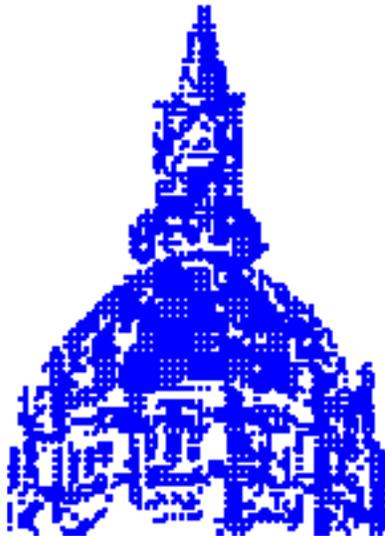


Office of Legislative Research  
Connecticut General Assembly



**OLR ACTS AFFECTING**

**Municipalities**



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## **To the Reader**

This report provides highlights of new laws (public acts) affecting municipalities enacted during the 2004 regular and May 2004 special legislative sessions. At the end of each summary we indicate the public act (PA) number or, if that is not yet available, the bill number. A number of the changes were made as part of several large acts that are commonly known as “the budget act” (PA 04-216, formerly HB 5692), the “DSS Implementer” (sHB 5689), and the “OPM Implementer” (HB 5801, PA 04-2, MAY 11 Special Session which passed in the May special session). The report does not cover special acts, some of which affect municipalities, and public acts that only affect a single municipality.

Not all provisions of the acts are included here. Complete summaries of all 2004 public acts passed will be available in the fall when OLR’s *Public Act Summary* book is published; some are already on OLR’s webpage: <http://www.cga.state.ct.us/olr/publicactsummaries.asp>.

Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, the House Clerk’s Office, or the General Assembly’s website: <http://www.cga.state.ct.us/default.asp>.

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## **ECONOMIC DEVELOPMENT**

### ***Brownfields Redevelopment***

The Connecticut Development Authority (CDA) can now fund projects involving the clean-up and productive reuse of contaminated sites eligible for bonds it issues on behalf of towns. The law already allowed CDA or its subsidiaries to issue these bonds for projects that develop or redevelop contaminated sites or involve the use of information technologies. CDA's authority to do this expires July 1, 2005.

A change in the law allowing towns to issue tax increment bonds for development projects makes it easier to finance the clean-up of vacant, underused, or deteriorated tax delinquent properties. The change increases the tax increment by allowing towns to repay the bonds with the difference between the amount of taxes the property actually generates and the amount it is expected to generate. CDA must include this amount when underwriting the bonds it sells on behalf of the town to finance the project. **(PA 04-106**, effective upon passage)

## **EDUCATION**

### ***Education Cost Sharing (ECS) Grants***

The budget implementation act gives each town an FY 2004-05 ECS grant equal to its FY 2003-04 grant plus 23.27% of the difference between that grant and its full ECS entitlement. This allocation is subject to the following provisions:

1. every town's grant must be at least 60% of its full entitlement;
2. no priority school district may receive less than \$370 per student;
3. every town, except Winchester, must receive at least the greater of (a) its FY 2002-03 grant or (b) its FY 2003-04 grant plus 0.07%; and
4. Winchester must receive a grant at least equal to its fixed entitlement for FY 2002-03. (A "fixed entitlement" is a town's full ECS formula grant, excluding prior year adjustments.)

The legislation also (1) eliminates the cap on annual increases in ECS grants one year early, as of July 1, 2004, instead of July 1, 2005 and (2) starting with FY 2004-05, restores the density supplement, which gives additional ECS funding to towns with population densities greater

than the state average. (**PA 04-216 and PA 04-254**, effective July 1, 2004)

### ***Priority Districts and Categorical Grants***

The act establishes annual grants for priority school districts that vary according to population. The grant amounts and the districts eligible for each amount in FY 2004-05 are: \$1.5 million for the priority district with the largest population (Bridgeport), \$1 million each for districts ranked two through four (Hartford, New Haven, and Stamford), \$600,000 for the fifth-ranked district (Waterbury), and \$500,000 for each district ranked six through eight (Danbury, New Britain, and Norwalk). The seven smallest priority districts receive \$250,000 each (Ansonia, Bloomfield, Bristol, East Hartford, Meriden, New London, and Windham). For FY 2004-05 only, the act also allocates money for two former priority districts. West Haven receives \$ 200,000 and Putnam, \$100,000.

Finally, the act increases FY 2004-05 allocations to four categorical grant programs by the following amounts: Priority School District Grants, \$8.65 million; School Readiness, \$7 million; Early Reading Success, \$1 million; and Summer School, \$900,000. It also allocates \$1.1 million for School Improvement. (**PA 04-254**, effective July 1, 2004)

### ***School Readiness Programs and Funding***

The act:

1. allows the State Department of Education (SDE), in consultation with the Department of Social Services, to grant waivers to allow for variation in the school readiness program schedule;
  2. allows the SDE to reallocate 70% rather than 50% of unused non-competitive school readiness grant program funds to create new program slots and allows the remaining percentage to be used for professional development, rather than allowing those funds to lapse;
  3. increases the maximum per child reimbursement for the SDE school readiness component of a program offered by a school readiness provider to \$ 6,400 from \$ 5,891; and
  4. increases the maximum school readiness program competitive grant by \$7,000 per priority school.
- (**PA 04-215**, effective July 1, 2004)

Another act extends the school readiness competitive grant program to towns that are among the 28 poorest in the state, but are not considered priority school districts. These towns are: Ashford, Chaplain,

Griswold, Sprague, Sterling, and Thompson. Prior law allowed towns or regional school readiness councils to apply for these funds only to provide spaces in school readiness programs for eligible children who live in area served by a priority school or former priority school. (**PA 04-254**, effective July 1, 2004)

### ***School Readiness Staff Qualifications***

The act (1) increases, from nine to 12, the minimum required number of early childhood education or child development credits for school readiness staff holding credentials from an education commissioner-approved organization and (2) adds a Connecticut teaching certificate with an early childhood or special education endorsement to the list of acceptable credentials for school readiness staff, beginning July 1, 2005. The act also makes it acceptable for staff members to have associates' or four-year degrees in any field, as opposed to a major in early childhood development or early childhood education, as long as the person has earned at least nine, and on or after July 1, 2005, 12 credits in either of those areas. (**PA 04-15**, effective July 1, 2004)

### ***School Construction Grants***

The act:

1. authorizes \$ 280.5 million in state grant commitments for 23 school construction projects;
2. reauthorizes 39 previously authorized school building projects that have changed substantially in scope or cost, increasing the total grant commitments for those projects by \$127.4 million;
3. makes the Board of Trustees of the Community-Technical Colleges (CTC) eligible for a state school construction grant of 100%, instead of the usual 95%, of the eligible cost for building an interdistrict magnet school on the Manchester Community College (MCC) campus, as long as the total cost does not exceed \$28 million;
4. makes the CTC board eligible to receive state interdistrict magnet school transportation and operating grants on MCC's behalf;
5. forgives required repayment of a Norwich school construction grant; and
6. waives various statutory and regulatory requirements to add projects to the 2004 authorization list and make otherwise ineligible

projects in several districts eligible for state school construction grants. (PA 04-213, effective on passage)

### ***Requirements for School Roofing Projects***

The act allows the education commissioner to reduce the minimum roof pitch in school construction project plans submitted for the total replacement of existing roofs from one-half to one-quarter inch per foot if:

1. the flatter roof will not be more likely than the steeper roof to impede drainage or cause pooling of water that may leak into the building;
2. it would cost substantially more and take substantially longer to replace the roof with the steeper pitch; and
3. the existing building would require substantial construction to support the roof with the steeper pitch.

The act also allows towns or regional school boards that have submitted or had roof replacement project plans approved since July 1, 2003 to apply to the education commissioner before June 30, 2004 to reduce the roof pitch in their plans. (PA 04-168, effective on passage)

### ***Teacher Evaluations***

The act allows a teacher or administrator to file a grievance claiming that the evaluation procedure a school district followed in a particular case differed from its established procedures. Such grievances may be filed only according to grievance procedures established in collective bargaining agreements negotiated after July 1, 2004. (PA 04-137, effective on passage)

### ***Notification in Cases of Termination of Coaches***

The act requires a school board that employs an athletic coach to have the coach's immediate supervisor evaluate the coach annually and provide him with a copy of the evaluation.

When a board, or its agent, terminates or declines to renew the contract of a coach who has held the same position for three or more consecutive school years, the act requires that the board: (1) inform the coach of the decision no later than 90 days after the end of the sport season covered by the contract and (2) allow the coach to appeal the decision to the board in a manner the board prescribes.

The act does not prohibit a board from terminating a coaching contract at any time for moral misconduct, insubordination, or violation of the rules of the board or because

the sport is being discontinued by the board. **(PA 04-243**, effective July 1, 2004)

### ***National Board Certification***

The act requires the State Board of Education (SBE) to issue a Connecticut provisional or professional certificate, with an appropriate endorsement, to any teacher from another state, U. S. possession or territory, the District of Columbia, or Puerto Rico who (1) applies; (2) holds a national board certification from an organization the education commissioner considers appropriate; and (3) has taught for at least three of the past 10 years in another state, possession or territory, the District of Columbia, or Puerto Rico. The teacher must receive a provisional educator certificate if he has not completed 30 credits of qualifying coursework beyond a bachelor's degree. If he has the 30 credits, SBE must give him a professional certificate.

Under the act, SBE can still deny a certificate to a nationally certified out-of-state teacher for the same reasons it can deny any other applicant, namely because (1) the teacher seeks the certificate through fraud or misrepresents a material fact; (2) the teacher has been convicted of a crime involving moral turpitude or some other crime that, in SBE's opinion, would impair the standing of the state's teaching certificates; or (3) it has other due cause. A teacher denied

certification can ask SBE to review its decision. **(PA 04-138**, effective July 1, 2004)

### ***In-Service Training For Teachers***

The act requires local and regional school boards to include information on second language acquisition in their in-service training programs for certified teachers, administrators, and pupil personnel in districts required to provide bilingual education for English language learners. **(PA 04-227**, effective July 1, 2004)

### ***Sexual Assault of Youths by Adults in a Position of Trust, Authority or Supervision***

A new act makes it second- or fourth-degree sexual assault for an adult to have sexual intercourse or sexual contact, respectively, with a person under age 18 who participates in a program or activity if the adult's professional, legal, occupational, or volunteer status gives him power, authority, or supervision over the minor. The act covers actors age 20 or older. **(PA 04-130**, effective October 1, 2004)

### ***Payment Schedules for Noncertified Employees***

Last year, the General Assembly exempted noncertified school district employees who work in instructional or administrative capacities from

laws requiring that they receive all wages (1) weekly on a regular pay day and (2) no more than eight days after the end of the pay period the wages cover. A new act extends the exemption all to noncertified school employees regardless of their duties (for example, cafeteria staff). It allows local and regional school boards and unions representing their noncertified employees to establish different wage payment schedules in their collective bargaining agreements. The law already exempted certified school district staff (teachers and administrators). (PA 04-13, effective July 1, 2004)

### ***Nutrition in Schools, Recess, and Lunch Breaks***

The act requires local and regional school boards to (1) provide all full-day students with a minimum 20-minute daily lunch break and (2) include a daily period of physical exercise for most students in kindergarten through grade five, except those students requiring special education for whom a planning and placement team develops a different exercise schedule. The act also requires school boards to make nutritious food and drinks, such as low-fat milk, water, 100% fruit juices, low-fat dairy products and fresh and dried fruit, available for purchase whenever students can purchase drinks in school or

whenever they can buy food during the regular school day. (PA 04-224, effective July 1, 2004)

### ***Administration of Medication in Schools and School Nurses***

The act:

1. statutorily requires that school boards adopt written policies and procedures for administering medication in schools and changes the approving authority for such policies and procedures from the Department of Public Health to the local school medical adviser or other qualified physician;
2. requires nurses and nurse practitioners who provide health services to students in a public or private school to submit to criminal background checks even if they are not directly employed by the local school board or private school; and
3. requires regional education service centers to arrange for the fingerprinting of school personnel of the SBE-approved endowed or incorporated academies and special education facilities upon the request of those institutions.

(PA 04-181, effective July 1, 2004, except that the provisions on criminal background checks are effective on passage)

### ***Graduation Date Exception***

The act makes an exception to the law concerning high school graduation dates to allow a local school board that (1) set its 2004 graduation date before May 1, 2004 and (2) had to close its high school for emergency repairs, to hold its 2004 graduation ceremony on the scheduled date as long as it continues to offer at least 180 days and 900 hours of actual school work for the year. The law generally bars a school board from setting a high school graduation date after April 1 that does not allow for a minimum of 180 days of school (**PA 04-351**, effective on passage)

### ***Charter Schools***

By law, if for any fiscal year, the state appropriation for charter schools exceeds \$7,250 per student, the excess funds must be used for proportionate increases in charter school per-student grants. For FY 2004-05, the act limits the reallocation to \$110 per student (or a maximum of \$7,360 per student).

The act also makes an exception to a law that limits enrollment at charter schools, other than K-8 schools, to 250 students. The exception allows Amistad Academy to enroll up to 300 students. Amistad is a New Haven charter school that enrolls students in grades 5-8. (**PA 04-254**, effective July 1, 2004)

### ***Vocational Agriculture Center Tuition***

The act increases the maximum tuition a school district operating a vocational agriculture (“vo-ag”) center can charge other districts for each student they send to the center from 102% to 120% of the ECS foundation amount. Since the ECS foundation is \$5,891 per student, the act raises the maximum vo-ag center tuition from \$6,009 to \$7,069 per student. (**PA 04-197**, effective July 1, 2004)

### ***No Child Left Behind (NCLB) Cost Study***

The act requires the Office of Policy and Management secretary and the education commissioner, or their designees, to conduct a cost study of NCLB mandates. The analysis must include an estimate of the costs to the state and local and regional school boards minus any federal funds allocated for compliance. The data must be submitted to the Education Committee by January 1, 2005. (**PA 04-254**, upon passage)

### ***Educational Technology Programs***

This act expands the permissible uses of SDE educational technology program grants for school districts to include wireless connectivity, as well as traditional wiring and

connectivity, computers, and software. It also requires superintendents to affirm in their school construction grant applications that the school district considered using wireless connectivity technology in their school building projects.

Finally, the act shifts primary responsibility for the development of (1) a statewide teacher and administrator competency standard for the use of technology for teaching and (2) a statewide plan for the achievement of this standard from the Commission for Educational Technology to SDE. (PA 04-57, effective July 1, 2004)

## **ELECTIONS**

### ***Separate Location for Presidential Balloting***

This act authorizes a municipal clerk to designate a location in a municipal facility for distributing, completing, and processing presidential ballot applications and distributing, casting, and returning such ballots on Election Day. The clerk may appoint one or more ballot assistants to serve at the location and delegate to these assistants, whom they must train and supervise, any of the responsibilities the presidential ballot statutes assign to municipal clerks. Under federal law, states must make a presidential ballot available to residents who are not registered voters and former residents who

have moved within 30 days before the election. This ballot allows them to vote for president and vice president only. (PA 04-113, effective July 1, 2004)

### ***Registrars of Voters and the Repair of Voting Machines on Election Day***

This act specifies certain requirements for registrars of voters, including posting their hours and entering information on the statewide centralized voter registration system. It allows registrars to designate polling places outside the voting district, if necessary, and allows them to appoint assistants to serve at their pleasure. It requires voter registration agencies to record an applicant's party affiliation, if any, on his application receipt. Finally, the act permits repairs on a voting machine on election day when some votes have already been cast only when the repair can be made without affecting how those votes that are recorded. (PA 04-113, effective July 1, 2004, except that the requirement that voter registration agency receipts show the applicant's party affiliation takes effect January 1, 2005 and the provisions on voting machine repairs take effect upon passage.)

## ***Preparation of Materials for Regional School District Referenda***

The law allows the legislative body of any municipality to authorize the printing and preparation of concise explanatory texts of local proposals or questions approved for submission to the municipality's voters at a referendum. This act allows the board of selectmen in a town whose legislative body is a town meeting to decide by majority vote whether to authorize dissemination of an explanatory text or other neutral printed material. For a regional school district referendum, the act requires (1) the regional board of education to authorize the preparation and printing of concise explanatory texts; (2) the regional board's secretary to prepare the texts, subject to the board's counsel's approval; and (3) the secretary to undertake all of the responsibilities with respect to the questions, proposals, and texts that the law already specifies for town clerks in towns conducting referenda.

When a regional school district's annual budget is not approved by a majority of the voters of its member towns by the start of the fiscal year, the act directs each town's disbursing officer to make reasonable expenditures to the district until the budget is approved. These expenditures must be equal to the town's total

appropriation to the district for the previous fiscal year and its proportionate share in any increment in debt service over the previous fiscal year. The act requires each of the towns to receive credit for these expenditures once the new budget is approved.

The act creates a statutory right to bring a complaint when anyone claims to have been aggrieved in connection with a referendum by (1) an election official's ruling, (2) a mistake in the vote count, or (3) a violation of prohibited acts concerning absentee voting. A person may file a complaint with any Superior Court judge following the act's procedures, which are similar to those available for contests and complaints in an election for public office. **(PA 04-117, effective upon passage)**

## **ENVIRONMENT**

### ***Jurisdiction of Inland Wetlands Commissions***

This act defines wetlands to include aquatic, plant and animal life and habitats in the wetlands. In doing so, it supersedes a state Supreme Court decision that held that the Inland Wetlands and Watercourse Act protects the physical characteristics of wetlands and not wildlife or biodiversity. By law, municipal inland wetlands agencies may regulate certain activities that occur outside a wetlands area if

the activity may affect the wetlands. This act bars a wetlands agency from denying or making conditional an application to conduct a regulated activity outside a wetlands area on the basis of its impact or effect on aquatic, plant, or animal life or habitats in the wetlands unless the proposed activity will likely impact or affect the physical characteristics of such life or habitat in the wetlands or the wetlands themselves. (PA 04-209 effective on passage)

### ***Notifying Municipalities of Contamination***

This act requires the owner of a contaminated parcel of land to post notice of contamination in a conspicuous place on the affected property and in his place of business (when one exists) no later than five days after an activity begins that increases the likelihood of human exposure to known contaminants. Activities requiring posting under the act include construction, demolition, significant soil disruption, or utilities installation.

The law requires an owner to inform the commissioner of certain contamination on his property after being informed about it by a technical environmental professional. The act requires the commissioner, no later than 10 days after receiving the notice, to forward a copy to the (1) chief elected official of the town where the

property is located and (2) the state legislators who represent that town. It also requires him to maintain a list on its website of all notices he receives.

Landowners who fail to post the notices must pay a civil penalty of \$100 for each day of noncompliance. The attorney general must sue the owner in Hartford Superior Court to recover the penalty upon complaint from the commissioner. (PA 04-234, effective October 1, 2004)

### ***Water Diversions***

This act requires people or municipalities that maintain registered water diversions in use as of July 1, 2001 to annually report detailed monitoring data about them to DEP on forms the DEP commissioner develops. (PA 04-185, effective October 1, 2004)

### ***Water Pollution Control Project Financing***

This act makes several changes regarding financing for municipal clean water projects. It:

1. specifies that issuance and renewal of interim project loan or grant obligations are not subject to the law governing temporary notes issued to acquire or construct a sewer system;
2. specifies that pledges for repayment of such obligations remain in effect

- until the principal and interest is paid off or some other provision for their repayment is made;
3. expressly allows a municipality to authorize a project loan or grant agreement between it and the state by vote of its legislative body and water pollution control or sewer authority, if any, regardless of other laws governing such activities;
  4. allows a municipality to secure repayment of an agreement by pledging funds from the public sewer or water system, including holding or depositing the revenues in separate accounts and making agreements with holders concerning rates, charges, and other aspects of sewer or water system operations; and
  5. defines a municipal legislative body for purposes of approving loan or grant obligations.

**(HB 5801, PA 04-2, May 11 Special Session, effective October 1, 2004)**

## **HOUSING**

### ***Section 8 Housing Vouchers***

This act requires any entity in the state that administers federal Section 8 housing vouchers, e.g., housing authorities, to notify the operator of a Department of Social Services-designated

website of (1) the date the waiting list for new voucher applications opens, (2) the way to apply for a voucher, and (3) the date, if any, on which the waiting list will close. The notice must be given at least two weeks before opening its waiting list and can be provided electronically or in writing.

Under the act, the website operator must make the information available to the public, Infoline of Connecticut, and other organizations. **(PA 04-258, effective July 1, 2004)**

### ***Disclosing Public Housing Tenant Information***

This act prohibits a housing authority from disclosing a tenant's Social Security or bank account number to anyone, except the purchaser of a housing project, without the tenant's permission. It also prohibits any entity that buys a project from an authority from publicly disclosing a tenant's Social Security or bank account number contained in the tenant's lease agreement. But the act specifies that it does not prohibit the purchasing entity from disclosing the information to a financial institution or other entity as part of the purchase. Under the act, violators are fined not more than \$200. **(PA 04-119, effective upon passage)**

## **LAND USE**

### ***Requiring Subdivisions to Comply with Zoning Regulations Changes***

This act modifies the exemption for lots shown on an approved residential subdivision plan from subsequent changes in the town's zoning regulations or zoning map. It extends the exemption to cover lots on approved resubdivision plans, but it requires that any construction on an improved lot covered by a plan conform to zoning changes adopted after the lot is improved. Under the act, a lot is considered improved once a building permit has been issued and a foundation has been completed. The requirement also applies if an existing structure on the lot is demolished (i.e., a "teardown"). The act continues to exempt vacant lots (other than teardowns) from changes in the zoning regulations and maps adopted after the subdivision is approved. The act applies to subdivisions and resubdivisions approved before, on, or after its effective date.

The act does not affect the law that exempts a legal nonconforming use or structure from subsequent changes in zoning law. A legal nonconforming use or structure is one that was legal before the change in the law. (**PA 04-210**, effective on passage)

## ***Development in Flood Plains***

Among other things, this act (1) requires towns to adopt regulatory standards for managing land uses in floodplains and reducing potential hazards, (2) requires the state to consider ways to reduce flooding and other natural hazards when it revises the State Plan of Conservation and Development after March 1, 2006, and (3) specifically allows towns to use Local Capital Improvement Program funds to manage floodplains and reduce hazards. Prior law allowed them to use the funds for constructing, renovating, enlarging, or repairing flood control projects.

The act requires the Department of Environmental Protection (DEP) to provide grants for local and regional projects and plans to minimize flooding and other natural hazards, beginning October 1, 2005. It funds the grants by increasing the existing state fee on local land use applications and dedicating about a third of the revenue to the grants. It specifies that towns must collect the fee on applications their land use regulations require as well as those required by the statutes.

By law, towns collect and remit most of the fee revenue to the state and keep a portion to cover the administrative cost of doing so. The act increases the towns' portion of the revenue. It also increases the total annual amount by which the state can

reduce a town's Mashantucket Pequot and Mohegan Fund payments if it fails to remit the fee revenue. (**PA 04-144**, effective October 1, 2004, except for the provisions increasing the fee, establishing the grant program, and authorizing regulations, which take effect July 1, 2004.)

### ***Harbor Management***

A new law creates a procedure for recommending standards and criteria for (1) constructing and locating private residential docks and piers and (2) managing scenic resources and visual impacts in the lower Connecticut River in Chester, Deep River, East Haddam, Essex, Haddam, Lyme, Old Lyme, and Old Saybrook. The environmental protection commissioner must select two harbor management commissions from these towns to jointly recommend standards and criteria for approval by him and the transportation commissioner.

The commissioners must approve or reject a recommendation within 120 days after receiving it. Any harbor management commission in the eight towns may adopt, in their harbor management plans, any of the recommendations the commissioners approve. (**PA 04-183**, effective upon passage.)

### ***Developments Near Lakes***

A new law requires towns to deny zoning approval for certain size projects that are proposed

within 2,000 feet of the boundary of any lake, excluding reservoirs, that exceeds 500 acres. It applies to any projects proposing to construct structures or accessory structures or making other improvements whose total area exceeds 1,200 square feet. (**PA 04-248**, effective upon passage and applicable on or after April 1, 2004.)

### ***Service of Process in Land Use Cases***

By law, service of process in most civil actions against a municipal agency is made by serving two copies on the municipal clerk. The clerk keeps one copy and forwards the other to the agency.

Beginning October 1, 2004, this act specifies that service of process must be made in this manner for appeals to the Superior Court from decisions of a planning or zoning commission, zoning board of appeals, other board or commission, or a municipal chief elected official or his designee for certain littering or dumping violations. Under prior law, service in these actions was made by leaving a copy with the municipal clerk and with the board chairman or clerk or at his place of abode. (**PA 04-78**, effective October 1, 2004)

## **PROPERTY TAX**

### ***Delay in Revaluation, Change in Revaluation Cycle, and OPM Study***

The act allows municipalities that, under prior law, had to revalue real property in the 2003, 2004, or 2005 assessment year to delay revaluation to the 2006 assessment year, if the municipality's legislative body (the board of selectmen in town meeting towns) approves the delay. Subsequent revaluations must be made every five years thereafter.

For the 2003 assessment year, the assessor or board of assessors in a municipality that delays revaluation must prepare a revised grand list. The grand list must reflect the assessments for the 2002 assessment year, subject only to changes in ownership, new construction, and demolitions. The assessor must send notice of any increase in the valuation of real estate over 2002 valuation to the affected person's last-known address. The person can appeal the increase during the next regular session of the board of assessment appeals at which appeals may be heard.

Under the act, starting in 2004, municipalities must revalue every five years, rather than every four (except for the delayed revaluations described above). At least one revaluation in each 10 years, rather than 12

years, must be based on a physical inspection. If a municipality's last revaluation was done by statistical means, the next revaluation must be physical. (Because of the act's changes in the revaluation cycle, these provisions could result in a municipality, in some cases, being required to conduct two physical revaluations in ten years. The act provides that only one physical revaluation is required in such cases.) The act allows municipalities that conducted their last revaluations by physical inspections to conduct a statistical revaluation next time. (**HB 5801, PA 04-2**, May 11 Special Session, effective October 1, 2003 and applicable to assessment years starting on or after that date.)

### ***Veterans Exemptions***

A new law allows active duty servicemen and veterans or members of their immediate family to keep receiving certain veterans' property tax exemptions when they move to a different town during the assessment year. It does this by requiring tax assessors to give each person receiving one of these exemptions a certificate attesting to their eligibility for the exemption for that assessment year.

A person moving to another town can establish his claim for the exemption in that town by giving its assessor a copy of the certificate. The assessor must

give the exemption if the person would otherwise qualify for it based on statutory criteria. The law already allows a person to ask the clerk of his former town to send his honorable discharge certificate or a certified copy of it to the clerk of his new town. It also allows him to establish his claim in the new town by showing the clerk the certificate or a copy thereof. **(PA 04-40**, effective October 1, 2004 and applicable to assessment years beginning on or after that date.)

### ***Motor Vehicles***

A new law establishes rules for determining where a registered or unregistered motor vehicle or snowmobile is subject to taxation. Under the rule, owners must pay taxes to the town where the vehicle most frequently leaves from and returns to or remains during the normal course of its operation. Additional rules apply to vehicles that do not meet this frequency test. The new law also requires the motor vehicles commissioner to annually provide tax assessors a list of vehicles subject to taxation in their respective towns. It also puts into law the commissioner's practice of providing towns lists of vehicles that were registered on or after the October 1 assessment date. **(PA 04-228**, effective July 1, 2004).

Another act changes the way towns help pay for the Department of Motor Vehicles

(DMV) delinquent motor vehicle property tax enforcement program, which bars those whose taxes are delinquent from registering their vehicles.

The act eliminates the requirement that towns pay a 50-cent fee for each motor vehicle or snowmobile they report to DMV for delinquent taxes and instead requires them to pay annual fees based on population. It requires the Office of Policy and Management to set the fees by multiplying the program's annual cost by each town's share of the state's population, using the most recent Department of Public Health population estimates.

Under the act, the DMV commissioner must certify the program's cost to the secretary by July 15 annually, the secretary must notify each town of its fee amount by August 1, and towns must pay by September 1. If a town fails to pay, DMV may allow people who owe property taxes to that town or to any borough or special taxing district in it to register their vehicles.

The act also eliminates the authority for a town, by a vote of its legislative body, to charge a \$5 fee to anyone whose motor vehicle property taxes are delinquent, if the town notified DMV of the delinquency. **(PA 04-126**, effective July 1, 2004)

### ***Tax Exemption for Charitable Housing***

The act specifies that any rent tenants pay a charitable organization for short-term housing it operates is exclusively for charitable purposes, thus maintaining the housing's property-tax-exempt status. Prior law exempted from tax liability short-term housing that a charitable organization operates, but it is silent on rental income. (PA 04-240, effective October 1, 2004)

### ***Forest Land under the 490 Program***

The act makes a number of changes to the "490" program, which provides farm, forest, and open-space land owners with tax relief to reduce the financial pressure to develop their property. By law, property in the program is assessed at its current use, rather than its market, value.

The act eliminates the requirement that a land owner apply to the state forester for designation of the property as forest land and that the forester render an opinion on the number and density of trees and their condition. Instead, it requires certified foresters to evaluate the property for conformity with forest stocking, distribution, and condition standards that it requires the state forester to adopt. The act also requires that the commissioner, by June 1,

2006, adopt by regulation procedures certified foresters must use to evaluate land proposed for classification as forest land.

If the certified forester finds the land qualifies, he must file a report with the property owner and keep one copy for himself. The report must describe (1) the land; (2) forest growth; (3) forest management activities he recommends to maintain the land in proper forest condition; and (4) other information the state forester may require as measures of forest stocking, distribution, and condition. The report must include a signed, sworn statement that he has determined that the land proposed for classification conforms to the state forester's standards.

Owners of designated forest land must include a copy of the report in any application to the town assessor to have the property classified as forest land on the town grand list. If the assessor determines the land is still in use as forest land, he must classify it as forest land. The act increases the amount of information the application must contain.

Under prior law, an aggrieved town or landowner could appeal the state forester's decision to Superior Court within 30 days of the determination. The act instead authorizes the town or owner to appeal a certified forester's decision to the state forester. The appeal must be filed

in writing within 30 business days after he issues his report. The state forester must review the report, the information the certified forester relied on, and any additional information he needs, and issue his decision within 60 calendar days of the appeal's filing.

The act requires assessors in each town in which forest land is located to report each June to the state forester (1) the total number of owners of land classified as farm, forest, and open space land, as of the most recent grant list and (2) a list of the parcels of land so classified. The list must include (1) the acreage of each parcel; (2) the total acreage of all such parcels; (3) the number of acres of each parcel classified as farm, forest, or open space land; and (4) the total acreage of all such parcels. **(PA 04-115**, effective July 1, 2004)

### ***Manufacturing Machinery and Equipment***

Businesses qualify for a five-year, 100% property tax exemption on new and newly acquired manufacturing machinery and equipment if it meets the Internal Revenue Code's definition of five- or seven-year property classifications for determining depreciation for federal tax purposes. The state reimburses towns for 80% of the tax revenue they forgo because of this exemption.

A new law specifies that a business must have depreciated the property in this manner on its federal tax return for it to qualify for the exemption. The business must provide a copy of the return and the accompanying schedules to the Office of Policy and Management secretary if he requests them. In lieu of submitting both documents, the business may submit only the schedules, if the secretary approves. A sworn affidavit must accompany them stating that were filed as part of the return.

By law, the business must prepare a list of the machinery and equipment for which it claims the exemption and submit it to the assessor by November 1 annually. The new law specifies that this requirement does not supersede the list of personal property the business must file annually with the assessor but does supersede the lists nonresidents and corporations must file annually. **(PA 04-72**, effective upon passage.)

## **PUBLIC SAFETY**

### ***Dual Arrests In Family Violence Cases***

This act creates an exception to the requirement for peace officers to arrest anyone they suspect has committed a family violence crime. The act relieves the officer of his duty to arrest any party that he reasonably believes used force only as a means of self-defense. The

procedures or criteria for making this determination should be included in each law enforcement agency's operational guidelines for arrest policies in family violence incidents, as required by law. (**PA 04-66**, effective October 1, 2004)

### ***Building Officials and Inspectors***

This act makes several unrelated changes to the building code statutes. It requires the state building inspector and Codes and Standards Committee, with the Department of Public Safety commissioner's approval, to adopt regulations requiring continuing educational programs for each class of licensed code enforcement officials. The regulations must include basic requirements for each program and a system of control and reporting. By law, building officials, but not other code officials, must also attend at least 90 hours of continuing education over consecutive three-year periods.

The act eliminates the requirement for municipalities to pay for the building officials' training and requires instead that their training and that of the other code officials be paid from the education fees assessed on building permit applications.

It exempts from demolition permit registration requirements anyone (1) burning a building or structure as part of an organized

fire department training exercise or (2) removing underground petroleum storage tanks.

The act allows aggrieved building owners to appeal any decision by a building official involving code matters to the local board of appeals. Prior law permitted appeals only when a building official denied a permit or notifies an owner that unlicensed workers are working at the site.

The act also allows a building official to ask the state building inspector to retire the official's license or certificate and issue an emeritus certificate. A building inspector emeritus may not describe himself as a licensed or certified official. (**PA 04-150** effective October 1, 2004)

### ***Flashing Lights on Emergency Vehicles***

Previously, flashing or revolving white lights could not be displayed on any motor vehicle except for fire emergency apparatus and motor vehicles of paid or volunteer fire chiefs and their first and second deputies or first and second assistants, if there are no deputies. This act removes the explicit limit on the number of deputy or assistant chiefs and instead allows up to a total of four paid chiefs, deputies, and assistants and four volunteer chiefs, deputies, and assistants per municipality to display such lights. It also allows the flashing or revolving white lights to be displayed in

combination with flashing or revolving red lights. (**PA 04-161**, effective October 1, 2004)

### ***State Building Code and Handicapped Access***

This act generally requires compliance with the State Building Code rather than explicit statutory specifications regarding handicapped access. It effectively brings certain structures and parking spaces into more complete compliance with the accessibility requirements of federal law. Beginning October 1, 2004, the act modifies accessibility requirements for parking spaces designated for use by the handicapped and requires accessibility features for residential facilities to conform to the standards in the building code rather than statutory specifications. It applies to (1) parking areas, garages, and terminals constructed under a building permit application filed on and after October 1, 2004; (2) state-assisted rental housing or rental housing projects with four or more dwelling units constructed or substantially rehabilitated under a building permit application filed on or after October 1, 2004; and (3) other residential dwellings constructed, substantially renovated, or established by change of use under a building permit application filed on or after October 1, 2004.

The act also permits variations and exemptions from standards for exits in places of public assembly. (**PA 04-237**, effective October 1, 2004)

### ***Benefits and Protection for Canine Search and Rescue Members***

This act gives employment protection to state and local police officers who take a leave of absence to participate in international peacekeeping operations under the supervision of the United Nations or other sponsoring organization. It also allows municipalities to give property tax relief to state employees who are active members of volunteer canine search and rescue teams, as they already can for volunteer firefighters and certain other volunteers. The relief may take the form of (1) an abatement of up to \$1,000 in property taxes due in any fiscal year or (2) an exemption of \$1 million divided by the mill rate at the time of the assessment. (**PA 04-241**, effective October 1, 2004)

## **PUBLIC UTILITIES**

### ***Telecommunications Towers***

This act requires the chief elected official of each municipality to report to the Siting Council, by October 1 annually, the location, type, and height of each existing telecommunication tower and

each existing and proposed antenna subject to local jurisdiction.

The act requires the council to develop, by January 1, 2006, a statewide database on towers and antennas. The council must develop a statewide telecommunications coverage plan by September 1, 2006 and annually review and revise the plan as necessary. The act allows, starting January 1, 2007, municipalities to develop local telecommunications coverage plans. Local plans may include a map of existing towers and antennas, radio frequency propagation modeling of existing coverage, hypothetical coverage from alternative sites, and identification of sensitive areas for restrictive use. The plan may identify areas where applications for the siting of towers that meet pre-established criteria may receive expedited consideration.

The local plan must be consistent with (1) related federal law and regulations, (2) tower sharing provisions of state law, and (3) the statewide coverage plan. Upon request, the council must provide technical assistance to the municipality in preparing its plan. **(PA 04-248, effective upon passage)**

### ***Abandonment of Water Supply Sources***

**Criteria.** The act establishes two sets of criteria by which the public health commissioner must use in deciding whether a water

supply source may be abandoned. The criteria are based on the volume of dependable water that the source can supply during a critical dry period without considering available water limitations. One set of criteria, which are essentially the current ones for abandoning any water source, apply only to sources owned by water companies and municipal water utilities that yield less than .75 million gallons per day under these conditions. The second set apply to sources that are capable of producing larger volumes that are owned by water companies, municipal utilities or other entities.

**Notice and Comment Before Abandonment.** The act requires the entity seeking to abandon a source, 30 days before applying for an abandonment permit, to notify the chief elected official in each town in which the land containing the water supply is located. The towns may submit comments on the application to the commissioner within 60 days of receiving notice. The commissioner must consider the comments as he reviews the application.

### ***Sale of Watershed Land to Nonprofit Conservation***

**Groups.** Finally, the act allows the commissioner to permit a water company or municipal utility to sell class I land to a private nonprofit landholding conservation organization if he does not permit the company to abandon a source. Prior law,

while generally prohibiting the sale of such land, allowed the commissioner to permit a water company or municipal utility to sell or assign a conservation restriction or public access easement on class I land to such an organization. (**HB 5801, PA 04-2**, May 11 Special Session, effective October 1, 2004)

### ***Water Company Land***

The law gives various entities, including municipalities, a right of first refusal to buy land owned by a water company, in a specified order depending on who seeks to acquire the land and its subsequent use. The act extends these provisions to cover sales of reservoirs and other water supply sources and modifies the priority with regard to acquisitions by municipalities.

The act expands the credit against the corporation tax for donations of open space land and establishes a parallel credit for donations of land for educational uses. (**PA 04-200**, effective upon passage)

### **STATE AID TO MUNICIPALITIES**

#### ***Bond Authorizations for Capital Improvements***

This act:

1. establishes \$30 million in annual municipal credits for FYs 2003-04 and 2004-05 under the Local Capital Improvement Program;

2. approves up to \$30 million in economic development assistance for Torrington;
3. allows the Connecticut Health and Education Facilities Authority to finance loans for preschool program facilities;
4. allocates up to \$ 2.5 million from various bond authorizations for several projects in Milford's Walnut Beach district;
5. for five years, bars reallocating bonding previously allocated for Hartford senior centers; and
6. gives Groton an additional Clean Water Fund grant to upgrade its wastewater treatment plant.

(**SB 801, PA 04-1**, May 11 Special Session, effective upon passage, except that the Torrington provision is effective July 1, 2004)

#### ***State Property Tax Reimbursement for Disabled Exemption***

The act restores the state reimbursement to towns for lost revenues attributable to the disabled property tax exemption in the October 1, 2003 assessment year. Under prior law, the reimbursement was suspended for the October 1, 2002 and October 1, 2003 assessment years. But for any fiscal year starting on or after July 1, 2004, the act allows the amount payable to each town to

be proportionately reduced if the appropriation in any fiscal year for reimbursing all towns is insufficient to pay the full amount.

The act gives towns an extra month to file applications for reimbursements for disabled exemptions for the October 1, 2003 assessment year. (**HB 5801, PA 04-2**, May 11 Special Session, effective upon passage and applicable to assessment years starting on or after October 1, 2003.

### ***Adjustment to Circuit Breaker Program Reimbursements***

If, after the comptroller pays the annual grants to municipalities to reimburse them for tax reductions or assumed property tax liability amounts under the circuit breaker tax relief program, the OPM secretary adjusts those grants, the act requires the adjustment to be reflected in the treasurer's next payment to the municipality under the program. (**HB 5801, PA 04-2**, May 11 Special Session, effective July 1, 2004 and applicable to claims for reimbursement filed on or after July 1, 2001.

### ***Funding for Clean Water Projects***

This act allows the DEP to continue to provide grants to eligible water quality projects after July 1, 2006 by repealing a

law restricting such projects only to loans after that date. (**PA 04-185**, effective October 1, 2004)

### ***Municipal Bingo Payments***

This act requires the state to make bingo payments to towns one to four, rather than four to 12, times per year. By law, the Division of Special Revenue must pay each municipality where bingo games are conducted .25% of the total wagered, less prizes awarded, in games conducted there. (**PA 04-7**, effective July 1, 2004)

### ***Witness Fee Paid to Police Officers And Firefighters***

This act increases, from \$40 to \$100, witness fees for police officers and firefighters, including volunteers or substitutes, in:

1. criminal proceedings before the Superior Court or proceedings before the Department of Consumer Protection, if their employer does not compensate them for time spent in court;
2. civil proceedings on any vacation or compensatory day, even if their employer compensates them for the day; and
3. civil proceedings on other days, if their employer does not compensate them.

(**PA 04-232**, effective October 1, 2004)

## **TOWN CLERKS**

### ***Certified Copies of Deeds***

The act authorizes town clerks to record a copy of a deed or other instrument affecting real estate located in their town that is recorded in the land records of another town. They may do so only if the copy is certified by the other town's clerk to be a true copy of the deed or instrument recorded in that town. When the copy is recorded, it has the same legal effect as if the original had been recorded. (**PA 04-152**, effective October 1, 2004)

## **MISCELLANEOUS PROVISIONS**

### ***Debarment Reform***

This act expands the state's debarment law by barring general contractors working on public projects from awarding work to subcontractors who have violated the prevailing wage law. Under the existing law, state and municipal agencies may not award construction contracts to firms that have violated the prevailing wage law.

The act establishes a \$1,000-per-day civil penalty for prevailing wage violators who perform work on a public construction project.

By law, the labor commissioner must maintain a list of contractors and firms (the debarment list) who have violated state or federal laws that require

them to pay prevailing wages to employees and subcontractors employed on state and municipal public works or highway contracts. State and municipal agencies may not award contracts to listed firms. Debarment lasts for three years.

The act bars general contractors that enter into state or municipal contracts subject to state prevailing wage law from awarding any work to a subcontractor on the list. (**PA 04-102**, effective on October 1, 2004)

### ***Northwest Corner Probate Court***

The act eliminates the probate districts of (1) Canaan (which also includes North Canaan), (2) Cornwall, (3) Salisbury, and (4) Sharon. Instead, it establishes a new probate district of the Northwest Corner, consisting of all the towns from the probate districts the act eliminates.

The act requires a judge to be elected for the newly created probate district in 2006 and every four years thereafter. Beginning January 3, 2007, the act gives the probate court for the newly created district jurisdiction over all probate business arising in the towns comprising it. (**PA 04-19**, effective upon passage, except the provisions eliminating the current districts take effect January 3, 2007.

## ***Real Estate Conveyance Tax***

This act (1) extends for one year a temporary increase in the basic municipal real conveyance tax rate from 0.11% to 0.25% and makes permanent an option for 18 towns to add another 0.25% to their rates. Under the act, the higher basic rate expires on June 30, 2005. Under prior law, all higher rates were scheduled to expire on June 30, 2004.

The municipalities that may add a quarter point to the conveyance tax rate are: Bloomfield, Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford, Meriden, Middletown, New Britain, New Haven, New London, Norwalk, Norwich, Southington, Stamford, Waterbury, and Windham. (**PA 04-216**, effective upon passage)

Another act exempts employer and relocation company resales of residential property acquired through employee relocation plans from the conveyance tax. To be exempt, the resale must occur within six months after the date the relocated employee conveyed the property to his employer or the relocation company. (**PA 04-154**, effective July 1, 2004 and applicable to conveyances on or after that date.)

## ***Compliance with the Federal Motor Carrier Safety Improvement Act***

The act makes many changes to the laws on issuing, qualifying for, and holding a commercial driver's license (CDL), which is required to drive school buses, large trucks, and certain other vehicles. Many of the changes are required to comply with provisions of the federal Motor Carrier Safety Improvement Act of 1999. The act also makes changes to laws regarding drivers of vehicles transportation hazardous materials that are required under the USA Patriot Act.

Among other things, the act:

1. modifies the CDL endorsement necessary for driving a school bus and creates three new endorsements related to the school bus endorsement, including creation of a new endorsement for school-related activity vehicles;
2. expands the definition of a school bus to include a commercial motor vehicle, except a bus used by a common carrier, used to transport preschool, elementary school, or secondary school students between home and school or to and from school-sponsored events; and
3. authorizes the motor vehicles commissioner to waive the skills test for an

applicant for a school bus endorsement who meets the requirements for such a waiver under federal regulations.

**(PA 04-217**, effective January 1, 2005)

### ***Municipal Reserve Funds***

This act increases the maximum share of a municipal loss and retiree benefit reserve fund that may be invested in stocks from 31% to 40% of the total amount invested.

By law, a municipality may use the fund to pay property or casualty losses, employee retirement benefits, and related expenses. At least 50% of the invested share of the fund must be invested in U.S. government obligations, certificates of deposit, commercial paper (short-term notes issued by large corporations), savings accounts, and bank acceptances (notes issued by non-financial companies whose principal and interest is guaranteed by a bank.) **(PA 04-114**, effective upon passage)

### ***Van Donation for Needle Exchange Programs***

The act requires the Department of Administrative Services (DAS) commissioner to donate up to five vans to towns or organizations that operate needle exchange programs, without regard for the law governing the distribution of surplus state property. It relieves DAS of any liability for the vans' performance or maintenance once the donation is made and makes the town or organization that accepts the donation solely liable for any damage to or any damage or injury resulting from a van's use. The town or organization must indemnify the state for all claims arising from the vans' use. **(PA 04-221**, effective upon passage)

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