



OLR RESEARCH REPORT

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2007 VETO PACKAGE

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The governor vetoed five public acts and used the line-item veto for one more. One veto has already been overridden.

The acts that were vetoed are:

1. PA 07-135, *An Act Concerning Access to Postsecondary Education*;
2. PA 07-137, *An Act Concerning the Palliative Use of Marijuana*;
3. PA 07-229, *An Act Concerning the Implementation of Generally Accepted Accounting Principles (GAAP)*; and
4. PA 07-248, *An Act Concerning Various Revenue Measures*;

The governor used the line-item veto to strike sections 126 and 128 from PA 07-242, *An Act Concerning Electricity and Energy Efficiency*.

The governor vetoed PA 07-83, *An Act Concerning Legislative Review and Approval of Waiver Applications Submitted by the Commissioner of Social Services to the Federal Government*, but the General Assembly overrode the veto on May 22.

This report contains a brief summary of each act in numerical order the final vote tallies, and excerpts from the governor's veto messages.

PA 07-135—sHB 5656

An Act Concerning Access to Postsecondary Education

Human Services Committee

Higher Education and Employment Advancement Committee

Appropriations Committee

This act extends in-state tuition status to undocumented immigrants residing in Connecticut who meet certain criteria. By law, with limited exceptions, determination of in-state tuition status is based on an applicant's domicile, that is, his "true, fixed and permanent home" and the place where he intends to remain and return to when he leaves. Undocumented immigrants are not considered to be domiciled in Connecticut.

Under the act, anyone qualifies for in-state tuition, except a nonimmigrant alien (someone with a visa permitting temporary entrance to the country for a specific purpose), if he or she:

1. resides in Connecticut;
2. attended any educational institution in the state and completed at least four years of high school here;
3. graduated from a high school in Connecticut, or the equivalent;
and
4. is registered as an entering student, or is currently a student at, UConn, a Connecticut State University, a community-technical college, or Charter Oak State College.

By law, "resides" means continuous and permanent physical presence within the state. The establishment of residence is not affected by temporary absence for short periods of time.

If the individual is an undocumented immigrant, he or she must file an affidavit with the college stating that he or she has applied to legalize his or her immigration status or will do so as soon as he or she is eligible to apply. (Currently, undocumented immigrants who apply for student visas or lawful permanent resident status are subject to deportation. Thus, they are not eligible to apply until federal law is amended to allow them to do so.)

Senate vote: 21 to 15 (June 1)

House vote: 76 to 67 (May 17)

Excerpt from the Governor's veto message:

“This bill would grant in-state student status to certain undocumented immigrants residing in Connecticut for purposes of determining tuition payments at the University of Connecticut, the State University System and the Regional Community-Technical Colleges. Eligible students must (1) reside in Connecticut, (2) have completed at least 4 years of high school level education in Connecticut, (3) have graduated from a high school in Connecticut or the equivalent, and (4) be registered as an entering student or enrolled at a public institution of higher education in Connecticut. In addition, it would require such students to file an affidavit with the college stating that the student has filed an application to legalize his or her immigration status, or will file such application as soon as he or she is eligible to do so.

“The requirement that the student file an application to legalize his or her immigration status as soon as he or she is eligible to do so assumes, without extenuating circumstances, passage of immigration reform at the federal level. That is, if such a student were to file an application with the federal government prior to passage of immigration reform by the Congress, the student would, in essence, be notifying the government of his or her illegal status, thereby greatly increasing the likelihood of deportation. If Congress fails to enact meaningful immigration reform, which may be likely at this time, many of these students may never become eligible to legalize their status because they are not legal residents of the state of Connecticut or of the United States and there are few opportunities for illegal aliens to legitimize their residency.

“Moreover, I do not believe that this bill addresses the underlying problem that these students face — that they are not legal residents of the United States. Only action at the federal level will address this situation in a comprehensive and consistent manner.

“Furthermore, I do not wish to encourage individuals to circumvent federal immigration laws. House Bill 5656, by providing benefits to undocumented aliens, may serve to encourage others to come to Connecticut in violation of federal immigration law. Also, as we all know, national security in the post 9/11 world has become increasingly important and we cannot dismiss the effects of state action that may serve to undermine federal security measures.

“I am sympathetic with the goals of this bill, and with the needs of the students the bill seeks to help. I understand that they are not responsible for their undocumented status, having come to the United

States with their parents when they were young, I also I realize that ten states have enacted similar legislation in recent years. The fact remains, however, that these students and their parents are here illegally and neither sympathy nor good intentions can ameliorate that fact. Accordingly, since the underlying issues are a matter of national concern and can only be addressed by the Congress, I believe the most prudent course for the state of Connecticut is to wait for resolution at the federal level before enacting legislation of this nature. ...”

PA 07-137—sHB 6715

An Act Concerning the Palliative Use of Marijuana

Judiciary Committee

General Law Committee

Public Health Committee

Finance, Revenue and Bonding Committee

Appropriations Committee

This act allows a physician to certify an adult patient’s use of marijuana after determining that the patient has a debilitating condition and could potentially benefit from the palliative use of marijuana. It establishes a procedure for certifying patients. The act does not require health insurers to cover the palliative use of marijuana.

It allows people suffering from these conditions and their primary caregivers to possess a quantity of marijuana that the act sets to treat the conditions.

The act requires the patients and their primary caregivers to register with the Department of Consumer Protection (DCP) and authorizes the department to impose a \$25 registration fee and other fees. The fees must be deposited in a separate, nonlapsing palliative marijuana administration account the act establishes.

The act prohibits physicians, qualifying patients, and their caregivers who comply with its provisions from being arrested, prosecuted, or otherwise punished for certifying, using, or possessing palliative marijuana.

The act requires law enforcement agencies to return marijuana, marijuana paraphernalia, or other property seized from a patient or primary caregiver who complies with its provisions.

Senate vote: 23 to 13 (June 1)

House vote: 89 to 58 (May 23)

Excerpt from the Governor's veto message:

“I sincerely appreciate that this bill seeks to provide relief to patients suffering from debilitating medical conditions. The medical profession, as well as public and private biotechnology researchers, have made great strides in both pharmacologic and non-pharmacologic modalities for pain management, and they continue their search to find effective pain-relieving drugs. And yet, for those suffering from unrelenting pain, these scientific advances are hardly sufficient.

“I am not unfamiliar with the incredible pain and heartbreak associated with battling cancer. I have struggled with the decision about signing or vetoing this bill. I have spoken and met with dozens of people on this issue, all of whom have presented their positions passionately and articulately. In the end, however, I believe that it is most appropriate for me to veto this bill.

“Unquestionably House Bill 6715 attempts to provide an additional option for patients suffering severe and persistent pain. There is no mistaking the fact, however, that it requires that patients or primary caregivers who wish to use or supply marijuana for palliative purposes must first engage in an illegal activity in order to do so. Once a patient receives a written certification for the use of marijuana, where does the patient go? There are no pharmacies, storefronts or mail order catalogs where patients or caregivers can legally purchase marijuana plants or seeds. I am troubled by the fact that, in essence, this bill forces law-abiding citizens to seek out drug dealers to make their marijuana purchases. It puts individuals at risk at a very difficult and vulnerable time in their lives and potentially increases the illegal drug trade.

“I would also note that smoked marijuana as medicine has been rejected by the American Medical Association, the National Multiple Sclerosis Society, the American Glaucoma Society, the American Academy of Ophthalmology and the American Cancer Society. Our own Connecticut State Medical Society has also rejected the use of smoked marijuana for medicinal purposes.

“One can only surmise that this rejection is in large part due to the lack of guidance and standards on the medical use of marijuana and the lack of proof of its effectiveness. Indeed, there are no studies or clinical trials that establish the appropriate quantity to be administered to relieve pain, the optimal frequency and duration of administration, or the most effective method of administration for the medical conditions specified in the bill. Additionally, since the marijuana plants will be grown in

unregulated environments, the usable marijuana harvested from different plants may vary dramatically in potency and effectiveness. ...

“I am also concerned that this bill would send the wrong message to our youth. ...

“Additionally, there are many important issues not addressed by this bill. For example, there is no provision for monitoring the use of marijuana by qualifying patients and their caregivers to ensure that the drug is used properly and only by qualified patients. ...

“Another complication is the fact that the bill is not limited to terminally ill patients. ...”

PA 07-229—sHB 7338

An Act Concerning the Implementation of Generally Accepted Accounting Principles (GAAP)

Appropriations Committee

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

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

Senate vote: 22 to 14 (June 6)

House vote: 148 to 0 (May 24)

Excerpt from the Governor’s veto message:

“ ... I have serious concerns about the potential fiscal impact this bill may have on the state.

“The intended purpose of this bill as stated in a committee hearing and in House debate is to allow both the Office of the Comptroller and the Office of Policy and Management greater flexibility with regard to the preparation of the annual state budget. The intent of this legislation was

not to affect the financial statements issued by the state and relied upon by the financial community, including rating agencies.

“Unfortunately, the language of HB 7338 is much broader than its intended purpose. As written, the language of HB 7338 allows the Comptroller to prescribe generally accepted accounting principles (GAAP) for financial purposes, but does not limit the use of these self-styled GAAP standards to preparation of the annual state budget. The plain language of this bill would allow the Comptroller to issue financial statements using whatever standards she prescribed. There is no doubt that our State Comptroller does not intend to deviate from GAAP for financial reporting purposes, but there is nothing in HB 7338 that would prevent a future Comptroller from doing so.

“The Governmental Accounting Standards Board (“GASB”) is recognized as the independent body responsible for establishing financial accounting and reporting standards for the nation’s state and local governments. Transparency and confidence in government financial reporting are based on adherence to uniform standards that are independently established, free from commercial and political influence and consider the needs of those who use financial statements.

“These users include bond investors and those making credit, investments and other economic decisions. Users of financial statements have a clear understanding of statements prepared in conformity with GAAP.” To deviate from this standard would jeopardize the financial standing of our state, and as Governor, I cannot risk that possibility.

“I understand the intended purpose of this legislation and I have no objection to providing the Office of the Comptroller and the Office of Policy and Management the flexibility they need in preparing our state budget. H.B. 7338, however, goes well beyond providing that flexibility. ...”

PA 07-248—SHB 7400

An Act Concerning Various Revenue Measures

*Finance, Revenue and Bonding Committee
Appropriations Committee
Commerce Committee*

This act makes many changes in state taxes. With respect to the income tax, it:

1. increases the number of personal income tax brackets from two to five;
2. for taxable income formerly subject to a flat 5% rate, establishes a range of rates from 4.875% to 5.95% for the 2007 tax year and 4.75% to 6.5% for the 2008 and subsequent tax years;
3. doubles the property tax credit and raises the income levels for the credit phase-out, thus making more taxpayers eligible and allowing higher-income taxpayers to receive bigger credits; and
4. establishes a refundable state earned income tax credit (EITC) equal to 20% of the federal EITC.

With respect to the sales tax, the act:

1. eliminates exemptions for clothing and footwear costing under \$50 and property costing \$2,500 or less and used for funerals;
2. exempts sales of computer and data processing services, all health club services, and meals sold from “honor boxes”;
3. extends a tax exemption for residential weatherization products for three years; and
4. requires the state to join the multi-state Streamlined Sales and Use Tax Agreement (SSUTA).

The act also:

1. reduces the aggregate value of tax credits a company can claim to reduce its corporation or insurance premium tax liability in any year;
2. increases the cigarette tax by 49 cents per pack and establishes a one-time tax on cigarettes in dealers’ and distributors’ inventories;
3. eliminates a cliff in the estate and gift tax, increases taxes on estates and gifts valued at over \$6.1 million, and makes changes to preclude double taxation of certain gifts and reduce taxes on out-of-state property;
4. suspends collection of the 25-cent-per-gallon motor vehicle fuels tax (“gas tax”) from its date of passage through September 3, 2007

(Labor Day) and requires gasoline distributors and dealers to reduce their prices by the same amount;

5. requires petroleum distributors to report their prices and sales volumes to the Attorney General's Office and establishes a petroleum transparency and reporting oversight program in that office;
6. transfers \$124.7 million from the FY 07 surplus to the Special Transportation Fund for FYs 07 and 08;
7. postpones scheduled increases in the petroleum products gross earnings tax by one year, keeping the rate at 6.3% until July 1, 2008;
8. increases annual motor boat fuel tax revenue transfers to the Conservation Fund, with corresponding increases in the boating and fisheries accounts and in allocations to the Long Island Sound councils;
9. makes permanent the basic 0.25% municipal real estate conveyance tax rate; and
10. increases various Department of Public Safety (DPS) fees and imposes a flat boiler inspection fee in place of varying fees based on the type of boiler.

Senate vote: 19 to 17 (May 31)

House vote: 90 to 58 (May 30)

Excerpt from the Governor's veto message:

“ ... I will not sign House Bill 7400 because it significantly increases taxes at a time when the state is enjoying unexpectedly high revenue collection and a surplus of more than \$800,000,000.

“House Bill 7400 increases income tax rates on taxable income greater than \$250,000 for couples filing jointly, \$200,000 for heads of household, \$132,800 for single filers and \$125,000 for couples filing separately. It increases the maximum income tax rate from 5% to 5.95% for the 2007 tax year and to 6.5% for 2008 and subsequent tax years.

“House Bill 7400 eliminates the sales tax exemption for shoes and clothing costing less than fifty dollars. This change will cause a financial burden on every household in Connecticut. It also eliminates the sales

tax exemption for items costing up to \$2500 sold by funeral homes to be used in preparing and conducting burials and cremations. All of these items are currently exempt from the sales tax. And, despite claims to the contrary, everyone, in fact, will be subject to additional taxes.

“The bill also increases taxes on businesses. It increases the amount of insurance premium and corporate taxes that companies must pay by limiting the total value of their tax credits for an income year to 60% of their total pre tax liability, instead of the current 70%.

“The bill will generate additional revenue of \$80.8 million in FY 08 and \$76.8 million in FY 09 by increasing the cigarette tax by 49 cents per pack, from \$1.51 to \$2.00 per pack.

“House Bill 7400 will increase the tax rate on estates and gifts over \$2.1 million. Under this bill, the highest marginal rate for gifts or estates over \$10,100,000 will increase from 16% to 20%.

“The bill also makes permanent the temporary increase in the local portion of the real estate conveyance tax which was scheduled to drop from .25% to .11% on July 1, 2007.

“This bill increases numerous fees charged by the Department of Public Safety, including fees for movie theater inspections and licenses, and permits for fireworks.

“I would also note that House Bill 7400 requires the state to apply to become a party to the Streamlined Sales Tax and Use Tax Agreement by October 1, 2007. This agreement, among other things, requires the state to adopt uniform definitions for taxable and exempt products and to provide only one tax rate for all taxable products and services. This bill, however, does not establish all of the conditions necessary for our application to the Agreement to be accepted.

“Now I must acknowledge that the bill does contain some laudable provisions. For example, as I proposed in the budget I presented to the General Assembly in February, it extends the current sales tax exemption for home weatherization products and energy efficient appliances for three more years. It also suspends the motor fuels tax on gasoline and diesel fuel for approximately three months during the peak summer driving season, which I strongly support. This provision would provide needed relief to consumers, who are struggling with record prices for gasoline. On balance, however, the tax increases contained in this bill will do more damage to the viability of our economy than the scant relief provided by these sections. ...

“As I have repeatedly stated, state revenues for the current fiscal year have exceeded our projections, and the state will end the fiscal year with a surplus of more than \$800,000,000. There is therefore no reason or need to increase tax revenues, and there is no need for this bill. Some of the provisions of House Bill 7400, such as the increases in personal income tax and the estate tax, may provide the impetus for some of our largest taxpayers to take up residence in another state.

“The most troubling aspect of this bill, however, does not become apparent until the bill is read in conjunction with subsection (a) of Article XXVIII of the Amendments to the Constitution of the State of Connecticut, which requires that the amount of general budget expenditures authorized for any fiscal year shall not exceed the estimated amount of revenue for such fiscal year. Since this provision of our Constitution requires a balanced budget, where expenditures equal revenues, it is clear that the only reason for the General Assembly to pass a bill that increases state revenues by approximately a billion dollars is that they plan to increase state spending by a billion dollars. I cannot in good faith countenance such a drastic increase in state spending.

“As I stated above, there is no need to raise additional revenue at a time when the state is enjoying such a large surplus. House Bill 7400, therefore, is not only unnecessary, it gives the General Assembly a license to spend taxpayer money at a level that is unsustainable. In fact, the last time the state increased its spending at such an unsustainable rate was 1989, ultimately resulting in the imposition of the state income tax in 1991. ...”

PA 07-242—HB 7432

An Act Concerning Electricity and Energy Efficiency

Emergency Certification

The governor used the line-item veto to strike §§ 126 and 128 of the act.

§ 126 — *Restoration of Conservation and Clean Energy Funds*

In recent years, the legislature has diverted to the General Fund part of the revenue that would have otherwise gone into the electric companies' conservation funds and the state's Clean Energy Fund. To reduce the impact of the transfer on these funds, the legislature

authorized the issuance of bonds backed by future revenue from the conservation and renewable energy charges on electric bills.

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

These provisions were reinstated in the budget act, PA 07-1 June Special Session, with an \$85 million appropriation.

§§ 81, 82, 128 — Operation Fuel

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

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

The act appropriates the following to OPM from the FY 07 General Fund surplus: (1) \$2.5 million for the arrearage forgiveness program, (2) \$1.75 million for an expansion of Operation Fuel, and (3) \$750,000 for Operation Fuel's infrastructure.

(Section 128 specifically provides for the funding of these programs.)

Senate vote: 32 to 3 (June 2)
House vote: 128 to 19 (June 1)

Excerpt from the Governor's veto message:

"I have signed Emergency Certified Bill 7432, but I have exercised my right, pursuant to said Section 16, to disapprove Sections 126 and 128 of the bill, both of which make appropriations of money embracing distinct items.

"Section 126 appropriates the sum of ninety-five million dollars to the Treasurer in the current fiscal year for the purpose of defeasing state rate reduction bonds maturing after December 30, 2007 or purchasing state rate reduction bonds maturing after December 30, 2007, or a combination of defeasing and purchasing such bonds.

"I have serious concerns about the legality of this appropriation in light of the constitutional spending cap. Article XXVIII of the Amendments to the Constitution of the State of Connecticut establishes a limit on state expenditures. Specifically it provides that "the general assembly shall not authorize an increase in general budget expenditures for any fiscal year above the amount of general budget expenditures authorized for the previous fiscal year by a percentage that exceeds the greater of the percentage increase in personal income or the percentage increase in inflation, unless the Governor declares an emergency or the existence of extraordinary circumstances and at least three-fifths of the members of each house of the general assembly vote to exceed such limit for the purposes of such emergency or extraordinary circumstances." Although the definition of "general budget expenditures" excludes expenditures for payment of the principal and interest on bonds, notes and other evidences of indebtedness, such exclusion clearly does not anticipate large-scale defeasing and purchasing of such obligations. The appropriation of funds in Section 126 for the current fiscal year, therefore, would cause the state to exceed the constitutional spending cap, and I have not been asked to provide, nor have I proffered, a gubernatorial declaration of the existence of an emergency or extraordinary circumstances.

"Section 128 of the bill appropriates five million dollars to the Office of Policy and Management in the current fiscal year to implement the Clean-Slate Program and to provide increased support for Operation Fuel. Again, in the absence of a gubernatorial declaration of the existence of an emergency or extraordinary circumstances, which has neither been requested nor proffered, this appropriation of funds in the current fiscal

year also would cause the state to exceed the constitutional spending cap.

“Thus, I believe these two sections are unconstitutional. Furthermore, I believe it is unwise to enact such spending measures without a comprehensive and balanced biennial budget. ...”