; or an employee of, or any individual with a financial interest in, an eligible recipient to serve as a board member; provided they do not deliberate, act, or vote on matters relating to the eligible recipient. However, a public official acting in his or her official capacity may engage in the deliberation.

The board may develop industry-specific advisory councils to provide guidance on job market trends and develop connections with the business community.

Training Authority Fund

The fund is authorized to accept (1) funds from the authority; (2) money received as part of a memorandum of understanding with the authority; (3) private contributions, gifts, grants, donations, bequests, or devises it receives; and (4) any local, state, or federal funds it receives, provided this is not otherwise prohibited by state or federal law. The act specifies that the fund is a DOL account.

The act authorizes fund money to be used to (1) provide training assistance to eligible recipients that the authority approves and (2) reimburse DOL for administrative costs. Training assistance must target job growth in the areas of insurance, financial services, bioscience, advanced manufacturing, digital media, green technology, and tourism.

The act requires DOL, in its capacity as fund administrator, to consult with DOL's apprenticeship training office; CETC; the Planning Commission for Higher Education; and the Connecticut Manufacturing Innovation Fund about the programs the fund assists. DOL must do so to ensure that any new programs are coordinated and compatible with existing programs.

Expenditures

Under the act, the board must approve all authority expenditures, except those to reimburse DOL for its costs to administer the fund. The board may delegate to DOL, as the fund administrator, the authority to approve transactions of less than \$100,000. Any approval by the board must be for:

1. an individual specific expenditure;
2. budgeted expenditures with variations as the board may authorize when budget approval is made; or
3. training assistance programs administered by DOL staff, subject to limits, eligibility requirements, and other conditions the authority establishes.

The act requires that the fund pay or reimburse DOL for its administrative costs, but it limits the total reimbursement for each fiscal year to 5% of the total amount of the allotted funding for that year as determined in the operating budget. Nothing in the act can be deemed to require DOL to risk or expend DOL funds in connection with the fund administration.

DOL must provide any necessary staff, office space, office systems, and administrative support for the fund's operation. In acting as administrator of the fund, DOL may exercise all of the powers the act sets, provided fund expenditures must be approved by the authority according to the act.

Application and Approval Process

The act requires the authority to establish an application and approval process with guidelines and terms for developing and implementing training programs the fund awards to eligible recipients.

The guidelines and terms must include the following:

1. a requirement that any applicant for training assistance must operate in the state or propose to relocate operations to the state, in whole or in part, as a condition of the assistance;
2. eligibility requirements for training, including a requirement for applicants to obtain matching funds from sources other than the state;
3. a process for preliminary DOL application review for strength and eligibility before applications are presented to the board for consideration;
4. return on investment objectives, including job growth and leveraged investment opportunities;
5. a requirement that any business that receives assistance must first consider applicants who have completed the universal intake form; and
6. other guidelines and terms that the board determines to be necessary and appropriate.

In developing the guidelines, the board must include considerations for the businesses' size and the number of workers employed. Additionally, it must consider developing training programs and creating career pathways for formerly incarcerated individuals.

Any training assistance the fund awards to eligible recipients must be used for costs related to facilities, necessary furniture, fixtures and equipment, development of programs, implementation of training programs, materials and supplies, compensation, apprenticeship, and such other costs that the board determines to be eligible for training assistance.

Plan of Operations and Budget

The act requires DOL to prepare the authority's operations plan and budget by July 1, 2018, and before the start of each subsequent fiscal year. At least 90 days before the start of each fiscal year, DOL must submit the plan and budget to the authority board for review and approval.

Reporting Requirements

On January 1, 2019, and annually thereafter, DOL must provide a report of the fund activities to the authority board for review and approval. After approval, the board must provide the report to the Commerce, Higher Education and Employment Advancement, and Labor committees. The report must contain available information on the status and progress of the fund's operations and funding sources, types and amounts of financial assistance awarded, and recipients of assistance.

EFFECTIVE DATE: Upon passage

§ 4 — ESTABLISHING CP20 WIN

The act establishes in statute CP20 WIN and its executive board and authorizes the board to establish processes and structures under which participating agencies can securely share longitudinal data by using the network's standards and policies.

Under the act, the network is the system to match and link data from state agencies and other organizations to conduct audits and evaluations of federal and state education programs. In practice, CP20 WIN and an executive council already exist through agreements between various agencies that govern how they share data. The act places these existing processes in statute.

Under the act, agencies participating in the network include CSCU; the State Department of Education (SDE); DOL; the Office of Early Childhood (OEC); UConn; the Connecticut Conference of Independent Colleges (CCIC); and any entity that has a memorandum of agreement (MOA) for participating in the CP20 WIN approved by other participating agencies. Before the act's passage, the network existed through MOAs between a number of state agencies, including SDE; UConn; CSCU; and DOL.

CP20 WIN Executive Board

The act creates in statute the CP20 WIN executive board to govern and oversee the network. The board consists of the following members, or their designees:

1. the education, labor, and OEC commissioners;
2. the CSCU and UConn presidents;
3. the chairperson of the CCIC board; and
4. the Office of Policy and Management (OPM) secretary.

The act requires the board to perform the following duties:

1. advance a vision for CP20 WIN, including a research agenda, with the Planning Commission for Higher Education's support;
2. establish a data governing board to establish and enforce policies related to cross-agency data management, including data confidentiality and security aligned with the network policy and vision and any applicable law;
3. convene as needed to respond to issues from the data governing board;
4. identify and work to secure resources necessary to sustain the network funding;
5. support system implementation, maintenance, and improvement by advocating for the network in regard to policy, legislation, and resources;
6. advocate and support the state's vision for the network;
7. be responsible for overall fiscal matters and policy for the network; and
8. in any circumstances in which public funds or resources are to be jointly used with those from private entities, ensure that these arrangements are governed by appropriate agreements approved by the attorney general.

The act requires the data governing board to consult with OPM on the statutorily required data sharing program that OPM, by law, manages for all executive branch agencies and other applicable statutes and policies when developing a data-management policy (CGS § 4-67n).

Furthermore, the act allows the executive board to appoint advisory committees to make recommendations on data stewardship, data system expansion and processes, and such other areas that will advance the network's work.

System Elements

The act identifies and defines several of the system's components.

1. "Data definitions" are the plain language descriptions of data elements.
2. "Data dictionary" is a listing of the names of a set of data elements, their definitions, and additional meta-data that does not contain any actual data, but provides information about the data in a data set.
3. "Data elements" are units of information stored or accessed in any data system, such as a student identification number; course code; or cumulative grade point average.
4. "Meta-data" is the information about a data element that provides context for that data element, such as its definition; storage location; format; and size.

EFFECTIVE DATE: Upon passage

§ 5 — CT-ECO PROGRAM

The act establishes in statute the CT-ECO program, which currently operates in several school districts, including Danbury, New London, Norwalk, and Windham. Under the act, the program is a collaboration between a school district's high schools; a local community college; and a company or business entity where a student may earn an industry-recognized, two-year postsecondary degree in addition to a high school diploma.

Statewide Plan and Plan Reports

The act requires CETC to include CT-ECO in its statewide plan to implement, expand, and improve career certificate programs, middle college programs, and early college high school programs.

The act requires CETC to collaborate with CSCU and SDE in developing the plan. By law, CETC already collaborates with the state's regional workforce development boards in developing the plan. The act also expands the types of jobs the plan must address to include those targeted in science, technology, engineering, and math industries. The plan already had to address those in the manufacturing, health care, construction, green industries, and other emerging sectors of the economy.

The act also eliminates a definition of contextualized learning and removes it as a required part of the plan.

The act sets January 1, 2018 as the deadline for CETC to report on the plan to the Higher Education and Employment Advancement Committee. It sets September 1, 2018, and annually thereafter, as the deadline for CETC to report to the committee on the status of the plan's programs.

EFFECTIVE DATE: Upon passage

§ 6 — CT-ECO OUTREACH COORDINATOR

The act requires the CSCU president, by October 1, 2017, to create an outreach coordinator position within CSCU. (The program is already operating, and the CSCU Board of Regents has a person in this position.) The coordinator must act as a liaison between institutions within the system and businesses in the state to develop workforce education and job training opportunities, including CT-ECO.

EFFECTIVE DATE: October 1, 2017

§ 1 — BUSINESS SUPPORT SERVICES WORKING GROUP

The act allows the labor commissioner, on or before October 1, 2017, to establish a working group to review business support services in the state. The group may consist of one business services representative from each of the following agencies: DOL, DECD, and the Workforce Development Board (WDB).

Under the act, the group is authorized to review business support services offered by these agencies and consider ways to better coordinate the services to benefit businesses in Connecticut, including the development of a shared database of business support services and shared marketing materials.

The labor commissioner may make recommendations for legislation to the governor and the Labor and Public Employees, Commerce, and Higher Education and Employment Advancement committees.

EFFECTIVE DATE: Upon passage

§ 2 — JOB TRAINING INTAKE FORM AND JOB TRAINING ANALYSIS REPORT

The act requires the labor commissioner to develop and implement a universal intake form that each person entering any American Job Center or regional workforce development board facility must complete. The form must request from each person information that the labor commissioner deems necessary in order to report to the General Assembly on the success of the job assistance provided.

By December 1, 2017, and annually thereafter, the act requires the commissioner to report to the Labor Committee on the following:

1. how many people use the American Job Center (formerly known as the One Stop Job Center) or Workforce Development Board facility job training programs and services and how many obtained jobs after using these programs and services,
2. the categories of job skills indicated on the universal intake form and the number of people with each of these skills,
3. a determination of the job skills necessary for employment in the state,
4. how many people are in the various job pathways,
5. the average wage or salary of the positions of those who obtain jobs after using job training programs and services, and
6. the industry sectors in which people were hired after using the job training programs and services.

EFFECTIVE DATE: July 1, 2017

§ 3 — SOFT SKILLS PROGRAM

Under the act, the labor commissioner must prepare and issue, by October 1, 2017, a request for proposals (RFP) to develop and implement a “soft skills” program for trainees that develops the character traits and interpersonal skills that characterize a person’s relationship with other people and do not rely on acquired knowledge or technical skills. Such skills include attitudes and social and communication skills.

The RFP must require each person, firm, or corporation submitting a proposal to (1) demonstrate coordination with an emerging industry partner in the state in developing a soft skills curriculum and (2) provide any other information the commissioner deems necessary.

EFFECTIVE DATE: July 1, 2017

§ 10 — REPORT ON REPORTS

The act requires the labor commissioner, by December 1, 2017, to submit a report to the Education, Higher Education and Employment Advancement, and Labor committees that includes (1) all workforce reports published in coordination with the Labor Department and other agencies including recommendations for consolidating them and (2) initiatives for promoting increased interagency data collection and sharing.

EFFECTIVE DATE: Upon passage

PA 17-1—HB 6008

Planning and Development Committee

AN ACT ESTABLISHING AN INDEPENDENT CONSUMER ADVOCATE FOR METROPOLITAN DISTRICT OF HARTFORD COUNTY CONSUMERS

SUMMARY: This act establishes a new independent consumer advocate, appointed by the consumer counsel, to advocate for and represent Metropolitan District Commission (MDC) customers in all matters that may affect them, including rates, water quality, water supply, and wastewater service quality. The act establishes the consumer advocate's qualifications, rights, and responsibilities, which include preparing quarterly reports and holding an annual public forum on his or her activities. It requires MDC to pay the advocate's costs, including hourly fees and necessary expenses, which are capped at \$70,000 for the first year and \$50,000 for each year thereafter, unless the consumer advocate demonstrates substantial need for additional funds and MDC's board approves the expense.

The act also makes several changes to MDC's special act charter including expanding the (1) circumstances in which MDC's district board must adopt a special emergency budget to include instances when a member municipality fails to pay its district tax and (2) purposes for which MDC may issue bonds, notes, and other debt.

Lastly, the act requires the Office of Policy and Management (OPM) secretary to withhold certain municipal grant payments to MDC member municipalities that fail to pay their sewer use assessments to the district and establishes the conditions under which the OPM secretary must remit the withheld grants to MDC to cover the unpaid assessment amounts.

EFFECTIVE DATE: Upon passage

§ 1 — INDEPENDENT CONSUMER ADVOCATE

Rights

The act authorizes the consumer advocate to appear and participate in MDC matters and federal or state regulatory and judicial proceedings involving MDC consumers. In performing his or her duties, the consumer advocate may:

1. access, and make a reasonable number of copies of, MDC records;
2. request assistance from MDC's technical and legal experts; and
3. have access to all other MDC information, excluding employment records and internal documents not relevant to the consumer advocate's duties.

The act specifies that it does not prevent interested persons, including individual consumers or consumer groups, from participating in any MDC meeting or hearing on their own behalf or through counsel.

Qualifications and Term

To qualify as the consumer advocate, an individual must be a member of the Connecticut bar and have private legal experience in public utility law and policy. He or she cannot be a member of MDC's board of directors or have any conflicts of interest, as defined in the Rules of Professional Conduct, in representing MDC consumers as a class.

Beginning by November 1, 2017 and biennially thereafter, the consumer counsel must appoint the consumer advocate for a two-year term that begins on the January 1 following the appointment. The consumer counsel may terminate the consumer advocate before the end of his or her term only for misconduct, material neglect of duty, or incompetence.

Interaction with MDC Board of Directors

The consumer advocate must be independent of MDC's board of directors. The act bars the board from (1) directing or overseeing the consumer advocate's activities and (2) removing him or her for any reason. It requires the board to cooperate with reasonable requests by the consumer advocate to allow him or her to perform effectively.

The act requires MDC to promptly adopt any changes to its rules, regulations, or other governing documents necessary to implement it.

Required Reports and Forums

The consumer advocate must submit quarterly reports on his or her activities to MDC, the chief elected official of each town receiving MDC services, and the consumer counsel. MDC and the Office of Consumer Counsel (OCC) must post the reports on their respective websites.

The consumer advocate must also hold an annual public forum to describe his or her recent activities and receive consumer feedback. The forum must be held on the second Wednesday of October at a location where MDC holds hearings. MDC must publicize the forum (1) on its website, (2) in a notice attached to customers' bills, and (3) by announcing it at its preceding scheduled meeting. The consumer advocate may hold additional public forums as he or she deems necessary.

§§ 2 & 3 — MDC CHARTER

Emergency Budgets (§ 2)

By law, if MDC's district board declares, by a formal vote, that an emergency condition exists in MDC's services or functions requiring expenditures that cannot be met by the district's adopted budget for the year, it must ask the MDC board of finance to prepare and submit an emergency budget specifying how the funds will be provided. The act expands the circumstances under which the district board must require an emergency budget to include emergency conditions requiring additional revenues that will not be timely received.

Under the act, in addition to emergency conditions determined by a formal vote of MDC's board, an emergency condition also exists if one or more of MDC's member municipalities fails to fully pay its district tax on time. Existing law, unchanged by the act, authorizes MDC to levy a district tax on its member municipalities sufficient to pay the district's net estimated expenses and current charges for the ensuing year.

Bond Issues (§ 3)

The act expands the purposes for which MDC may issue bonds, notes, and other debt to include (1) working capital purposes and (2) raising funds in anticipation of sewer revenue (i.e., revenue anticipation notes). The law already allows MDC to issue revenue anticipation notes for water revenue. The act extends, from six months to three years, the maximum maturity length of MDC's tax and revenue anticipation notes. It also applies this three-year limit to debt issued for working capital purposes.

The act also specifies that MDC's authority to issue tax anticipation notes includes those issued in anticipation of district taxes (described above) that MDC imposes or expects to impose.

§ 4 — WITHHOLDING OF GRANT PAYMENTS TO MDC MEMBER MUNICIPALITIES

The act requires the OPM secretary to withhold payment in lieu of taxes (PILOT) grants for state-owned property and college and hospital property to any MDC member municipality that fails to pay its sewer use assessment to the district. Under the act, if a municipality has not paid, by September 1, any amount assessed by MDC on or after January 1 and due by September 1 of the same year, OPM must withhold from the municipality's PILOT grants (1) the amount of the unpaid assessment, (2) the amount due in the subsequent October, and (3) an additional 5% of these amounts.

Under the act, if the municipality pays the unpaid assessment by December 1 of the same year, OPM must pay any withheld PILOT grants to the municipality. But if the municipality does not pay the unpaid assessment by December 1, the OPM secretary must remit to (1) MDC, on the municipality's behalf, an amount equal to the unpaid assessment and (2) the municipality, by December 31, an amount equal to the amount withheld. (This appears to make OPM responsible for paying both the member municipality's unpaid sewer use assessment to MDC and the full PILOT grant to the member municipality.) The OPM secretary may retain the 5% surcharge withheld from such amounts. It is unclear whether the 5% surcharge retained by OPM reduces the payments remitted to MDC and the municipality.

The act also bars any municipality that fails to timely pay an MDC sewer use assessment from receiving an early disbursement of any grant paid from the Municipal Revenue Sharing Account (MRSA). By law, municipalities may apply to OPM for an early disbursement of the municipal revenue sharing grants paid from MRSA. OPM may approve a municipality's application if it finds that the early disbursement is required to meet the municipality's cash flow needs (CGS § 4-66l(b)(6)).

PA 17-22—SB 923

Planning and Development Committee

AN ACT CONCERNING THE POSSESSIONS OF DECEASED TENANTS

SUMMARY: This act modifies the process by which a landlord may regain possession of a rental unit after the death of its sole tenant. By law, landlords who follow this process, as an alternative to an eviction action, are protected against an action for entering a dwelling unit without consent. Among other things, the act (1) requires landlords to provide notice to the tenant's emergency contact and his or her next of kin, if known, and (2) establishes a process for removing the tenant's belongings without a judgment of eviction. The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2017

NOTICE OF INTENT TO REMOVE POSSESSIONS

By law, when the sole tenant in a rental unit dies, and the landlord has complied with provisions in a lease that includes the tenant's death as grounds for termination, the landlord may take specific actions to remove the deceased tenant's belongings and reclaim possession of the unit. Landlords that choose to follow this process must send notice to the last-known address of the deceased tenant's next of kin. The act requires the landlord to also send a notice to the last-known address of the tenant's emergency contact, if one is designated.

Prior law required this notice to state that the (1) tenant died, (2) landlord intends to remove the deceased tenant's belongings from the rental unit and re-rent the premises, and (3) landlord will dispose of any belongings not reclaimed within 60 days. The act requires the notice to also (1) state that the emergency contact or next of kin should immediately contact the landlord or probate court for information on how to reclaim the possessions and (2) include the phone number of the probate court for the district in which the rental unit is located.

By law, the notice must (1) be sent by regular and certified mail, return receipt requested; (2) be written clearly and simply; and (3) include the landlord's phone number and address.

PROBATE COURT AFFIDAVIT

By law, a landlord must file an affidavit with the probate court regarding a deceased tenant and his or her personal belongings if the landlord notifies any next of kin or if none is known. Under the act, the landlord must also file an affidavit if no emergency contact was designated. Existing law requires the affidavit to include the (1) deceased tenant's name and address, (2) date he or she died, (3) terms of the lease, and (4) names and addresses of any known next of kin. The act requires the landlord to also include a designated emergency contact's name and address, if any.

By law, if the court receives a request to determine the validity of a will or appoint an administrator of a decedent's estate within 55 days after the date the affidavit is filed, it must immediately notify the landlord. A landlord who receives this notice cannot dispose of the tenant's property or re-rent the dwelling unit.

LANDLORD'S REMOVAL OF DECEASED TENANT'S BELONGINGS

Under prior law, no sooner than 30 days after filing the affidavit, the landlord had to file an inventory of the deceased tenant's belongings and, 15 days after taking the inventory, could remove and store them for an additional 15 days. The act (1) clarifies that the belongings may be moved to storage 15 days after the inventory was filed and (2) specifies that the storage must be secure.

Prior law allowed the landlord to dispose of the unclaimed belongings after this 60-day period in the same manner in which he or she would dispose of an evicted tenant's property (i.e., requiring a state marshal executing an eviction order to remove the possessions and deliver them to a town-designated storage facility for sale at public auction). The act instead allows the landlord, at the end of the 60-day period, to obtain from the probate court a certificate indicating that (1) he or she has filed the inventory and (2) 60 days have elapsed since the affidavit was filed. The landlord may file, at no cost, the certificate and an application, prescribed by the chief court administrator, in the Superior Court for the district where the rental unit is located. The Superior Court clerk must use the probate court certificate to open a summary process file. The certificate must be treated in the same manner as a summary process judgment. It has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, and stays.

The act allows the landlord to enforce the Superior Court judgment after the (1) clerk opens the summary process file and sends a notice of judgment and (2) appropriate stay of execution expires. The landlord may do so by having a state marshal deliver the deceased tenant's possessions to a town-designated storage facility for sale at public auction.

The act requires the state marshal executing the order to generally follow the same steps he or she would follow for removing an evicted tenant's possessions. This means the state marshal must attempt to notify the deceased tenant's emergency contact and next of kin of the date and time of the removal and possible sale of the property. He or she must give the chief executive officer (CEO) of the town where the rental unit is located 24 hours written notice of the removal and a general description, if known, of the belongings to be removed and a copy of the filed inventory annotated to indicate any reclaimed items.

The deceased tenant's property may be reclaimed at any time before the auction by a probate court-appointed executor or administrator, after he or she pays the town's storage expenses. If the property is not reclaimed within 15 days of its removal, the CEO can sell it at a public auction. The CEO must make reasonable efforts to locate and notify the next of kin of the sale, including posting a notice (1) one week before the auction on a public sign post located near the deceased tenant's rental unit or (2) at some exterior place near the town clerk's office.

Within 30 days after the auction, the CEO must turn over the remaining proceeds to (1) the deceased tenant's estate or (2) if estate proceedings are not initiated during this period, the state treasurer for deposit under the state's escheat laws.

PA 17-39—sSB 944

Planning and Development Committee

AN ACT CLARIFYING THE CONTINUATION OF NONCONFORMING USES, BUILDINGS OR STRUCTURES

SUMMARY: This act clarifies existing law's protections for nonconforming uses, buildings, and structures. It specifies that municipal zoning regulations cannot terminate or deem abandoned a nonconforming use, building, or structure unless the property owner voluntarily discontinues such use, building, or structure with the intent not to reestablish it. The act also specifies that demolishing or deconstructing a nonconforming use, building, or structure is not, by itself, evidence of an owner's intent to abandon the use, building, or structure.

A nonconforming use is a property use that legally exists when a zoning restriction prohibiting or limiting it is adopted (e.g., a business operating in an area later zoned for single family housing). Likewise, nonconforming buildings or structures are those that do not comply with current zoning regulations concerning location (e.g., setbacks) but (1) were legal when built or (2) have been deemed protected nonconforming structures or buildings by passage of time (CGS §§ 8-2 & 8-13a).

EFFECTIVE DATE: July 1, 2017

BACKGROUND

Under existing law, municipalities can prohibit property owners from reestablishing a previously abandoned nonconforming use, structure, or building. But passage of time alone does not constitute abandonment (CGS § 8-2). The courts have held that for a nonconforming use, structure, or building to be deemed abandoned, the owner must voluntarily discontinue it with intent not to reestablish it (*Caserta v. Milford Zoning Board of Appeals*, 41 Conn. App. 77 (1996)).

PA 17-52—SB 975

Planning and Development Committee

AN ACT CONCERNING MUNICIPALITIES AND UNMANNED AIRCRAFT

SUMMARY: This act generally prohibits municipalities from regulating the ownership, possession, purchase, sale, use, transportation, or operation of commercial unmanned aircraft (i.e., commercial drones), except as allowed under state or federal law and to the extent the regulations do not conflict with the Connecticut Airport Authority's (CAA) policies and procedures.

The act creates an exception for any municipality that is also a water company (i.e., one 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 (CGS § 25-32a)). It allows such municipalities to enact and enforce ordinances or resolutions regulating or prohibiting the use or operation of private and commercial drones over the municipality's public water supply and Class I or Class II land (i.e., watershed land and off-

watershed land close to reservoirs), as long as the ordinances or resolutions do not conflict with federal law or CAA policies and procedures.

Under the act, a “commercial unmanned aircraft” is an aircraft operated remotely by a pilot in command holding a valid remote pilot certificate with a Federal Aviation Administration-issued small unmanned aircraft systems rating.

EFFECTIVE DATE: Upon passage

PA 17-107—HB 7296

Planning and Development Committee

AN ACT AUTHORIZING THE FUNDING OF UNFUNDED ACCRUED MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM LIABILITIES BY MUNICIPALITIES

SUMMARY: For certain municipalities participating in the Municipal Employees Retirement System (MERS), this act creates an alternative method for making required payments towards the unfunded costs of future pensions for employees brought into the system. Prior law generally required municipalities to pay this unfunded liability in annual installments over a period of up to 30 years. The act instead allows certain municipalities to pay all or part of the unfunded liability by issuing bonds and establishes procedures they must follow when issuing the bonds. It refers to these bonds as “MERS pension funding bonds.”

The act applies regardless of any state or local law concerning the authorization, issuance, or appropriation of bonds, notes, or other obligations. It authorizes the Office of Policy and Management (OPM) secretary, in consultation with the state treasurer, to adopt regulations establishing guidelines on municipal compliance with the unfunded liability payments to the Municipal Employee Retirement Fund (MERF) and MERS pension funding bonds.

EFFECTIVE DATE: July 1, 2017

MERS PENSION FUNDING BONDS

Eligible Municipalities

The act allows a municipality participating in MERS that has an “unfunded accrued liability to the system” as of July 1, 2017 to authorize and issue MERS pension funding bonds to pay all or part of its outstanding liability plus the bond issuance costs. It defines this liability as the amount necessary to pay for future employee pensions based on the employees’ service before joining the system, reduced by any amount transferred to MERF from other retirement funds on account of such employees. The retirement commission determines this unfunded liability based on consistently applied sound actuarial principles.

Notice of Municipal Intent to Issue Bonds

A municipality issuing these bonds must, at least 30 days before the issuance, notify the OPM secretary, state treasurer, and retirement commission of its intent to issue the bonds and provide:

1. the amount of its outstanding unfunded accrued liability to the system based on the existing pension amortization payments schedule, as determined by the retirement commission based on consistently applied sound actuarial principles;
2. the amount of any remaining annual pension amortization payments scheduled for payment by the municipality for the portion of its unfunded liability to the system that the bonds will not offset;
3. a comparison of the anticipated effects of funding the liability through bonds versus doing so through annually scheduled payments;
4. documentation of the municipality’s authorization of the bond issuance, including a certified copy of the resolution or ordinance authorizing the bond sale and an opinion by a nationally recognized bond counsel as to the due authorization to issue the bonds; and
5. any other information the OPM secretary, treasurer, or retirement commission requires or requests in order to carry out the act’s provisions.

Final Financing Summary

The act requires the municipality to submit a final financing summary to the OPM secretary, treasurer, and retirement commission within 10 days after the bond sale. The summary must (1) include any final official statement for the bond issuance and (2) compare the anticipated effects of funding the liability by issuing bonds versus doing so by making annually scheduled payments.

Bond Structure

Under the act, MERS pension funding bonds are general obligations of the municipality (i.e., backed by the full faith and credit of the issuing municipality). They must be either (1) serial bonds that mature in annual or semiannual principal installments or (2) term bonds with mandatory annual or semiannual deposits into a sinking fund. (A sinking fund is a fund created to regularly set aside funds sufficient to pay the debt.) Despite any state or local law to the contrary, the first installment of any series of such bonds must mature, or the first sinking fund payment must be made, no later than 18 months after the bonds are issued. Also, the last installment or payment must be made within 30 years from the issuance date.

Forms and Conditions of Bond Sale

The act allows, despite any state or local law to the contrary, municipalities to sell the bonds at public sale through sealed proposals, negotiation, or private placement. They must do so in the manner, at the price, at the time, and on the terms and conditions that the municipality or its bond issuance board or officers determine is in the best interest of the municipality. The municipality may not issue temporary notes in anticipation of the bond proceeds.

Use of Bond Proceeds

Under the act, the municipality must pay the proceeds of any MERS pension funding bonds not used to pay the bond issuance costs to the retirement commission within 30 days after the sale. The proceeds must be used to fund all or part of the municipality's outstanding unfunded accrued liability to the system.

Refunding Bonds

The act authorizes a municipality to issue refunding bonds to pay, fund, or refund any MERS pension funding bonds before their maturity in accordance with state law. However, the "weighted average maturity" of the refunding bonds may not exceed the weighted average maturity of the outstanding MERS pension funding bonds being paid, funded, or refunded. (Weighted average maturity is the weighted average amount of time until the bonds come due. The act establishes a formula for this calculation.)

The municipality must notify the OPM secretary, treasurer, and retirement commission of its intention to issue refunding bonds at least 10 days before issuing them. It must give them a copy of any final, official statement within 10 days after issuing the refunding bonds.

PA 17-126—sSB 1033*Planning and Development Committee**Judiciary Committee***AN ACT CONCERNING MUNICIPAL FORECLOSURE ACTIONS ON TAX LIENS AND LIENS ON BLIGHTED REAL ESTATE**

SUMMARY: This act makes privileged, with respect to assignment for trial, actions to foreclose a municipal tax or blight lien. The act applies to cases begun on or after January 1, 2018.

Existing law grants priority to cases in a number of categories, including those related to municipal sewer assessments, franchise agreements, or involving a party age 65 or older.

EFFECTIVE DATE: January 1, 2018

PA 17-155—sSB 922

Planning and Development Committee

AN ACT CONCERNING TEMPORARY HEALTH CARE STRUCTURES

SUMMARY: This act establishes conditions under which property owners may place temporary health care structures on residential property to care for individuals with qualifying mental or physical impairments. It prohibits municipal zoning regulations from barring such structures unless the municipality follows a specified process to opt out of the act's requirements. The act establishes various requirements for the structures, including maximum size and maximum occupancy requirements and a permit approval process for individuals seeking to install one. It also authorizes municipalities to oversee and enforce the act's requirements.

EFFECTIVE DATE: October 1, 2017

MUNICIPAL OPT OUT

The act allows municipalities, by vote of their legislative bodies (or board of selectmen if the legislative body is a town meeting), to opt out of the act's provisions requiring them to authorize temporary health care structures. To do so, the municipality's zoning or combined planning and zoning commission must:

1. first hold a public hearing on the proposed opt-out, subject to the standard notice requirements and timeframes for such hearings;
2. affirmatively decide to opt out within the statutory time limit (generally within 65 days of the hearing's completion);
3. state on the record the reasons for its decision; and
4. publish notice of the decision within 15 days in a newspaper that has substantial circulation in the municipality.

REQUIREMENTS FOR TEMPORARY HEALTH CARE STRUCTURES

Qualifying Lots

Under the act, unless a municipality opts out of the requirement, it must allow the structures as an accessory use in any single-family residential zoning district on a lot (1) zoned for single-family detached homes, (2) owned by a caregiver or "mentally or physically impaired person," and (3) used as his or her residence. The structures must comply with all setback requirements, coverage limits, and maximum floor area ratio limitations applying to accessory structures in the zone as of October 1, 2017.

Qualifying Occupants, Caregivers, and Structures

The act defines a "mentally or physically impaired person" as someone who a Connecticut-licensed physician has certified in writing as requiring assistance with two or more daily living activities, including bathing, dressing, grooming, eating, meal preparation, shopping, housekeeping, transfers, bowel and bladder care, laundry, communication, ambulation, and self-administration of medication.

Under the act, a caregiver is a relative, legal guardian, or health care agent responsible for the unpaid care of a mentally or physically impaired person.

Temporary health care structures are mobile residential structures in which a caregiver can provide care for the impaired person. The structures may not be placed on or attached to a permanent foundation and must be:

1. primarily assembled at a location other than the installation site;
2. occupied by a mentally or physically impaired person;
3. 500 gross square feet or less; and
4. in compliance with the applicable provisions of the State Building Code, Fire Safety Code, and Public Health Code.

Only one temporary health care structure may be installed on a lot zoned for a single-family detached home. Municipalities may require the structures to be accessible to emergency vehicles and connected to private water or septic systems or water, sewer, and electric utilities serving the primary residence.

The act prohibits any signage advertising or promoting the structure on the property or structure's exterior.

Application and Approval Process

Individuals seeking to install a temporary health care structure must obtain a permit from the municipality in which it will be installed. Applicants must send notice of the permit application, by certified or registered mail, to abutting property owners no later than three business days after submitting the application.

Municipalities may charge fees of up to \$250 for initial permits and \$100 for annual permit renewals. Municipalities are not required to hold a public hearing on permit applications. They must approve or deny a permit within 15 business days after its submission, but they cannot deny a permit if the applicant provides proof of compliance with the act.

Oversight and Enforcement

The act authorizes municipalities to:

1. require permittees to provide written evidence of compliance with the act for as long as the structure remains on the property;
2. inspect the structures, at reasonable times convenient to the caregiver, to ensure compliance; and
3. revoke a permit if the permittee violates any of the act's requirements.

The act requires that the structures be removed within 120 days after the qualifying individual no longer occupies the structure or qualifies to occupy it. It authorizes municipalities to require permittees to post a bond of up to \$50,000 to ensure compliance with this requirement.

PA 17-165—HB 6221

Planning and Development Committee

AN ACT CONCERNING RECOVERY OF PAYMENTS FROM COLLATERAL SOURCES BY A MUNICIPALITY WITH A SELF-INSURED HEALTH PLAN

SUMMARY: This act gives self-insured towns, cities, and boroughs (“municipalities”) a lien on the part of certain judgments or settlements to an employee or his or her covered dependent or family member (“insureds”) for medical, hospital, and prescription expenses incurred due to a third party’s negligence or recklessness. The lien only applies to certain types of “tortfeasor recoveries” and instances when a municipality incurs more than \$15,000 in medical, hospital, and prescription expenses. Prior law prohibited such municipalities from claiming such a lien.

As described below, the act specifies notice requirements and how the lien amount is calculated.

EFFECTIVE DATE: October 1, 2017

DEFINITIONS

Under the act, a municipality is “self-insured” if it provides group health benefits to its employees by paying submitted medical, hospital, and prescription expense claims from its revenues.

A “tortfeasor recovery” that may be subject to a lien is moneys paid by or on behalf of the person or entity whose negligence or recklessness caused the injuries for which medical, hospital, and prescription expenses were incurred. It includes recoveries from wrongful death suits alleging negligence or recklessness and claims alleging the negligent operation of a state-owned motor vehicle. But it excludes recoveries based on torts other than negligence or recklessness, including those related to causes of action based on state statute, intentional misconduct, and uninsured or underinsured motorist claims.

NOTIFYING INSURED

Right to Recover Expenses

For a lien to be effective under the act, a municipality must provide written notice of it to the insured or his or her counsel before settlement or a judgment’s entry. The lien is effective from the date of this notification. A municipality can meet this notice requirement by including clear language in conspicuous, boldface font in its group health plan coverage booklet notifying insureds that they must reimburse the municipality from a tortfeasor recovery for any medical, hospital, and prescription expenses incurred due to a third party’s negligence.

Amount Claimed

Under the act, if the insured or his or her attorney makes a written request to the municipality after settlement or a judgment's entry, the municipality must disclose within 30 days the total amount of the lien claimed. If a municipality does not provide this information in a timely manner, it waives the lien and has no further right to claim a portion of the tortfeasor recovery as reimbursement for medical, hospital, and prescription expenses incurred.

CALCULATING THE LIEN AMOUNT

The act limits a lien's amount to the medical, hospital, and prescription expenses incurred at the time of settlement or judgment. The amount must be further reduced by:

1. the percentage of comparative negligence attributed to the municipal employee under the statute concerning negligence liability in cases where there are multiple tortfeasors;
2. the percentage ratio that the employee's legal fees and costs bear to the total judgment or settlement; and
3. application of equitable defenses, including the make whole doctrine and unjust enrichment.

Under the act, if the parties cannot agree on the application of equitable defenses, the insured or municipality may petition the Superior Court for assistance in resolving the issue. Such a petition is privileged with regard to hearing assignment and must be heard by a Superior Court judge within 30 days of the petition's filing.

ADDITIONAL LIMITATIONS

The act specifies that the right to a lien does not extend to commercial insurance companies that provide health insurance benefits to municipal employees and their dependents and family members, including stop loss insurance. Similarly, self-insured municipalities cannot recover medical expenses paid from an insured plan, whether fully or partially insured.

PA 17-175—HB 7047*Planning and Development Committee**Appropriations Committee***AN ACT CONCERNING MUNICIPAL FIRE APPARATUS SAFETY AND TESTING**

SUMMARY: Existing law establishes state safety inspection requirements for fire apparatus (CGS § 14-11d). This act requires municipal and volunteer fire departments to maintain their pump and aerial fire apparatus components in compliance with the National Fire Protection Association standard 1911. Standard 1911 sets minimum requirements for inspecting, maintaining, testing, and retiring fire apparatus.

The act also requires such departments to maintain their fire apparatus in compliance with specified federal regulations concerning safety, maintenance, and inspections. Existing state regulations already require compliance with the same federal regulations (Conn. Agencies Regs. § 14-11d-2; see also § 14-163c-1).

Under Department of Motor Vehicles regulations, a motor vehicle is regulated as "fire apparatus" if it is used as an emergency vehicle and weighs at least 18,001 pounds or is registered as fire apparatus and bears fire apparatus license plates (Conn. Agencies Regs. § 14-11d-1).

EFFECTIVE DATE: October 1, 2017

PA 17-176—HB 7046*Planning and Development Committee***AN ACT CONCERNING THE CLOSURE OF CERTAIN BUILDING PERMITS**

SUMMARY: This act automatically closes certain open building permits nine years after a municipality issues them if a certificate of occupancy has not been granted. The automatic closure applies to open building permits to construct or alter one- or two-family dwellings or structures located on a parcel with such a dwelling. Under the act, "structure" has the same meaning as it does in the permit-issuing municipality's zoning regulations. If not defined locally, the act defines a

“structure” as any combination of materials that is affixed to land, including a shed, garage, sign, fence, wall, pool, patio, tennis court, or deck.

Under the act, automatic closure serves as a bar to enforcement actions based on work started or completed pursuant to an open building permit. Municipalities and their officers and employees are not liable with respect to any claim related to the automatic closure of a building permit.

Under existing law, if a single family dwelling is constructed or altered in violation of the building code or the certificate of occupancy was never issued, a municipality cannot require the removal, alteration, or abandonment of the dwelling more than six years after it is occupied following substantial completion or alteration, unless necessary to protect property or life (CGS § 29-265).

EFFECTIVE DATE: October 1, 2017

PA 17-183—HB 6941

Planning and Development Committee

AN ACT ESTABLISHING A MUNICIPAL GRANT PORTAL

SUMMARY: This act requires the Office of Policy and Management (OPM) secretary, within available appropriations, to create and maintain the Municipal Grant Portal, a single electronic web portal on OPM’s website for posting all state-funded municipal grant applications. The portal must include (1) all grant applications and municipal reimbursement request forms, (2) a searchable database for locating information about the grants, and (3) features encouraging municipalities to participate in the application process.

EFFECTIVE DATE: Upon passage

PA 17-199—HB 7185

Planning and Development Committee

AN ACT EXEMPTING LEASED MUNICIPAL PROPERTY FROM TAXATION

SUMMARY: This act expands the property tax exemption for municipal property to include real and personal property, including taxable motor vehicles, leased to a municipality, used for a public purpose, and located in the municipality. Under prior law, the exemption applied only to real and personal property owned by or held in trust for a municipality that was used for public purposes.

EFFECTIVE DATE: October 1, 2017

PA 17-209—HB 6948

Planning and Development Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE ADVISORY COUNCIL ON LARGE ENTERTAINMENT VENUES, THE REGULATION OF SPORTS WAGERING AND THE NUMBER OF OFF-TRACK BETTING BRANCH FACILITIES

SUMMARY: This act increases, by six, from 18 to 24, the maximum number of authorized off-track betting (OTB) facilities. The additional six facilities, just like the 18 already authorized by law, may include simulcasting capabilities (i.e., televise OTB programs) and provide other amenities (e.g., serve food). Existing law specifies the location of 15 OTB facilities and authorizes three additional ones in unspecified locations (see BACKGROUND). The act’s six additional facilities are for unspecified locations.

The act establishes an Advisory Council on Large Entertainment Venues to coordinate large entertainment events at certain facilities and address other issues related to operating such facilities. The council includes representatives from large Connecticut entertainment facilities and, once a casino gaming facility that is jointly owned and operated by the Mashantucket Pequot and Mohegan tribes is authorized to conduct any game of chance, a representative from each tribe.

The act also requires the Department of Consumer Protection (DCP) commissioner to adopt regulations to regulate wagering on sporting events to the extent allowed under state and federal law (see BACKGROUND).
EFFECTIVE DATE: Upon passage

ADVISORY COUNCIL ON LARGE ENTERTAINMENT VENUES

The act entitles certain amusement, entertainment, and recreation facilities with seating capacities of more than 5,000 people to be represented on the council. (These are: Dunkin' Donuts Park in Hartford, Harbor Yard Ballpark in Bridgeport, New Britain Stadium, Rentschler Field in East Hartford, Webster Bank Arena in Bridgeport, XL Center in Hartford, and venues for which admission charges would have been subject to the cabaret tax.)

Under the act, each of these council representatives must be designated by September 1, 2017. The council must select one member as chairperson and schedule the first meeting by October 1, 2017. It must meet at least annually to consider (1) the coordination of concerts, mixed martial arts events, and other large entertainment events at the facilities and (2) other issues related to the facilities' operation, as determined by the council.

The act also requires the Mashantucket Pequot and the Mohegan tribes each to designate a representative to serve on the council once a business entity jointly and exclusively owned by them (i.e., MMCT Venture, LLC) is authorized to conduct any game of chance at a casino gaming facility in Connecticut. Each tribe must assist the amusement, entertainment, and recreation facilities to schedule large entertainment events that are available for additional dates in the state. (States generally lack jurisdiction over federally recognized Indian tribes, absent federal authority or an agreed-upon agreement (e.g., gaming compact). Thus, state law requiring the Mashantucket Pequot and Mohegan tribes to provide a council representative may be unenforceable.)

BACKGROUND

OTB Facilities

The 15 existing simulcasting facilities specified in statute are located in Bridgeport, Bristol, East Haven, Hartford, Manchester, Milford, New Britain, New Haven, New London, Norwalk, Putnam, Torrington, Waterbury, Windham, and Windsor Locks. In addition to these facilities, Stamford operates an OTB simulcasting facility as one of the unspecified locations authorized by law.

The location of each facility and the addition of simulcasting capability are subject to approval by the DCP commissioner and the host town's legislative body.

Sports Gambling

Sports gambling in Connecticut is currently illegal under both federal and state law. The federal (1) Professional and Amateur Sports Protection Act of 1992, with exceptions for states with sports gambling when the act was passed, prohibits states from legalizing sports gambling (28 U.S.C. § 3701 et seq.) and (2) Wire Act prohibits the use of wire communications to wager on any sporting event (18 U.S.C. § 1081 et seq.). These laws do not apply to gambling on horse racing.

Connecticut law, among other things, prohibits risking any money, credit, or other thing of value for gain, which is contingent upon chance. It prohibits any gambling activity in Connecticut unless specifically authorized by law (CGS § 53-278a (2)).

Related Act

PA 17-89, among other things, authorizes the operation of an off-reservation casino gaming facility in East Windsor if certain conditions are met.

PA 17-222—sHB 7295

Planning and Development Committee

Housing Committee

AN ACT CONCERNING MINOR REVISIONS TO THE RENTERS REBATE PROGRAM

SUMMARY: This act adjusts the payment schedule for the rental rebate program for the elderly and people with total and permanent disabilities. It does so by (1) delaying, from September 30 to October 15, the date by which the Office of Policy and Management (OPM) secretary must annually prepare a list of approved program applications and forward them to the comptroller for payment and (2) eliminating the requirement that OPM approve rental rebate program payments within 120 days after receiving applications. By law, (1) renters may apply for the program from April 1 through October 1 of each year and (2) the comptroller must draw an order on the state treasurer no later than 15 days after receiving the list of approved payments from OPM.

The act eliminates references to copies of the rental rebate certificates and applications assessors submit to OPM. In practice, assessors submit these documents to OPM electronically.

The act also makes technical changes.

EFFECTIVE DATE: July 1, 2017

PA 17-5—sHB 6695
Public Health Committee

AN ACT CONCERNING THE PROTECTION OF YOUTH FROM CONVERSION THERAPY

SUMMARY: This act prohibits health care providers from practicing or administering “conversion therapy” (i.e., any practice or treatment that seeks to change a minor’s sexual orientation or gender identity). It also prohibits anyone else from practicing conversion therapy while engaged in trade or commerce. The act specifies certain types of counseling that are not considered conversion therapy, such as counseling intended to help a person undergoing gender transition or facilitate a person’s identity exploration.

Under the act, if a health care provider engages in such therapy, it is considered unprofessional conduct subject to disciplinary action. If anyone practices or administers conversion therapy while conducting trade or commerce, it is deemed an unfair or deceptive trade practice (see BACKGROUND).

Finally, the act prohibits the use of public funds for conversion therapy or related actions.

EFFECTIVE DATE: Upon passage

CONVERSION THERAPY

Conversion Therapy Defined (§ 1)

Under the act, “conversion therapy” is any practice or treatment administered to someone under age 18 that seeks to change the person’s sexual orientation or gender identity, including efforts to change gender expression or to eliminate or reduce sexual or romantic attraction or feelings towards people of the same gender. The term excludes counseling intended to:

1. assist someone undergoing gender transition;
2. provide the person with acceptance, support, and understanding; or
3. facilitate the person’s coping, social support, or identity exploration and development, including any therapeutic intervention that is neutral as to sexual orientation and seeks to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change the person’s sexual orientation or gender identity.

Health Care Providers (§§ 1 & 2)

The act prohibits health care providers from engaging in conversion therapy. It deems the practice of such therapy unprofessional conduct and subject to disciplinary action by the Department of Public Health or Department of Consumer Protection (DCP) as applicable, including suspension or revocation of the provider’s license, certification, or registration to practice.

Under the act, health care providers are physicians, chiropractors, podiatrists, naturopaths, optometrists, occupational therapists, alcohol and drug counselors, registered nurses, advanced practice registered nurses, nurse’s aides, behavior analysts, psychologists, marriage and family therapists, clinical social workers, master clinical social workers, professional counselors, genetic counselors, pharmacists, and hypnotists. The term includes such individuals credentialed in Connecticut and those credentialed outside the state but who provide professional services in Connecticut.

The act does not prevent a national certifying body from taking action against a health care provider based on a complaint that the provider engaged in conversion therapy.

Ban on Use of Public Funds (§ 4)

The act prohibits state or local public funds from being spent for:

1. practicing conversion therapy;
2. referring someone, for conversion therapy, to a health care provider or anyone engaged in trade or commerce for such therapy;
3. health benefits coverage for conversion therapy; or
4. grants or contracts with any entity to conduct conversion therapy or refer anyone to a health care provider or person engaged in trade or commerce to provide such therapy.

BACKGROUND

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

PA 17-6—sSB 844*Public Health Committee*

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS REGARDING REVISIONS TO THE STATUTES CONCERNING THE HUMAN IMMUNODEFICIENCY VIRUS

SUMMARY: This act makes various changes to HIV-related laws, including:

1. changing the time frames for testing pregnant women for syphilis and HIV, by requiring the second test for each condition to occur at different intervals during the third trimester;
2. renaming the Department of Public Health's (DPH) needle and syringe exchange programs as "syringe services programs" to conform to existing practice, and making various changes to such programs;
3. narrowing the topics that must be addressed in counseling that providers ordering HIV tests must offer to patients as needed; and
4. removing a provision that specifically allowed patients to refuse to receive an HIV test result.

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2017, except a conforming change is effective October 1, 2017.

§ 1 — TESTING DURING PREGNANCY

The act updates provisions on HIV and syphilis testing of pregnant women. It specifies that the same requirements for ordering blood testing for these purposes apply to physicians, advanced practice registered nurses, physician assistants, and nurse midwives when any such providers are giving prenatal care. It eliminates obsolete language that distinguished between physicians and other prenatal care providers who were not authorized to take blood tests.

Under prior law and the act, the provider generally must test the patient for HIV and syphilis twice during the pregnancy. The act updates the required time frame for the second test. The time frames under prior law and the act are shown in Table 1.

Table 1: Schedule of HIV and Syphilis Testing During Pregnancy

	<i>Prior Law</i>	<i>The Act</i>
First Test	Within 30 days after the first prenatal examination	Same as prior law
Second Test	During the 26 th to 28 th week of the pregnancy or shortly thereafter (A test taken at delivery did not meet these requirements.)	Syphilis test: no later than the 28 th to 32 nd week of the pregnancy HIV test: no later than the 32 nd to 36 th week (If there is no documentation of the second test when the woman presents for labor and delivery, the second test must occur at the delivery.)

The act specifies that a woman may be subjected to these tests only once during each of the prescribed timeframes.

Under the act, the same requirements for consent for HIV testing apply as under existing law. Also, under existing law, unchanged by the act, (1) these provisions do not apply to women who object to a blood test on religious grounds and (2) the laboratory tests must be performed, on request, without charge by DPH.

The act also makes technical changes to these provisions.

§§ 2, 4 & 5 — SYRINGE SERVICES PROGRAMS

Existing law requires DPH, within available appropriations, to establish syringe exchange programs to improve the health of people who inject drugs in any community impacted by HIV or hepatitis C. DPH may authorize the programs through local health departments or other organizations.

The act refers to these programs as “syringe services programs,” rather than “needle and syringe exchange programs” as under prior law, and makes conforming changes. It also broadens the scope of the programs. The act:

1. requires the programs to provide access to syringe exchanges, as well as providing exchanges directly as under prior law;
2. eliminates the requirement that program participants receive an equal number of needles and syringes for those returned; and
3. specifically requires the programs to provide for safe disposal of syringes.

Existing law requires these programs to offer education on HIV, hepatitis C, and drug overdose prevention measures. The act specifies that the education must include ways to reduce harm caused by HIV and hepatitis C.

Existing law also requires these programs to monitor certain program data for evaluation purposes. The act requires this monitoring annually and specifies that its purpose is to determine if there is a reduction in the program’s results.

§ 3 — HIV TESTING AND RELATED COUNSELING

Under existing law, when communicating the results of an HIV test to a patient, the person who ordered the test generally must provide counseling or counseling referrals as needed, covering specified topics. The act eliminates the following from the list of required topics: (1) coping with the emotional consequences of learning the test result, (2) discrimination that could occur from disclosing the result, and (3) behavioral change to prevent transmitting or contracting HIV.

The act also eliminates provisions that:

1. specifically allowed patients to refuse to receive their test result and
2. required the person ordering the test to encourage patients to receive the result and to adopt behavioral changes to protect themselves and others from infection.

PA 17-9—sSB 839

Public Health Committee

AN ACT CONCERNING THE DEPARTMENT OF DEVELOPMENTAL SERVICES' RECOMMENDATIONS REGARDING REVISIONS TO ITS STATUTES AND REFERENCES TO INTELLECTUAL DISABILITY

SUMMARY: This act makes minor and technical changes to Department of Developmental Services-related statutes, including:

1. replacing the Council on Developmental Services member who has autism spectrum disorder with a relative or guardian of a person with an intellectual disability and
2. repealing an obsolete misdemeanor penalty for helping a person to escape from the Southbury Training School or the Connecticut Juvenile Training School.

EFFECTIVE DATE: October 1, 2017, except upon passage for the repeal of the obsolete provision.

PA 17-10—SB 842

Public Health Committee

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS REGARDING ENFORCEMENT ACTIONS TAKEN AGAINST A LICENSED HEALTH CARE PROFESSIONAL

SUMMARY: This act allows the Department of Public Health (DPH) and its licensing boards and commissions to issue a restricted license or permit that limits a practitioner's practice (e.g., prohibiting the prescribing of certain controlled substances), without having to place the person on probationary status.

Existing law already allows DPH and its boards and commissions to limit a practitioner's practice if the person is placed on probationary status. Under the act, as under existing law, DPH or the board or commission may restrict a license or permit on a finding of good cause, based on conduct that occurred before or after the person was issued the license or permit.

The act also makes conforming changes.

EFFECTIVE DATE: October 1, 2017

PA 17-23—SB 41

Public Health Committee

AN ACT CONCERNING PHLEBOTOMISTS

SUMMARY: This act specifically allows individuals practicing as phlebotomists in the state to obtain phlebotomist certification from the American Society of Phlebotomy Technicians, National Center for Competency Testing, National Phlebotomy Association, National Healthcareer Association, or American Medical Technologists.

The act defines "phlebotomist" as a person who draws blood for diagnostic testing, transfusions, research, or blood donations. (PA 17-234 amends this definition by requiring the person to act under an order of a physician, physician assistant, advanced practice registered nurse, or podiatrist.)

The state does not license or certify phlebotomists. In practice, entities that employ phlebotomists may require that they be nationally certified.

EFFECTIVE DATE: October 1, 2017

BACKGROUND

Related Act

PA 17-234 allows a phlebotomist at a hospital to flush a peripherally inserted intravenous line ("peripheral IV") with prepackaged normal saline in a single use pre-filled syringe, under certain conditions.

PA 17-33—SB 755

Public Health Committee

AN ACT CONCERNING THE COUNCIL ON MEDICAL ASSISTANCE PROGRAM OVERSIGHT

SUMMARY: This act eliminates the Council on Medical Assistance Program Oversight's (MAPOC) standing subcommittee on Medicaid cost savings.

Under prior law, the subcommittee studied and made annual recommendations to the council on evidence-based best practices concerning Medicaid cost savings. The subcommittee's first report was due to the council by January 1, 2015.

EFFECTIVE DATE: October 1, 2017

BACKGROUND*MAPOC*

MAPOC advises the social services commissioner on the planning and implementation of Medicaid programs and HUSKY B and monitors Medicaid care management initiatives. It also makes recommendations in a wide range of areas, such as the enrollment process, the sufficiency of Medicaid provider rates, and the benefits package for each of the affected programs.

PA 17-43—HB 5452*Public Health Committee***AN ACT CONCERNING THE PRACTICAL TRAINING AND EXPERIENCE OF STUDENT EMBALMERS**

SUMMARY: This act gives applicants for an embalmer's license up to two years to embalm at least 50 human bodies under a licensed embalmer's supervision, as required by law to obtain the license. Previously, applicants had to complete this requirement in one year.

It also makes technical changes.

EFFECTIVE DATE: October 1, 2017

PA 17-44—HB 6979*Public Health Committee***AN ACT CONCERNING THE ACCREDITATION OF DENTAL ASSISTANT PROGRAMS**

SUMMARY: This act expands the list of qualifying education programs for dental assistants. It allows someone to qualify as a dental assistant if he or she completed a dental assistant education program accredited or recognized by any national or regional accrediting agency recognized by the U.S. Department of Education, rather than only programs accredited or recognized by the New England Association of Schools and Colleges.

By law, an individual also qualifies as a dental assistant if he or she completes (1) on-the-job training under direct supervision or (2) a dental assistant education program accredited by the American Dental Association's Commission on Dental Accreditation.

The state does not license or certify dental assistants. Existing law specifies certain procedures that a dentist may or may not delegate to a dental assistant.

EFFECTIVE DATE: Upon passage

PA 17-46—HB 7173*Public Health Committee**Government Administration and Elections Committee***AN ACT CONCERNING THE APPOINTMENT OF ASSISTANT REGISTRARS OF VITAL STATISTICS**

SUMMARY: This act eliminates the statutory cap on the number of assistant registrars of vital statistics a town's elected, appointed, or ex-officio registrar of vital statistics may appoint. Prior law allowed up to four such appointments per town. By law, assistant registrars may exercise the same powers and duties as the registrar.

EFFECTIVE DATE: October 1, 2017

PA 17-61—sSB 246

*Public Health Committee
Appropriations Committee*

AN ACT CONCERNING A STATE-WIDE WAITING LIST FOR RESIDENTIAL PLACEMENT FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES

SUMMARY: This act makes various changes affecting the Department of Developmental Services (DDS) and individuals with intellectual disability.

As under existing practice, the act requires the DDS commissioner to maintain one statewide, comprehensive residential waiting list for individuals with intellectual disability and update the list at least quarterly. It also requires the commissioner or his designee to do the following:

1. starting by August 1, 2018, and in consultation with the individual and his or her legal representative if applicable, annually assess the future residential funding or service needs for certain individuals with intellectual disability and
2. starting by December 1, 2018, annually review the residential waiting list with the DDS regional advisory and planning councils and the Council on Developmental Services.

The act also:

1. specifically allows the DDS commissioner, in collaboration with the Office of Policy and Management (OPM) secretary and social services commissioner, to organize and participate in an Intellectual Disability Partnership;
2. replaces the term “priority status” with “category” in certain existing provisions on DDS’s assessment of the urgency of an individual’s need for residential services or funding; and
3. requires DDS to make a specified annual report available online, rather than requiring the department to report the information to the Appropriations and Public Health committees.

EFFECTIVE DATE: July 1, 2018, except upon passage for the provisions on the Intellectual Disability Partnership.

§ 2 — DDS RESIDENTIAL WAITING LIST

The act defines “residential waiting list” as data DDS maintains regarding the number of individuals with intellectual disability who:

1. have requested residential funding or services from DDS,
2. have been determined by DDS to need such funding or services, and
3. are unable to receive such funding or services because of DDS’s inability to provide the funding or services within existing appropriations.

The act requires the commissioner to develop and maintain one statewide comprehensive residential waiting list and update it at least quarterly. It specifies that the waiting list must (1) be organized by geographic region, (2) identify the type of residential funding or services each individual is requesting, and (3) include the estimated period during which the funding or services would be accepted by the individual.

§ 2 — ANNUAL ASSESSMENT OF FUTURE NEEDS

Starting by August 1, 2018, the act requires the DDS commissioner or his designee to annually assess the need for future DDS residential funding or services for each individual with intellectual disability who qualifies for such funding or services and who has an individual plan prepared by the department. The commissioner or designee must do so in consultation with the individual and his or her legal representative, if applicable.

The act requires the assessment to indicate the period when each support or service would be accepted by the individual, based on information collected at the annual meeting.

§ 3 — INTELLECTUAL DISABILITY PARTNERSHIP

Consistent with existing practice, the act allows the DDS commissioner, in collaboration with the OPM secretary and the social services commissioner, to organize and participate in an Intellectual Disability Partnership.

The act requires the partnership to include broad and diverse representation from families, providers, and advocates for individuals with intellectual disability. The family representatives must include family members of individuals with a broad range of intellectual disability and needs, including individuals with high-level needs.

The act requires DDS to post notice of the partnership’s meetings, agendas, and minutes on the department’s website.

§§ 1 & 2 — “CATEGORY” FOR RESIDENTIAL SERVICES

Under prior law, individuals DDS determined as eligible for department funding or services, or their legal guardians or representatives, could obtain from DDS a copy of the individual’s “priority status” for residential services if the individual had an unmet need for such services. The act substitutes the term “category” for “priority status” for this purpose and retains the existing definition (i.e., the department’s assessment of the urgency of an individual’s need for DDS funding or services). It specifies that such individuals or their legal guardians or representatives may obtain a copy of their category for residential funding as well as services.

The act makes a similar change in terminology in another law that allows individuals with intellectual disability, or their legal representatives, to request a hearing to contest DDS’s priority assignment of individuals seeking residential services.

§ 2 — REPORTING REQUIREMENT

The act requires the DDS commissioner to annually report on the department’s website on the number of individuals the department determines as eligible for DDS funding or services and who (1) have unmet residential care or employment opportunity and day service needs or (2) are eligible for DDS’s behavioral services program and are waiting for funding. Prior law required the commissioner to annually report this information to the Appropriations and Public Health committees.

PA 17-66—sSB 937

Public Health Committee

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH’S RECOMMENDATIONS REGARDING LEAD PREVENTION INITIATIVES AND ASBESTOS TRAINING

SUMMARY: This act makes various changes affecting certification of certain lead abatement and asbestos professionals.

Starting October 1, 2017, it requires the Department of Public Health (DPH) to certify lead training providers and asbestos training providers. Existing law requires approval of training programs but not certification of the providers themselves.

The act conforms to existing practice by replacing statutory references to “lead consultant” with references to “lead inspector,” “lead inspector risk assessor,” and “lead planner-project designer.” DPH regulations already require applicants for certification as lead consultants to apply for certification under one of these three disciplines (Conn. Agencies Reg. § 20-478-2).

Among other things, the act also:

1. adds a statutory definition of “lead inspector risk assessor;”
2. makes changes to DPH’s authority to adopt regulations on certain examination requirements, consistent with existing practice; and
3. makes several minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2017

CERTIFICATION REQUIREMENTS

Starting October 1, 2017, the act requires DPH certification for lead training providers and asbestos training providers (§§ 2 & 9).

The act defines “asbestos training provider” as a person or entity that offers a training program for asbestos abatement or asbestos consultation and certifies asbestos abatement workers, asbestos abatement site supervisors, and asbestos consultants. Existing law defines lead training providers as entities that offer an approved training or refresher training course in lead abatement or lead consultation services.

Under the act, the initial application fee is \$50 and the annual renewal fee is \$50 for both lead and asbestos training providers.

For lead training providers, the act provides that, among other things:

1. the application must contain information on the applicant's qualifications as specified in regulations and
2. DPH can issue certificates to people (a) licensed or certified by states that have standards at least as strict as Connecticut's and (b) who are not the subject of a pending disciplinary action or an unresolved complaint.

The act specifies that no new regulatory board is created for lead training providers or asbestos training providers (§ 7).

Disciplinary Actions (§ 6)

The act specifies the grounds for disciplinary action against persons or entities licensed or certified under the asbestos contractor and consultant laws, including asbestos training providers. It allows DPH to take disciplinary action for:

1. a felony conviction;
2. fraud or deceit in professional practice;
3. negligent, incompetent, or wrongful professional conduct;
4. misrepresentation or concealment of a material fact in obtaining, reinstating, or renewing a license or certificate; or
5. violations of applicable laws or regulations.

By law, disciplinary actions available to DPH include, among other things, (1) revoking or suspending a credential, (2) placing the violator on probationary status, and (3) imposing a civil penalty of up to \$25,000 (CGS § 19a-17). The act allows the commissioner to petition Hartford Superior Court to enforce any disciplinary actions. When imposing such discipline, DPH must provide notice and an opportunity for a hearing as specified in the Uniform Administrative Procedure Act.

Existing law contains similar provisions for disciplinary actions against lead abatement professionals (CGS § 20-481). Such provisions apply under the act to lead training providers.

In addition, existing law provides that anyone who knowingly violates the lead certification laws is subject to a fine of up to \$5,000 per day (CGS § 20-482). Under the act, this also applies to lead training providers.

§ 1 — DEFINITIONS

The act adds a statutory definition of "lead inspector risk assessor." It defines this as someone who:

1. performs lead inspection risk assessments to determine the presence, type, severity, and location of lead-based paint hazards, including lead hazards in paint, dust, drinking water, and soil, using on-site testing, such as x-ray fluorescence analysis with portable instruments;
2. collects samples for laboratory analysis; and
3. suggests ways to control any identified lead hazards.

Prior law defined a "lead consultant contractor" as an entity that contracts to perform lead hazard reduction consultation work using lead inspectors or lead planner-project designers. The act amends the definition by specifying that lead inspector risk assessors may also perform such work for these contractors.

§§ 2, 3, 9 & 10 — REGULATIONS

Examinations and Passing Scores (§§ 3(h) & 10)

The act eliminates DPH's authority to adopt regulations requiring that applicants for a "lead abatement worker" certification pass a DPH-prescribed examination. In practice, DPH does not require such an examination.

The act also requires DPH to adopt regulations setting passing scores for certification examinations for lead inspectors, lead inspector risk assessors, and lead abatement supervisors. Consistent with existing practice, it eliminates the requirement that DPH adopt regulations setting passing scores for license examinations for lead abatement contractors and lead consultant contractors (§ 10).

Implementation of Certification Requirements (§§ 2 & 9)

The act permits DPH to adopt regulations to implement the certification of asbestos abatement and lead abatement professionals (§§ 2 & 9). (PA 17-146, §§ 33 & 34, eliminates these provisions.) Existing law already requires DPH to adopt regulations on similar topics (CGS §§ 20-440 and 20-478 (§ 10 of this act)).

PA 17-70—sSB 938*Public Health Committee*

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS FOR THE STATE-WIDE ADOPTION OF THE MEDICAL ORDERS FOR LIFE-SUSTAINING TREATMENT PROGRAM

SUMMARY: By law, the Department of Public Health (DPH) operates a “medical orders for life-sustaining treatment” (MOLST) pilot program, which is scheduled to end October 2, 2017. This act requires DPH to establish a statewide MOLST program. As under the pilot program, patient participation must be voluntary.

The act requires the DPH commissioner to adopt regulations on various matters to implement the statewide program, such as ensuring that (1) MOLST orders are transferrable and recognized by various types of health care institutions and (2) authorized providers intending to write these orders receive training on specified matters.

The act also establishes, within available appropriations, a MOLST advisory council to make recommendations to the DPH commissioner.

Under the act, a MOLST is a medical order written by a physician, advanced practice registered nurse (APRN), or physician assistant (PA) to effectuate a patient’s request for life-sustaining treatment when a physician or APRN has determined the patient is approaching the end stage of a serious, life-limiting illness or is in a condition of advanced, chronic progressive frailty.

EFFECTIVE DATE: October 1, 2017

STATEWIDE MOLST PROGRAM

The act requires the DPH commissioner to establish a statewide program to implement the use of MOLST by health care providers. To agree to participate, a patient or the patient’s legally authorized representative and a witness must sign the MOLST form. A “legally authorized representative” is a minor patient’s parent, a guardian appointed by the probate court, or a health care representative appointed according to law.

Regulations

The act requires the DPH commissioner to adopt regulations for the MOLST program to ensure that:

1. the orders are transferrable among, and recognized by, various types of health care institutions, subject to any limitations in federal law;
2. any procedures and forms developed to record such orders require the signature of the patient or the patient’s legally authorized representative and a witness, and, immediately after signing, the patient or representative receives the original order, with a copy placed in the patient’s medical record; and
3. before a physician, APRN, or PA asks for the patient’s or representative’s signature on a MOLST order, he or she discusses with the patient or representative the patient’s goals for care and treatment and the benefits and risks of various ways to document the patient’s wishes for end-of-life treatment, including MOLST.

In addition, the act requires regulations to ensure that each physician, APRN, or PA who intends to write a MOLST receives training on:

1. the importance of talking with patients about their personal treatment goals;
2. methods for presenting choices for end-of-life care that elicit information on patients’ preferences and respect those preferences without directing patients toward a particular option;
3. the importance of fully informing patients about the benefits and risks of a MOLST that takes effect immediately;

4. awareness of factors that may affect the use of a MOLST, including advance health care directives, race, ethnicity, age, gender, socioeconomic position, immigrant status, sexual minority status, language, disability, homelessness, mental illness, and geographic area of residence; and
5. procedures for properly completing and effectuating a MOLST.

The act allows the DPH commissioner to implement policies and procedures needed to administer the act until regulations are adopted.

Department of Developmental Services

The act specifies that it does not limit the existing authority of the Department of Developmental Services (DDS) commissioner regarding certain medical orders for individuals receiving services under his direction. Existing law allows the DDS commissioner to make treatment decisions for these individuals, but only in limited circumstances. It prohibits him from trying to impede a properly executed medical order to withhold cardiopulmonary resuscitation under specified conditions (CGS § 17a-238(g)).

§ 2 — MOLST ADVISORY COUNCIL

The act establishes a MOLST advisory council, within available appropriations, to advise the DPH commissioner on the program. The council must meet at least once a year to receive updates on the program's status and advise DPH on possible ways to improve it.

The DPH commissioner must appoint the council members by January 1, 2018. Members must include:

1. a public health practitioner;
2. two physicians, including one emergency department physician;
3. an APRN;
4. a PA;
5. an emergency medical service provider;
6. two patient advocates, including one advocate for persons with disabilities;
7. a hospital representative;
8. a long-term care facility representative; and
9. any person or a representative from any other organization who the commissioner determines is familiar with MOLST issues.

PA 17-74—SB 126

Public Health Committee

AN ACT CONCERNING COMMUNITY HEALTH WORKERS

SUMMARY: This act establishes a statutory definition for a “community health worker” and, based on that definition, requires the director of the State Innovation Model Initiative Program Management Office to study the feasibility of creating a community health worker certification program. The director must do this within available resources and in consultation with the Department of Public Health commissioner and the office's Community Health Worker Advisory Committee. The study must examine the fiscal impact of implementing the certification program and make recommendations on:

1. requirements for initial certification and renewal, including training, experience, and continuing education requirements;
2. methods for administering the certification program, including an application; a standardized assessment of experience, knowledge, and skills; and an electronic registry; and
3. requirements for recognizing training program curricula that are sufficient to satisfy certification requirements.

The director must report on the study and recommendations to the Public Health and Human Services committees by October 1, 2018.

EFFECTIVE DATE: October 1, 2017

COMMUNITY HEALTH WORKER DEFINITION

Under the act, a “community health worker” is a public health outreach professional with an in-depth understanding of a community’s experience, language, culture, and socioeconomic needs, who:

1. serves as a liaison between community members and health care and social services providers to (a) facilitate access to these services and related resources; (b) improve the quality and cultural competence of service delivery; and (c) address social determinants of health with a goal of reducing racial, ethnic, gender, and socioeconomic health disparities and
2. increases health knowledge and self-sufficiency through a range of services, including outreach, engagement, education, coaching, informal counseling, social support, advocacy, care coordination, research related to social determinants of health, and basic screenings and assessments related to social determinants of health.

PA 17-84—sSB 941

Public Health Committee

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS REGARDING REVISIONS TO LOCAL EMERGENCY MEDICAL SERVICES PLANS

SUMMARY: This act requires municipalities to update their local emergency medical services (EMS) plans at least every five years, rather than when they determine necessary as under prior law. It specifies certain information that must be included in the plans’ performance standards.

Prior law required the Department of Public Health (DPH), at least every five years, to review local EMS plans and primary service area responders’ services provided under them. The act instead requires municipalities to conduct this review and submit the revised plans to the DPH commissioner, who must evaluate each plan on an ongoing basis. Unlike prior requirements for DPH review, the act does not require a municipality’s review to include evaluating the responder’s compliance with applicable laws and regulations.

The act also makes changes to procedures for DPH’s evaluation of the plans, such as (1) requiring prior notice to the municipality and (2) modifying the process for developing performance improvement plans for providers rated as failing.

By law, a primary service area is a specific geographic area to which DPH assigns a designated EMS provider for each category of emergency medical response services. These providers are termed primary service area responders (CGS § 19a-175).

EFFECTIVE DATE: October 1, 2017

LOCAL EMS PLANS

Performance Standards

Existing law requires local EMS plans to include certain components, such as performance standards for each segment of the municipality’s EMS system. The act specifies that this must include standards for responding to a certain percentage of initial response notifications, response times, quality assurance, and service area coverage patterns.

DPH Evaluation Process

The act requires the commissioner to give at least 120 days’ notice to a municipality before DPH begins its evaluation of the municipality’s revised local EMS plan.

Under existing law, after evaluating such a plan, DPH must rate the primary service area responder’s performance as meeting, exceeding, or failing to comply with performance standards. The act specifies that DPH must notify the municipality and the responder of the rating.

Under prior law, if DPH rated a responder as failing, the commissioner could require it to comply with a DPH-developed performance improvement plan. The act instead allows the commissioner to require the responder to (1) submit its own performance improvement plan within 90 days of receiving notice of the failing rating and (2) comply with DPH’s performance standards.

By law, a primary service area responder rated as failing may also be subject to (1) later performance reviews or (2) removal as the municipality’s responder for failing to improve its performance, under specified procedures.

BACKGROUND

Local EMS Plans

By law, local EMS plans must include various components, such as performance standards; the written agreements between the municipality, its EMS providers, and the municipality's public safety answering points; and identification of specified EMS levels.

Municipalities must consult with their primary service area responders about any plan updates. Upon request, DPH must assist each municipality in the process of updating the plan by providing technical assistance and helping to resolve any disagreements about the plan (CGS § 19a-181b).

Related Act

PA 17-131 (§ 11) extends by one year the date by which municipalities must amend their local EMS plans to require at least one EMS provider likely to arrive first on the scene of a medical emergency to carry an opioid antagonist and complete a training on how to administer it.

PA 17-93—sSB 901

Public Health Committee

Judiciary Committee

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATION REGARDING ADOPTION OF A MODEL FOOD CODE

SUMMARY: This act requires the Department of Public Health (DPH), by July 1, 2018, to adopt and administer the federal Food and Drug Administration's (FDA) Food Code, and any published supplements, as the state's food code for regulating food establishments. Under prior law, DPH regulated these establishments under the Public Health Code. The act authorizes the commissioner to adopt implementing regulations.

As under existing DPH regulations, starting July 1, 2018, the act requires food establishments to obtain a permit or license to operate from a municipal or district health department. Generally, it establishes similar procedures and requirements as existing DPH regulations in areas such as certification of food inspectors and food establishment inspections.

Additionally, the act:

1. modifies the definitions of the four classifications of food establishments;
2. lowers, from 45 degrees to 41 degrees Fahrenheit, the minimum temperature threshold for cold holding potentially hazardous foods;
3. lowers, from 140 degrees to 135 degrees Fahrenheit, the minimum temperature threshold for hot holding potentially hazardous foods;
4. increases, from 16 to 20 contact hours, the required number of training hours food inspectors must complete every three years to renew their certification;
5. requires, starting July 1, 2018, Class 3 and Class 4 food establishments to employ a "certified food protection manager" instead of a "qualified food operator" and extends the requirement to Class 2 food establishments;
6. requires a local health director to investigate and take specified actions to control a suspected food-borne illness or outbreak;
7. allows the DPH commissioner, under certain conditions, to publicly announce the identity of a food establishment that was the source of a food-borne illness or outbreak;
8. allows a food establishment to request, until June 30, 2018, a variance from the Public Health Code to use the sous vide cooking technique and acidification of sushi rice;
9. allows a food establishment's owner or operator aggrieved by inspection-related and other orders to appeal to the local health director within 48 hours after the order was issued; and
10. subjects violators to a class C misdemeanor (see Table on Penalties).

The act also exempts persons who donate food or nonprofit organizations that distribute donated food to senior centers or political subdivisions of the state from liability for civil damages or criminal penalties resulting from the food's nature, age, condition, or packaging. The law already provides such an exemption to certain persons or organizations that

donate or distribute donated food to nonprofit organizations or corporations. The immunity does not apply if it is established that the donor knew or had reasonable grounds to believe that the food was adulterated or not fit for human consumption.

Finally, the act makes various technical and conforming changes.

EFFECTIVE DATE: October 1, 2017, except that (1) a conforming change eliminating existing DPH food code regulations takes effect July 1, 2018 and (2) provisions on Public Health Code variances that allow for sous vide and acidification of sushi rice take effect upon passage.

FDA FOOD CODE

Permit or License Required

Starting July 1, 2018, the act requires food establishments to generally obtain a permit or license from a municipal or district health department to operate, as under existing DPH regulations. Before obtaining the permit or license, the act requires establishments to register with DPH.

The act exempts from the registration requirement temporary food establishments and farmers’ markets. Existing DPH regulations require temporary food establishments to obtain a permit of up to 14 days if required by local ordinance. By law, farmers’ markets may obtain one permit from a municipality and use it at any location in the state.

The act specifies that its provisions do not limit the authority of the agriculture commissioner or local health director to require farmers to comply with farmers’ market laws.

Classification and Inspection of Food Establishments

The act retains the four classifications of food establishments in existing DPH regulations, but it modifies their definitions as shown in Table 1. As under existing regulations, the act requires local health directors to annually review a food establishment’s classification.

Table 1: Food Establishment Classifications

<i>Classification</i>	<i>Under Existing DPH Regulations (Conn. Agencies Regs., § 19-13-B42(s)(3))</i>	<i>Under the Act</i>
Class 1 establishment	Food establishment with commercially prepackaged foods, hot or cold beverages, or both; does not include preparation, cooking, or hot holding of potentially hazardous foods, except that commercially packaged pre-cooked foods may be heated and served in the original package within four hours	Food establishment that only offers for retail sale (1) prepackaged food or food prepared in the establishment that is not time- or temperature-controlled for safety or (2) commercially processed food that is time- or temperature-controlled for safety, heated for hot holding, but not permitted to be cooled
Class 2 establishment	Food establishment using cold or ready-to-eat commercially processed food needing no further heat treatment, hot or cold beverages, or both; does not include cooking, heating, or hot holding of potentially hazardous foods, except that commercially packaged pre-cooked foods may be heated and served in the original package within four hours and commercially precooked hot dogs, kielbasa, and soup may be heated if transferred directly out of the original package and served within four hours	Retail food establishment that does not serve a population highly susceptible to food-borne illness and offers a limited food menu that is (1) prepared, cooked, and served immediately or (2) prepared, cooked, and time- or temperature-controlled for safety and may require hot or cold holding, but not cooling

Table 1 (Continued)

<i>Classification</i>	<i>Under Existing DPH Regulations (Conn. Agencies Regs., § 19-13- B42(s)(3))</i>	<i>Under the Act</i>
Class 3 establishment	Food establishment that prepares potentially hazardous food by hot processes and serves it within four hours of cooking it	Retail food establishment (1) that does not serve a population that is highly susceptible to food-borne illness and (2) has an extensive food menu, many of which are time- or temperature-controlled for safety and require complex preparation (e.g., cooking, cooling, handling, and reheating for hot holding or raw ingredients)
Class 4 establishment	Food establishment that prepares potentially hazardous food by hot processes and may hold it for more than four hours before serving it	Retail food establishment (1) serving a population highly susceptible to food-borne illnesses (e.g., preschool students or hospital or nursing home patients) or (2) conducting specialized food processes (e.g., smoking or curing)

Starting July 1, 2018, the act requires food establishments to be inspected as follows:

1. Class 1 establishments, at least once every 360 days;
2. Class 2 establishments, at least once every 180 days;
3. Class 3 establishments, at least once every 120 days; and
4. Class 4 establishments, at least once every 90 days.

(Existing DPH regulations provide the same inspection schedule.)

The act requires temporary food establishments to be inspected before a permit is issued and as often as necessary to ensure their compliance with the FDA Food Code.

Existing DPH regulations require inspection forms to be scored based on point values assigned for all compliance requirements. The FDA Food Code instead requires inspection forms to list the number of “priority,” “priority foundation,” and “core” violations identified during the inspection (see BACKGROUND).

Certified Food Protection Managers

Existing DPH regulations require anyone who owns, operates, or manages a Class 3 or Class 4 food service establishment to be a qualified food operator or employ one on-site in a supervisory position at the establishment. The qualified food operator must be trained by a DPH-approved testing organization, pass an exam, and ensure that food preparation personnel are trained in food safety.

Starting January 1, 2018, the act instead requires Class 3 and Class 4 food establishments to employ a “certified food protection manager” and extends the requirement to Class 2 establishments. To be designated as such, the person must pass an exam that is part of a certification program evaluated and approved by an accrediting agency recognized by the Conference for Food Protection (see BACKGROUND). The act also requires a certified food inspector to verify the food protection manager’s certification when inspecting the establishment.

Similar to existing DPH regulations, the act specifies that the certified food protection manager requirements do not prohibit the sale or distribution of food at certain bed-and-breakfast establishments and various noncommercial functions, such as bake sales or potluck suppers at educational or religious organizations.

Appeal of Inspection Violation Orders

Similar to existing DPH regulations, the act allows a food establishment’s owner or operator to appeal to the local health director if aggrieved by an order to (1) correct inspection violations a food inspector identified or (2) hold, destroy, or dispose of unsafe food. The appeal must be made within 48 hours after the order is issued.

The health director must review the appeal request and may vacate, modify, or affirm the order. If the health director affirms the order, he or she must order the corrective actions the food inspector specified.

The act allows the owner or operator to appeal to DPH if he or she is aggrieved by the local health director's affirmed or modified order, including an order to suspend the food establishment's license or permit to operate. The owner or operator must appeal within three business days after receiving the order. During the appeal, the order remains in effect until the DPH commissioner orders otherwise.

Investigations of Food-Borne Illness or Outbreak

Similar to current practice, the act requires a local health director who has reasonable cause to suspect a possible food-borne illness or outbreak to investigate and take action to control it. Actions may include (1) securing employee morbidity histories, (2) requiring medical or laboratory examinations of employees, (3) modifying a menu, or (4) any other restriction or action the director deems necessary.

Any person who violates the act, provides false information during an investigation, or refuses to cooperate or otherwise impedes an investigation is guilty of a class C misdemeanor (see Table on Penalties).

Announcements Regarding Food-Borne Illness or Outbreak

Notwithstanding state law, the act permits the DPH commissioner to announce to the public, at his sole discretion, the identity of a food establishment that was the source of a food-borne illness or outbreak. The commissioner may do so if DPH verified the outbreak or illness for the purpose of reducing associated morbidity and mortality. He must also make every effort to limit the disclosure of personally identifiable health data to the minimal amount necessary to accomplish this purpose.

Other Provisions

Similar to existing DPH regulations, the act:

1. requires, starting July 1, 2018, (a) food inspectors to obtain certification from DPH after meeting specified education and training requirements and (b) certified food inspectors to inspect food establishments as prescribed by the DPH commissioner and
2. exempts from the certified food manager requirements (a) soup kitchens staffed exclusively by volunteers, (b) volunteers serving meals from a nonprofit organization, and (c) people serving meals prepared under a certified food protection manager's supervision at federally funded elderly congregate meal sites.

The FDA Food Code, similar to existing DPH regulations, addresses topics such as (1) sanitation of places where food is stored, prepared, or served; (2) requirements for equipment and utensils; (3) use of chemicals; and (4) personnel management and training.

Public Health Code Variances for Sous Vide and Acidification of Sushi Rice

Notwithstanding the law, the act allows a food service establishment to request from the DPH commissioner a variance from Public Health Code requirements in order to (1) use the sous vide cooking technique and (2) acidify sushi rice, as an alternative to temperature control. An establishment may make such a request only from the date the act passed until June 30, 2018.

The commissioner must review a request for such a variance and notify the food establishment of the request's status within 30 days after receiving it. Under the act, the commissioner may grant the variance if he determines that it would not result in a health hazard or nuisance.

Repealers

The act makes conforming changes by repealing statutory provisions on (1) displaying signs in food establishments on the signs of choking, (2) allowing food establishments to use the sous vide cooking technique, and (3) allowing restaurants and catering establishments to acidify sushi rice as an alternative to temperature control.

BACKGROUND

FDA Food Code

The FDA Food Code regulates entities that sell, manufacture, or provide food as part of their services. It establishes standards for safe food storage, handling, and preparation; inspection of food establishments, retail food operations, and institutions (e.g., child care centers and nursing homes); and training and education requirements for regulators and food establishments. The code is updated every four years. (The latest edition is 2013.)

FDA Food Code Violations

Under the FDA Food Code, inspection violations are generally categorized as “priority,” “priority foundation,” or “core” items. Priority violations have a direct connection to preventing, eliminating, or reducing food-borne illness or injury. Priority foundation items require specific actions, equipment, or procedures by an establishment’s management to control risk factors such as personnel training, documentation, and labeling. Core items are typically related to general sanitation and operating procedures, equipment design, and general maintenance, among other things. Both priority and priority foundation violations generally must be corrected at the time of inspection.

Conference of Food Protection

The Conference of Food Protection is a nonprofit organization that provides a formal process for food industry, regulatory, academic, consumer, and professional organizations to make recommendations on federal food safety laws and regulations. Its executive board includes representatives of (1) state and local food regulatory agencies from each of the FDA regions; (2) the U.S. Department of Agriculture, Centers for Disease Control and Prevention, and FDA; (3) the food industry; (4) academic institutions; and (5) consumers.

PA 17-94—sSB 903

Public Health Committee

AN ACT CONCERNING EDUCATIONAL AND PROFESSIONAL STANDARDS FOR PROFESSIONAL COUNSELORS

SUMMARY: This act establishes new qualifications for professional counselor licensure, starting in 2019. For example, it requires applicants to have a graduate degree from a (1) program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) or (2) regionally accredited program and meet other requirements similar to existing CACREP standards (e.g., a practicum and a clinical internship of specified hours).

The act also requires that (1) an applicant’s postgraduate degree experience occur over at least a two-year period, rather than at least one year as under existing requirements, and (2) the supervisor of that experience be licensed in Connecticut.

In some circumstances, the act allows applicants who were enrolled in a graduate program on or before July 1, 2017 to apply for licensure under the existing requirements when the new requirements take effect in 2019.

Starting in 2018, the act also requires professional counselors’ continuing education to include three contact hours in professional ethics annually.

EFFECTIVE DATE: October 1, 2017

§§ 1 & 3 — QUALIFICATIONS FOR PROFESSIONAL COUNSELOR LICENSURE

The act generally sets forth new qualifications for professional counselor licensure, starting on January 1, 2019. Tables 1 and 2 describe the existing requirements and the act’s new requirements for (1) education and coursework and (2) postgraduate degree professional counseling experience.

Table 1: Required Graduate Degree and Coursework

<i>Requirements until January 1, 2019</i>	<i>Requirements starting January 1, 2019</i>
<p>Master’s or doctoral degree in social work, marriage and family therapy, counseling, psychology, or a related mental health field, from a regionally accredited higher education institution, and</p> <p>60 graduate semester hours in counseling or a related field at such a regionally accredited institution, including coursework in each of the following:</p> <ul style="list-style-type: none"> • human growth and development • social and cultural foundations • counseling theories and techniques or helping relationships • group dynamics • processing and counseling • career and lifestyle development • appraisals or tests and measurements for individuals and groups • research and evaluation • professional orientation to counseling 	<p>Graduate degree in clinical mental health counseling from a program accredited by CACREP or a successor organization. (For most specialty areas, CACREP requires 60 graduate semester hours. CACREP requires programs to cover eight common core areas, many of which overlap with the topics below. CACREP also requires a 100-hour practicum and 600-hour internship.)</p> <p>Alternatively, a prospective licensee must satisfy the following requirements:</p> <p>(1) Graduate degree in counseling or a related mental health field (defined as social work, marriage and family therapy, or psychology) from a regionally accredited higher education institution;</p> <p>(2) 60 graduate semester hours in counseling or a related mental health field at such a regionally accredited institution, including coursework in each of the following:</p> <ul style="list-style-type: none"> • human growth and development • social and cultural foundations • counseling theories • counseling techniques • group counseling • career counseling • appraisals or tests and measurements to individuals and groups • research and evaluation • professional orientation to mental health counseling • addiction and substance abuse counseling • trauma and crisis counseling • diagnosis and treatment of mental and emotional disorders; <p>(3) 100-hour practicum in counseling; and</p> <p>(4) 600-hour clinical mental health counseling internship.</p> <p>The practicum and internship must each be taught by a faculty member licensed or certified as a professional counselor or its equivalent in another state.</p>

Table 2: Required Postgraduate Degree Professional Counseling Experience

<i>Requirements Until January 1, 2019</i>	<i>Requirements Starting January 1, 2019</i>
<p>3,000 hours of supervised experience over at least a one-year period</p> <p>Must include at least 100 hours of direct supervision by a professional counselor, psychiatrist, psychologist, advanced practice registered nurse (APRN) certified as a clinical specialist in adult psychiatric and mental health nursing by the American Nurses Credentialing Center, marital and family therapist, or clinical social worker</p> <p>The supervisor must be (1) licensed in Connecticut or (2) licensed or certified in another jurisdiction with practice requirements substantially similar to, or higher than, those in Connecticut</p>	<p>3,000 hours of experience under professional supervision over at least a two-year period</p> <p>Must include at least 100 hours of experience under “direct professional supervision” (see definition below under <i>Supervision Requirement</i>)</p> <p>Professional supervision must be from the same list of professionals as under the existing requirements, with two exceptions:</p> <p>(1) the supervisor must be licensed in Connecticut and</p> <p>(2) if the supervisor is an APRN, he or she must be certified as a psychiatric and mental health clinical nurse specialist or nurse practitioner (instead of certified as a clinical specialist in adult psychiatric and mental health nursing)</p>

Under the existing requirements and the act, an applicant also generally must pass an examination prescribed by the Department of Public Health (DPH) commissioner.

As under the existing requirements, the act allows applicants licensed or certified outside Connecticut to substitute three years of such work experience for the act’s requirements of post-degree supervised experience. The act also continues to allow for licensure by endorsement under specified conditions.

Supervision Requirement

Under the act’s new requirements, an applicant’s postgraduate degree supervised professional counseling experience must include 100 hours of experience under “direct professional supervision.” The act defines this term as face-to-face consultation between one supervisor and the individual, consisting of at least a monthly review with the supervisor’s written evaluation and assessment of the individual’s practice. The supervisor must be a state-licensed professional who is a professional counselor, psychiatrist, psychologist, APRN certified as a psychiatric and mental health clinical nurse specialist or nurse practitioner, marital and family therapist, or clinical social worker.

Exception for Certain Applicants

The act’s changes to licensure qualifications apply on and after January 1, 2019. But in certain circumstances, the act allows an applicant to apply for licensure under the existing requirements after that date. This is the case if the applicant:

1. on or before July 1, 2017, was a matriculating student in good standing in a graduate program at a regionally accredited higher education institution in one of the fields that qualified under the existing requirements and
2. cannot reasonably complete the existing requirements before January 1, 2019, as determined by the DPH commissioner.

§ 2 — CONTINUING EDUCATION

Existing law requires the DPH commissioner to adopt regulations on professional counselors’ continuing education, including certain mandatory topics. Under the act, the regulations must require at least three contact hours on professional ethics each annual registration period, starting on and after January 1, 2018.

Existing regulations generally require professional counselors to complete 15 contact hours of continuing education during each annual registration period, starting with the second license renewal (Conn. Agency Regs., §§ 20-195cc-2 and -6).

BACKGROUND

CACREP Accreditation Standards

CACREP accredits master's level and doctoral programs in counseling and related specialties. The 2016 CACREP accreditation standards comprise six sections, including:

1. the learning environment,
 2. professional counseling identity (including the curriculum and the eight core content areas),
 3. professional practice (including practicum and internship requirements),
 4. evaluation in the program,
 5. entry-level specialty areas, and
 6. doctoral standards for counselor education and supervision.
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PA 17-95—SB 904

Public Health Committee

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS REGARDING FACILITIES GUIDELINES FOR TECHNICAL REVIEW OF FACILITY CONSTRUCTION AND RENOVATION

SUMMARY: This act requires a health care institution planning a construction or building alteration project to provide the project plan to the Department of Public Health (DPH) for review.

The project must comply with DPH-approved, nationally established facility guidelines for health care construction in effect when the institution submits the plan to the department. Under the act, the DPH commissioner must post a reference to the guidelines, including their effective date, on the department's website. Institutions are not required to include in the plan any matters outside the scope and applicability of the guidelines.

By law, these projects must comply with state health care facility licensing laws and regulations and Connecticut's public health, building, and fire codes, among other requirements.

Under existing law, DPH charges a fee for technical assistance it provides for the design, review, and development of a health care institution's construction, renovation, sale, or ownership change. The fee is \$565 for projects costing \$1 million or less and 0.25% of the total construction cost for projects that cost more than \$1 million.

EFFECTIVE DATE: October 1, 2017

BACKGROUND

Health Care Institutions

By law, a health care institution is a public or private institution or agency licensed or certified by the state to provide health care. It includes, among other things, a hospital, nursing home, residential care home, home health care agency, assisted living facility, hospice program, substance abuse treatment facility, outpatient clinic, and outpatient surgical center (CGS § 19a-490).

PA 17-112—sHB 5764

Public Health Committee

AN ACT CONCERNING THE LICENSING OF BARBERS AND HAIRDRESSERS

SUMMARY: This act exempts barbers, hairdressers, and cosmeticians from having to submit to a state or national criminal history records check as a prerequisite to state licensure. It also prohibits the Department of Public Health (DPH) from taking the following actions with respect to an applicant for a barber or a hairdresser and cosmetician license solely because he or she was found guilty or convicted of a felony: (1) denying an application for licensure by examination or endorsement, (2) denying reinstatement of a license, or (3) issuing a conditional license.

By law, a person must be licensed by DPH to practice these occupations.
EFFECTIVE DATE: October 1, 2017

PA 17-115—sHB 6012
Public Health Committee

AN ACT CONCERNING CONSUMER PROTECTION IN EYE CARE

SUMMARY: This act prohibits optometrists and ophthalmologists (providers) from:

1. using information obtained from a test using a “remote refractive device” (such as a smartphone app) as the sole basis for issuing or renewing an initial prescription for contact lenses and
2. issuing or renewing an initial prescription for contact lenses without having performed an in-person evaluation and eye examination of the patient.

The act applies to prescriptions for any contact lenses, whether used for corrective, therapeutic, or cosmetic purposes.
EFFECTIVE DATE: October 1, 2017

DEFINITIONS

The act defines a “remote refractive device” as automated equipment or an application designed for use on a telephone, computer, or internet-based device that can be used in person or remotely to test the eyes’ refractive status.

An “eye examination” is a physical assessment of a patient’s ocular health and visual status that may include, but may not consist solely of, objective refractive data generated by an automated testing device, including a remote refractive device, to establish a medical diagnosis or for correcting vision disorders.

An “initial prescription” is a provider’s handwritten or electronic contact lens prescription, as defined in federal law (15 U.S.C. § 7610), that the provider issues the first time he or she fits a patient with a contact lens. Federal law specifies the information that must be included in the prescription.

PA 17-128—HB 7169
Public Health Committee

AN ACT CONCERNING PSYCHOLOGY TECHNICIANS

SUMMARY: This act makes various changes to the law that allows psychology technicians with specified qualifications to provide psychological testing services under a psychologist’s supervision. The act:

1. establishes certain requirements for the supervising psychologist, such as verifying the technician’s credentials and remaining on-site while the technician is providing services;
2. specifically adds psychometrics to the qualifying fields for a technician’s college degree;
3. modifies exemptions from this law, such as exempting psychology doctoral students under certain conditions; and
4. makes minor and technical changes, including clarifying that the scope of a technician’s allowable activities include obtaining and documenting a patient’s test responses according to predetermined and manualized administrative procedures (§ 1(b)).

EFFECTIVE DATE: October 1, 2017

PSYCHOLOGY TECHNICIANS

Supervising Psychologist

Existing law allows psychology technicians to provide objective psychological or neuropsychological testing services under the supervision and direction of a psychologist. The act requires the supervising psychologist to remain in the facility where the technician is providing such services and be available to the technician during that time. It allows a psychologist to supervise a maximum of three technicians providing services at the same time.

The act also requires supervising psychologists to:

1. verify that technicians meet the qualifications under existing law and the act before agreeing to supervise them;
2. maintain documentation of this verification, including the dates when the technicians completed the required educational and supervised work experience requirements; and
3. make this documentation available to the Department of Public Health upon request.

Degree Requirement

Existing law requires a psychology technician to have a bachelor's or graduate degree in psychology or another mental health field. The act specifies that a degree in psychometrics (the science of measuring mental capacities and thought processes, such as through testing) satisfies this requirement.

By law, unchanged by the act, a psychology technician also must complete at least 80 hours of specified training conducted by a licensed psychologist.

Exemptions

Under prior law, individuals enrolled in a psychology technician educational program acceptable to the American Psychological Association were exempt from the psychology technician law if their activities and services were incidental to the course of study. The act eliminates this exemption.

Instead, it exempts individuals enrolled in a psychology doctorate program approved by the state Board of Examiners of Psychologists if providing psychological testing under a psychologist's supervision and the activities are incidental to the degree program.

The act also exempts school psychologists and school psychological examiners certified as such by the State Board of Education. Existing law prohibits psychology technicians from administering tests in educational institutions.

PA 17-146—sHB 7222

Public Health Committee

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S VARIOUS REVISIONS TO THE PUBLIC HEALTH STATUTES

SUMMARY: This act makes various changes in Department of Public Health (DPH)-related statutes and programs. For example, it:

1. allows DPH to extend the 60-day period for which a long-term care facility may conditionally employ a job applicant if the department needs additional time to review an applicant's request to waive a disqualifying offense on his or her background check and
2. requires (a) certain stroke-certified hospitals to annually report to DPH an attestation of their certification and (b) DPH to annually post a list of these hospitals on its website, send the list to the medical director of each Connecticut emergency medical services (EMS) provider, and adopt a nationally recognized stroke triage assessment tool and pre-hospital care stroke protocols.

The act also changes laws affecting various licensed (1) institutions, including microbiological and biomedical biosafety labs and outpatient dialysis units and (2) health care professionals, including alcohol and drug counselors, dentists, dental assistants, dental hygienists, embalmers and funeral directors, lead abatement and asbestos professionals, marital and family therapists, occupational therapy assistants, professional counselors, and psychologists.

And it makes changes concerning birth defect surveillance; newborn screening; crematories; DPH's lead poisoning prevention report; "do not resuscitate" orders; equipment purchases for children with disabilities; the Head Start Collaboration Office; medication administration by certain unlicensed personnel; school board reports on asthma; semipublic and private residential wells; household and small commercial subsurface sewage disposal systems; and smoking and electronic cigarette regulation.

Finally, the act makes changes in various boards, committees, councils, and task forces, including the Advisory Board for Persons Who Are Deaf and Hard of Hearing; Interagency and Partnership Advisory Panel on Lupus; Medical Records Task Force; Rare Disease Task Force; Mobile Integrated Health Care Program Working Group; PANDAS/PANS Advisory Council; Psychiatry Workforce Task Force; Public Health Preparedness Advisory Committee; Quality of Care Advisory Committee; School-Based Health Center Advisory Committee; and Women, Infants, and Children Advisory Council.

A section-by-section summary appears below.

EFFECTIVE DATE: October 1, 2017, except as otherwise noted.

§ 1 — HEALTH CARE FACILITY LICENSURE APPLICATION FEES

The act requires applicants for health care facility licensure to submit the required fee to DPH along with their license application.

Under existing law, health care facilities licensed by DPH must pay fees for licensure and inspection. The fee amount and inspection frequency depend on the type of institution.

§ 2 — OUTPATIENT DIALYSIS UNITS

Under existing law and regulations, DPH licenses outpatient dialysis units. The act defines this term in statute, codifying a similar definition found in existing regulations (Conn. Agencies Regs., § 19-13-D55a). Thus, it defines an outpatient dialysis unit as an:

1. out-of-hospital outpatient dialysis unit licensed by DPH to provide (a) outpatient services to persons requiring dialysis on a short-term basis or for a chronic condition or (b) training for home dialysis, or
2. in-hospital dialysis unit that is a special unit of a licensed hospital designed, equipped, and staffed to (a) offer dialysis therapy on an outpatient basis, (b) provide training for home dialysis, and (c) perform renal transplantations.

§§ 3 & 4 — DENTAL HYGIENIST CONTINUING EDUCATION

The act requires dental hygienists to complete at least one contact hour of training or education in cultural competency every two years as part of existing continuing education requirements. The requirement applies to registration periods beginning on and after October 1, 2017.

Under existing law, starting with their second license renewal, dental hygienists generally must complete 16 hours of continuing education every two years. The act specifies that they must complete 16 “contact hours,” with a contact hour consisting of at least 50 minutes of continuing education activity.

§ 5 — SCHOOL BOARD REPORTS ON ASTHMA

The act reduces, from annually to once every three years, the frequency with which local and regional boards of education must report to the local health department and DPH on the number and certain demographic characteristics of pupils per school and in the district diagnosed with asthma. It also changes the due date of the report, from February 1 to October 1. By law, the boards must report this number for students with this diagnosis (1) on enrollment, (2) in grade six or seven, and (3) in grade 10 or 11.

§ 6 — DO NOT RESUSCITATE ORDERS

The act adds a statutory definition of “do not resuscitate” (DNR) orders. It defines this term as an order written by a licensed physician or advanced practice registered nurse for a particular patient to withhold (1) cardiopulmonary resuscitation (CPR), including chest compressions, defibrillation, or breathing, or (2) ventilation by any assistive or mechanical means, such as mouth-to-mouth, bag-valve mask, endotracheal tube, or ventilator.

Existing law requires DPH to adopt regulations to provide for a system governing the recognition and transfer of DNR orders.

§ 7 — SUMMARY DISCIPLINARY ACTION

The act allows DPH and its professional licensing boards and commissions to take summary disciplinary action against the license or permit of a practitioner who is subject to disciplinary action by the federal government.

As with other cases of summary action under existing law, DPH or the board or commission must promptly notify the practitioner of the action and bring formal revocation proceedings within 90 days after the notification.

§ 8 — SUPERVISION OF OCCUPATIONAL THERAPY ASSISTANTS

By law, an occupational therapy assistant must work under the supervision of, or in consultation with, a licensed occupational therapist. The act defines “supervision” as an occupational therapist’s oversight of, or participation in, the work of an occupational therapist assistant, including:

1. continuous availability of direct communication between the assistant and the therapist;
2. availability of the therapist on a regularly scheduled basis to review the assistant’s practice and support the assistant in the performance of his or her services; and
3. a plan for emergency situations, including designating an alternate licensed occupational therapist to oversee or participate in the assistant’s work in the regular therapist’s absence.

The act also makes technical changes to the definition of “occupational therapy.”

§§ 9-11 — MARRIAGE AND FAMILY THERAPISTS, PROFESSIONAL COUNSELORS, AND PSYCHOLOGY STUDENTS

By law, students who graduate with advanced degrees in marital and family therapy (MFT) or psychology may practice without a license in order to complete the supervised work experience required for licensure, but only if supervised by a person licensed in their respective profession. The act extends this exemption to graduates pursuing professional counseling licensure.

The act also limits the length of time in which the graduates in these professions may practice in this unlicensed capacity. For professional counselors and psychologists, they may only do so until they are notified that they failed the respective licensing examination or one year after completing the supervised work experience, whichever occurs first. For marital and family therapists, the act does not specify that the exemption ends on the earlier of these two dates.

§ 12 — DPH EQUIPMENT PURCHASES FOR CHILDREN WITH DISABILITIES

Prior law allowed DPH to purchase, within available appropriations, wheelchairs and placement equipment for children with disabilities without going through the Department of Administrative Services’ normal purchasing procedures, provided the (1) cost of an individual item did not exceed \$6,500 and (2) purchases were made on the open market and, when possible, through competitive bidding.

The act instead allows DPH and its contractors to purchase, within available appropriations, medically necessary and appropriate durable medical equipment and other DPH-approved goods and services. Such goods and services must be identical to those covered under the state’s Medicaid and HUSKY programs and payment cannot exceed the state Medicaid payment rate for the goods and services.

§ 13 — BIRTH DEFECT SURVEILLANCE PROGRAM

The act modifies DPH’s birth defect surveillance program. By law, specified licensed health care providers must report to DPH within 48 hours after learning that a child has a birth defect. The act limits the population for which this information must be reported to children under age one born in Connecticut, instead of all children under age five. It also limits the reporting requirement to physicians, physician assistants (PA), advanced practice registered nurses (APRN), registered nurses (RN), and nurse midwives (“licensed health care professionals”). Prior law also required chiropractors, naturopaths, and podiatrists to report this information.

Birth Defect Screening

The act requires each child born in Connecticut to have a birth defects screening by a licensed health care professional before being discharged from the hospital. The hospital's administrator must enter the screening results in DPH's birth defects registry as directed by the DPH commissioner. This registry is located in the department's newborn screening system for genetic and metabolic disorders.

Notification Requirements

As under existing law, licensed health care professionals must report to DPH the nature of the child's birth defect and any other information the department reasonably requires. The act also requires DPH to post the notification form on its website and, as under existing law, to keep each notification for at least six years after receiving it.

The act removes the requirement that DPH provide a copy of the notification to the State Board of Education within 10 days.

Access to Hospital Records

The act grants the DPH commissioner access, on his request, to hospital discharge records for newborn infants born in Connecticut, including their identifying information. But the commissioner may only use the identifying information for the purposes of the birth defects surveillance program.

Hospitals must also make available to DPH, on request, the medical records of patients diagnosed with a birth defect or other adverse reproductive outcomes for research and data verification purposes.

Confidentiality of Information

The act specifies that all information collected from hospitals or licensed health care providers pertaining to the birth defect surveillance program, including personally identifiable information, is confidential and may only be used for the program's purposes. Access to the information is limited to DPH and people the commissioner determines have valid scientific interest and qualifications if they:

1. are engaged in demographic, epidemiologic, or other similar health-related studies and
2. agree in writing to maintain the confidentiality of the information.

Newborn Screening System Records

The act requires the DPH commissioner to maintain an accurate record of people given access to information in its newborn screening system. The record must be publicly available during DPH's normal operating hours and include the (1) name, title, and organizational affiliation of people given access; (2) dates of such access; and (3) specific purpose for which they used the information.

Routine Analysis and Statistics

The act requires the DPH commissioner to use information collected from the birth defect surveillance program and information available from other sources to determine if there were any preventable causes of the birth defects of which DPH was notified.

It also allows the commissioner to publish statistical compilations of birth defects or other adverse reproductive outcomes that do not identify individual cases or individual information sources.

Proposed Research

The act requires the DPH commissioner to review and approve all proposed research that will (1) use personally identifiable information in DPH's newborn screening system or (2) require contact with affected individuals.

§ 14 — NEWBORN SCREENING FOR CRITICAL CONGENITAL HEART DISEASE

By law, all health care institutions caring for newborn infants must test them for critical congenital heart disease, unless the infant's parents object on religious grounds. Starting January 1, 2018, the act requires the health care institution's administrator to enter the screening test results into DPH's newborn screening system for genetic and metabolic disorders.

§ 15 — SEMI-PUBLIC AND PRIVATE RESIDENTIAL WELLS

Testing Wells in Connection with Home Sales

The act requires an environmental laboratory that tests the water quality of a semipublic or private residential well in connection with a home's sale to report the results to DPH and the local health department within 30 days after completing the test. Prior law required the laboratory to report the information only if the well was tested by the seller or purchaser within six months of the home's sale.

By law, local health districts and departments oversee semipublic and private residential wells and owners are responsible for maintaining the well and testing the quality of their drinking water. State regulation requires water quality tests for newly constructed wells, but neither state law nor regulation requires an existing well to be tested as a condition of selling a home.

Bulk Water Transport

The act allows only a licensed bulk water hauler to transport water that will be used for drinking or domestic purposes to a premises currently supplied by a semipublic or private well. It prohibits a bulk water hauler from making such a delivery without first notifying the owner of the premises. And it only allows such a delivery as a temporary measure to alleviate a water supply shortage.

§ 16 — CREMATORY LOCATION

Starting July 1, 2017, the act prohibits locating a new crematory within 500 feet of residential structures or land unless the crematory's owner also owns the property. Existing law allows crematories on an established cemetery with at least 20 acres if it has been operating for at least five years. It also allows them in other locations approved by a town's zoning commission, chief elected official, or legislative body.

EFFECTIVE DATE: July 1, 2017

§ 17 — QUALITY OF CARE ADVISORY COMMITTEE

The act eliminates the requirement for the Quality of Care Advisory Committee to meet on a semiannual basis. Instead, it allows the committee to meet at the DPH commissioner's discretion.

By law, the committee advises the commissioner on various issues within DPH's quality of care program, such as selecting patient satisfaction survey measures and ways to reduce medical error.

§ 18 — PUBLIC HEALTH PREPAREDNESS ADVISORY COMMITTEE

By law, the DPH commissioner must establish a Public Health Preparedness Advisory Committee. The act specifies that the committee's purpose is to advise DPH on responses to public health emergencies.

The act removes an obsolete provision that required the advisory committee to develop a public health emergency response plan and annually report to the Public Health and Public Safety committees on its status and the resources needed to implement it. The act instead allows the advisory committee to meet at the DPH commissioner's request to review the plan and other matters the commissioner deems necessary.

By law, the advisory committee consists of the DPH and Department of Emergency Services and Public Protection commissioners; the six top legislative leaders; the chairs and ranking members of the Public Health, Public Safety, and Judiciary committees; representatives of municipal and district health directors appointed by the DPH commissioner; and any other organizations or individuals the DPH commissioner deems relevant to the effort.

§ 19 — BACKGROUND CHECKS FOR LONG-TERM CARE FACILITY WORKERS

By law, long-term care facilities must require people who will have direct access, or provide direct service, to patients or residents to undergo federal and state criminal history records checks (“background check”). Facilities are generally prohibited from hiring or contracting with these individuals (1) before receiving the DPH notice of the background check results or (2) if a search reveals a disqualifying offense (e.g., conviction or substantiated finding of abuse or neglect), unless DPH grants a waiver.

But the law allows a facility to offer conditional, supervised employment for up to 60 days while waiting for DPH’s notification. The act allows DPH to extend the 60-day period to give the department time to review an individual’s written request to waive a disqualifying offense.

Existing law, unchanged by the act, allows an individual to submit a waiver request to DPH within 30 days after being notified that he or she has a disqualifying offense. DPH then has 15 days to mail a written determination, unless the individual challenges the accuracy of the background search information. In that case, the 15-day deadline does not apply.

§ 20 — MICROBIOLOGICAL AND BIOMEDICAL BIOSAFETY LABS

Registration Fee

The act establishes a \$400 biennial registration fee for microbiological and biomedical biosafety laboratories and exempts federally and state-operated laboratories from the fee. Previously, DPH registered and inspected these laboratories every two years, but did not charge a fee to do so.

Definitions

The act also updates statutory definitions related to microbiological and biomedical biosafety laboratories to reflect current federal Centers for Disease Control and Prevention and National Institutes of Health guidelines by:

1. adding definitions for “microbiological and biomedical safety laboratory” and “biolevel-two microbiological and biomedical biosafety laboratory” and
2. updating the definition of “biolevel-three laboratory” and renaming it “biolevel-three microbiological and biomedical biosafety laboratory.”

The act defines a “microbiological and biomedical biosafety laboratory” as one that (1) utilizes any living agent capable of causing a human infection or reportable human disease or (2) is used to secure evidence of the presence or absence of such a living agent for purposes of teaching, research, or quality control of the disease or infection.

Prior law defined a biolevel-three laboratory as one (1) designed and equipped as such under federal guidelines and (2) operated by a higher education institution. The act expands the definition to also include such a laboratory operated by another research entity. It also specifies that these laboratories must handle agents that (1) have a known potential for aerosol transmission, (2) may cause serious and potentially lethal human infections or diseases, and (3) are either indigenous or exotic in origin.

Additionally, the act defines a “biolevel-two microbiological and biomedical biosafety laboratory” as one that presents a moderate hazard to personnel of exposure to an infection or disease and utilizes agents associated with human infection or disease.

§ 21 — WOMEN, INFANTS, AND CHILDREN (WIC) ADVISORY COUNCIL

The act eliminates the WIC Advisory Council. Prior law required the council to advise DPH on issues concerning increased participation in and access to WIC supplemental food services. (In practice, the council was already defunct.)

§ 22 — ALCOHOL AND DRUG COUNSELORS

The act specifies that a licensed alcohol and drug counselor may provide counseling services to a person diagnosed with a co-occurring mental health condition other than alcohol and drug dependency if such counseling is within the licensee’s scope of practice.

EFFECTIVE DATE: Upon passage

§ 23 — RARE DISEASE TASK FORCE

PA 15-242 created a task force to study rare disease research, diagnoses, treatment, and education and make recommendations for establishing a permanent group of experts to advise DPH on rare diseases.

The act adds the Public Health Committee chairpersons, or their designees, to the task force. It also extends the task force reporting deadline from January 1, 2016 until January 1, 2018.

EFFECTIVE DATE: Upon passage

§ 24 — EMBALMERS AND FUNERAL DIRECTORS

Under certain conditions, the act prohibits DPH and the Connecticut Board of Examiners of Embalmers and Funeral Directors from taking disciplinary action against a licensee notified on or before October 1, 2017 that his or her score on the national board examination was invalidated. The prohibition applies only (1) to discipline based on the invalidation of the exam score and (2) if the licensee retakes and passes the exam by October 1, 2018.

Under the act, if a licensee is subject to the above provisions and fails to timely retake and pass the exam, his or her license is annulled, subject to the Uniform Administrative Procedure Act.

§§ 25-27 — ADVISORY BOARD FOR PERSONS WHO ARE DEAF OR HARD OF HEARING

PA 17-30 renamed the Commission on the Deaf and Hearing Impaired as the “Advisory Board for Persons Who are Deaf or Hard of Hearing.” It also changed the board’s membership from 21 members (including three non-voting members and seven state agency heads) to 15 members, all of whom are voting members appointed by the governor.

The act increases the membership from 15 to 16 by adding the director of the Connecticut chapter of We the Deaf People. It also increases, from eight to nine, the number of voting members needed for a quorum and makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

§ 28 — LEAD POISONING PREVENTION REPORT

The act changes, from January 1 to October 1, the deadline for DPH’s annual report to the Public Health and Human Services committees on lead poisoning prevention efforts.

EFFECTIVE DATE: Upon passage

§ 29 — SCHOOL-BASED HEALTH CENTER ADVISORY COMMITTEE

By law, the School-Based Health Center Advisory Committee must advise the DPH commissioner on (1) statutory and regulatory changes to improve health care access through school-based health centers and expanded school health sites and (2) minimum standards for providing services at these centers and sites to ensure delivery of high quality health care services. The act also requires the committee to advise the commissioner on other topics the commissioner deems relevant.

EFFECTIVE DATE: Upon passage

§ 30 — HOUSEHOLD AND SMALL COMMERCIAL SUBSURFACE SEWAGE DISPOSAL SYSTEMS

The act increases the size of subsurface disposal systems (generally, septic systems) over which DPH and local health departments, rather than the Department of Energy and Environmental Protection (DEEP), have jurisdiction, from a maximum capacity of 5,000 gallons per day to a maximum of 7,500 gallons per day.

Under existing law, DEEP delegates to the DPH commissioner authority to issue permits and approvals for household and small commercial subsurface disposal systems. DPH must establish minimum requirements for such systems in regulations and procedures for local health directors or sanitarians to issue permits or other approvals. The act provides that, notwithstanding any other laws or regulations, the regulations in effect as of July 1, 2017 apply to household and small commercial subsurface sewage disposal systems with a daily capacity of up to 7,500 gallons.

EFFECTIVE DATE: July 1, 2017

§§ 31 & 32 — MEDICATION ADMINISTRATION BY UNLICENSED PERSONNEL

Existing law generally permits a registered nurse to delegate the administration of non-injected medications to homemaker-home health aides who obtain certification for medication administration and renew their certification every three years. It also requires residential care homes (RCH) that admit residents requiring medication administration assistance to employ a sufficient number of certified, unlicensed personnel to perform this function in accordance with DPH regulations.

The act requires these homemaker-home health aides and RCH unlicensed personnel who were certified by June 30, 2015 to be recertified by July 1, 2018 to continue to administer medication.

EFFECTIVE DATE: Upon passage

§§ 33 & 34 — LEAD ABATEMENT AND ASBESTOS PROFESSIONALS

The act removes provisions from PA 17-66 that permitted DPH to adopt regulations to implement the certification of certain lead abatement and asbestos professionals. Other laws already require DPH to adopt regulations on similar topics (CGS §§ 20-440 and 20-478).

EFFECTIVE DATE: July 1, 2017

§§ 35-39 — RESTRICTIONS ON SMOKING AND E-CIGARETTES

The act makes various changes affecting the regulations of smoking and e-cigarettes (i.e., electronic nicotine delivery systems and vapor products) in certain establishments and public areas. It also makes related technical and conforming changes.

Prohibited Locations

Existing law prohibits smoking and e-cigarette use in various locations, such as restaurants, health care institutions, and state buildings. The act exempts from the prohibition medical research sites where smoking and e-cigarette use is integral to the research being conducted. Existing law, unchanged by the act, also exempts various locations from the prohibition, such as correctional facilities and public housing projects.

Posting Signs in Buildings

The law requires the person in control of any building in which smoking is prohibited by state law to post or have a sign posted stating the prohibition. The act specifies that signs are not required to be in each room of a building, provided they are posted in conspicuous places.

Definition of Vapor Products

The act exempts from the statutory definition of “vapor product” a medicinal or therapeutic product used by a (1) licensed health care provider to treat a patient in a health care setting or (2) patient in any setting, as prescribed or directed by a licensed health care provider.

Under existing law, a vapor product uses a heating element; power source; electronic circuit; or other electronic, chemical, or mechanical means, regardless of shape or size, to produce a vapor the user inhales. The vapor may or may not include nicotine.

Penalties

The act exempts from fines a person who sells, gives, or delivers tobacco or e-cigarettes to a person under age 18 who delivers or accepts delivery as part of a scientific study (1) conducted by an organization for medical research purposes to further efforts in tobacco and e-cigarette use prevention and cessation and (2) approved by the organization’s institutional review board. The law already exempts anyone who sells, gives, or delivers tobacco or e-cigarettes to a person under age 18 who receives or delivers it as an employee.

Under existing law and the act, anyone who violates the above provision is subject to a maximum fine of \$200 for a first offense. The act retains the maximum fines under prior law for second and subsequent offenses, \$350 and \$500 respectively, but applies the fines to those offenses committed within 24 months of each other, rather than 18 months.

§§ 40 & 41 — CERTIFIED STROKE CENTERS AND STROKE-READY HOSPITALS

Certification Reporting Requirements

Starting by October 1, 2017, the act requires certain stroke-certified hospitals to annually report to DPH, in a form and manner the commissioner prescribes, an attestation of the certification. The requirement applies to any hospital certified as a comprehensive stroke center, primary stroke center, or acute stroke-ready hospital by (1) the American Heart Association, (2) the Joint Commission (an independent nonprofit organization that accredits and certifies hospitals and other health care organizations and programs), or (3) any other nationally recognized certifying organization.

EFFECTIVE DATE: Upon passage

Certification List

Starting by October 15, 2017, DPH must annually post a list of these stroke-certified hospitals on its website. And by January 1, 2018, it must begin annually sending the list to the medical director of each EMS provider in Connecticut. DPH must also maintain a copy of the list in its Office of Emergency Medical Services.

Under the act, DPH may remove a hospital from the list if (1) the hospital requests it; (2) the certifying organization has informed DPH that the hospital's certification is expired, suspended, or revoked; or (3) the hospital does not provide DPH with attestation of the certification by October 1.

EFFECTIVE DATE: October 1, 2017, except the requirement to post the list on the DPH website is effective upon passage.

Reporting Complaints

The act requires DPH to report to the national certifying organization any complaint it receives about a hospital's certification. If the complainant intends to pursue a complaint with that organization, DPH must also provide the complainant with the organization's name and contact information (presumably, upon the complainant's request).

EFFECTIVE DATE: Upon passage

Stroke Triage Assessment Tool

The act requires the Connecticut EMS Advisory Board, by January 1, 2018, to recommend to DPH for adoption, (1) a nationally recognized, standardized stroke triage assessment tool and (2) pre-hospital care protocols for assessing, treating, and transporting stroke patients. Within 30 days after receiving these recommendations, DPH must adopt the tool and post it and the protocols on the department's website.

The act permits the DPH commissioner to modify the assessment tool as he deems necessary. DPH must provide a copy of the tool and protocols to each EMS provider, who must then develop plans to implement them.

§ 42 — TECHNICAL CHANGE

The act makes a technical change to PA 17-6, correcting an inaccurate statutory reference.

EFFECTIVE DATE: July 1, 2017

§ 43 — DENTAL ASSISTANTS AND INFECTION CONTROL

The act delays by six months, from January 1, 2018 to July 1, 2018, the start date for certain provisions enacted in PA 16-66 on dental assistants and infection control.

Specifically, these provisions:

1. generally prohibit dentists from delegating any dental procedures to a dental assistant or expanded function dental assistant (EFDA) who has not provided the dentist a record documenting that he or she passed the Dental Assisting National Board's infection control examination (while allowing EFDAs to perform certain functions even if they do not provide such documentation),
2. allow a dental assistant to receive up to nine months of on-the-job training to prepare for the examination, and
3. require dentists who delegate procedures to a dental assistant to keep the records documenting the assistant's passing exam grade for DPH's inspection upon request.

EFFECTIVE DATE: Upon passage

§ 44 — MEDICAL RECORDS TASK FORCE

PA 16-66 created a task force to study the furnishing of medical records by health care providers and institutions. The act extends by one year the task force reporting deadline, to January 1, 2018.

EFFECTIVE DATE: Upon passage

§ 45 — MOBILE INTEGRATED HEALTH CARE PROGRAM WORKING GROUP

The act requires DPH, within available appropriations and in consultation with the Insurance and Social Services departments, to convene a working group to implement a mobile integrated health care program. The program must allow a paramedic to provide community-based health care (i.e., using patient-centered, mobile resources outside the hospital) within his or her scope of practice and make recommendations regarding non-emergency transport by EMS providers.

Under the act, the DPH commissioner must report the working group's findings and recommendations to the Human Services, Insurance, and Public Health committees by January 1, 2019.

EFFECTIVE DATE: Upon passage

Membership

The working group consists of the following members, each of whom must be appointed by the DPH commissioner by August 29, 2017:

1. one representative of the Connecticut Hospital Association, or his or her designee;
2. one chairperson of the Connecticut EMS Medical Advisory Committee, or his or her designee;
3. one licensed advanced practice registered nurse;
4. one licensed behavioral health professional;
5. one representative of the Community Health Care Association of Connecticut;
6. one representative from a primary care provider that self-identifies as an urgent care facility;
7. one representative of the Connecticut commercial health insurance industry;
8. one representative of a fire department-based EMS provider;
9. three representatives of EMS providers, one each who must (a) be a designee of the Association of Connecticut Ambulance Providers and have a background in providing ambulance services in a rural area of the state, (b) have a background in providing ambulance services in an urban area of the state, and (c) be a designee of the Connecticut EMS Chiefs' Association;
10. one representative of the Connecticut Association for Healthcare at Home;
11. one representative of a state-licensed or federally certified hospice care agency;
12. one representative of the Connecticut Nurses Association; and
13. one representative of the Connecticut College of Emergency Physicians.

Additional non-appointed working group members include the following, or their designees:

1. the director of DPH's Office of Emergency Medical Services;
2. the chair of the EMS Advisory Board;
3. the insurance, public health, and social services commissioners;
4. the Office of Policy and Management secretary; and
5. the chairpersons, vice-chairpersons, and ranking members of the Public Health Committee.

Tasks

The working group must identify:

1. areas in Connecticut that would benefit from a mobile integrated health care program because of gaps in the availability of health care services;
2. any scope-of-practice patient care interventions that a paramedic may provide;
3. any additional education or training paramedics may need to provide community-based health care;
4. any potential savings or additional costs associated with providing community health care that may be incurred by an insured or the Medicaid program;
5. any potential reimbursement issues related to health care coverage for community-based health care by a paramedic;

6. minimum criteria for implementing the mobile integrated health care program and any statute or regulation that may be impacted by the program's implementation; and
7. any successful models for such a program in another state.

Recommendations

The act requires the working group, in collaboration with the EMS Advisory Board and its Medical Advisory Committee, to make recommendations on:

1. the ability of an EMS provider to transport a patient to an alternative destination other than a hospital emergency department for health care services when established protocols dictate that the emergency department is not the most appropriate destination and
2. whether an EMS provider requires additional training for purposes of determining whether to transport a patient to an alternative destination.

§ 46 — PSYCHIATRY WORKFORCE TASK FORCE

The act establishes a 12-member task force to study the projected shortage in Connecticut's psychiatry workforce, including examining the causes of the projected shortage and potential solutions to avoid or reduce it.

By July 1, 2018, the task force must report its findings and recommendations to the Public Health Committee. The task force terminates on the date that it submits its report or July 1, 2018, whichever is later.

Under the act, the six legislative leaders each appoint two members to the task force, as shown in Table 1. Any of the appointees may be a legislator.

Table 1: Task Force Members

<i>Appointing Authority</i>	<i>Qualifications of Appointees</i>
House speaker	<ul style="list-style-type: none"> • A child and adolescent psychiatrist • A psychologist
Senate president pro tempore	<ul style="list-style-type: none"> • A psychiatrist • An individual with expertise in workforce shortages and development
House majority leader	<ul style="list-style-type: none"> • An individual with expertise in social work and counseling • A primary care provider who consults with psychiatrists
Senate majority leader	<ul style="list-style-type: none"> • An individual with expertise in recovery support • A representative of an institution that employs psychiatrists, including an inpatient psychiatric hospital, outpatient clinic, or emergency department in the state
House minority leader	<ul style="list-style-type: none"> • A physician assistant for a psychiatrist • An emergency medicine physician
Senate minority leader	<ul style="list-style-type: none"> • A psychiatric nurse practitioner • A faculty member from a department of psychiatry at a Connecticut medical school

Under the act, all task force appointments must be made no later than July 30, 2017. The appointing authority fills any vacancy.

The act requires the House speaker and Senate president to select the task force chairpersons from among its members. The chairpersons must schedule the first meeting of the task force, to be held no later than July 30, 2017.

The act requires the Public Health Committee's administrative staff to serve in that capacity for the task force.

EFFECTIVE DATE: Upon passage

§ 47 — HEAD START STATE COLLABORATION OFFICE

The act conforms the law to existing practice by placing the Connecticut Head Start State Collaboration Office within the Office of Early Childhood.

EFFECTIVE DATE: Upon passage

§ 48 — DPH INTERAGENCY AND PARTNERSHIP ADVISORY PANEL ON LUPUS AND PANDAS/PANS
ADVISORY COUNCIL

The act eliminates DPH's Interagency and Partnership Advisory Panel on Lupus. The panel has completed its charge to develop and implement a comprehensive lupus education and awareness plan. The act also eliminates the department's Advisory Council on Pediatric Autoimmune Neuropsychiatric Disorder Associated with Streptococcal Infections and Pediatric Neuropsychiatric Syndrome (PANDAS/PANS). (It appears that the council is defunct.) Under prior law, the council advised the commissioner on research, diagnosis, treatment, and education relating to these conditions and had to annually report to the Public Health Committee.

BACKGROUND

Related Acts

PA 17-202 contains identical provisions on (1) DPH equipment purchases for children with disabilities and (2) supervising occupational therapist assistants.

PA 17-151—SB 444

Public Health Committee

AN ACT AUTHORIZING THE HEALTH CARE CABINET TO RECOMMEND METHODS TO STUDY AND REPORT ON TOTAL STATE-WIDE HEALTH CARE SPENDING

SUMMARY: This act requires the state's Health Care Cabinet to advise the governor on total statewide health care spending, including methods to collect, analyze, and report health care spending data. Existing law already requires the cabinet to advise the governor on the:

1. design, implementation, actionable objectives, and evaluation of state and federal health care policies, priorities, and objectives related to Connecticut's efforts to improve health care access;
2. quality of such care; and
3. affordability and sustainability of the state's health care system.

By law, the cabinet is within the Office of the Lieutenant Governor. Its purpose is to advise the governor on the development of an integrated health care system for Connecticut.

EFFECTIVE DATE: October 1, 2017

PA 17-178—HB 7091

Public Health Committee

AN ACT CONCERNING THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES' RECOMMENDATIONS REGARDING REVISIONS TO THE PROFESSIONAL ASSISTANCE PROGRAM FOR REGULATED PROFESSIONALS

SUMMARY: This act eliminates the requirement that a health care professional notify the Department of Public Health if he or she is diagnosed with a mental illness or behavioral or emotional disorder.

Under prior law, the professional had to provide this notice within 30 days of the diagnosis. He or she could satisfy the obligation by seeking intervention with the assistance program for health professionals (currently, the Health Assistance InterVention Education Network (HAVEN)).

EFFECTIVE DATE: October 1, 2017

PA 17-179—HB 7090
Public Health Committee

AN ACT CONCERNING THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES' RECOMMENDATIONS REGARDING TRANSFER OF A PATIENT UNDER THE JURISDICTION OF THE PSYCHIATRIC SECURITY REVIEW BOARD FOR TREATMENT OR RECOVERY

SUMMARY: This act codifies existing practice by allowing the Department of Mental Health and Addiction Services (DMHAS) to transfer an “acquittee” (i.e., a person found not guilty of a crime by reason of mental disease or defect) from maximum security confinement to another facility (e.g., hospital or emergency department) for medical treatment. DMHAS may do this only if the acquittee requires medical treatment that either is unavailable in the maximum security setting or would pose a safety hazard due to the use of certain medical equipment or material.

Under the act, DMHAS must:

1. ensure that the acquittee’s custody conditions at the facility are equivalent to those of maximum security confinement,
2. provide immediate written justification to the Psychiatric Security Review Board (PSRB) upon the transfer, and
3. transfer the acquittee back to the maximum security setting after the medical treatment is completed.

By law, people found not guilty of a crime by reason of mental disease or defect are committed by the Superior Court to PSRB’s jurisdiction. At the time of commitment, DMHAS takes custody of acquittees and orders their confinement to (1) a psychiatric hospital (i.e., Connecticut Valley Hospital) or (2) the Department of Developmental Services’ custody (if they have an intellectual disability). An acquittee who the court or PSRB determines requires maximum security confinement cannot be transferred unless the psychiatric hospital or DDS commissioner has the trained and equipped staff, facilities, or security to accommodate him or her.

EFFECTIVE DATE: October 1, 2017

PA 17-188—HB 7049
Public Health Committee

AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL CHANGES TO THE PUBLIC HEALTH STATUTES

SUMMARY: This act makes technical corrections to various public health-related statutes.

EFFECTIVE DATE: October 1, 2017

PA 17-195—sHB 7171
Public Health Committee

AN ACT CONCERNING ATHLETIC TRAINERS

SUMMARY: This act expands and updates the scope of practice for athletic trainers by adding to the definition of “athletic training” in the athletic trainer licensing statutes.

It changes the term for athletic trainers’ clients, from “athletes” to “physically active individuals,” and generally includes in the definition members of sports teams or other individuals who regularly participate in sports or recreational activities and are deemed healthy by a health care provider.

Additionally, the act:

1. expands requirements for standing orders between athletic trainers and licensed health care providers to provide care and treatment to physically active individuals;
2. adds to the license renewal requirements for athletic trainers who work somewhere other than at a professional, amateur, school, or other sports organization;
3. modifies the licensure exemption requirements for athletic training students;

4. requires athletic trainers to maintain specified amounts of professional liability insurance, unless their employer maintains such insurance; and
5. requires certain athletic trainers to make their client records available, at their employer's request, for quarterly review.

The act also makes various minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2017

SCOPE OF PRACTICE

Under prior law, athletic training was the application or provision of specified services with the consent, and under the direction, of a licensed health care provider (i.e., a physician, chiropractor, podiatrist, or naturopath). The act adds advanced practice registered nurses to the list of licensed health care providers who may direct athletic trainers. It specifies that "consent and direction" means working under a (1) written prescription specifying the plan of care or treatment of musculoskeletal injury or illness or (2) standing order issued by such a provider.

The act also adds the following to the list of permissible services that athletic trainers may provide:

1. any physical agent prescribed by a health care provider (the law already allows manual therapy techniques, aquatic therapy, heat, cold, light, electric stimulation, sound, and exercise);
2. recognition of potential illness within the trainer's scope of practice, education, and training; and
3. wellness care services (e.g., biomechanics, conditioning, nutrition, and strength training) for physically active individuals who are free of underlying pathologies beyond the athletic trainer's scope of practice.

The act removes from the list of permissible services providing (1) exercise equipment and (2) temporary splinting and bracing.

Under prior law, athletic training included the principles, methods, and procedures of evaluating, preventing, treating, and rehabilitating athletic injuries. The act (1) specifies that this includes clinical evaluation and (2) adds to the definition the management, emergency care, and disposition of such injuries.

The act also specifies that athletic trainers may offer education and counseling to the community at large, not just athletic communities, on the prevention and care of athletic injuries.

Physically Active Individuals

The act renames athletic trainers' clients as "physically active individuals" instead of "athletes." Under prior law, "athletes" generally included members of sports teams or other individuals who participated in sports or recreational activities at least three times per week.

The act instead defines "physically active individuals" as those who are deemed healthy by a health care provider and are:

1. members of sports organizations;
2. regular participants in a sports activity; or
3. participants in an exercise, recreational, or employment activity that requires strength, agility, flexibility, range of motion, speed, or stamina comparable to that required of a regular participant in a sports activity.

Standing Orders

The law permits athletic trainers to provide treatment and care under the standing order of certain licensed health care providers. The act requires that such orders:

1. be followed by the athletic trainer under a health care provider's consent and direction,
2. be annually reviewed and renewed by the health care provider and athletic trainer to ensure the client's quality of care, and
3. require the availability of continuing communication between the health care provider and athletic trainer.

It also requires the order to include the following:

1. a plan for emergencies,
2. appropriate treatments for specific injuries or illnesses,
3. instructions for treating and managing concussions,
4. a list of conditions requiring the immediate referral of the client to a health care provider, and
5. a list of conditions beyond the athletic trainer's scope of practice.

The act also specifies that standing orders apply to the care and treatment of physically active individuals who (1) are members of a sports organization or (2) require emergency treatment, first aid, or care.

LICENSURE

License Renewal

The law requires an athletic trainer renewing his or her license to maintain athletic trainer certification from the Board of Certification, Inc. and pay a \$205 fee. The act requires an athletic trainer who practices somewhere other than at a professional, amateur, school, or other sports organization to also provide evidence that he or she completed:

1. the Occupational Safety and Health Administration's 10-hour outreach training program for the construction or general industries and
2. (a) at least 45 hours of direct supervision under a licensed athletic trainer or health care provider or (b) a three-credit college-level course at a nationally accredited program of higher learning on preventing, treating, and caring for workplace injuries.

Licensure Exemptions

Prior law allowed a student intern or trainee to practice without an athletic trainer license if he or she was pursuing a course of study in athletic training. Under the act, such an exemption applies only for students enrolled in an athletic training program accredited by the Commission on Accreditation of Athletic Training Education or its successor. As under prior law, any such student must be supervised by a licensed athletic trainer. The student must also be designated as an athletic training "student" or a similar title, instead of as an "intern" as under prior law.

Professional Liability Insurance

The act requires an athletic trainer renewing a license who provides direct patient care to maintain professional liability insurance or other indemnity against liability for professional malpractice of at least \$500,000 for one person, per occurrence, with an aggregate liability of at least \$1.5 million. The requirement applies for registration periods starting October 1, 2017 and does not apply if the licensee's employer carries such insurance or indemnity.

Client Records

For registration periods starting October 1, 2017, the act requires licensees who practice athletic training in a workplace to make their client records available, at their employer's request, for quarterly review.

PA 17-202—sSB 796

Public Health Committee

AN ACT CONCERNING THE USE OF RESPECTFUL AND PERSON-FIRST LANGUAGE

SUMMARY: This act generally updates terminology to use "person first" language in various statutes relating to older adults and individuals with disabilities. Among other things, it substitutes the terms "person with disabilities" for "handicapped person," "deaf and hard of hearing" for "hearing impaired," and "older person" for "elderly person." Additionally, the act:

1. removes the prohibition on certain older persons, disabled veterans, and individuals with disabilities working extended hours in manufacturing, mechanical, and mercantile establishments; restaurants; and various other settings (§§ 81-83);
2. modifies the conditions under which the Department of Public Health (DPH) may purchase certain medical equipment for children with disabilities without going through the state's normal purchasing procedures (§ 73);
3. adds a statutory definition for "supervision" pertaining to licensed occupational therapists who oversee the work of occupational therapy assistants (§ 75);
4. designates the entire month of October as "Disability Employment Awareness Month," instead of the first week as "National Employ the Handicapped Week" (§ 85);
5. renames the "Board of Education and Services for the Blind (BESB)" the "Advisory Board for Persons Who are Blind or Visually Impaired" (§§ 22 & 23);

6. replaces references to BESB with the Department of Rehabilitative Services (DORS) in various statutes, including those pertaining to retirement credits for state employees who are blind or visually impaired (§§ 22, 24 & 25); and
7. removes an obsolete provision that transferred certain funds and responsibilities between the Social Services and Aging departments in 2013 when the Aging Department was re-established (§ 54).

The act also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2017

§§ 81-83 — EXTENDED WORK HOURS FOR OLDER ADULTS AND PERSONS WITH DISABILITIES

The act removes the prohibition on an employee working extended hours without consenting to do so in manufacturing, mechanical, and mercantile establishments; restaurants; and various other settings if the employee is:

1. age 66 or older,
2. designated by a medical or government authority as handicapped, or
3. a disabled veteran.

Prior law limited the hours that the above employees could work, as follows:

1. for manufacturing or mechanical establishments, no more than nine hours per day or 48 hours per week;
2. for mercantile establishments, no more than eight hours per day, six days per week, or 48 hours per week; and
3. for restaurants, recreational establishments, and various other settings, no more than 10 hours per day, six days per week, or 48 hours per week.

Under prior law, handicapped persons and disabled veterans who consented to working hours that exceeded these limits had to provide written certification from a licensed physician or advanced practice registered nurse that doing so would not injure their health.

The act retains the extended work hour limits for individuals under age 18 who are not enrolled in and graduated from a secondary education institution (e.g., high school). Existing law, unchanged by the act, generally applies stricter limits to individuals under age 18 who are enrolled in such an institution.

§ 73 — DPH EQUIPMENT PURCHASES FOR CHILDREN WITH DISABILITIES

Prior law allowed DPH to purchase, within available appropriations, wheelchairs and placement equipment for children with disabilities without going through the Department of Administrative Services' normal purchasing procedures, provided (1) the cost of an individual item did not exceed \$6,500 and (2) purchases were made on the open market and, when possible, through competitive bidding.

The act instead allows DPH, or the department's contractor, to purchase medically necessary and appropriate durable medical equipment and other DPH-approved goods and services for children with disabilities. The goods and services must be identical to those covered under the state's Medicaid and HUSKY programs, and payment cannot exceed the current Medicaid payment rate for these goods and services.

§ 75 — OCCUPATIONAL THERAPY ASSISTANTS

By law, an occupational therapy assistant must be licensed to assist in the practice of occupational therapy under a licensed occupational therapist's supervision or consultation. The act defines "supervision" as oversight or participation by a licensed occupational therapist in an occupational therapy assistant's work. It includes:

1. continuous availability of direct communication between the occupational therapist and occupational therapy assistant;
2. availability of a licensed occupational therapist on a regularly scheduled basis to review the occupational therapy assistant's practice and support his or her service; and
3. a predetermined plan for emergencies, including designating an alternate licensed occupational therapist in the absence of the regular one.

BACKGROUND

Related Acts

PA 17-146 (§§ 8 & 12) contain the same provisions on the supervision of occupational therapy assistants and DPH medical equipment purchases for children with disabilities, respectively.

PA 17-204 (§ 2) contains a similar provision designating the entire month of October as “Disability Employment Awareness Month.”

PA 17-211—sHB 7221

Public Health Committee

Government Administration and Elections Committee

AN ACT CONCERNING ACCESS TO WATER PLANNING INFORMATION

SUMMARY: This act revamps the Freedom of Information Act (FOIA) exemption for certain water company records. Generally, it removes water company records from the coverage of a FOIA exemption that applies to all public agency records if there are reasonable grounds to believe that their release could pose a security risk. It instead identifies specific water company records filed with a public agency as confidential and not subject to disclosure. In addition to these specified records, the act also makes confidential any other water company record filed with a public agency if there are reasonable grounds to believe that disclosure may result in a safety risk.

The act requires water companies, when submitting a water supply plan (or revision to a plan) to the Department of Public Health (DPH), to also submit a copy of the plan that is redacted in accordance with the act’s provisions on confidential records.

EFFECTIVE DATE: July 1, 2017

APPLICABILITY OF FOIA TO WATER COMPANY RECORDS

Under FOIA, a “public agency” is generally any (1) state, municipal, regional, or quasi-public agency, including any judicial office, or (2) entity that is the functional equivalent of such agencies (CGS § 1-200). The law defines a water company as any individual, municipality, 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 (CGS § 25-32a).

Thus, a water company itself is subject to FOIA if the company is a public agency. If a water company is not a public agency, its records may still be subject to FOIA if they are submitted to a public agency (e.g., a water supply plan submitted to DPH).

The act revamps the FOIA exemption for certain water company records, as described below.

PREVIOUS EXEMPTION FOR WATER COMPANY RECORDS

Exempt Records

Existing law exempts records from disclosure under FOIA when there are reasonable grounds to believe that disclosure may result in a safety risk, including the risk of harm to any government-owned or -leased institution or facility. Under prior law, a government-owned or -leased institution or facility included an institution or facility owned or leased by a water company. The act removes water company-owned or -leased institutions and facilities from this exemption and instead identifies specific water company records filed with a public agency as confidential and not subject to disclosure under FOIA (see below).

Water company records previously covered by this exemption included the following:

1. vulnerability assessments and risk management plans;
2. operational plans;
3. portions of water supply plans that could result in a security risk if disclosed;
4. inspection reports;
5. technical specifications; and
6. other materials that depict or specifically describe critical water company operating facilities, collection and distribution systems, or supply sources.

Procedure for Determining Whether an Exemption Applies

The act similarly removes water company records from existing law's procedures for determining a security risk. Generally under these procedures, the administrative services or emergency services and public protection commissioner must determine whether there are reasonable grounds for a security risk after consulting with the chief executive officer of the agency with custody of the record. For water company records, the act also eliminates requirements in prior law that the (1) custodial agency notify the water company of the request and (2) appropriate commissioner consult with the water company's chief executive officer when determining if a security risk exists.

RECORDS DEEMED CONFIDENTIAL BY THE ACT

With certain exceptions listed separately below, the act deems confidential and not subject to disclosure under FOIA the following water company records filed with a public agency:

1. cybersecurity plans and measures, supervisory control and data acquisition systems, information and communications systems, system access codes and specifications, vulnerability assessments, internal security audits, security manuals, security training or security reports, including security assessments, plans and procedures, operational and design specifications of water and sewage treatment facility security systems, or risk management plans;
2. emergency contingency plans and emergency preparedness plans, incident management plans, response, recovery, and mitigation plans or critical customer lists, including plans provided by a person to a federal or state agency or a federal, state, or local emergency management agency or official, or documents or portions of documents that identify or describe procedures for sabotage prevention and response (see *Exceptions* below);
3. design drawings or maps identifying specific locations, detailed schematics and construction details of wells, source water intakes, water mains, tunnels, storage facilities, water and sewage treatment facilities or pump stations and pressure reducing stations, and other distribution system pressure and flow control valves and facilities (see *Exceptions* below);
4. dam specifications or safety documents, including (a) inspection reports, engineering studies or reports, drawings, plans, and specifications detailing construction or rehabilitation and (b) emergency action plans, including plans provided to a federal or state agency or a federal, state, or local emergency response or emergency management agency or official;
5. building floor or structural plans, specifications of structural elements, or building security systems or codes;
6. detailed network topology maps;
7. specific locations of or specifications about electrical power, standby generators, or fuel systems for water system facilities (see *Exceptions* below);
8. operational specifications, schematics and procedures of water and sewage treatment plant processes and associated equipment and chemicals, including facility use of chlorine gas storage and delivery and the location of chemicals (see *Exceptions* below);
9. logs or other documents that contain information about the movement or assignment of water system and sewage treatment facilities and security personnel; and
10. distribution system hydraulic models.

In addition to these specified records, the act also makes confidential any other water company record filed with a public agency if there are reasonable grounds to believe that disclosure may result in a safety risk. Upon the water company's request, such a record may be reviewed by the administrative services commissioner, in consultation with the chief executive officer of the state agency or municipal water or sewage treatment entity that has custody of the record, to determine if such reasonable grounds exist.

Exceptions

The following types of records are not covered by the act's confidentiality provisions:

1. drought management and response plans are subject to disclosure (see Item 2 above);
2. information about the general location of water mains, wells, and interconnections is subject to disclosure (see Item 3 above);
3. general information about electrical power, standby generators, or fuel systems for water system facilities may be disclosed (see Item 7 above); and
4. a general description of a water and sewage treatment plant may be disclosed (see Item 8 above).

PA 17-234—sHB 7174

Public Health Committee

AN ACT ALLOWING CERTAIN HOSPITAL PERSONNEL TO ADMINISTER A SALINE FLUSH TO AN INTRAVENOUS LINE

SUMMARY: PA 17-23 specifically allows phlebotomists practicing in the state to obtain certification from specified national organizations. This act amends the definition of “phlebotomist” in PA 17-23, by requiring that the person be acting under an order of a physician, physician assistant, advanced practice registered nurse, or podiatrist.

Additionally, the act allows a phlebotomist at a hospital to flush a peripherally inserted intravenous line (“peripheral IV”) with prepackaged normal saline in a single use pre-filled syringe. The phlebotomist must (1) maintain certification from the American Society of Phlebotomy Technicians, National Center for Competency Testing, National Phlebotomy Association, National Healthcareer Association, or American Medical Technologists and (2) be responsible for drawing blood and trained under a hospital-approved protocol. The protocol must indicate the level of training and supervision needed to perform the task and include education about aseptic technique and infection control. The hospital must document and maintain the protocol for at least two years after it is implemented.

Under the act, flushing a peripheral IV with prepackaged normal saline is not considered medication administration.
EFFECTIVE DATE: October 1, 2017

PA 17-241—sSB 445

Public Health Committee
Judiciary Committee

AN ACT CONCERNING CONTRACTS BETWEEN A PHARMACY AND A PHARMACY BENEFITS MANAGER, THE BIDIRECTIONAL EXCHANGE OF ELECTRONIC HEALTH RECORDS AND THE CHARGING OF FACILITY FEES BY A HOSPITAL OR HEALTH SYSTEM

SUMMARY: This act makes numerous changes affecting hospitals and health systems, health care providers, and health carriers (e.g., insurers and HMOs). Specifically, it:

1. prohibits certain pharmacy services contracts from prohibiting or penalizing a pharmacist's disclosure of certain information about therapeutic alternatives or cost to an individual purchasing prescription medication (§ 1);
2. allows (a) indirect purchasers to recover from drug manufacturers for antitrust violations and (b) defendants to avoid duplicative liability if they can prove that the alleged overcharge was passed on by someone else (§ 2);
3. prohibits contracts between a health carrier (e.g., insurer or HMO) and a health care provider or certain vendors or agents a provider retains from prohibiting disclosure of (a) billed or allowed amounts, reimbursement rates, or out-of-pocket costs or (b) data related to the all-payer claims database (§ 3);
4. makes changes to hospital electronic health record (EHR) requirements, such as specifically requiring hospitals to send or receive EHRs if requested by a patient or provider under certain conditions (§ 4); and
5. modifies patient notification requirements concerning facility fees charged by hospitals and health systems for outpatient services provided at hospital-based facilities (§ 5).

The act also makes various minor, technical, and conforming changes.
EFFECTIVE DATE: October 1, 2017, except upon passage for the antitrust provisions.

§ 1 — PHARMACY SERVICES CONTRACTS

Prohibited Provisions

Starting January 1, 2018, the act prohibits a pharmacy services contract between a pharmacist or pharmacy and health carrier or pharmacy benefits manager from containing a provision prohibiting or penalizing (e.g., increased utilization review, reduced payments, or other financial disincentives) a pharmacist's disclosure of certain information to an individual purchasing prescription medication.

Specifically, such a contract cannot prohibit or penalize the disclosure of the (1) prescription's cost to the individual or (2) availability of any therapeutically equivalent alternative medications or alternative, less expensive methods of purchasing the prescription, including paying the cash price.

Limits on Prescription Payments

Starting January 1, 2018, the act prohibits a health carrier or pharmacy benefits manager from requiring an individual to pay more for a covered prescription medication than the lesser of the (1) applicable copayment, (2) allowable claim amount (i.e., the amount the health carrier or pharmacy benefits manager agreed to pay the pharmacy for the prescription), or (3) amount an individual would pay for the drug if he or she paid without using an insurance plan or other source of drug benefits or discounts.

Violations and Enforcement

Any provision of a contract that violates the act is void and unenforceable, but a contract provision rendered invalid or unenforceable does not affect remaining provisions. The act also makes any general business practice that violates its provisions an unfair trade practice under the Connecticut Unfair Trade Practices Act (see BACKGROUND).

The act also grants the insurance commissioner authority to enforce its provisions and audit pharmacy services contracts for compliance.

§ 2 — ANTITRUST CASES AGAINST DRUG MANUFACTURERS

The act makes two related changes concerning antitrust cases against companies that sell, distribute, or otherwise dispose of drugs or medical devices (e.g., drug manufacturers).

It allows purchasers of these products who did not buy directly from the defendant company (indirect purchasers) to recover against the defendant for an antitrust violation (see BACKGROUND, *Antitrust Related Case*). The act does so by prohibiting such a defendant from raising the defense that it did not deal directly with the person on whose behalf the case was brought.

But the act allows a defendant, in order to avoid duplicative liability related to an alleged overcharge, to prove that all or part of the overcharge was passed on by someone else in the chain of manufacture, production, or distribution of the drug or device. The defendant may attempt to prove this as a partial or complete defense.

The act applies to antitrust cases brought by the attorney general in the name of the state as "parens patriae" on behalf of (1) particular state residents (including class actions) or (2) the state as a whole or a political subdivision of it. It also applies to cases seeking treble damages for alleged antitrust violations that damaged the business or property of the state or any person, including a consumer.

§ 3 — CONTRACTS BETWEEN HEALTH CARE PROVIDERS AND HEALTH CARRIERS

The act clarifies that a contract between a health care provider and a health carrier cannot contain a provision prohibiting disclosure of (1) billed or allowed amounts, reimbursement rates, or out-of-pocket costs or (2) any data related to the all-payer claims database. It also clarifies that this information may be used to help consumers and institutional purchasers make informed health care choices and price comparisons.

Starting October 1, 2017, the act extends the same prohibition to a contract between a (1) health carrier and (2) health care provider, or any agent or vendor the provider retains to provide data or analytical services to evaluate and manage health care services to the health carrier's plan participants.

Any provision of a contract that violates the act is void and unenforceable, but a contract provision rendered invalid or unenforceable does not affect the remaining provisions.

§ 4 — HOSPITAL EXCHANGE OF ELECTRONIC HEALTH RECORDS

Existing law requires each licensed hospital, to the fullest extent practicable, to use its EHR system to enable the secure two-way exchange of patient EHRs with other licensed providers who (1) have a system that can exchange these records and (2) provide health care services to a patient whose records are being exchanged.

The act specifically requires hospitals to provide for such exchange of records. It requires hospitals, to the fullest extent practicable, to send or receive an EHR upon the request of a patient or the patient's health care provider, as long as:

1. the transfer or receipt would be secure, not violate any state or federal law or regulation, and not constitute an identifiable and legitimate security or privacy risk, and
2. for requests from a provider, the patient consents to and has authorized the exchange.

Under the act, if the hospital has reason to believe that such a record transfer would be illegal or present an identifiable and legitimate risk to security or privacy, it must promptly notify the requesting party.

The act also specifically adds patient admission and transfer records to the definition of "electronic health record" for these purposes.

Under existing law, hospitals are not required to pay for any new or additional information technology, equipment, hardware, or software needed to enable EHR exchange. The act specifies that hospitals also are not required to install, construct, or build any such items for this purpose.

As under the existing provisions on hospitals' EHR exchange:

1. a hospital is deemed to have satisfied the act's requirements if it connects to and actively participates in the Statewide Health Information Exchange, once it becomes operational; and
2. a hospital's failure to take all reasonable steps to comply with the act constitutes evidence of health information blocking, which is an unfair trade practice (see BACKGROUND).

§ 5 — FACILITY FEES

Patient Notification Requirements

Notice Contents. Under existing law, a hospital or health system that charges a facility fee must notify patients receiving outpatient services in writing about their potential financial liability. The notice must provide additional information if the hospital or health system provides outpatient services at a facility that (1) uses current procedural terminology evaluation and management (CPT E/M) codes for outpatient services and (2) expects to charge a separate fee for professional medical services. The act expands the information that must be provided in all such notices to include a telephone number the patient may call for more information, including an estimate of the facility fee likely to be charged based on the scheduled professional medical services. As under existing law, the above notice requirements do not apply to Medicare and Medicaid patients or those receiving services under a workers' compensation plan.

Scheduling Services. The act requires a hospital-based facility, when scheduling services for which a facility fee may be charged, to inform the patient that the facility is part of a hospital or health system and it may charge a facility fee in addition to, and separate from, the provider's professional fee. The facility must also inform the patient of the name of the hospital or health system and the telephone number the patient may call for additional information about his or her potential financial liability.

Posting Notice. Under existing law, a hospital-based facility must prominently display a written notice in locations that are readily accessible and visible to patients, including patient waiting areas. The notice must inform patients that the facility is part of a hospital or health system and if the facility charges a facility fee, patients may incur a greater financial liability than if the facility was not hospital-based. The act also requires the notice to include the name of the hospital or health system of which the facility is part.

BACKGROUND

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order (CGS § 42-110a et seq.).

Antitrust Law

The Connecticut Antitrust Act prohibits a contract or conspiracy in restraint of trade or that seeks to monopolize a market. Among other things, this includes a contract or conspiracy to fix prices, control the production of a good, divide markets, or refuse to deal with third parties (CGS § 35-24 et seq.).

Antitrust Related Case

In a 2002 case, an end user licensee of a software product purchased at a retail store alleged that the product manufacturer had a monopoly on the market and thus violated antitrust laws. The state Supreme Court examined legislative history and guidance from federal law and held that under the existing state antitrust law, only consumers who purchased directly from a company could bring an antitrust case against that company (*Vacco v. Microsoft Corporation*, 260 Conn. 59 (2002)).

Health Information Blocking

By law, "health information blocking" is defined as knowingly:

1. interfering with, or engaging in business practices or other conduct reasonably likely to interfere with, the ability of patients, providers, or other authorized persons to access, exchange, or use EHRs or
2. using an EHR system to both (a) steer patient referrals to affiliated providers and (b) prevent or unreasonably interfere with referrals to non-affiliated providers.

Health information blocking does not include legitimate referrals between providers participating in an accountable care organization or similar value-based collaborative care model.

Health information blocking is an unfair trade practice (see above). The law specifies that health information blocking by a hospital is subject to a \$5,000 penalty for a willful violation as set forth in the unfair practices law (CGS § 19a-904d).

PA 17-4—sSB 798

Public Safety and Security Committee

AN ACT CONCERNING POLICE ASSISTANCE AGREEMENTS BETWEEN MUNICIPALITIES AND THE MASHANTUCKET PEQUOT TRIBE OR THE MOHEGAN TRIBE OF INDIANS OF CONNECTICUT

SUMMARY: This act authorizes the Mohegan Tribe or Mashantucket Pequot Tribe, through the tribe's chief executive officer, to enter into police mutual aid agreements with municipalities on the same terms and conditions as municipalities can already do with each other under existing law. The authorization is valid as long as the tribal-state memoranda of understanding establishing the authority of the tribal police departments remain in effect.

Each tribal police department operates under a memorandum of understanding executed between the tribe and the state through the Chief State's Attorney's Office and the Department of Emergency Services and Public Protection (CGS § 47-65c).

The act also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2017

PA 17-11—sSB 846

Public Safety and Security Committee

AN ACT CONCERNING SECURITY OFFICER LICENSES

SUMMARY: This act extends, by 90 days, the period during which a security guard's license is valid and can be renewed, unless it has been revoked or suspended, and imposes a \$25 late fee on licenses renewed during this 90-day grace period. By law, the license is valid for five years and, under prior department practice, could not be renewed after the expiration date (although a person who missed the deadline could submit a new application).

The act requires the emergency services and public protection commissioner to send a notice of the license expiration date, as well as a renewal application, to licensees, by first class mail, at least 90 days before the license expires. It prohibits her from renewing any license after the 90-day grace period.

The act also makes technical changes, including specifying that the fingerprints submitted with license applications must be on forms specified and furnished by the commissioner, thereby conforming the law to department practice.

EFFECTIVE DATE: October 1, 2017

PA 17-58—HB 7238

Public Safety and Security Committee

AN ACT CONCERNING TECHNICAL REVISIONS TO STATUTES CONCERNING THE COMMISSIONER OF EMERGENCY SERVICES AND PUBLIC PROTECTION

SUMMARY: This act makes a technical change, replacing a reference to the public safety commissioner with the emergency services and public protection commissioner.

EFFECTIVE DATE: Upon passage

PA 17-80—SB 890

Public Safety and Security Committee

AN ACT CONCERNING RECOMMENDATIONS BY THE OFFICE OF THE STATE FIRE MARSHAL REGARDING THE STATE FIRE PREVENTION CODE AND LICENSES FOR DEMOLITION

SUMMARY: This act repeals several statutes that directed the Department of Administrative Services (DAS) commissioner or state fire marshal, as applicable, to adopt regulations to address issues relating to certain fire hazards. Many of the repealed statutes predated the state Fire Prevention Code, which now regulates these issues (Fire Prevention Code § 2.2 (2015)).

The act also repeals (1) obsolete statutes that addressed exits in workshops and manufacturing establishments and mandated that the labor commissioner enforce fire prevention statutes pertaining to exits and related issues in such establishments and (2) a statute that imposed explicit liability on building owners whose noncompliance with these statutes resulted in injury or death. The Fire Prevention Code now addresses fire prevention issues, and the state fire marshal, not the labor commissioner, enforces the code.

The act eliminates a requirement that the state fire marshal annually certify to each municipality the number of fires investigated and reported by its local fire marshal and that the notified municipality pay any non-salaried fire marshal a fee of at least \$2 for each of these fires. But fire marshals must still submit fire incident reports to the state fire marshal (CGS § 29-303; see BACKGROUND).

The act exempts the deconstruction or disassembly of swimming pools from state demolition licensing requirements.

It also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2017

FIRE HAZARD ELEMENTS AND FIRE SPRINKLERS

Prior law required the DAS commissioner or state fire marshal, as applicable, to adopt, and incorporate in the state Fire Prevention Code, regulations governing the following:

1. oil burners (CGS § 29-317),
2. flammable and combustible liquids (CGS § 29-320),
3. gas equipment and gas piping (CGS § 29-329),
4. liquefied gas and liquefied natural gas (CGS § 29-331), and
5. hazardous chemicals (CGS § 29-337).

The act repeals these statutes and instead specifies that the code must include provisions for these elements. The code already incorporates, by reference, various standards that cover these subjects.

The act also repeals a requirement that the commissioner adopt, and incorporate in the Fire Prevention Code, regulations governing fire extinguishers. Fire extinguisher requirements and specifications are already incorporated in the code.

DEMOLITION LICENSE

Financial Responsibility

With limited exceptions (described below), people in the demolition business must get a state license from DAS and a local permit from the municipality where the building or structure to be demolished is located.

The act eliminates a requirement that demolition license applicants provide DAS with evidence of financial responsibility. But by law, unchanged by the act, they must still provide evidence of financial responsibility to the municipality (CGS § 29-406).

Activities Exempt from Licensure

The act exempts the deconstruction or disassembly of swimming pools from licensure. The following activities are also exempt from licensure under existing law:

1. disassembly, transport, and reconstruction of historic buildings for historical purposes; demolition of farm buildings; and renovation, alteration, or reconstruction of single-family homes;
2. removal of underground petroleum storage tanks;
3. burning of buildings or structures as part of an organized fire department training exercise;
4. disassembly of nonstructural building material for reuse and recycling; and
5. under certain circumstances, the demolition of single-family dwellings or outbuildings by owners.

MANUFACTURING ESTABLISHMENTS

The act eliminates obsolete provisions, including ones that:

1. specified building elements (e.g., exits, stairways, and fire escapes) required in workshops or manufacturing establishments;
2. gave the labor commissioner authority to enforce the provisions and the laws pertaining to fire prevention in these establishments; and

3. imposed penalties for noncompliance.

These provisions are incorporated in the Fire Prevention Code, and the labor commissioner no longer enforces fire prevention laws. The act also eliminates a provision that (1) explicitly imposed liability on owners whose noncompliance with the statutes requiring appropriate exits resulted in injury or death and (2) prohibited, as a defense to such liability, claiming that the person who was injured or died knew about the absent stairway or fire escape and still continued to work in or occupy the building.

BACKGROUND

Fire Incident Reports

The Connecticut Fire Incident Reporting Systems (CFIRS) is a statewide incident reporting system that collects, compiles, analyzes, and distributes statistical information submitted by fire marshals and fire departments throughout the state. The data collected by CFIRS is based on the National Fire Incident Reporting System that all fire departments and fire marshals must use to document incidents to which they respond.

PA 17-89—sSB 957

*Public Safety and Security Committee
Appropriations Committee*

AN ACT CONCERNING THE REGULATION OF GAMING AND THE AUTHORIZATION OF A CASINO GAMING FACILITY IN THE STATE

SUMMARY: Once certain conditions are met, this act authorizes the operation of an off-reservation commercial casino gaming facility (hereafter referred to as the “new casino”) in East Windsor, Connecticut, subject to regulation by the Department of Consumer Protection (DCP). The act gives MMCT Venture, LLC, a company jointly owned and operated by the Mashantucket Pequot and Mohegan tribes, the exclusive right to conduct authorized games (i.e., games of chance) at the facility. Under the federal Indian Gaming Regulatory Act (IGRA), the two tribes currently operate the Foxwoods and Mohegan Sun casinos, respectively, on their reservations (see BACKGROUND).

For the authorization to operate the new casino to take effect, the act requires that several conditions be met, including the following: (1) the current gaming agreements between the tribes and the state must be amended to provide that the authorization of an off-reservation casino does not terminate the existing video facsimile (e.g., slots) moratorium or payments to the state, and (2) the amendments must be approved by the state legislature and federal Department of the Interior (DOI) (see BACKGROUND).

The act requires MMCT to contribute \$300,000 annually to the Connecticut Council on Problem Gambling by the date the new casino is operational. It also requires the company to (1) pay the state 25% of the gross gaming revenue from both the video facsimile games (e.g., slots) and all other authorized casino games (e.g., table games). Of the 25% from the video facsimile games, the act requires \$4.5 million to be annually dispersed as grants to specific municipalities in the vicinity of the new casino: East Hartford, Ellington, Enfield, Hartford, South Windsor, and Windsor Locks. It also requires the facility to annually pay an assessment that covers DCP’s regulatory costs.

The act requires DCP to adopt implementing regulations to ensure the proper, safe, and orderly conduct of casino gaming. Among other issues, the regulations must address security at a casino, audits and record keeping, and personnel training. The act also requires each casino gaming facility to develop management and operating standards, subject to DCP approval.

Lastly, the act allows East Windsor to fix the property tax assessment for real property, property improvements, and personal property used in connection with a casino gaming facility.

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

§ 14 — CASINO AUTHORIZATION

The act authorizes MMCT Venture, LLC, subject to certain conditions (described below) to operate a casino at 171 Bridge Street, East Windsor, Connecticut and conduct authorized gaming at the facility. (The act could conceivably raise constitutional questions, including whether providing an exclusive right to the Mashantucket Pequots and the Mohegans violates the equal protection and commerce clauses of the U.S. Constitution.)

Under the act, “authorized games” means any game of chance, including blackjack, poker, dice, money-wheels, roulette, baccarat, chuck-a-luck, pan game, over and under, horse race game, acey-deucey, beat the dealer, bouncing ball, video facsimile game, and any other game of chance the DCP commissioner authorizes. A “casino gaming facility” is any casino gaming facility authorized by law to conduct authorized games on its premises but does not include a tribal casino operating under IGRA.

MMCT

Under the act, MMCT is a limited liability company (LLC) jointly and exclusively owned by the Mashantucket Pequot and Mohegan tribes. Each tribe must hold at least a 25% equity interest in the company, and no other person or business organization may hold an equity interest in it. If MMCT ceases to be an LLC owned in this manner, the act’s authorization to operate the off-reservation casino is void.

Conditions to be Met Before Authorization is Effective

Before the authorization is effective, the act requires the governor to enter into agreements with the tribes to amend the Mashantucket Pequot federal procedures, the Mohegan compact, and both tribal memoranda of understanding (MOUs). The MOUs give the tribes the exclusive right to operate video facsimile machines and casino gaming in Connecticut in exchange for 25% of the gross operating revenue from the video facsimile machines.

Amendments to Procedures and Compact. The amendments to the compact and procedures must include a provision that MMCT’s authorization to conduct authorized casino games in the state does not terminate the moratorium against operating video facsimile games (see BACKGROUND).

Amendments to MOUs. The amendments to the MOUs must include a provision that MMCT’s authorization to conduct authorized casino games in the state does not relieve the tribes of their obligation to contribute a percentage of the gross operating revenues of video facsimile games to the state under the MOUs.

Legislative and Federal Approval. Upon the tribes and state reaching an agreement on the amendments to the procedures, compact, and MOUs, the amendments must be approved by the state legislature under the statutory process for approving tribal-state compacts (see BACKGROUND).

The amendments must also be approved or deemed approved by the DOI secretary, pursuant to IGRA and its implementing regulations. If a court overturns DOI’s approval in a final judgment that is not appealable, the act’s authorization ceases to be effective.

Waiver of Sovereign Immunity. The governing bodies of the tribes must enact resolutions providing that if MMCT fails to pay any fees or taxes due to the state, then the tribes, as members of MMCT, waive the possible defense of sovereign immunity with respect to any action or claim the state brings against them as members of MMCT, to the extent such action or claim is allowed against a member of an LLC under state law to collect any fees or taxes, while preserving any other defense available to the tribes. The resolutions must also provide that the venue for such action or claim must be the Hartford judicial district.

§ 15 — PAYMENTS

The act requires MMCT, within 30 days after being authorized to conduct authorized games at the new casino, to pay the state \$1 million for the initial costs of regulating the facility. The money must be credited against unpaid payments required for the first full calendar year the new casino conducts authorized games.

Under the act, within 30 days after the new casino begins to operate and monthly thereafter, MMCT must also pay the state 25% of the gross gaming revenue from:

1. video facsimile games, \$4.5 million of which must be annually deposited into the municipal gaming account for municipal grants (see § 16 below) and the remainder deposited into the General Fund, and
2. all other authorized casino games, with 15% deposited into the General Fund and 10% into the statewide tourism marketing account.

The act also requires MMCT, by the date the new casino is operational and annually thereafter, to contribute \$300,000 to the Connecticut Council on Problem Gambling.

Gross Gaming Revenue

Under the act, “gross gaming revenue” means the total of all sums a casino actually received from gaming operations after subtracting the amount paid as winnings to casino patrons. This total does not include any promotional gaming credit. For these purposes, the winnings paid to patrons do not include the cash equivalent value of any merchandise or thing of value included in a jackpot or payout.

§ 6 — REGULATORY COSTS

Assessment

The act requires each casino gaming facility to pay DCP for the costs the agency incurs to regulate them.

Beginning in any fiscal year that a casino is authorized to conduct casino games and before September 30 each fiscal year thereafter, the act requires the DCP commissioner to:

1. estimate, after consulting with each casino gaming facility, the reasonable and necessary costs DCP will incur the next fiscal year to regulate the casino gaming facilities and
2. assess each casino gaming facility’s proportional share of such estimated costs according to its annualized share of the gross gaming revenue of all casino gaming facilities in the prior fiscal year, if any. (The act authorizes only one casino gaming facility.)

Under the act, DCP’s estimated regulatory costs cannot exceed the estimated expenditures the commissioner transmits to the Office of Policy and Management (OPM) as part of its budget estimates. The assessment for any fiscal year must be proportionally (1) reduced by the amount of any surplus from the prior fiscal year’s assessment, which must be maintained according to the act’s requirements, or (2) increased by the amount of any deficit from the prior fiscal year’s assessment.

Under the act, each casino must pay its assessment by the date the commissioner specifies, provided that such date is at least 30 days after the assessment. The commissioner must remit the funds to the state treasurer.

State Gaming Regulatory Fund

The act establishes a new “State Gaming Regulatory Fund” and requires the state treasurer to use the fund to pay the costs DCP incurs to regulate casino gaming facilities. The fund must contain any money the law requires or allows to be deposited into it. The treasurer must deposit the amounts she receives from the casino gaming facilities as set forth above into the fund and hold it separate and apart from all other money, funds, and accounts. Investment earnings credited to the fund’s assets must become part of the fund’s assets. Any balance remaining in the fund at the end of any fiscal year must be carried forward to the next fiscal year.

The act requires the comptroller, by September 30 each year, to calculate the actual reasonable and necessary costs incurred by DCP to regulate casino gaming facilities during the prior fiscal year. The treasurer must set aside within the fund the amounts received in excess of the actual costs. Such excess amounts must be considered surplus for the purposes of the assessment calculation described above.

Appeals

Under the act, any casino gaming facility aggrieved by an assessment for regulatory costs may request a hearing before the DCP commissioner within 30 days after such assessment. The commissioner must hold an appeals hearing within 30 days after receiving the request. The hearing must be held according to the Uniform Administrative Procedure Act (UAPA).

§ 16 — MUNICIPAL GAMING ACCOUNT

The act establishes the “municipal gaming account” as a separate, nonlapsing account within the Mashantucket Pequot and Mohegan Fund. The account must contain any money required by law to be deposited into it. OPM must use the account funds to provide annual grants to specified municipalities.

On and after the date the OPM secretary finds that a minimum of \$4.5 million has been deposited into the account, OPM must provide annual grants of \$750,000 to (1) Ellington, Enfield, South Windsor, and Windsor Locks and (2) the distressed municipalities of East Hartford and Hartford. This amount must be reduced proportionately in any year that the total of the grants exceeds the funds available.

§ 2 — GAMING REGULATIONS

The act requires the DCP commissioner to adopt regulations for the administration of a casino within 12 months after the effective date of any authorization of such a facility. The regulations must include provisions to protect the public interest in the integrity of gaming operations and reduce the dangers of unsuitable, unfair, or illegal practices, methods, and activities in gaming.

The regulations must include the following:

1. minimum accounting standards;
2. minimum security procedures, including video monitoring of the facilities;
3. approved hours of operation for gaming and nongaming activities;
4. procedures governing the manufacture, sale, lease, and distribution of gaming devices and equipment;
5. procedures for casino patrons to recover winnings;
6. procedures governing how gross gaming revenue is calculated and reported;
7. requirements for regular auditing of the casino's financial statements;
8. procedures for cash transactions;
9. procedures for maintaining lists of persons banned from the casino and security measures to enforce such bans;
10. standards for providing complimentary goods and services to casino patrons;
11. minimum training standards for casino employees;
12. procedures for submitting casino management and operating standards to the commissioner; and
13. requirements for information and reports from the facility to enable effective auditing of casino gaming operations.

The act allows the casino gaming facility to operate under its own standards of operation and management until DCP regulations are adopted, provided the facility's standards are approved by the commissioner (see § 3 below).

§ 3 — OPERATIONS AND MANAGEMENT STANDARDS

Under the act, each casino must submit to the DCP commissioner a description of its operating and management standards for all gaming operations.

The description must include:

1. accounting controls to be used in casino gaming operations;
2. job descriptions for all casino gaming positions;
3. procedures for securing chips, cash, and other cash equivalents used in authorized games;
4. procedures for keeping casino patrons safe and secure;
5. procedures and rules for conducting authorized games;
6. a certification by the casino's attorney that the submitted operation and management standards conform to state law and regulations for casino gaming;
7. a certification by the casino's chief financial officer or an independent auditor that the submitted operation and management standards (a) provide adequate and effective controls, (b) establish a consistent overall system of procedures and administrative and accounting controls, and (c) conform to generally accepted accounting principles; and
8. any other standards the commissioner requires.

The act requires the DCP commissioner to approve or reject the standards within 60 days of receipt. Standards not approved or rejected within that timeframe are deemed approved. The act prohibits the casino gaming facility from operating until its standards are approved or deemed approved.

Under the act, the commissioner must periodically review a casino gaming facility's compliance with state law and regulations governing such facilities.

Revisions

The act prohibits casino gaming facilities from revising any operating and management standards previously approved or deemed approved unless the commissioner has also approved the revision. A submitted revision not approved or rejected within 60 days after receipt is deemed approved.

Hearing and Appeals

If a casino gaming facility is aggrieved by an action of the commissioner under these provisions, it may request a hearing before the commissioner. The commissioner must hold the hearing according to the UAPA.

§§ 4 & 11 — GAMING LICENSES FOR INDIVIDUALS AND BUSINESSES

New Licenses

The act requires several individuals and businesses performing various tasks associated with the casino to be annually licensed by DCP. As with other existing gaming licenses, the applicant must submit to a state and national criminal history records check before being granted a license. Such checks must be conducted according to the state law governing criminal history records checks.

The act requires anyone working on the gaming floor or in a gaming-related position in a casino gaming facility to hold a gaming employee license. The license fee is \$40.

It also requires any person or business that (1) annually provides over \$25,000 of nongaming goods or services in a casino gaming facility to hold a nongaming vendor license or (2) provides gaming services or gaming equipment to a casino gaming facility to hold a gaming services license. The nongaming vendor license fee is \$250 and the gaming services license fee is \$500.

Under the act, no business, other than a shareholder in a publicly traded corporation, may exercise control in or over any of these licensees unless the business holds a gaming affiliate license. The license fee is \$250.

Application Form

The act requires each applicant for any of these licenses to submit a completed application on a DCP-prescribed form. The application forms may require information on the following: (1) financial standing and credit; (2) moral character; (3) criminal record, if any; (4) previous employment; (5) corporate, partnership, or association affiliation; and (6) ownership of personal assets. The form may also require any other information the commissioner deems pertinent.

As soon as practicable after receiving a completed license application, the commissioner must grant or deny the license. All such licenses the commissioner issues are effective for up to one year from issuance, and applicants must reapply annually on a DCP-prescribed form. Any licensee who submits a renewal application may continue to be employed by a casino or provide services to a casino until the commissioner denies the renewal.

Temporary Licenses

The act allows the commissioner to issue a temporary license at the request of anyone who has submitted such a license application. She must require the applicant to submit to state and national criminal history records checks before granting him or her a temporary license. The checks must be conducted according to the state law governing criminal history record checks. A temporary license expires when the commissioner grants or denies the pending application.

Investigations

Under the act, the commissioner may investigate any licensee at any time and may suspend or revoke any license for good cause after a hearing. Any person or business whose license is suspended or revoked, or any applicant aggrieved by the commissioner's actions on an application, may appeal the decision. All hearings and appeals must be done according to the UAPA.

§ 5 — AGE LIMIT

The act prohibits people under the minimum age required to purchase alcohol (i.e., under age 21) from participating in any authorized game. It limits entrance to the casino gaming floor to people age 21 or older, with one exception: it allows DCP-licensed 18- to 20-year-old casino employees to enter the gaming floor as long as serving or handling alcoholic liquor is not part of their job.

§ 7 — CASINO GAMBLING INVOLVEMENT BY DCP PERSONNEL PROHIBITED

As is currently the case for other authorized gambling (e.g., state lottery and off-track betting (OTB)), the act prohibits the commissioner and DCP unit heads and employees, directly or indirectly, individually or as members of a partnership or shareholders of a corporation, from having any interest in (1) dealing in the casino gaming facility or (2) owning or leasing any property or premises used by or for the facility.

The act also prohibits the commissioner and unit heads from directly or indirectly playing any authorized game conducted at the casino. Existing law allows the commissioner to adopt regulations prohibiting DCP employees from engaging, directly or indirectly, in any legalized gaming in which such employees are involved because of their employment.

By law, a “unit head” is any managerial employee with direct oversight of a legalized gambling activity.

§ 8 — ENFORCEMENT REGULATIONS

The act requires the DCP commissioner to adopt regulations concerning (1) the inspection of casino gaming facilities and (2) proper, safe, and orderly conduct at such facilities.

§ 9 — DISPLAY OF COMPULSIVE GAMBLING MATERIAL

By law, the DCP commissioner must, within available resources, prepare and distribute informational material to inform the public of compulsive gambling prevention, treatment, and rehabilitation programs. Under the act, the commissioner must require the casino gaming facility to display the information at the casino, just as other gaming licensees (e.g., OTB operators) must do under existing law.

§ 10 — CASINO AUDITS

The act requires annual DCP audits of the casino’s books and records. The commissioner must keep the audit records on file at DCP. Casino gaming facility operators must permit access to their books and records for the audits and produce, at the commissioner’s written request, any documents and information required for such audits. These same requirements apply under existing law to the OTB licensee.

§ 12 — CASINO GAMBLING EXEMPT FROM GAMBLING BAN

The act exempts gambling at the casino from the state’s general prohibition on unauthorized gambling.

By law, it is illegal to gamble in Connecticut unless the gambling (1) is specifically authorized by state law (e.g., charitable gaming) or other legally binding state agreements (e.g., Indian casino gaming) or (2) fits an exemption in the criminal laws (e.g., state lottery and OTB). It is also illegal to solicit or induce others to gamble or be present when others are gambling. A violation is a class B misdemeanor (see Table on Penalties) (CGS § 53-278b).

§ 12 — GAMBLING DEVICES ALLOWED FOR TRAINING AND TESTING

As under existing law applicable to the tribal casinos, the act allows a casino gaming facility, or its agents, to use a gambling device at any location in the state, but only for the purpose of training an employee or for testing purposes, and only if no money or other thing of value is paid to anyone operating the device.

Under existing law and the act, anyone receiving such training or testing the device may use it during the training or testing. A casino gaming facility must notify DCP when it intends to have and use the devices for testing anywhere in the state.

§ 13 — CASINO LIQUOR PERMIT

The act expands the existing casino liquor permit to include the new casino gaming facility, thus allowing the new facility, upon receiving a permit, to sell alcoholic liquor at retail on the gaming floor.

By law, a casino permit also allows the permittee to manufacture, store, and bottle beer to be consumed on the premises with or without food, provided the casino permittee annually produces at least 5,000 gallons of beer. Additionally, a casino permit, under certain conditions, allows the retail sale of alcoholic liquor in a guest bar located in hotel guest rooms. The annual fee is \$2,650 plus \$100 for each guest room with a guest bar (CGS § 30-37k).

§ 17 — EAST WINDSOR FIXED PROPERTY TAX ASSESSMENT

The act allows East Windsor, with its board of selectmen's approval, to fix the property tax assessment for up to 10 years for real property, improvements, and personal property owned, leased, or used in connection with a casino gaming facility. (Fixing the assessment freezes the property's taxable value for a set period, thus allowing its owner to improve the property without paying taxes on the improvement's value.) Improvements eligible for the fixed assessment include the rehabilitation of any structure that exists upon the act's passage and is rehabilitated for use by a casino gaming facility.

Under the act, East Windsor may, by the affirmative vote of a majority of the town's board of selectmen, enter into a written agreement with any party owning or proposing to acquire an interest in real property in the town that fixes the assessment of (1) any real property that is the subject of the agreement, and all improvements that are or will be constructed on the property, and (2) all taxable personal property, whether owned or leased, to be located on such real property.

Under the act, any such agreement or any modification, renewal, or extension cannot last for more than 10 years. The agreement may provide that the owner or lessee of such personal property is not required to submit a personal property declaration in East Windsor while the agreement is in effect.

BACKGROUND

Casino Gaming at the Foxwoods and Mohegan Sun Casinos

Gambling at the Foxwoods Casino is conducted under federal procedures, which are a legal substitute for an IGRA-negotiated compact. Gambling at the Mohegan Sun Casino is conducted under a legally negotiated IGRA tribal-state compact. Both the compact and procedures are like federal regulations. As such, they supersede state law.

Legislative Approval for Tribal-State Gaming Compacts

Under existing state law, both houses of the legislature must approve a tribal-state compact (CGS § 3-6c).

By law, the governor must file a tribal-state compact or amendment with the Senate and House clerks within 10 days after it is executed. If filed during a regular session, the legislature has until its adjournment to approve or reject it. If not filed during a regular session, the legislature has until adjournment of (1) the next regular session or (2) a special session convened to take action on the measure. If the legislature does not act by adjournment, the compact or amendment is rejected and is not implemented.

If the governor files a compact or amendment within 30 days before the end of a regular session, the legislature can either (1) convene a special session and vote within 30 days or (2) vote on it within the first 30 days of its next regular session. The legislature has until the end of either 30-day period to vote before the measure is considered rejected.

Moratorium on Video Facsimiles (e.g., Slot Machines)

The federal procedures and the compact authorize the tribes to operate video facsimile machines only pursuant to (1) an agreement between the tribe and state (e.g., MOU); (2) a court order; or (3) a change in state law that allows the operation of video facsimile machines by any person, organization, or entity. Currently, both tribes are able to operate video facsimile machines because of the MOU each has with the state (see below).

Tribal-State MOUs

The Mashantucket Pequots and Mohegans have separate binding MOUs with the state that give the tribes the exclusive right to operate video facsimile machines and other casino games in exchange for a monthly contribution of 25% of their gross video facsimile machine revenue to the state. Under the terms of the current MOUs, if the state enacts a law to permit any other person to operate video facsimile machines or other casino games, the tribes would no longer need to pay the state any of their video facsimile revenue.

Related Act

PA 17-209, among other things, establishes an Advisory Council on Large Entertainment Venues to coordinate large entertainment events at certain facilities and address other issues related to operating such facilities. The council includes representatives from large Connecticut entertainment facilities and, upon the authorization of a casino gaming facility, representatives from the tribes.

PA 17-116—sHB 6266*Public Safety and Security Committee***AN ACT CONCERNING BOXING EVENTS AND MIXED MARTIAL ARTS MATCHES**

SUMMARY: This act eliminates a mixed martial arts (MMA) promoter's liability for the health care costs an MMA competitor incurs from an injury, illness, disease, or condition resulting from an MMA match, for the entire duration of the injury, illness, disease, or condition. It instead requires MMA promoters to provide liability insurance and death benefits at the same level that boxing promoters must provide under existing state regulations for boxers (Conn. Agencies Reg. § 29-143j-15a). Specifically, MMA promoters must provide (1) insurance coverage of at least \$20,000 for an injured competitor's medical, dental, surgical, and hospital care and (2) death benefits of at least \$50,000 to the estate of a competitor who dies as a result of participating in an MMA match.

The act applies to any person, firm, or corporation that employs or contracts with someone to compete in an MMA match. It also codifies in statutes the above insurance and death benefit requirements for boxing and sparring promoters.

Additionally, the act eliminates (1) the 5% gross receipts tax that boxing and MMA promoters were required to pay under prior law, (2) the requirement for such promoters to file a surety bond with the emergency services and public protection commissioner as a condition of licensing, and (3) related reporting provisions on MMA and boxing matches and event receipts.

The act also makes conforming changes.

EFFECTIVE DATE: October 1, 2017

MMA

By law, MMA is unarmed combat involving a combination of techniques from different disciplines of martial arts, including grappling, kicking, jujitsu, and striking (CGS § 29-143j (a)).

PA 17-161—HB 6041*Public Safety and Security Committee***AN ACT PERMITTING NONPROFIT ORGANIZATIONS TO SELL RAFFLE TICKETS ONLINE**

SUMMARY: This act allows certain organizations qualified to conduct, operate, or promote bazaars or raffles to sell or promote the sale of raffle tickets on their websites. It specifically prohibits any such sponsoring organization from conducting or operating an online raffle.

The act applies to the following entities conducting bazaars or raffles under a permit in a municipality that has adopted the Bazaar and Raffle Act:

1. officially recognized veterans' organizations and associations;
2. church and religious organizations;
3. civic, service, and social clubs;
4. fraternal and fraternal benefit societies;
5. educational and charitable organizations;
6. officially recognized volunteer fire companies; and
7. political parties and their town committees.

It does not apply to sponsoring municipalities acting through a designated centennial, bicentennial, or other centennial celebration committee.

EFFECTIVE DATE: October 1, 2017

BACKGROUND*Related Act*

PA 17-231 generally transfers the Department of Consumer Protection's charitable gaming (including bazaar and raffle) investigation, oversight, and permitting functions to the municipality where the games are held.

PA 17-166—sHB 6260*Public Safety and Security Committee***AN ACT CONCERNING TRAINING PROGRAMS FOR STATE AND LOCAL POLICE REGARDING JUVENILES WITH AUTISM SPECTRUM DISORDER OR NONVERBAL LEARNING DISORDER**

SUMMARY: This act requires training for state and local police to include techniques for handling incidents, such as wandering, that involve juveniles with autism spectrum disorder or nonverbal learning disorder, provided the curriculum for such techniques is available at no cost to the State Police from (1) higher education institutions, health care professionals, or advocacy organizations concerned with juveniles who have these disorders or (2) a collaboration of such institutions, professionals, or organizations.

The techniques must be included in each review and basic or field training program conducted or administered on and after January 1, 2018 by the State Police, Police Officer Standards and Training Council (POST), or municipal police departments.

Under existing law, police training must already cover a range of juvenile matters (see BACKGROUND).

EFFECTIVE DATE: October 1, 2017

BACKGROUND*Police Training Programs on Juvenile Matters*

Existing law requires each State Police basic or field training program to provide at least 27 hours of training on certain juvenile matters and each review program to provide at least one hour of such training. It requires each basic or field training program conducted or administered by POST or a municipal police department to provide at least 14 hours of such training and each review program to provide at least one hour of such training. Among other things, the training must include (1) techniques for handling incidents involving juveniles, (2) applicable procedures in the prosecution of cases involving juveniles, and (3) information on the processing and disposition of juvenile matters.

PA 17-180—HB 7093*Public Safety and Security Committee***AN ACT CONCERNING NOTIFICATION TO THE POLICE OFFICER STANDARDS AND TRAINING COUNCIL**

SUMMARY: This act requires law enforcement units to inform the Police Officer Standards and Training Council (POST) if they know that a police officer formerly employed by the unit is applying for a police job after the officer was dismissed for, or retired or resigned during an investigation of, malfeasance or serious misconduct calling into question his or her fitness to serve. Law enforcement units are already (1) required by law to make such reports to another unit to which the officer is applying and (2) barred by law from hiring such officers.

For purposes of the law and the act, (1) "malfeasance" has its common meaning, and (2) "serious misconduct" means an officer's improper or illegal actions connected with official duties that could cause a miscarriage of justice or discrimination, such as a felony conviction, evidence fabrication, repeated use of excessive force, bribe acceptance, or fraud. The act does not apply to an officer exonerated of all malfeasance or serious misconduct allegations.

The act, like existing law, applies to state, municipal, or other government entities whose primary functions include enforcing criminal or traffic laws; preserving public order; protecting life and property; or preventing, detecting, or investigating crime. It also applies to the Mashantucket Pequot and Mohegan tribal police departments when operating under a memorandum of understanding with the state.

EFFECTIVE DATE: October 1, 2017

BACKGROUND

POST

By law, POST (1) trains, certifies, and establishes minimum qualifications for municipal police officers and others and (2) enforces professional standards for certifying and decertifying officers. The law delineates the grounds on which it may cancel or revoke a police officer's certificate (CGS § 7-294d).

PA 17-69—sSB 260

Transportation Committee

AN ACT CONCERNING AUTONOMOUS VEHICLES

SUMMARY: This act requires the Office of Policy and Management (OPM), in consultation with the departments of Motor Vehicles (DMV), Transportation (DOT), and Emergency Services and Public Protection (DESPP), to establish a pilot program to allow manufacturers, fleet service providers, and specified others to test fully autonomous vehicles (AVs) in up to four municipalities. It requires participating municipalities to enter into agreements with AV testers and establishes testing requirements.

It also establishes a 15-member task force to study AVs, develop legislative recommendations to regulate them, and evaluate the pilot program.

The act defines a number of terms related to AVs, much of which conform to SAE International’s “Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles” (SAE J3016). SAE International is an engineering professional organization that develops engineering standards. The National Highway Traffic Safety Administration (NHTSA) has adopted the SAE definitions for use in its Federal Autonomous Vehicles Policy.

EFFECTIVE DATE: Upon passage

DEFINITIONS

AVs

Under the act, a “fully autonomous vehicle” is a motor vehicle equipped with an “automated driving system” designed to function without an operator and classified as SAE level four or five. According to SAE’s classification system, these AVs have the highest level of automation and can operate without the expectation of human intervention.

The act defines “automated driving system” (ADS) as hardware and software that collectively perform the entire “dynamic driving task” on a sustained basis, regardless of whether the ADS is limited to a specific “operational design domain.” “Dynamic driving task” means the real-time operational and tactical functions required while operating a vehicle on highways, excluding strategic functions such as trip scheduling and destination selection. “Operational design domain” means a description of the operating domains in which the ADS is designed to function, including geographic, roadway, environmental, and speed limitations.

AV Testers

Under the act, an “autonomous vehicle tester” is an AV manufacturer, higher education institution, fleet service provider, or automotive equipment or technology provider.

An “autonomous vehicle manufacturer” is a person or entity that (1) builds or sells AVs, (2) installs ADSs in motor vehicles not originally built as AVs, or (3) develops ADS in AVs or motor vehicles not originally built as AVs. A “fleet service provider” is a person or entity that owns or leases an AV and operates the AV for commercial or public use.

PILOT PROGRAM

The act requires OPM, in consultation with DMV, DOT, and DESPP, to establish a pilot program to allow AV testers to test AVs in up to four municipalities. Municipalities must apply to the OPM secretary to participate in the program in a form and manner he prescribes. The secretary must select at least (1) one municipality with a population of between 120,000 and 124,000, as listed in the 2010 census (i.e., Stamford) and (2) a different municipality with a population of at least 100,000, as listed in the 2010 census.

Testing Agreements

The chief elected officer or executive official of each municipality selected by the OPM secretary must enter into an agreement with an AV tester or testers to test AVs on the municipality’s highways. At a minimum, the agreement must:

1. specify the location and routes where AVs may operate;
2. prohibit AV operation outside of the listed routes, except in emergencies;

3. list each AV to be tested by vehicle identification number, make, year, and model; and
4. specify the AVs' hours of operation.

Testing Requirements

The act establishes requirements that AV testers and operators (i.e., the person sitting in an AV's driver's seat) must meet in order to test AVs.

Under the act, AV testers must (1) register with DMV each AV they plan to test and (2) submit to DMV proof of liability insurance, self-insurance, or surety bond of at least \$5 million for personal injury, death, or property damage. An AV operator must hold a driver's license and be an employee, independent contractor, or other person designated and trained by the AV tester on the AV's capabilities and limitations. When testing AVs, the operator must (1) be seated in the AV's driver's seat, (2) monitor the AV's operation, and (3) be capable of taking immediate manual control of the AV. AV testers cannot test AVs on limited access highways.

The act also requires AV testers and operators to comply with (1) state and municipal motor vehicle laws; (2) NHTSA's AV standards; and (3) any other requirements deemed necessary for the safe operation of AVs by OPM, in consultation with DMV, DOT, and DESPP.

Under the act, the OPM secretary may immediately prohibit an operator or AV tester from testing AVs if he determines, in consultation with DMV, DOT, and DESPP, that the (1) testing poses a public safety risk or (2) operator or AV tester has not complied with the act or the pilot program's requirements.

Reporting

The act requires participating AV testers to provide to the OPM secretary and the task force established by the act information that they deem appropriate to measure the pilot program's performance. AV testers may withhold commercially valuable, confidential, or proprietary information.

The OPM secretary must annually report to the Transportation Committee, starting by January 1, 2019, on the pilot program's implementation and progress.

TASK FORCE

The act creates a 15-member task force to study AVs. At a minimum, the task force must do the following:

1. evaluate NHTSA's standards on state responsibilities for regulating AVs;
2. evaluate other states' proposed or enacted laws, legislation, and regulations on AVs;
3. recommend how the state should regulate AVs through legislation and regulation; and
4. evaluate the pilot program established by the act.

The task force consists of 11 appointed members, one appointed by each of the top six legislative leaders; one each appointed by the Transportation Committee Senate chairperson, Transportation Committee House chairperson, and Transportation Committee ranking member; and two appointed by the governor. One of the governor's appointees must have AV expertise and one must have insurance expertise. Additionally, the DMV, DOT, and DESPP commissioners and the OPM secretary, or their designees, serve as ex-officio members.

Appointees may be legislators. Appointments must be made by July 27, 2017 and vacancies must be filled by the appointing authority.

The act requires the House speaker and Senate president pro tempore to select the task force's chairpersons from among its members. The chairpersons must schedule the first meeting of the task force, which must be held by August 26, 2017. The Transportation Committee's administrative staff serves as task force staff.

The task force must submit interim reports and a final report on its findings and legislative recommendations to the Transportation Committee. The interim reports are due by January 1, 2018 and July 1, 2018, and the final report is due by January 1, 2019. The task force ends on this date or the date it submits its final report, whichever is later.

PA 17-79—sSB 850

Transportation Committee

AN ACT CONCERNING RECOMMENDATIONS BY THE DEPARTMENT OF MOTOR VEHICLES REGARDING INSURANCE POLICIES FOR CERTAIN VEHICLES, YOUTH INSTRUCTION PERMITS, OPERATOR LICENSES, COMMERCIAL MOTOR VEHICLE OPERATION, ADMINISTRATIVE FEES, DIVERSION PROGRAM, STUDENT TRANSPORTATION VEHICLES, ABANDONED MOTOR VEHICLES, HARTFORD WHALER LICENSE PLATES AND OTHER CHANGES TO THE MOTOR VEHICLE STATUTES

§ 1 — INSURANCE POLICIES FOR CERTAIN PASSENGER TRANSPORTATION VEHICLES

Prohibits entities from issuing insurance or bonds for certain passenger vehicles that do not meet the law's minimum requirements

§ 2 — YOUTH INSTRUCTION PERMIT EXPIRATION

Eliminates the requirement that a youth instruction permit expire when the holder turns 18

§§ 3, 7, 14 & 24-27 — TECHNICAL CHANGES

Makes technical changes to the motor vehicle statutes.

§ 4 — High School MOTOR VEHICLE SAFETY COURSE

Eliminates a requirement that DMV prepare a course of study for motor vehicle courses in high schools

§ 5 — LICENSE AND REGISTRATION TRANSACTIONS BY MUNICIPALITIES

Specifies that municipalities may charge a \$5 convenience fee for processing DMV transactions

§ 6 — LICENSE RENEWAL BY ACTIVE DUTY ARMED SERVICE MEMBERS

Modifies the length of time for which an armed service member's license is valid after returning from active duty

§ 8 — COMMERCIAL DRIVER'S LICENSE (CDL) DISQUALIFICATION FOR TRAFFIC VIOLATIONS

Specifies when a person convicted of serious moving violations must be suspended from operating a commercial vehicle

§§ 9 & 10 — PROOF OF DEALER BOND RENEWAL

Increases the fine for dealers and repairers who do not submit proof of policy or bond renewal by the deadline

§ 11 — VOLKSWAGEN SETTLEMENT PROVISION

Prohibits DMV from revoking a vehicle's registration if it is subject to certain settlements

§ 12 — TITLE APPLICATIONS

Allows title applications to be filled out by the owner or automatically populated using information from DMV's databases

§ 13 — IGNITION INTERLOCK DEVICES (IID)

Makes a minor change regarding IID laws

§ 15 — DIVERSION PROGRAMS FOR PEOPLE UNDER AGE 21

Prohibits CDL holders or those who commit certain violations from participating in a diversionary program for people under age 21

§ 16 — COMMUNITY-BASED TRANSITION PROGRAM SIGNS AND SCHOOL TRANSPORTATION VEHICLES (STV)

Eliminates, under certain circumstances, the requirement that STVs display "carrying school children" signs

§§ 17-20 — ABANDONED VEHICLES

Modifies the process by which garage owners may sell unclaimed vehicles towed to and stored by them

§ 21 — HARTFORD WHALER'S LICENSE PLATES

Requires the DMV commissioner to issue Hartford Whalers commemorative license plates to support the Connecticut Children's Medical Center

§ 22 — REGISTRATION AND PARKING ON HIGHWAYS

Prohibits a person from parking a vehicle on a highway unless it is properly registered with the commissioner

§ 23 — PLACARDS FOR VETERANS WITH POST-TRAUMATIC STRESS DISORDER (PTSD)

Allows applicants to provide certification from specified psychiatrists in order to receive a windshield placard

SUMMARY: This act makes a number of changes in the motor vehicle statutes, including:

1. making several changes in laws affecting how garage owners may sell unclaimed vehicles towed to and stored by them (§§ 17-20),
2. prohibiting the Department of Motor Vehicles (DMV) from revoking the registration of vehicles subject to the Volkswagen settlement (§ 11),
3. making commercial driver's license (CDL) holders and people convicted of using a handheld cellphone or electronic device while driving ineligible to participate in a diversionary program for young drivers (§ 15),
4. making the display of a "carrying school children" sign optional for student transportation vehicles (STVs) carrying certain school children participating in transitional programs (§ 16),
5. changing the period of time that youth instruction permits and certain armed forces members' driver's licenses are valid (§§ 2 & 6),
6. creating Hartford Whalers commemorative license plates (§ 21), and
7. prohibiting people from parking an improperly registered vehicle on a highway (§ 22).

EFFECTIVE DATE: July 1, 2017, unless otherwise noted below.

§ 1 — INSURANCE POLICIES FOR CERTAIN PASSENGER TRANSPORTATION VEHICLES

Prohibits entities from issuing insurance or bonds for certain passenger vehicles that do not meet the law's minimum requirements

The act prohibits entities from issuing insurance policies or indemnity bonds for motor buses, taxis, livery vehicles, STVs, or service buses that do not meet the law's minimum coverage requirements. It allows DMV, when registering these vehicles, to presume that an issued policy or bond meets those coverage requirements.

EFFECTIVE DATE: October 1, 2017

§ 2 — YOUTH INSTRUCTION PERMIT EXPIRATION

Eliminates the requirement that a youth instruction permit expire when the holder turns 18

Under prior law, a youth instruction permit expired (1) two years after it was issued, (2) on the day the holder received a driver's license, or (3) on the day the holder turned age 18, whichever was earliest. Under the act, an instruction permit no longer expires when the holder turns age 18. Instead, a holder retains the permit until it expires under (1) or (2), whichever is earlier.

EFFECTIVE DATE: Upon passage

§§ 3, 7, 14 & 24-27 — TECHNICAL CHANGES

Makes technical changes to the motor vehicle statutes.

The act makes technical changes to the motor vehicle statutes.

EFFECTIVE DATE: October 1, 2017, except for changes to the endorsement-related statutes, which are effective upon passage.

§ 4 — HIGH SCHOOL MOTOR VEHICLE SAFETY COURSE

Eliminates a requirement that DMV prepare a course of study for motor vehicle courses in high schools

The law allows local and regional school boards to provide a high school motor vehicle operation and safety class that meets the law's requirements. The act eliminates a requirement that DMV prepare a course of study for use in these classes.

EFFECTIVE DATE: Upon passage

§ 5 — LICENSE AND REGISTRATION TRANSACTIONS BY MUNICIPALITIES

Specifies that municipalities may charge a \$5 convenience fee for processing DMV transactions

By law, the DMV commissioner may authorize a contractor or a municipality to process certain DMV transactions, such as license renewals and registration transactions. Existing law allows contractors to charge a processing fee of up to \$5 per transaction. The act specifies that municipalities may also charge this fee.

§ 6 — LICENSE RENEWAL BY ACTIVE DUTY ARMED SERVICE MEMBERS

Modifies the length of time for which an armed service member's license is valid after returning from active duty

The act extends the length of time a state driver's license held by an armed services member on active duty out-of-state remains valid. Under prior law, such a license was valid, with certain exceptions, for 30 days after the date the holder (1) was honorably separated from the service or (2) returned to the state. Under the act, such a license is instead valid for 60 days after the holder is honorably separated from the service, regardless of when he or she returns to the state.

§ 8 — COMMERCIAL DRIVER'S LICENSE (CDL) DISQUALIFICATION FOR TRAFFIC VIOLATIONS

Specifies when a person convicted of serious moving violations must be suspended from operating a commercial vehicle

The act specifies when DMV must suspend a person convicted of multiple serious moving violations from operating a commercial vehicle, in order to comply with federal law. Under existing law, a person is temporarily disqualified from operating a commercial motor vehicle for 60 days if convicted of two serious traffic violations or 120 days if convicted of three serious traffic violations, arising from separate incidents occurring within a three-year period. The act specifies that the suspension applies if these violations were committed (1) while operating a commercial motor vehicle; (2) while operating a noncommercial vehicle, if the violation resulted in a person's class D license being suspended for any period of time; or (3) any combination of (1) and (2).

EFFECTIVE DATE: October 1, 2017

§§ 9 & 10 — PROOF OF DEALER BOND RENEWAL

Increases the fine for dealers and repairers who do not submit proof of policy or bond renewal by the deadline

By law, car dealers and repairers must maintain cash or surety bonds and insurance for their vehicles in certain amounts specified by law. The act increases, from \$50 to \$200, the fine for failing to provide proof of policy or bond renewal before the existing policy or bond expires.

§ 11 — VOLKSWAGEN SETTLEMENT PROVISION

Prohibits DMV from revoking a vehicle's registration if it is subject to certain settlements

The act prohibits DMV from revoking a vehicle's registration if it is subject to any consent decree approved by the U.S. District Court for the Northern District of California on October 25, 2016, to settle a case entitled *In Re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*. States must implement this provision to receive funds from the Environmental Mitigation Trust that is part of the settlement.

§ 12 — TITLE APPLICATIONS

Allows title applications to be filled out by the owner or automatically populated using information from DMV's databases

The act allows applications for certificates of title to be filled out by the vehicle owner or automatically populated using information from DMV's databases. Prior law required the vehicle owner to complete the application.

§ 13 — IGNITION INTERLOCK DEVICES (IID)

Makes a minor change regarding IID laws

Prior law prohibited a person required by DMV or a court to use an IID from (1) asking someone else to blow into the IID or (2) driving a vehicle that did not have an IID or that the court had ordered the person not to operate. It also prohibited a person from tampering with, altering, or bypassing the IID. The act specifies that these prohibitions apply to anyone whose right to operate a motor vehicle is restricted by any law requiring the use of IIDs.

§ 15 — DIVERSION PROGRAMS FOR PEOPLE UNDER AGE 21

Prohibits CDL holders or those who commit certain violations from participating in a diversionary program for people under age 21

By law, a court may require a person under age 21 who has been convicted of certain alcohol-related or traffic offenses to attend a diversionary program, completion of which results in dismissal of the charges against him or her.

Under the act, the program is not available to anyone (1) charged with using a handheld cellphone or electronic device while driving or (2) who, at the time of the violation, held a CDL or commercial driver's instruction permit or was operating a commercial motor vehicle. These changes are required in order to receive federal grants and comply with federal law.

EFFECTIVE DATE: October 1, 2017

§ 16 — COMMUNITY-BASED TRANSITION PROGRAM SIGNS AND SCHOOL TRANSPORTATION VEHICLES (STV)

Eliminates, under certain circumstances, the requirement that STVs display "carrying school children" signs

By law, STVs must display a sign that reads "Carrying School Children" and meets certain specifications when transporting school children to or from school or school activities. The act exempts from this requirement any STV that transports students who are between ages 18 and 21 and participating in community-based transition services as part of an individualized education program. STVs are any vehicle, other than a school bus, used to transport students (i.e., anyone under age 21 who is attending school) to or from school, school programs, or school-sponsored events.

§§ 17-20 — ABANDONED VEHICLES

Modifies the process by which garage owners may sell unclaimed vehicles towed to and stored by them

The act makes several changes in laws affecting how garage owners (garages) may sell unclaimed vehicles towed to and stored by them. The act affects unclaimed vehicles that are (1) abandoned, (2) illegally parked and towed from private property, or (3) rendered immovable by a wheel-locking device (booted). By law, garages may sell such vehicles valued at (1) \$1,500 or less after 15 days and (2) more than \$1,500 after 45 days. Among other things, the act does the following:

1. requires that garages receive an "affidavit of compliance" from the DMV and provide it to the purchaser at the time of sale;
2. requires garages storing vehicles valued at \$1,500 or less to notify vehicle owners and lienholders within the 15-day period of their intent to sell the vehicle rather than requiring them to send notice five days before the intended sale;
3. requires garages storing vehicles valued at more than \$1,500 to notify vehicle owners and lienholders within the 45-day period of their intent to sell rather than requiring them to send notice at least five days before the intended sale;
4. generally allows the DMV commissioner to limit the number of days for which a garage can charge for storage beyond (a) 30 days for vehicles valued at \$1,500 or less or (b) 60 days for vehicles valued at more than \$1,500;

5. sets a minimum time period of five business days, rather than five calendar days, after which a vehicle may be sold after notice is sent; and
6. establishes a \$10 fee for certain documents and increases the fee for other documents from \$5 to \$10.

The act requires, rather than allows, the commissioner to adopt regulations (1) specifying the circumstances in which a campground owner may dispose of a motor home or recreational vehicle abandoned on his or her property and (2) establishing procedures governing the disposal.

It also makes minor and conforming changes.

Storage and Sale of Abandoned and Unregistered Vehicles

By law, a vehicle is considered abandoned if left on a highway or another person's property without that person's consent for more than 24 hours. A police officer, parking authority, or DMV inspector, on finding an apparently abandoned vehicle, or one lacking proper registration, must place on it a sticker notifying the owner that the vehicle will be towed and stored at the owner's expense if not removed within 24 hours.

Under existing law, within 48 hours of the time a vehicle is stored the police or parking authority must notify, in writing, the vehicle's owner and any lienholder that (1) the vehicle is being stored and its location, (2) it may be sold, and (3) the owner may request a hearing. By law, this notice must be sent by certified mail. The act requires that it also be sent return receipt requested.

Unless a vehicle owner has requested a hearing, existing law allows a garage to sell vehicles valued at (1) \$1,500 or less after a minimum of 15 days' storage and (2) more than \$1,500 after 45 days. The act makes the 45-day storage period a minimum for vehicles valued at more than \$1,500.

Notice of Intent to Sell. Under the act, unless an owner has requested a hearing, the garage must, within the minimum 15-day and 45-day storage periods, notify the following people of its intent to sell the vehicle: the DMV commissioner, the vehicle owner, and any known lienholder. Prior law required the garage to notify the owner of a pending sale five days before it was to take place for vehicles valued at \$1,500 or less and at least five days before it was to take place for vehicles valued at more than \$1,500.

The notice of intent to sell must contain the following information: (1) the vehicle's make, model, vehicle identification number, and its registration number, if available, and (2) the date the vehicle was placed in storage and by whom.

The commissioner must place the notice on file and make it available for public inspection.

The act requires that the notice of intent to sell that the garage sends to the owner and lienholder be accompanied by a statement indicating the manner of the sale, as required by law and the act, and its date, time, and place. The garage must send the notice and accompanying statement by certified mail, return receipt requested. The statement must also inform the vehicle owner that he or she has one year from the date of the sale to claim any proceeds in excess of the garage's charges and obligations.

Under the act, there is a \$10 fee to file the notice and accompanying statement. A sale made without the garage giving proper notice is void. Under the act, a garage can sell a vehicle no sooner than five business days after it mails the notice of intent to sell, and it must apply the sale proceeds to its towing and storage charges.

The act eliminates a requirement that a garage notify DMV about abandoned motor vehicles within 40 days of the date they were placed in storage if the vehicle was not claimed within 30 days of that date.

Affidavit of Compliance. The act requires the DMV commissioner to issue the garage an affidavit of compliance on approving the notice of intent to sell. The garage must provide this document to the vehicle's purchaser at the time of sale.

Limitation on Storage Charges. Under the act, the commissioner may generally limit the number of days for which a garage may charge for storage to 30 days for vehicles valued at \$1,500 or less and to 60 days for vehicles valued at more than \$1,500. The time periods begin immediately following the date the vehicle was placed in storage. But the garage may charge for additional storage days if it provides the commissioner with evidence that charges for additional days accrued because the garage relied on statements or representations made by the vehicle owner or lienholder, or as a result of the garage's good faith effort to negotiate the vehicle's return to the owner or lienholder.

Certain Vehicles Worth \$500 or Less. Existing law requires that title of certain abandoned vehicles vest in the town where the vehicle was abandoned. The municipality's police department or parking authority must notify DMV within 48 hours of taking such a vehicle into custody. The act requires the department or authority to immediately thereafter sell or transfer such vehicles to a licensed motor vehicle recycler (see BACKGROUND). This requirement applies to vehicles with invalid or missing license plates that a police officer or parking authority inspector believes to (1) be abandoned; (2) have a market value of \$500 or less; and (3) be so vandalized, damaged, or in such disrepair as to be unusable. By law, the department or parking authority must send written notice by certified mail informing the vehicle owner of its sale or other disposition. The act requires that such notice also be sent return receipt requested.

Self-Storage Facilities. The act increases, from \$5 to \$10, the fee that owners of self-storage facilities must pay to DMV when seeking the existence and identity of any lienholder, and the name and address of the owner, of a vehicle abandoned in such a facility.

Bailees. The act also increases, from \$5 to \$10, the fee paid to DMV by a bailee of a motor vehicle (e.g., someone owed money for repairing a vehicle) who intends to sell a vehicle on which he or she has a lien. It specifies that the written notice sent to DMV is a written notice of intent to sell.

Upon approving the notice, DMV must issue the bailee an affidavit of compliance. The bailee must provide the affidavit to a purchaser at the time of sale.

EFFECTIVE DATE: January 1, 2018

§ 21 — HARTFORD WHALERS LICENSE PLATES

Requires the DMV commissioner to issue Hartford Whalers commemorative license plates to support the Connecticut Children's Medical Center

Beginning January 1, 2018, the act requires the DMV commissioner to issue Hartford Whalers license plates, in a design determined by the commissioner, to commemorate the Hartford Whalers and provide funding for the Connecticut Children's Medical Center. The act prohibits using the plates for purposes other than official registration marker plates. It also allows the DMV commissioner to issue regulations establishing standards and procedures for issuing, renewing, and replacing these plates.

Fees

The act requires DMV to charge a \$60 fee, in addition to all other registration fees, for Hartford Whalers plates. Of this fee, \$15 goes to DMV to cover production, issuance, renewal, and replacement costs of the plates, and \$45 must be deposited in the Hartford Whaler's commemorative account the act establishes. The plates must have numbers and letters selected by DMV, but the commissioner may charge a higher fee, in addition to the fees prescribed for such registrations by law, for license plates that (1) contain the numbers and letters from a previously-issued plate, (2) contain letters in place of numbers, and (3) are low number plates. No additional fee may be charged for renewing these plates or transferring an existing registration to or from a Hartford Whalers plate.

All fees collected pursuant to the act, other than the money designated for DMV costs, must be deposited in the Hartford Whalers commemorative account.

Hartford Whalers Commemorative Account

The act creates a "Hartford Whalers commemorative account" as a separate, nonlapsing account within the General Fund. The account must contain money the law requires to be deposited in it, and money in the account must be spent by the Office of Policy and Management secretary to provide funding to the Connecticut Children's Medical Center. The secretary may also accept private donations for deposit into the account.

The DMV commissioner may also provide for the reproduction and marketing of the Hartford Whalers license plate image for use on clothing, recreational equipment, posters, mementos, or other products or programs he deems suitable to support the account. Any money he receives from doing so must be deposited in the account.

EFFECTIVE DATE: Upon passage

§ 22 — REGISTRATION AND PARKING ON HIGHWAYS

Prohibits a person from parking a vehicle on a highway unless it is properly registered with the commissioner

Existing law generally prohibits a person from operating or towing a motor vehicle on a highway unless it is properly registered with DMV. The act additionally prohibits a person from parking an improperly registered vehicle on a highway.

Under existing law, a person who establishes residency in the state has a 60-day grace period during which he or she may operate a vehicle registered out-of-state without registering it with DMV. The act additionally allows such a person to park in a parking area during the grace period.

Under the act, (1) a person who parks an unregistered vehicle as prohibited commits an infraction and (2) a state resident who parks a vehicle he or she owns with an out-of-state license plate after the grace period faces a \$1,000 fine. The same penalties apply under existing law to people who operate or allow the operation of unregistered or improperly registered vehicles.

EFFECTIVE DATE: October 1, 2017

§ 23 — PLACARDS FOR VETERANS WITH POST-TRAUMATIC STRESS DISORDER (PTSD)

Allows applicants to provide certification from specified psychiatrists in order to receive a windshield placard

Under existing law, an applicant for a removable windshield placard for people with disabilities must submit, with their application, certification from a licensed physician, physician's assistant, or nurse practitioner that the person meets the federal definition of a person with a disability that limits or impairs the ability to walk.

Under the act, an applicant has an additional option that allows him or her to provide certification from a psychiatrist under contract or employed by the U.S. Department of Veterans Affairs (VA) that the applicant (1) is a veteran, as defined by state law, who has PTSD certified by the VA as service-connected and (2) meets the federal definition of a person with a disability that limits or impairs the ability to walk.

EFFECTIVE DATE: Upon passage

BACKGROUND

Motor Vehicle Recycler Business or Yard

A motor vehicle recycler business or yard is one storing (1) at least two unregistered motor vehicles no longer intended, or in condition, for legal highway use or (2) used motor vehicle parts or scrap iron, metal, glass, paper, cordage, or other waste or discarded second-hand material that was a part, or intended to be a part, of a motor vehicle, the total of which is equal to at least two motor vehicles. It also is any place where vehicles are taken to be dismantled for parts or scrap (CGS § 14-67g).

PA 17-174—sSB 76

Transportation Committee

AN ACT CONCERNING THE POWER OF THE COMMISSIONER OF TRANSPORTATION TO CONDUCT A MILEAGE TAX STUDY WITH STATE FUNDS

SUMMARY: This act (1) requires legislative approval for the Department of Transportation (DOT) to use any state money for a study, plan, program, material, or activity involving a mileage-based user fee on state roads and (2) specifies the approval process. A mileage-based user fee requires motorists to pay a fee for each mile they drive.

EFFECTIVE DATE: Upon passage

LEGISLATIVE APPROVAL PROCESS

The act requires DOT to file a request for approval of any such expenditure with both the House and Senate clerks. Under the act, a majority vote in favor of the request in each chamber is needed to approve it; a majority vote against the request in either chamber rejects it.

If the legislature is in session, it must vote to approve or reject the proposed expenditure no later than 30 days after DOT files the request. The proposed expenditure is deemed rejected if the legislature does not vote to approve or reject it within that time. The 30-day period begins or ends only when the legislature is in regular session. Any request filed with the clerks within 30 days before the start of a regular session is deemed filed on the first day of the regular session.

If the DOT files the request when the legislature is not in session, it must be submitted to the legislature no later than 10 days after the first day of the next regular session or a special session called to consider it.

PA 17-192—sHB 7138

Transportation Committee

AN ACT CONCERNING LEGISLATIVE OVERSIGHT OF MAJOR TRANSPORTATION PROJECTS AND PLANNING

SUMMARY: This act establishes an 18-member Transportation Policy Advisory Council as part of the executive branch and within the Office of Policy and Management (OPM) for administrative purposes only. It charges the council with various responsibilities related to transportation policy, including reviewing the five-year transportation capital plan developed annually by the Department of Transportation (DOT).

The act requires DOT, in consultation with specified commissioners and legislators, to develop and submit for legislative approval a method for assessing each transportation project to determine the project's impact on economic development, transit-oriented development, housing development, access to employment, the environment, traffic congestion, and public safety. The act generally (1) requires the commissioner to use the method to assess each "transportation project" as defined by the act and (2) prohibits the commissioner from requesting funding for any project he has not assessed.

Under the act, a "transportation project" is any transportation planning or capital project that the state begins on or after July 1, 2018 that (1) expands capacity on a limited access highway, transit or railroad system, or parking facility or (2) is estimated to cost at least \$150 million.

EFFECTIVE DATE: October 1, 2017, except for provisions related to the project assessment method, which are effective upon passage.

TRANSPORTATION POLICY ADVISORY COUNCIL

Council Membership and Procedure

Under the act, the council has 18 members, 13 of whom are voting members and five of whom do not vote. Eight of the voting members are appointed (two by the governor and one by each of the six legislative leaders) and five serve ex-officio: the OPM secretary, who acts as the chairperson; state treasurer; and commissioners of the departments of Economic and Community Development (DECD), Energy and Environmental Protection (DEEP), and Housing. The five nonvoting members are the DOT commissioner and the chairpersons and ranking members of the Transportation Committee. The OPM secretary, the treasurer, and the commissioners may each be represented by a designee.

Under the act, legislative appointees can be legislators. (It appears that such an appointment may violate a state constitutional and statutory ban on legislators holding positions in the executive branch (Conn. Const., art. III § 11; CGS § 2-5).) All of the appointees serve at the pleasure of, and their terms are coterminous with, their appointing authorities. Appointing authorities fill any vacancies.

The act requires initial appointments to the council to be made by December 1, 2017 and the OPM secretary to schedule and hold the council's first meeting by February 1, 2018. Three-fourths of the council's voting members constitute a quorum.

Council members are not paid but may be reimbursed, within available funding, for necessary expenses they incur.

Council Powers and Duties

Under the act, the council has various powers and duties related to transportation policy. The act charges the council with:

1. developing and recommending policies to improve transportation planning and select transportation projects;
2. advising the DOT commissioner on policies to promote economic development, transit-oriented development, housing development, access to employment, environmental protection, and the specific needs of geographic areas of the state; and
3. reviewing assessments of transportation projects (see below).

The act requires the council to review the five-year transportation capital plan DOT develops each year, including:

1. examining the plan's impact on the state's present and future transportation needs;
2. evaluating whether the plan assures the development of an adequate, safe, and efficient transportation system; and
3. conducting an annual public hearing on the plan and seeking testimony from metropolitan planning organizations (MPOs) on transportation projects within their district boundaries. (MPOs, comprised of local government and transportation officials, provide regional input and work with DOT in the federally required transportation planning process.)

The act also authorizes the council to (1) obtain from any executive branch agency, board, commission, or other state agency any data or assistance it needs to fulfill its charge and (2) perform any other necessary and appropriate acts.

The council may also establish committees to advise it. The committees must consist of transportation professionals, advocates, and other interested stakeholders.

Reporting

The council must annually report on its activities, starting by January 1, 2019, to the Transportation and Finance, Revenue and Bonding committees.

TRANSPORTATION PROJECT ASSESSMENT METHOD

The act requires the DOT commissioner to develop a method to assess each transportation project's impact on economic development, transit-oriented development, housing development, access to employment, the environment, traffic congestion, and public safety. In doing so, the commissioner must consult with the OPM secretary; chairpersons and ranking members of the Transportation and Finance, Revenue and Bonding committees; and the DECD, DEEP, and housing commissioners.

Legislative Review and Approval

By February 1, 2018, the act requires the DOT commissioner to submit the assessment method to the Transportation Committee. The committee must meet to approve or reject the method within 60 days of receiving it. The method becomes effective upon the committee's affirmative vote or failure to take action by the 60-day deadline. If the committee rejects the method, the DOT commissioner must revise it and return it to the committee within 30 days after the rejection.

Assessment of Projects

Beginning July 1, 2018, the act requires the DOT commissioner to assess each transportation project using the approved assessment method. The commissioner must submit the assessments to the council and post them on DOT's website.

The act prohibits the commissioner from including a project in the five-year capital plan if he has not assessed the project using the approved method. It also prohibits him from submitting a bonding or appropriation request to the legislature for a project if he has not submitted the project's assessment to the council, unless the project (1) is necessary to maintain the state's infrastructure in good repair, as determined by the commissioner and (2) does not meet the act's definition of transportation project.

The act requires the DOT commissioner to annually report to the Transportation and Finance, Revenue and Bonding committees, starting by January 1, 2019, on the transportation project assessments completed in the previous calendar year.

PA 17-230—sHB 7055
Transportation Committee

AN ACT CONCERNING RECOMMENDATIONS BY THE DEPARTMENT OF TRANSPORTATION REGARDING THE NOTIFICATION OF STATE CONSTRUCTION CONTRACT OPPORTUNITIES BY THE UNIVERSITY OF CONNECTICUT AND THE COMMISSIONER OF TRANSPORTATION, PARKING SPACES, WAYSIDE HORNS, THE DISPOSITION OF EXCESS STATE PROPERTY, HEAVY DUTY TRAILERS, FLASHING LIGHTS ON MOTOR VEHICLES, CHILD RESTRAINT SYSTEMS, PESTICIDE APPLICATION BY RAILROAD COMPANIES, THE "MOVE OVER" LAW, ROAD DESIGN STANDARDS, AND ROAD AND BRIDGE DESIGNATIONS

SUMMARY: This act strengthens motor vehicle child restraint (car seat) requirements and subjects violators to the penalties under existing law.

It eliminates a law requiring the Department of Transportation (DOT) to offer excess highway property to the municipality in which the property is located before selling it. (DOT is still subject to another law requiring all state agencies to notify state and local officials before selling any land they own in a municipality.)

The act changes other laws affecting handicapped parking, railroad crossings, pesticide spraying by railroads, notification procedures for certain DOT and UConn contracts, oversize and overweight vehicle permits, the “move over” law, the display of lights on vehicles used by state construction inspectors, parking in New Haven intersections, and road design standards.

It requires DOT to conduct several studies and install certain signs on certain highways. It also makes a technical change (§ 13) and names a number of roads and bridges.

EFFECTIVE DATE: October 1, 2017, except for the naming of roads and bridges, installation of signs and the DOT studies of the Danbury Branch Line, Merritt Parkway, and Bridgeport-Greenwich tunnel, which take effect upon passage.

§§ 1-3 — NOTIFICATION OF CERTAIN DOT AND UCONN CONSTRUCTION PROJECTS

The act eliminates requirements that (1) UConn and DOT notify prospective bidders on various construction projects and (2) DOT notify prospective consultants, by advertising at least once in newspapers distributed throughout the state or in areas affected by the contract. It instead requires DOT and UConn to notify prospective contractors and consultants through the Department of Administrative Services' state contracting portal.

UConn Contracts

The act applies to three types of UConn contracts:

1. total cost basis or other contracts for university projects costing more than \$500,000,
2. construction manager at-risk contracts, and
3. design-build contracts.

By law, a “total cost basis contract” is a design-build contract or a construction manager at-risk project delivery contract between UConn and a contractor to accomplish multiple elements of a project, including site acquisition, architectural design, preconstruction activities, project management, and construction (CGS § 10a-109c).

In a construction manager at-risk contract, a construction manager generally works with a designer and provides labor, material, and project management during construction. Under a design-build contract, a single entity both designs and builds the project.

The act requires UConn or the construction manager, as applicable, to advertise all three types of contracts on the state contracting portal. It requires them to advertise construction manager at-risk and design-build contracts specifically on the portal instead of generally on the internet.

It eliminates newspaper advertising requirements for total cost basis and other contracts of more than \$500,000 and construction manager at-risk contracts. (Prior law did not require UConn to advertise design-build contracts in newspapers. As under existing law, UConn must still advertise contracts of more than \$500,000 on the university website.)

DOT Contracts

The DOT contracts affected by the act are:

1. construction manager at risk contracts,
2. design-build contracts, and
3. consulting services contracts.

The act eliminates the newspaper advertising requirement for each of these contracts and requires the commissioner to advertise consultant contracts on the portal, just as he must now advertise construction manager at-risk and design-build contracts.

§ 4 — PARKING SPACES FOR PEOPLE WITH DISABILITIES

By law, parking spaces reserved for passenger cars and vans used by people with disabilities must be as near as possible to building entrances or walkways. Starting October 1, 2017, the act also allows these parking spaces to be placed parallel to sidewalks on public highways, as the law allowed before October 1, 2004. By law, these spaces must be designated by signs with specific wording and symbols.

§ 5 — WAYSIDE HORNS AT RAILROAD CROSSINGS

The law allows the use of stationary “wayside horns” at certain railroad crossings to warn motorists of approaching trains. The act reduces, from 29 seconds to 15 seconds, the minimum time such a horn must sound before the train reaches the crossing, conforming the requirement to federal regulations (49 C.F.R. § 222.59).

§ 6 — DISPOSAL OF EXCESS DOT PROPERTY

The act eliminates a requirement that DOT offer any excess land or buildings it no longer needs for highway purposes to the town in which the property is located before selling the property at auction. (But DOT must still offer these properties to other state agencies before selling it.)

Another law, unaffected by the act, requires all state agencies, such as DOT, to notify state and municipal officials before selling any land they own in that municipality. The chief executive officer then has 45 days in which to notify the state about the municipality’s interest in buying the property (CGS § 3-14b; see BACKGROUND).

§ 7 — MOVEMENT OF HEAVY CONSTRUCTION EQUIPMENT

The act changes how DOT must regulate the movement of oversize and overweight trailers carrying heavy construction equipment. Under prior law, each movement of these vehicles required a written DOT permit unless the vehicle was operating with an oversize-overweight account code number and a confirmation number. The act eliminates the account code requirement and instead allows such a vehicle to operate without a written DOT permit for each movement if it has an annual DOT oversize-overweight vehicle permit and a confirmation number. It requires the DOT commissioner to issue each such vehicle a document identifying the vehicle and stating the permit’s issuance and expiration dates.

The act also specifies that Department of Motor Vehicles (DMV)-furnished number plates or markers for these vehicles be prominently displayed on the rear of these vehicles.

§ 8 — DISPLAY OF LIGHTS ON VEHICLES OF STATE CONSTRUCTION INSPECTORS

The act allows state construction inspectors to display yellow or amber lights, including flashing or revolving lights, without a DMV permit on DOT-authorized vehicles they drive while conducting inspections for the state. It requires the DOT commissioner to keep a list of these inspectors, including their names and addresses, and the registration number of each vehicle that will display the lights.

The law already allows wreckers and rural mail delivery vehicles to display these lights without a permit.

§ 9 — DANBURY RAIL LINE STUDY

The act requires the DOT commissioner to evaluate the financial and operational feasibility of improving service on the Danbury branch line of the New Haven line, and to plan to implement these improvements, such as providing shuttle service and replacing rail cars. In conducting his evaluation, the commissioner must review previous studies, including the DOT's 2016 Danbury Branch Line Final Implementation Plan. The commissioner must report on his evaluation, findings, and plan, by January 1, 2018, to the Transportation and Finance, Revenue and Bonding committees.

§ 10 — MERRITT PARKWAY HEIGHT RESTRICTIONS

By law, DOT must investigate and identify ways to improve notification of height restrictions on the Merritt Parkway. The act requires DOT, when doing so, to focus on limited access entrances to the parkway and electronic means of notification. The department must report to the Transportation Committee on its findings and recommendations by January 1, 2018.

§ 11 — CHILD RESTRAINTS

The act strengthens child restraint system (car seat) requirements and subjects violators to the penalties under existing law. Among other things, it increases (1) the threshold age or weight under which a child must be placed in a rear facing car seat and (2) from six to seven, the maximum age at which children must be secured in either a child restraint or booster seat secured by a seat belt. It prohibits people from placing a child in a rear facing car seat in the front passenger seat of any vehicle with a functional air bag on that side.

Child Restraint System Requirements

Prior law required children:

1. under age one or weighing less than 20 pounds to be secured in a rear-facing child restraint,
2. age six and younger or weighing less than 60 pounds to be secured in a child restraint, and
3. age seven through 15 and weighing at least 60 pounds to either use such a restraint or wear a seat belt.

The act increases the age and weight thresholds for child restraint systems (see Table 1, below) and requires that such restraints be equipped with a five-point harness. As under existing law, all child restraint systems must meet federal motor vehicle safety standards.

Table 1: Child Restraint Requirements under the Act

<i>Age and Weight</i>	<i>Restraint Requirements</i>
Under age two or less than 30 pounds, regardless of age	Rear-facing child restraint
Ages two through four, or weighing 30 through 39 pounds, regardless of age	Rear- or forward-facing child restraint
Ages five through seven, or weighing 40 through 59 pounds, regardless of age	Rear- or forward-facing child restraint or a booster seat secured by a seat belt. (As under existing law, the booster seat must be secured by a lap-and-shoulder seat belt.)
Ages eight through 15 and weighing 60 pounds or more	Child restraint or seat belt

Under the act, if a child's age and weight fall in two different categories (e.g., a child is less than two years old but weighs more than 30 pounds) the more restrictive requirement (rear-facing car seat in this instance) applies.

Penalties for Violations

As under existing law, a first violation of the child restraint provisions is an infraction and a second violation is punishable by a fine of up to \$199. Each subsequent violation is a class A misdemeanor (see Table on Penalties).

The DMV commissioner must require anyone who commits a first or second violation to attend a DMV-approved child car seat safety course. The commissioner, after providing notice and an opportunity for a hearing, may suspend for up to two months the driver's license of a violator who fails to attend or successfully complete the course.

§ 12 — NOTIFICATION OF PESTICIDE SPRAYING BY RAILROADS

The act requires railroads to provide notice before using pesticides to control vegetation on railroad rights of way. Prior law exempted railroads from providing such notice. (Federal regulations require railroad companies to control vegetation on railroad rights-of-way for safety reasons (49 C.F.R. § 213.37).)

The act requires a railroad company that applies pesticides to any railroad right-of-way to:

1. provide at least 21 days' notice of the application to DOT and the chief elected official or board of selectmen of each municipality where it will apply the pesticide and
2. file a vegetation management plan with DOT and these municipalities by February 1 annually.

Under the act, such a plan must identify targeted vegetation and management methods for the upcoming calendar year. Municipalities must post the vegetation management plan on their websites, if they have one, within 30 days after receiving it.

A violation is punishable by a fine of up to \$90.

§ 14 — MOVE OVER LAW

The act requires a driver traveling in the lane next to the shoulder, lane, or breakdown lane of a highway, when approaching a stationary vehicle located on such shoulder, lane, or breakdown lane, to move over one lane, unless doing so would be unreasonable or unsafe. A violation is an infraction.

Existing law, unchanged by the act, requires drivers to immediately reduce speed when approaching an emergency vehicle that is stationary or traveling significantly below the speed limit on the shoulder, lane, or breakdown lane, and to move over one lane, if they can do so safely, if they are traveling in the lane next to the shoulder, lane, or breakdown lane where the emergency vehicle is located.

§ 15 — TUNNEL STUDY

The act requires DOT to study the feasibility of building a tunnel from Greenwich to Bridgeport, including building one under I-95. The commissioner must report the study's findings to the Transportation Committee by January 1, 2019.

§ 16 — NEW HAVEN TRAFFIC LAWS

By law, motor vehicles cannot park within 25 feet of an intersection, marked crosswalk at an intersection, or a stop sign. The act creates exceptions for certain intersections in New Haven.

It allows a vehicle to be parked as close as 10 feet from an intersection in that city that has a curb extension as wide as or wider than the parking lane. (A curb extension extends the sidewalk into the parking lane to narrow the roadway and provide additional space for pedestrians.) It also allows a vehicle to be parked within 25 feet of a stop sign at the intersection of one-way streets in New Haven where permitted by that city's traffic authority. As under prior law, a violation is an infraction.

§ 17 — ROAD DESIGN STANDARDS

The act requires the DOT commissioner to update design standards for state roads by July 1, 2018. As under existing law, the standards must include, as appropriate, the standards of the National Association of City Transportation Officials' Urban Bikeway and Urban Street design guides.

§§ 18-44, 47 & 48 — BRIDGE AND ROAD NAMING

The act names 14 state highway segments and 15 state highway bridges as follows:

§ 18. Route 53 in Danbury from I-84 to South Street, the "Danbury Veterans Memorial Highway;"

§ 19. Route 67 in Oxford, the "Lieutenant Colonel Howard Belinsky Memorial Highway;"

§ 20. Route 79 in Madison from Route 1 to the intersection with Green Hill Road, the "Captain Andrew Pedersen-Keel Memorial Highway;"

- § 21. Route 32, from the end of Route 2 overlap in Norwich, north to the intersection with Route 207 in Franklin, the “Joseph J. Buyak, Jr. Memorial Highway;”
- § 22. Route 80 in North Branford from the East Haven line to the Guilford line, the “North Branford Fire Department Memorial Highway;”
- § 23. Route 69 in Woodbridge from Warren Road north to the Bethany line, the “Thomas Darling Memorial Highway;”
- § 24. Route 194 in South Windsor from Route 30 to Ayers Road, the “Cary Prague Memorial Highway;”
- § 25. Route 120 from Route 322 to Route 10 in Southington, “The Southington Fallen Firefighters Memorial Highway;”
- § 26. Bridge number 05869 on Route 44 in Ashford passing over the Mount Hope River, the “Specialist Robert W. Hoyt Memorial Bridge;”
- § 27. Route 189 in Hartford near the University of Hartford from Route 44 to the Hartford-West Hartford line, the “A. Peter LoMaglio Memorial Highway;”
- § 28. Bridge number 00349 on Route 1 passing over the Patchogue River in Westbrook, “The Singing Bridge;”
- § 29. Bridge number 00348 on Route 1 in Westbrook passing over the Menunketesuck River, the “John H. Wilson Memorial Bridge;”
- § 30. Bridge number 05708 on Route 70 over the Ten Mile River, the “Police Chief Gary Walberg Memorial Bridge;”
- § 31. Bridge number 00190 in Branford passing over Todds Hill Road, the “Frank Kinney, Jr. Memorial Bridge;”
- § 32. Bridge number 01075 on I-84 passing over Route 70 in Cheshire, the “State Police Sergeant G. Karume Schweitzer Memorial Bridge;”
- § 33. The bridge on Route 229 in Southington passing over I-84, the “Detective Bruce Boisland Memorial Bridge;”
- § 34. Bridge number 01228 carrying Scott Road over I-84 in Waterbury, the “Najla G. Noujaim Memorial Highway;”
- § 35. Bridge number 01292 carrying Route 97 over the Shetucket River, the “Lord’s Bridge;”
- § 36. Route 287 in Newington, from the junction of Route 176 generally eastward to the junction of U.S. 5 and Route 15, the “General William P. Kelly Memorial Highway;”
- § 37. Bridge number 01224 carrying I-84 over the Mad River in Waterbury, the “Sergeant Joseph M. Nolan Memorial Bridge;”
- § 38. Bridge number 01592 carrying Maple Street over the Naugatuck River in Ansonia, the “Veterans of Foreign Wars Memorial Bridge;”
- § 39. Bridge number 02858, carrying Route 243 over Two Mile Brook, the “Kevin Rascoe, Sr. Memorial Bridge;”
- § 40. Route 179 in Canton at the intersection of Route 44, “Hart’s Corner;”
- § 41. Bridge number 04324 on Route 175 in Newington, the “Sergeant Burton E. Callahan, Jr. Memorial Bridge” instead of the “Sergeant Burton E. Callahan Memorial Bridge;”

- § 42. Route 194 in South Windsor running generally north from U.S. Route 5 to Troy Road, the “Thomas E. Howe Memorial Highway” instead of the “Thomas F. Howe Memorial Highway;”
- § 43. Route 10 in Cheshire running north from about 350 feet south of the entrance of Bartlem Park to the Cheshire Police Station the “Medal of Honor Memorial Highway” instead of the “Medal of Honor Highway;”
- § 44. Route 173 in Newington from the intersection of Richard Street north to the intersection of Route 174, the “Firefighter Jay Cole, Jr. Memorial Highway,” instead of the “Robert J. Seiler Memorial Highway;”
- § 47. Bridge Number 00837 on I-84 in Tolland, passing over Cider Mill Road, the, “Sergeant Donald C. LeBlond Memorial Bridge;” and
- § 48. Bridge number 04287 on Old Cathole Road in Tolland passing over I-84, the “Lance Corporal Raymond Blanchette Memorial Bridge.”

§§ 45, 46 & 49-51 — SIGN INSTALLATION

The act requires DOT to install signs at the following locations:

A sign for St. Margaret’s Shrine before exit 47 on the Merritt Parkway (§ 45),

Signs for The Katharine Hepburn Cultural Arts Center in Old Saybrook on Route 9 and I-95 (§ 46),

A sign for Southport Village before exit 20 on I-95 (§ 49),

A sign for the Fairfield Museum and History Center before exit 22 on I-95 (§ 50), and

A sign for the Fairfield Theater Company before exit 21 on I-95 (§ 51).

BACKGROUND

Related Act

PA 17-243, § 2, requires the Department of Administrative Services, in cases where a municipality declines to acquire excess state property located in that municipality, to consider offering the surplus property to abutting landowners before offering it for general sale.

PA 17-36—sSB 916

Veterans' Affairs Committee

AN ACT CONCERNING MINOR AND CONFORMING CHANGES TO STATUTES CONCERNING VETERANS

SUMMARY: This act requires veterans service officers to complete a course in veterans' benefits no later than one year after commencing employment instead of within one year of commencement.

The act also makes numerous technical and conforming changes to reflect changes made by PA 16-167, which renamed the Veterans Advocacy and Assistance Unit as the Office of Advocacy and Assistance.

EFFECTIVE DATE: October 1, 2017

PA 17-65—sSB 918

Veterans' Affairs Committee

AN ACT CONCERNING A MUNICIPAL OPTION PROPERTY TAX EXEMPTION FOR GOLD STAR PARENTS AND SPOUSES

SUMMARY: This act allows a municipality, with its legislative body's approval, to provide a property tax exemption to any parent or surviving spouse of a service member killed in action while performing active military duty with the U.S. Armed Forces (i.e., "Gold Star" parent or surviving spouse). A municipality may exempt up to \$20,000 or 10% of the property's assessed value.

To be eligible for the exemption, the income of the Gold Star parent or surviving spouse cannot exceed (1) the state's income limit for a single person for other veterans' property tax exemptions annually set by the Office of Policy and Management (\$35,200, including inflation adjustments, in 2017) or (2) an amount the municipality sets, up to \$25,000 more than the state limit. Under the act, if both parents live together only one may receive the exemption.

The act specifies that the Gold Star exemption is in addition to any property tax exemption to which the applicant is entitled. But an applicant cannot receive more than one additional municipal property tax exemption for veterans or their family members (CGS §§ 12-81f & -81g).

Under the act, the "U.S. Armed Forces" means the Army, Navy, Marine Corps, Coast Guard, and Air Force, and any reserve component of these branches, including the Connecticut National Guard performing duty under Title 32 of the U.S. Code (e.g., certain Homeland Security missions).

EFFECTIVE DATE: October 1, 2017, and applicable to assessment years beginning on or after that date.

APPLICATION PROCEDURE

Application Submission

An applicant claiming the Gold Star exemption must (1) notify the town clerk in the municipality where he or she resides and (2) file an application, on a form prepared by the tax assessor, before the assessment date for which the exemption is claimed.

The act requires the application to include the following documentation:

1. at least two affidavits from disinterested persons showing the (a) deceased service member was killed in action while performing active military duty and (b) relationship between the service member and parent or surviving spouse and
2. a copy of the parent's or surviving spouse's federal income tax return or, if a return is not filed, income-related evidence required by the assessor for the tax year immediately before the assessment date for which the exemption is claimed.

Under the act, the assessor may further examine the applicant under oath about the facts in the affidavits.

The town clerk must record, at no charge, each affidavit in full and list the name of the claimant. The act prohibits an assessor, board of assessment appeals, or other official from granting an exemption until all of the required documentation is filed with the town clerk.

The exemption takes effect the day after an application is approved. The parent or surviving spouse must reapply for the exemption every two years.

Annual Certified List

The act requires the tax assessor to annually prepare a certified list of parents and surviving spouses entitled to the exemption and file it in the town clerk's office. The list is prima facie evidence that the parent or surviving spouse is entitled to the exemption as long as he or she lives in the municipality and the municipality provides the exemption.

Appearance before the Assessor

Under the act, the assessor may at any time require a parent or surviving spouse to appear to furnish additional evidence. But an individual unable to appear because of a disability may submit to the assessor a statement from an attending physician or advanced practice registered nurse certifying the disability and inability to appear. The assessor may request other evidence of total disability as he or she deems appropriate.

Disqualifying Income

Under the act, a parent or surviving spouse approved for an exemption in any year is presumed to qualify in the following year. The assessor must notify each such parent or surviving spouse in writing. (Presumably, the notice would inform them that they may claim the exemption that year.)

If the parent's or surviving spouse's income exceeds the amount allowed that tax year, he or she must notify the assessor on or before the next filing date. The assessor must deny the exemption for the year immediately following and any subsequent year, until the parent or surviving spouse reapplies and requalifies for the exemption.

The act requires any parent or surviving spouse who fails to notify the assessor of such income disqualification to pay the municipality for the amount of the property tax exemption that was improperly taken.

PA 17-83—sSB 914*Veterans' Affairs Committee***AN ACT CONCERNING THE DEFINITION OF A VETERAN FOR A CERTAIN HONOR AND CERTAIN BENEFIT**

SUMMARY: This act broadens the eligibility criteria for certain veterans' benefits. It allows additional people to (1) receive a service ribbon and medal, (2) be buried in a Connecticut veterans' cemetery, or (3) have veteran status indicated on their driver's license or identity card.

The law generally defines a "veteran" as anyone honorably discharged or released from active service in the U.S. Armed Forces or their reserve components, including the Connecticut National Guard performing duty under Title 32 of the U.S. Code (e.g., certain Homeland Security missions).

The act also makes technical changes.

EFFECTIVE DATE: October 1, 2017, except the cemetery provision is effective January 1, 2018.

RIBBONS AND MEDALS

Existing law requires the veterans affairs commissioner, with the adjutant general, to award a ribbon and medal to veterans who served in a time of war and were Connecticut residents when called to active duty.

Prior law limited the award to veterans who served in a time of war and were living in Connecticut when the award was made. The act extends eligibility for the award to (1) all veterans living in Connecticut when the award is made, irrespective of whether they served in wartime or peacetime, and (2) honorably discharged former reservists who (a) were state residents when serving during a period of war or (b) are living in Connecticut when the award is made.

Existing law requires the commissioner, with the adjutant general, to adopt regulations on how to design and distribute the ribbon and medal and how to identify eligible veterans. Under the act, the regulations must also cover these tasks for newly eligible veterans and former members.

BURIAL IN A STATE VETERANS' CEMETERY

Under prior law, a Connecticut National Guard member who completed at least 20 years of guard service or his or her next of kin could apply to the Department of Veterans Affairs for the veteran to be buried in a state veterans' cemetery. The act extends eligibility for this benefit to (1) National Guard members who do not have active duty service beyond training, as long as they are entitled to receive federal retirement pay (10 U.S.C. ch. 1223) or, if under age 60, would be eligible for such pay and (2) one spouse of such qualified member.

VETERAN STATUS ON DRIVERS LICENSE OR IDENTITY CARD

By law, veterans may submit a request to the Department of Veterans Affairs to have their veteran status represented on their driver's license or identity card. The act extends eligibility for this benefit to any former service member entitled to military retirement pay under federal law, regardless of age (10 U.S.C. ch. 1223).

BACKGROUND

Service in Time of War

Under state law, "service in time of war" means at least 90 cumulative days of active service during a statutorily defined period of war, unless the veteran was separated earlier because of a U. S. Veterans Administration-rated service-connected disability or because the war lasted less than 90 days.

Period of War

"Period of war" is statutorily defined and shown in Table 1.

Table 1: Period of War

<i>Operation</i>	<i>Date</i>	<i>Service Condition</i>
World War II	12/7/1941 to 12/31/1946	Active service during the war
Korean War	6/27/1950 to 1/31/1955	Active service during the war
Lebanon Conflict	7/1/1958 to 11/1/1958 or 9/29/1982 to 3/30/1984	Combat or combat-support role in Lebanon
Vietnam Era	2/28/1961 to 7/1/1975	Active service during the war
Grenada invasion	10/25/1983 to 12/15/1983	Combat or combat-support role in Grenada
Operation Earnest Will (escort of Kuwaiti tankers flying U.S. flag in Persian Gulf)	7/24/1987 to 8/1/1990	Combat or combat-support role
Panama invasion	12/20/1989 to 1/31/1990	Combat or combat-support role
Persian Gulf War	8/2/1990 to a date prescribed by the President or law	Active service anywhere during the war

PA 17-127—sSB 917

*Veterans' Affairs Committee
Judiciary Committee*

AN ACT CONCERNING DISCRIMINATORY PRACTICES AGAINST VETERANS, LEAVES OF ABSENCE FOR NATIONAL GUARD MEMBERS, APPLICATION FOR CERTAIN MEDICAID PROGRAMS AND DISCLOSURE OF CERTAIN RECORDS TO FEDERAL MILITARY LAW ENFORCEMENT

SUMMARY: This act prohibits discrimination on the basis of someone's veteran status in employment, public accommodations, the sale or rental of housing, the granting of credit, and other laws over which the Commission on Human Rights and Opportunities (CHRO) has jurisdiction. It authorizes any veteran aggrieved by an alleged discriminatory practice to file discrimination complaints with CHRO, which enforces antidiscrimination laws in these areas. A "veteran" is anyone honorably discharged or released under honorable conditions from active service in the U.S. Armed Forces, or their reserve components, including Connecticut National Guard members performing duty (e.g., certain Homeland Security missions) under Title 32 of the U.S. Code.

The act also:

1. requires the employer of anyone serving in another state's National Guard to allow the employee to take a leave of absence to perform ordered military duty during regular work hours (§ 14);
2. allows active-duty members of the armed forces to register certain family members for Medicaid home- and community-based programs (§ 15); and
3. explicitly includes U.S. Department of Defense military law enforcement authorities among the federal law enforcement officers to whom Department of Children and Families (DCF) records are disclosable without the consent of the person who is the subject of the record, under certain circumstances specified in law (§ 16).

EFFECTIVE DATE: October 1, 2017

§§ 1-13 — DISCRIMINATION IN EMPLOYMENT, PUBLIC ACCOMMODATIONS, HOUSING, AND CREDIT

General Anti-discrimination Provision (§§ 1 & 2)

Under existing law, it is a discriminatory practice to deprive someone of any rights, privileges, or immunities secured or protected by Connecticut or federal laws or constitutions, or cause such a deprivation, because of religion, national origin, alienage, color, race, sex, gender identity or expression, sexual orientation, blindness, or mental or physical disability. The act adds veteran status to this list, thus authorizing CHRO to investigate claims of discrimination based on veteran status.

Employment (§§ 3 & 4)

The act prohibits an employer or the employer's agent, except in the case of a bona fide occupational qualification or need, from refusing to hire or employ someone; barring or discharging someone from employment; or discriminating against someone in pay or in employment terms, conditions, or privileges because the person is a veteran. This prohibition applies to public or private employers with three or more employees. It applies to all employees except those employed by their parents, spouse, or children.

The act adds veteran status as a basis on which the following types of employment discrimination are prohibited:

1. an employment agency failing or refusing to classify properly or refer for employment or otherwise discriminating against someone except in the case of a bona fide occupational qualification or need;
2. a labor organization excluding someone from full membership rights; expelling a member; or discriminating in any way against a member, employer, or employee, unless the action is due to a bona fide occupational qualification;
3. an employer, an employment agency, a labor organization, or anyone else taking adverse action against someone because he or she opposed a discriminatory employment practice, brought a complaint, or testified or assisted someone else in a complaint proceeding;
4. any person aiding, abetting, inciting, compelling, or coercing someone to commit a discriminatory employment practice or attempting to do so; and
5. an employer, an employment agency, a labor organization, or anyone else advertising employment opportunities in a way that restricts employment and thus discriminates, except for a bona fide occupational qualification or need.

Public Accommodations (§ 5)

The act prohibits anyone from denying someone, on the basis of his or her status as a veteran, full and equal accommodations in any public establishment (i.e., one that caters to or offers its services, facilities, or goods to the general public), including any commercial property or building lot on which a commercial building will be built or offered for sale or rent, subject to lawful conditions and limitations that apply alike to everyone. It further prohibits discriminating, segregating, or separating people on the basis of veteran status. A violation is a class D misdemeanor (see Table on Penalties).

Housing (§ 6)

The act makes it a form of housing discrimination, and a class D misdemeanor (see Table on Penalties), to take any of the following actions because of a person's veteran status:

1. refuse to sell or rent after the person makes a bona fide offer, or refuse to negotiate for the sale or rental of a dwelling, or otherwise deny or make a dwelling unavailable;
2. discriminate in the terms, conditions, or privileges of a dwelling's sale or rental, or in the provision of services or facilities in connection with the sale or rental;
3. make, print, or publish any notice, statement, or advertisement for the sale or rental of a dwelling that shows, or indicates an intent to make, a preference, limitation, or discrimination; or cause this to be done;
4. falsely represent to someone that an available dwelling is not available for inspection, sale, or rental;
5. for profit, induce or attempt to induce someone to sell or rent a dwelling by representing that veterans are moving, or may move, into the neighborhood;
6. when engaging in residential-real-estate-related transactions, discriminate in (a) making such a transaction available or (b) the transaction's terms or conditions;
7. deny someone access to, or membership or participation in, any multiple-listing service; real estate brokers' organization; or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate in the terms or conditions of such access, membership, or participation; or
8. coerce, intimidate, threaten, or interfere with someone in the exercise or enjoyment of, or on account of the person having exercised, enjoyed, or aided or encouraged someone else in the exercise or enjoyment of, these rights.

The law's prohibitions on housing discrimination do not apply to the rental of owner-occupied single- or two-family homes.

Also, existing law allows property appraisers furnishing appraisals to consider factors other than race, creed, color, national origin, ancestry, sex, gender, identity or expression, marital status, age, lawful source of income, familial status, learning disability, or physical or mental disability. The act adds veteran status to this list of factors.

Credit (§ 7)

The act prohibits a creditor from discriminating against any adult in a credit transaction on the basis of the person's veteran status.

Other Areas Subject to CHRO Jurisdiction (§§ 3 & 8-13)

The act:

1. subjects any professional or trade association, board, or other similar organization whose profession, trade, or occupation requires a state license, to a fine of \$100 to \$500 for denying someone membership because of his or her veteran status (§ 3);
2. requires state officials and supervisory personnel to recruit, appoint, assign, train, evaluate, and promote state personnel on the basis of merit and qualifications, without regard to veteran status, unless the person's status as a veteran prevents performance of the work involved (§ 8);
3. requires state agency services to be performed without discrimination based on veteran status (§ 9);
4. requires any state agency that provides employment referrals or placement services to public or private employers to reject any job request that indicates an intention to exclude anyone based on his or her veteran status (§ 10);
5. prohibits state departments, boards, or agencies from granting, denying, or revoking someone's license or charter on the grounds of veteran status (§ 11);

6. requires all educational, counseling, and vocational guidance programs and all apprenticeship and on-the-job training programs of state agencies, or in which state agencies participate, to be open to all qualified individuals, without regard to veteran status (§ 12); and
7. prohibits a veteran's status from being considered as a limiting factor in state-administered programs involving the distribution of funds to qualify applicants for benefits authorized by law, and prohibits the state from giving financial assistance to public agencies, private institutions, or other organizations that discriminate on this basis (§ 13).

The act gives CHRO authority to investigate claims of discrimination on any of the above grounds.

§ 14 — Employment Protections for National Guard Members

The act extends employment protections afforded to employees who serve in the state armed forces or any reserve component of the U.S. Armed Forces to employees who are members of another state's National Guard who take time off from work during regular working hours to perform ordered military duty. This includes time off for meetings or drills. Employment protections include protection from (1) loss of vacation or holiday privileges or (2) prejudice in promotions, continuances, or reappointments due to absences.

§ 15 — Registration for Medicaid

The act allows an armed forces member on active duty to apply on behalf of his or her spouse or child for any Medicaid home- or community-based program in Connecticut for which the spouse or child is eligible.

"Armed Forces" means the U.S. Army, Navy, Marine Corps, Coast Guard and Air Force, and reserve components, including the Connecticut National Guard performing duty under Title 32 of the U.S. Code (e.g., some Homeland Security missions).

§ 16 — DCF Records

By law, DCF records are generally confidential but can be disclosed (1) with the consent of the person who is the subject of the records or (2) without consent under certain circumstances.

The law requires disclosure without the person's consent to state or federal law enforcement officers for purposes of investigations related to child abuse or neglect. The act specifies that "law enforcement officer" includes a military law enforcement authority under the U.S. Department of Defense.

PA 17-137—HB 7102

Veterans' Affairs Committee

AN ACT PROTECTING PERSONAL INFORMATION OF MEMBERS OF THE ARMED FORCES AND VETERANS

SUMMARY: This act requires any person in possession of military identification information to (1) safeguard the data, and computer files and documents containing it, from misuse by third parties and (2) destroy, erase, or make the data, computer files, and documents unreadable before disposing of them. (Under existing law, these same requirements already apply to people who possess other personal information, such as Social Security and driver's license numbers.)

If a financial institution adopts safeguards that comply with the 1999 federal Gramm-Leach-Bliley Act, this constitutes compliance under the act (see BACKGROUND).

The act defines "military identification information" as information identifying a person as a veteran or armed forces member, including a selective service number, military identification number, discharge document, military identification card, or military retiree identification card.

Anyone who violates the act is subject to a civil penalty of \$500 for each violation, up to \$500,000 for a single event, unless the violation was unintentional. Any civil penalties received must be deposited into the privacy protection guaranty and enforcement account established under existing law.

The act does not apply to (1) state agencies or political subdivisions or (2) publicly available information lawfully made available to the general public from federal, state, or local government records or widely distributed media.

EFFECTIVE DATE: October 1, 2017

VETERANS AND ARMED FORCES MEMBERS

Under the act, a “veteran” is anyone discharged or released under honorable conditions from active service in the armed forces. The “armed forces” means the U.S. Army, Navy, Marine Corps, Coast Guard, Air Force, and their reserve components, as well as the Connecticut National Guard performing duty under Title 32 of the U.S. Code (e.g., Homeland Security missions).

BACKGROUND

Gramm-Leach-Bliley Act

The 1999 federal Gramm-Leach-Bliley Act applies to financial institutions’ handling of nonpublic, personal information. It requires federal regulators to establish comprehensive standards for ensuring the security and confidentiality of consumers’ personal financial information.

PA 17-148—SB 136*Veterans’ Affairs Committee***AN ACT CONCERNING VEHICLE NUMBER PLATES FOR CERTAIN VETERANS**

SUMMARY: By law, the motor vehicles commissioner must issue a special registration certificate and a set of number plates to veterans and members of the armed forces, or their surviving spouses, for any motor vehicle they own or lease for at least one year, at their request. This act specifies that this requirement also applies to any motor vehicle they use exclusively for farming, as long as they engage in agricultural production as a trade or business.

By law and under the act, the commissioner must charge a fee that covers the cost of making the plates, in addition to the motor vehicle registration fee.

Under the act, a “veteran” is anyone honorably discharged or released from active service in the U.S. Armed Forces (Army, Navy, Marine Corps, Coast Guard, Air Force, and any reserve component of these branches, including the Connecticut National Guard performing duty under Title 32 of the U.S. Code (e.g., certain Homeland Security missions)).

EFFECTIVE DATE: July 1, 2017

PA 17-189—sHB 7100*Veterans’ Affairs Committee**Government Administration and Elections Committee***AN ACT CONCERNING AMERICAN LEGION STATE FUND COMMISSION TRANSPARENCY AND MUNICIPAL OPTION PROPERTY TAX EXEMPTIONS FOR CERTAIN VETERANS**

SUMMARY: This act establishes an additional optional municipal veterans’ property tax exemption by allowing a municipality, with its legislative body’s approval, to provide a property tax exemption to veterans (see BACKGROUND) who do not qualify for certain existing veterans’ property tax exemptions (i.e., wartime, disabled, and service-related severely disabled exemptions). A municipality may exempt up to \$5,000 or 5% of the property’s assessed value. The act establishes application requirements and procedures.

Existing law allows a municipality, with its legislative body’s approval, to provide 100% disabled veterans under certain income thresholds with three times the amount provided under the state-mandated disabled veterans’ property tax exemption program. The act increases such income eligibility thresholds from (1) \$18,000 to \$21,000, for unmarried veterans and (2) \$21,000 to \$24,000, for married veterans.

The act also generally deems any American Legion records related to the administration of the Soldiers’, Sailors’ and Marines’ Fund (SSMF, see BACKGROUND) as public records and subject to disclosure under the Freedom of Information Act (FOIA). It prohibits the state treasurer, as the SSMF custodian and trustee, from disclosing certain personal information.

EFFECTIVE DATE: Upon passage for the FOIA provision, and October 1, 2017 for the property tax provisions, which apply to assessment years beginning on or after that date.

OPTIONAL MUNICIPAL VETERANS PROPERTY TAX EXEMPTION

Eligibility

Under the act, to be eligible for the optional municipal veterans' property tax exemption, a veteran must be a resident of the municipality providing the exemption and not be entitled to the state-mandated property tax exemptions for wartime, disabled, or service-related severely disabled veterans (CGS §§ 12-81, (19) to (21)).

Additionally, such veteran's income cannot exceed (1) the state's income limit for other veterans' property tax exemptions set annually by the Office of Policy and Management for an unmarried person (\$35,200 in 2017, including inflation adjustments) or (2) an amount the municipality sets, up to \$25,000 more than the state limit.

Application Procedure

A veteran claiming the exemption must (1) notify the town clerk in the municipality where he or she resides and (2) file an application, on a form prepared by the tax assessor, before the assessment date for which the exemption is claimed.

The act requires the application to include the following documentation:

1. a certified copy of the veteran's military discharge document (e.g., DD 214) or at least two affidavits from disinterested persons showing the veteran was honorably discharged or released under honorable conditions from active service and
2. a copy of the veteran's federal income tax return or, if a return is not filed, income-related evidence required by the assessor for the tax year immediately before the assessment date for which the exemption is claimed.

Under the act, the assessor may further examine the veteran under oath about the facts in the affidavits.

The assessor must record, at no charge, each affidavit in full and list the veteran's name. The act prohibits an assessor, board of assessment appeals, or other official from granting an exemption until all of the required documentation is filed with the town clerk.

An exemption takes effect the day after an application is approved. The veteran must reapply for the exemption every two years.

Annual Certified List

The act requires the municipal tax assessor to annually make a certified list of veterans entitled to the exemption and file it in the town clerk's office. The list is prima facie evidence that the veteran is entitled to the exemption as long as he or she lives in the municipality and the municipality provides the exemption.

Appearance before the Assessor

Under the act, the assessor may, at any time, require a veteran to appear to furnish additional evidence. But an individual unable to appear because of a disability may submit to the assessor a statement from an attending physician or advanced practice registered nurse certifying the disability and inability to appear. The assessor may request other evidence of total disability that he or she deems appropriate.

Disqualifying Income

A veteran approved for an exemption in any year is presumed to qualify again in the following year. The assessor must notify each such veteran of this in writing. (Presumably, the notice would inform the veterans of their ability to claim the exemption that year.)

If the veteran's income exceeds the amount allowed that tax year, he or she must notify the assessor on or before the next filing date. The assessor must deny the exemption for the year immediately following and any subsequent year until the veteran reapplies and requalifies for the exemption.

The act requires any veteran who fails to notify the assessor of such income disqualification to make payments to the municipality in the amount of the property tax exemption that was improperly taken.

MUNICIPAL INCOME-BASED EXEMPTION

By law, municipalities must give disabled veterans an income-based exemption in addition to the state-mandated exemption. For veterans whose income falls below a statutorily determined limit, the additional exemption is equal to twice the underlying exemption (CGS § 12-81g(a)). For veterans whose income is above the limit, the additional exemption is 50% of the underlying exemption (CGS § 12-81g(d)). For 100% disabled veterans, the law, unchanged by the act, sets the exemption limit at \$18,000 for unmarried veterans and \$21,000 for married veterans.

Existing law allows a municipality, with its legislative body's approval, instead of providing the additional exemption described above, to provide 100% disabled veterans under certain income thresholds with three times the amount provided under the state-mandated disabled veterans' exemption. The act increases the income eligibility thresholds for this municipal option from (1) \$18,000 to \$21,000, for unmarried veterans and (2) \$21,000 to \$24,000, for married veterans.

FOIA DISCLOSURES

Under the act, the state treasurer is designated as the public agency for the purposes of any FOIA request and may access any American Legion record related to SSMF administration.

The act prohibits the treasurer from disclosing the personal information of anyone who (1) makes a gift, bequest, or donation to SSMF or (2) is an applicant for, or a recipient of, SSMF aid unless such disclosure is for (a) administering aid from the fund, (b) helping the applicant or recipient to obtain aid from any other government or private program, or (c) complying with a court order.

Under the act, "personal information" means information capable of being associated with a particular individual through one or more identifiers, including an individual's first name or initial and last name, a Social Security number, a driver's license number, a state identification card number, an account number, a credit or debit card number, a financial record, a passport number, an alien registration number, a health insurance identification number, or any military identification information. This information does not include any publically available information lawfully made available to the general public from federal, state, or local government records or widely distributed media.

"Military identification information" means information identifying a person as an armed forces member or a veteran (see BACKGROUND), including a Selective Service number, military identification number, discharge document, military identification card, or military retiree identification card.

BACKGROUND

Veteran

A "veteran" is anyone honorably discharged or released from active service in the U.S. Armed Forces.

U.S. Armed Forces

The "U.S. Armed Forces" means the U.S. Army, Navy, Marine Corps, Coast Guard, and Air Force, and any reserve component of these branches, including the Connecticut National Guard performing duty under Title 32 of the U.S. Code (e.g., certain Homeland Security missions).

SSMF

By law, the American Legion administers the SSMF, but the state treasurer is the custodian of the fund and is responsible for investing any amount not required for disbursement. The state treasurer uses the interest from the investment to provide temporary benefits, such as food, clothing, medical, surgical, and funeral assistance to eligible wartime veterans and their dependents or surviving dependents.

PA 17-196—HB 7176

Veterans' Affairs Committee

AN ACT CREATING A MILITARY RECRUITMENT RIBBON

SUMMARY: This act creates a recruitment award for members of the state's armed forces who help to recruit at least three people who enlist as new members on or after July 1, 2017, complete basic training, and qualify for a military occupational specialty. The Connecticut National Guard adjutant general must award a ribbon for three recruits and a bronze oak leaf cluster for an additional three recruits. A member who earns five bronze oak leaf clusters must wear a silver oak leaf. Military recruiters are not eligible for the awards.

EFFECTIVE DATE: July 1, 2017

BACKGROUND

State Armed Forces

By law, the state's armed forces are the (1) National Guard; (2) organized militia (i.e., the governor's guards, the State Guard, and other military forces the governor may designate as commander-in-chief); and (3) naval militia and Marine Corps branch of the naval militia, whenever organized (CGS § 27-2).

PA 17-197—sHB 7179

Veterans' Affairs Committee

AN ACT CONCERNING TERMINATION OF CERTAIN CONTRACTS BY CERTAIN MEMBERS OF THE NATIONAL GUARD ORDERED INTO ACTIVE STATE SERVICE

SUMMARY: This act allows Connecticut National Guard members ordered into active service to cancel certain contracts at any time after receiving orders to serve for 90 days or more at a location that does not support such contracts. These include contracts for (1) athletic club and gym memberships and (2) telecommunication, internet, television, and satellite radio services. In order to terminate the contract, the guard member must submit to the provider of the membership or service a written or electronic notice of the termination and a copy of his or her military orders.

The protections under the act are in addition to those provided in the state law that incorporates the protections of the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) and Servicemembers Civil Relief Act (SCRA), except for provisions pertaining to life insurance.

EFFECTIVE DATE: October 1, 2017

BACKGROUND

USERRA

USERRA provides reemployment rights for service members returning from serving in the uniformed services and prohibits employers from discriminating against them based on their military service or obligation (38 U.S.C. §§ 4301-4333).

SCRA

SCRA gives specific rights and legal protections to people in military service. It addresses such issues as interest rates, rental and lease agreements, eviction, health and life insurance, mortgage foreclosure, civil judicial proceedings, and income tax payments (50 U.S.C. §§ 3901-4043).

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