



Connecticut General Assembly

Office of Fiscal Analysis
Office of Legislative Research

TO: Members of the Finance, Revenue, and Bonding Committee

FROM: OFA & OLR Staff

RE: Items for March 24, 2010 Agenda

FINANCE COMMITTEE BILLS FOR JF CONSIDERATION

1. S.B. No. 431 (RAISED) - AN ACT CONCERNING COLLATERAL FOR SECURITIES LENDING BY THE STATE TREASURER

Fiscal Impact:

The bill expands the category of collateral that may serve as a consideration of the lending of securities from the Combined Investment Trust Funds (the state pension fund). Depending on financial market conditions, this is expected to result in an estimated \$2 million in additional investment income for the Funds.

Summary:

The bill allows the state treasurer to accept securities guaranteed by certain foreign countries as collateral for loans and repurchase agreements involving securities owned by the state's trust funds. To be acceptable, the foreign securities must be (1) guaranteed by a sovereign country that participates in the so-called "G 10" (see below) and (2) rated AA or better by at least one nationally recognized statistical rating agency. Current law permits the treasurer to accept only cash or securities guaranteed by the U. S. government or one of its agencies.

The bill maintains requirements that (1) when the loan or repurchase agreement is executed, the collateral equal 100% of the market value of the securities sold or lent and (2) during the term of the loan or agreement, the value of the collateral not fall below 95% of, or \$100,000 less than, the value of the securities sold or lent.

A repurchase agreement or "repo" is a contract under which a seller of securities agrees to buy them back at a specified time and price. A repo is similar to a

secured loan, in which the buyer provides funds to the seller and holds the security as collateral to protect against default.

EFFECTIVE DATE: July 1, 2010

BACKGROUND

Group of Ten or "G 10" Countries

Eleven countries currently participate in the General Agreements to Borrow or "G 10." They are: Belgium, Canada, France, Germany, Italy, Japan, the Netherlands, Sweden, Switzerland, the United Kingdom, and the United States. The countries consult and cooperate on economic, monetary, and financial matters.

2. S.B. No. 433 (RAISED) AN ACT CONCERNING THE BURDEN OF PROOF IN TAX APPEALS.

Fiscal Impact:

Establishing a lower standard of proof in tax appeals is expected to result in a General Fund revenue loss, which may be significant to the degree that it increases the number of assessments that are overturned by the court. It may also result in greater administrative costs to the Department of Revenue Services if it increases the number of cases that are appealed.

The agency has indicated that there are typically between 50 and 75 tax cases that are on appeal.

Summary:

The bill establishes that the taxpayer's burden to prove facts in any tax appeal is by a preponderance of the evidence, unless the law in question specifically establishes a different burden. A "preponderance of the evidence" means that it is more likely than not that the facts asserted are true.

The bill's standard applies to court appeals of (1) the DRS commissioner's orders, decisions, determinations, and disallowances; (2) probate court determinations for succession and estate tax purposes; (3) the OPM secretary's decisions concerning the state's taking of the rights of holders of certain state and municipal bonds to exclude certain interest on those bonds from corporation tax; and (4) Penalty Review Committee decisions on waiving tax penalties exceeding \$500.

EFFECTIVE DATE: Upon passage and applicable to any tax appeal pending on or after that date.

BACKGROUND

Related Court Case

The Connecticut Supreme Court has ruled that, in appealing a DRS sales and use tax deficiency assessment, (1) the burden of proving an error in the assessment is on the taxpayer and (2) the taxpayer “must present clear and convincing evidence that the assessment is incorrect or that the method of audit or amount of tax assessed was erroneous or unreasonable” (*Leonard v. Commissioner of Revenue Services*, 264 Conn. 286, June 10, 2003, p. 302).

3. S.B. No. 434 (RAISED) AN ACT CONCERNING THE REAL ESTATE CONVEYANCE TAX

Fiscal Impact:

Under current law the municipal real estate conveyance tax rate is scheduled to decrease from 0.25% to 0.11% beginning July 1, 2010. The bill makes the 0.25% rate permanent, which precludes an annual revenue loss to towns of between \$20 and \$25 million.

Summary:

The bill makes the higher basic 0.25% municipal real estate conveyance tax rate permanent. Under current law, the rate is scheduled to drop from 0.25% to 0.11% on July 1, 2010.

EFFECTIVE DATE: July 1, 2010

BACKGROUND

Real Estate Conveyance Tax

With some exceptions, Connecticut law requires a person who sells real property for \$2,000 or more to pay a real estate conveyance tax when he or she conveys the property to the buyer. The tax has two parts: a state tax and a municipal tax. The state tax rate is either 0.5% or 1% of the sale price, depending on the type of property and how much it sells for, and the town tax rate is either 0.25% or up to a maximum of 0.5% depending on where the property is located. The applicable state and local rates are added together to get the total tax rate for a particular transaction. The seller pays the tax when he conveys the property (CGS § 12-494-504h).

The municipal tax rate is currently 0.25% for all towns plus additional tax of up to 0.25% for 18 eligible towns all of which have chosen to impose the higher rate. Those towns are: Bloomfield, Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford, Meriden, Middletown, New Britain, New Haven New London, Norwalk, Norwich, Southington, Stamford, Waterbury, and Windham.

4. S.B. No. 443 (RAISED) AN ACT CONCERNING CANCELLATION OF UNISSUED BOND FUND AUTHORIZATIONS

Fiscal Impact:

The bill allows: (1) the use of \$9.22 million in unspent bond proceeds for payment of General Fund debt service and (2) the transfer of \$0.181 million in unspent proceeds to university self-liquidating funds. Since State Bond Commission (SBC) approval is required to release the funds, the fiscal year in which the funds will be available depends on when the SBC meets.

Summary:

To allow the state treasurer to close out inactive bond funds, the bill updates bond authorizations originally adopted between 1967 and 1986 to reflect their actual allocations. The changes reduce net authorizations by more than \$9 million.

Table 1 shows the changes in the individual authorizations. (Super-total sections are omitted.)

EFFECTIVE DATE: Upon passage

Table 1: Authorization Changes For Inactive Bond Funds

<i>§</i>	<i>Original Authorization</i>	<i>Agency/Grantee</i>	<i>For</i>	<i>Increase/ (Cancellation)</i>
2	1969	Dept. of Community Affairs	Grants to housing development corporations	\$382,423
3	1969	Dept. of Community Affairs	Grants and advances for research, demonstration and planning projects	(245,984)
4	1969	Dept. of Community Affairs	Grants to housing development corporations	(264,174)
5	1969	Southern Connecticut State College	Athletic facilities development, including land acquisition	(226,200)
6	1967	Highway Dept.	Highway construction	(2,450,000)
8	1974		Contingency reserve for authorized projects	(2,955,000)
10	1973	Dept. of Environmental	Rocky Neck State park, bathhouse, parking facilities, and fencing	33,854

<i>§</i>	<i>Original Authorization</i>	<i>Agency/Grantee</i>	<i>For</i>	<i>Increase/ (Cancellation)</i>
		Protection		
11	1973	Dept. of Environmental Protection	Improve sanitary facilities at state parks	71,811
12	1973	Dept. of Environmental Protection	Bluff Point State Park – land acquisition and development	34,556
13	1973	Dept. of Environmental Protection	Silver Sands State Park – development and improvement	113,177
14	1973	Dept. of Environmental Protection	Pardee Brook, Hamden	(228,000)
15	1973	Office of the Medical Examiner	Commission on Medicolegal Investigations – autopsy and lab facilities	301,885
16	1973	Transportation Dept.	Bureau of Aeronautics – runway facilities improvements	5,185
17	1973	State Board of Education	Kaynor Tech, Waterbury – additions and improvements to existing facilities	1,013,903
18	1973	UConn Board of Trustees	Facilities completion, including moveable equipment	11,856
19	1973	UConn Board of Trustees	Acquire and install ground fault protection equipment	4,400
20	1973	State Colleges Board of Trustees	Western Connecticut State College – Renovate administration building at the in-town campus	22,185
21	1973	Correction Dept.	Cheshire Corrections Community - vocational education facilities, including site utilities	(807,500)
22	1973	Correction Dept.	Connecticut Correctional Institution, Somers – planning for maximum security facilities	20,010
23	1973	Judicial Dept.	Courthouse complex in Danbury area – land acquisition or facilities development	(1,143,600)
24	1973		Contingency Reserve for authorized projects	50,529
26	1977	Veterans' Home & Hospital	Elevators & renovations to accommodate handicapped people	(162,461)
27	1977	State Board of Education	Equip and renovate and construct or repair an existing junior or senior high school in Enfield for a vocational-technical school and community college	(248,620.50)
28	1977		Contingency Reserve for authorized projects	(5,693)
30	1980	Dept. of Health Services	Veterans Home and Hospital Commission – replace windows	288,977

<i>§</i>	<i>Original Authorization</i>	<i>Agency/Grantee</i>	<i>For</i>	<i>Increase/ (Cancellation)</i>
31	1980	Dept. of Health Services	Veterans Home and Hospital Commission - stair towers for hospital building	150,644
32	1980	Dept. of Mental Retardation	Fire safety and patient environmental improvements	(183,425)
33	1980	State Colleges Board of Trustees	Buildings and grounds - alterations and improvements	(122,980)
35	1980	State Colleges Board of Trustees	Eastern Connecticut State University - dormitory facilities	(0.80)
36	1980	Dept. of Transportation	Highway ramps to and from the east at Route 177 on Route 72 in Plainville	(1,009)
38	1980	UConn Board of Trustees	UConn Health Center - energy conservation modifications and renovations	(669,000)
40	1984	Dept. of Environmental Protection	Dam repairs, including state-owned dams	(2,276,584)
41	1984	Dept. of Environmental Protection	Scantic River, Enfield and East Windsor - land acquisition	(81,000)
42	1984	Dept. of Economic & Community Development	Restoration of Historic Assets in Connecticut Fund - addition	(25,000)
43	1984	Dept. of Health Services	Grants to community health center facilities	(6,891)
44	1984	Dept. of Mental Retardation	Specialized group homes - land acquisition, construction, or purchase and renovation	(362,955)
45	1984	Dept. of Mental Health	Grants to community residential and out-patient facilities - repairs and improvements	(13,013)
46	1984	Office of Policy & Management	Municipalities located outside area of presidential disaster declaration of June 14, 1982 - reimbursement for flood-related costs and expenses not otherwise reimbursed	199,113
48	1985	Connecticut State University Board of Trustees	Southern Connecticut State University - dorms and related parking, improvements and renovations	(107,965)
50	1986	Connecticut State University Board of Trustees	Western Connecticut State University, midtown campus - planning for building renovations and improvements	(16,000)

5. H.B. No. 5481 (RAISED) AN ACT CONCERNING THE COLLECTION AND REMITTANCE OF THE SALES TAX BY REMOTE SELLERS.

Fiscal Impact:

The bill could result in a General Fund revenue gain to the Sales and Use Tax of up to \$8.5 million per year beginning in FY 11. The estimate is primarily based on New York's experience since modifying their law. However, in other states that have enacted similar laws, retailers with affiliate programs have terminated the affiliate agreements, which eliminates the legal basis for establishing nexus.

Summary:

State law requires "retailers" to collect Connecticut sales tax if they are "engaged in the business" of making retail sales in the state. If a retailer is engaged in business in Connecticut and is required to collect Connecticut sales tax, the retailer is said to have "nexus" here.

This bill presumes a company is a retailer with sales tax nexus in the state if it sells more than \$2,000 worth of taxable items or services annually in Connecticut through certain agreements with Connecticut residents. The agreements must provide that, in return for the resident referring potential customers to the company, he or she will receive a commission or other compensation from that company. Under the bill, the referrals can be direct or indirect and can be made by any means, including a link on an Internet website. By extending Connecticut sales tax nexus to companies that have such agreements, the bill requires them to collect Connecticut sales tax on all their taxable sales in Connecticut, not just on items sold through the referrals.

The bill applies to any company that earned more than \$2,000 annually in gross revenue from sales in the state under such referral agreements in the preceding four quarters ending on the last days of March, June, September, and December. It establishes a presumption that such a company is soliciting business in Connecticut through the independent contractors or representatives. The company can rebut the presumption by proving that the resident with whom it has an agreement did not solicit business in Connecticut in a manner that would satisfy the federal constitutional nexus requirement (see BACKGROUND).

By law, if a retailer does not collect and remit to the Department of Revenue Services (DRS) the 6% sales tax on a taxable item or service, a person who buys it for use in Connecticut must pay 6% use tax on that purchase directly to DRS.

EFFECTIVE DATE: July 1, 2010 and applicable to sales on or after that date.

6. H.B. No. 5529 (RAISED) - AN ACT CONCERNING AN EXEMPTION FROM THE ADMISSIONS TAX FOR RENTSCHLER FIELD (JFS)

Fiscal Impact:

The bill is expected to result in a General Fund revenue loss to the Admissions Tax of less than \$5,000 per year beginning in FY 11.

Summary:

The substitute bill exempts charges for high school athletic events held at Rentschler Field from the 10% admissions tax. Current law generally exempts charges for events benefiting federally tax-exempt organizations from the tax, but not if they take place at Rentschler Field.

EFFECTIVE DATE: July 1, 2010 and applicable to admission charges imposed on or after that date.

7. H.B. No. 5535 (RAISED) - AN ACT CONCERNING A MONTHLY REPORT FROM THE STATE TREASURER REGARDING THE STATE'S CASH BALANCE (JFS)

Fiscal Impact:

Providing a monthly report regarding the state's cash balance will not result in a cost to the Office of the State Treasurer because the agency already gathers the type of information specified in the bill.

Summary:

The substitute bill requires the state treasurer to submit monthly reports of the state's cash balance to the chairpersons and ranking members of the Finance, Revenue and Bonding Committee and the Office of Fiscal Analysis. Each report must cover the month two months before the report submission date and include:

1. a weekly cash balance listing, with the amount and percentage of such sources as the common cash pool and bond and Transportation Fund investments, and accompanying footnotes;
2. an ongoing, year-to-date total of authorized but unissued bonds, as well as assumptions about bond issuance and any monthly changes in the assumptions;
3. information on any other debt or commercial paper issued and their types and amounts, with accompanying footnotes; and

4. amounts in common cash fund, with each component, such as bank and different investment accounts, and its amount separately listed.

The treasurer must start submitting the reports on October 1, 2010. She must also make them publicly available in both paper and electronic form.

EFFECTIVE DATE: July 1, 2010

BILLS REFERRED FROM SENATE TECH SESSION 3/23/10

1. **S.B. No. 372 (RAISED) (File No. 32) AN ACT CONCERNING EXPENDITURES OF APPROPRIATED FUNDS OTHER THAN THE GENERAL FUND. (APP)**

Refer to File 32

2. **S.B. No. 375 (RAISED) (File No. 35) AN ACT CONCERNING EXPENDITURES OF STATE AGENCIES PROVIDING PUBLIC HEALTH, MENTAL HEALTH AND DEVELOPMENTAL SERVICES. (APP)(JFS)**

Fiscal Impact:

The bill is expected to result in an estimated General Fund revenue gain to the Cigarette Tax of \$2.6 million per year beginning in FY 11. The estimate assumes that noncigarette smoking tobacco, including pipe and roll-your-own tobacco is equal to approximately 1% total cigarettes sold in Connecticut.

Changing penalties for certain violations of the cigarette licensing laws is anticipated to result in minimal revenue loss.

Summary:

The substitute bill reduces penalties for certain violations of the cigarette licensing and tax laws and changes the tobacco products tax on certain loose tobacco.

Sale of Cigarettes or Taxed Tobacco Products Without a License

It is illegal to sell cigarettes or taxed tobacco products without a cigarette dealer's license. Under current law, the penalty for each knowing violation is a fine of up to \$500, up to three months in jail, or both. The substitute bill reduces the penalty to an infraction, with a \$90 fine, if the violation occurs within 90 days after a dealer's license has expired.

Taxed tobacco products include snuff, cigars, cheroots, pipe tobacco, and similar products.

Sale or Possession of Unstamped Cigarettes

It is illegal to sell, offer to sell, display for sale, or possess unstamped cigarettes, except that a licensed cigarette dealer may legally possess unstamped cigarettes at a licensed location for no more than 24 hours. Under current law, the penalty for a knowing violation is a fine of up to \$1,000, up to one year in jail, or both. The substitute bill reduces the penalty to an infraction, with a \$90 fine, for any first violation by a licensed dealer who possesses no more than 600 unstamped cigarettes.

Tobacco Products Tax

The substitute bill changes the tobacco products tax on noncigarette smoking tobacco, including pipe and roll-your-own tobacco, from 27.5% of the wholesale price to 15 cents (150 mills) per 0.0325 ounces, making the tax on such tobacco the same as the tax on cigarettes. (The cigarette tax is 15 cents per cigarette.)

The new tax rate applies to tobacco that is (1) sold loose or in bulk and (2) intended to be consumed by smoking.

EFFECTIVE DATE: July 1, 2010

BACKGROUND

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. 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.