



# OLR RESEARCH REPORT

June 21, 2012

2012-R-0278

## 2012 VETO PACKAGE

By: Katherine Dwyer, Legislative Analyst II

The governor vetoed the following public and special acts:

[SA 12-2](#), *An Act Concerning Delays in Revaluation for Certain Towns*

[PA 12-34](#), *An Act Concerning the Revision of Municipal Charters*

[PA 12-73](#), *An Act Concerning Polling Places for Primaries, Registrars of Voters, Voting District Maps, Election Returns and Supervised Absentee Voting at Institutions.*

[PA 12-117](#), *An Act Concerning Changes to Campaign Finance Laws and Other Election Laws*

[PA 12-164](#), *An Act Concerning Foamed-In-Place Insulating Material*

[PA 12-175](#), *An Act Concerning the Applicability of the Sales and Use Tax to Vessel Storage, Maintenance or Repair*

[PA 12-180](#), *An Act Concerning the Budget, Special Assessment and Assignment of Future Income Approval Process in Common Interest Ownership Communities*

[PA 12-181](#), *An Act Concerning the Training and Authority of Certain Constables Appointed for Fish and Game Protection*

A vetoed act will not become law unless it is reconsidered and passed again by a two-thirds vote of each house of the General Assembly. The legislature is scheduled to meet for a veto session on June 25, 2012.

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

**SA 12-2 – HB 5424**

***An Act Concerning Delays in Revaluation for Certain Towns***

This act allows Farmington, New Britain, Norwich, Stamford, and Windham to delay the next scheduled revaluation date to the 2013 assessment year. This will have the effect of delaying changes to the town's grand list that occur as a result of the revaluation, therefore, precluding a shift of tax burden between classes (personal, residential and commercial).

**Senate vote: 35 to 0 (May 9)**

**House vote: 132 to 2 (May 5)**

***Excerpt from the governor's veto message:***

The apparent rationale underlying the bill is the unsupported perception that property values have decreased in these communities disproportionately from other communities since the last round of revaluations. Proponents fear this will lead to a disproportionate shift in the property tax burden among these five municipalities' taxpayers. In juxtaposition, I believe that delaying a regularly scheduled revaluation for just these communities, and not for other communities that are similarly situated, is unfair and that, regardless, delaying a revaluation at this time might exacerbate, rather than mitigate, the problems that Connecticut communities face in these uncertain economic times....

Had this bill simply given all municipalities the option of a one year delay in revaluations – like Public Act 09-60 did – I might be more predisposed to sign it. However, 38 municipalities are mandated to perform revaluations this year, but this bill extends the time period to do so for only five.

**PA 12-34 – HB 5318**

***An Act Concerning the Revision of Municipal Charters***

By law, a commission appointed to draft or amend a municipal charter or amend a home rule ordinance must consider the changes or items (1) specified in the petition that initiated the adoption or revision process, if applicable, and (2) anything else the appointing authority recommends. Under prior law, the commission could consider additional changes and items it deemed desirable or necessary. This act prohibits a commission appointed on or after October 1, 2012 from considering additional items or changes without the appointing authority's authorization.

**Senate vote: 36 to 0 (May 3)**

**House vote: 137 to 5 (April 18)**

***Excerpt from the governor's veto message:***

Last year I vetoed an essentially identical bill, HB 6410, and my views have not changed. I continue to disapprove of this concept, because it unnecessarily restricts the independence and authority of charter review commissions....

The decision of local legislative bodies about whether to amend a charter is a significant one. Once that decision is made, the members of the charter revision commission are charged with the responsibility of researching, analyzing and proposing any amendments to the charter they deem necessary. This legislation unnecessarily limits the ability of such commissions to thoroughly do their jobs. It could easily lead to situations where changes in one section of a charter are amended, but an interrelated section of the charter is considered off limits because of the narrow authority given to the commission by the legislative body. Such an inability to make corresponding changes in related sections of a charter could yield unworkable and incongruous results.

**PA 12-73 – SB 218**

***An Act Concerning Polling Places for Primaries, Registrars of Voters, Registry Lists, Voting District Maps, Election Returns, and Supervised Absentee Voting at Institutions***

This act changes election laws affecting primary polling places, registrars of voters, submission of local voting district returns and maps, and supervised absentee balloting designees. Generally, it:

1. authorizes registrars of voters to reduce the number of polling places for a primary, the location of which may be the same or different than the polling places for the election;
2. establishes a process for removing registrars of voters from office;
3. requires registrars of voters to mail notices (but not by certified mail as prior law required) to newly convicted felons at the Department of Correction, rather than their last-known address, indicating that they will be removed from the voter registry list;
4. requires town clerks to submit local voting district returns and maps electronically, when possible;
5. prohibits individuals from serving as supervised absentee balloting designees if, during the current election cycle, they solicited qualifying contributions for a candidate who is on the ballot and participating in the Citizens' Election Program and
6. requires electors who move within the same municipality and want to transfer their registration to their new address to submit to the registrars a new voter registration application, rather than the signed request that was previously required.

**Senate vote: 35 to 0 (April 27)**

**House vote: 144 to 0 (May 8)**

***Excerpt from the governor's veto message:***

Although I understand that this bill may result in potential cost savings to municipalities, the potential for undermining the right to vote contained in this bill is unacceptable. Indeed, voters may be easily confused and reluctant to vote if their polling place is suddenly closed during a primary

process. There is no provision in this bill for input from citizens prior to the registrars' closing of a polling place to express their concerns or to suggest alternative locations for such polling locations. Given the importance of ready access to the polls and my commitment to ensuring every eligible citizen their ability to vote, I cannot support this bill.

The time frame for choosing the polling stations provided for in the bill does not provide adequate notice to candidates and voters, particularly when an objection is filed....

Separate from my concerns regarding the relocation of polling locations, I do not have confidence that the procedure set out in Section 2 of the bill for removal of registrars of voters from office is advisable....

A procedure to remove an elected official from office, regardless of what office that is, must be rigorous, effective and in accordance with traditional notions of due process. The procedures set forth in this bill do not meet that test.

## **PA 12-117 – HB 5556**

### ***An Act Concerning Changes to Campaign Finance and Other Election Laws***

This act modifies state election laws affecting campaign finance, the Citizens' Election Program (CEP), the State Elections Enforcement Commission (SEEC), and certain absentee voting and nominating procedures. Principally, the bill:

1. expands reporting and disclaimer requirements for independent expenditures;
2. exempts from the definition of "independent expenditure," expenditures of up to \$ 250 in the aggregate made by a human being acting alone to benefit a candidate for a single election;
3. defines "campaign-related disbursements" and "covered transfers" and establishes reporting requirements for them;
4. raises the limits on various contributions from individuals to political committees (known as PACs) and party committees;

5. eliminates certain campaign finance reporting requirements under specified circumstances;
6. specifies that qualified CEP candidates can pay a campaign treasurer under a written services agreement, in addition to the \$1,000 currently permitted under the program from a committee's surplus funds;
7. requires a PAC's treasurer, rather than its chairperson, to report most changes to information on the registration statement it files with the SEEC (the chairperson remains responsible for filing the initial statement and reporting any committee officer changes);
8. narrows a residency requirement for candidates for the municipal office of state senator and representative;
9. allows military and overseas voters to return their voted absentee ballots by fax or email;
10. authorizes candidate committees, other than those for participating CEP candidates, to distribute surplus funds to charitable 501(c)(19) organizations following an unsuccessful primary or election; and
11. authorizes the SEEC to waive penalties associated with certain reports that were due in January 2012.

**Senate vote: 20 to 15 (May 9)**

**House vote: 94 to 54 (May 8)**

***Excerpt from the governor's veto message:***

This bill is an attempt to strengthen our state's campaign finance laws, particularly in light of the United States Supreme Court's decision in *Citizens' United v. Federal Election Commission*. Upon close examination, however, I find that some portions of this bill likely violate the United States Constitution, while other provisions represent poor public policy choices....

House Bill 5556 would have a chilling effect on issue advocacy and neutral debates about matters of public concern that should be the hallmark of our democracy....

Citizens have the right to associate themselves with groups that advocate causes in which they believe and to hear the views of candidates in neutral and open forums. Requiring such groups to identify individual donors will dissuade people from supporting those groups or organizations from providing this public service and will reduce the free flow of information and debate on which our democracy thrives.

Further, as articulated to me by the ACLU of Connecticut, this framework is likely unconstitutional under the United States Supreme Court decision in *NAACP v. Alabama* (1958). That case struck down a requirement that the NAACP identify its individual donors. The court held that such a requirement constituted “a substantial restraint upon the exercise by the NAACP’s member of their right to freedom of association.” Therefore, I agree with the ACLU that the *NAACP v. Alabama* decision strongly suggests that “[f]reedom of association is...at stake” if this framework becomes law....

I also object to section 10 of this bill, which would require the governing board of “any entity incorporated, organized or operating in this state” to authorize any campaign-related disbursement of over \$4,000. It would also mandate the public disclosure of the individual votes of the board’s members on the entity’s website and with a filing with the State Elections Enforcement Commission. As the corporate law section of the Connecticut Bar Association has pointed out, this provision almost certainly violates the commerce clause of the United States Constitution and imposes an unnecessary burden on businesses operating within this state....

The CBA points out that, “[t]he Supreme Court’s recent Commerce Clause cases have held that the internal affairs of a corporation...may only be regulated by the state in which the corporation is incorporated, because a corporation could otherwise be faced with a multiplicity of conflicting requirements and procedures.” I agree with the CBA’s interpretation....

I cannot support a law that would attempt to extend the reach of Connecticut’s authority into other states, just as I would not tolerate any other state’s attempts to interfere with the authority of Connecticut.

**PA 12-164 – HB 5248**

***An Act Concerning Foamed-In-Place Insulating Material***

The law bans the use of urea-formaldehyde foamed-in-place insulation (UFFI) in buildings.

This act (1) replaces a prior definition of UFFI with a narrower one that excludes formaldehyde polymers and derivatives and (2) restricts the sale and installation of all types of foamed-in-place insulating material unless the manufacturer or supplier certifies to the construction services commissioner that the material complies with certain specifications. Under the act, the certification must include a statement (1) that the insulating material is not a UFFI material and has met allowable emissions standards under specified tests and (2) under oath that the material complies with the law.

***Excerpt from the governor’s veto message:***

Connecticut made a decision in 1981 to ban the use of urea formaldehyde foam insulation (UFFI) because the level of formaldehyde emissions produced by these products was considered significant and a risk to human health....

Since that time, new foamed-in-place insulating products that contain formaldehyde have come onto the market claiming to produce fewer formaldehyde emissions. If such products are going to be allowed for use in Connecticut, it should only be after satisfying the most stringent testing methods in order to protect the health of our residents, which this bill fails to require.

**Senate vote: 36 to 0 (May 9)**

**House vote: 126 to 0 (May 8)**

**PA 12-175 – HB 5425**

***An Act Concerning the Applicability of the Sales and Use Tax to Vessel Storage, Maintenance or Repair***

This act extends the (1) sales tax exemption for winter storage of noncommercial vessels by two months and (2) use tax exemption for winter storage, maintenance, and repair of vessels brought into the state exclusively for those purposes by one month. Under prior law, the sales



tax exemption applied from November 1 to April 30, and the use tax exemption from October 1 to April 30. The act makes both exemptions apply from October 1 to May 31.

***Excerpt from the governor's veto message:***

As the state continues to face the most difficult financial hardships in many years, I cannot support extending these tax exemptions in this economic climate....

This bill is nothing more than a subsidy for one particular industry within the state, while others are required to abide by existing tax rules. The Office of Fiscal Analysis estimates that the state will suffer an annual revenue loss of up to \$300,000 as a result of HB 5425. This revenue loss is not accounted for in the budget adjustments made this year. Any possible benefits the bill provides are outweighed by this unanticipated revenue loss. Therefore, I cannot support HB 5425.

**Senate vote: 36 to 0 (May 9)**

**House vote: 144 to 0 (May 1)**

**PA 12-180 – HB 5511**

***An Act Concerning the Budget, Special Assessment and Assignment of Future Income Approval Process in Common Interest Ownership Communities***

This act changes requirements under the Common Interest Ownership Act (CIOA) for approval of annual budgets and special assessments for certain large common interest communities and master associations. Under existing law, common interest community annual budgets and special assessments are approved unless a majority of all unit owners, or a larger number specified in the association's declaration, votes to reject them. The absence of a quorum in the vote does not affect the budget's or assessment's approval or rejection.

The act creates an exception for (1) common interest communities that have at least 2,400 units and were established prior to July 3, 1991 and (2) master associations exercising the powers on behalf of one or more common interest communities or for the benefit of the unit owners of one or more such communities, with the same size and establishment requirements as specified above. The act provides that, for these communities and master associations, a proposed budget or assessment

is approved unless (1) a majority of all unit owners participating in the vote rejects it and (2) at least one-third of unit owners entitled to vote on the measure vote to reject it.

By law, unchanged by the act, unit owner approval is not required for special assessments that are (1) small relative to the association's budget (unless the declaration or bylaws provide otherwise) or (2) needed in an emergency.

The act also changes CIOA's approval requirement for assignments of the right to future income as security for loan agreements in common interest communities. It provides that the assignment is approved unless a majority of unit owners votes against it, rather than approved only if a majority votes for it (although the declaration can specify a higher number).

**Senate vote: 36 to 0 (May 9)**

**House vote: 144 to 0 (May 8)**

***Excerpt from the governor's veto message:***

Currently, [CIOA] requires a majority of all unit owners to vote in favor of an executive board's proposal for a loan agreement for it to be approved. Shifting from a presumption that the proposal fails without approval by a majority of unit owners, to a presumption that the proposal is approved without rejection by a majority of unit owners, unreasonably shifts power from unit owners to the board. In the absence of a unit owner's vote, House Bill 5511 wrongfully assumes the owner's implied approval of the executive board's proposal....

Currently, CIOA presumes that a budget or special assessment presented by the executive board to unit owners is approved unless rejected by a majority of all unit owners. This too presumes that the absence of a unit owner's vote is an approval of a board's proposal. Raised Bill 5511 contained language that would have allowed a majority of unit owners voting to reject such a proposal. Unfortunately, the bill was amended to extend this protection only to unit owners in the largest communities and only under certain circumstances.

While the raised bill contained needed protections for unit owners, these were significantly watered down in the bill that passed and cannot justify the significant amount of control that would be given to an executive board to assign an association's future income as security on loan agreements.

**PA 12-181 – HB 5304**

***An Act Concerning the Training and Authority of Certain Constables Appointed for Fish and Game Protection***

This act exempts certain fish and game protection constables from having to be certified as a police officer by the Police Officer Standards and Training Council (POST). To be exempt, the constables must (1) be appointed by a town in Hartford County with a population between 44,000 and 50,000 and (2) successfully complete a basic police training course that is tailored to the constables' duties and provided by a POST-certified police officer from that town. And, in order to carry a firearm in the course of their duties, the constables must be certified by a firearms trainer of the police department and meet the recertification requirements that apply to the department's regular sworn officers.

**Senate vote: 36 to 0 (May 9)**

**House vote: 144 to 0 (May 8)**

***Excerpt from the governor's veto message:***

Because [fish and game] constables may carry firearms and perform certain police functions, they should not be exempted from certification requirements critical to public safety. Additionally, the bill conflicts with a legal opinion previously issued on the subject by the Office of the Attorney General (OAG).

CGS § [7-294a](#) specifically states that "police officers" include an appointed constable performs criminal law enforcement duties. Fish and game constables are such appointed individuals, and may perform criminal law enforcement duties. In the OAG legal opinion, former Attorney General Blumenthal concluded that even with their limited jurisdiction, fish and game constables are "police officers" within the meaning of § 7-294a. As such, they were previously subject to the authority of the Municipal Police

Training Council (“MPTC”), (currently POST), which oversees the training and certification requirements of police officers pursuant to CGS § [7-294d](#)....

Public safety demands that fish and game officers be held to rigorous training standards as with any other individual permitted to carry a weapon in this state performing police functions.

POST has been effective in standardizing law enforcement training regulations within Connecticut. Allowing this bill to become law would invite requests for further exemptions – eroding existing and effective public safety standards.

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