

# **SUMMARY OF 2013 PUBLIC ACTS**

**Connecticut General Assembly**

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## NOTICE TO USERS

This publication, *Summary of 2013 Public Acts*, summarizes all public acts passed during the 2013 Regular Session and the December 2012 Special Session of the Connecticut General Assembly. Special acts are not summarized.

### *Use of this Book*

The Office of Legislative Research encourages dissemination of this material by photocopying, reprinting in newspapers (either verbatim or edited), or by other means. Please credit the Office of Legislative Research when republishing the summaries.

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### *Organization of the Book*

The summaries are organized in chapters based on the committee that sponsored the bill. Bills sent directly to the floor without committee action (emergency certification) are placed in a separate chapter. The acts from the December 2012 Special Session appear in a separate chapter. Within each chapter, summaries are arranged in order by public act number.

## **2013 VETOED ACTS**

1. PA 13-100, An Act Concerning Safety and Certification Standards for the Spray Foam Insulation Industry (General Law Committee)
2. PA 13-158, An Act Concerning Bail Bonds (Judiciary Committee)
3. PA 13-201, An Act Concerning the Recommendations of the Connecticut Sentencing Commission Regarding the Membership of the Commission (Judiciary Committee)
4. PA 13-219, An Act Concerning Reemployment and the Municipal Employees' Retirement System (Labor and Public Employee Committee)
5. PA 13-237, An Act Concerning All-Terrain Vehicles and the Certification of Household Goods Carriers (Transportation Committee)
6. PA 13-278, An Act Concerning Members of a Medical Foundation (Public Health Committee)
7. PA 13-284, An Act Concerning Medical Spa Facilities (Public Health Committee)
8. PA 13-309, An Act Concerning Employer Use of Noncompete Agreements (Judiciary Committee)

## TABLE ON PENALTIES

### *Crimes*

The law authorizes courts to impose fines, imprisonment, or both when sentencing a convicted criminal. They must specify the period of incarceration for anyone so sentenced. The prison terms below represent the range within which a judge must set the sentence. A judge may suspend all or part of a sentence unless the statute specifies it is a mandatory minimum sentence. The judge also sets the exact amount of a fine, up to the limits listed below. Repeated or persistent offenses may result in a higher maximum than specified here.

| <i>Classification of Crime</i>                                      | <i>Imprisonment</i>   | <i>Fine</i>    |
|---------------------------------------------------------------------|-----------------------|----------------|
| Capital A felony (murder with special circumstances)                | Life, without release | up to \$20,000 |
| Class A felony (murder)                                             | 25 to 60 years        | up to 20,000   |
| Class A felony (aggravated sexual assault of a minor)               | 25 to 50 years        | up to 20,000   |
| Class A felony                                                      | 10 to 25 years        | up to 20,000   |
| Class B felony (1 <sup>st</sup> degree manslaughter with a firearm) | 5 to 40 years         | up to 15,000   |
| Class B felony                                                      | 1 to 20 years         | up to 15,000   |
| Class C felony                                                      | 1 to 10 years         | up to 10,000   |
| Class D felony                                                      | up to 5 years         | up to 5,000    |
| Class E felony                                                      | up to 3 years         | up to 3,500    |
| Class A misdemeanor                                                 | up to 1 year          | up to 2,000    |
| Class B misdemeanor                                                 | up to 6 months        | up to 1,000    |
| Class C misdemeanor                                                 | up to 3 months        | up to 500      |
| Class D misdemeanor                                                 | up to 30 days         | up to 250      |

### *Violations*

CGS § 53a-43 authorizes the Superior Court to fix fines for violations up to a maximum of \$500 unless the amount of the fine is specified in the statute establishing the violation. CGS § 54-195 requires the court to impose a fine of up to \$100 on anyone convicted of violating any statute without a specified penalty.

A violation is not a crime. Most statutory violations are subject to Infractions Bureau procedures which allow the accused to pay the fine by mail without making a court appearance. As with an infraction, the bureau will enter a *nolo contendere* (no contest) plea on behalf of anyone who pays a fine in this way. The plea is inadmissible in any criminal or civil court proceeding against the accused.

### *Infractions*

Infractions are punishable by fines, usually set by Superior Court judges, of between \$35 and \$90, plus a \$20 or \$35 surcharge and an additional fee based on the amount of the fine. There may be other added charges depending upon the type of infraction. For example, certain motor vehicle infractions trigger a Transportation Fund surcharge of 50% of the fine. With the various additional charges the total amount due can be over \$300 but often is less than \$100. Violators can pay the fine and any additional charges by mail without making a court appearance.

An infraction is not a crime.



**PA 12-1, December 2012 Special Session—HB 7001**  
*Emergency Certification*

**AN ACT CONCERNING DEFICIT MITIGATION  
 FOR THE FISCAL YEAR ENDING JUNE 30, 2013**

**SUMMARY:** This act makes various statutory and budgetary changes to reduce the projected General Fund deficit for FY 13 by:

1. reducing General Fund appropriations for state programs and purposes for FY 13,
2. transferring money from various special funds and accounts to the General Fund for FY 13,
3. reducing scheduled transfers to the Special Transportation Fund (STF), and
4. reducing benefits available under certain state medical assistance and other social service programs.

Among other changes, it also:

1. eliminates longevity pay for non-unionized state employees who do not have their salary set in statute, while increasing their annual salary by the annualized amount of their last longevity payment;
2. decreases the amount of tax liability that an insurer can reduce through film tax credits;
3. reduces the per student state grant for charter schools;
4. allows public school security improvements to be eligible for funding under the Local Capital Improvement Program (LoCIP) Fund;
5. requires the State Board of Education (SBE) to approve a request by Newtown to shorten its 2012-13 school year; and
6. eliminates the requirement that the juvenile court, prior to committing a child convicted as delinquent to the Department of Children and Families (DCF), consult with the department to determine the appropriate placement.

A section-by-section analysis follows.

**EFFECTIVE DATE:** Upon passage unless otherwise noted.

**§ 1 — REDUCED APPROPRIATIONS FOR FY 13**

The act authorizes the Office of Policy and Management (OPM) secretary to reduce FY 13 General Fund allotments to various agencies by a total of \$210,540,125. It also allows him to reduce FY 13 STF allotments by \$7,414,380.

**§ 2 — MOSQUITO SURVEILLANCE PROGRAM**

By law, the Connecticut Agricultural Experiment Station must survey and test for mosquitoes carrying the eastern equine encephalitis virus, according to a plan

developed and agreed to by its director and the commissioners of energy and environmental protection and public health. The act specifies that it must do this within available appropriations.

**§ 3 — PRIOR AUTHORIZATION FOR MEDICAID-FUNDED THERAPIES**

The act requires the Department of Social Services (DSS) commissioner to establish, by regulation, prior authorization procedures for physical, occupational, and speech therapies for Medicaid participants. The department's regulations already cover these services when the level of care requested exceeds department thresholds. For example, prior authorization is required for physical therapy services that exceed twice-weekly visits (Conn. Agencies Reg. § 17b-262-636).

The act allows the commissioner to implement necessary policies and procedures while in the process of adopting regulations, provided he publishes notice of his intent to adopt regulations in the Connecticut Law Journal within 20 days after implementing the interim policies and procedures.

**§§ 4-7 — MEDICAID TRANSITION TO  
 ADMINISTRATIVE SERVICES ORGANIZATION  
 MODEL**

The law authorizes DSS to replace its Medicaid fee-for-service and managed care models with a single model, overseen by an administrative services organization (ASO). (Dental and behavioral health services are excluded.) DSS began implementing the new model in early 2012.

The law permits the department to annually modify rates for (1) outpatient hospital (clinic and emergency room), (2) "blended" inpatient, (3) home health and homemaker home health aide, and (4) medical provider services. (The department need not examine medical provider rates annually.) The department can do this if needed to ensure (1) patient access or (2) that implementing the ASO model will not cost the Medicaid program more than it would without the change (i.e., be "cost-neutral"). Although traditional Medicaid cost calculations take into account how often a particular service is provided ("utilization"), prior law specifically excluded this factor from DSS' cost-neutrality analyses. The act permits the department to take utilization into account during FY 13 and does not specify if it may be counted in future years. (PA 13-234 grants DSS this authority on a permanent basis.)

ASOs perform certain administrative services for a set fee and do not share any risk for providing medical services.



## § 8 — CUSTOMIZED WHEELCHAIRS FOR MEDICAID RECIPIENTS

The act expressly provides that customized wheelchairs are covered under the state Medicaid plan, but only when DSS determines that a standard wheelchair will not meet an individual's needs. This equipment is already covered, but the department does not currently have sole discretion to determine if it is appropriate in a particular case.

In making this change, the act appears to override existing Medicaid wheelchair procurement policies for (1) nursing facilities, (2) intermediate care facilities for people with intellectual disabilities ("ICF/ID" — group homes), and (3) people living in the community.

The act also (1) authorizes the department to review and require pre-approval of repairs and parts replacement for all wheelchair types and (2) directs that refurbished wheelchairs, parts, and components be used whenever practicable.

### *Wheelchairs for Those Living in Nursing and ICF/MR Facilities*

Current DSS regulations obligate the above-described facilities to identify Medicaid-eligible residents who may need customized wheelchairs. When a resident appears to meet the criteria, facilities must assign a multi-disciplinary team of health care providers to conduct a needs assessment and determine what, if any, wheelchair adaptations the resident needs. The act prohibits facilities and vendors from assessing a Medicaid recipient's wheelchair needs unless the department specifically requests it. (PA 13-234 eliminates the requirement that DSS request the assessment.)

### *Wheelchairs for Those Living in the Community*

The regulatory procurement process for non-institutionalized Medicaid recipients begins with a written prescription and documentation of medical necessity. As with facility residents, the act prohibits vendors from conducting needs assessments for this group unless DSS makes a specific request. (PA 13-234 eliminates the requirement that DSS request the assessment.)

### *Regulations*

The act authorizes the DSS commissioner to adopt implementing policies and procedures while in the process of adopting them as regulations. The act directs him to publish notice of his intent to adopt regulations in the Connecticut Law Journal no later than 20 days after implementing them.

## § 9 — HOSPICE SERVICE RATE REDUCTION

The act imposes a temporary 5% reduction, from 100% to 95%, on Medicaid reimbursement rates from January 1, 2013 through June 30, 2013 for long-term care facility residents receiving only hospice care.

The reduction is consistent with federal law, which allows states to set a facility's per diem rate at 95% of what it otherwise would have been when the facility's services and those of a hospice agency overlap.

## § 9 — CHIROPRACTIC COVERAGE FOR MEDICAID RECIPIENTS

The act requires the DSS commissioner to amend the Medicaid state plan to limit chiropractic coverage only to the extent required by federal law. (PA 13-243, § 80, eliminates this requirement.)

## § 10 — FEDERALLY QUALIFIED HEALTH CENTERS (FQHC)

FQHCs are community-based clinics that provide primary and preventive health care services to "medically underserved" populations or areas without regard to a patient's ability to pay. Medicaid reimbursements are a major source of FQHCs' funding. Each center is paid a separate, prospective payment system rate, based on its historical costs. Cost reports, prepared from audited financial statements, provide the financial information DSS needs to determine if an FQHC's Medicaid rates are too high or too low.

Under the act, centers must annually provide DSS Medicaid cost reports and financial statements for the previous state fiscal year, along with any other information the department reasonably requires. The first filing was due by February 1, 2013, and subsequent filings are due each January 1 thereafter. Although neither is currently required in statute, DSS already requires FQHCs to provide this information annually.

### *Changes in Projects' or Services' Scope*

Federal public health grants are a source of FQHCs' operating funds. In many cases, centers must submit an initial scope of work with their grant applications, describing how they will use any funds awarded. They must inform the funding agency (usually the federal Health Resources and Services Administration (HRSA)) and get its approval before changing an existing project's scope.

By an unspecified date, the act also requires FQHCs to give DSS copies of their original, HRSA-approved scope of project descriptions and all approved amendments. Going forward, centers must give the department written notice and copies of any new

federally approved amendments no later than 30 days after approval.

The act also requires FQHCs to notify DSS in writing of increases or decreases in the scope of services they provide within 30 days of the change. If DSS requests additional information, centers must provide it within 30 days of the request.

#### *Rate Adjustments*

The act authorizes DSS to use the method specified in federal Medicaid law to raise or lower an FQHC's "encounter" (all services provided in a single health center visit) rate based on the department's review of its (1) Medicaid cost report and audited financial statement, (2) federally approved initial or amended scope of project documents, or (3) written notice of increases or decreases in the type of services it is providing. Centers receive separate rates for medical, dental, and mental health encounters.

#### *Penalties*

The act authorizes the DSS commissioner to fine an FQHC \$500 for each day its required information is more than 30 days overdue.

#### *Regulations*

The act authorizes the commissioner to implement necessary policies and procedures, provided he publishes notice of his intent to adopt regulations in the Connecticut Law Journal within 20 days after he has implemented them.

#### §§ 11-13 — INTERDISTRICT MAGNET SCHOOL TUITION

The act extends authorization for interdistrict magnet school tuition requirements and related provisions to preschool. Prior law did not specifically authorize tuition charges for preschool. (PA 13-247 repealed this and establishes a different approach for tuition at these preschools under which the sending districts do not pay tuition.)

#### §§ 14-21, 27, 29, 30, & 38 — TRANSFERS TO THE GENERAL FUND FOR FY 13

The act transfers available balances from various agency appropriations, special funds, and non-appropriated accounts to the General Fund to be counted as General Fund revenue for FY 13. It does the same for any remaining balance in the boating account and fuel oil conservation account. The amount transferred from each appropriation, fund, or account is listed in Table 1 below.

Table 1: Transfers to FY 13 General Fund Revenue

| §  | Agency                                            | Fund/Account                                                                                  | Amount \$             |
|----|---------------------------------------------------|-----------------------------------------------------------------------------------------------|-----------------------|
| 14 | Office of Higher Education                        | Capitol Scholarship Program                                                                   | 236,117               |
| 15 | OPM                                               | Regional Performance Incentive Account                                                        | 7,500,000             |
| 16 | Department of Banking                             | Banking Fund                                                                                  | 1,200,000             |
| 17 | Workers' Compensation Commission                  | Workers' Compensation Administration Fund                                                     | 450,000               |
| 18 | Public Utilities Regulatory Authority             | Consumer Counsel and Public Utility Control Fund                                              | 2,300,000             |
| 19 | Insurance Department                              | Insurance Fund                                                                                | 500,000               |
| 20 | Department of Energy and Environmental Protection | Boating Account                                                                               | Any remaining balance |
| 21 | Comptroller                                       | Fuel Oil Conservation Account                                                                 | Any remaining balance |
| 27 | Department of Motor Vehicles                      | School Bus Seat Belt Account                                                                  | 4,700,000             |
| 29 | Public Utilities Regulatory Authority             | Public, Educational, and Governmental Programming and Education Technology Investment Account | 3,600,000             |
| 30 | Department of Public Health (DPH)                 | Biomedical Research Trust Fund                                                                | 2,000,000             |
| 38 | Department of Economic and Community Development  | Statewide Marketing                                                                           | 2,000,000             |

#### § 22 — DSS REIMBURSEMENTS TO PHARMACIES

The act reduces, from \$2 to \$1.70, the amount of the dispensing fee that DSS pays pharmacists for each prescription they fill for beneficiaries of DSS pharmacy assistance programs (e.g., Medicaid).

The act also increases, from 14% to 15%, the discount from the average wholesale price (AWP) DSS pays independent pharmacies for filling brand name prescriptions, subject to federal approval. Under PA 12-1, June Special Session, and contingent upon federal approval, DSS must reimburse independent pharmacies for dispensing these drugs to Medicaid recipients at AWP minus 14%. Chain pharmacies continue to be paid at AWP minus 16%. (PA 13-234 repeals the two-tiered reimbursement structure.)

#### § 23 — TRANSFER OF FUNDS TO THE STF

The act reduces, by \$7.414 million, the amount of money the comptroller must transfer from the General Fund to the STF in FY 13. Under prior law, he had to transfer \$102.659 million; the act requires him to instead transfer \$95.245 million.

## § 24 — DCF PLACEMENTS OF CHILDREN WITH UNLICENSED CAREGIVERS

The law generally (1) prohibits DCF from placing children who have been removed from their parents' custody and are temporarily in DCF custody with someone who is not licensed and (2) subjects license applicants to criminal background and state child abuse registry checks. But the law permits the department to place children with certain unlicensed relatives and others in certain circumstances.

The act eliminates the 90-day limit on how long children can be placed by DCF with these caregivers (i.e., unlicensed relatives, nonrelatives if the child's sibling who is related to the caregiver is also placed with that caregiver, or a special study foster parent) before they have to be licensed.

By law and unchanged by the act, these placements can be made only when they are in the child's best interests. Additionally, DCF must conduct a satisfactory home visit and a basic assessment of the family, and the intended caregiver must attest that any adult living in the household has not been (1) convicted of a crime or (2) arrested for (a) a felony against a person; (b) injury or risk of injury to or impairing the morals of a child; or (c) the possession, use, or sale of a controlled substance.

Under Title IV-E of the federal Social Security Act, states can claim federal reimbursement for foster care maintenance payments made to caregivers who are licensed by the child welfare agency. But the federal government will not reimburse a state that is out of compliance with its own law relative to licensing caregivers. Under prior law, if DCF failed to license someone within 90 days, it could not claim any federal reimbursement for foster care payments made even after the caregiver became licensed.

The act also eliminates an obsolete requirement that the commissioner adopt regulations establishing certification procedures and standards for certain unlicensed caregivers.

## §§ 25 & 26 — STRETCHER VANS FOR CERTAIN MEDICAL ASSISTANCE PATIENTS

The act provides that DSS regulations may authorize payment only for the mode of transportation that is medically necessary for anyone covered by one of its medical assistance programs. Current DSS regulations allow for the least costly, most appropriate mode of transportation for someone when needed to obtain medically necessary services.

The act further provides that notwithstanding DSS medical assistance and DPH emergency services laws to the contrary, if any of these recipients (1) requires nonemergency transportation, (2) must be transported in a prone position, and (3) does not require medical

services during transport, he or she may be transported in a stretcher van. The DSS commissioner must establish Medicaid rates for these rides. A stretcher van is a vehicle, such as a modified van, capable of accommodating a stretcher for transporting individuals who cannot sit up.

The act requires the Department of Transportation (DOT), in consultation with the DPH commissioner, to adopt regulations to establish oversight of stretcher vans as a livery service, which requires a DOT permit. The regulations must prescribe safety standards for the vans, including a requirement that an attendant, in addition to the driver, accompany anyone transported in them.

The act also eliminates a requirement that any person operating a vehicle other than an ambulance, rescue, or management service vehicle have a DPH license or certificate in order to transport patients on a stretcher.

PA 13-234 precludes using stretcher vans to transport Medicaid recipients, rendering the related provisions summarized above moot.

## § 28 — MUNICIPAL VIDEO COMPETITION TRUST ACCOUNT

Each fiscal year, the law requires the comptroller to deposit into the municipal video competition trust account up to \$5 million from the gross earnings tax on certified competitive video service providers (i.e., certain cable TV companies). The act reduces the maximum deposit into the account for FY 13 to \$1.5 million. By law, money in the account at the end of a fiscal year is distributed to municipalities as property tax relief.

## § 31 — CHARTER SCHOOL PER-STUDENT GRANT REDUCTION

The act reduces the state's FY 13 per-student grant for charter schools by \$300, from \$10,500 to \$10,200. It keeps intact scheduled increases for FY 14 to \$11,000 and for FY 15 and subsequent years to \$11,500. It also makes a conforming change that the last quarterly payment from the state in FY 13 may be adjusted pro rata for each student. (PA 13-247 reduced the per-student grant increase for FYs 14 and 15.)

A charter school is a public school organized as a nonprofit corporation and operated independently of a local or regional board of education.

## §§ 32-37 — LONGEVITY PAY FOR

### NONUNIONIZED STATE EMPLOYEES

The act eliminates longevity pay for nonunionized state employees whose pay and longevity are not stated

in statute. It makes the April 2013 payment their final longevity payment and bans longevity payments for any service they complete on and after April 1, 2013. Beginning July 1, 2013, the act increases the affected employees' pay by the annualized amount of their final longevity payment.

The act does not affect judges, workers' compensation commissioners, chief and deputy state's attorneys, chief and deputy public defenders, the probate court administrator, and family support magistrates, all of whom have their salaries and longevity schedules set in statute.

#### *Eliminating Longevity Payments*

Under prior law, longevity pay was given twice a year to nonunionized state employees who had served the state for at least 10 years. (Unionized state employees' longevity pay is determined through their union contract.) The amount of the payment increased at five-year steps — at 15, 20, and 25 years — until the employee reached a maximum for his or her position.

The act requires the administrative bodies of each branch of state government and the Division of Criminal Justice to eliminate longevity payments for state service completed on or after April 1, 2013.

The act supersedes the administrative authority of the relevant administrative bodies to establish longevity schedules as follows:

1. Administrative services commissioner and OPM secretary — CGS § 5-200(p),
2. Chief court administrator and Supreme Court Justices — CGS § 51-12,
3. Division of Criminal Justice — CGS § 51-279, and
4. Legislative Management — any general statute provisions.

#### *Final Longevity Payments*

The act requires the last longevity lump sum payments to be made on the last regular pay day in April 2013 for:

1. managerial, confidential, and classified and unclassified employees of the Executive Branch, constituent units of higher education, and the Board of Regents for Higher Education;
2. Judicial Department employees; and
3. legislative employees.

It specifies that the payment is based on the employee's service as of September 1, 2011. Thus an employee must have 10 years of state service by September 1, 2011 to receive the payment and any additional service after that does not increase payment amounts.

It also makes conforming changes, including permitting those who retire between October 1, 2012 and March 31, 2013 to receive a prorated longevity payment based on the proportion of the employee's six-month period served before retirement.

#### *Salary Increases*

With the first pay period after July 1, 2013, the act increases the annual salary for each non-union employee who (1) received a longevity payment in April 2011 and (2) does not have his or her salary stated in statute. The increase must be the annualized amount of the longevity payment paid on the last regular pay day of April 2013.

#### *§ 39 — LAPSES*

The act allows the OPM secretary to recommend the following reductions in FY 13:

1. \$2.5 million in Executive Branch expenses,
2. \$1.5 million in Executive Branch expenses for personal services,
3. \$2 million in Legislative Branch expenditures, and
4. \$5 million in Judicial Department expenditures.

The six legislative leaders must determine how the legislative reductions are achieved. The chief justice and chief public defender must determine how the judicial reductions are achieved.

#### *§§ 40 & 41 — STEM CELL RESEARCH FUND FINANCING*

The act eliminates the transfer, in FY 13, of \$10 million from the Tobacco Settlement Fund to the Stem Cell Research Fund, instead transferring this money to the General Fund. Prior law required the transferred money to be used to provide grants to eligible institutions to conduct embryonic or human adult stem cell research.

The act authorizes the issuance of up to \$10 million in state bonds to DPH for the same purpose.

EFFECTIVE DATE: Upon passage for the transfer provision and January 1, 2013 for the bonding provision.

#### *§§ 42 & 43 — INSURANCE PREMIUM TAX CREDIT LIMIT*

Existing law (1) classifies insurance premium tax credits into three types, (2) specifies the order in which an insurer must apply the three credit types to offset liability, and (3) establishes the maximum liability that an insurer can offset in calendar years 2011 and 2012 by

claiming one or more of these types of credits.

For the 2012 calendar year, the act moves film production and film infrastructure tax credits from type 1 to 3, as shown in Table 2. In doing so, it changes the order in which insurers apply film production and film infrastructure credits to offset liability and generally lowers the amount by which an insurer can use these credits to reduce its tax liability.

For example, under prior law, an insurer claiming film production and infrastructure tax credits (i.e., type 1 credits) along with other business tax credits (i.e., type 3 credits) applied the type 3 credits first to reduce its liability by up to 30% and then applied the type 1 credits to reduce its liability by up to 55%. By classifying the film production and infrastructure credits as type 3 credits, the act lowers, from 55% to 30%, the amount by which the insurer could reduce its insurance premium tax liability by using the same mix of credits.

Table 2: Insurance Premium Tax Credit Classifications

| Type | Prior Law                                                            | Act<br>(For 2012 Calendar Year) |
|------|----------------------------------------------------------------------|---------------------------------|
| 1    | Film Production<br>Entertainment Infrastructure<br>Digital Animation | Digital Animation               |
| 2    | Insurance Reinvestment Fund                                          | Insurance Reinvestment Fund     |
| 3    | All Other Credit Programs                                            | All Other Credit Programs       |

As under existing law, for 2011 and 2012, an insurer may offset additional tax liability by an amount equal to \$6,000 multiplied by its average net monthly increase in employees, up to 100% of its total tax liability.

The act also protects insurance premium taxpayers affected by the lower credit limit for the 2012 calendar year from interest penalties for any underpayment. The law generally requires insurance premium taxpayers to pay estimated taxes in quarterly installments of 30% for the first quarter, 30% for the second, 20% for the third, and 20% for the fourth. If the company underpays any installment, the law requires it to pay interest of 1% per month on the underpayment.

*Application of Insurance Premium Tax Credits.* The law specifies the order in which an insurer must apply the three credit types to offset liability as follows:

Table 3: Premium Tax Credit Application

| Credit Types Claimed | Order of Applying Credits | Maximum Reduction In Tax Liability     |
|----------------------|---------------------------|----------------------------------------|
| Type 3               | None                      | 30%                                    |
| Types 1 & 3          | 1. Type 3<br>2. Type 1    | Type 3 = 30%<br>Sum of two types = 55% |
| Types 2 & 3          | 1. Type 3<br>2. Type 2    | Type 3 = 30%<br>Sum of two types = 70% |

| Credit Types Claimed | Order of Applying Credits           | Maximum Reduction In Tax Liability                         |
|----------------------|-------------------------------------|------------------------------------------------------------|
| Types 1, 2, & 3      | 1. Type 3<br>2. Type 1<br>3. Type 2 | Type 3 = 30%<br>Type 1 & 3 = 55%<br>Sum of all types = 70% |
| Types 1 & 2          | 1. Type 1<br>2. Type 2              | Type 1 = 55%<br>Sum of two types = 70%                     |

A related act, PA 13-184 (§ 72), extends the insurance premium tax credit limit to 2013 and 2014 and reimposes the tax credit classifications that applied in 2011.

#### § 44 — TRANSFERS

The act transfers \$2 million from the Community Investment Account (CIA) to the General Fund as revenue for FY 13. It requires that the account's remaining revenue be distributed as required by law. By law, \$10 of each fee credited to the CIA must be deposited in the agricultural sustainability account. The remainder of the revenue is split among the departments of Agriculture, Economic and Community Development, and Energy and Environmental Protection, and the Connecticut Housing Finance Authority, for specified purposes.

#### § 45 — NEWTOWN SCHOOL YEAR

By law, the SBE is authorized to shorten the school year (which must be at least 180 school days) due to an unavoidable emergency. The act requires the SBE to allow a shorter 2012-2013 school year in Newtown if its school board requests this.

#### § 46 — HEALTH CARE COST CONTAINMENT COMMITTEE

The act requires Health Care Cost Containment Committee (HCCCC) members who represent the state, in consultation with the state comptroller, to propose that the committee review prescription claims data from active and retired state employee healthcare plans for ways to increase generic prescription use under the terms established by the State Employees Bargaining Agent Coalition (SEBAC) agreements.

The HCCCC has 17 members: eight represent state management interests and are appointed by the governor; eight represent state employee interests and are selected by the SEBAC unions; and one neutral representative is jointly selected by the management and labor representatives.

Among other things, the 2009 SEBAC agreement created a three-tiered medication copay system, with employees paying \$5 for generic medications, \$10 for preferred name brands, and \$25 for non-preferred name

brands. The 2011 agreement maintained \$5 copays for all generic drugs, but it increased co-pays for preferred name brand drugs from \$10 to \$20, and for non-preferred name brands from \$25 to \$35.

#### § 47 — FUNDING FOR MUNICIPAL BUILDING AND SCHOOL SECURITY SYSTEMS

The act makes municipal improvements to building security systems, including schools, eligible for funding under the LoCIP Fund. A related act, PA 13-184, §§ 94-95, further expands the list of projects eligible for LoCIP funding.

LoCIP, administered by OPM, reimburses municipalities for the cost of eligible local capital improvement projects, such as road, bridge, and public building construction activities. OPM annually allocates LoCIP funds to municipalities according to a statutory formula (CGS §§ 7-535 et seq.).

#### § 48 — JUVENILE DCF COMMITMENT

The law requires a juvenile court to commit a child convicted as delinquent to DCF if the court finds that its probation or other services are inadequate for the child. The act eliminates the requirement that the juvenile court consult with DCF to determine the placement that would be in the child's best interest prior to making such a commitment.

The law also allows the juvenile court to order a child convicted as delinquent and committed to DCF to be placed directly in a contractual residential facility in Connecticut. The act requires the juvenile court to consult with DCF prior to ordering such a placement.

EFFECTIVE DATE: Upon passage and applicable to commitments and orders entered on or after that date.

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**PA 13-3—SB 1160**  
*Emergency Certification*

**AN ACT CONCERNING GUN VIOLENCE  
 PREVENTION AND CHILDREN'S SAFETY**

**SUMMARY:** This act makes extensive changes in the state's gun (firearm) laws. It also makes changes in (1) mental health insurance coverage and services and (2) security measures for K-12 public schools and institutions of higher education.

The act, among its major gun provisions:

1. significantly expands the state's assault weapons ban (§§ 25-31);
2. with exceptions, bans the sale or purchase, and restricts the possession, of large capacity magazines (LCMs) that can hold more than 10 rounds of ammunition (§§ 23-24);
3. requires anyone convicted of an offense involving the use of a deadly weapon to register with the Department of Emergency Services and Public Protection (DESPP) for five years (§§ 18-22);
4. expands the ban on the sale or other transfer of armor-piercing bullets and prohibits, with exceptions, the transport of a firearm loaded with an armor-piercing bullet or incendiary .50 caliber bullet (§ 32);
5. subjects private sales of long guns (shotguns and rifles), like gun dealer sales of such firearms, to DESPP regulation, including requiring purchasers to undergo a national criminal background check (§ 1);
6. generally requires anyone buying ammunition or ammunition magazines to have a state-issued gun credential and be at least age 18 (§ 14);
7. increases the penalty for gun trafficking and several other gun crimes (§§ 42-50 & 52-53);
8. adds two members to the Board of Firearms Permit Examiners (Firearms Board)—a Department of Mental Health and Addiction Services (DMHAS) nominee and a retired Superior Court judge (§ 60);
9. expands the circumstances in which mental health history disqualifies a person for a gun permit or other gun credential (§§ 8, 10-11, & 57-58);
10. extends certain provisions regarding firearm seizure and disqualifying offenses to ammunition (§§ 33-41 & 44); and
11. appropriates \$1 million to DESPP for FY 14 to fund the statewide firearms trafficking task force (§ 63).

Among its mental health provisions, the act creates a 20-member task force to study the provision of

behavioral health services in Connecticut and report to the legislature by February 1, 2014.

The act makes various changes to the process for grieving adverse determinations (i.e., claims denials) by health insurers. Among other things, it reduces the time health insurers have to (1) make initial determinations on requests for treatments for certain mental health or substance abuse disorders and (2) review claim denials and other adverse determinations of such requests. It expands the role of, and qualifications required for, health care professionals who evaluate the appropriateness of adverse determinations. The act also requires the insurance commissioner to seek input on methods the department might use to check for compliance with state and federal mental health coverage parity laws and report on these issues to the Insurance and Public Health committees.

The act requires DMHAS to:

1. administer a mental health first aid training program, in consultation with the State Department of Education (SDE);
2. implement an assertive community treatment (ACT) program in three cities (in addition to those currently operating in Manchester, Middletown, New Britain, and Norwich); and
3. provide case management and care coordination services to up to 100 people with mental illness involved in the probate court system and not receiving such services.

The act requires the Department of Children and Families (DCF) commissioner, by January 1, 2014, to establish and implement a regional behavioral health consultation and care coordination program for primary care providers who serve children.

The act also (1) creates a new council to establish new school safety infrastructure standards, (2) authorizes up to \$15 million in bonds for a new competitive grant program for school safety projects, and (3) establishes a procedure leading to new requirements under the school construction law (§§ 80-85).

It requires school districts to perform a number of new school safety activities, including establishing safety and security plans and committees for each school.

The act requires public and independent institutions of higher education to develop campus security plans, undergo safety audits, and form campus threat assessment teams.

It (1) requires mental health first aid training for school district staff, (2) gives safe school climate committees new responsibilities, (3) creates a school security consultant registry, and (4) changes the law regarding civil service testing for UConn and state university police. (The civil service provision was repealed by PA 13-247.)



It repeals an unused \$3 million bond authorization, initially created in 2007 for a school security infrastructure program.

Lastly, the act makes numerous technical and conforming changes.

(PA 13-220 modifies many of the act's provisions pertaining to firearms, including many of those noted in this summary, and makes other changes.)

EFFECTIVE DATE: Various, see below.

## § 1 — LONG GUN SALES

### *Procedures Governing Private Long Gun Sales and Other Transactions*

The act makes numerous changes in the laws governing long guns. Among other things, it (1) establishes age restrictions for long gun sales or transfers; (2) generally requires anyone acquiring a long gun to have a state-issued gun credential; and (3) subjects long gun sales and other transfers by non-dealers (sometimes called private or secondary sales), which were unregulated under prior law, to DESPP regulation, including criminal history background check and record retention requirements. (A provision in existing law seemingly meant to impose criminal background check requirements on private sales of long guns at gun shows was ambiguous.) (PA 13-220 revises several of these provisions, including adding and modifying exemptions, and makes additional changes.)

#### § 1(b) — Minimum Age Established for Long Gun Sales

The act bars gun dealers from selling, delivering, or transferring long guns to anyone under age (1) 18 or (2) with some exceptions, 21, if the long gun is a semiautomatic centerfire rifle that has or can accept a magazine that can hold more than five rounds of ammunition. This stricter limitation does not apply to the transfer of such firearms to the following for use in the discharge of their duties: (1) employees or members of local police departments, DESPP, or the Department of Correction (DOC) or (2) state or U.S. Armed Forces members (servicemembers).

The act does not explicitly address long gun sales or transfers by nondealers to minors. But under the act, one must generally have a state-issued gun credential to acquire a long gun from anyone, dealer or nondealer, and the minimum age for getting this credential is 18 (see § 1(c) and § 2 below).

#### § 1(c) — State-Issued Credential Required to Acquire

##### *Long Gun*

Beginning April 1, 2014, the act requires anyone acquiring a long gun, including an antique long gun,

whether from a gun dealer or nondealer, to present a valid state-issued credential, namely a (1) permit to carry a handgun (gun permit), (2) permit to sell handguns at retail (gun dealer permit), (3) handgun eligibility certificate, or (4) long gun eligibility certificate, which the act creates. It exempts federal marshals, parole officers, and peace officers from this requirement. (PA 13-220, § 12, eliminates the exemption for federal marshals and parole officers.)

Under prior law, no credential was required to buy a long gun, but anyone without a credential buying a long gun, except an antique firearm, from a dealer had to wait two weeks for its delivery, unless he or she was (1) an active U.S. Armed Forces member or reservist or (2) a federal marshal, parole officer, or peace officer. In a conforming change, the act eliminates the two-week waiting period, starting April 1, 2014—the date the requirement to present a state-issued credential for all non-exempt long gun purchases take effect (§§ 1(d) & (g)). Until this date, the act extends the two-week waiting period to anyone acquiring a long gun from a nondealer, unless he or she is exempt or has the requisite state-issued gun credential.

#### § 1(e) & (f) — National Instant Criminal Background System Check (NICS check) and Other Requirements for Long Gun Acquisitions

Existing law requires DESPP to make every effort, including performing a NICS check, to ensure that a person applying to buy a long gun from a gun dealer is eligible to acquire the firearm. Also, gun dealers must get a DESPP authorization number to sell or deliver the firearm.

The act requires nondealers, before transferring, selling, or delivering a long gun to anyone, except to specified firearm licensees, to either get (1) a DESPP authorization number for the transaction or (2) an eligibility determination under a NICS check conducted by a gun dealer who has consented to perform the check.

If the transferor chooses the first option, the:

1. prospective buyer or transferee must complete a DESPP firearm purchase application and undergo a NICS check;
2. prospective seller or transferor must document the transaction with DESPP and maintain copies of the record for at least 20 years, available for inspection by law enforcement officials;
3. prospective seller or transferor must get DESPP authorization for the transaction;
4. firearm must be unloaded and securely packaged when transferred; and
5. prospective buyer or transferee must sign a sales receipt when he or she gets the firearm.

The act adds a buyer's date and place of birth and delivery or transfer date to the information already required on the sales receipt, namely, the (1) buyer's name and address; (2) firearm make, model, serial number, caliber, and general description; and (3) firearm sale date (§1(d)).

*Dealer-Initiated NICS Checks.* Starting on January 1, 2014, either the prospective transferor or transferee may ask a gun dealer to conduct the NICS check, and the gun dealer may (but is not required to) do so, and charge up to \$20 for the service (§ 1(f)).

The requestor must provide the prospective transferee's name, gender, race, date of birth, and state of residence to the gun dealer who consents to do the check. If necessary to verify the transferee's identity, either party may also provide a unique number, such as the transferee's Social Security number, and additional identifiers, such as the person's height, weight, eye and hair color, and place of birth. The prospective transferee must also show the dealer his or her state-issued gun credential (§ 1(f)(1)). (PA 13-220 provides for a dealer-initiated NICS check through DESPP and lifts the \$20 fee cap for the service.)

The dealer must initiate the NICS check by contacting the NICS operations center and immediately notifying the prospective transferor or transferee of its response. If the response indicates that the prospective transferee is eligible to receive the firearm, the prospective transferor may sell, deliver, or transfer it; otherwise, he or she cannot do so (§ 1(f)(2)).

When a transaction is completed after a dealer-initiated NICS check, either the transferor or transferee must provide the following information on a DESPP-prescribed form, the:

1. transferor's name, address, and gun permit or certificate number, if any;
2. transferee's name, address, date and place of birth, and gun permit or certificate number, if any;
3. sale, delivery, or transfer date;
4. caliber, make, model, and serial number and a general description of the gun; and
5. NICS transaction number.

*Record Transmission and Retention Requirements for Long Gun Transactions.* The act imposes similar transmission and retention requirements on the sales receipt for a long gun sold by a private individual as already apply to those sold by gun dealers, namely that the seller transmit one copy to the DESPP commissioner and one to the transferee's police chief within 24 hours of the sale or transfer, and maintain one copy for at least five years (§§ 1(d) and 1(f)(3)).

### *Penalties for Violating the Long Gun Provisions*

Prior law did not specify a penalty for the sale of long guns by a dealer in violation of the law's requirements. The act generally makes it a class D felony (see Table on Penalties) for anyone, whether a gun dealer or private individual, to violate such requirements or any of the provisions specified above pertaining to long gun sales. It makes it a class B felony if the transferor knows that the firearm is stolen or manufacturer's number or serial number has been altered, removed, or obliterated. In addition to these felony penalties, anyone who violates the act's or existing law's requirements for long gun sales must forfeit any long guns he or she possesses (§ 1(j)).

The act allows a court to suspend prosecution for a first-time minor violation of these provisions, under the same procedures as apply to such suspensions under existing law for handgun sale violations (§ 1(i)).

### *Exemptions*

The above provisions do not apply to the sale, delivery, or transfer of long guns between federally licensed (1) manufacturers and gun dealers, (2) importers and gun dealers, and (3) gun dealers (§ 1(h)).  
EFFECTIVE DATE: Upon passage

## §§ 2-7 — LONG GUN ELIGIBILITY CERTIFICATE

### *§ 2 — Eligibility Criteria for Getting a Long Gun Certificate*

An applicant for a long gun eligibility certificate must be at least age 18. With the exception of the minimum age requirement, the eligibility criteria for getting a long gun eligibility certificate are the same as those for getting a handgun eligibility certificate under existing law and the act. (By law, an applicant for a handgun eligibility certificate must be at least age 21.)

The act requires the DESPP commissioner to issue the certificate unless he finds that the applicant:

1. has failed to successfully complete a DESPP-approved course in firearm use and safety;
2. was discharged from custody in the preceding 20 years after a finding of not guilty of a crime by reason of mental disease or defect;
3. was confined by the probate court to a psychiatric hospital at any time in the 60 months before applying for a certificate;
4. was voluntarily admitted to a psychiatric hospital within the preceding six months for care and treatment of a psychiatric disability and not solely for alcohol or drug-dependency;

5. is subject to a restraining or protective order involving the use, attempted use, or threatened use of physical force;
6. is subject to a firearms seizure order, after notice and hearing;
7. is prohibited by federal law from possessing, receiving, shipping, or transporting firearms because he or she was adjudicated a “mental defective” or committed to a mental institution;
8. is an illegal alien or unlawfully in the country;
9. has been convicted of a serious juvenile offense; or
10. has been convicted of any felony or specified misdemeanors.

*Disqualifying Misdemeanors.* The disqualifying misdemeanors are:

1. criminally negligent homicide (excluding deaths caused by a motor vehicle);
2. third-degree assault;
3. third-degree assault of a blind, elderly, disabled, or pregnant person or person with intellectual disability;
4. second-degree threatening;
5. first-degree reckless endangerment;
6. second-degree unlawful restraint;
7. first-degree riot;
8. second-degree riot;
9. inciting to riot;
10. second-degree stalking; and
11. a first violation for possessing (a) more than one-half ounce but less than four ounces of marijuana or (b) certain other controlled substances.

(PA 13-220, § 15, stipulates that the misdemeanor conviction must have occurred on or after October 1, 1994 to be considered a disqualifier.)

#### §§ 3 & 4 — Certificate Fee and Application Procedure

*Certificate Fee and Validity.* The long gun eligibility certificate, like the existing handgun eligibility certificate, (1) is issued by the State Police, (2) is valid for five years, and (3) costs \$35 to get and renew (§ 4). (But there is no provision for a temporary long gun eligibility certificate as there is for a handgun eligibility certificate.) The fees must be credited to a separate nonlapsing DESPP account for the purposes of issuing long gun eligibility certificates (§ 4).

*Application Procedure.* The act subjects applications for a long gun eligibility certificate to the same process governing applications for a handgun eligibility certificate. Thus, applicants must complete a DESPP-prescribed application, providing the DESPP commissioner with full information on their criminal record and relevant mental health history, and the commissioner must take their fingerprints or other

means of positive identification required by the State Police Bureau of Identification or Federal Bureau of Investigation (FBI).

The commissioner must (1) conduct state and national criminal history record checks on applicants and (2) not later than 60 days after getting the FBI results, either approve the application and issue the certificate or deny it and notify the applicant in writing of the reason for the denial. He must prescribe the form and content of the certificate, which must contain an identification number; a full-face photograph of the applicant; and his or her name, address, place and date of birth, height, weight, and eye color. The applicant must sign the certificate.

A certificate owner who changes his or her address must notify the DESPP commissioner of the new and old addresses not later than two business days after the change.

#### § 3(d) — Name and Address of Long Gun Certificate Owner Confidential

The name and address of anyone issued a long gun eligibility certificate, like the handgun eligibility certificate or permit under existing law, are confidential, except that the (1) information is disclosable to law enforcement officials, including U.S. probation officers performing their duties; (2) DESPP commissioner may disclose it to the extent necessary to comply with a request to verify the validity of a prospective gun buyer’s gun credential; and (3) information may be disclosed to the DMHAS commissioner to carry out her statutory gun-related responsibilities.

#### § 5 — Long Gun Eligibility Certificate Revocation and Surrender

The act requires the DESPP commissioner to revoke a long gun eligibility certificate, just like a handgun eligibility certificate, upon the occurrence of any event that would have caused him to deny the certificate. If he revokes a certificate, he must notify the owner in writing and the owner must surrender the certificate to him. Failure to surrender the certificate within five days of such written notification is a class A misdemeanor (see Table on Penalties).

#### § 6 — Appeals of Adverse Action on Long Gun Eligibility Certificate

Anyone aggrieved by an adverse action on a long gun eligibility certificate or application, including any limitation or revocation, may appeal to the Firearms Board, following statutory procedures for appealing decisions on existing gun credentials.

### § 7 — State Gun Database

By law, the DESPP commissioner must establish a state gun database that people who sell or otherwise transfer handguns can access by telephone or other electronic means to get information immediately on whether a gun permit, gun dealer permit, or handgun eligibility certificate is valid. The act provides the same access to check the validity of long gun eligibility certificates.

EFFECTIVE DATE: July 1, 2013

### § 9 — SALE OF CONTRABAND LONG GUNS AT AUCTION

By law, the state may sell at public auction any gun that the court determines to be contraband. Under prior law, long guns could be sold at such auctions only to people qualified under federal law to buy them. The act requires the purchaser to have a long gun eligibility certificate as well.

EFFECTIVE DATE: July 1, 2013

### §§ 8, 10-11, & 57-58 — MENTAL HEALTH AND ELIGIBILITY FOR GUN CREDENTIALS

The act broadens the mental health provisions that disqualify a person for a gun permit or handgun eligibility certificate. The same prohibitions also apply under the act to the long gun eligibility certificate. The prohibitions also apply to the ammunition certificate created by the act, because, under the act, the DESPP commissioner must deny such a certificate to someone who would be ineligible for a long gun eligibility certificate.

Under prior law, a person confined in a psychiatric hospital by Probate Court order within the preceding 12 months of an application was ineligible for a gun permit or eligibility certificate. The act extends this period to 60 months.

The act also makes ineligible any person who voluntarily admitted himself or herself to a psychiatric hospital during the preceding six months. (The act specifies that for a handgun permit or handgun eligibility certificate, this only applies to voluntary admissions on or after October 1, 2013.) But someone is not ineligible solely due to a voluntary admission for alcohol or drug treatment.

The act makes conforming changes to the responsibilities of the DESPP and DMHAS commissioners and psychiatric hospitals regarding such voluntary admissions. Thus, as was already the case regarding involuntary commitments occurring within the applicable period:

1. DMHAS must maintain information on such voluntary admissions, and make that

information available to the DESPP commissioner to carry out his obligations pertaining to gun credentials (DESPP must otherwise keep the information confidential);

2. the DESPP commissioner must verify from DMHAS that a person applying for a gun credential was not subject to such a voluntary admission, and DMHAS must report such information to DESPP;
3. if the DESPP commissioner determines that an applicant was subject to voluntary admission, he must report the status of the person's application to DMHAS;
4. the DMHAS commissioner must obtain from DESPP the status of any such application for anyone who has been voluntarily admitted;
5. DMHAS must advise the psychiatric hospital to which a person has been voluntarily admitted of the status of a gun application, as reported by DESPP; and
6. the DMHAS commissioner and the hospital must maintain as confidential any such information they receive on the status of permit applications.

As part of this process, the act requires psychiatric hospitals, without delay, to notify the DMHAS commissioner when a person is voluntarily admitted to the hospital for care and treatment of a psychiatric disability, other than admission solely for alcohol or drug treatment. The hospital must at least provide the person's name, address, sex, date of birth, and date of admission.

EFFECTIVE DATE: The provisions changing the eligibility criteria for handgun permits and eligibility certificates, and requiring psychiatric hospitals to notify DMHAS about voluntary admissions, are effective October 1, 2013; the other provisions are effective July 1, 2013.

### §§ 12 & 13 — TECHNICAL AND CONFORMING CHANGES

These sections make technical and conforming changes.

EFFECTIVE DATE: Upon passage

### § 14 — SALE OF AMMUNITION AND MAGAZINES

The act generally prohibits the sale of ammunition or ammunition magazines to anyone under age 18. It defines (1) "ammunition" as a loaded cartridge, consisting of a primed case, propellant, or projectile, designed for use in any firearm and (2) "ammunition magazine" as a firearm magazine, belt, drum, feed strip, or similar device that accepts ammunition.

The act creates an ammunition certificate (see below) and, starting October 1, 2013, it generally prohibits the sale of ammunition or ammunition magazines to anyone unless the buyer presents to the seller:

1. a gun permit, gun dealer permit, or long gun or handgun eligibility certificate or
2. an ammunition certificate and a driver's license, passport, or other valid government-issued identification that contains his or her photograph and date of birth.

A violation is a class D felony.

These restrictions and requirements do not apply to sale, delivery or transfer of ammunition between federally licensed gun (1) dealers, (2) manufacturers and dealers, or (3) importers and dealers.

(PA 13-220 expands the exemptions to the ban on the sale of ammunition and ammunition magazines.)

EFFECTIVE DATE: Upon passage

#### §§ 15-17 — AMMUNITION CERTIFICATE LIMITATIONS

Under the act, the minimum age for applying for an ammunition certificate is 18, the same as for the long gun eligibility certificate. An applicant must ask the DESPP commissioner to issue the certificate and to conduct a national criminal history record check, using only the person's name and date of birth. (PA 13-220, § 13(b), requires a state, rather than a national, criminal history records check.)

After conducting the check, the commissioner must issue the certificate unless he determines, based on the results, that the person would be ineligible to get a long gun eligibility certificate. To be ineligible for an ammunition certificate based on a misdemeanor conviction, the conviction must be for a violation committed on or after July 1, 2013. (PA 13-220, § 18, allows appeals of ammunition certificate decisions to the Firearms Board.)

The certificate must be in a form prescribed by the DESPP commissioner. It must contain an identification number and the certificate holder's name, address, date of birth, and signature.

The act's provisions on ammunition certificates are substantially the same as those that apply to handgun and long gun eligibility certificates under existing law and the act. This includes (1) circumstances under which the DESPP commissioner must revoke a certificate; (2) the requirement for a certificate holder to report address changes to the commissioner; and (3) confidentiality of the person's name and address, with exceptions.

The fee to get or renew the ammunition certificate, like the handgun or long gun eligibility certificate, is \$35, and the certificate is valid for five years. The act

stipulates that, in the case of the ammunition certificate, this fee is in addition to fees for the background check. (It does not contain a similar stipulation for the other certificates.)

Unlike the case with the handgun and long gun eligibility certificates, the DESPP commissioner is not required to notify ammunition certificate holders at least 90 days in advance of the date the ammunition certificate is set to expire.

EFFECTIVE DATE: July 1, 2013

#### §§ 18-22 — ESTABLISHMENT OF DEADLY A WEAPON OFFENDER REGISTRY

By January 1, 2014, the act requires DESPP to establish and maintain a registry of people convicted, or found not guilty by reason of mental disease or defect, of an offense committed with a deadly weapon, notwithstanding any pending appeal (§ 18(b)).

By law, a "deadly weapon" is a weapon, whether loaded or unloaded, from which a shot may be discharged, or a switchblade knife, gravity knife, billy, blackjack, bludgeon, or metal knuckles.

Under the act, an offense committed with a deadly weapon means a violation of any (1) of specified statutes or (2) felony statute, provided the court finds that, at the time of the offense, the offender used a deadly weapon, or was armed with and threatened to use, displayed, or represented by words or conduct that he or she possessed, a deadly weapon (§ 18(a)(8)). The act requires the court, before accepting a guilty or nolo contendere (no contest) plea for a deadly weapon offense, to inform the person of the registration consequences of the plea and determine that he or she fully understands them (§ 19(a)(2)).

Table 1 lists the offenses the act designates as deadly weapon offenses.

Table 1: Deadly Weapon Offenses

| Offense                                                                                                                                                                         | CGS §           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Interference with the legislative process (i.e., bring firearm or other specified weapon into legislative chamber or other specified related places)                            | 2-1e(c)         |
| Possess or carry a handgun where prohibited by law or the person who owns or control the premises                                                                               | 29-28(e)        |
| Sell or otherwise transfer handgun to ineligible person or in violation of transfer procedures; buy handgun without credential, or fail to document handgun transfer with DESPP | 29-33(a) to (e) |
| Sell or transfer handgun in violation of statutory procedures knowing the firearm was stolen or manufacturer's mark has been altered or removed                                 | 29-33(i)        |
| Make false statement or give false information in connection with purchase, sale, delivery or other transfer of handgun                                                         | 29-34           |
| Illegally sell, barter, hire, lend, give, deliver, or otherwise transfer handgun to anyone under age 21                                                                         | 29-34           |
| Carry a handgun without a permit                                                                                                                                                | 29-35(a)        |

| Offense                                                                                                                                                                                                                           | CGS §     |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| Remove, deface, alter, or obliterate the name of any maker or model or any maker's number or other identification mark on any firearm                                                                                             | 29-36     |
| Failure to transfer, deliver, or surrender guns or ammunition by persons ineligible to possess them                                                                                                                               | 29-36k    |
| Violation of transfer procedures or age restrictions for long guns; failure to document transfer                                                                                                                                  | 29-37a    |
| False statement or information in connection with sale or transfer of long gun                                                                                                                                                    | 29-37e    |
| Noncompliance with law governing sale, delivery, or transfer of firearms at gun show                                                                                                                                              | 29-37g(c) |
| Buy firearm intending to transfer it to ineligible person ("strawman purchase")                                                                                                                                                   | 29-37j    |
| Ineligible person soliciting, employing, or assisting anyone in strawman purchasing                                                                                                                                               | 29-37j    |
| Possess or use a machine gun in the perpetration or attempted perpetration of a violent crime                                                                                                                                     | 53-202(b) |
| Use or possess a machine gun for an offensive or aggressive purpose                                                                                                                                                               | 53-202(c) |
| Transfer, sell, or give a machine gun to a person under age 16                                                                                                                                                                    | 53-202(c) |
| Failure to register machine gun                                                                                                                                                                                                   | 53-202(g) |
| Illegally sell, give, distribute, transport, or import assault weapon                                                                                                                                                             | 53-202b   |
| Illegally possess assault weapon                                                                                                                                                                                                  | 53-202c   |
| Failure to report the loss or theft of a firearm (second or subsequent violation)                                                                                                                                                 | 53-202g   |
| Commit a class A, B, or C felony with an assault weapon                                                                                                                                                                           | 53-202j   |
| Commit an A, B, or C felony with firearm other than assault weapon                                                                                                                                                                | 53-202k   |
| Knowingly distribute, transport, import, or keep for sale armor-piercing or incendiary .50 caliber bullet                                                                                                                         | 53-202l   |
| Gun trafficking                                                                                                                                                                                                                   | 53-202aa  |
| Unlawful training in use of firearms, explosives, or incendiary devices or techniques capable of causing injury                                                                                                                   | 53-206b   |
| Sell, deliver, or provide firearm to another person to engage in conduct constituting an offense knowing or under circumstances in which he or she should know that such other person intends to use such firearm in such conduct | 53a-8(b)  |
| 1 <sup>st</sup> degree manslaughter with a firearm                                                                                                                                                                                | 53a-55a   |
| 2 <sup>nd</sup> degree manslaughter with a firearm                                                                                                                                                                                | 53a-56a   |
| 2 <sup>nd</sup> degree assault with a firearm                                                                                                                                                                                     | 53a-60a   |
| 2 <sup>nd</sup> degree assault of an elderly, blind, disabled, or pregnant person or a person with intellectual disability with a firearm                                                                                         | 53a-60c   |
| 3 <sup>rd</sup> degree sexual assault with a firearm                                                                                                                                                                              | 53a-72b   |
| 1 <sup>st</sup> degree kidnapping with a firearm                                                                                                                                                                                  | 53a-92a   |
| 2 <sup>nd</sup> degree kidnapping with a firearm                                                                                                                                                                                  | 53a-94a   |
| 2 <sup>nd</sup> degree burglary with a firearm                                                                                                                                                                                    | 53a-102a  |
| 3 <sup>rd</sup> degree burglary with a firearm                                                                                                                                                                                    | 53a-103a  |
| Possession of a sawed-off shotgun or silencer                                                                                                                                                                                     | 53a-211   |
| Stealing a firearm                                                                                                                                                                                                                | 53a-212   |
| Criminal use of a firearm or electronic defense weapon                                                                                                                                                                            | 53a-216   |
| Criminal possession of a firearm or electronic defense weapon or ammunition                                                                                                                                                       | 53a-217   |
| Criminally negligent storage of a firearm                                                                                                                                                                                         | 53a-217a  |
| Illegal possession of a weapon on school grounds                                                                                                                                                                                  | 53a-217b  |
| Criminal possession of a handgun                                                                                                                                                                                                  | 53a-217c  |

### Registration

*People Required to Register.* Anyone convicted, or found not guilty by reason of mental disease or defect, of a deadly weapon offense and released into the

community on or after January 1, 2014, must register with DESPP within 14 calendar days after being released. Anyone in the DOC commissioner's custody must register before release as the DOC commissioner directs (§ 19). The obligation to register applies whether the person lives in Connecticut or out of state or the case is on appeal. If a registrant reports a residence in another state, DESPP may notify the State Police or other agency that maintains a registry, if known (§ 18(b)). The registration is for five years (§ 19(a)).

*Registration Procedure.* At the time of registration, DESPP must photograph him or her, arrange for him or her to be fingerprinted, and include the photograph and a complete set of fingerprints in the registry. If the offender, by law, is required to provide a blood or other biological sample for DNA analysis and has not done so, the commissioner must also require him or her to provide the sample (§ 20(c)).

*Registration Form and Contents.* In cooperation with DOC, the Office of the Chief Court Administrator, and the Psychiatric Security Review Board, DESPP must develop appropriate forms for agencies and individuals to use to report registration information, including address changes (§ 18(b)). Registrants must provide registration information on forms and at a location the DESPP commissioner indicates.

The information must include:

1. the offender's name, including any other name by which he or she has been legally known or aliases;
2. identifying information, including a physical description;
3. current home and email address;
4. criminal history record, including a description of the offense and conviction date; and
5. the date of release from incarceration, if the offender served a prison term (§ 20).

DESPP may require offenders to provide documentation to verify the registration information (§ 20). DESPP must include in the registry the most recent photograph of each registrant taken by DESPP, DOC, a law enforcement agency, or the Judicial Branch's Court Support Services Division (§ 18(d)). The offender must sign and date the registration and DESPP must maintain it for five years (§§ 19(a) & 20).

*Recording Registration Information.* On receipt of registration information, DESPP must enter it in the registry and inform the local police department or state police troop having jurisdiction where the registrant lives or plans to relocate, as applicable. If the registration information involves an address change, DESPP must also inform the department or troop of the registrant's previous address and where he or she plans to relocate (§ 18(b)).

A registrant who changes his or her name or address must notify the DESPP commissioner in writing

of the changes, without undue delay (§ 19(a)(3)). Also, DESPP must revise a registrant's information whenever the court notifies the commissioner that it has issued an order for a registrant's name change (§ 18(e)). The act treats being on the deadly weapon offender registry the same as being on the sex offender registry with respect to court approval of name changes.

The act requires the DESPP commissioner to develop a protocol for notifying other state agencies, the Judicial Branch, and local police departments whenever (1) a registered person changes his or her name and notifies him or (2) he determines, after being notified by the court, that a registered person has changed his or her name (§ 18(f)). (The person must notify DESPP of his or her intent to file a change of name application with the court, and DESPP may challenge the application. If the court approves the application, it must notify DESPP.)

The commissioner must ensure that the name and home address of each registrant is available through the Connecticut On-Line Law Enforcement Communication Teleprocessing system (§ 18(b)).

During the registration period, registrants must (1) complete and return any forms mailed to them to verify their home address and (2) retake photographs if the DESPP commissioner requests this (§ 19(a)(3)).

#### *§ 18(c) — Registration Suspension*

DESPP may suspend the registration of anyone incarcerated, under civil commitment, or living out of state, and withdraw law enforcement access to registration information during that period. When the registrant is released from incarceration or civil commitment or resumes living in the state, DESPP must reinstate the registration and redistribute the registration information in accordance with the act. Suspension of registration does not affect the expiration date of the registration.

#### *§ 18(g) — Confidentiality of Deadly Weapon Offender Registry Information*

The registry information is not a public record for purposes of the Freedom of Information Act. It is disclosable only as authorized under PA 13-3. If disclosed, any further disclosure must be as authorized under the registration provisions.

#### *§ 19 (b), (c) — Registration Updates*

People required to register must do so annually within 20 calendar days after each anniversary date of the initial registration date. They must go to the local police department or state police troop in whose jurisdiction they live to verify and update the

registration, as appropriate. The department or troop, as applicable, may defer the appearance to a later date for good cause. Not later than 30 calendar days before each anniversary date, DESPP must mail written notice of the requirement to the registrant and applicable police department or troop. Within 30 calendar days after the anniversary date, the troop or department must notify the commissioner on DESPP-prescribed forms whether the registrant appeared. If the registrant's appearance was deferred, the form must show the new date and describe the good cause for the deferral.

Failure to (1) inform the DESPP commissioner of a name or address change or (2) register and update one's status as required is a class D felony (see Table on Penalties). But a person's failure to notify the commissioner without undue delay of a name or address change is subject to the penalty only if the failure continues for five business days.

EFFECTIVE DATE: January 1, 2014

#### *§§ 23 & 24 — LARGE CAPACITY MAGAZINES*

Effective April 4, 2013, the act, with exceptions, makes it a class D felony to keep, offer, or expose LCMs for sale; transfer LCMs; or to buy, distribute, or bring them into Connecticut.

The act defines a "large capacity magazine" as any firearm magazine, belt, drum, feed strip, or similar device that can hold, or can be readily restored or converted to accept, more than 10 rounds of ammunition. It excludes:

1. feeding devices permanently altered so that they cannot hold more than 10 rounds,
2. .22 caliber tube ammunition feeding devices,
3. tubular magazines contained in a lever-action firearm, and
4. permanently inoperable magazines.

People who possess LCMs before January 1, 2014 can keep them if they apply to declare them to the DESPP commissioner by January 1, 2014. Beginning January 1, 2014, the act, with exceptions, makes it a crime to possess an undeclared LCM. Anyone who possesses an undeclared LCM on or after January 1, 2014 lawfully obtained before April 4, 2013 is guilty of (1) an infraction punishable by a \$90 fine for a first offense and (2) a class D felony for a subsequent offense. Anyone who possesses an undeclared LCM after January 1, 2014 that was obtained on or after April 4, 2013 is guilty of a class D felony (§ 23(c)).

The court may order suspension of prosecution of violations of the above LCM provisions in accordance with the act if it finds that the violation was not serious and the violator (1) will probably not offend again, (2) has not previously been convicted of a violation of the provisions, and (3) has not previously had a prosecution for a violation suspended (§ 23(g)).

### *Exemptions from the LCM Ban*

The following may possess, purchase, or import LCMs:

1. members or employees of DESPP, police departments, DOC, or the state or U.S. military (a) for use in the discharge of their official duties or (b) when off duty;
2. employees of a Nuclear Regulatory Commission (NRC) licensee operating a nuclear power plant in Connecticut, or any person, firm, corporation, contractor, or subcontractor, providing security at the plant;
3. in-state manufacturers of LCMs that manufacture or transport them in Connecticut to sell (a) to the above-mentioned exempt persons and entities or (b) out of state.

The following may also possess LCMs:

1. anyone who declared possession of the magazine;
2. executors or administrators of an estate that includes legally declared LCMs, which are disposed of as authorized by the probate court, if the disposition is otherwise permitted;
3. gun dealers; or
4. gunsmiths employed by gun dealers, who receive lawfully possessed LCMs for servicing or repair (§ 23(e)).

The act generally prohibits transfers of LCMs, but it allows the transfer of (1) declared LCMs by bequest or intestate succession, (2) LCMs to DESPP or local police departments, and (3) LCMs to gun dealers (§ 23(f)).

(PA 13-220 increases and modifies the exemptions to the LCM ban in several ways and makes other related changes.)

### *Declaring Possession of LCMs*

Under the act, anyone who lawfully possessed an LCM before January 1, 2014, must apply to DESPP by January 1, 2014 to declare its possession in order to legally keep it. "Lawful possession" means (1) actual and lawful possession or (2) constructive possession under a lawful purchase of a firearm that contains an LCM that was transacted before April 4, 2013 even if the firearm was delivered after that date (§ 23(a)(2)). Servicemembers unable to apply by January 1, 2014 because they were out-of-state on official duty have 90 days after returning to Connecticut to declare possession of such magazines. (PA 13-220 defines what constitutes evidence of a "lawful purchase" for the purpose of determining constructive possession of an LCM, extends by one day the date for determining such possession, exempts certain enforcement agencies and others from the requirement to declare LCMs, and

makes other related changes.)

Applications must be made on such form or in such manner as DESPP prescribes (§ 24 (a)). In addition to the prescribed LCM application, DESPP must design or amend the applications, or any renewal application, for existing gun credentials and long gun eligibility certificates to allow an applicant to declare possession of an LCM upon the same application. DESPP may adopt regulations to establish application procedures (§ 24(b) and (c)).

### *Name and Address of People Who Declare LCMs*

#### *Confidential*

The act makes confidential the names and addresses of people who declare possession of LCMs. The information is disclosable only to (1) law enforcement agencies and U.S. probation officers to carry out their duties and (2) the DMHAS commissioner to carry out statutory duties pertaining to gun laws (§ 24 (c)).

### *Restrictions on Declared LCMs*

The act limits where a person can possess a declared LCM. The person may possess it only:

1. at his or her residence;
2. at his or her business place or other property he or she owns, provided the LCM does not contain more than 10 bullets;
3. at a target range of a public or private club or organization organized to practice target shooting;
4. at a target range that holds a regulatory or business license for practicing target shooting;
5. at a licensed shooting club;
6. while transporting the LCM between any of the above-mentioned places or to a gun dealer, provided the LCM contains no more than 10 bullets and is transported in compliance with the law as it applies to transporting assault weapons; or
7. under a valid handgun permit, provided the LCM (a) is in a handgun lawfully possessed by the person before April 4, 2013, (b) does not extend beyond the bottom of the pistol grip, and (c) contains no more than 10 bullets.

A violation of the restrictions on the possession of declared LCMs is a class C misdemeanor (§ 24(f)).

### *Nonresidents Who Move to Connecticut with LCMs*

Anyone, except a member of the state or U.S. Armed Forces (servicemembers), who moves into Connecticut in lawful possession of an LCM has 90 days to either permanently disable it, sell it to a gun dealer, or take it out of state. Servicemembers



transferred to Connecticut after January 1, 2014 in lawful possession of an LCM, may declare possession of it within 90 days after their arrival (§ 24(d)).

#### *Dealer Responsibilities Regarding Transferred LCMs*

The act requires gun dealers to whom an LCM is transferred to execute a certificate of transfer at the time of delivery.

For transfers made before January 1, 2014, the dealer must give DESPP monthly reports, on such form as the commissioner prescribes, on the number of transfers he or she has accepted.

For transfers made on or after January 1, 2014, the dealer must mail or deliver the transfer certificates to DESPP. The certificate of transfer must contain:

1. the LCM sale or transfer date;
2. the gun dealer and transferor's name and address and their Social Security or driver's license numbers, if applicable;
3. the gun dealer's federal firearms license number; and
4. a description of the LCM.

The gun dealer must present his or her federal firearms license and seller's permit to the seller or transferor of the LCM for inspection at the time of the purchase or transfer.

The commissioner must maintain a file of all certificates of transfer at his central office (§ 24(e)).

EFFECTIVE DATE: Upon passage

#### §§ 25-31 — ASSAULT WEAPONS

The act makes a number of changes largely to expand the number and types of weapons designated as assault weapons.

Effective April 4, 2013, the act expands the ban on assault weapons by, among other things, expanding the list of weapons banned by name, replacing the two-feature test that defined some weapons as assault weapons with a one-feature test, and banning some weapons based on their capacity to accept an LCM. For the weapons banned by name, the ban applies to any such weapon in production on or before April 4, 2013. For all other weapons, the ban applies regardless of the date the firearm was manufactured.

Anyone who, before April 4, 2013, lawfully possessed any of the newly banned weapons or other weapon subject to the act can keep it by applying to register it with DESPP by January 1, 2014, provided the person is eligible and otherwise in compliance with the assault weapons law (§ 27(d)). (PA 13-220 makes several substantive changes to the assault weapons provisions, including extending by one day the date for determining constructive possession of certain assault weapons, and expanding the exemptions to various

provisions.)

#### *Assault Weapon Definition and Exclusions*

Prior law defined an "assault weapon" as:

1. any selective-fire firearm capable of fully automatic, semiautomatic, or burst fire at the user's option;
2. any of a list of named semiautomatic firearms (see BACKGROUND);
3. any unlisted semiautomatic rifle or pistol that can accept a detachable magazine (one that can be removed without disassembling the firearm action) and has at least two of five specified features (commonly called the two-feature test);
4. any semi-automatic shotgun that has at least two of four specified features; or
5. a part or combination of parts (a) designed or intended to convert a firearm into an assault weapon or (b) from which an assault weapon may be rapidly assembled if in the possession or under the control of the same person.

The act changes each part of this definition, except §§ 1 & 5. It retains the list of semiautomatic weapons banned by name, bans additional ones by name, and modifies the feature-test ban and the type of weapons to which it applies. (PA 13-220, § 3, reinstates the prohibition on certain semiautomatic rimfire firearms.) Anyone who lawfully possessed and obtained a certificate of possession for (in effect, registered) an assault weapon possessed before October 1, 1993 that is also covered by the new definition is not required to get a new certificate for it.

Existing law specifically excludes from its definition of assault weapons certain assault weapons defined by criteria, rather than specific name, from the state transfer restrictions and registration requirements if they were legally manufactured before September 13, 1994 (CGS § 53-202m). It also allows possession of certain specified assault weapons obtained in good faith on or after October 1, 1993 and before May 8, 2002 and reported to DESPP before October 1, 2003 (CGS § 53-202n) (see BACKGROUND).

#### *Rifles*

##### *Semiautomatic Centerfire Rifles Banned by Name.*

The act bans the following semiautomatic centerfire rifles, or copies or duplicates with the capability of such rifles, that were in production before or on April 4, 2013 (see Table 2).

Table 2: Semiautomatic Centerfire Rifles Banned by Name

|                                                                                             |                                                                         |
|---------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|
| AK-47 and -74                                                                               | MAADI AK47                                                              |
| AKM                                                                                         | MAK90                                                                   |
| AKS-74U                                                                                     | MISR                                                                    |
| AR-10 and -15                                                                               | NHM90 and NHM91                                                         |
| ARM                                                                                         | Norinco 56, 56S, 84S and 86S                                            |
| Armalite M15                                                                                | Olympic Arms AR-15, A1, CAR, PCR, K3B, K30R, K16, K48, K8 and K9 Rifles |
| Barrett M107A1 or REC7                                                                      | Poly Technologies AKS and AK47                                          |
| Beretta Storm                                                                               | Remington Tactical Rifle Model 7615                                     |
| Bushmaster Carbon 15, XM15, ACR Rifles, and MOE Rifles                                      | Rock River Arms LAR-15 and LAR-47                                       |
| Calico Liberty 50, 50 Tactical, 100, 100 Tactical, I, I Tactical, II and II Tactical Rifles | SA 85 or SA 93                                                          |
| Colt Match Target Rifles                                                                    | SAR-8, SAR-4800, and SR9                                                |
| Daewoo AR 100 and AR 110C                                                                   | SIG Sauer 551-A1, 556, 516, 716, and M400 Rifles                        |
| Doublestar AR Rifles                                                                        | SLG 95 or SLR 95 or 96                                                  |
| DPMS Tactical Rifles                                                                        | Smith and Wesson M&P15 Rifles                                           |
| Fabrique Nationale/FN 308 Match and L1A1 Sporter                                            | TNW M230 and M2HB                                                       |
| Galil and Galil Sporter                                                                     | Valmet M62S, M71S and M78S                                              |
| Hi-Point Carbine Rifles                                                                     | Vector Arms AK-47 and UZI                                               |
| HK USC                                                                                      | VEPR                                                                    |
| HK-PSG-1                                                                                    | WASR-10                                                                 |
| IZHMASH Saiga AK                                                                            | Wilkinson Arms Linda Carbine                                            |
| Kel-Tec Sub-2000, SU Rifles, and RFB                                                        | WUM                                                                     |

*Semiautomatic Centerfire Rifles Banned by Features.* Prior law banned any semiautomatic rifle (centerfire or rimfire), not listed as an assault weapon, that had the capacity to accept a detachable magazine, and two of five specified features. The act instead (1) limits the ban to semiautomatic centerfire rifles and (2) replaces the two-feature test with a one-feature test, banning all semiautomatic centerfire rifles that can accept a detachable magazine and have at least one of five specified features (see Table 3).

Table 3: Semiautomatic Centerfire Rifles Banned by Feature

| <i>Prior Law (two-feature test)</i><br><i>Any semiautomatic rifle with at least two of the following features was defined as an assault weapon</i> | <i>The Act (one-feature test)</i><br><i>Any semiautomatic centerfire rifle with at least one of the following features is defined as an assault weapon</i>                                                                                                                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A folding or telescoping stock                                                                                                                     | A folding or telescoping stock                                                                                                                                                                                                                                                             |
| A pistol grip that protrudes conspicuously beneath the action of the firearm                                                                       | Any grip of the weapon, including a pistol grip, thumbhole stock, or other stock that would allow an individual to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing |
|                                                                                                                                                    | A forward pistol grip                                                                                                                                                                                                                                                                      |
| A flash suppressor or threaded barrel designed to accommodate a flash suppressor                                                                   | A flash suppressor                                                                                                                                                                                                                                                                         |
| Grenade launcher                                                                                                                                   | A grenade launcher or flare launcher                                                                                                                                                                                                                                                       |
| Bayonet mount                                                                                                                                      |                                                                                                                                                                                                                                                                                            |

*Semiautomatic Centerfire Rifles Banned by Bullet Capacity and Length.* The act also bans any semiautomatic centerfire rifle that (1) has a fixed magazine and can accept more than 10 rounds of ammunition or (2) is less than 30 inches long.

### Pistols

*Semiautomatic Pistols Banned by Name.* The act bans the following semiautomatic pistols, or copies or duplicates of them that have the same capability, in production before or on April 4, 2013 (see Table 4).

Table 4: Semiautomatic Pistols Banned by Name

|                                             |                                 |
|---------------------------------------------|---------------------------------|
| American Spirit AR-15                       | Intratec TEC-DC9 and AB-10      |
| Bushmaster Carbon 15                        | IO Inc. Hellpup AK-47           |
| Calico Liberty III and III Tactical Pistols | I.O. Inc. PPS-43C               |
| Chiappa Firearms Mfour-22                   | Kel-Tec PLR-16 Pistol           |
| Centurion 39 AK                             | Masterpiece Arms MPA Pistols    |
| Colefire Magnum                             | Mini-Draco AK-47                |
| Doublestar Corporation AR                   | Olympic Arms AR-15              |
| DPMS AR-15                                  | Rock River Arms LAR 15          |
| Draco AK-47                                 | Sig Sauer P516 and P556 pistols |
| DSA SA58 PKP FAL                            | Thompson TA5 pistols            |
| German Sport 522 PK                         | Velocity Arms VMA Pistols       |
| HCR AK-47                                   | Yugo Krebs Krink                |

*Semiautomatic Pistols Banned by Feature.* The act bans any semiautomatic pistol that can accept a detachable magazine and has at least one, instead of two, specified characteristics as shown below (see Table 5).

Table 5: Semiautomatic Pistols Banned by Feature

| <i>Prior Law (two-feature test)</i><br><i>Any semiautomatic pistol with at least two of the following features was defined as an assault weapon</i>                    | <i>The Act (one-feature test)</i><br><i>Any semiautomatic pistol with at least one of the following features is defined as an assault weapon</i>                                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| An ammunition magazine that attaches to the pistol outside of the pistol grip                                                                                          | The ability to accept a detachable ammunition magazine that attaches outside the pistol grip                                                                                         |
| A threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer                                                              | A threaded barrel capable of accepting a flash suppressor, forward pistol grip, or silencer                                                                                          |
| A shroud attached to, or partially or completely encircling, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned | A shroud attached to, or partially or completely encircling, the barrel and permitting the shooter to fire the firearm without being burned, except a slide that encloses the barrel |
| A manufactured weight of 50 ounces or more when unloaded                                                                                                               |                                                                                                                                                                                      |
|                                                                                                                                                                        | A second hand grip                                                                                                                                                                   |
| A semiautomatic version of an automatic firearm                                                                                                                        |                                                                                                                                                                                      |

*Semiautomatic Pistols Banned by Bullet Capacity.* The act bans semiautomatic pistols with a fixed magazine that can accept more than 10 rounds of ammunition.

### *Shotguns*

*Semiautomatic Shotguns Banned by Features.* Prior law banned any semiautomatic shotgun that had at least two of the following four features:

1. a folding or telescopic stock,
2. a pistol grip that protrudes conspicuously beneath the action of the weapon,
3. a fixed magazine capacity of more than five rounds, and
4. the ability to accept a detachable magazine.

The act instead bans semiautomatic shotguns that have both of the following features:

1. a folding or telescoping stock and
2. any grip of the weapon, including a pistol grip, a thumbhole stock, or any other stock, the use of which would allow an individual to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing.

*Shotguns Banned by Capability.* The act bans any (1) semiautomatic shotgun that can accept a detachable magazine and (2) shotgun with a revolving cylinder.

*Other Shotguns Banned.* The act bans semiautomatic IZHMAISH Saiga 12 shotguns, or copies or duplicates of them that have their capability, that were in production on or before April 4, 2013.

### *Parts Considered an Assault Weapon in Some Circumstances*

The act also bans a part or combination of parts designed or intended to convert a firearm into an assault weapon, or any combination of parts from which an assault weapon may be assembled, if the same person possesses or controls the parts.

### *Exclusions from Definition of Assault Weapon*

The act excludes from the definition of an assault weapon, under existing law and the act, any parts or combination of parts of a lawfully possessed assault weapon, that are not assembled as an assault weapon, when possessed for purposes of servicing or repair, by a licensed gun dealer or gunsmith in the dealer's employ.

As under existing law, the definition does not include any firearm rendered permanently inoperable.

### *Prohibitions and Violations*

With some exceptions (discussed below), the act, beginning on April 4, 2013, makes it a:

1. class D felony (see Table on Penalties) with a mandatory minimum one-year prison term, to possess any of the newly banned weapons or others subject to the act, except a first-time violation is a class A misdemeanor if the violator presents proof that he or she owned the weapon on or before April 3, 2013 and otherwise kept the weapon under the same circumstances that a registered assault weapon can be kept under existing law (§ 27) and
2. class C felony, with a mandatory minimum two-year prison term to give anyone any of the newly banned assault weapons or others subject to the act or to transport or bring into the state; keep, offer, or expose for sale; or distribute any of them (§ 26).

In the case of transfers, sales, or gifts to people under age 18, the court must impose an additional six-year mandatory minimum, in addition and consecutive to the term for the underlying offense (§ 26).

These are the same penalties that apply under existing law to these violations involving currently banned assault weapons.

*Certificate of Possession Allowing Continued Possession of Assault Weapons.* Under the act, anyone who, before April 4, 2013, lawfully possessed one of the newly banned or other assault weapon subject to the act

may apply to DESPP by January 1, 2014 for a certificate of possession for the weapon (in effect, register the weapon). The certificate allows him or her to keep the firearm, provided he or she is eligible and otherwise complies with the act (§ 28). “Lawful possession” means (1) actual lawful possession or (2) constructive possession under a lawful purchase transacted before April 4, 2013, even if the weapon was delivered after that date (§ 25). (PA 13-220 defines what constitutes a “lawful purchase” for purposes of determining constructive possession of an assault weapon and makes other related changes.)

Servicemembers unable to apply for a certificate by January 1, 2014 because they were out of state on official duty have 90 days after returning to Connecticut to apply for the certificate (§ 28(a)(2)). Servicemembers transferred to Connecticut in lawful possession of an assault weapon may apply to DESPP for a certificate within 90 days of arriving here. Anyone else who moves to Connecticut in lawful possession of an assault weapon has 90 days to permanently disable it, sell it to a gun dealer, or take it out of state (§ 28(d)).

Anyone who registered an assault weapon banned before April 4, 2013 for a weapon defined as an assault weapon by the act is deemed to have registered the weapon and is not required to obtain a separate certificate for it (§ 28(a)(3)).

As under existing law, the certificate must contain a description of the firearm that identifies it uniquely, including all identification marks; the owner’s full name, address, date of birth and thumbprint; and any other information DESPP deems appropriate (§ 28(a)(4)).

As under existing law, the name and address are confidential and may be disclosed only to (1) law enforcement agencies and employees of the U.S. Probation Office carrying out their duties and (2) the DMHAS commissioner to carry out gun-related duties (§ 28(a)(5)).

#### *Standards Governing Registered Assault Weapons*

##### *Locations Where Registered Weapon May be Kept.*

Under existing law and the act, anyone who possesses a registered assault weapon may possess it only:

1. at his or her home, business place, other property he or she owns, or on someone else’s property with the owner’s permission;
2. at a target range of a public or private club or organization organized for target shooting;
3. at a target range that holds a regulatory or business license for target shooting;
4. at a licensed shooting club;
5. while attending a firearms exhibition, display, or educational project sponsored by, conducted under the auspices of, or approved by a law

enforcement agency or nationally or state-recognized entity that fosters proficiency in, or promotes education about, firearms; or

6. while transporting the weapon, in compliance with pertinent law, between any of the above places, or to a gun dealer for servicing or repair (§ 28(f)).

*Estate Executors and Administrators.* The act allows registered assault weapons to be possessed by the executor or administrator of an estate that includes an assault weapon at places specified in law or as authorized by the probate court and disposed of as authorized by the probate court, if such disposition is otherwise permitted (§§ 26(b)(2) & 27(e)).

*Sale or Transfer of Weapons.* Starting on April 4, 2013, the act prohibits anyone with a certificate of possession for any of the newly banned weapons or other assault weapons subject to the act from (1) selling or transferring the weapon in Connecticut to anyone except a gun dealer or (2) otherwise transferring the weapon except by bequest or intestate succession (§ 28(b)(2) & § 26(b)(3)). (PA 13-220, § 9(d), gives people until December 31, 2013 to dispose of lawful weapons without registering them, and § 9(e) gives people until October 1, 2013 to retrieve any lawful assault weapon they placed with a dealer, pawnbroker, or consignment shop operator on or before April 4, 2013.)

Anyone who inherits a registered assault weapon has 90 days to apply to register it anew, sell it to a gun dealer, permanently disable it, or take it out of state.

*Temporary Transfer and Possession of Assault Weapons.* As under existing law, the act also allows the temporary possession and transfer of a registered assault weapon for certain out-of-state events, such as shooting competitions, exhibitions, displays or educational projects about firearms sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state-recognized entity that fosters proficiency in firearms use or promotes firearms education (CGS § 53-202h).

#### *Exemptions to Assault Weapons Ban*

The act expands the exemptions to the assault weapons ban. (PA 13-220, §§ 5 and 6, further expands the exemptions, including an exemption for Olympic target pistols, and makes other related changes.)

*Agency and Member and Employee Exemption.* The act exempts sales of the newly banned weapons and other assault weapons subject to PA 13-3 to the same agencies, and their members or employees, that are exempt under the existing ban, namely, DOC, DESPP, police departments, and the state and U.S. Armed Forces. As under existing law, the exemption for members and employees applies to sales or possession of the weapons for use in the discharge of the members’

or employees' official duties (§§ 26(b)(1) and 27(b)).

*NRC Licensee Exemption.* The act additionally exempts, for use in the discharge of their official duties, sales of assault weapons to, and possession by, (1) employees of an NRC licensee operating a nuclear power plant in Connecticut for providing security or (2) any person, firm, corporation, contractor, or subcontractor providing security at the plant (§§ 26(b)(1) & 27(b)).

*Gun Manufacturer and Dealer Exemption.* As under existing law, the act allows gun manufacturers to manufacture and transport assault weapons for sale (1) to exempt parties in Connecticut and (2) out of state (§ 30). It allows gun dealers who lawfully possess assault weapons to (1) transfer the weapons between dealers or out of state, (2) display them at gun shows licensed by a state or local government entity, or (3) sell them to residents out of state. It also allows gun dealers to take possession of registered weapons or transfer them for servicing or repair to a licensed gunsmith (1) in their employ or (2) under contract to provide gunsmithing services to them (§ 29).

*Pre-1994 Assault Rifles.* Under an existing statute, which this act does not amend, certain assault rifles defined by criteria, rather than specific name are exempt from the assault weapons transfer and registration requirements if they were legally manufactured before September 13, 1994 (CGS § 53-202m). The status of these firearms under the act is unclear. (PA 13-220 explicitly retains this exemption.)

#### *Relinquishment of Assault Weapon to Law Enforcement Agency*

Existing law, unchanged by the act, allows an individual to arrange in advance to relinquish an assault weapon to a police department or DESPP (CGS § 53-202e).

EFFECTIVE DATE: Upon passage

### § 32 — ARMOR-PIERCING BULLETS

With some exceptions, under existing law, it is a class A misdemeanor, or a class D felony for subsequent violations, to knowingly give to anyone; distribute; transport; bring into the state; or keep, offer, or expose for sale any armor-piercing .50 caliber bullets or incendiary .50 caliber bullets.

Prior law defined "armor-piercing .50 caliber bullet" as any bullet designed, held out by the manufacturer or distributor, or generally recognized as having the specialized capability to penetrate armor or bulletproof glass.

The act expands what constitutes armor-piercing bullets. It adds bullets of any caliber that can be fired from a handgun, that have projectile or projectile cores

made entirely from tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium, excluding other trace substances. It also adds handgun bullets that are fully jacketed with a jacket weight of more than 25% of the projectile's total weight, larger than .22 caliber, and designed and intended for use in a firearm. A bullet does not qualify as armor-piercing if it:

1. has projectile cores composed of soft material such as lead or zinc or their alloys,
2. has frangible projectiles designed primarily for sporting purposes,
3. has projectiles or projectile cores that the U.S. attorney general finds to be primarily intended for sporting or industrial purposes, or
4. does not meet federal law's definition of armor-piercing ammunition.

The act specifies that an armor-piercing bullet does not include a shotgun shell.

The act also makes it a class D felony to knowingly transport or carry a firearm loaded with an armor-piercing or incendiary .50 caliber bullet.

As under existing law, the court may order suspension of prosecution if it finds that a violation is not serious and that the violator (1) will probably not reoffend, (2) has no previous conviction for violating this law, and (3) has not previously had a prosecution suspended for violating this law.

#### *Exemptions*

Under the law and the act, the prohibitions on armor-piercing or incendiary ammunition do not apply to:

1. sale to DESPP, DOC, police departments, or the state or U.S. military or naval forces for use in the discharge of their official duties;
2. disposition by an estate executor or administrator, as authorized by the probate court; or
3. transfer by bequest or intestate succession.

(PA 13-220 expands the exemptions and makes other changes.)

EFFECTIVE DATE: October 1, 2013

### § 33 — AMMUNITION SEIZURE

The act conforms the law to practice by allowing police to seize ammunition, not just firearms, from people at imminent risk of harming themselves or others. It subjects ammunition seizure to the same due process and disposition standards for seized firearms under existing law. By law, any two police officers (or a state's attorney), after investigating and determining probable cause, may get a warrant and seize guns from anyone who poses an imminent risk of injuring himself or herself, or someone else.

EFFECTIVE DATE: October 1, 2013

#### §§ 34 & 35 — AMMUNITION TRANSFER BY INELIGIBLE PEOPLE

By law, anyone who becomes ineligible to possess firearms must transfer any firearms he or she has to a dealer or other eligible person or deliver or surrender them to the DESPP commissioner within two business days of a “triggering event.” If the triggering event is the imposition of a restraining or protective order, the transfer must be made to a gun dealer. The act requires the same actions to be taken with regard to ammunition when someone becomes ineligible to possess ammunition or firearms, and subjects violators to the same penalties that apply under existing law to ineligible people who fail to transfer or surrender firearms.

As is the case with firearms, a person has up to one year from the date of delivering or surrendering any ammunition to DESPP to transfer the ammunition to an eligible person; otherwise, the commissioner may order it destroyed.

The act requires that the state protocol for surrendering or transferring handguns in this situation also address ammunition. By law, the DESPP commissioner, in conjunction with the chief state’s attorney and Connecticut Police Chiefs Association, must adopt such a protocol.

EFFECTIVE DATE: October 1, 2013

#### §§ 36-38 — DOMESTIC VIOLENCE

##### § 36 — Restraining Order Form

The act requires the application for a civil family violence restraining order to include a space for an alleged victim to indicate whether the alleged domestic violence offender possesses ammunition. It already must have space to indicate whether the offender has a gun or gun permit.

##### § 37 — *Ammunition Seizure in Domestic Violence Investigations*

The act allows police to seize ammunition under the same circumstances as they can already seize firearms when investigating domestic violence crimes. As is currently the case with firearms, the act requires the police, not later than seven days after the seizure, to return the ammunition in its original condition unless the person is ineligible to possess it or the court orders otherwise.

#### § 38 — Family Violence Intervention Unit Reports

The act requires family violence intervention units to inform the court if a domestic violence victim indicates that a defendant possesses ammunition. The units must already disclose whether the defendant has a gun permit or possesses firearms.

EFFECTIVE DATE: October 1, 2013

#### §§ 39 & 40 — DISPOSAL OF CONTRABAND AMMUNITION

The act requires ammunition, like firearms under existing law, judged by the court to be contraband or a nuisance, to be turned over to the State Police for destruction, appropriate use, or sale at public auction.

The act requires DESPP’s Statewide Firearms Trafficking Task Force Policy Board to deposit the receipts from the sale of seized ammunition in the General Fund, as it must currently do for receipts for firearm sales. By law, this money must be maintained in a separate nonlapsing forfeit firearms account and appropriated for the task force.

EFFECTIVE DATE: October 1, 2013

#### § 41 — POLICE DUTY TO RETURN STOLEN AMMUNITION

The act requires police to return to its rightful owner any stolen ammunition seized or recovered with a stolen gun, provided the owner is not prohibited from possessing the firearm or ammunition and the agency does not need to keep it as evidence in a criminal prosecution. Prior law required the police to return firearms but was silent on ammunition.

EFFECTIVE DATE: October 1, 2013

#### §§ 42, 43, 46-50, & 52-53 — INCREASED CRIMINAL PENALTIES FOR GUN TRAFFICKING AND OTHER GUN-RELATED OFFENSES

The act increases penalties for a number of gun-related crimes. Table 6 displays these crimes (see also §§ 44 & 45), their prior classification, and their classification under the act (see Table on Penalties).

Table 6: Increased Penalties for Gun-Related Crimes

| Act § | Crime (CGS §)                      | Prior Penalty                                                                                           | Penalty Under the Act                                                                                                                                                                                     |
|-------|------------------------------------|---------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 42    | Trafficking in firearms (53-202aa) | Class C felony if transfer five or fewer firearms<br>Class B felony if transfer more than five firearms | Class B felony<br>Mandatory minimum:<br><ul style="list-style-type: none"> <li>Three-year prison term</li> <li>\$10,000 fine unless the court states on the record why it remits or reduces it</li> </ul> |

| Act § | Crime (CGS §)                                                                                                                                                          | Prior Penalty                                                | Penalty Under the Act                                                                                                                                                                                     |
|-------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 43    | Stealing a firearm (53a-212)                                                                                                                                           | Class D felony                                               | Class C felony<br>Mandatory minimum:<br><ul style="list-style-type: none"> <li>Two-year prison term</li> <li>\$5,000 fine unless the court states on the record why it remits or reduces it</li> </ul>    |
| 46    | Failing to surrender a revoked permit (29-32)                                                                                                                          | Class C misdemeanor                                          | Class A misdemeanor                                                                                                                                                                                       |
| 47    | Transferring a handgun to a prohibited person or violating transfer procedures (29-33)                                                                                 | Class D felony                                               | Class C felony<br>Mandatory minimum:<br><ul style="list-style-type: none"> <li>Two-year prison term</li> <li>\$5,000 fine unless the court states on the record why it remits or reduces it</li> </ul>    |
| 47    | Transferring a handgun to a prohibited person or violating transfer procedures, knowing the transferred weapon is stolen or has an altered identification mark (29-33) | Class B felony                                               | Class B felony<br>Mandatory minimum:<br><ul style="list-style-type: none"> <li>Three-year prison term</li> <li>\$10,000 fine unless the court states on the record why it remits or reduces it</li> </ul> |
| 48    | Making a false statement related to a handgun transfer (29-34(a))                                                                                                      | Class D felony                                               | Class C felony<br>Mandatory minimum:<br><ul style="list-style-type: none"> <li>Two-year prison term</li> <li>\$5,000 fine unless the court states on the record why it remits or reduces it</li> </ul>    |
| 48    | Transferring a pistol or revolver to someone under age 21 except for target or shooting range use (29-34(b))                                                           | Class D felony<br>One-year mandatory minimum prison sentence | Class C felony<br>Mandatory minimum:<br><ul style="list-style-type: none"> <li>Two-year prison term</li> <li>\$5,000 fine unless the court states on the record why it remits or reduces it</li> </ul>    |
| 49    | Altering firearm identification mark, number, or name (29-36)                                                                                                          | Up to five years in prison, fine of up to \$1,000, or both   | Class C felony<br>Mandatory minimum:<br><ul style="list-style-type: none"> <li>Two-year prison term</li> <li>\$5,000 fine unless the court states on the record why it remits or reduces it</li> </ul>    |
| 50    | Failing to report loss or theft of firearm (2 <sup>nd</sup> or subsequent offense) (53-202g)                                                                           | Class D felony                                               | Class C felony                                                                                                                                                                                            |
| 50    | Intentionally failing to report loss or theft of firearm (53-202g)                                                                                                     | Class C felony                                               | Class B felony                                                                                                                                                                                            |

| Act § | Crime (CGS §)                                                                                                                  | Prior Penalty                                              | Penalty Under the Act                                                                                                                                                                                                                                |
|-------|--------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 52    | Failing to surrender revoked handgun eligibility certificate (29-36i)                                                          | Class C misdemeanor                                        | Class A misdemeanor                                                                                                                                                                                                                                  |
| 53    | Buying a firearm intending to transfer it to an ineligible person (straw man transactions) (29-37j(a))                         | Up to five years in prison, fine of up to \$1,000, or both | Class C felony<br>Mandatory minimum:<br><ul style="list-style-type: none"> <li>Two-year prison term</li> <li>\$5,000 fine unless the court states on the record why it remits or reduces it</li> </ul>                                               |
| 53    | Ineligible person soliciting or using a straw man to obtain a firearm (29-37j(b))                                              | Class B misdemeanor                                        | Class D felony<br>Mandatory minimum:<br><ul style="list-style-type: none"> <li>One-year prison term</li> <li>\$3,000 fine unless the court states on the record why it remits or reduces it</li> <li>(see below for additional penalties)</li> </ul> |
| 53    | Ineligible person soliciting or using a straw man to obtain a firearm and actually obtaining one (29-37j(b))                   | No previous separate penalty; see immediately above        | Class C felony<br>Mandatory minimum:<br><ul style="list-style-type: none"> <li>Two-year prison term</li> <li>\$5,000 fine unless the court states on the record why it remits or reduces it</li> </ul>                                               |
| 53    | Ineligible person soliciting or using a straw man to obtain a firearm, involving transfer of more than one firearm (29-37j(b)) | Class A misdemeanor                                        | Penalty eliminated (see crime immediately above)                                                                                                                                                                                                     |
| 53    | Straw man violations when offender had felony conviction in past five years (29-37j(c))                                        | Class D felony                                             | Class B felony<br>Mandatory minimum:<br><ul style="list-style-type: none"> <li>Three-year prison term</li> <li>\$10,000 fine unless the court states on the record why it remits or reduces it</li> </ul>                                            |

EFFECTIVE DATE: October 1, 2013

## §§ 44 &amp; 45 — POSSESSION CRIMES

By law, separate crimes punish criminal possession of a (1) firearm or electronic defense weapon and (2) handgun. The act expands each of these crimes and increases their penalties so that they punish illegal possession of all of these weapons under very similar circumstances and with the same penalties. The act also punishes possessing ammunition under the same circumstances and with the same penalties.

*Criminal Possession of Firearms, Ammunition, or Electronic Defense Weapons*

The act increases the penalty for criminal possession of a firearm or electronic defense weapon, expands the circumstances when someone commits this crime, and punishes someone who possesses ammunition under the same circumstances.

Under existing law, a person commits this crime when he or she possesses the weapon and (1) has a prior felony conviction or conviction for a serious juvenile offense, (2) knows he or she is the subject of a restraining or protective order in a case involving the use or attempted or threatened use of force or a firearms seizure order after notice and a hearing opportunity, or (3) is prohibited by federal law from having or transporting a firearm because of being adjudicated as a “mental defective” or committed to a mental institution. The act makes it illegal for these same people to possess ammunition.

The act also punishes someone who possesses a firearm, ammunition, or an electronic defense weapon when he or she has been:

1. convicted of certain misdemeanors committed on or after October 1, 2013;
2. discharged from custody within the past 20 years after being found not guilty of a crime due to mental disease or defect;
3. confined on or after October 1, 2013 in a hospital for people with psychiatric disabilities under a probate court order within the past (a) 60 months or (b) 12 months if the person has a valid permit or certificate in effect before October 1, 2013; or
4. voluntarily admitted on or after October 1, 2013 to a hospital for people with psychiatric disabilities within the past six months and not solely for being an alcohol- or drug-dependent person.

The misdemeanor convictions the act applies to are for:

1. a first offense of possessing a controlled substance other than a narcotic or hallucinogen, or between .5 and four ounces of marijuana (an unclassified misdemeanor punishable by up to one year in prison, up to a \$1,000 fine, or both);
2. the following class A misdemeanors: criminally negligent homicide; 3<sup>rd</sup> degree assault; 3<sup>rd</sup> degree assault of an elderly, blind, disabled, or pregnant person or person with intellectual disabilities; 2<sup>nd</sup> degree threatening; 1<sup>st</sup> degree reckless endangerment; 2<sup>nd</sup> degree unlawful restraint; 1<sup>st</sup> degree riot; inciting to riot; and 2<sup>nd</sup> degree stalking; and

3. the class B misdemeanor of 2<sup>nd</sup> degree riot.

*Penalties.* The act increases the penalty for this crime from a class D felony to a class C felony. The law already imposes a two-year mandatory minimum sentence. The act also imposes a mandatory minimum \$5,000 fine unless the court states on the record why it remits or reduces it.

*Criminal Possession of a Handgun*

The act increases the penalty for criminal possession of a pistol or revolver and expands the circumstances when someone commits this crime.

Under existing law, a person commits this crime when he or she possesses the weapon and:

1. was previously convicted of a felony or one of the misdemeanors described above (PA 13-220 specifies that this applies to any felony convictions and misdemeanors committed on or after October 1, 1994);
2. has a prior conviction for a serious juvenile offense;
3. has been discharged from custody within the past 20 years after being found not guilty of a crime due to mental disease or defect;
4. has been confined in a hospital for people with psychiatric disabilities under a probate court order within the past 12 months;
5. knows he or she is the subject of a restraining or protective order in a case involving the use or attempted or threatened use of force or a firearms seizure order after notice and a hearing opportunity;
6. is prohibited by federal law from having or transporting a firearm because of being adjudicated as a “mental defective” or committed to a mental institution; or
7. is an alien illegally in the United States.

The act:

1. on or after October 1, 2013, expands the look-back period for confinements under probate court orders from 12 to 60 months unless the person has a valid permit or certificate in effect before October 1, 2013 and
2. punishes someone who possesses a handgun when he or she has been voluntarily admitted, on or after October 1, 2013, to a hospital for people with psychiatric disabilities within the past six months and not solely for being an alcohol- or drug-dependent person.

*Penalties.* The act increases the penalty for this crime from a class D felony to a class C felony and imposes a mandatory minimum (1) two-year prison sentence and (2) \$5,000 fine unless the court states on the record why it remits or reduces it.

EFFECTIVE DATE: October 1, 2013



#### § 59 — RISK REDUCTION EARNED CREDITS AND PAROLE FOR VIOLENT OFFENDERS

The act prohibits inmates convicted of a violent crime or 2<sup>nd</sup> degree burglary from using risk reduction earned credits (RREC) to become eligible for parole sooner than they otherwise would be. Thus, it requires inmates convicted of these crimes to continue to serve 85% of their sentences before being eligible for parole, regardless of any credits they receive. As under prior law, the credits still reduce the inmate's maximum prison sentence.

By law, inmates convicted of the following crimes are ineligible for parole: murder, capital felony, murder with special circumstances, felony murder, arson murder, or 1<sup>st</sup> degree aggravated sexual assault. Inmates convicted of these crimes or home invasion cannot earn RREC. By law, violent crimes are any crimes, other than those listed above, involving the use or attempted or threatened use of force against a person.

Under existing law, for inmates convicted of non-violent crimes, the credits reduce the inmate's maximum prison sentence and the inmate's parole eligibility is based on his or her sentence as reduced by the credits.

EFFECTIVE DATE: July 1, 2013

#### § 51 — INFORMATION DISCLOSURES FOR LONG GUN AND AMMUNITION TRANSFERS

The act allows DESPP to disclose the name and address of someone issued a handgun eligibility certificate to the extent necessary to comply with the act's provisions on long gun and ammunition transfers, to the same extent as currently allowed for handgun sales and transfers.

EFFECTIVE DATE: July 1, 2013

#### §§ 54-56 — SAFE STORAGE REQUIREMENTS FOR FIREARMS

The act expands the firearm safe storage laws in two ways. Under prior law, the legal duty to securely store a loaded firearm applied only when a person under age 16 was likely to gain access to it without his or her parent's or guardian's permission. The act extends this duty to anyone who knows or should know that a resident of the premises where he or she is storing a loaded firearm (1) is ineligible to possess firearms under state or federal law or (2) poses an imminent risk of hurting himself or herself or others. As under the existing law, the firearm must be locked up or in a location that a reasonable person considers to be secure, or the person must carry it on his or her person or close enough so that he or she can readily retrieve it.

As under existing law pertaining to minors, a person is strictly liable for damages if an ineligible or at-risk person gains access to the inappropriately stored firearm and uses it to injure or kill himself or herself or someone else.

As under existing law pertaining to minors, a person is guilty of criminally negligent storage of a firearm, a class D felony, if the ineligible or at-risk person obtains the firearm and kills or injures himself or herself or someone else with it.

EFFECTIVE DATE: October 1, 2013

#### § 57 — GUN PERMIT APPLICATION

The act generally requires someone applying for a gun permit to be a permanent resident of the town to which he or she applies. Prior law did not specify that the residence had to be permanent, and also allowed such applications by someone who was not a resident, but who maintained a place of business in the town. By law, a gun permit is issued under a two-part process, with a local official issuing a temporary state permit, after which the State Police issues the five-year state permit (assuming the requirements are met).

As under existing law, the act continues to require someone without a permanent residence in Connecticut seeking a gun permit to apply directly to DESPP if the person has a handgun permit or license to carry issued by another state.

The act prohibits anyone from applying for a temporary state gun permit more than once in any 12-month period, and prohibits such a permit from being issued to someone who has previously applied within the prior 12 months. The act requires anyone who applies for a temporary permit to indicate on the application, under penalty of false statement in the manner the issuing authority prescribes, that the person has not applied for a temporary state permit within the past 12 months.

EFFECTIVE DATE: October 1, 2013

#### § 60 — FIREARMS BOARD MEMBERSHIP

The act increases the Firearms Board membership, from seven to nine, by adding one retired Superior Court judge, appointed by the chief court administrator, and a DMHAS nominee, appointed by the governor. The rest of the members, as under prior law, are appointed by the governor from nominees submitted by the DESPP and energy and environmental protection commissioners; Connecticut State Association of Chiefs of Police; Connecticut State Rifle and Revolver Association, Inc.; and Ye Connecticut Gun Guild, Inc. The governor also appoints two public members.

EFFECTIVE DATE: July 1, 2013

## § 61 — FIREARMS BOARD CASE CONTINUANCES

The act allows the board to grant one continuance, for good cause, to an official whose action on a gun permit or gun eligibility certificate is being appealed. If granted, the appeal is continued until the next scheduled board meeting. Under prior law, an issuing authority's failure or refusal to provide a written statement to the board explaining the reasons for his or her adverse decision at least 10 days before the hearing was automatic cause for the board to grant relief to an appellant.

EFFECTIVE DATE: July 1, 2013

## § 62 — DESPP STUDY OF ELECTRONIC TRANSMISSION OF GUN DATA

The act requires the DESPP commissioner to study the feasibility and cost of establishing and maintaining a system to electronically submit, access, and transfer to DESPP information required for gun sales, delivery, or transfers, including information required to determine eligibility for gun credentials. The system must permit electronic access to the state database for checking a person's eligibility to get gun credentials or guns. It must permit gun dealers to directly initiate NICS background checks on gun buyers.

The system may permit the electronic submission of other documents and forms related to firearms permitting, including applications to (1) renew gun permits or gun eligibility certificates, (2) get a certificate of possession for an assault weapon, and (3) declare possession of LCMs.

The commissioner must submit a report to the legislature by January 1, 2014, on the results of the study, including recommendations to develop and implement it.

EFFECTIVE DATE: Upon passage

## § 63 — APPROPRIATIONS FOR GUN TASK FORCE

The act appropriates \$1 million to DESPP for FY 14 to fund the statewide firearms trafficking task force.

EFFECTIVE DATE: July 1, 2013

## §§ 64 & 65 — MENTAL HEALTH FIRST AID TRAINING

The act requires the State Board of Education, within available appropriations and material, to help and encourage school boards to include mental health first aid training as part of their in-service training programs for certified teachers, administrators, and other pupil personnel.

The act also requires the SDE commissioner to consider whether to require mental health first aid training as part of teacher education programs leading to professional certification. By January 1, 2014, he must report his recommendation on this matter to the Appropriations, Education, and Public Health committees (see § 90 f or more provisions on mental health first aid).

EFFECTIVE DATE: Upon passage

## § 66 — BEHAVIORAL HEALTH SERVICES TASK FORCE

The act creates a 20-member task force to study the provision of behavioral health services in Connecticut, with particular focus on providing such services to people ages 16 to 25.

The task force must analyze and make recommendations in the following areas:

1. improving behavioral health screening, early intervention, and treatment;
2. closing gaps in private insurance coverage;
3. improving behavioral health case management services;
4. addressing the insufficient number of certain behavioral health providers, including child psychiatrists and providers offering specialized services;
5. improving the delivery system for behavioral health services;
6. improving payment models for such services;
7. creating a central clearinghouse to inform the public about such services;
8. providing intensive, individualized, in-school behavioral health intervention services for students exhibiting violent tendencies;
9. requiring the SDE to provide technical assistance to school districts concerning behavioral intervention specialists in public and private schools and for preschool programs;
10. using assisted outpatient behavioral health services and involuntary outpatient commitment as treatment options;
11. conducting behavioral health screenings of public school students;
12. requiring disclosure of communications by mental health professionals about people who present a clear and present danger to the health or safety of themselves or others; and
13. reducing the stigma of mental illness as a barrier to people receiving appropriate mental health services.

The task force members include seven government officials and 13 appointed members; all 20 are voting members. The government officials include the

Healthcare Advocate; the child advocate; and the DCF, DMHAS, public health (DPH), SDE, and insurance commissioners, or the commissioners' designees.

Under the act, the six legislative leaders each have two appointments to the task force, and the governor has one. The appointed members' required qualifications are described in Table 7.

Table 7: Behavioral Health Services Task Force Appointed Members

| <i>Appointing Authority</i>  | <i>Qualifications</i>                                                                                                                                                                                                                 |
|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Senate president pro tempore | One child psychiatrist<br>One primary care provider                                                                                                                                                                                   |
| House speaker                | One pediatrician whose practice focuses on adolescents<br>One representative of a school-based health center                                                                                                                          |
| Senate majority leader       | One probate judge<br>One parent with a child who has used behavioral health services                                                                                                                                                  |
| House majority leader        | One school psychologist<br>One representative of a community health center                                                                                                                                                            |
| Senate minority leader       | One representative of a health insurer<br>One representative of a hospital that offers behavioral health services                                                                                                                     |
| House minority leader        | One representative of an organization that offers behavioral health case management services<br>One (1) consumer of behavioral health services or (2) representative of an organization that advocates for consumers of such services |
| Governor                     | One representative of a higher education institution                                                                                                                                                                                  |

The act requires task force appointments to be made within 30 days of April 4, 2013. Vacancies are filled by the appointing authority.

Under the act, the Senate president pro tempore and House speaker must each appoint one task force chairperson from among the members. The chairpersons must schedule and hold the first meeting of the task force by June 3, 2013. The task force must meet at least monthly until February 1, 2014, and upon the call of the chairpersons or a request of the majority of the members. Task force members serve without compensation, except for necessary expenses incurred performing their duties.

A majority of the members constitutes a quorum, and a majority vote of a quorum is required for an official action of the task force. The chairpersons break any tie votes.

Under the act, the administrative staff of the Public Health Committee will serve as the task force's administrative staff. The act allows the task force to seek funding from any state, federal, or private source, and enter into contracts, to carry out its duties.

By February 1, 2014, the task force must report on its findings and recommendations to the governor; Senate president pro tempore; House speaker; Senate

and House minority leaders; and the Appropriations, Education, Human Services, Insurance and Real Estate, and Public Health committees. The task force must also provide additional information not contained in the report to legislators upon their request. The task force terminates on July 1, 2014.

EFFECTIVE DATE: Upon passage

#### § 67 — ASSERTIVE COMMUNITY TREATMENT (ACT)

The act requires the DMHAS commissioner to implement an ACT program in three cities that, on June 30, 2013, did not have such a program. The program must use a person-centered, recovery-based approach that provides people diagnosed with a severe and persistent mental illness, including those released from commitment, (1) assertive outreach, (2) mental health and peer support services, (3) vocational assistance, (4) education concerning family issues, and (5) information to develop wellness skills. Services must be provided by mobile, multi-disciplinary teams in community settings.

DMHAS already operates four ACT teams in Manchester, Middletown, New Britain, and Norwich.

EFFECTIVE DATE: July 1, 2013

#### § 68 — PROBATE COURT-RELATED CASE MANAGEMENT AND CARE COORDINATION SERVICES

The act requires the DMHAS commissioner to provide case management and care coordination services to up to 100 people with mental illness who are involved in the probate court system and who, on June 30, 2013, were not receiving these services.

EFFECTIVE DATE: July 1, 2013

#### § 69 — REGIONAL BEHAVIORAL HEALTH CONSULTATION SYSTEM FOR PEDIATRICIANS

The act requires the DCF commissioner, by January 1, 2014, to establish and implement a regional behavioral health consultation and care coordination program for primary care providers who serve children. The program must provide these primary care providers with:

1. timely access to a consultation team that includes a child psychiatrist, social worker, and care coordinator;
2. patient care coordination and transitional services for behavioral health care; and
3. training and education on patient access to behavioral health services.

The act requires the DCF commissioner to submit a program plan by October 1, 2013 to the Appropriations, Children, Human Services, and Public Health

committees.

It allows the commissioner to contract for services and adopt regulations to administer the program.

EFFECTIVE DATE: Upon passage

## §§ 71-74 & 76 — REQUEST FOR MENTAL OR SUBSTANCE USE DISORDER SERVICES

### §§ 71 & 73(c) — *Benefit Determination*

By law, the amount of time a health carrier has to make a benefit determination depends on whether or not it is an urgent request. In general, carriers must make a determination within 15 calendar days for non-urgent requests and within 72 hours for urgent requests.

The act treats as urgent those requests for services or treatments for (1) substance use disorders or co-occurring mental disorders and (2) mental disorder-related inpatient services, partial hospitalization, residential treatment, or intensive outpatient services needed to keep a covered person from requiring an inpatient setting.

It requires the carrier to make its determination as soon as possible, but no later than 24 hours after it receives a service or treatment request for these disorders. The 24-hour deadline does not apply if the covered person or his or her representative fails to provide the information the carrier needs to make its determination. If the request is to extend a course of treatment beyond the initial period or number of treatments, the request must be made at least 24 hours before the initial authorization expires.

### §§ 74(d) & 76(i) — *Expedited Reviews*

By classifying requests for these services and treatments as urgent, the act entitles the covered person to an expedited review of an adverse determination. By law, the carrier or independent review organization (an entity unaffiliated with the carrier that conducts an external review) must notify the covered person and his or her representative of its decision regarding an expedited review within 72 hours of receiving a grievance. But the act requires such notice within 24 hours for expedited reviews involving mental and substance use disorders as specified above.

### § 72(a) — *Clinical Review Criteria in Utilization Review*

By law, each carrier must contract with health care professionals to administer its utilization review program. Utilization review uses formal techniques to monitor the use of health care services or evaluate their medical necessity, appropriateness, efficacy, or efficiency.

By law, each program must use documented clinical review criteria based on sound clinical evidence. The act sets specific requirements for clinical review criteria for utilization review involving substance use or mental disorders. It provides that, for substance use disorders, the default criteria are those in the most recent edition of the American Society of Addiction Medicine's Patient Placement Criteria. For child or adolescent mental disorders, the default criteria are the most recent guidelines in the American Academy of Child and Adolescent Psychiatry's Child and Adolescent Service Intensity Instrument. For adult mental disorders, the default criteria are the most recent (1) guidelines of the American Psychiatric Association or (2) standards and guidelines of the Association of Ambulatory Behavioral Healthcare.

In each case, the carrier can use other criteria that it demonstrates are consistent with the default criteria. But if the carrier does this, it must create and maintain a document in an easily accessible location on its website that:

1. compares each aspect of its criteria with the default criteria and
2. provides citations to peer-reviewed medical literature generally recognized by the relevant medical community or professional society guidelines that justify each deviation from the default criteria.

EFFECTIVE DATE: October 1, 2013

## §§ 70 & 72-75 — ADVERSE DETERMINATIONS

### § 73(e) — *Initial Adverse Determination Notices*

By law, each carrier must promptly notify a covered person and, if applicable, his or her authorized representative, of an adverse determination. Among other things, the notice must describe the specific reason for the determination and any standard the carrier used in reaching the denial. The act additionally requires the notice to list, upon request, any relevant clinical review criteria (including professional criteria) and medical or scientific evidence used to reach a denial.

By law, the notice must describe the carrier's internal grievance procedures. Under prior law, this description had to state that the covered person or his or her representative could submit written comments, documents, records, and other material regarding the request for consideration by the individuals conducting the review. The act instead requires the notice to include a statement that, if the covered person or his or her representative chooses to grieve an adverse determination:

1. such appeals sometimes succeed;
2. the covered person or his or her representative may benefit from free assistance from the Office of the Healthcare Advocate (OHA), which can help with a grievance, or from the insurance department's consumer affairs division;
3. the covered person or representative is entitled and encouraged to submit supporting documentation for the carrier to consider during an adverse determination review, including their narratives and letters and treatment notes from the covered person's health care professional; and
4. the covered person or representative has the right to ask the health care professional for these letters and treatment notes.

By law, if an adverse determination is based on a carrier's internal rule or other similar criterion, the notice must (1) provide the criterion or (2) state that a copy of it is available upon request with instructions for requesting it. The act additionally requires the notice to provide links to the criterion on the carrier's web site. If the adverse determination involves treating a substance use or a mental disorder, the act requires the notice to also include a link to the carrier's applicable clinical review criteria, as described above, on its website.

#### *§ 73(a)(3) — Conference on Adverse Determination*

The act allows a carrier to offer a covered person's health care professional an opportunity to confer with a clinical peer of the carrier under certain circumstances. This provision applies:

1. after a covered person or his or her representative or health care professional is notified of an initial adverse determination of a concurrent or prospective utilization review, or of a benefit request, that was at least partially based on medical necessity and
2. as long as the covered person, representative, or health care professional has not already filed a grievance of the initial adverse determination.

The conference is not considered a grievance of the initial adverse determination.

#### *§ 75 (d) — Reviews of Adverse Determinations Not Based on Medical Necessity*

By law, the covered person or his or her representative can grieve an adverse determination. For decisions upholding the adverse determination in cases not based on medical necessity, the act adds to the required information that must be provided with the notice of the decision. It requires a statement disclosing:

1. the covered person's right to contact the insurance commissioner's office or OHA at any time;
2. that the covered person may benefit from free assistance from OHA, which can help him or her file a grievance, or from the insurance department's consumer affairs division; and
3. the contact information for the offices.

#### *§ 73 (b)(1)(B) — Continuing Treatment While the Adverse Determination is Appealed*

Under the act, if a covered person grieves a non-urgent concurrent review request (i.e., one that takes place when the service is being requested) pursuant to federal law, the service must be continued without liability to the covered person during the review of the grievance. Existing law has a similar requirement in the case of urgent requests.

#### *§§ 70, 72, & 74 — Clinical Peers*

By law, carriers must contract with clinical peers to evaluate the clinical appropriateness of adverse determinations. The act additionally requires that clinical peers be used to review all adverse determinations based, at least in part, on medical necessity.

The act requires that carriers contract with clinical peers to conduct utilization reviews, rather than requiring them to contract with health care professionals to oversee the determinations in these reviews. It requires the clinical peers to participate in various stages of the review process.

By law, clinical peers are health care professionals who hold a non-restricted license in any state in the same or similar specialty that typically manages the medical condition, procedure, or treatment under review. The act requires clinical peers to have additional qualifications for review or benefit determinations concerning a substance use or mental disorder treated as an urgent request as specified above.

Under the act, for such determinations concerning a child or adolescent disorder, the clinical peer must (1) hold a national board certification in child and adolescent psychiatry or child and adolescent psychology and (2) have training or clinical experience in treating child and adolescent substance use or mental disorders, as applicable.

For such determinations concerning an adult disorder, the clinical peer must (1) hold a national board certification in psychiatry or psychology and (2) have training or clinical experience in treating adult substance use or mental disorders, as applicable.

The act requires that each carrier have procedures to ensure that the appropriate or required clinical peers are designated to conduct utilization reviews.

EFFECTIVE DATE: October 1, 2013

#### § 77 — OFFICE OF THE HEALTH CARE ADVOCATE (OHA)

The act extends to self-insured employers the requirement that employers who provide health insurance benefits post a notice about OHA's services.

EFFECTIVE DATE: October 1, 2013

#### § 78 — CONSUMER REPORT CARD

By law, the insurance commissioner must prepare an annual consumer report card that, among other things, addresses (1) claims denial data and (2) mental health services. The act requires the commissioner to annually analyze this data for the accuracy of, trends in, and statistically significant differences in, the data among the health care centers and insurers included in the report card. It allows him to investigate such differences to determine whether he should take further action.

EFFECTIVE DATE: October 1, 2013

#### § 79 — MENTAL HEALTH PARITY AND COMPLIANCE CHECKS

The act requires the insurance commissioner, by September 15, 2013, to seek input from stakeholders on methods the department might use to check for compliance with state and federal mental health parity laws by health insurance companies and other entities under its jurisdiction. (In general, mental health parity refers to health insurance coverage for mental health services payable on the same basis as coverage for other medical conditions.)

Under the act, the stakeholders must at least include the Healthcare Advocate, health insurance companies, health care professionals, and behavioral health advocacy groups. The department must post notice of the request for input on its website and provide for written public comment for 30 days following the posting. The posting must include the date the public comment period closes and information on how to submit comments.

By January 1, 2014, the insurance commissioner must issue a report and provide an educational presentation to the Insurance and Real Estate and Public Health committees. The report and presentation must:

1. cover the methodology the department is using to check for compliance with the interim or final regulations or guidance, whichever is in effect, published by the U.S. Department of

Health and Human Services relating to compliance and oversight requirements of federal law on mental health parity;

2. cover the methodology the department is using to check for compliance with state law on mental health parity; and
3. detail the department's regulatory and educational approaches relating to the financing of mental health services in Connecticut.

In addition, the report must describe and address any public comments the department received.

By February 1, 2014, the committees must hold a joint public hearing on the report.

EFFECTIVE DATE: Upon passage

#### § 80 — SCHOOL SAFETY INFRASTRUCTURE COUNCIL

##### *Council Duties*

The act creates the School Safety Infrastructure Council (SSIC) that must develop school safety infrastructure standards for (1) the existing school construction projects program and (2) a new school security infrastructure competitive grant program the act creates.

The new standards must be submitted to the DESPP and education commissioners, the School Building Projects Advisory Council, and Public Safety and Education committees by January 1, 2014 and annually thereafter.

The standards must conform to industry standards for school building infrastructure and, at a minimum, include:

1. school building and classroom entryways, including reinforcement of entryways, ballistic (bullet-resistant) glass, solid-core doors, double-door access, computer-controlled electronic locks, remote locks on all entrances and exits, and buzzer systems;
2. use of cameras throughout the school building and at all entrances and exits, including the use of closed-circuit television monitoring;
3. penetration-resistant vestibules; and
4. other security infrastructure improvements and devices as they become industry standards.

##### *Council Membership*

The act creates the eight member council with the following membership:

1. the construction services commissioner, or his designee;
2. the DESPP commissioner, or his designee;

3. the education commissioner, or his designee;
4. one Senate president pro tempore appointee, who must be a person with expertise in building security, preferably school building security;
5. one House speaker appointee, who must be a licensed professional structural engineer;
6. one Senate majority leader appointee, who must be a certified public school administrator;
7. one House majority leader appointee, who must be a firefighter, emergency medical technician, or paramedic;
8. one Senate minority leader appointee, who must be a school resource officer (police officer assigned to a school); and
9. one House minority leader appointee, who must be a certified public school teacher.

The construction services commissioner chairs the council. The administrative staff of the Department of Construction Services (DCS) serves as staff.

EFFECTIVE DATE: Upon passage

#### §§ 81 & 82 — SCHOOL CONSTRUCTION PROJECTS AND THE NEW SCHOOL SAFETY STANDARDS

Under the school construction project law, a school district can receive state reimbursement for the eligible parts of a school construction or renovation project if its application meets certain criteria. The act additionally requires DCS, starting July 1, 2014, to review each local school construction grant application for compliance with the SSIC-developed school safety infrastructure standards. It gives DCS the authority to disapprove any application that does not comply with these new school safety standards starting July 1, 2014.

It also requires school superintendents to affirm on the school construction application form, also starting July 1, 2014, that the district considered the SSIC-developed infrastructure standards.

EFFECTIVE DATE: July 1, 2013

#### § 83 — SCHOOL BUILDING PROJECTS ADVISORY COUNCIL

By law, the School Building Projects Advisory Council must develop model blueprints for new school building projects. The act expands that requirement so that the blueprints are for school building projects that comply with industry standards for school buildings and the new SSIC-developed infrastructure standards.

EFFECTIVE DATE: Upon passage

#### §§ 84 & 85 — COMPETITIVE SCHOOL SECURITY INFRASTRUCTURE GRANTS

The act establishes a competitive state grant program to improve security infrastructure in schools and authorizes up to \$15 million in state bonds for the program. The grant program is jointly administered by DESPP, DCS, and SDE, and funding is available for FYs 13, 14, and 15.

The program will reimburse towns for certain expenses for (1) the development or improvement of security infrastructure, based on the security assessment the act requires, and (2) (a) school personnel training in the operation and maintenance of the new or improved security structure or (b) the purchase of portable entrance security devices, including metal detector wands, screening machines, and related training.

Eligible infrastructure includes the installation of surveillance cameras, penetration resistant vestibules, ballistic glass, solid core doors, double-door access, computer-controlled electronic locks, entry door buzzer systems, scan card systems, panic alarms, or other systems.

#### *Application Process*

Local or regional boards of education can apply to DESPP for funds on behalf of their town or member towns beginning April 4, 2013. (PA 13-122, § 15, changed this date to allow costs incurred for eligible security improvements on or after January 1, 2013 to be reimbursable by the state.)

The DESPP commissioner prescribes the application process and related details. Boards of education can apply before and after SSIC develops standards. Before the date SSIC makes its initial submission of infrastructure standards under the act, the DESPP commissioner, in consultation with the construction services and education commissioners, determines which expenses are eligible for reimbursement. After the SSIC submits its new infrastructure standards, decisions to approve or deny applications and which expenses are eligible for reimbursement must meet the most recent SSIC standards.

The grants reimburse school districts for 20% to 80% of the eligible expenses for such security measures incurred. The reimbursement percentage is based on the district's wealth.

To receive a grant, a district must show that it (1) has conducted a uniform security assessment of its schools and any security infrastructure, (2) has an emergency plan at its schools developed with applicable state and local first responders, and (3) periodically practices the plan. The security assessment must be carried out under the supervision of the district's local

law enforcement agency and use the Safe Schools Facilities Check List published by the National Clearinghouse for Educational Facilities (see BACKGROUND).

If there is not enough money to reimburse every district for its full percentage, the DESPP commissioner, in consultation with the DCS and education commissioners, must give first priority to applicants with schools they determine have the greatest need for security infrastructure based on the school security assessments the school districts submit. Of the applicants with the greatest security infrastructure need, the commissioners must give first priority to applicants that have no security infrastructure at the time of the assessment and secondary priority to applicants from priority school districts.

EFFECTIVE DATE: Upon passage

#### § 86 — SCHOOL SECURITY AND SAFETY STANDARDS

The act requires DESPP to develop school security and safety plan standards by January 1, 2014, in consultation with SDE. The standards must follow an all-hazards approach to public school emergencies, and DESPP must make them available to local officials, including local and regional boards of education. Such standards must include:

1. requirements that local and regional school boards conduct security and vulnerability assessments of their schools every two years, develop a school security and safety plan for each school based upon the assessment results, and give DESPP annual fire and crisis response drill reports;
2. requirements that local officials, including the chief executive officer of the municipality, superintendent of schools, law enforcement, fire, public health, emergency management, and emergency medical services participate in school security and safety plan development;
3. requirements that local law enforcement and other local public safety officials score and evaluate fire and crisis response drills;
4. a command center organization structure, based on the federal National Incident Management System, as well as command center responsibilities;
5. crisis management and various emergency management procedures;
6. requirements that each school establish a school security and safety committee;
7. requirements that each school's safe school climate committee collect, evaluate, and report information as necessary about disturbing or threatening behavior, which is distinct from

bullying, to the district safe school climate coordinator and the school security and safety committee; and

8. requirements that each school security and safety plan provide a plan orientation to each school employee and violence prevention training.

DESPP must annually report its standards and recommendations for legislation to the Education and Public Safety and Security committees, beginning January 1, 2014.

EFFECTIVE DATE: Upon passage

#### § 87 — SCHOOL SECURITY AND SAFETY PLANS AND COMMITTEES

The act requires local and regional boards of education to annually do the following, beginning in the 2014-15 school year:

1. develop and implement a school security and safety plan for each school within their school districts, based upon DESPP-issued standards;
2. develop and review, update if necessary, and submit school security and safety plans to DESPP; and
3. establish a school security and safety committee at each school to assist in developing and administering the school's security and safety plan.

Committee membership must consist of:

1. a local police officer;
2. a local first responder;
3. a teacher from the school;
4. an administrator employed at the school;
5. a mental health professional (guidance counselor, school social worker, school psychologist, school nurse, or child mental health specialist);
6. a parent or guardian of an enrolled student; and
7. any other person the board of education finds necessary.

Parents or guardians who serve on this committee must not have access to information about disturbing or threatening student behavior reported to the committee.

EFFECTIVE DATE: Upon passage

#### § 88 — SAFE SCHOOL CLIMATE COMMITTEES

The act expands the duties of the safe school climate committees. These committees, primarily tasked with duties related to bullying prevention, are required by law in each school serving grades K-12. The act requires the committees to also collect, evaluate, and report information about disturbing or threatening student behavior (even if it falls outside the definition of bullying), as provided in the school's security and safety



plan. Parents or guardians who serve on the committees must not participate in this new duty, since it may compromise student confidentiality.

EFFECTIVE DATE: Upon passage

#### § 89 — REPORT ON SCHOOL DISTRICT EFFORTS TO PREVENT BULLYING

The act increases the frequency and the recipients of the SDE report that analyzes public school districts' bullying prevention efforts. This report must track the number of bullying incidents in the state, describe responsive actions taken by districts, and offer recommendations for additional activities or funding to prevent bullying and improve school climates.

Prior law required SDE to submit the report to the Education and Children's committees by February 1, 2010 and biennially thereafter. The act requires the report annually, beginning February 1, 2014. It also requires SDE to add to the list of required recipients the House speaker, Senate president pro tempore, and House and Senate majority and minority leaders.

EFFECTIVE DATE: Upon passage

#### § 90 — MENTAL HEALTH FIRST AID TRAINING

The act requires the DMHAS commissioner, in consultation with the education commissioner, to administer a mental health first aid training program. Participants must include all district safe school climate coordinators and may include teachers, school nurses, counselors, and other school employees at the discretion of each local or regional board of education.

DMHAS must provide training for individuals appointed to serve as district safe school climate coordinators for the 2014-15 school year. These individuals must successfully complete the training. For the 2015-16 school year, only district safe school climate coordinators who did not yet successfully complete the training or serve in the position during the prior school year must successfully complete the training. Coordinators only have to successfully complete the training once.

Training must teach participants how to (1) recognize signs of mental disorders in children and young adults and (2) connect such children and youth with professionals who can provide suitable mental health services. The commissioners administering this training may seek funding from the federal or state government, as well as from private donors.

(For additional mental health first aid provisions, see §§ 64 and 65 of this act.)

EFFECTIVE DATE: Upon passage

#### § 91 — SCHOOL SECURITY CONSULTANT REGISTRY

The act requires DESPP to establish and maintain a registry of school security consultants doing business in Connecticut. DESPP must update the registry annually, publish it on its website, and furnish it to the public upon request. The registry must contain (1) the consultants' names, (2) their employers, and (3) other information that the DESPP commissioner may require.

EFFECTIVE DATE: Upon passage

#### § 92 — HIGHER EDUCATION SECURITY PROTOCOL PLANS AND THREAT ASSESSMENT TEAMS

##### *Security Protocol Plans*

The act requires UConn and all its campuses, all state colleges in the Connecticut State University System (CSUS), all regional community-technical colleges, and all Connecticut independent institutions of higher education to do the following:

1. by October 1, 2013, give an updated security protocol plan to DESPP, which under existing law must outline how faculty and staff should identify and respond to students at risk for harm to themselves or others; and
2. by July 1, 2015, and every two years afterward, review their security protocol plan with chiefs of police or heads of campus security and submit revisions, if necessary, to DESPP by August 1 of the affected year.

##### *Threat Assessment Teams*

The act also requires the above institutions to establish trained threat assessment teams on each campus by January 1, 2014.

Each institution president must choose team membership in consultation with the campus chief of police or head of security. Membership may include at least one member from its special police force or campus security personnel, administration, faculty, and senior and mid-level staff. The chief of police or head of security for each campus must ensure that each member (1) is capable of executing the security protocol plan and (2) receives training in identifying at-risk people and safety threats on campus.

EFFECTIVE DATE: Upon passage

#### § 93 — HIGHER EDUCATION POLICE FORCES

By law, UConn and all its campuses, and the four colleges in CSUS are authorized to establish their own police forces, who can be armed and authorized to make

arrests. The act excludes these positions from certain aspects of the State Personnel Act that address civil service qualifying exams. The act gives the respective governing bodies for UConn and the CSUS the authority to determine, among other things, the (1) preliminary requirements, including educational qualifications, for police force members and (2) timeline for filling vacancies on the respective forces, including when an exam for a vacant position will be offered. (PA 13-247, § 63, repealed this provision and placed these police positions back under the State Personnel Act.)  
EFFECTIVE DATE: Upon passage

#### § 94 — SPECIAL POLICE FORCE EFFICACY STUDY AND COORDINATED SECURITY PLAN

##### *Special Police Force Efficacy Study*

The act requires the Board of Regents for Higher Education (BOR), in consultation with DESPP, to evaluate whether the establishment of a special police force to replace campus security personnel for each regional community-technical college would be effective. By January 1, 2014, the BOR president must report to the Higher Education and Employment Advancement Committee.

##### *Coordinated Security Plan*

The act also requires BOR to develop a coordinated security plan for the Connecticut State University System and the regional community-technical college system. By January 1, 2014, the BOR president must report on the plan to the Higher Education and Employment Advancement Committee.  
EFFECTIVE DATE: Upon passage

#### § 95 — CERTIFICATION REQUIREMENTS FOR ARMED HIGHER EDUCATION SECURITY

The act requires all armed campus security personnel and armed special police force members of any Connecticut public college or university to be certified by the Police Officer Standards and Training (POST) Council. POST establishes minimum qualifications for municipal police officers and enforces professional standards for certifying and decertifying them.  
EFFECTIVE DATE: Upon passage

#### § 96 — CAMPUS SAFETY AND SECURITY AUDITS

The act requires DESPP, by December 1, 2014, to perform or require an audit of the following campuses to determine their safety and security characteristics: UConn and all its campuses, all CSUS state colleges, all

regional community-technical colleges, and all Connecticut independent institutions of higher education. DESPP must conduct audits in cooperation with BOR or the UConn Board of Trustees when examining their respective campuses.

The act also requires DESPP to base any recommendations for campus security upgrades on the audit's findings and align them with the campus's security protocol plan. DESPP must report all audit results to the Higher Education and Employment Advancement Committee by January 1, 2015.  
EFFECTIVE DATE: Upon passage

#### § 97 — TERMINOLOGY CHANGE

The act renames “independent college or university” under prior law as “independent institution of higher education.” Its definition still refers to non-profit institutions established in Connecticut that have (1) degree-granting authority in the state, (2) a home campus within the state, (3) no function in the state system of public higher education, and (4) a primary function other than religious vocation preparation.  
EFFECTIVE DATE: Upon passage

#### §§ 98 & 99 — BOND AUTHORIZATION REPEALER

The act repeals a \$3 million bond authorization initially created in 2007 for a school security infrastructure program and reduced in 2010 as part of a bond cancellation.  
EFFECTIVE DATE: Upon passage

#### BACKGROUND

##### *Assault Weapons Banned By Name*

Table 8 shows assault weapons banned by name under existing law (§ 25).

Table 8: Weapons Banned By Name Under Existing Law

|                                      |                                              |                                         |
|--------------------------------------|----------------------------------------------|-----------------------------------------|
| Algimec Agmi                         | Fabrique Nationale FN/FAL, FN/LAR, or FN/FNC | Scarab Skor pion                        |
| Armalite AR-180                      | FAMAS MAS 223                                | SIG 57 AMT and 500 series               |
| Australian Automatic Arms SAP Pistol | Feather AT-9 and Mini-AT                     | Spectre Auto Carbine and Auto Pistol    |
| Auto-Ordnance Thompson Type*         | Federal XC-900 and XC-450                    | Springfield armory BM59, SAR-48 and G-3 |
| Avtomat Kalashnikov AK-47 type*      | Franchi SPAS-12 and LAW-12                   | Sterling MK-6 and MK-7                  |
| Barrett Light-Fifty model 82A1       | Galil AR and ARM                             | Steyr AUG                               |
| Beretta AR-70                        | Goncz High-Tech Carbine and High-Tech        | Street Sweeper and Striker 12 revolving |

|                                         |                                               |                                       |
|-----------------------------------------|-----------------------------------------------|---------------------------------------|
|                                         | Long Pistol                                   | cylinder shotguns                     |
| Bushmaster Auto Rifle and Auto Pistol   | Heckler & Koch HK-91, HK-93, HK-94, and SP-89 | USAS-12                               |
| Calico models M-900, M-950, and 100-P   | Holmes MP-83                                  | UZI Carbine, Mini-Carbine, and Pistol |
| Chartered Industries of Singapore SR-88 | Intratec TEC-9 and Scorpion                   | Weaver Arms Nighthawk                 |
| Colt AR-15 and Colt Sporter             | Iver Johnson Enforcer model 3000              | Wilkinson Linda Pistol                |
| Daewoo K-1, K-2, Max-1, and Max-2       | MAC-10, MAC-11, and MAC-111 Carbine type*     |                                       |
| Encom MK-IV, MP-9, and MP-45            | Ruger Mini-14/5F folding stock model only     |                                       |

\*PA 02-120 amended the original assault weapons ban to allow someone to possess an Auto-Ordnance Thompson type, Avtomat Kalashnikov AK-47 type, MAC-10, MAC-11, or MAC-11 Carbine type assault weapon if (1) it was obtained in good faith on or after October 1, 1993 and before May 8, 2002, (2) the possessor was not prohibited from possessing the weapon under any other law, and (3) the possessor notified DESPP before October 1, 2003 that he or she possessed the specific weapon (CGS § 53-202n).

#### § 84 — National Clearinghouse on Educational Facilities

The clearinghouse was created by the U.S. Department of Education and is funded by the department and overseen by its Office of Safe and Drug-Free Schools. It provides information on planning, designing, funding, building, improving, and maintaining safe, healthy, high-performance schools. The clearinghouse's Safe Schools Facilities Check List allows schools to assess the safety of their buildings and grounds.

#### § 95 — POST Authority and Regulations

POST establishes minimum qualifications for municipal police officers and enforces professional standards for certifying and decertifying them. Its entry level requirements for police officers include personal interviews, fingerprint examination, background investigation, psychological examination, criminal history record check, controlled substance screen, and physical fitness and medical tests (Conn. Agencies Reg. § 7-294e-16).

#### Related Acts

PA 13-220 makes numerous changes in the gun provisions in this public act.

PA 13-258, § 29, increases the penalty for (1) carrying a concealed loaded assault weapon or (2)

knowingly having an assault weapon in a vehicle unless the weapon is kept in the trunk or in a case or container that is inaccessible to the operator or any passenger in the vehicle.

PA 13-214 revises the protocol for the surrender of a firearm by a person who is subject to a restraining or protective order or a foreign order of protection.

#### PA 13-184 — HB 6704

#### Emergency Certification

#### AN ACT CONCERNING EXPENDITURES AND REVENUE FOR THE BIENNIUM ENDING JUNE 30, 2015

**SUMMARY:** This act appropriates funds for state agencies and programs and estimates state revenues for FY 14 and FY 15. It carries forward unspent balances from prior years' appropriations and directs funds to be spent for specific programs and purposes, appropriates money for deficiencies in FY 13 appropriations, and transfers revenue from FY 13 to help balance the FY 14 and FY 15 budget. Among other things, the act:

1. extends the temporary (a) reduction in the state's share of retired teachers' health insurance costs and (b) increase in the share paid by the retired teachers' health insurance premium account,
2. requires the Department of Social Services (DSS) to discontinue the Medicaid program for low-income adults (LIA),
3. establishes within DSS the Medicaid Coverage for the Lowest Income Populations program, and
4. requires the budgetary reductions in FY 14 related to the discontinuance of the LIA program to be reflected as an appropriation reduction and thus not result in a spending cap adjustment for FY 14.

The act makes various state tax and revenue changes. Among other things, it:

1. requires the Department of Revenue Services (DRS) to establish a tax amnesty program that runs from September 16, 2013 to November 15, 2013;
2. extends, for two additional years, the temporary (a) cap on the maximum insurance premium tax liability that an insurer may offset through tax credits and (b) 20% corporation income tax surcharge;
3. extends the temporary tax on electric generation facilities for an additional three months, from July 1, 2013 to October 1, 2013;
4. starting June 1, 2015, exempts clothing and footwear costing less than \$50 from the sales

- and use tax;
5. changes the point at which the sales tax on cigarettes is collected and remitted to the state; and
  6. authorizes DRS to require retailers who are delinquent in paying sales taxes to electronically remit the sales tax due on certain sales by the end of the second business day after the sale.

The act modifies several existing tax credit programs. It:

1. reduces the state earned income tax credit (EITC) against the personal income tax for the 2013 and 2014 tax years,
2. establishes a two-year moratorium on film and digital media production tax credits for motion pictures for FY 14 and FY 15, and
3. allows the economic and community development commissioner to pay taxpayers holding urban and industrial sites reinvestment tax credits for their credit eligibility certificates using \$40 million in bond proceeds authorized under the act.

The act makes numerous other changes, including (1) allowing the Connecticut Lottery Corporation to offer Keno games, in addition to the state lottery; (2) modifying amounts transferred to and from the General Fund; (3) expanding the list of projects eligible for funding under the local capital improvement program (LoCIP); and (4) increasing the fees a “nominee of a mortgagee” must pay to town clerks when recording documents.

EFFECTIVE DATE: July 1, 2013, unless otherwise noted below.

#### §§ 1-10 — FY 14 AND FY 15 APPROPRIATIONS

The act appropriates money from the state’s 10 appropriated funds for state agency operations and programs in FY 14 and FY 15. Table 1 shows the net annual appropriations for each year from each fund.

Table 1: FY 14 & FY 15 Net Appropriations by Fund

| § | Fund                                  | Net Appropriation |                  |
|---|---------------------------------------|-------------------|------------------|
|   |                                       | FY 14             | FY 15            |
| 1 | General Fund*                         | \$17,185,961,568  | \$17,504,795,861 |
| 2 | Special Transportation Fund           | 1,243,182,080     | 1,322,312,395    |
| 3 | Mashantucket Pequot and Mohegan Fund  | 61,779,907        | 61,779,907       |
| 4 | Soldiers' Sailors' and Marines' Fund* | 3,099,619         | 3,156,988        |
| 5 | Regional Market Operation Fund        | 921,680           | 941,498          |
| 6 | Banking Fund                          | 26,608,448        | 27,845,849       |
| 7 | Insurance Fund                        | 30,744,674        | 31,968,453       |

| §  | Fund                                             | Net Appropriation |            |
|----|--------------------------------------------------|-------------------|------------|
|    |                                                  | FY 14             | FY 15      |
| 8  | Consumer Counsel and Public Utility Control Fund | 24,868,827        | 25,384,201 |
| 9  | Workers' Compensation Fund                       | 23,199,856        | 24,789,229 |
| 10 | Criminal Injuries Compensation Fund              | 3,380,286         | 2,787,016  |

\*PA 13-247 (§§ 1 & 2) changes the General Fund net appropriation totals for FY 14 and FY 15 and eliminates the FY 15 appropriation for the Soldiers; Sailors; and Marines' Fund.

#### §§ 11-12 & 49 — UNALLOCATED GENERAL FUND, PERSONAL SERVICES, AND OTHER EXPENSES SAVINGS

For FY 14 and FY 15, the act requires the Office of Policy and Management (OPM) secretary to recommend spending reductions in each branch of government to annually reduce (1) General Fund, (2) personal services, and (3) other expenses expenditures. Table 2 lists the annual spending reductions for each branch. The provision concerning personal services reductions does not apply to the higher education constituent units.

Table 2: FY 14 & FY 15 Spending Reductions

| Branch               | General Fund |              | Personal Services |              | Other Expenses |             |
|----------------------|--------------|--------------|-------------------|--------------|----------------|-------------|
|                      | FY 14        | FY 15        | FY 14             | FY 15        | FY 14          | FY 15       |
| Executive            | \$13,785,503 | \$13,785,503 | \$5,478,184       | \$16,675,121 | \$3,312,000    | \$3,312,000 |
| Legislative          | 56,251       | 56,251       | 190,309           | 579,285      | 140,000        | 140,000     |
| Judicial Department* | 401,946      | 401,946      | 1,128,261         | 3,434,330    | 548,000        | 548,000     |

\*PA 13-247 (§§ 78-80) changes Judicial Department to Judicial Branch.

EFFECTIVE DATE: Upon passage for the provision concerning personal services reductions.

#### § 13 — FEDERAL REIMBURSEMENT FOR DSS PROJECTS

For FY 14 and FY 15, the act authorizes DSS to establish receivables for the anticipated reimbursement from the (1) health insurance and health information exchanges, (2) Medicaid data analytics system, (3) integrated eligibility management system, and (4) other related information technology systems. It must do so in compliance with advanced planning documents approved by the federal Department of Health and Human Services for developing these projects.

EFFECTIVE DATE: Upon passage

#### § 14 — STEM CELL RESEARCH FUND

The act allows the Department of Public Health (DPH) commissioner to use up to \$115,000 from the Stem Cell Research Fund in FY 14 for administrative expenses.

### § 15 — DEPARTMENT OF CHILDREN AND FAMILIES (DCF)-LICENSED PRIVATE RESIDENTIAL TREATMENT FACILITIES

For FY 14 and FY 15, the act eliminates per diem and other rate increases for private residential treatment facilities licensed by DCF.

EFFECTIVE DATE: Upon passage

### § 16 — MEMORANDA OF UNDERSTANDING (MOU) FOR ADMINISTRATIVE SUPPORT FUNCTIONS

By August 17, 2013, the act requires the DSS commissioner and the rehabilitation services, aging, and housing departments, in collaboration with OPM, to enter into one or more MOUs to ensure the effective continuity of services. The MOUs must include the administrative support functions DSS must provide to these departments, including human resources, payroll processing, purchasing, accounts payable, contracting, information technology, legal services, and additional services the agencies agree upon.

EFFECTIVE DATE: Upon passage

### § 17 — AUTHORITY TO TRANSFER PERSONAL SERVICES APPROPRIATIONS

The act authorizes the OPM secretary to transfer:

1. personal services appropriations in any appropriated fund from agencies to the Reserve for Salary Adjustments account to more accurately reflect collective bargaining and related costs; and
2. General Fund appropriations for Reserve for Salary Adjustments to any agency in any appropriated fund to implement salary increases; other employee benefits; agency costs related to staff reductions, including accrual payments; agency general personal services reductions; or any other authorized personal service adjustment.

§§ 18, 29, 32-33, 36-37, 40, 43, 46-48, 50-51, 54, 59-61, & 63 — FUNDS CARRIED FORWARD

#### *Funds Carried Forward for the Same Purpose*

The act carries forward various unspent balances from prior years' appropriations and requires them to be used for the same purpose in FY 14 or FY 15, rather than lapsing at the end of the fiscal year (see Table 3).

Table 3: Funds Carried Forward for the Same Purpose

| §      | Agency                                 | Purpose                                                                                                  | Amount              | FY           |
|--------|----------------------------------------|----------------------------------------------------------------------------------------------------------|---------------------|--------------|
| 18 (a) | OPM                                    | Collective bargaining agreements and related costs for FY 12 and FY 13                                   | Unspent balance     | 2014<br>2015 |
| 18 (b) | OPM                                    | Collective bargaining agreements and related costs in General and Special Transportation Funds for FY 14 | Unspent balance     | 2015         |
| 32     | OPM                                    | Health care and pension consulting contract                                                              | Unspent balance     | 2014<br>2015 |
| 33     | OPM                                    | Criminal Justice Information System                                                                      | Unspent balance     | 2014<br>2015 |
| 36     | Department of Motor Vehicles (DMV)     | Commercial Vehicle Information Systems and Networks project                                              | Unspent balance     | 2014<br>2015 |
| 37 (a) | DMV                                    | Upgrading registration and drivers' license data processing systems                                      | Unspent balance     | 2014<br>2015 |
| 37 (b) | DMV                                    | Upgrading registration and drivers' license data processing systems                                      | Up to \$7 million   | 2014<br>2015 |
| 37 (c) | DMV                                    | Upgrading registration and drivers' license data processing systems                                      | Up to \$8.5 million | 2014<br>2015 |
| 40 (a) | Office of Legislative Management (OLM) | Health impact assessment study by the Connecticut Academy of Science and Engineering (CASE)              | Unspent balance     | 2014         |
| 40 (b) | OLM                                    | Disparity study by CASE                                                                                  | Unspent balance     | 2014         |
| 40 (c) | OLM                                    | Eyewitness task force                                                                                    | Up to \$90,000      | 2014         |
| 40 (g) | OLM                                    | Equipment items                                                                                          | Up to \$20,000      | 2014         |
| 40 (i) | OLM                                    | Personal services                                                                                        | Up to \$350,000     | 2014         |
| 50 (d) | Department of Transportation (DOT)     | Pay-As-You-Go Transportation Projects                                                                    | Up to \$4.1 million | 2014         |
| 63*    | State Comptroller – Miscellaneous      | Adjudicated Claims                                                                                       | Unspent balance     | 2014         |

\* Effective upon passage

#### *Funds Carried forward for a Different Purpose*

The act carries forward prior years' appropriations to FY 14 or FY 15 and requires them to be used for other purposes in the same agency, as shown in Table 4.

Table 4: Funds Carried Forward for a Different Purpose\*

| §      | Agency    | Prior Purpose              | New Purpose                               | Amount          | FY   |
|--------|-----------|----------------------------|-------------------------------------------|-----------------|------|
| 40 (d) | OLM       | Other Expenses             | Old State House cupola                    | Up to \$316,900 | 2014 |
| 40 (e) | OLM       | Minor capital improvements | Old State House cupola                    | Up to \$80,000  | 2014 |
| 40 (f) | OLM       | Minor capital improvements | Capitol generator                         | Up to \$100,000 | 2014 |
| 40 (h) | OLM       | Other Expenses             | Higher Education Committee strategic plan | Up to \$150,971 | 2014 |
| 46 (a) | Office of | Other                      | Initial                                   | Up to           | 2014 |

| \$         | Agency                                             | Prior Purpose                     | New Purpose                                                                                                                                       | Amount              | FY           |
|------------|----------------------------------------------------|-----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|--------------|
|            | Governmental Accountability (OGA)                  | Expenses                          | case/document management software                                                                                                                 | \$107,000           |              |
| 46 (b)     | OGA                                                | Office of the Child Advocate      | Record and data conversion into a new case/document management system                                                                             | Up to \$20,000      | 2014         |
| 46 (c)     | OGA                                                | Freedom of Information Commission | Record and data conversion into a new case/document management system                                                                             | Up to \$75,000      | 2014         |
| 46 (d)     | OGA                                                | Office of the Victim Advocate     | Record and data conversion into a new case/document management system                                                                             | Up to \$20,000      | 2014         |
| 47         | Department of Economic and Community Development   | Office of Military Affairs        | ARTE Inc. (\$25,000 each year)                                                                                                                    | Up to \$50,000      | 2014<br>2015 |
| 51 (a)*    | DMV                                                | Other Expenses                    | Efforts related to providing motor vehicle licenses for persons who cannot provide the DMV commissioner with proof of legal residence in the U.S. | Up to \$750,000     | 2014         |
| 51 (b)*    | DMV                                                | Equipment                         | Efforts related to providing motor vehicle licenses for persons who cannot provide the DMV commissioner with proof of legal residence in the U.S. | Up to \$100,000     | 2014         |
| 59 (a)     | Permanent Commission on the Status of Women (PCSW) | Other Expenses                    | Institute for Women's Policy Research pay equity study                                                                                            | Up to \$5,000       | 2014         |
| 59 (b)     | PCSW                                               | Other Expenses                    | Yale Health Research women's health review                                                                                                        | Up to \$2,500       | 2014         |
| 59 (c)     | PCSW                                               | Other Expenses                    | Partnership for Strong Communities homelessness study                                                                                             | Up to \$2,500       | 2014         |
| 60 (a) (1) | DRS                                                | Personal Services                 | Sales and use tax collection enhancements                                                                                                         | Up to \$110,000     | 2014         |
| 60 (b)     | DRS                                                | Other Expenses                    | Sales and use tax collection enhancements                                                                                                         | Up to \$700,000     | 2014         |
| 61 (c)     | State Department of Education (SDE)                | Magnet Schools                    | Sheff programming, including supplemental                                                                                                         | Up to \$2.3 million | 2014         |

| \$ | Agency | Prior Purpose | New Purpose                 | Amount | FY |
|----|--------|---------------|-----------------------------|--------|----|
|    |        |               | magnet transportation costs |        |    |

\* PA 13-247 (1) adds an item to this list (§ 75) and (2) repeals the two carry forwards for DMV and replaces them with carry forwards and transfers for the same purposes (§ 379).

### *Funds Carried Forward and Transferred*

The act carries forward and transfers the amounts shown in Table 5.

Table 5: Funds Carried Forward and Transferred\*

| \$     | Agency                                                         | Amount              | From                                       | To                                                                                                                              | FY   |
|--------|----------------------------------------------------------------|---------------------|--------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|------|
| 29**   | SDE                                                            | Unspent balance     | School Readiness Quality Enhancement       | Office of Early Childhood's (OEC) School Readiness Quality Enhancement Account: improve the quality of early childhood programs | 2014 |
| 43 (a) | Department of Emergency Services and Public Protection (DESPP) | Up to \$25,000      | Fleet Purchase                             | Other Expenses: civilian medal of honor                                                                                         | 2014 |
| 43 (b) | DESPP                                                          | Up to \$500         | Fleet Purchase                             | Other Expenses: civilian medal of honor                                                                                         | 2015 |
| 48 (a) | OPM                                                            | Up to \$65,000      | Personal Services                          | Litigation/ Settlement account                                                                                                  | 2014 |
| 48 (b) | OPM                                                            | Up to \$115,000     | Other Expenses                             | Litigation/ Settlement account                                                                                                  | 2014 |
| 48 (c) | OPM                                                            | Up to \$40,000      | Automated Budget System and Data Base Link | Litigation/ Settlement account                                                                                                  | 2014 |
| 48 (d) | OPM                                                            | Up to \$215,000     | Justice Assistance Grants                  | Litigation/ Settlement account                                                                                                  | 2014 |
| 48 (e) | OPM                                                            | Up to \$375,000     | Innovation Challenge Grant Program         | Litigation/ Settlement account                                                                                                  | 2014 |
| 48 (f) | OPM                                                            | Up to \$40,000      | Revenue Maximization                       | Litigation/ Settlement account                                                                                                  | 2014 |
| 48 (g) | OPM                                                            | Up to \$37,000      | Main Street Investment Fund Administration | Litigation/ Settlement account                                                                                                  | 2014 |
| 48 (h) | OPM                                                            | Up to \$500,000     | Tax Relief for Elderly Renters             | Litigation/ Settlement account                                                                                                  | 2014 |
| 48 (i) | OPM                                                            | Up to \$475,000     | Regional Planning Agencies                 | Litigation/ Settlement account                                                                                                  | 2014 |
| 48 (j) | OPM                                                            | Up to \$145,000     | Property Tax Relief Elderly Freeze Program | Litigation/ Settlement account                                                                                                  | 2014 |
| 50 (a) | DOT                                                            | Up to \$4.2 million | Rail Operations                            | Pay-As-You-Go Transportation                                                                                                    | 2014 |

| §          | Agency                                                   | Amount              | From                        | To                                                                                                                                                                                          | FY           |
|------------|----------------------------------------------------------|---------------------|-----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
|            |                                                          |                     |                             | Projects account                                                                                                                                                                            |              |
| 50 (b)     | DOT                                                      | Up to \$1.5 million | Personal Services           | Pay-As-You-Go Transportation Projects account                                                                                                                                               | 2014         |
| 50 (c)     | DOT                                                      | Up to \$200,000     | Transit Improvement Program | Pay-As-You-Go Transportation Projects account                                                                                                                                               | 2014         |
| 54 (a)     | Department of Energy and Environmental Protection (DEEP) | Up to \$1,242,604   | Personal Services           | Other Expenses                                                                                                                                                                              | 2014         |
| 54 (b)     | DEEP                                                     | Up to \$172,396     | Fringe Benefits             | Other Expenses                                                                                                                                                                              | 2014         |
| 54 (c)     | DEEP                                                     | Up to \$685,000     | Fringe Benefits             | Equipment                                                                                                                                                                                   | 2014         |
| 60 (a) (2) | DRS                                                      | Up to \$40,000      | Personal Services           | State Comptroller – Fringe Benefits: (1) \$10,000 for Employers Social Security Tax and (2) \$30,000 for State Employees Health Service Cost, for sales and use tax collection enhancements | 2014         |
| 61 (a)     | SDE                                                      | Up to \$330,000     | Magnet Schools              | Interdistrict Cooperation Account: grant to Sound School summer youth program                                                                                                               | 2014         |
| 61 (b)     | SDE                                                      | Up to \$170,000     | Magnet Schools              | Neighborhood Youth Centers account: grant to New Haven YMCA (\$85,000 in each FY)                                                                                                           | 2014<br>2015 |

\* PA 13-247 (§§ 95 & 383) adds items to this list.

\*\* Effective upon passage

#### §§ 19 & 20 — TOBACCO HEALTH AND TRUST FUND ALLOCATIONS

The act allocates money from the Tobacco and Health Trust Fund for the programs and purposes shown in Table 6.

Table 6: Tobacco and Health Trust Fund Allocations

| Agency              | Program/Purpose                                                                                  | FY 14     | FY 15     |
|---------------------|--------------------------------------------------------------------------------------------------|-----------|-----------|
| UConn Health Center | Connecticut Health Information Network                                                           | \$500,000 | \$500,000 |
| DPH                 | Adult asthma program, within the Easy Breathing Program                                          | 150,000   | 150,000   |
|                     | Children's asthma program, within the Easy Breathing Program                                     | 250,000   | 250,000   |
|                     | Connecticut Coalition for Environmental Justice: Community Asthma Outreach and Education Program | 150,000   | 150,000   |
|                     | Regional emergency medical services coordinators                                                 | 500,000   | 500,000   |
| DSS                 | Medicaid: smoking cessation programs                                                             | 3,400,000 | 3,400,000 |

| Agency                                     | Program/Purpose                                                                                                                                                                           | FY 14   | FY 15   |
|--------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|---------|
|                                            | Other Expenses: UConn-Medicaid Partnership                                                                                                                                                | 200,000 | 200,000 |
| Department of Developmental Services (DDS) | Implement the recommendations of DDS study of issues related to the needs of people with autism to enhance and improve the services and supports for these individuals and their families | 500,000 | 750,000 |

#### § 21 — STATE PAYMENTS FOR RETIRED TEACHERS HEALTH INSURANCE

The act extends, to FY 14 and FY 15, the temporary (1) reduction in the state's share of retired teachers' health insurance costs and (2) increase in the share paid by the retired teachers health insurance premium account.

By law, the determining factor in how a retired teacher receives health coverage is whether the teacher participates in Medicare. Those who do may choose a Medicare supplement plan provided by the Teachers' Retirement Board (TRB). Those who do not can continue to participate in the health plan their last-employing board of education offers to its active teachers.

By law, annual premiums for the basic TRB plan are split equally among (1) the General Fund; (2) the retired teacher; and (3) the retired teachers' health insurance premium account, which is funded by active teachers, who contribute 1.25% of their salaries to it. For FY 13, the law reduced the state's share to 25% and increased the share paid by the retired teacher's health insurance premium account to 42%. The act continues these changes for FY 14 and FY 15.

As for retired teachers covered under local board health plans, the law requires the TRB to provide a monthly subsidy to the local boards to offset retired teachers' local plan premiums. Retirees are responsible for paying the difference between the subsidy and the premium cost. By law, the state General Fund pays one-third of the subsidy and the retired teachers' health insurance account pays two-thirds. For FY 13, the law reduced the state's contribution to 25%, thus increasing the account's contribution to 75%, of the subsidy. The act continues these changes for FY 14 and FY 15.

#### §§ 22 & 23 — TRANSFERS AND FUNDING ADJUSTMENTS TO MAXIMIZE FEDERAL MATCHING FUNDS

The act allows the governor, with the Finance Advisory Committee's (FAC) approval, to transfer all or part of an agency's General Fund appropriation, at its request, to another agency to take advantage of federal matching funds, as long as both agencies certify that the receiving agency will spend the money for the original purpose. Federal funds generated from transfers can be

used to reimburse General Fund spending, expand services, or both, as the governor, with FAC approval, determines.

The act also allows the governor, with FAC approval, to adjust an agency's General Fund appropriation to maximize federal funding to the state. The governor must report on any adjustment to the Appropriations and Finance, Revenue and Bonding committees.

#### §§ 24 & 26 — TRANSFERS TO DISPROPORTIONATE SHARE OR MEDICAID ACCOUNTS

The act allows the OPM secretary to transfer all or part of any FY 14 or FY 15 General Fund appropriation for the UConn Health Center or the Department of Veterans' Affairs to the Disproportionate Share – Medical Emergency Assistance account or DSS's Medicaid account in order to maximize federal reimbursement.

#### § 25 — DSS PAYMENTS TO DMHAS HOSPITALS

The act requires DSS to spend money appropriated to it for FY 14 and FY 15 for Department of Mental Health and Addiction Services (DMHAS) – Disproportionate Share payments when and in the amounts OPM specifies. DSS must make payments to DMHAS hospitals for operating expenses and related fringe benefits. Hospitals must reimburse the comptroller for the fringe benefit payments and deposit the other funds to "grants – other federal accounts." Unspent disproportionate share funds in the "grants" account must lapse at the end of each fiscal year.

#### § 27 — BIRTH-TO-THREE PROGRAM

For FY 14 and FY 15, the act requires SDE to annually transfer \$1 million of the federal special education funds it receives to DDS for the Birth-To-Three Program to carry out special education-related responsibilities consistent with federal special education law.

#### § 28 — PRIORITY SCHOOL DISTRICT GRANTS

The act distributes the priority school district grant appropriation to state education programs in the amounts shown in Table 7.

Table 7: Priority School District Grant Allocations

| Grant                          | FY 14        | FY 15        |
|--------------------------------|--------------|--------------|
| Priority School Districts      | \$40,932,755 | \$40,452,571 |
| Extended School Building Hours | 2,994,752    | 2,994,752    |
| School Accountability          | 3,499,699    | 3,499,699    |

#### §§ 30-31, 39, 42, 44, & 65 — RESERVED AMOUNTS FROM LINE-ITEM APPROPRIATIONS

The act reserves certain amounts from line items in agency budgets for various purposes, as shown in Table 8.

Table 8: Reserved Amounts from Line-Item Appropriations

| §      | Agency                                | Appropriation For                                                                                                                    | Reserved For                                                                                                                                                         | Amount              |                     |
|--------|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------|
|        |                                       |                                                                                                                                      |                                                                                                                                                                      | FY 14               | FY 15               |
| 30 (a) | DMHAS                                 | Pre-Trial Alcohol Substance Abuse Program                                                                                            | Regional action councils                                                                                                                                             | Up to \$1.1 million | Up to \$1.1 million |
| 30 (b) | DMHAS                                 | Pre-Trial Alcohol Substance Abuse Program                                                                                            | Governor's Partnership to Protect Connecticut's Workforce                                                                                                            | Up to \$510,000     | Up to \$510,000     |
| 31     | UConn                                 | Operating Expenses                                                                                                                   | Connecticut Center for Advanced Technology                                                                                                                           | \$250,000           | \$250,000           |
| 39     | Department of Labor                   | Jobs First Employment Services                                                                                                       | Grant to WorkPlace in Bridgeport                                                                                                                                     | Up to \$100,000     | Up to \$100,000     |
| 42     | Board of Regents for Higher Education | Connecticut State University: Initial stages of collection and arrangement of the official papers of former Governor William O'Neill | Grant to Institute of Municipal and Regional Policy to assist in the development of the Connecticut-specific model within the Pew-MacArthur Results First Initiative | Up to \$150,000     | Up to \$150,000     |
| 44     | SDE                                   | School Accountability                                                                                                                | Implementation of the Connecticut Fiscal State Tracking and Accountability Report System                                                                             | Up to \$250,000     | Up to \$250,000     |
| 65     | Department of Housing                 | Housing/Homeless Services                                                                                                            | Norwich/New London Continuum of Care to facilitate rehousing and homelessness prevention in southeastern Connecticut                                                 | Up to \$250,000     | Up to \$250,000     |

#### § 34 — DDS COST SETTLEMENTS WITH PRIVATE PROVIDERS

During FY 14 and FY 15, the act requires private organizations providing services under contract with DDS to reimburse DDS for 100%, or an alternate amount identified by the DDS commissioner and approved by the OPM secretary, of the difference between the actual expenses incurred and the amount the organization received from DDS under the contract.



### § 35 — PRIVATE OCCUPATIONAL SCHOOL STUDENT PROTECTION ACCOUNT

The act overrides statutory restrictions to allow the Office of Higher Education (OHE) to spend up to \$400,000 in FY 14 and up to \$475,000 in FY 15 from the private occupational school student protection account.

### § 38 — FILLING STATE EMPLOYEE POSITIONS

The act limits the number of positions state agencies may fill to the number recommended by the Appropriations Committee as revised by later General Assembly enactments and set out in the Office of Fiscal Analysis report on the FY 14-15 budget. It allows these numbers to be exceeded only upon the governor's recommendation and FAC approval.

### § 41 — OPERATION FUEL ENERGY ASSISTANCE

For FY 14 and FY 15, the act transfers \$1 million from funds collected through the systems benefit charge on electric utility customers to DEEP for energy assistance through Operation Fuel. It reserves \$100,000 of the transferred funds for a grant to Operation Fuel for its administrative expenses.

### § 45 — NEWBORN SCREENING ACCOUNT

For FY 14 and FY 15, the act allocates \$1.15 million annually, rather than the statutorily required \$500,000, to the General Fund's newborn screening account. The funding comes from fees DPH charges institutions for comprehensive newborn testing, parent counseling, and treatment. DPH must use the money (1) to buy upgraded screening technology and (2) for its testing expenses.

### § 52 — MUNICIPAL AID REDUCTIONS

For FY 15, the act requires the OPM secretary to recommend municipal aid spending reductions to reduce General Fund expenditures by \$10 million in that year.

### § 53 — HEAD START GRANT PROGRAM FUNDING

For FY 13, the act authorizes the SDE commissioner to use up to 25%, rather than at least 25% as under prior law, of Head Start grant program funding for enhancing program quality if federal funding reductions would otherwise reduce the number of children served. The act allows the Office of Early Childhood (OEC's) executive director to do the same for FY 14.

EFFECTIVE DATE: Upon passage

### § 55 — FEDERAL REIMBURSEMENT FOR MEDICAID EXPANSION

For FY 14 and FY 15, the act authorizes DSS and DMHAS to establish receivables for the (1) anticipated federal reimbursement for expenditures resulting from the Medicaid expansion beginning on or after January 1, 2014 and (2) reimbursements from DSS' Medicaid and DMHAS' General Assistance Managed Care accounts.

### § 56 — APPROPRIATIONS FOR NONFUNCTIONAL – CHANGE TO ACCRUALS

The act bars the OPM secretary from allotting funds from the Nonfunctional – Change to Accruals line item accounts in each of the state's 10 appropriated funds, regardless of the law requiring the governor, through OPM, to allot appropriations before they can be spent. These line items represent the change to accruals in agency budgets due to the conversion to GAAP-based budgeting.

### § 57 — FATHERHOOD INITIATIVE

The act requires DSS' FY 14 and FY 15 appropriations for the Fatherhood Initiative to be equally distributed each year to the following organizations: Families in Crises, Madonna Place, New Opportunities Inc., New Haven Family Alliance, Career Resources Inc., and Family Strides Inc.

### § 58 — FY 13 SURPLUS FUNDS

The act allows the comptroller to designate up to \$220.8 million in FY 13 General Fund revenue to be counted as General Fund revenue in FY 14 (\$190.8 million) and FY 15 (\$30 million).

EFFECTIVE DATE: Upon passage

### § 62 — FY 13 DEFICIENCY APPROPRIATIONS

The act appropriates a total of \$142 million from the General Fund to cover deficiencies in various state agencies and programs for FY 13, as shown in Table 9.

Table 9: FY 13 General Fund Appropriations

| Agency                            | For                             | Total       |
|-----------------------------------|---------------------------------|-------------|
| State Comptroller                 | Personal Services               | \$600,000   |
| State Comptroller                 | Other Expenses                  | 600,000     |
| State Comptroller – Miscellaneous | Adjudicated Claims              | 4,900,000   |
| DESPP                             | Personal Services               | 13,800,000  |
| DMHAS                             | General Assistance Managed Care | 12,500,000  |
| DSS                               | Personal Services               | 6,000,000   |
| DSS                               | Medicaid – Acute Care Services  | 80,500,000  |
| Correction                        | Personal Services               | 23,100,000  |
| TOTAL                             |                                 | 142,000,000 |

EFFECTIVE DATE: Upon passage

#### § 64 — TRANSFERS BETWEEN MEDICAID ACCOUNTS

For FY 13, the act allows the comptroller, with the OPM secretary's approval, to transfer sums between DSS Medicaid appropriations, regardless of the laws requiring FAC approval for certain transfers. Under the act, the comptroller may transfer any DSS Medicaid appropriations that would otherwise lapse into any other DSS Medicaid appropriations that, if not for such transfers, would otherwise end in a deficit position at the end of the fiscal year. The comptroller must make the transfers on or after July 1, 2013, but before the accounts are closed for the fiscal year. The transfers may not exceed the total FY 13 appropriations for the Medicaid accounts in the aggregate.

EFFECTIVE DATE: Upon passage

#### § 66 — MUNICIPAL AID ADJUSTMENT ACCOUNT

The act establishes the municipal aid adjustment account in the General Fund and requires the OPM secretary to spend account funds in FY 14 and FY 15 for grants to municipalities. (PA 13-247 (§ 127) overrides this provision by creating the same account and requiring the OPM secretary to spend account funds for grants to specified municipalities.)

#### §§ 67-69 — ELIMINATION OF LIA PROGRAM AND ESTABLISHMENT OF NEW MEDICAID COVERAGE GROUP

The act requires DSS to discontinue the LIA program as of January 1, 2014. This program serves primarily childless adults with incomes of up to about \$500 per month.

The act also establishes within DSS the Medicaid Coverage for the Lowest Income Populations program, pursuant to a provision in the federal Patient Protection and Affordable Care Act (ACA), as amended (42 USC § 1396a (10)(A)(i)(VIII)). The federal act requires states to offer Medicaid coverage to childless adults up to age 65 with incomes under 133% of the federal poverty level (about \$1,275 per month) beginning January 1, 2014.

This act specifies that no state appropriation is authorized for the new program from January 1, 2014 through December 31, 2016. Under the ACA, the federal government reimburses states 100% of the costs of providing this coverage during this period.

PA 13-234 (§ 156) repeals the statute requiring DSS to establish LIA.

#### *Budgetary Reductions Related to LIA Discontinuance*

The act requires the budgetary reductions in FY 14 related to the discontinuance of the LIA program to be reflected for FY 13 in the same way budgetary reductions in FY 02 for the payment of Medicare Part B premiums were reflected for FY 01.

In FY 02, the legislature restructured the way in which the state pays the federal government for Medicare Part B premiums for certain DSS clients who are eligible for both Medicaid and Medicare Part B coverage. Rather than appropriate funding for the premium payments through the General Fund as it had in prior years, the legislature directed DSS to pay them from a nonlapsing account, created for that purpose, containing revenue received from the U.S. Department of Health and Human Services for any applicable costs. Funding these payments from a non-appropriated fund reduced the appropriation for Medicare Part B premiums beginning in FY 02. This payment restructuring was reflected as an appropriation reduction and, consequently, did not result in an adjustment to the FY 01 appropriation for the premium payments used to calculate the spending cap for FY 02.

The act requires the budgetary reduction related to the discontinuance of the LIA program to also be reflected as an appropriation reduction, thus not result in an adjustment to the FY 13 appropriation for LIA used to calculate the spending cap for FY 14.

EFFECTIVE DATE: January 1, 2014, except for the budgetary reduction provision, which is effective July 1, 2013.

#### § 70 — TAX AMNESTY PROGRAM

The act requires the DRS commissioner to establish a tax amnesty program for individuals, businesses, or other taxpayers that owe Connecticut state taxes (other than motor carrier road taxes) to DRS. The amnesty runs from September 16, 2013 to November 15, 2013 and covers any taxable period ending on or before November 30, 2012.

#### *Amnesty Conditions*

The DRS commissioner must prepare an amnesty application that requires applicants to specify the taxes and taxable periods for which they seek amnesty. The act allows the commissioner to require that taxpayers file amnesty applications electronically.

If a taxpayer files the application during the amnesty period and pays all the taxes owed for the applicable tax periods, plus interest, the commissioner must waive applicable civil penalties and refrain from seeking criminal prosecution for those periods. The commissioner may only grant amnesty to affected

taxpayers (i.e., those who owe taxes for the applicable tax periods) who pay the taxes and interest that the commissioner determines they owe when they file their applications.

If the commissioner grants amnesty, the affected taxpayer relinquishes all unexpired administrative and judicial appeal rights as of the payment date. The act bars taxpayers from receiving any refund or credit of amnesty tax payments. Failure to pay all amounts due invalidates the amnesty. A taxpayer is not entitled, by virtue of penalty waivers and interest reductions under the amnesty, to any refund or credit of previously paid amounts. The commissioner may not consider any request to cancel the unpaid portion of any erroneously or illegally assessed tax, penalty, or interest in connection with any amnesty application.

#### *Interest Reduction*

If a taxpayer pays the taxes due by November 15, 2013, the act reduces the interest rate on those taxes to one-fourth of the interest that the department's records show to be due and payable as of the application's filing. (The interest rate on overdue taxes is generally 1% per month.) Any tax due for the applicable tax periods paid after the filing deadline is subject to interest of 1% per month or part of a month from the date it was originally due until the payment date.

#### *Amnesty Exclusions*

The act bars any amnesty for those who:

1. are parties to any criminal investigation or criminal litigation pending on July 1, 2013 in any federal or Connecticut court,
2. are parties to a closing agreement with the DRS commissioner,
3. have made a compromise offer that has been accepted by the commissioner, or
4. are parties to a managed audit agreement.

#### *Penalty for Failing to File for Amnesty*

The act imposes a penalty on any taxpayer who (1) owes any tax for the applicable tax periods for which a tax return was required, but not previously filed and (2) fails to file a timely amnesty application. The penalty (1) is equal to 25% of the tax owed and (2) may not be waived. It applies in addition to any other applicable interest and penalties under existing law.

#### *Implementation*

The act gives the DRS commissioner authority to do anything necessary to implement the program in a timely fashion.

### § 71 — STEM CELL RESEARCH AND TOBACCO AND HEALTH TRUST FUNDS

For FY 14 and FY 15, the act (1) reduces, from \$12 million to \$6 million, the annual disbursement from the Tobacco Settlement Fund to the Tobacco and Health Trust Fund and (2) eliminates the transfer of \$10 million from the Tobacco Settlement Fund to the Stem Cell Research Fund.

A related act, PA 13-239 (§§ 13 & 32), authorizes up to \$10 million in state general obligation (GO) bonds each year in FYs 14 and 15 for the Stem Cell Research Fund. PA 12-1, December Special Session, eliminated the FY 13 transfer to the Stem Cell Research Fund and authorized up to \$10 million in state GO bonds for this purpose.

### § 72 — INSURANCE PREMIUM TAX CREDIT LIMIT

The act extends, to 2013 and 2014, the temporary cap on the maximum insurance premium tax liability that an insurer may offset through tax credits. In doing so, it reimposes the insurance premium tax credit classification that applied in 2011.

The caps are part of a structure that, under existing law, (1) classifies insurance premium tax credits into three types for calendar years 2011 and 2012, (2) specifies the order in which an insurer must apply the three credit types to offset liability, and (3) establishes the maximum liability that an insurer can offset in those years by claiming one or more of these types of credits.

Under prior law, in 2011, (1) type one credits were film and digital media production, entertainment infrastructure, and digital animation tax credits; (2) type two credits were insurance reinvestment credits; and (3) type three credits were all other tax credits. In 2012, film and digital media production and entertainment infrastructure credits were moved from type one to type three.

The act applies the 2011 tax credit classification to calendar years 2013 and 2014. It also requires taxpayers with credits from several programs to claim them according to the schedule that applied in both 2011 and 2012 and which is shown in Table 10.

Table 10: Order and Reduction Schedule for Claiming Insurance Premium Tax Credits under the Act

| Credit Types Claimed | Order of Applying Credits | Maximum Reduction in Tax Liability     |
|----------------------|---------------------------|----------------------------------------|
| Type 3               | Not applicable            | 30%                                    |
| Types 1 & 3          | 1. Type 3<br>2. Type 1    | Type 3 = 30%<br>Sum of two types = 55% |
| Types 2 & 3          | 1. Type 3<br>2. Type 2    | Type 3 = 30%<br>Sum of two types = 70% |

| Credit Types Claimed | Order of Applying Credits | Maximum Reduction in Tax Liability |
|----------------------|---------------------------|------------------------------------|
| Types 1, 2, & 3      | 1. Type 3                 | Type 3 = 30%                       |
|                      | 2. Type 1                 | Type 1 & 3 = 55%                   |
|                      | 3. Type 2                 | Sum of all types = 70%             |
| Type 1 & 2           | 1. Type 1                 | Type 1 = 55%                       |
|                      | 2. Type 2                 | Sum of two types = 70%             |

EFFECTIVE DATE: Upon passage and applicable to calendar years starting on or after January 1, 2013.

#### §§ 73-74 — CORPORATION INCOME TAX SURCHARGE

The act extends the 20% corporation income tax surcharge for two additional years, to the 2014 and 2015 income years. Companies must calculate their surcharges based on their tax liability, excluding any credits. As under existing law, the surcharge for 2014 and 2015 applies to companies that have more than \$250 in corporation tax liability and either (1) have at least \$100 million in annual gross income in those years or (2) file combined or unitary returns, regardless of the amount of annual gross income.

EFFECTIVE DATE: Upon passage

#### § 75 — FILM AND DIGITAL MEDIA PRODUCTION TAX CREDIT MORATORIUM

With one exception, the act establishes a two-year moratorium on issuing film and digital media production tax credits for motion pictures for FY 14 and FY 15. It does so by (1) barring the issuance of tax credit vouchers for motion pictures and (2) excluding motion pictures from the types of qualified productions eligible for the credits for those years. It creates an exception for FY 15 for a motion picture that conducts at least 25% of its principal photography days in a Connecticut facility that (1) receives at least \$25 million in private investment and (2) opens for business on or after July 1, 2013. PA 13-247 (§ 129) later modified the moratorium by barring, for FY 14 and FY 15, the issuance of tax credit vouchers for motion pictures that have not been designated as state-certified productions prior to July 1, 2013.

Other types of qualified productions continue to be eligible for tax credits during FY 14 and FY 15, including documentaries; long-form, specials, mini-series, series, music videos, or interstitial television programming; relocated television productions; interactive television or games; videogames; commercials or infomercials; and any digital media format created primarily for public viewing or distribution.

EFFECTIVE DATE: July 1, 2013, and applicable to tax credits issued on or after that date.

#### § 76 — ELECTRIC GENERATION TAX

The act extends the temporary tax on electric generation facilities for an additional three months, from July 1, 2013 to October 1, 2013.

By law, the tax is 1/4 of one cent per net kilowatt hour (kwh) of electricity generated and uploaded into the regional bulk power grid at Connecticut facilities. It applies to all electricity except that generated (1) exclusively through use of a fuel cell or alternative energy system, such as a solar or wind system; (2) by a resources recovery facility; or (3) by a customer-side distributed energy facility (e.g., cogeneration systems) with a generating capacity of up to 65 megawatts.

The act also extends to FY 14 the comptroller's authority to count as revenue any generation tax revenue DRS receives within five business days after the July 31 following the end of the fiscal year. Currently, he may do so for FY 12 and FY 13.

EFFECTIVE DATE: Upon passage

#### §§ 77 & 78 — SALES AND USE TAX ON BOATS

The act (1) exempts from the sales and use tax boats docked in Connecticut for 60 days or less and (2) reduces, from 7% to 6.35%, the sales and use tax rate on boats costing more than \$100,000.

EFFECTIVE DATE: July 1, 2013, and applicable to sales occurring on or after that date.

#### §§ 77-78 & 123 — MUNICIPAL REVENUE SHARING ACCOUNT

The act eliminates laws requiring the DRS commissioner to deposit the following amounts into the Municipal Revenue Sharing Account, thus requiring these funds to go to the General Fund:

1. 1.57% of the revenue from the 6.35% sales and use tax on most taxable goods and services;
2. 1.43% of the revenue from the 7% sales and use tax on specified luxury items; and
3. 33% and 20%, respectively, of the revenue from the state real estate conveyance tax of (a) 0.75% on sales of unimproved land and certain bank-owned property and on the first \$800,000 of the sale price of residential property and (b) 1.25% on sales of nonresidential property, other than unimproved land, and any amount of the sale price of a residential property that exceeds \$800,000.

Under prior law, the OPM secretary had to use the account to distribute (1) manufacturing transition grants to municipalities and (2) any remaining funds according to a specified municipal revenue sharing formula.

## § 79 — SALES AND USE TAX EXEMPTION FOR CLOTHING AND FOOTWEAR

Starting June 1, 2015, the act exempts from the 6.35% sales and use tax most clothing and footwear costing less than \$50. The exemption does not apply to:

1. special athletic and protective clothing and footwear not normally worn except for its specialized use and
2. jewelry, handbags, luggage, umbrellas, wallets, watches, and similar items that people carry but do not wear.

## §§ 80 & 81 — SALES AND USE TAX COLLECTION AND REMITTANCE

### *Sales Tax Remittance Program*

For taxable periods from October 1, 2013 to April 1, 2014, the act authorizes the DRS commissioner to require taxpayers (i.e., retailers) who are delinquent in paying sales taxes to electronically remit the sales tax due on sales made by credit or debit card or electronic transfer during the applicable tax period. Affected taxpayers must remit these taxes through a DRS-approved payment processor by the end of the second business day after each applicable sale. The commissioner must prescribe a specific file format for the program and make it available by August 15, 2013.

*Notice to Taxpayer.* The act requires, by October 1, 2013, DRS to notify, in writing, taxpayers that must comply with these requirements. DRS may send the notice by first-class mail addressed to the taxpayer at the location in its records. The notice must contain a complete listing of DRS-approved processors.

*Eligible Sales Tax Processors.* In order to be approved by the commissioner, the act requires payment processors to:

1. use the commissioner-prescribed file format;
2. identify the (a) specific software, and any third-party software, they use and (b) software's and processing's specifications;
3. assure that the software and processing will provide record transactions sufficient for collecting and auditing taxable sales; and
4. make available any additional information the commissioner requires.

*Taxpayer Requirements.* Taxpayers that fail to comply are subject to penalties under the sales and use tax law, including the revocation of their sales tax seller's permits. Existing law authorizes the commissioner, after a hearing, to suspend or revoke a taxpayer's sales tax seller's permit if he or she fails to comply with the sales tax law. In addition, by law, taxpayers that fail to remit sales taxes on time are subject to interest and penalties (1% for each month or

part of a month the payment is overdue, plus a penalty of 15% of the deficiency or \$50, whichever is greater, for negligent or intentional nonpayment and 25% of the deficiency for nonpayment due to fraud).

### *DRS Commissioner's Analysis of Sales Tax Collection and Remittance Methods*

The act requires the DRS commissioner to analyze methods to enhance sales and use tax collection and remittance by retailers and, by February 1, 2014, report his findings and recommendations to the Finance, Revenue and Bonding Committee.

The commissioner's analysis must consider the:

1. amount of sales and use taxes that are annually uncollected or consistently delinquent;
2. availability and effectiveness of alternative methods to collect sales and use taxes, including the electronic remittance program for delinquent taxpayers the act establishes; and
3. advisability of requiring more frequent due dates for remitting the taxes.

He must also consider whether these methods are likely to reduce deficiencies and increase collections.

## § 82 — SALES TAX ON CIGARETTE SALES

This act changes the point at which the sales tax on cigarettes is collected and remitted to the state, and who pays the tax.

Under prior law, licensed cigarette dealers collected sales tax on cigarettes from customers at the point of purchase and remitted the tax to the state. The act instead requires "stampers" (i.e., anyone allowed to buy unstamped cigarettes and put cigarette tax stamps on them) and non-stamping licensed cigarette distributors to (1) collect sales tax on cigarettes they sell to licensed dealers and (2) remit the tax the same way as other sellers (i.e., retailers). It continues to require licensed dealers to collect the tax when selling cigarettes to a customer, but the act allows them to claim a credit against the sales tax equal to the amount of taxes they paid to the distributor or stamper.

The act applies to two transaction chains, both initiated by stampers. Under the first transaction chain, when a stamper sells stamped packages of cigarettes to a licensed dealer, the sale must be treated as a retail sale and not a "sale for resale" (i.e., wholesale). The stamper must (1) collect sales tax from the dealer, even if the licensed dealer presents a valid resale certificate; (2) separately state the tax on its invoice; and (3) file sales tax returns and remit the tax to the state the same way as retailers.

The act requires licensed dealers to similarly collect the tax when they sell a stamped package of cigarettes to a customer, but when calculating the sales price,

dealers cannot include the tax amount paid to the stamper. The act allows the dealer to claim a credit against the sales tax due during a reporting period on its retail cigarette sales equal to the amount of tax it paid to the stamper during the same reporting period.

The second transaction chain starts when the stamper sells stamped cigarettes to a non-stamping distributor, who then sells them to a licensed dealer. The act requires that the sale between the non-stamping distributor and the dealer be treated as a retail sale and not a sale for resale. The same requirements that apply to the stamper in the above transaction apply to the non-stamping distributor. Similarly, when the licensed dealer sells the cigarettes to customers, it must collect the tax and remit it the same way it does for cigarettes purchased directly from a stamper.

EFFECTIVE DATE: July 1, 2013, and applicable to sales occurring on or after that date.

#### § 83 — EARNED INCOME TAX CREDIT (EITC)

Prior law established a refundable state EITC equal to 30% of the federal credit for the same tax year. The act (1) reduces the EITC from 30% to 25% for the 2013 tax year, (2) increases it to 27.5% for the 2014 tax year, and (3) restores it to 30% for subsequent tax years.

EFFECTIVE DATE: Upon passage and applicable to tax years beginning on or after January 1, 2013.

#### §§ 84-86 — KENO

The act allows the Connecticut Lottery Corporation to offer Keno games, in addition to the state lottery, generally subject to the same requirements as other lottery games, including those concerning lottery sales agents, advertisements, and prizes. In Keno, players win prizes by correctly guessing some of the numbers generated by a central computer system using a random number generator, rabbit ear, or a wheel system device using numbered balls. The system draws 20 numbers from a field of 80.

In establishing Keno, the corporation must comply with any revenue agreement the state, through OPM, makes with the Mashantucket Pequot and Mohegan tribes to share Keno revenue. The act authorizes OPM to enter into such agreements requiring the state to pay up to 12.5% of the gross Keno revenues (i.e., the total amount wagered minus prize payouts).

EFFECTIVE DATE: Upon passage

#### §§ 87-88 & 102 — SPECIAL TRANSPORTATION FUND (STF) TRANSFERS

As Table 11 shows, the act changes the amounts annually transferred to the STF from the (1) revenue generated by the petroleum products gross earnings tax

and (2) General Fund. It also adds a one-time transfer from the STF to the General Fund of \$76.5 million for FY 14.

Table 11: Transfer Changes to STF (In Millions)

| FY                  | Transfers from the Petroleum Products Gross Earnings Tax Revenues |         |            | Transfers from the General Fund |       |            | One-Time Transfers from the STF to the General Fund |
|---------------------|-------------------------------------------------------------------|---------|------------|---------------------------------|-------|------------|-----------------------------------------------------|
|                     | Prior Law                                                         | Act     | Difference | Prior Law                       | Act   | Difference | Act                                                 |
| 2014                | \$222.7                                                           | \$380.7 | \$158.0    | \$172.8                         | \$0   | (\$172.8)  | \$76.5                                              |
| 2015                | 226.8                                                             | 379.1   | 152.3      | 172.8                           | 2.1   | (170.7)    | 0                                                   |
| 2016                | 231.4                                                             | 377.3   | 145.9      | 172.8                           | 152.8 | (20.0)     | 0                                                   |
| 2017 and thereafter | 231.4                                                             | 377.3   | 145.9      | 172.8                           | 162.8 | (10)       | 0                                                   |

#### §§ 89, 99-107, 109, & 111 — TRANSFERS TO THE GENERAL FUND

As Table 12 shows, the act transfers funds from various sources to the General Fund. (See Table 11 above for FY 14 transfer from the STF to the General Fund.)

Table 12: Transfers to the General Fund\*

| §       | Source                                                                                         | Amount (millions) | FY   |
|---------|------------------------------------------------------------------------------------------------|-------------------|------|
| 89      | Probate Court Administration Fund                                                              | \$1.0             | 2014 |
| 99      | Connecticut Resources Recovery Authority (CRRA)                                                | Up to 35.0        | 2014 |
| 100-101 | Public, Educational and Governmental Programming and Educational Investment Account (PEGPETIA) | 3.4               | 2014 |
|         |                                                                                                | 3.5               | 2015 |
| 103-104 | State Banking Fund                                                                             | 8.0               | 2014 |
|         |                                                                                                | 3.0               | 2015 |
| 105     | Regional Greenhouse Gas Initiative (RGGI) Account                                              | 5.0               | 2015 |
| 106-107 | Clean Energy Finance and Investment Authority (CEFIA)                                          | 6.2               | 2014 |
|         |                                                                                                | 24.2              | 2015 |
| 109     | Tobacco and Health Trust Fund                                                                  | 3.5               | 2014 |
| 111     | 1998 Tobacco Master Settlement Agreement                                                       | Up to 40.0        | 2014 |

\* PA 13-247 (§§ 149-150, 378, & 388) later changed the State Banking Fund and CEFIA transfers and repealed the RGGI transfer.

EFFECTIVE DATE: Upon passage, except the CRRA and PEGPETIA transfers are effective July 1, 2013.

#### §§ 90 & 91 — ECONOMIC RECOVERY NOTES (ERNS)

The act extends by two years, from July 1, 2016 to July 1, 2018, the maturity date for the ERNs issued to fund the FY 09 deficit. It also authorizes the treasurer to issue refunding bonds for the ERNs without certifying that the state reasonably expects to achieve net debt service savings as a result of the refunding.

EFFECTIVE DATE: Upon passage

## § 92 — GENERALLY ACCEPTED ACCOUNTING PRINCIPLES (GAAP) IMPLEMENTATION

Existing law establishes a procedure to amortize and pay off in annual increments the unreserved negative balances that have accumulated in state funds as a result of not applying GAAP in the past. The procedure requires the comptroller to establish an opening combined balance sheet for all appropriated funds based on GAAP and set up as a deferred charge on the combined balance sheet the accrued and unpaid expenses and liabilities and other adjustments for GAAP purposes.

Under prior law, the state had to pay off this deferred charge in equal annual increments over 15 years, starting in FY 14. The act instead requires the state to make these payments over 13 years, starting in FY 16. PA 13-247 (§ 235) contains an identical provision, in addition to others that make further changes to how the state identifies and reports the accumulated GAAP deficit.

A related act, PA 13-239 (§§ 68 & 69), (1) authorizes the treasurer to issue up to \$750 million in bonds, notes, or other obligations to reduce the state's accumulated GAAP deficit; (2) commits the state to paying off the remaining deficit in annual increments over 13 years, beginning in FY 16; and (3) authorizes actions to assure bondholders that the state will do so.

## §§ 93 & 94 — LOCAL CAPITAL IMPROVEMENT PROGRAM (LOCIP) EXPANSION AND MUNICIPAL GRANTS

LoCIP, administered by OPM, reimburses municipalities for the cost of eligible local capital improvement projects, such as road, bridge, and public building construction activities. The act expands the list of projects eligible for LoCIP funding to include:

1. bikeway and greenway establishment;
2. land acquisition, including open space, and costs associated with making land available for public use;
3. technology acquisition related to implementing the State Department of Education's Common Core State Standards;
4. technology upgrades, including improvements to expand public access to government information through e-portals and kiosks; and
5. for FY 13 and FY 14 only, (a) snow removal equipment and (b) capital expenditures made to improve public safety or facilitate regional cooperation.

The act allows a municipality to apply for LoCIP funds to reimburse any FY 13 expenditures it incurred for any of these newly eligible projects regardless of the application deadlines set under existing law.

Prior law required LoCIP applications to include a certification that the project for which the municipality was requesting reimbursement was consistent with its local capital improvement plan. The act allows the OPM secretary, for any fiscal year, to (1) authorize reimbursement for any of the additional projects before the municipality has added the project to its local capital improvement plan and (2) require the municipality to certify that it is taking steps to amend its plan to include the project.

EFFECTIVE DATE: Upon passage for the expansion of LoCIP eligible projects.

## § 95 — URBAN AND INDUSTRIAL SITES REINVESTMENT TAX CREDITS

The act (1) allows the economic and community development commissioner to pay taxpayers holding urban and industrial sites reinvestment tax credits for their credit eligibility certificates and (2) authorizes up to \$40 million in bonds for this purpose, \$20 million of which is available on July 1, 2014.

By law, the eligibility certificates allow taxpayers to claim credits for investing in certain real estate projects significantly affecting the economy. The credit equals 100% of the invested amount, but must be claimed over 10 years according to a statutory schedule. The credits may be assigned to other taxpayers or carried forward for up to five years.

## § 96 — PROPERTY TAX ASSESSMENT OF APARTMENTS IN CAPITAL CITY ECONOMIC DEVELOPMENT DISTRICT

The act requires Hartford to assess all apartments with four or more units that the Capital Region Development Authority constructs or converts in the statutorily designated Capital City Economic Development District the same way it assesses residential property with three or fewer units throughout the city. In doing so, it lowers the assessments for these apartments.

Under existing law, Hartford sets different assessment ratios for different classes of property. The assessment ratio for apartment property (55% for the 2012 assessment year) proportionately increases each year until it reaches 70% by the 2015 assessment year. The assessment ratio for residential property (29.2% for the 2012 assessment year) increases by up to 5% each year depending on the growth in property tax revenue. By requiring apartments in the district to be assessed the same as residential property, the act lowers the assessment ratio for these apartments. The act's requirements apply to apartments in the district that receive a certificate of occupancy on or after July 1, 2013.

EFFECTIVE DATE: July 1, 2013, and applicable to assessment years starting on or after October 1, 2013.

#### §§ 97 & 98 — RECORDING FEES

The act (1) increases the fees a “nominee of a mortgagee” must pay to town clerks when recording documents, including warranty deeds, quitclaim deeds, mortgage deeds, or mortgage assignments, and (2) specifies how the fee revenue must be allocated. Under prior law, anyone recording these documents paid \$10 for recording the first page and \$5 for each additional page. They also paid \$2 for each mortgage assignment after the first two assignments. The recording party also paid separate \$3 and \$40 recording surcharges, a portion of which was remitted to the state and used to capitalize various accounts.

Under the act, a “nominee of a mortgagee” is any person who (1) serves as mortgagee in the land records for a mortgage loan that is registered on a national electronic database that tracks changes in mortgage servicing and ownership interests in residential mortgage loans on behalf of its members and (2) is a nominee or agent for the promissory note’s owner or the note’s subsequent buyer, transferee, or owner.

The recording fee schedule depends on whether the document is a mortgage assignment in which the nominee appears as the assignor. In the case of a mortgage assignment in which the nominee appears as the assignor, there is a flat \$159 fee for the entire assignment, including the surcharge required under prior law. For any other document, the fee is \$116 for the first page, \$5 for each additional page, \$2 for each mortgage assignment after the first two assignments, plus a \$43 recording surcharge.

The act also specifies how the fees collected from nominees must be allocated, as Table 13 shows.

Table 13: Nominee Fee Revenue Allocation Requirements

| <i>Document</i>                                                                                     | <i>State Share</i>                                                                                                                                     | <i>Municipal Share</i>                                                                                                                                                                                            |
|-----------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Any document recorded by a nominee except mortgage assignments in which nominee appears as assignor | \$110, of which: <ul style="list-style-type: none"> <li>\$74 goes to the General Fund and</li> <li>\$36 to the Community Investment Account</li> </ul> | \$49, of which: <ul style="list-style-type: none"> <li>\$39 goes to the municipality’s general revenue and</li> <li>\$10 to the town clerk’s fund</li> </ul> <p>Town also keeps any fees for additional pages</p> |
| Mortgage assignment in which nominee appears as assignor                                            | \$127, of which: <ul style="list-style-type: none"> <li>\$31 goes to the General Fund,</li> <li>\$36 to the Community Investment Account,</li> </ul>   | \$32 which goes to the municipality’s general revenue                                                                                                                                                             |

| <i>Document</i> | <i>State Share</i>                                                                                                     | <i>Municipal Share</i> |
|-----------------|------------------------------------------------------------------------------------------------------------------------|------------------------|
|                 | and <ul style="list-style-type: none"> <li>\$60 to the State Banking Fund for Foreclosure Mediation Program</li> </ul> |                        |

PA 13-247 (§§ 81 & 82) contains similar recording fee provisions that are effective July 15, 2013.

#### § 108 — MUNICIPAL VIDEO COMPETITION TRUST ACCOUNT

The act prohibits deposits into the municipal video competition trust account for FY 14 and FY 15. Prior law required the comptroller to deposit into the account up to \$5 million each fiscal year from the gross earnings tax on certified competitive video service providers (i.e., certain cable TV companies).

EFFECTIVE DATE: Upon passage

#### §§ 110-112 — TOBACCO MASTER SETTLEMENT AGREEMENT LITIGATION SETTLEMENT

The act specifies how litigation settlement funds received under the 1998 Master Settlement Agreement must be spent. Specifically, it (1) reserves up to \$40 million of the funds to reduce the act’s FY 14 aggregate appropriation for Nonfunctional-Change to Accruals and (2) directs up to (a) \$10 million to the General Fund for FY 14 and (b) \$13 million to a nonlapsing fund to fund enforcement activity related to the agreement. (PA 13-247 (§ 43) (1) directs the \$13 million earmark to a nonlapsing account, rather than fund; (2) specifies that the attorney general and DRS must use these funds for enforcement activities; and (3) authorizes the OPM secretary to determine when these amounts are made available and their amounts.)

EFFECTIVE DATE: Upon passage

#### §§ 113-122 — REVENUE ESTIMATES

The act adopts revenue estimates for FY 14 and FY 15 for appropriated state funds as shown in Table 14.

Table 14: Revenue Estimates for FY 14 and FY 15

| <i>Fund</i>                          | <i>FY 14</i>     | <i>FY 15</i>     |
|--------------------------------------|------------------|------------------|
| General Fund                         | \$17,190,050,000 | \$17,507,500,000 |
| Special Transportation Fund          | 1,243,700,000    | 1,322,700,000    |
| Mashantucket Pequot & Mohegan Fund   | 61,800,000       | 61,800,000       |
| Soldiers; Sailors; and Marines’ Fund | 3,100,000        | 3,200,000        |
| Regional Market Operation Fund       | 1,000,000        | 1,000,000        |



|                                                |            |            |
|------------------------------------------------|------------|------------|
| Banking Fund                                   | 26,609,000 | 27,847,000 |
| Insurance Fund                                 | 30,745,000 | 31,968,000 |
| Consumer Counsel & Public Utility Control Fund | 24,919,000 | 25,384,000 |
| Workers' Compensation Fund                     | 23,709,000 | 25,235,000 |
| Criminal Injuries Compensation Fund            | 3,410,000  | 3,310,000  |

EFFECTIVE DATE: July 1, 2011 for the revenue estimate provision concerning the Criminal Injuries Compensation Fund (PA 13-247 (§ 380) makes this provision effective July 1, 2013, rather than July 1, 2011).

**PA 13-234 — HB 6705**

*Emergency Certification*

**AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS FOR HOUSING, HUMAN SERVICES AND PUBLIC HEALTH**

**SUMMARY:** This act makes changes in laws governing state housing (§§ 1-69, 150 & 155), human services (§§ 70-130 & 153-156), and public health programs (§§131-150, 151-152, & 157).

Concerning housing, PA 12-1, June Special Session, established the Department of Housing (DOH) and made it the lead state agency responsible for all housing matters, including housing and neighborhood policy, development, redevelopment, preservation, maintenance, and improvement. The act completes DOH's establishment by transferring to it various housing-related responsibilities from the Department of Economic and Community Development (DECD), Office of Policy and Management (OPM), and Department of Social Services (DSS).

Concerning human services, the act makes changes in programs mostly administered by DSS and the Department of Children and Families (DCF). The major revisions include (1) creating a new, acuity-based Medicaid rate setting system for hospital care; (2) eliminating the ConnPACE and Charter Oak Health Plan programs; (3) requiring DCF, in conjunction with the State Department of Education (SDE) to take steps to improve the academic achievement of children and youth in DCF or Judicial Branch custody; and (4) enabling nursing homes to recover debt by changing how the law treats resident income and assets.

Concerning public health, the act makes changes affecting various health care facilities and professions regulated by the Department of Public Health (DPH), including physicians, surgeons, nurses, nurse-midwives,

dentists, home health care agencies, assisted living services agencies, community health centers, nonprofit hospitals, and health care facilities' certificate of need applications.

It also makes changes affecting tattoo artists, DPH technical assistance fees for certain construction projects, the Connecticut Vaccine Program (CVP), neonatal intensive care unit transport services, cremation certificate fees, the Tobacco and Health Trust Fund, and the study of high school students' athletic injuries.

Finally, the act makes several technical and conforming changes.

EFFECTIVE DATE: July 1, 2013, unless otherwise specified.

**§§ 1-69, 150, & 155 — DEPARTMENT OF HOUSING**

Under the act, the DOH commissioner generally assumes responsibility for programs concerning:

1. affordable housing development and financing,
2. individual and group housing,
3. rent subsidies,
4. eviction and foreclosure prevention,
5. shelter provision and transitional living, and
6. homeownership.

The act does not transfer (1) administration of the federal Low-Income Housing Tax Credit program or (2) compliance oversight for properties in the state housing portfolio, both of which remain with the Connecticut Housing Finance Authority (CHFA). Nor does the act transfer programs providing clinical services to certain populations (e.g., individuals with mental illness), which remain with DSS and the Department of Mental Health and Addiction Services (DMHAS), for example.

The act specifies that any DOH or DECD orders or regulations in force on January 1, 2013 remain so until amended, repealed, or superseded by law.

**§§ 32-33, 43, 51, & 56-57 — Commissioner**

By law, the DOH commissioner is responsible for developing policies and strategies to encourage housing provision in the state, including for very low-, low-, and moderate-income families. The act adds the commissioner, or his or her designee, to the following entities, increasing their membership by one:

1. Building Accessibility Task Force,
2. CHFA's board of directors,
3. Capital Region Development Authority's (CRDA) board of directors, and
4. Interagency Council for Ending the Achievement Gap.

The act also adds the housing commissioner to the list of officials the OPM secretary must consult with to (1) develop recommendations for the state's priority funding areas for growth-related projects and (2) coordinate state and regional transportation planning with other state planning efforts.

EFFECTIVE DATE: July 1, 2013, except the provision adding the commissioner to CHFA's board of directors takes effect upon passage.

#### *§ 1 — Deputy Commissioner*

The act authorizes the commissioner to appoint a deputy commissioner, who is exempt from classified service. The appointee must be qualified by training and expertise and assume the commissioner's powers and duties if he or she is unable to perform them, or is disqualified from doing so.

#### *§§ 22, 42, 54-55, 68, & 69 — Reporting Requirements*

The act generally requires the DOH, rather than the DECD, commissioner to report annually to the governor and the General Assembly on the state's housing and community development activities during the preceding fiscal year. Under the act, the DOH commissioner must submit the report annually by March 31 and, no more than 30 days later, post it on the department's website.

As under prior law, the annual report must cover or include:

1. the department's housing development functions and activities,
2. the state-funded housing development portfolio,
3. an economic impact analysis of the department's housing development efforts and activities,
4. the Housing Trust Fund and Housing Trust Fund Program,
5. the Energy Conservation Loan Program,
6. a summary of the total social and economic impact of the department's community and housing development efforts and activities,
7. an assessment of the department's performance in meeting its stated goals and objectives,
8. the rental rebate program for the elderly and people with total and permanent disabilities, and
9. an analysis of the department's community development portfolio.

Existing law, unchanged by the act, requires DECD's annual report to also include an analysis of its community development portfolio (i.e., the last reporting requirement listed above) even though, by law, DOH has assumed responsibility for community development activities.

The act specifies that DOH's annual report to the governor and General Assembly must incorporate any other annual reporting requirements set by statute concerning housing or community development.

*State-Assisted Housing Sustainability Fund Report* (§ 22). The act requires DOH to report to the General Assembly by each March 31, rather than by February 1 as DECD had to do under prior law, on the State-Assisted Housing Sustainability Fund's operation during the previous calendar year. By law, the report must include an analysis of fund distribution and performance. It may include recommendations for modifying the program.

*Rental Assistance Program (RAP) Report* (§ 69). By January 1, 2014, and annually thereafter, the act requires the DOH commissioner to report to the Appropriations, Housing, Human Services, and Public Health committees on the number of departmental clients and of those, the number who have been RAP recipients. In submitting the report, the commissioner must consult with the commissioners of children and families, developmental services, mental health and addiction services, and social services. The report must (1) detail voucher utilization under the RAP program and (2) establish targets to ensure that the program's resources are allocated in accordance with legislative intent.

#### *§ 16 — Interagency Council on Affordable Housing*

By law, this council is responsible for advising and helping the DOH commissioner plan and implement the department. The act expands its membership to 18 by adding the following four members: the (1) commissioners of education, developmental services, and aging and (2) president of the Connecticut chapter of the National Association of Housing and Redevelopment Officials (commonly known as CONN-NAHRO), or their designees.

#### *§§ 2, 7-11, 13-15, 17-31, 34-35, 43-44, 67, & 150 — DECD Transfers*

The act gives DOH authority over state housing and community development programs. Among other things, it transfers to DOH DECD's responsibilities with respect to:

1. working with and providing financial assistance to CHFA to achieve the state's housing and community development goals;
2. the state supplier diversity program (formerly called the set-aside program);
3. the affordable housing land use appeals procedure, including maintenance of the assisted housing inventory;

4. the state's consolidated plan for housing and community development;
5. the State-Assisted Housing Sustainability Fund;
6. congregate housing for the elderly;
7. independent living for low- and moderate-income individuals with disabilities;
8. rental assistance for elderly people residing in state-assisted rental housing (known as ERAP);
9. the community housing land bank and land trust program;
10. housing development zones;
11. the homeownership loan program;
12. grants-in-aid to municipalities financing low- and moderate-income rental housing;
13. the Energy Conservation Loan Fund;
14. condominium conversion compliance; and
15. the Common Interest Ownership Act.

The act transfers, from DECD to DOH, the authority to designate a federal HUD Section 202 or Section 236 elderly housing development to provide assisted living services to individuals otherwise eligible to receive these services under the Connecticut Homecare Program for Elders. It also authorizes DOH to designate more than one development.

The act requires DOH to consult with the newly established Department on Aging, rather than DSS as DECD previously did, in providing services to people with disabilities under the congregate housing program.

The law requires DECD to give preference in its grant and loan programs to energy efficient projects. The act extends this requirement to DOH.

#### §§ 2, 36-42, & 55 — OPM Transfers

*Various Programs.* The act transfers, from OPM to DOH, responsibility for administering the (1) Main Street Investment Fund; (2) Housing for Economic Growth Program (i.e., incentive housing zone program); and (3) rental rebate program for the elderly and people with total and permanent disabilities.

OPM remains responsible for administering the Homeowners' Tax Relief Program for the elderly and people with disabilities (known as the circuit breaker program).

*Rental Rebate Program for the Elderly.* The act limits rental rebate program eligibility by specifying that an individual who did not receive a rebate for calendar year 2011 is not eligible to apply for another rebate. An individual who received a calendar year 2011 grant continues to be eligible to apply. But if such an individual does not receive a rebate in any subsequent year, he or she is no longer eligible to apply.

Finally, the act gives the DOH commissioner 120 days, instead of 90 days as OPM had under prior law, to approve payments to municipalities, and forward them

to the comptroller under the rental rebate program. By law, the comptroller must draw an order on the treasurer no later than 15 days after receiving the list of approved payments.

**EFFECTIVE DATE:** The provision (1) removing the rental rebate program from OPM's jurisdiction takes effect July 1, 2013 and applies to assessment years commencing on or after October 1, 2012 and (2) suspending rental rebate applications takes effect July 1, 2013 and applies to applications received on and after April 1, 2013.

#### §§ 2, 12, & 45-50 — DSS Transfers

The act transfers, from DSS to DOH, responsibility for administering:

1. the federal Housing Choice Voucher and Section 8 programs;
2. RAP, including the transitional and emergency rental assistance programs;
3. homelessness prevention programs, including emergency shelter services, transitional housing services, and on-site social services;
4. housing for individuals with AIDS;
5. the rent bank program;
6. the assessment and mediation program for certain families at risk of becoming homeless or in imminent danger of eviction or foreclosure; and
7. the security deposit guarantee program.

The act also transfers, from DSS to DOH, responsibility for administering (1) the homefinders program to help families who are homeless or in danger of eviction or foreclosure and (2) emergency rental assistance for families living in hotels and motels and eligible for the Temporary Family Assistance program. In administering these programs, DOH must consult with DSS. And DSS remains responsible for seeking relief, in accordance with state and federal law, from income garnishment orders when it is in the best interests of children and families.

*Assisted Living Demonstration Project.* The act requires DSS and CHFA to collaborate with DOH, rather than DECD, to operate a demonstration project to provide subsidized assisted living services to seniors residing in affordable housing. The act expands eligibility to seniors age 65 or older who are also eligible for DMHAS' home and community-based program for adults with severe and persistent psychiatric disabilities. Prior law limited eligibility to only those seniors who qualified for the Connecticut Homecare Program for elders.

*Access to DSS Information.* With certain exceptions, the law prohibits DSS from disclosing information about individuals who apply for or receive department assistance, or participate in a department

program. The act requires DSS to disclose to the DOH commissioner's authorized representatives information necessary for verifying whether an applicant is a recipient of DSS cash assistance, and the amount of any assistance.

#### §§ 33 & 52 — *Miscellaneous*

The act removes the DECD commissioner as the chairperson of CHFA's board, instead requiring the governor to appoint the chairperson. It also authorizes CRDA to enter into memoranda of understanding as it deems appropriate to carry out its responsibilities.

#### § 70 — EDUCATION OF BLIND AND VISUALLY IMPAIRED CHILDREN

The Department of Rehabilitative Services (DORS) uses funds from its Educational Aid for Blind and Visually Handicapped Children account to provide and pay for educational services to blind and visually impaired children. The act eliminates the \$6,400 per child annual spending limit.

Prior law required DORS to spend funds from the account in the following order: (1) pay for specialized books, equipment, and material; (2) pay for teaching services that school districts request directly from the department; and (3) reimburse local school districts that directly hire teachers instead of using those employed by DORS. Under the act, DORS no longer provides the school district reimbursements. The act also eliminates the requirement that DORS give any remaining funds to local school districts on a pro rata basis, with a two-to-one credit ratio for Braille-learning students to non-Braille-learning students.

#### §§ 71 & 72 — DCF POST-MAJORITY SERVICES

Under prior law, DCF was the guardian of a child or youth committed to its care for the duration of the commitment, or until another guardian was legally appointed, (a) until age 18 or (b) by the child's consent, until age 21 if he or she was attending a secondary or technical school, college, or state-accredited job training program full-time. The act instead allows a youth committed to DCF prior to age 18 to remain in department custody up to age 21 if he or she consents and is:

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

The act allows the commissioner, in her discretion, to waive the full-time enrollment or participation requirement based on compelling circumstances. It requires DCF, within 120 days after the youth's 18<sup>th</sup> birthday, to file a motion in juvenile court to determine whether continuation of DCF custody is in the youth's best interest and, if so, whether there is an appropriate permanency plan (i.e., a plan stating what permanent outcome DCF feels is in the child's best interest and the facts on which the decision is based). The court may hold a hearing on the motion.

#### *Permanency Plans*

The law gives the commissioner nine months from the time a child or youth under age 18 is placed in DCF custody to file a motion for the court to review the permanency plan. Once the court approves the plan (there is no deadline), the law requires the commissioner to file another motion to review the plan within nine months. A hearing must be held within 90 days after the filing. After the initial hearing, subsequent hearings must be held at least once every 12 months. The act applies this review process to permanency plans for youths age 18 through 20 in voluntary DCF custody. EFFECTIVE DATE: October 1, 2013

#### § 73 — RESIDENTIAL CARE HOME (RCH) RATES

The act provides that residential care homes (RCH) scheduled to receive a lower rate (i.e., State Supplement payment from DSS) in FYs 14 or 15 due to having an interim rate or other agreement with DSS must receive the lower rate. The act prohibits DSS in FYs 14 and 15 from considering if a facility has had its rates rebased when determining rates. (PA 13-247, § 89, eliminates the prohibition.)

The act also provides that for the next two fiscal years, DSS may increase an RCH rate (1) within available appropriations, (2) up to a limit that the DSS commissioner determines, and (3) only if the RCH has a calculated rate greater than the rate in effect on June 30, 2013. The act prohibits DSS from issuing a lower rate to an RCH than the rate in effect on June 30, 2013, which is contrary to the rate reduction required above (PA 13-247, § 89, removes DSS' authority to issue a lower rate than what is in effect on June 30, 2013.)

#### § 74 — NURSING HOME RATES

For FY 14, the act requires DSS to determine nursing home rates based on 2011 cost reports, except:

1. it must apply a 90% minimum occupancy standard (the law generally requires a minimum 95% occupancy unless the home is new);

2. no facility can receive a rate higher than the rate in effect on June 30, 2013;
3. no facility can receive a rate that is 4% less than the rate in effect on June 30, 2013; and
4. any facility that would have been issued a lower rate effective July 1, 2013 due to interim rate status or some other agreement with DSS must be issued a lower rate for the 2013-14 rate year. (PA 13-247, § 90, provides that DSS may reduce a home's rate by up to 4%.)

For FY 15, rates in effect on June 30, 2014 remain the same for the year except that facilities that would have been issued lower rates due to an interim rate status or other agreement with DSS must receive the lower rate.

For FYs 14 and 15, the act permits the commissioner, within available appropriations, to provide pro rata fair rent increases, including for moveable equipment, for facilities that have undergone a material change in circumstances related to fair rent additions or moveable equipment placed in service in the 2012 and 2013 cost report years and not otherwise included in their issued rates.

The act specifies that DSS may decrease, as well as increase, nursing home rates regardless of any contrary provision in the nursing home rate setting law, depending on available appropriations.

#### § 75 — INTERMEDIATE CARE FACILITIES FOR PEOPLE WITH INTELLECTUAL DISABILITIES (ICF-ID)

The act limits to FY 13 levels the rates DSS pays ICF-IDs (group homes) in FYs 14 and 15. But it allows for higher rates if (1) a capital improvement is made to the home during either year for the residents' health or safety and the Department of Developmental Services (DDS) approved it, in consultation with DSS, and (2) funding is available. Homes that would have received lower rates in FYs 14 and 15 due to their interim rate status or some other agreement with DSS must receive a lower rate. (PA 13-139 changes the phrase "mentally retarded" to "intellectual disability" throughout the statutes, including changing the designation of these homes from "intermediate care facilities for people with mental retardation (ICF-MR)" to ICF-IDs).

The act also extends DSS' authority (1) indefinitely, to pay a reduced rate to an ICF-ID that has a significant decrease in land and building costs and (2) for the next two years, to pay a fair rent increase to an ICF-ID that has (a) undergone a material change in circumstances related to fair rent and (b) an approved certificate of need for the change.

Under prior law, the DSS commissioner could increase a facility's rate if there were available appropriations, regardless of the circumstances. Under

the act, the commissioner may also decrease rates, but the act limits his ability to raise or lower the rate to reflect a reduction in appropriations.

Finally, the act prohibits the commissioner, in FYs 14 and 15, from considering if an ICF-ID rebased costs when determining its rate.

#### §§ 76 & 77 — HOSPITAL RATES AND COST SHARING FOR NONEMERGENCY USE OF EMERGENCY ROOM

##### *Inpatient Rates – Diagnostic Related Groups*

The act requires DSS, beginning July 1, 2013, to reimburse acute care and children's hospitals for serving Medicaid recipients based on diagnostic-related groups (DRGs) that the DSS commissioner establishes and periodically rebases. DSS must annually determine the inpatient rates by multiplying DRG relative weights by a base rate. The federal Medicare program uses a DRG-type system when setting the rates it reimburses hospitals for serving Medicare patients. Such a system permits payment based on the severity of each patient's illness.

The act permits the DSS commissioner, within available appropriations, to make additional payments to hospitals based on criteria he establishes.

The act's provisions replace prior law, under which hospitals (including chronic disease hospitals) (1) were reimbursed based on the lower of (a) their reasonable costs or (b) the charge to the general public for ward services or the lowest charge for semiprivate rooms if the hospital had no wards and (2) received a higher amount for serving a disproportionate share of indigent patients. In practice, the hospitals receive a flat daily rate per Medicaid patient, along with a separate payment for serving a disproportionate share of indigent patients (see § 116).

The act eliminates a provision requiring DSS to pay hospitals a lower acute care inpatient rate for patients who no longer need an acute level of care. It also eliminates obsolete provisions and makes technical changes.

By law, the reimbursement rates may not exceed those that the hospital charges to the general public.

The act does not address rates paid to chronic disease hospitals. (PA 13-247, § 91, requires DSS to continue to establish rates for these hospitals.)

##### *Medicare Ambulatory Payment Classification - Outpatient and Emergency Room Rates*

The act requires DSS, beginning July 1, 2013, to pay hospitals for outpatient and emergency room "episodes of" care based on prospective rates that the DSS commissioner establishes in accordance with the Medicare Ambulatory Payment Classification (MAPC)

system, in conjunction with a state conversion factor. The MAPC system must be modified to provide payment for services that Medicare does not normally cover, including pediatric, obstetric, neonatal, and perinatal services. By law and unchanged by the act, these rates may not exceed those that the hospital charges to the general public.

The act requires DSS to pay hospitals that do not have an MAPC code either on a cost-to-charges ratio or a fixed fee in effect as of January 1, 2013. The act retains the requirement that DSS establish a fee schedule.

#### *Fiscal Impact Report*

The act (1) requires the commissioner to determine the fiscal impact of the new DRG and MAPC systems on each hospital and (2) report his results to the Appropriations and Human Services committees no later than six months after implementing the new rate systems.

#### *Cost Sharing for Nonemergency Use of Emergency Room*

The act requires the DSS commissioner, to the extent permitted by federal law, to impose cost sharing requirements on Medicaid recipients who use the emergency room for nonemergency care. The federal Affordable Care Act permits states to impose cost sharing for nonemergency use of emergency rooms.

#### *Utilization and Cost Neutrality*

By law, DSS can modify the outpatient fee schedule and establish a “blended” inpatient rate if it (1) is needed to ensure that its conversion from a managed care to an administrative services organization (ASO) service delivery model is cost neutral to hospitals in the aggregate and (2) ensures patient access. The act makes permanent a provision that allows service utilization to be a factor in determining cost neutrality. Under prior law, this provision would have expired on June 30, 2013.

#### *DSS Authorization to Implement Before Regulations Finalized*

The act permits the DSS commissioner to implement policies and procedures necessary to carry out the above hospital-related provisions while in the process of adopting them in regulation, provided he publishes notice of intent to adopt regulations in the *Connecticut Law Journal* no more than 20 days after implementation.

#### § 77 — SUPPLEMENTAL HOSPITAL PAYMENTS FOR LOW-COST HOSPITALS

The act requires DSS to establish, within available appropriations, a supplemental inpatient pool for low-cost hospitals.

#### § 78 — HOME HEALTH CARE SERVICES FEE SCHEDULE

The law authorizes the DSS commissioner to annually modify fee schedules for home health care services the department provides under Medicaid if doing so (1) is required to ensure that any contract with an ASO is cost neutral to home health care agencies and homemaker-home health aide agencies in the aggregate and (2) ensures patient access (see BACKGROUND). The act makes permanent a provision, which would have expired on June 30, 2013 under prior law, that allows the commissioner to take utilization into account when determining cost neutrality.

#### § 79 — MEDICAL SERVICE PROVIDER PAYMENT RATES

The law authorizes the DSS commissioner to establish payment rates for medical service providers if establishing the rates (1) is required to ensure that any contract it maintains with an ASO is cost neutral to providers in the aggregate and (2) ensures patient access. The act makes permanent a provision, which would have expired on June 30, 2013 under prior law, that permits the commissioner to take utilization into account when determining cost neutrality.

#### § 80 — HOSPICE CARE REIMBURSEMENT RATES

PA 12-1, December Special Session, imposed a 5% reduction on Medicaid reimbursement rates (from 100% to 95% of the facility’s per diem rate) for long-term care facility residents receiving only hospice care from January 1, 2013 through June 30, 2013. The act makes this reimbursement rate reduction permanent.

Some long-term care facility and hospice agency services provided to residents who have chosen hospice care overlap. In this situation, federal Medicaid law allows state programs to set a facility’s per diem rates at 95% of what it would otherwise have been.

#### § 80 — CHIROPRACTIC AND FOREIGN LANGUAGE INTERPRETER SERVICES FOR MEDICAID RECIPIENTS

##### *Chiropractic Services*

PA 12-1, December Special Session, required the DSS commissioner to amend the Medicaid state plan to

limit chiropractic coverage to what is required by federal law. The act eliminates this requirement.

Federal law designates chiropractic coverage as an optional service for adult Medicaid recipients and the state does not currently cover this for adults if the service is provided by an independent chiropractor.

Federal law generally requires that children under age 21 be entitled to receive chiropractic coverage under Medicaid's Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) provisions if ordered by a medical professional to treat a condition that a screening reveals. The state reimburses independent chiropractors treating Medicaid-eligible children and provides some limited chiropractic services beyond those required by EPSDT. The act enables DSS to continue to provide those services.

#### *Interpreter Services*

Federal Medicaid law requires states to provide foreign language interpreter services to individuals with limited English proficiency (LEP). It allows states to receive federal matching funds for LEP interpreters, either by designating them as a covered state plan service or an administrative cost.

The act eliminates the requirements that DSS, by July 1, 2013, (1) amend the Medicaid state plan to include foreign language interpreter services as a covered service to any LEPs, (2) establish billing codes for interpreter services provided under the Medicaid program, and (3) report semi-annually to the Council on Medical Assistance Program Oversight on the foreign language interpreter services provided under this program.

The Medicaid ASO, Community Health Network of Connecticut, Inc., currently provides foreign language interpreter services for Medicaid recipients over the phone and in person upon request.

#### § 81 — REIMBURSEMENT FOR PRESCRIPTION DRUGS

The act eliminates the requirement for DSS, contingent upon federal approval, to reimburse independent pharmacies at a higher rate than chain pharmacies. DSS never implemented this provision.

#### § 82 — MEDICARE SAVINGS PROGRAM (MSP) ELIGIBILITY

The act changes the way DSS determines a person's eligibility for MSP, which provides Medicaid-funded assistance with Medicare Part A and Part B cost-sharing. It requires DSS to disregard the amount of income for each MSP subgroup so that a person with an income that is (1) less than 211% of the federal poverty level (FPL) will qualify for the Qualified Medicare

Beneficiary Program; (2) from 211% of the FPL up to 230% of the FPL will qualify for the Specified Low-Income Medicare Beneficiary program; and (3) from 231% of the FPL up to 245% of the FPL will qualify for the Qualified Individuals program.

Prior law required DSS to disregard the amount of income that equalized the program's income limits with ConnPACE income limits. (The act eliminates the ConnPACE program, see below.)

EFFECTIVE DATE: January 1, 2014

#### §§ 82-84, 88-90, 94-101, & 156 — ELIMINATION OF CONNPACE PROGRAM

The act eliminates the ConnPACE program and removes statutory references to it. This program provides pharmacy assistance to the elderly and individuals with disabilities who do not qualify for Medicare.

EFFECTIVE DATE: January 1, 2014

#### § 83 — CONNECTICUT MEDICARE ASSISTANCE PROGRAM (CONNMAP) ELIGIBILITY

Previously, to qualify for CONNMAP, a resident had to be enrolled in Medicare Part B with an annual income of up to 165% of the ConnPACE qualifying income level (\$43,560 in 2013) or, if married, a combined income of up to 165% of the ConnPACE qualifying income level (\$58,740 in 2013). The act eliminates the income eligibility formula and sets the income limits at the 2013 levels. The act requires the DSS commissioner, starting on January 1, 2014, to annually increase the income limits to the nearest hundred dollars to reflect the annual inflation adjustment in Social Security income. (ConnPACE, which the act eliminates, currently uses the same mechanism to calculate income limit increases.)

EFFECTIVE DATE: January 1, 2014

#### § 85 — CUSTOMIZED WHEELCHAIRS AND OTHER DURABLE MEDICAL EQUIPMENT FOR MEDICAID RECIPIENTS

The law provides that customized wheelchairs must be covered under Medicaid only when a standard wheelchair will not meet an individual's needs, as DSS determines. DSS regulations permit vendors or nursing homes to perform assessments to determine this need. The act removes a requirement that any assessments performed be done only when DSS requests them. The act permits DSS to designate categories of durable medical equipment in addition to customized wheelchairs for which reused equipment, parts, and components are used whenever practicable.

EFFECTIVE DATE: Upon passage

§§ 86, 87, 90–93, 118, 119, & 156 — CHARTER OAK HEALTH PLAN (COHP) ELIMINATED

The act eliminates COHP, effective January 1, 2014. COHP provides health insurance coverage to residents who have been uninsured for at least six months, including those with pre-existing medical conditions. Some individuals currently insured through COHP will be able to enroll in health insurance plans through the Connecticut Health Insurance Exchange, starting in October 2013. Others will qualify for Medicaid under the new federal income eligibility limits, effective January 1, 2014.

EFFECTIVE DATE: January 1, 2014

§ 102 — LEGISLATIVE OVERSIGHT OF PROPOSED CHANGES RELATIVE TO THE AFFORDABLE CARE ACT

Regardless of a provision in law that requires greater oversight (see BACKGROUND), the act requires the DSS commissioner to submit an eligibility and service plan for the Medicaid Coverage for the Lowest Income Populations program, established under the federal Affordable Care Act's expansion of the Medicaid program to cover childless adults with income up to 133% of the FPL and PA 13-184 (the budget act). He must submit the plan to the Human Services and Appropriations committees before submitting it for federal approval.

The act gives the committees 15 days after receiving the plan to hold a public hearing or notify the commissioner if they are not planning to hold one. The committees must advise the commissioner of their approval or denial of the plan within the same time frame. The plan is deemed approved if the committees (1) fail to take any action within the time frame or (2) disagree.

§§ 103 & 156 — REPEAL OF MEDICAID FOR LOW-INCOME ADULTS

The state's Medicaid for Low-Income Adults (LIA) program (HUSKY D) provides Medicaid coverage to childless adults between ages 19 and 64 with income up to about 60% of the FPL, or \$512.05 per month; there is no asset limit. This program is authorized under the federal Affordable Care Act, which also requires states to expand their Medicaid programs for this population with income under 133% of the FPL beginning January 1, 2014. The act repeals the LIA program's enabling statutes. (PA 13-184 also eliminates the LIA program and establishes the new coverage group described above in § 102.)

EFFECTIVE DATE: January 1, 2014

§§ 104-105, 118 & 119 — BEHAVIORAL HEALTH PARTNERSHIP (BHP)

*ASO Service Authorization*

Previously, the ASO had to authorize services based solely on the BHP clinical management committee's guidelines. It could make exceptions when a member or the member's legal guardian or service provider requested one and the ASO determined the exception was in the member's best interest. The act instead (1) requires the ASO to authorize services based solely on "medical necessity," as defined by statute (see BACKGROUND) and (2) allows it to use the clinical management committee's guidelines to inform and guide its authorization decision.

*Program Expansion*

The BHP is an integrated behavioral health system currently operated by DCF, DMHAS, and DSS. BHP's goal is to provide access to complete, coordinated, and effective community-based behavioral health services and supports. The partnership maintains a contract with an ASO, Value Options.

The law requires the DCF, DMHAS, and DSS commissioners to implement the BHP for HUSKY Plan A (Medicaid) and B (S-CHIP) members and children enrolled in DCF voluntary services. The act requires, instead of permits, the commissioners to implement the BHP for all Medicaid recipients, not just those in HUSKY Plan A. In practice, the BHP already provides assistance to all Medicaid recipients. The act also eliminates BHP eligibility for COHP members on January 1, 2014 to conform to the provisions eliminating COHP (see above).

EFFECTIVE DATE: July 1, 2013 for the provision requiring the commissioner to implement the BHP for all Medicaid recipients and January 1, 2014 for the provision eliminating BHP assistance for COHP members.

§ 106 — DSS PAYMENTS TO NON-ICF-ID BOARDING HOMES

The act extends indefinitely the requirement that DSS pay licensed private residential facilities and similar facilities operated by regional educational service centers that provide vocational or functional services for severely handicapped individuals (non-ICF-ID boarding homes) a reduced rate when it has a significant decrease in land and building costs. Under prior law, this requirement was imposed for FY 13 only.

The act allows these facilities to receive higher payments in FYs 14 and 15 if (1) they make a capital improvement in those years for resident health and safety; (2) Department of Developmental Services



approves it, in consultation with DSS; and (3) appropriations are available.

#### § 107 — STATE OMBUDSMAN PILOT PROGRAM

The act requires the state ombudsman, beginning July 1, 2014, to personally, or through representatives of her office, implement and administer a pilot program serving home- and community-based care recipients in Hartford County.

#### § 108 – DEPARTMENT OF REHABILITATIVE SERVICES

PA 11-44 created a new Bureau of Rehabilitative Services (renamed DORS in 2012) to provide services to individuals who are blind and visually impaired and deaf and hearing impaired. DORS assumed all of DSS' Bureau of Rehabilitation Services (BRS) functions.

##### *Assistive Technology Revolving Fund*

The act conforms law to practice by authorizing the DORS, rather than the DSS, commissioner to (1) establish and administer the Assistive Technology Revolving Fund and (2) make loans to people with disabilities for certain equipment and services. The act:

1. expands loan eligibility to include senior citizens and the family members of either group;
2. allows the loans to be used for assistive technology and adaptive equipment and services instead of just assistive equipment;
3. extends, from five to 10 years, the maximum loan term and caps the interest at a fixed rate of up to 6%; and
4. removes obsolete language allowing the State Bond Commission to set the interest rate. (In practice, DORS sets the interest rate; the Bond Commission has not done so for years.)

The act also requires the DORS commissioner to adopt regulations to implement these changes.

##### *Connecticut Tech Act Project*

DORS administers the Connecticut Tech Act Project, which helps clients get the assistive technology they need for greater independence at work, school, or in the community. The act allows the project to provide available assistive technology evaluation and training services upon request. It allows the project to recoup direct and indirect costs by charging a reasonable fee that the DORS commissioner establishes.

#### § 109 — DCF COST ANALYSIS

The act requires the DCF commissioner, by October 1, 2013, to (1) publish on its website an independent cost analysis of full implementation of the 2008 federal Fostering Connections to Success and Increasing Adoption Act and (2) report the analysis results to the Children's and Human Services committees. The commissioner must analyze costs, federal reimbursements, and off-setting savings for DCF to provide post-majority foster care services to all youths:

1. ages 18 to 21;
2. who were in foster care when they turned age 18 or exited foster care after turning age 18 but wish to reenter; and
3. (a) completing secondary education or a program leading to an equivalent credential, (b) enrolled in a post secondary or vocational education institution, (c) participating in a program or activity designed to promote employment or remove employment barriers, (d) employed for at least 80 hours per month, or (e) incapable of participating in any of these activities due to a medical condition.

The analysis must consider all available reimbursements as well as current costs to other state agencies for serving those foster or former foster youths through age 21.

EFFECTIVE DATE: Upon passage

#### § 110 — PILOT MEDICAID DRUG THERAPY PROGRAM

The act requires the DSS commissioner to begin a pilot drug therapy management program in coordination with the Connecticut Pharmacists Association and a community health center in the greater New Haven area. The program must be (1) administered by the health center and (2) operated in cooperation with the medication therapy management activities of "the administrative services organization" (ASO) (presumably Community Health Network, Inc., the ASO with which DSS contracts to help administer the HUSKY program).

The act replaces prior law's requirement that the DSS commissioner contract with a patient-centered medical home; health home; or pharmacy organization, which could include a school of pharmacy, to provide Medicaid therapy management services.

The law, unchanged by the act, requires the program to include reviewing patients' prescription histories and developing medication action plans to reduce adverse medication interactions and related health problems.

#### § 111 — STRETCHER VANS FOR NONEMERGENCY TRANSPORTATION

The act eliminates provisions in PA 12-1, December Special Session, which allowed Medicaid recipients requiring medically necessary, nonemergency transportation to be transported in a stretcher van if they had to be transported in a prone position but did not require medical services during the transport and made related changes.

#### § 112 — NURSING FACILITY NOTIFICATION REQUIREMENT

The law prohibits nursing facilities from admitting anyone, regardless of payment source, who has not undergone a preadmission screening process by which the Department of Mental Health and Addiction Services (DMHAS) determines whether the person is mentally ill and, if so, whether he or she requires nursing facility services. The act allows the DSS commissioner to require a nursing facility to notify DSS within one business day after admitting a person who is mentally ill and meets the admission requirements. EFFECTIVE DATE: Upon passage

#### § 113 — DSS COMMISSIONER'S AUTHORITY TO PURSUE ADDITIONAL FEDERAL AFFORDABLE CARE ACT (ACA) INITIATIVES

By law, the DSS commissioner may implement policies and procedures necessary to pursue optional initiatives authorized by the federal ACA, as amended, while in the process of adopting them in regulation form. The act permits him to also pursue policies, and expands the scope of these initiatives and policies to include, among other things, (1) implementing the modified adjusted gross income eligibility (MAGI) rules and (2) coordinating an integrated eligibility system with the Connecticut Health Insurance Exchange.

Under the ACA, states must expand their Medicaid programs to childless adults under age 65 with income under 133% of the federal poverty level (FPL). The ACA also requires states to disregard an additional 5% of income, bringing the MAGI level to 138% of the FPL.

#### § 114 — PILOT TREATMENT PROGRAM

The act allows the Department of Correction (DOC) to initiate, by October 1, 2013, with support from DMHAS and the Department of Public Health (DPH), a pilot treatment program for methadone maintenance and other drug therapies at facilities including the New Haven Community Correctional Center. The program must be for 18 months and serve 60 to 80 inmates per month. The act allows DPH to

waive public health code regulations that are not applicable to the pilot program's service model.

It requires DOC to report the program results, by October 1, 2014 and April 1, 2015, to the Appropriations, Human Services, and Judiciary committees.

#### § 115 — MAXIMIZING PAYMENTS TO HOSPITALS FOR INPATIENT SERVICES

The act requires OPM, subject to federal approval, to determine the amount of revenue diverted for purposes of maximizing supplemental payments in FYs 14 and 15 for inpatient hospital services that the state's acute care hospitals provide to Medicaid patients. EFFECTIVE DATE: January 1, 2014

#### § 116 — DISPROPORTIONATE SHARE HOSPITAL PAYMENTS

Under federal and state law, Medicaid provides additional reimbursement to short-term hospitals that serve a disproportionate share (DSH) of low-income patients. (By state law, the Connecticut Children's Medical Center and UConn Health Center are not eligible for such payments.) By law, DSS, within available appropriations, can make interim DSH payments in order to maximize federal Medicaid matching funds. In practice, DSS makes these payments on a quarterly basis. Prior law required monthly payments. The act conforms law to practice.

#### § 117 — NURSING FACILITY ADVANCE PAYMENTS

The act eliminates a requirement for the DSS commissioner to consult with the OPM secretary before providing advance payments to nursing facilities that provide services eligible for payment under Medicaid. EFFECTIVE DATE: Upon passage

#### § 120 — CHILDREN'S MENTAL HEALTH TASK FORCE APPOINTMENT

PA 13-178 establishes a Children's Mental Health Task Force. This act requires the House majority leader, instead of the Children's Committee House chairperson, to appoint to the task force a complementary and alternative medicine or integrative therapy expert specializing in the treatment of physical, mental, emotional, and behavioral health issues in children.

#### § 121 — MONEY FOLLOWS THE PERSON (MFP) "II" – DSS AUTHORIZED TO IMPLEMENT BEFORE REGULATIONS FINAL

By law, DSS must develop a plan to establish and

administer a program similar to the MFP demonstration program for individuals who are not institutionalized but at risk of such. The act authorizes the commissioner to implement policies and procedures to implement the program while in the process of adopting regulations, provided he publishes notice of intent to adopt regulations in the *Connecticut Law Journal* no more than 20 days after implementation.

#### § 122 — HEALTHY START

The act codifies the Healthy Start program, which (1) is a line item in DSS' budget, (2) is administered by the Children's Trust Fund, (3) serves pregnant women with incomes up to 250% of the FPL, and (4) promotes and supports positive maternal and neonatal health outcomes. It requires the program to be located within DSS' Medical Care Administration Division.

The act requires the DSS commissioner, in consultation with the DPH commissioner, to (1) develop a plan to maximize federal Medicaid reimbursement for the program to the extent permitted under federal law and (2) expand services within available state appropriations. The plan must include (1) a venue-based (e.g., health departments, hospital clinics, or federally qualified health centers) payment and billing system under which the program services provided by "nonlicensed" staff working with a licensed Medicaid provider can receive Medicaid reimbursement and (2) a funding allocation formula that ensures that all eligible women have access to the program's core services. The program already receives federal grant funds through DPH. (PA 13-247, § 92, eliminates the specifics of the plan.)

The core services include (1) a comprehensive medical and psycho-social risk assessment; (2) development of a care plan; and (3) delivery of care coordination, such as health education and care management services.

By October 1, 2013 and October 1, 2014, the commissioners, within available funds, must review the effectiveness of the state-funded Healthy Start program to determine if the program should (1) continue to be administered by DSS and (2) be expanded and how.

The commissioners must report their study results to the Human Services, Public Health, and Appropriations committees.

#### § 123 — RAISE THE GRADE PILOT PROGRAM

The act requires DCF, in consultation with the State Department of Education (SDE), to establish a two-year, "Raise the Grade" pilot program in Bridgeport, Hartford, and New Haven to increase the academic achievement of children and youth in DCF custody or being served by the Court Support Services Division

(CSSD) of the Judicial Department in these cities.

The program must use full-time coordinators to (1) help identify children or youth performing below grade level and in state custody or under juvenile justice supervision and (2) develop plans, in collaboration with the child's or youth's legal guardian, education surrogate, or advocate to improve the child's academic performance. The coordinators must help facilitate the prompt transfer and review of educational records and report to DCF and the educational surrogate critical educational information, including (1) progress monitoring, (2) absenteeism, and (3) discipline. The coordinators must also help support educational stability for children DCF placed in out-of-home care under emergency temporary custody or commitment orders.

At the end of the pilot, DCF, in coordination with CSSD and SDE, must report to the Achievement Gap Task Force on the number and educational profile of children the program serves and its impact on their educational performance, including achievement, absenteeism, and adverse disciplinary measures.

#### § 124 — ACADEMIC PROGRESS OF CHILDREN IN STATE CUSTODY

The act requires SDE and DCF to (1) annually track the academic progress of children and youth in state custody from prekindergarten through grade 12 and (2) submit a progress report to the Achievement Gap Task Force. CSSD, in collaboration with SDE, must create an annual aggregate report on the progress of youth in its custody.

For each child or youth in state custody for child protection purposes, DCF must include a description of the child's educational status and academic progress in his or her treatment plan. The description must include information on the child's current educational performance level, including absenteeism and grade level performance, and the support or services that will be, or are being, provided to improve his or her academic performance.

For children committed to DCF, the educational status information must be included in reports to the Juvenile Court. The court must review the report when making decisions about the child's well-being in care.

Youths who are in a secure facility run or contracted for by CSSD must have a case plan describing the youths' educational needs and grade-level performance and identifying support and services that are, or will be, provided to support academic performance.

DCF and CSSD must develop a plan to ensure that all facilities and school programs they run or they contract for can meet the academic and related service needs of enrolled children and youth. The plan must ensure the ability to provide:

1. the development of effective practices for acquiring and reviewing a student's educational records, including assessment of his or her present level of academic performance;
2. the youth's identified educational and related service needs;
3. appropriate and ongoing professional development on providing educational and related services to abused, neglected, and juvenile justice involved youth;
4. research-based instruction and standards-based core curriculum for all enrolled youth; and
5. administrative review of all programs that DCF and CSSD run, including those under contract with the agencies.

The plan must be finalized by July 1, 2014 and submitted to the Achievement Gap Task Force.

#### § 125 — RATES PAID TO COMMUNITY HEALTH CENTERS

The act requires DSS to distribute funding, within available appropriations, to federally qualified health centers based on cost reports they submit to the DSS commissioner until the Human Services and Appropriations committees approve an alternative payment methodology.

#### § 126 — MEDICAID STEP THERAPY

The act authorizes the DSS commissioner to establish a "step therapy" program for prescription drugs dispensed to Medicaid recipients. (The act does not define step therapy.) Under the program, DSS may condition Medicaid payments to pharmacies on a patient first trying a drug (for 30 days) that is on DSS' preferred drug list (PDL). Under the act, the step therapy program must:

1. require that the patient try and fail on only one drug on the PDL before another one can be prescribed and be eligible for DSS payment,
2. not apply to any mental health-related drugs, and
3. give the prescriber access to a clear and convenient process to expeditiously request DSS to override the step therapy drug under certain circumstances.

The act requires DSS to expeditiously grant an override of the step therapy restriction if the prescriber demonstrates that the step therapy drug:

1. has been ineffective in treating the patient's medical condition in the past (presumably the same medical condition) or is expected to be ineffective based on the (a) patient's known relevant physical or mental characteristics and

- (b) drug regimen's known characteristics,
2. will cause or will likely cause an adverse reaction or other physical harm to the patient, or
3. is not in the patient's best interest to provide the recommended drug regimen based on medical necessity.

It (1) permits the prescriber to deem the treatment clinically ineffective after the 30 days and (2) requires Medicaid to pay for the drug the prescriber prescribes and recommends instead when this occurs.

It appears that the state's prior authorization law would require a pharmacist to dispense, and DSS to reimburse, a 14-day supply of a non-preferred drug when a prescriber has requested an override of the step therapy drug but a decision to grant has not been made by the time the patient is ready to leave the pharmacy (see BACKGROUND).

#### §§ 127-130 — NURSING HOME DEBT RECOVERY

The act changes how the law treats the (1) assets of Medicaid long-term care applicants and beneficiaries and (2) amount of income Medicaid nursing home residents must apply to their care costs (applied income).

By law, Medicaid long-term care applicants who transfer assets for less than fair market value within five years of applying for coverage are presumed to have done so solely to qualify for Medicaid. People who cannot successfully rebut this presumption face a "penalty period" (period of Medicaid ineligibility).

##### *Medicaid Long-Term Care Asset Transfers*

*Transfers that Create a Debt.* By law, when an asset transfer results in a penalty period, such transfer creates a debt owed to DSS by the person transferring the asset or the transferee. The amount of the debt equals the amount of Medicaid services provided to the transferor beginning on the date the assets are transferred (CGS § 17b-261a).

During a penalty period, DSS does not make Medicaid payments to the nursing home for the transferor's care. The act creates a statutory debt, due the nursing home, in an amount equaling the unpaid cost of care the facility provides during the penalty period. The debt amount may not exceed the fair market value of the transferred assets subject to the penalty period at the time they are transferred.

*Lawsuits.* The act provides that its provisions do not affect any other rights or remedies the parties may have. It permits a nursing home to sue either the asset's transferor or transferee to collect a debt for the unpaid care if the (1) debt recovery is no more than the transferred asset's fair market value at the time of transfer and (2) transfer that triggered the penalty period

occurred no more than two years before the nursing home resident applied for Medicaid.

The act allows a court to award actual damages, court costs, and reasonable attorneys' fees to a plaintiff nursing home if it determines, based on clear and convincing evidence, that the defendant caused the debt to the home by (1) willfully transferring assets that are the subject of the penalty period, (2) receiving the assets knowing their purpose, and (3) materially misrepresenting or omitting the assets.

The court costs and attorneys' fee must be awarded as a matter of law to a defendant who successfully defends an action or a counterclaim that is brought.

By law, the DSS and administrative services commissioners and the attorney general may seek administrative, legal, or equitable relief.

The act further allows the court, including a probate court, to also order the assets or proceeds from the transfer to be held in constructive trust to satisfy the debt.

Under the act, these provisions do not apply to a conservator who transfers income or principal with the probate court's approval (see BACKGROUND).

#### *Applied Income*

**Definition.** In general, nursing home residents determined Medicaid-eligible must spend any income they have, except for a monthly needs allowance, on their nursing home care (i.e., the applied income). If the resident's spouse is living elsewhere, some of the resident's monthly income may go to support that spouse (see below). Under the act, applied income is the amount required to be paid to the home for the cost of care and services after the exhaustion of all appeals and in accordance with federal and state law.

**Considering Community Spouse's Needs and Notice.** The act requires DSS, when determining the amount of applied income, to take into consideration any modification to the applied income due to (1) revisions in the community spouse's minimum monthly needs allowance (MMNA, see BACKGROUND) and (2) other modifications allowed by state or federal law.

Under the act, nursing homes must provide written notice to Medicaid recipients and anyone the law authorizes to control the recipient's applied income. The notice must indicate (1) the amount of applied income due the home and the recipient's legal obligation to pay it and (2) that the recipient's failure to pay it within 90 days of receiving the notice may result in a lawsuit.

**Lawsuits.** The act authorizes a nursing home to sue to recover any applied income amount it is owed. But a home may not initiate a suit when a Medicaid recipient has asserted that his or her applied income is needed to increase the recipient's community spouse's MMNA. In this instance, the home must wait until the Medicaid

recipient, the community spouse, or their legal representative, exhausts their appeal right before DSS and in court.

The act allows the home to sue either (1) the Medicaid recipient who owes the money or (2) someone with legal access to the applied income who acted with the intent to deprive the recipient of the income or appropriate it for himself, herself, or a third person.

If, based on clear and convincing evidence, a court finds that a defendant willfully failed to pay or withheld applied income due and owing to a home for more than 90 days after receiving the notice, it may award the home the amount of debt owed, court costs, and attorneys' fees. The court costs must be awarded as a matter of law to a defendant who successfully defends an action or a counterclaim brought under the act's provisions. These provisions do not apply to a conservator who transfers income or principal with the probate court's approval (see BACKGROUND).

A nursing home may not sue to recover applied income until (1) 30 days after providing the applied income notice or, (2) if the resident did not receive the notice, 91 days after providing the resident notice of the suit along with the information in the applied income notice.

#### *Copies of Complaints and Court Document*

The act requires nursing homes, when filing an applied income or improper asset transfer suit, and after a court issues a related judgment or decree, to mail copies of the complaint and court documents to the attorney general and DSS commissioner.

#### *Life Insurance Policies*

The act provides that, to the extent permitted under federal law, institutionalized individuals cannot be determined ineligible for Medicaid solely based on having a life insurance policy with a cash surrender value of less than \$10,000, provided (1) the individual is pursuing the policy's surrender and (2) once it is surrendered, the proceeds are used to pay for the individual's long-term care.

Currently, a Medicaid applicant may not have more than \$1,600 in liquid assets to qualify for long-term care assistance. (If the applicant is married, this is after the state performs a spousal assessment and gives the community spouse a share of the combined assets.) DSS previously counted the cash surrender value of any life insurance policy with a face value of more than \$1,500 towards the asset limit.

DSS also excludes certain transfers of such policies to cover funerals. DSS will not grant eligibility until the policy is surrendered and the money is "spent down" to the asset limit on the individual's care.

EFFECTIVE DATE: October 1, 2013

#### §§ 131-139 & 157 — TATTOO TECHNICIAN LICENSE

The act creates a new license category for tattoo artists (called “tattoo technician”) administered by DPH. DPH must enforce the licensure program within available appropriations and is authorized to adopt implementing regulations.

Starting July 1, 2014, the act prohibits anyone from engaging in the practice of tattooing unless he or she is age 18 or older and obtains a Connecticut tattoo technician license or temporary permit. A person engages in tattooing if he or she marks or colors anyone’s skin by pricking in coloring matter or by producing scars.

EFFECTIVE DATE: October 1, 2013, except that the (1) conforming change regarding biennial re-licensure takes effect upon passage and applies to registration periods on and after October 1, 2013 and (2) repealer provision takes effect July 1, 2014.

#### §§ 132 & 139 — Licensure Requirements

The act’s licensure requirements vary depending on when a person applies for a license. It requires a person who applies for a tattoo technician license on or before July 1, 2014 to provide DPH with satisfactory evidence that he or she:

1. is age 18 or older;
2. successfully completed, within three years preceding the application date, a course on preventing disease transmission and blood-borne pathogens that (a) complies with federal Occupational Safety and Health Administration (OSHA) standards and (b) requires successful completion of a proficiency examination; and
3. is currently certified in basic first aid training by the American Red Cross or the American Heart Association.

In addition to meeting these requirements, an applicant seeking licensure after July 1, 2014 must provide DPH, in a form and manner the commissioner prescribes, documentation that he or she (1) completed at least 2,000 hours of practical training and experience under the personal supervision and instruction of a tattoo technician or (2) practiced tattooing continuously in Connecticut for at least five years prior to July 1, 2014.

The license application fee is \$250. Licenses must be renewed biennially for a fee of \$200. No license or temporary permit (see below) can be issued if the applicant is facing pending disciplinary action or is the subject of an unresolved complaint in Connecticut or another state or jurisdiction. A person is prohibited from

using the title “tattoo technician,” “tattoo artist,” “tattooist,” or similar title unless he or she has a Connecticut-issued tattoo technician license.

The act’s licensing requirement does not apply to (1) physicians; (2) advanced practice registered nurses (APRNs) working in collaboration with a physician; (3) registered nurses working under the direction of a licensed physician, dentist, or APRN; or (4) physicians assistants working under a physician’s supervision, control, or responsibility.

#### § 132 — Licensure Requirements for Out-of-State Licensees

Notwithstanding the above licensure requirements, the act allows DPH to issue a license to an applicant licensed as a tattoo technician or to perform similar services in another state or jurisdiction who submits to DPH satisfactory evidence that he or she:

1. is currently licensed in good standing to practice tattooing in another state or jurisdiction,
2. has documentation of licensed practice in another state or jurisdiction for at least two years immediately preceding the application date,
3. successfully completed a course on preventing disease transmission and blood-borne pathogens that complies with OSHA standards, and
4. is currently certified in basic first-aid training by the American Red Cross or the American Heart Association.

#### § 132 — Continuing Education

The act requires tattoo technicians to meet a continuing education requirement to have their licenses renewed. Specifically, it requires licensees to successfully complete a course on preventing disease transmission and blood-borne pathogens that (1) complies with OSHA standards and (2) requires successful completion of a proficiency examination.

Each licensee must sign a statement attesting that he or she successfully completed the course within six months before the license expires. He or she must obtain a certificate of completion from the continuing education provider and retain it for at least four years after the year of completing the course. The licensee must submit the certificate to DPH within 45 days after the department requests it.

#### § 132 — Temporary Permits

The act allows the DPH commissioner to issue a temporary permit to:

1. an applicant licensed to practice tattooing in another state and awaiting DPH approval for his or her license application,
2. an applicant previously licensed in Connecticut whose license is void, or
3. a person licensed or certified to practice tattooing in another state who is in Connecticut to attend an educational event or trade show or to participate in a product demonstration.

Applicants for a temporary permit must submit to DPH a:

1. completed application form;
2. copy of a current license or certification to practice tattooing from another state or jurisdiction;
3. notarized affidavit attesting that the license or certification is valid and belongs to the applicant; and
4. \$100 fee, except for out-of-state licensees awaiting Connecticut licensure approval, who must submit a \$250 fee.

Applicants in Connecticut for the educational and professional purposes specified above must submit the documentation and fee at least 45 business days before the event occurs.

The temporary permit, which is not renewable, authorizes the holder to work as a tattoo technician for up to 120 calendar days except that such permits issued to people licensed in another state who are in Connecticut for educational and professional purposes are valid for up to 14 consecutive calendar days and can be issued once each year.

#### § 132 — Student Tattoo Technicians

The act allows a student tattoo technician to practice tattooing under the personal supervision of a licensed tattoo technician for up to two years. The student must register with DPH for purposes of completing the practical training and experience required to obtain a tattoo technician license. The student must submit a registration application to DPH on a form the commissioner prescribes that includes:

1. documentation of the student's successful completion of a course on preventing disease transmission and blood-borne pathogens that (a) complies with OSHA standards and (b) requires successful completion of a proficiency examination,
2. documentation that the student is currently certified in basic first aid training by the American Red Cross or the American Heart Association, and
3. a notarized statement signed by a licensed tattoo technician acknowledging that he or she is personally responsible for supervising the

student's practical training and experience.

#### § 133 — Title Protection

Starting July 1, 2014, the act prohibits anyone from:

1. buying, selling, or fraudulently obtaining or furnishing any diploma, certificate, license, record, or registration showing that a person is qualified or authorized to practice tattooing or participating in such activity;
2. practicing or attempting or offering to practice tattooing under (a) the cover of any of the above documents or (b) a name other than his or her own;
3. aiding or abetting tattooing by a person not licensed in Connecticut or whose license is suspended or revoked;
4. advertising services under the description of tattooing or using the word "tattoo" or "tattooing" without a Connecticut tattoo technician license;
5. practicing tattooing on an unemancipated minor under age 18 without permission of the minor's parent or guardian; or
6. during a period of license suspension or revocation, (a) practicing or attempting, offering, or advertising to practice tattooing or (b) working for or assisting a licensed tattoo technician.

A person who violates any of these prohibitions is guilty of a class D misdemeanor (see Table on Penalties).

#### § 134 — Disciplinary Action

The act allows DPH to take disciplinary action against a licensed tattoo technician for:

1. failing to conform to accepted professional standards;
2. violating the act;
3. fraudulent or deceptive tattooing practices;
4. negligent, incompetent, or wrongful conduct in professional activities;
5. emotional disorders or mental illnesses;
6. physical illnesses or impairments;
7. abuse or excessive use of drugs and alcohol; or
8. willfully falsifying client records.

By law, disciplinary actions available to DPH include (1) revoking or suspending a license, (2) issuing a letter of reprimand, (3) placing the violator on probation, or (4) imposing a civil penalty (CGS § 19a-17). Under the act, the department can also order a licensee to undergo a reasonable physical or mental examination if there is an investigation of his or her physical or mental capacity to practice safely.

The act allows the DPH commissioner to petition Hartford Superior Court to enforce any disciplinary action it takes. The department must notify the licensee of any contemplated disciplinary action and its cause, the hearing date on the action, and the opportunity for a hearing under the Uniform Administrative Procedure Act.

#### § 136 — *Inspections of Tattoo Establishments*

The act allows local or health district health directors, or their authorized representatives, to annually inspect the sanitary condition of tattoo establishments within their jurisdictions. It grants the director or authorized representative full power to enter and inspect a tattoo establishment during usual business hours.

It allows the health director to collect an inspection fee of up to \$100 from the establishment's owner. If the establishment is found to be unsanitary, the health director must issue a written order that the establishment be placed in sanitary condition.

The act specifies, notwithstanding any municipal charter, home rule ordinance, or special act, that any inspection fee collected must be used by the local or district health department for conducting these inspections.

#### §§ 135 & 137 — *Enforcement*

The act specifies that (1) the DPH commissioner must enforce the act within available appropriations and (2) no new regulatory board is established for tattoo technicians.

#### §§ 138 & 157 — *Repealer*

The act repeals a statute regarding tattooing by specified medical professionals or people acting under a physician's supervision in accordance with DPH regulations and makes a related technical change.

#### § 139 — ONLINE LICENSURE RENEWAL AND INCREASED FEES

Starting October 1, 2013, the act requires, rather than allows, physicians, surgeons, nurses, nurse-midwives, and dentists to renew their licenses using DPH's online license renewal system, except in extenuating circumstances, in which case the licensee can renew his or her license using a paper form and paying the professional service fees by check or money order. Such circumstances include not having access to a credit card, which the licensee must document by submitting a notarized affidavit to DPH to that effect.

The act increases the renewal fees for these professionals by \$5 (presumably to cover the associated credit card transaction fees). It removes the provision in

prior law allowing the department to charge a \$5 service fee for online license renewals.

It also removes an obsolete DPH reporting requirement regarding the online license renewal system.

EFFECTIVE DATE: Upon passage and applicable to registration periods beginning on and after October 1, 2013.

#### § 140 — LICENSURE FEES FOR HOME HEALTH CARE AGENCIES AND ASSISTED LIVING FACILITIES

The act establishes a licensing and inspection fee for home health care agencies of \$300 per agency and \$100 per satellite office. The fee must be paid biennially to DPH, except for Medicare- and Medicaid-certified agencies, which are licensed and inspected every three years.

The act also establishes a \$500 biennial licensing and inspection fee for assisted living services agencies, except those participating in the state's congregate housing pilot program in Norwich.

#### § 140 — HEALTH CARE FACILITY TECHNICAL ASSISTANCE FEE

By law, the DPH commissioner may charge a \$565 fee for technical assistance the department provides for the design, review, and development of a health care facility's construction, sale, or ownership change. The act allows the commissioner to also charge this fee for technical assistance provided on a facility's renovation or building alteration.

The act limits the \$565 fee to projects costing \$1 million or less. For projects costing more than this amount, the act requires the commissioner to charge one-quarter of 1% of the total project cost.

The act specifies that the fee includes all DPH reviews and on-site inspections and does not apply to state-owned facilities.

#### § 141 — FINANCIAL ASSISTANCE FOR COMMUNITY HEALTH CENTERS

The act requires the DPH commissioner, within available appropriations, to establish and administer a financial assistance program for community health centers.

The commissioner must develop a formula to disburse program funds to the centers, which must include the number of uninsured patients the center serves and types of services it provides.

The act requires the commissioner to report by October 1, 2013 to the Public Health and Appropriations committees on the disbursement formula. The committees must hold a public hearing on



the report within 30 days after receiving it, and then advise the commissioner of their approval or denial of the proposed formula. If the committees fail to do this within 30 days, the formula is deemed approved. The commissioner cannot implement the formula without the committees' expressed or tacit approval.

The act allows the commissioner to establish program participation requirements, provided she gives reasonable notice of the requirements to all community health centers. The act limits participation to public or private nonprofit medical care facilities that (1) meet community health center statutory requirements and (2) are designated by the U.S. Department of Health and Human Services as a federally qualified health center (FQHC) or FQHC look-alike (i.e., is eligible for but does not receive federal Public Health Service Act Section 330 grant funds). Centers may only use the funds for commissioner-approved purposes.

#### §§ 142 & 143 — CONNECTICUT VACCINE PROGRAM

The act requires the OPM secretary, in consultation with the DPH commissioner, to determine annually by September 1 the amount of the General Fund appropriation to administer the CVP and inform the insurance commissioner of the amount. The law already requires the secretary to annually determine the appropriated amount to purchase, store, and distribute vaccines under the program and inform the insurance commissioner.

By October 1, 2013, the act requires DPH, in consultation with OPM, to develop and begin annually implementing a reconciliation and expenditure projection process for the state's childhood immunization budget account. This process must include (1) an accounting of the previous year's expenditures, (2) the process and factors to be used in determining each future year's assessment, and (3) the establishment of an appropriate notification process for the entities assessed under the account.

The CVP is a state- and federally-funded program that provides certain childhood vaccinations at no cost to health care providers. The state-funded component is funded by an assessment on certain health insurers and third-party administrators.

#### § 144 — CERTIFICATE OF NEED (CON)

The act adds to those factors the Office of Health Care Access (OHCA) must consider when evaluating a CON application whether an applicant who failed to provide, or reduced access to, services by Medicaid recipients or indigent people demonstrated good cause for doing so. It specifies that good cause is not demonstrated solely based on differences in

reimbursement rates between Medicaid and other health care payers.

By law, OHCA must consider several factors when evaluating a CON application, including the applicant's past and proposed provision of health care services to relevant patient populations and payer mix. The act specifies that this includes access to services by Medicaid recipients and indigent people.

The law requires OHCA to also consider, among other things, whether the applicant satisfactorily demonstrated how the proposal will improve the quality, accessibility, and cost effectiveness of health care delivery in the region. The act specifies that this includes the (1) provision of, or change in access to services for Medicaid recipients and indigent people and (2) impact on the cost effectiveness of providing access to Medicaid services.

EFFECTIVE DATE: October 1, 2013

#### § 145 — CREMATION CERTIFICATE FEE

The act allows the OPM secretary, at the Chief Medical Examiner's request, to waive the \$150 cremation certificate fee required for the cremation of a body for which a death certificate has been issued.

#### § 146 — UCONN HEALTH CENTER NICU TRANSPORT SERVICES

The act expressly provides that the University of Connecticut Health Center or a constituent unit, including John Dempsey Hospital (JDH), can discontinue neonatal intensive care unit (NICU) transport services if these services are provided by a qualified transport service.

Existing law established provisions for transferring, from JDH to the Connecticut Children's Medical Center (CCMC), licensure and control of 40 NICU beds after receiving a CON from DPH's OHCA. This transfer took place in 2011, and JDH no longer operates a NICU unit. CCMC is scheduled to start NICU transport services in June 2013.

EFFECTIVE DATE: October 1, 2013

#### §§ 147-149 — NONPROFIT HOSPITAL REPORTING REQUIREMENTS

##### § 147 — *IRS Form 990 and Community Health Needs Assessment Data*

The act requires nonprofit hospitals to submit annually to OHCA (1) a complete copy of the hospital's most recent Internal Revenue Service (IRS) Form 990, including all parts and schedules and (2) data compiled to prepare the hospital's community health needs assessment (see BACKGROUND), in the form and manner OHCA prescribes. But they must not include

patient-identifiable information or other individual patient information. They also must not include information that (1) the hospital does not own or control, (2) the hospital is contractually required to keep confidential or is prohibited from disclosing by a data use agreement, or (3) concerns research on human subjects as described in federal Health and Human Services (HHS) regulations (see BACKGROUND).

The act requires nonprofit hospitals to submit the Form 990 and community health needs assessment data along with information they must already report on uncompensated care and related matters. By law, anyone who wilfully fails to file required information with OHCA within the time periods required by law is subject to a civil penalty of up to \$1,000 for each day the information is missing, incomplete, or inaccurate. EFFECTIVE DATE: October 1, 2013

#### *§ 148 — Civil Penalties for Failing to Complete the Inventory Questionnaire*

By law, OHCA must conduct a statewide health care facility utilization study, and update its statewide health care facilities and services plan, every two years. As part of this process, OHCA must maintain an inventory of in-state health care facilities, services, and specified equipment. Prior law required health care facilities and providers to complete an OHCA questionnaire to develop the inventory, but exempted them from penalties for failing to complete it.

The act instead subjects these facilities and providers to the general civil penalties that apply to persons or facilities that fail to file data or information with OHCA as required by law — up to \$1,000 per day for wilfully failing to comply.

By law, before DPH can impose such civil penalties, it must notify the party by first class mail or personal service of the violation. The person or entity has 15 business days from the mailing date to apply in writing for a (1) hearing to contest the penalty or (2) time extension to file the data. A final order assessing the civil penalty can be appealed to New Britain Superior Court.

#### *§ 149 — Patient Bills*

By law, a hospital must file with OHCA its current pricemaster (detailed schedule of charges). If the billing detail by line item on a patient bill does not agree with the information filed with OHCA, the hospital is subject to a civil penalty of \$500 per occurrence, subject to the procedures set forth above (e.g., the hospital has 15 business days to contest the penalty). OHCA can also order the hospital to adjust the bill to be consistent with the charges on file.

The act specifically requires hospitals to provide detailed patient bills to either DPH or a patient upon request. It also replaces references to “patient bill” with “detailed patient bill” for the purposes of the provisions noted above. It defines a detailed patient bill as a patient billing statement that includes, for each line item, (1) the hospital’s current pricemaster code, (2) a description of the charge, and (3) the billed amount.

EFFECTIVE DATE: October 1, 2013

#### *§ 151 — TOBACCO AND HEALTH TRUST FUND*

The act suspends the operation of the Tobacco and Health Trust Fund’s (THTF) board of trustees, from July 1, 2015 to June 30, 2016, and makes related technical changes. The suspension period does not affect any trustee’s term on the board.

Prior law allowed the trustees to recommend disbursements of up to half of the previous year’s annual disbursement to the THTF from the Tobacco Settlement Fund, up to \$6 million. It also allowed them to recommend disbursements from the THTF’s annual net earnings on principal.

For FY 14 and FY 15, the act instead allows the trustees to recommend disbursements of up to \$3 million from the THTF annually. (This reflects the FY 14 and FY 15 reduction, from \$12 million to \$6 million, in the annual disbursement from the Tobacco Settlement Fund to the THTF in PA 13-184.) Starting in FY 17, the act restores the prior disbursement levels described above.

EFFECTIVE DATE: Upon passage

#### *§ 152 — PILOT PROGRAM STUDYING HIGH SCHOOL ATHLETIC INJURIES*

The act requires the SDE commissioner, in consultation with the DPH commissioner, to establish a pilot program to study the incidence of injuries, particularly concussions, to high school students during interscholastic athletic activities. The commissioner must do this only if federal or private funds are available and the state does not incur a cost.

The SDE commissioner must make grants to 20 high schools to (1) monitor these injuries for two years and (2) report the occurrence of these injuries to the SDE commissioner in a manner he prescribes. The commissioner may accept private and federal funds to make these grants.

Under the act, any school receiving a grant must monitor and report these injuries with the cooperation of the school athletic director, licensed athletic trainers providing services to the school, any physician associated with the school’s athletic program, and the Connecticut Interscholastic Athletic Conference.

Within one year of starting the pilot program, the SDE commissioner must report to the Public Health and Education committees. The report must include (1) a summary of the reports he received from the schools and (2) recommendations for decreasing the number and severity of these injuries.

EFFECTIVE DATE: Upon passage

#### § 153 — TECHNICAL CHANGE

The act makes a technical change to a provision on nursing home facility protocols for a prescription drug formulary system.

#### § 154 — DCF SCREENINGS FOR DEVELOPMENTAL AND SOCIAL-EMOTIONAL DELAYS

The act requires DCF to ensure that children age 36 months or younger are screened for developmental and social-emotional delays if they are (1) substantiated abuse and neglect victims or (2) receiving DCF differential response program services (see BACKGROUND). The department must do this starting October 1, 2013 for the former and July 1, 2015 for the latter.

The department must refer any child found, through the screening, to exhibit such delays to (1) the Birth-to-Three Program (see BACKGROUND) or if ineligible for this program (2) the Children's Trust Fund's Help Me Grow prevention program (see BACKGROUND) or a similar program.

Starting by July 1, 2014, the act requires DCF to begin submitting annual reports on the screenings and referrals to the Children's Committee for inclusion in the committee's annual report card on state policies and programs affecting children.

EFFECTIVE DATE: October 1, 2013

#### *Screenings*

The act requires DCF, within available appropriations, to ensure eligible children age 36 months or younger who are substantiated abuse and neglect victims are screened twice annually, unless the child is found to be eligible for the Birth-to-Three program.

It also requires DCF to ensure eligible children receiving DCF differential response program services are screened, unless the child is found to be eligible for the Birth-to-Three program. But, it does not specify how often these screenings must occur.

The act requires all screenings to be conducted using validated assessment tools, such as the Ages and Stages and the Ages and Stages-Social/Emotional Questionnaires, or their equivalents.

#### *Report*

Starting July 1, 2014, DCF must annually report, for the preceding 12 months, the number of Connecticut children age three or younger who (1) were substantiated abuse and neglect victims or (2) received differential response program services. Of these children, DCF must also report the number who:

1. were screened for developmental and social-emotional delays by DCF or a contracted provider;
2. were (a) referred to the Birth-to-Three program for evaluation, (b) actually evaluated by the program, (c) found eligible for program services and the types of services for which they were eligible; and
3. received evidence-based developmental support services through the Birth-to-Three program or a DCF-contracted provider.

#### §§ 155 & 156— HOUSING AND SOCIAL SERVICES REPEALERS

The act repeals the following housing-related provisions:

1. the sale of rental property by a housing authority between October 1, and November 30, 2003 (CGS § 8-45b);
2. a pilot program requiring that certain multifamily housing projects be adaptable for use and occupancy by people with disabilities (CGS § 8-81a);
3. the Housing Advisory Committee (CGS § 8-385);
4. a homeowner loan program that terminated on June 1, 1991 (CGS §§ 8-415 to 8-419);
5. the Home Heating System Loan Fund, which the state treasurer terminated on July 15, 1985 (CGS § 16a-40k); and
6. a pilot project to provide affordable housing and support services to families with children who have ongoing health care service needs (CGS § 17a-54a).

The act also repeals the following human services-related provisions:

1. CGS § 17a-220 — creates definitions for a Department of Developmental Disabilities Community Residential Facility Revolving Loan Fund (PA 13-247, § 93, restores this) and
2. CGS § 17b-260d — requires the DSS commissioner to apply for a Medicaid home- and community-based services waiver for individuals with AIDS or HIV; DSS never applied for the waiver.

## BACKGROUND

### § 78 — *Converting the Medicaid Program to an ASO Model*

The law authorizes DSS to contract with one or more ASOs (currently, the Community Health Network of Connecticut, Inc.) to provide a variety of nonmedical services for Medicaid and HUSKY B enrollees. DSS previously contracted with managed care organizations to perform most of these services, which they did as part of a risk-sharing capitation payment that covered medical services. The ASO performs the services for a set fee and does not share any risk for providing medical services.

### § 82 — *ConnPACE and MSP*

For over 25 years, the ConnPACE program subsidized prescription drug costs for eligible low-income seniors. In 2009, the legislature equalized MSP eligibility with ConnPACE eligibility, essentially making all Medicare-eligible ConnPACE recipients eligible for MSP, which reduced client medical costs and state ConnPACE costs. In 2011, ConnPACE was eliminated for all Medicare-eligible seniors, since they could receive prescription drug assistance through MSP.

MSP provides Medicaid-funded assistance with Medicare Part A and B cost sharing. Additionally, people who qualify for MSP automatically qualify for the federally funded Medicare Part D Low-Income Subsidy, which provides significant prescription drug subsidies.

### § 104 — *Medical Necessity Definition*

The law defines “medical necessity” as those health services required to prevent, identify, diagnose, treat, rehabilitate, or ameliorate a person’s medical condition, including mental illness, or its effects, in order to attain or maintain the person’s achievable health and independent functioning. The services must be consistent with generally accepted medical practice standards based on (1) credible scientific evidence published in recognized peer-reviewed medical literature, (2) physician-specialty society recommendations, (3) the views of physicians practicing in relevant clinical areas, and (4) any other relevant factors. The services must also be:

1. clinically appropriate in terms of type, frequency, timing, extent, and duration and considered effective for the person’s illness, injury, or disease;
2. not primarily for the convenience of the person, the person’s health care provider, or other health care providers;

3. no more costly than an alternative service or services at least as likely to produce equivalent therapeutic or diagnostic results for the person’s illness, injury, or disease; and
4. based on an assessment of the person and his or her medical condition (CGS § 17b-259b).

### § 127 — *Preferred Drug List (PDL)*

By law, DSS maintains a PDL, which is a list of drugs for which DSS will reimburse pharmacists when they dispense the drugs to Medicaid recipients. By law, if a practitioner prescribes a drug that is not on the PDL, the pharmacist must receive prior authorization from DSS before it can be paid for dispensing the drug. Prior authorization is not required for any mental health-related drug that has been filled or refilled, in any dosage, at least once in the previous year. When prior authorization is granted, it is valid for one year from when the drug is filled. (By law, drugs used to treat AIDS and AIDS-related illness may not be on the PDL (CGS § 17b-274d(f)).

If prior authorization is required and the pharmacist is unable to obtain the prescriber’s authorization at the time the prescription is presented, the law requires the pharmacist to dispense a one-time 14-day supply. By law, DSS issues a flier to pharmacies to distribute to Medicaid recipients, letting them know that they need to contact the prescriber to get the full amount of the non-preferred drug (CGS § 17b-491a).

### §§ 128-131 — *Constructive Trust*

A court can order a constructive trust against someone who, through wrongdoing, fraud, or other unconscionable act, obtains or holds legal property rights to which he or she is not entitled. It is often used to prevent undue enrichment. It can be used to order the person who would otherwise be unjustly enriched to transfer the property to the intended party.

### §§ 128-131 — *Community Spouse Allowance and Monthly Needs Allowance*

When one spouse is living in a nursing home and the other spouse lives elsewhere, the spouse who is not living in the nursing home (called the community spouse in Connecticut) is allowed by Medicaid to keep a portion of the institutionalized spouse’s income. This income, called the community spouse allowance, is determined by subtracting the community spouse’s monthly gross income from the MMNA. The MMNA amount will vary from case to case, but for 2013 the minimum is \$1,892; the maximum is \$2,898. The MMNA takes into account the community spouse’s housing costs (e.g., rent, and utilities).

The minimum and maximum are set by federal law and the state must update the amounts each year. The maximum may be exceeded only if a DSS fair hearing orders it.

*§§ 128-131 — Conservators of the Estates of Medicaid Recipients*

The law requires conservators of the estates of individuals receiving Medicaid to apply towards the recipient's cost of care any assets exceeding the limits set in law. Similarly, the law prohibits conservators from applying, and courts from approving, net income of the conserved person to support a community spouse in excess of the federal MMNA, unless such limits would result in significant financial distress.

The law further permits the probate court to authorize a conservator to make gifts or other transfers of income and principal from the conserved person's estate to certain trusts (CGS § 45a-655 (d) and (e)).

*§ 147 — IRS Form 990 and Community Health Needs Assessment*

The IRS Form 990 is the "Return of Organization Exempt From Income Tax" form. In practice, OHCA currently collects this form from nonprofit hospitals on a voluntary basis.

The federal Patient Protection and Affordable Care Act requires nonprofit hospitals to conduct community health needs assessments at least once every three years, and make the assessments widely available to the public. It also requires such hospitals to include a description of how they are meeting the law's community health needs assessment requirements in their IRS Form 990 filing.

*§ 147 — Research on Human Subjects*

HHS regulations set various conditions for research involving human subjects conducted or supported by federal agencies or otherwise subject to federal regulation. Certain types of research are exempt from the HHS policy (such as research involving the (1) use of educational tests in certain circumstances or (2) collection or study of existing data that is publicly available or recorded in a way that subjects cannot be identified) (45 CFR § 46.101).

*§ 154 — Differential Response Program*

Through the differential response program, DCF can refer families to appropriate community providers for assessment and services (1) at any time during an investigation in an abuse or neglect case or (2) when DCF decides not to investigate such a case that it classifies as presenting a lower risk. These referrals can

occur only when there has been an initial safety assessment of the family's circumstances and criminal background checks have been performed on all adults involved in the report.

*§ 154 — Birth-To-Three Program*

The Birth-to-Three program is designed to strengthen families' capacities to meet the developmental and health-related needs of their infants and toddlers who have developmental delays or disabilities. Eligible families work with service providers to develop Individualized Family Services Plans, with services starting within 45 days of the plan's completion. The plans are reviewed at least once every six months and rewritten at least annually.

DDS is the state's lead agency for the Birth-to-Three program, but families may get referrals from it to other state agencies' programs, depending on the number and type of disabilities a child has.

*§ 154 — Children's Trust Fund's Help Me Grow Program*

The Children's Trust Fund is a division of DSS. Its Help Me Grow program helps parents and child health and service providers access community-based early identification, prevention, and intervention services for child developmental or behavioral problems through a toll-free number.

*Related Act*

PA 13-7 (§ 3) makes the same changes to the Assistive Technology Revolving Fund as § 108 of this act.

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**PA 13-247—HB 6706**  
*Emergency Certification*

**AN ACT IMPLEMENTING PROVISIONS OF  
THE STATE BUDGET FOR THE BIENNium  
ENDING JUNE 30, 2015 CONCERNING  
GENERAL GOVERNMENT**

**SUMMARY:**

This act makes changes to implement the state budget for FY 14 as well as many other unrelated statutory changes. Among its major provisions, the act:

1. revises and updates the education cost sharing (ECS) formula that distributes the largest source of state education aid to towns;
2. maintains existing caps on certain state education formula grants for two more fiscal years, through June 30, 2015;

3. reduces the scheduled increases in per-student grants to state charter schools;
4. delays, from July 1, 2013 to October 1, 2014, a requirement that online regulations posted by the secretary of the state be the “official version” of state agency regulations, and requires agencies to post notices of proposed regulations to the “eRegulation System;”
5. requires the chief court administrator and the commissioner of the Department of Correction (DOC) to assess the effectiveness of family violence training programs by May 31, 2014;
6. requires the Department of Energy and Environmental Protection (DEEP) to consult with the Department of Public Health (DPH) to assess pesticide use at UConn’s Plant Science Research and Education Facility;
7. allows the comptroller to develop and implement a plan to allow nonstate public employees to participate in the Health Enhancement Program established in accordance with the 2011 revised SEBAC agreement;
8. authorizes the emergency services and public protection (DESPP) commissioner to award the Connecticut Medal of Bravery to any Connecticut citizen for saving a life or sustaining injury or death in service to the state or on behalf of another’s health, welfare, or safety;
9. requires electric and gas companies to develop, by September 1, 2013, a three-year furnace replacement loan program;
10. establishes a two-year moratorium on film production tax credits for FYs 14 and 15 for motion pictures that have not been designated as state-certified productions by July 1, 2013;
11. extends by two years, from June 30, 2013 to June 30, 2015, the First Five Plus Program’s sunset date;
12. transfers responsibilities for the “all-payer claims database” from the Office of Health Reform and Innovation, which the act eliminates, to the Connecticut Health Insurance Exchange (HIX);
13. dissolves the Department of Construction Services (DCS) and transfers its powers and duties to the Department of Administrative Services (DAS);
14. eliminates regional planning agencies and regional councils of elected officials after January 1, 2015, leaving regional councils of governments as the only type of regional planning organization; and
15. requires the labor commissioner to establish a

grant program for S-corporations, limited liability companies, limited liability partnerships, and limited partnerships that employ apprentices in the manufacturing, construction, or plastics trades.

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

A section-by-section analysis of the act appears below. Sections not described below were either deleted from the act (§§ 3-10, 15-23, 39, 135, 237, and 377) or make technical changes (§§ 61, 78-80, 88, and 261-319).

EFFECTIVE DATE: July 1, 2013, unless otherwise specified.

#### §§ 1-2, 97-112, & 389 — ADJUSTMENTS IN FYS 14 AND 15 APPROPRIATIONS

The act adjusts funds appropriated in the budget act (PA 13-184) for state agency operations and programs in FYs 14 and 15. The changes affect the General Fund and Soldiers’, Sailors’ and Marines’ Fund. The act’s total adjusted net appropriations for these funds for each fiscal year are shown in Table 1.

Table 1: Revised FYs 14 & 15 Appropriations By Fund

| Fund                                  | New Net Appropriation |                | Change from PA 13-184 |             |
|---------------------------------------|-----------------------|----------------|-----------------------|-------------|
|                                       | FY 14                 | FY 15          | FY 14                 | FY 15       |
| General Fund                          | 17,188,726,568        | 17,497,560,861 | 2,765,000             | (7,235,000) |
| Soldiers’, Sailors’ and Marines’ Fund | 3,099,619             | 0              | 0                     | (3,156,988) |

The act repeals the provisions of PA 13-184 concerning FYs 14 and 15 appropriations from the two funds and makes other conforming changes to that act.

#### §§ 11-13 — EXTENDED DEADLINES FOR CLAIMING PROPERTY TAX EXEMPTIONS

The act gives manufacturers in Bloomfield and Seymour more time to file the necessary documents for claiming the statutory property tax exemption for manufacturing machinery and equipment. It gives those in Bloomfield until July 19, 2013 to file the documents for machinery and equipment the town included on its 2010 and 2011 grand lists. It also gives those in Seymour until that date to file the exemption documents for machinery and equipment the town included on its 2011 grand list.

In both cases, the towns must reimburse these manufacturers for any taxes they paid on the exempt property equal to the exempt amount. Manufacturers claiming the 2010 exemption in Bloomfield must also pay a late filing fee.

EFFECTIVE DATE: Upon passage

#### § 14 — TECHNICAL CHANGES TO ESTATE TAX STATUTES

The act makes technical changes in the estate tax statutes.

EFFECTIVE DATE: Upon passage

#### § 24 — METROPOLITAN DISTRICT COMMISSION CONTRACT COMPLIANCE

The act requires the Metropolitan District Commission (MDC) to participate in the state's small and minority business set-aside program (also called the supplier diversity program). It also extends to MDC contracts various requirements for non-discrimination provisions that apply to state contracts.

MDC is a nonprofit municipal corporation providing water and sewer service in the greater Hartford area. It operates primarily under a 1929 special act charter and answers to a 29-member commission consisting mostly of municipal representatives. Existing law already requires MDC to comply with various affirmative action laws that apply to the state.

##### *Set-Aside Program*

The act deems MDC to be a state agency for purposes of the state's set-aside program, thus requiring MDC to participate in the program. The program requires state contracting agencies and other state entities ("state agencies") and political subdivisions, other than municipalities, to annually set aside at least 25% of the value of their contracts for exclusive bidding by certified small businesses. They must also set aside 25% of that amount (6.25% of the total) for exclusive bidding by certified minority-owned businesses. For these purposes, small businesses are those with a principal place of business in Connecticut and up to \$15 million in gross revenues in the most recent fiscal year before applying to participate. Minority businesses are small businesses owned by women, members of minority groups, people with disabilities, or nonprofit organizations. (PA 13-304 adds the requirements that the (1) small businesses be independent and (2) minority business owners have managerial and technical competence and experience directly related to their principal business activities.)

The contracts may be for constructing roads and buildings or providing goods and services. State agencies and political subdivisions that are otherwise required to participate are exempt from the program if the total value of their contracts is less than \$10,000 in a given year.

#### *Nondiscrimination Requirements for Contractors*

Existing law generally requires state contracts and contracts of political subdivisions, other than municipalities, to contain provisions that protect people against discrimination based on race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability, physical disability, or sexual orientation. The act deems MDC to be a state agency for these purposes, thus extending these requirements to MDC contracts. By law, a person claiming to be aggrieved by a violation of these provisions can file a complaint with the state Commission on Human Rights and Opportunities (CHRO) (CGS § 46a-82).

By law, these requirements do not apply to contracts in which each party is (1) a municipality or other political subdivision of the state, (2) a quasi-public agency, (3) another state, (4) the federal government, (5) a foreign government, or (6) an agency of any of the above.

#### § 25 — PROJECT LONGEVITY INITIATIVE

The "Project Longevity Initiative," launched in New Haven in 2012, is a comprehensive community-based initiative designed to reduce gun violence in Connecticut's cities.

This act requires the Office of Policy and Management (OPM) secretary to secure and use available federal and state funds and resources to (1) support the continued implementation of the initiative in New Haven and (2) work with specified federal and state officials to implement the initiative in Hartford and Bridgeport and create a plan to implement the initiative statewide.

##### *Continued Implementation in the City of New Haven*

The act requires the secretary, in order to ensure or support the project's continued implementation in New Haven, to:

1. provide planning and management assistance to municipal officials in New Haven and
2. do all things necessary to apply for and accept federal funds allotted to or available to the state under any federal act or program.

The act allows the secretary to use state and federal funds as appropriated for the project's continued implementation.

##### *Implementation in Hartford, Bridgeport, and Statewide*

The act requires the secretary, or his designee, in consultation with certain federal and state officials, to

(1) implement the Project Longevity Initiative in Hartford and Bridgeport and (2) create a plan for its implementation statewide. These federal and state officials are:

1. the U.S. attorney for Connecticut,
2. the chief state's attorney,
3. the DOC commissioner, and
4. the Court Support Services Division executive director.

For the implementation of the project in Hartford and Bridgeport, the act requires the secretary, or his designee, to also consult with the cities' mayors, clergy members, nonprofit service providers, and community leaders.

Under the act, the secretary is required to (1) provide the municipal officials in Hartford and Bridgeport with planning and management assistance and (2) secure available federal and state funds to implement the Project Longevity Initiative in both cities, as is required for New Haven's continued implementation.

*Acceptance and Use of Bequests, Devises, or Grants to Further the Objectives of the Project Longevity Initiative*

The act authorizes the secretary, with the governor's and attorney general's approval, to (1) accept and receive any bequest, devise, or grant made to OPM to further the objectives of the Project Longevity Initiative and (2) hold and use such property for the purpose specified, if any, in the bequest, devise, or gift.

§§ 26-36 & 388 — E-REGULATIONS

PA 12-92 required that, on and after July 1, 2013, state agency regulations be available to the public on the secretary of the state's and regulating agency's Internet websites, rather than published in the *Connecticut Law Journal*. It established the same requirement for notices of proposed regulations and their accompanying documents.

This act modifies several of the provisions in PA 12-92. It delays, from July 1, 2013 until no later than October 1, 2014, a requirement that online regulations posted by the secretary of the state be the "official version" of the regulations of state agencies for "all purposes, including all legal and administrative proceedings." It requires the Commission on Official Legal Publications (COLP) to continue publishing regulations in the *Connecticut Law Journal* until this time.

The act names the electronic regulations compilation the "eRegulations System" and requires (1) agencies, and not the secretary, to post to the system notices of proposed regulations and regulation-related

documents and (2) the secretary to post the final regulations. It eliminates requirements for agencies to post regulations and regulation-related documents (e.g., notice of a proposed action) on their own websites.

The act generally eliminates provisions that require a regulation to be submitted in hard copy at various stages of the regulation adoption process. However, it requires the secretary, by January 1, 2014, to develop and implement a plan to maintain at her office a paper copy of all regulations posted on the eRegulations System.

The act revises the requirements for selecting the Regulation Review Committee's co-chairpersons to conform law to current practice. It also requires that several manuals published by the Department of Social Services (DSS) be posted on the eRegulations System. Lastly, it repeals requirements, due to take effect on July 1, 2013, that agencies (1) post all manuals and guidance documents online and (2) post on their websites policies that are implemented before being adopted in regulation form (§ 388, effective upon passage).

§§ 26-29 & 33 — eRegulations System

§§ 26-27 & 33 — *Official Version of State Agency Regulations*. PA 12-92 required the secretary of the state, beginning July 1, 2013, to post online a compilation of all effective state agency regulations, including emergency regulations, adopted on and after October 27, 1970. It (1) required that the compilation be easily accessible to, and searchable by, the public and (2) designated it as the "official version" of the regulations of state agencies for "all purposes, including all legal and administrative proceedings."

The act delays the date on which the electronic regulations compilation (which the act names the "eRegulations System") becomes the official version until the time that the secretary certifies, in writing, that the system is technologically sufficient for this purpose. Under the act, this certification must be (1) made by the secretary by October 1, 2014 and (2) published on the secretary's website and in the *Connecticut Law Journal*.

The act retains PA 12-92's requirement that, beginning July 1, 2013, the secretary post existing regulations online, but it specifies that these regulations are unofficial until she makes the above certification. However, it retains a requirement that regulations noticed on and after July 1, 2013 be posted online in order to be enforceable.

By law, certain regulations that are incorporated by reference into another regulation may be omitted from publication (1) in the *Connecticut Law Journal*, until July 1, 2013, and (2) on the eRegulations System on and after July 1, 2013. Under prior law, in both instances, a notice had to be published (in the journal or on the



system, as appropriate) that identified an omitted regulation, its subject matter, and information on where one could learn more about the regulation. The act delays, from July 1, 2013 until October 1, 2014, the requirement that this notice be published on the eRegulations System, thus eliminating its publication for this 15-month period.

The act requires COLP, within available appropriations, to provide any assistance requested by the secretary in the creation of the eRegulations System. This assistance includes providing the secretary with all effective regulations for posting online.

§ 26 — *Publication in the Connecticut Law Journal*. Under prior law, COLP's publication of regulations in the *Connecticut Law Journal* was scheduled to cease on July 1, 2013. The act requires that, until the secretary certifies that the eRegulations System is ready to be the official version, (1) the secretary forward an electronic copy of each certified regulation to COLP and (2) COLP continue publishing regulations in the journal. Additionally, the act designates the COLP-published regulations as the official version until this time.

Under provisions in prior law that were repealed, effective July 1, 2013, by PA 12-92, COLP had to follow several requirements when publishing regulations. For example, it had to publish (1) in the *Connecticut Law Journal*, a monthly update of approved regulations and (2) a semiannual compilation of all adopted state agency regulations. A regulation or notice of a regulation's adoption also had to appear in the journal for the regulation to be enforceable.

The act does not specify requirements for COLP's publication of regulations on and after July 1, 2013, and it eliminates COLP's ability to omit certain regulations from publication on and after this date (see above). Additionally, even though COLP must publish the official version of the regulations, they do not have to appear in the *Connecticut Law Journal* to be enforceable if they are noticed on and after July 1, 2013. Conversely, although under the act the eRegulations System is not the official version until certified by the secretary of the state, regulations noticed on and after July 1, 2013 must be posted on the eRegulations System in order to be enforceable (see above).

§ 28 — *Notices of Proposed Regulations*. Under PA 12-92, agencies had to, beginning July 1, 2013, (1) post on their websites notices of proposed regulations and regulation-related documents and (2) submit these notices and documents to the secretary of the state for posting on the online compilation. The act eliminates these requirements and instead requires agencies to post these notices and, on and after October 1, 2014, the regulation-related documents, on the eRegulations System. It thus delays, from July 1, 2013 until October 1, 2014, the requirement that the regulation-related

documents be posted online.

By law, an agency may propose, without prior notice, (1) technical amendments to regulations when necessary to conform to certain changes (e.g., a change to the agency's name) or (2) a repeal of a regulation if the authorizing statute is repealed. The act requires the agency to post any such proposed technical amendments or repeals on the eRegulations System, rather than its own website.

By law, any agency that fails to post notice of intent to adopt required regulations by the applicable deadline must explain its reasons in an electronic statement to the governor, legislative committee of cognizance, and Regulation Review Committee. The act requires that, on and after October 1, 2014, the agency also post this statement on the eRegulations System.

EFFECTIVE DATE: July 1, 2013 and applicable to regulations noticed on and after that date.

§ 29 — *Official Regulation-Making Record*. The law requires agencies to create an official regulation-making record that includes, among other things, the notice of intent to adopt regulations, written analyses upon which the regulation is based, submissions and comments received by the agency, and official documents related to the regulation.

The act requires agencies to post this record on the eRegulations System, rather than maintain it as prior law required. It prohibits posting of audio recordings of hearings on the system unless the secretary of the state confirms that posting them would not violate any state or federal law regarding accessibility for people with disabilities. The act requires agencies to maintain audio recordings that are not posted on the eRegulations System and make them available to the public upon request.

EFFECTIVE DATE: October 1, 2014 and applicable to regulations noticed on and after that date.

§ 26 — *Hyperlink on Agency Websites*. The act requires each state agency and quasi-public agency with regulatory authority to post on its website a conspicuous link to the eRegulations System and, if practicable, a link to the specific regulatory provisions that concern the agency or quasi-public agency's particular programs.

### §§ 30-32 — *Regulation Adoption*

By law, proposed regulations must be approved by the attorney general for legal sufficiency before being submitted to the Regulation Review Committee for approval. The act specifies that this requirement also applies to proposed regulations that are resubmitted to the committee. It also requires that (1) proposed regulations be submitted electronically to the attorney general and (2) the attorney general's approval be provided to the agency electronically and submitted by

the agency electronically to the Regulation Review Committee. Under prior law, the attorney general's approval was indicated on the original of the proposed regulation, which was then submitted to the committee. The act retains existing law's requirement that the agency submit the original of the proposed regulation to the committee.

By law, once the committee approves a regulation, the agency must submit it to the secretary of the state. Effective July 1, 2013, the law requires agencies to submit one certified and one electronic copy of an approved regulation to the secretary along with a statement from the agency head certifying that the electronic version is a true and accurate copy of the approved regulation. The act instead requires that, for regulations noticed on and after October 1, 2014, (1) agencies submit only a certified electronic copy to the secretary and (2) the agency head's statement be filed electronically.

EFFECTIVE DATE: July 1, 2014 and applicable to regulations noticed on and after that date, except that the provision on filing with the secretary is effective October 1, 2014 and applicable to regulations noticed on and after that date.

§ 31 — *Regulation Review Committee Co-Chairpersons*. The act conforms law to current practice by revising the procedures for selecting the co-chairpersons of the Regulation Review Committee. It requires that (1) the committee's co-chairpersons be from different political parties; (2) the House chair and Senate chair alternate between political parties in successive terms; and (3) the co-chairpersons be appointed by either the Senate president pro tempore or minority leader, or the House speaker or minority leader, as appropriate. Prior law required the committee to elect its House and Senate co-chairpersons.

EFFECTIVE DATE: July 1, 2014

#### §§ 34-36 — *DSS Manuals and Policies*

§§ 34 & 35 — *eRegulations Posting Requirements*. The act eliminates, effective October 1, 2014, requirements that DSS (1) distribute its medical services and public assistance manuals to its regional and subregional offices, town halls, and legal assistance programs and (2) post the manuals and any updates to them on its website. It instead requires DSS to post these manuals and updates on the eRegulations System.

By law, DSS must adopt as regulations policies necessary to conform to certain federal or joint federal and state program requirements. The law allows the department to operate under such policies while in the process of adopting them in regulation form. Under existing law, DSS must publish a notice of intent to adopt the regulations in the *Connecticut Law Journal* and, effective July 1, 2013, post the policies on its

website and electronically submit them to the secretary of the state for online posting. The act, effective October 1, 2014, eliminates these requirements and instead requires DSS, like other agencies, to post the policies on the eRegulations System. However, for other agencies, this change is effective July 1, 2013.

By law, DSS, instead of submitting these proposed regulations to the Regulation Review Committee, may submit a notice to the committee (1) explaining why it will not meet the submission deadline, and (2) stating when it will submit them. The act requires this notice to be electronic.

The act also eliminates DSS's community services policy manual and instead requires the newly-formed Department of Aging to adopt (and post to the eRegulations System) regulations to carry out the purposes of the federal Older Americans Act of 1965. This provision conforms to the transfer of DSS's Aging Services Division to the Department of Aging, as both the manual and the act address services for older adults. The act extends to the Department of Aging (1) DSS's authority to operate under a policy before adopting it in regulation and (2) the requirements DSS must follow when doing this (see above).

EFFECTIVE DATE: October 1, 2014 and applicable to regulations noticed on and after that date.

§ 36 — *DSS Uniform Policy Manual*. The act requires DSS to make technical and structural changes to its Uniform Policy Manual so that it conforms to the numbering, organization, form, and style of state agency regulations. The act allows DSS to make these changes without following the law's requirements concerning regulation-making proceedings.

DSS must submit the changes to the Regulation Review Committee for review. The act (1) limits the committee's review to confirming that the changes are technical and structural and (2) deems the changes approved if the committee does not act within 45 days after the submission.

Upon the committee's approval, DSS must transfer a certified electronic copy of the changes to the secretary of the state for posting on the eRegulations System. The act deems the corresponding sections of the Uniform Policy Manual as superseded once she does this.

#### § 37 — *POTABLE WATER*

By law, if the (1) DEEP commissioner determines that groundwater pollution has or is reasonably expected to occur and (2) public health commissioner determines that the pollution creates or is reasonably expected to create an unacceptable risk to people using the water for drinking or other domestic or personal uses, the DEEP commissioner may order the person or municipality responsible for the pollution to provide potable drinking

water to all people affected by it.

The act eliminates a requirement that the DEEP commissioner, within available appropriations, provide potable drinking water on a short-term basis to residential buildings and elementary and secondary schools affected by the pollution. Under prior law, he had to provide the water until (1) he ordered provision of a short-term water supply and the recipient complied with the order or (2) a long-term supply of potable water was provided, whichever occurred first.

#### § 38 — AUTHORIZATION TO PAY CERTAIN BEARER BONDS

The act authorizes the State Treasurer's Office to pay, from the appropriation for debt service, \$50,000 for outstanding bearer bonds from the 1956 issue of the State of Connecticut Expressway Revenue and Motor Fuel Tax Bond-Greenwich Killingly Expressway, Second Series.

EFFECTIVE DATE: Upon passage

#### § 40 — YOUTH VIOLENCE INITIATIVE DISTRIBUTION

The act specifies how \$500,000 of the Judicial Branch Youth Violence Initiative appropriation for the city of Hartford must be distributed in both FYs 14 and 15. It provides for grants of (1) \$375,000 to the Greater Hartford YMCA to collaborate with the Urban League of Greater Hartford and Hartford Communities that Care on a Stop the Violence Increase the Peace youth collaborative and (2) \$125,000 to the Blue Hills Civic Association Inc. to collaborate with the Connecticut Center for Nonviolence on an Urban Youth Nonviolence Leadership and Intervention project.

#### § 41 — EDUCATION FUNDING TRACKING AND ACCOUNTABILITY COLLECTION REPORT

By June 30, 2014, the act requires the State Department of Education (SDE) to adopt regulations to implement a fiscal accountability data collection report on where public and charter public schools and school districts get their funds, amounts of the funds, and how they use them.

It requires the SDE to report this data with school size, student demographics, geography, cost-of-living indicators, and any other factors the department determines to the Appropriations and Education committees by December 31, 2014 and annually thereafter.

EFFECTIVE DATE: Upon passage

#### § 42 — RESULTS FIRST POLICY OVERSIGHT COMMITTEE

The act establishes a Results First Policy Oversight Committee to advise on the development and implementation of the Pew-MacArthur Results First cost-benefit analysis model. The committee's overall goal is to promote cost effective state policies and programs.

The committee must at least consist of the following 14 members:

1. four legislators (the House speaker, Senate president pro tempore, and House and Senate minority leaders appoint one each);
2. the chief court administrator, or his or her designee;
3. the comptroller, or his designee;
4. the directors of the non-partisan offices of Legislative Research, Fiscal Analysis, and Program Review and Investigations;
5. the director of Central Connecticut State University's Institute for Municipal and Regional Policy;
6. the Commission on Children's executive director;
7. a private higher education representative, whom Connecticut Conference of Independent Colleges appoints; and
8. two Connecticut business community members, whom the majority leaders of the House and Senate appoint.

The act allows the committee to add members. Members serve without compensation but may receive necessary expenses for performing their duties.

Appointing authorities must make the initial appointments by July 19, 2013. The chairperson, whom the House speaker and Senate president jointly select, must schedule the committee's first meeting for no later than August 18, 2013.

By October 1, 2013, and annually thereafter, the committee must report to the governor and the Appropriations Committee with recommended measures for implementing the Pew-MacArthur Results First cost-benefit analysis model.

EFFECTIVE DATE: Upon passage

#### § 43 — TOBACCO MASTER SETTLEMENT AGREEMENT LITIGATION SETTLEMENT

The budget act (PA 13-184 (§112)) specifies how litigation settlement funds received under the 1998 Master Settlement Agreement must be spent. Under that act, \$13 million of the settlement funds are directed to a nonlapsing fund to fund enforcement activity related to the agreement. This act (1) directs the funds to a nonlapsing account, rather than fund; (2) specifies that

the attorney general and the Department of Revenue Services (DRS) must use these funds for enforcement activities; and (3) authorizes the OPM secretary to determine when to make funds available and in the amounts he specifies.

EFFECTIVE DATE: Upon passage

#### § 44 — GOVERNMENT ACCOUNTABILITY COMMISSION

The act prohibits state employees from serving as designees on the Government Accountability Commission. By law, the commission is within the Office of Government Accountability and consists of the following nine members, or their designees: the chairpersons of the Citizen's Ethics Advisory Board, State Elections Enforcement Commission, Freedom of Information Commission, Judicial Selection Commission, Board of Firearms Permit Examiners, and State Contracting Standards Board; Judicial Review Council executive director; and the child and victim advocates.

#### § 45 — EDUCATION TALENT DEVELOPMENT AND STATEWIDE STANDARDS REPORT

By January 1, 2014 and quarterly thereafter until January 1, 2016, the act requires the SDE commissioner to report to the Appropriations and Education committees on local and regional board of education talent development programs and the implementation of statewide education standards. For each program, the report must include program evaluation measures, the program's status based on performance, the number of evaluators hired and certified, the total number of evaluators and where they are located, and the program's personnel and finances.

EFFECTIVE DATE: Upon passage

#### §§ 46-50 — CHILDREN'S TRUST FUND COUNCIL

The act eliminates the Children's Trust Fund Council and makes many conforming changes to the laws specifying its duties, several of which it shared with the social services commissioner.

#### § 47 — *Use of Children's Trust Fund Resources*

By eliminating the council, the act gives the social services commissioner exclusive authority to use the Children's Trust Fund. This authority includes: (1) applying for, accepting, and administering, federal funds and (2) soliciting and accepting funds for the prevention of child abuse and neglect and for family resource programs.

#### § 47 — *Regulations*

By eliminating the council, the act also gives the social services commissioner the exclusive authority to adopt regulations to administer the fund and establish program eligibility requirements.

#### § 46 — *Child Poverty and Prevention Council Membership*

By eliminating the council, the act removes the chairperson of the Children's Trust Fund Council from membership on the Child Poverty and Prevention Council, which, by law, must (1) develop a 10-year plan to reduce the number of children living in poverty by 50%, beginning June 8, 2004 and (2) within available funding, establish prevention goals and recommendations and measure prevention service outcomes to promote the health and well-being of children and families.

#### § 48 — *Kinship Fund and Grandparents and Relatives Respite Fund Administration*

The act eliminates the Children Trust Fund Council's authority to administer the Kinship Fund and the Grandparents and Relatives Respite Fund, leaving its administration exclusively to DSS through the Probate Court. The fund provides grants to grandparents or other relative caregivers appointed as a child's guardian by the Superior Court.

#### § 49 — *Child Abuse and Neglect Prevention Programs*

The act eliminates the requirement that DSS collaborate with the Children's Trust Fund Council in executing its duties as lead agency for prevention programs designed to prevent child abuse and neglect. These programs include:

1. Nurturing Families Network,
2. Family Empowerment Initiative programs,
3. Help Me Grow,
4. Kinship Fund and Grandparents Respite Fund,
5. Family School Connection,
6. support services for residents of a respite group home for girls,
7. legal services for indigent children,
8. volunteer services,
9. family development training,
10. shaken baby syndrome prevention, and
11. child sexual abuse prevention.

### § 50 — *Nurturing Families Network*

The act reassigns several duties of the Children's Trust Fund Council to the executive director of the Office of Early Childhood, which the governor created under Executive Order No. 35 (June 24, 2013). These duties relate to the Nurturing Families Network, which aims to reduce the abuse and neglect of infants through hospital assessments and home visits. They include:

1. establishing the structure for a statewide system for the Nurturing Families Network;
2. developing a comprehensive risk assessment for the network's providers to use;
3. developing the training program, standards, and protocols for pilot programs;
4. developing, issuing, and evaluating requests for proposals for service delivery systems for programming;
5. establishing a data system to enable programs to document information in a standard way; and
6. reporting to the General Assembly about the Nurturing Families Network on January first and July first annually.

### § 51 — MAGISTRATES' PER DIEM FEES

The act increases, from \$150 to \$200, the per diem fee for magistrates hearing small claims and motor vehicles cases.

### § 52 — OFFICE OF THE CHILD ADVOCATE

The act reduces the number of candidates that the Office of the Child Advocate advisory committee must submit to the governor when a vacancy in the advocate position occurs. Under prior law, the committee had to submit at least five, but not more than seven, candidates. Under the act, it must submit at least three, but not more than five.

By law, the committee must meet to consider and interview successor candidates and submit a list of individuals to the governor, ranked in order of preference, for appointment. Within eight weeks, the governor must designate a candidate from among the choices on the list. If he does not, the first-ranked choice receives the designation and is referred to the General Assembly for confirmation.

### §§ 53 & 54 — JUDICIAL BRANCH'S COURT SUPPORT SERVICES DIVISION (CSSD) AND DOC PROGRAMS RELATED TO FAMILY VIOLENCE

The act requires the chief court administrator and the DOC commissioner, by May 31, 2014, to (1) assess the effectiveness of the family violence programs

provided by CSSD (including the pretrial family violence education, EVOLVE, and EXPLORE programs) and DOC; (2) consider the Pew-MacArthur Results First Initiative's cost-benefit analysis model with respect to each program; and (3) determine whether any changes may be implemented to improve the programs' cost-effectiveness.

The act also requires the chief court administrator and the commissioner to submit a report to the Appropriations and Judiciary committees by June 30, 2014. The report must (1) describe the assessment, (2) identify any program changes CSSD and DOC implemented as a result, and (3) make any recommendations they deem appropriate concerning statutory program changes to improve the programs' cost-effectiveness.

EFFECTIVE DATE: Upon passage

### § 55 — PROBATE COURT ADMINISTRATION FUND

Beginning with FY 13, the act annually transfers, from the probate court Administration Fund to the General Fund, any probate fund balance on June 30 exceeding 15% of its authorized expenditures in the coming fiscal year. Under prior law, all surplus funds from the probate fund were annually transferred to the General Fund.

### § 56 — PESTICIDE ASSESSMENT OF UCONN'S PLANT SCIENCE RESEARCH AND EDUCATION FACILITY

The act requires DEEP, by October 31, 2013, to assess the pesticide practices used at UConn's Plant Science Research and Education Facility. DEEP must do the assessment in consultation with DPH.

The assessment must examine the facility's (1) procedures for pesticide storage and application; (2) protocols to ensure safe pesticide application, including pesticides that require a U.S. Environmental Protection Agency experimental use permit; and (3) water testing regimen. The water testing regimen evaluation must include a review of the (1) timing, locations, and types of testing involved; (2) number of wells subject to testing; and (3) types of pesticides identified by the testing.

The act requires the agencies to provide to the Environment Committee by February 1, 2014 any recommendations for legislation or revised practices that they determine are needed based on the assessment's results.

EFFECTIVE DATE: Upon passage

#### § 57 — FUNDS FOR GROUNDWATER TESTING

The act transfers up to \$100,000 of UConn's FY 14 Operating Expenses appropriation to DEEP for FY 14. DEEP must (1) use the funds to investigate groundwater flow quality in bedrock and (2) enter into a memorandum of understanding with UConn for this purpose.

#### § 58 — OFFICE OF FISCAL ANALYSIS FISCAL NOTE REVIEWS

The act eliminates the requirement that the Office of Fiscal Analysis, every second and fourth year after an enacted bill's effective date, review the bill's fiscal note and compare it to the original fiscal note prepared when the bill was enacted.

#### § 59 — REEMPLOYED RETIRED TEACHERS AND TENURE

The act prohibits retired teachers who are rehired to teach at a public school at a lower pay scale and while collecting their pension from having their retired service count toward earning tenure.

#### § 60 — SUPPORTIVE HOUSING SERVICES

The act authorizes the Department of Mental Health and Addiction Services (DMHAS), DSS, and DOC commissioners; the OPM secretary; and the Judicial Branch's Court Support Services Division's executive director to (1) develop a plan to provide supportive housing services, including housing rental subsidies during FYs 14 and 15 for an additional 160 individuals and families who frequently use expensive state services and (2) enter into memoranda of understanding to reallocate, within existing appropriations, the necessary support and housing resources for this purpose.

#### § 62 — MUNICIPAL USE OF TELECOMMUNICATIONS WIRES

The act allows municipalities and the Department of Transportation (DOT) to use one position on overhead and underground telecommunication lines for any purpose, rather than just for municipal and state signal wires.

#### § 63 — HIGHER EDUCATION POLICE FORCES

By law, UConn and all its campuses and the four universities in the Connecticut State University System (CSUS) are authorized to establish their own special police forces, whose officers are classified state employees. The act repeals a provision in PA 13-3 that exempted these police forces from certain provisions of

the State Personnel Act that address civil service qualifying exams and hiring timelines. It removes authority granted by that act for UConn and the Board of Regents for Higher Education (BOR, which governs CSUS) to determine the:

1. preliminary requirements, including educational qualifications, for members of the special police forces for UConn and CSUS, respectively, and
2. timeline for filling vacancies on the respective police forces, including (a) when an exam for a vacant position will be offered and how soon after the exam an appointment to a vacant position can be made and (b) if an exam is unnecessary because of a sufficient candidate list provided by the administrative services commissioner, when to make an appointment from that list.

The act thus returns this authority to DAS.

#### §§ 64 & 65 — PAYMENT OF CRIMINAL AND PROBATE COURT FEES WITH CREDIT OR DEBIT CARDS

The act allows courts in criminal cases and probate courts to accept payment of fees by credit, charge, or debit cards, and charge related service fees (which cannot exceed the card issuer's charge, including the discount rate).

Existing law already grants superior courts (presumably for all cases) and probate courts the authority to accept credit cards and charge service fees (CGS §§ 51-193b, 45a-113).

#### § 66 — PETROLEUM PRODUCTS GROSS EARNINGS TAX EXEMPTION

The act exempts from the petroleum products gross earnings tax propane gas used for school bus fuel.

#### § 67 — MIXED MARTIAL ARTS (MMA)

The act makes any person, firm, or corporation that employs or contracts with someone to compete in an MMA match liable for health care costs the competitor incurs for any injury, illness, disease, or condition resulting from participating. This includes diagnosis, care, and treatment costs for the duration of the injury, illness, disease, or condition. (PA 13-259 legalized MMA.)

EFFECTIVE DATE: October 1, 2013

#### § 68 — HOSPICE ZONING REGULATIONS

The act requires local zoning regulations to treat as single-family homes certain DPH-licensed inpatient

hospice facilities serving up to six people. These facilities must be:

1. managed by a tax-exempt nonprofit organization,
2. served by public sewer and water, and
3. located in a city with more than 100,000 residents within a zone allowing development on one or more acres.

EFFECTIVE DATE: October 1, 2013

#### § 69 — INTEREST RATE ON DELINQUENT PROPERTY TAXES

sSB 820 would have given towns the option of reducing the annual interest rate they charge on delinquent property taxes from 18% per year to between 15% and 18%. The act would have made the interest rate for delinquent property taxes on property sold for tax purposes between 15% and 18%, to conform to sSB 820, but sSB 820 did not become law. Thus, this provision has no legal effect.

EFFECTIVE DATE: October 1, 2013, and applicable to assessment years starting on or after that date.

#### § 70 — ELECTRIC VEHICLE CHARGING STATIONS

The act repeals a provision of PA 13-298 that bars vehicle manufacturers or distributors from requiring a dealer to purchase goods or services (e.g., vehicle battery charging stations) from a vendor the manufacturer or distributor chooses if substantially similar items are available from other sources.

EFFECTIVE DATE: Upon passage

#### § 71 — ECONOMIC DEVELOPMENT STRATEGIC PLAN

The act delays, by one year, the date by which the economic and community development (DECD) commissioner must prepare her next economic development strategic plan. It requires a report every four instead of every five years, starting by July 1, 2015. Under the previous five-year schedule, the next report was due by July 1, 2014.

#### § 72 — BIOSCIENCE AND PHARMACEUTICAL BUSINESSES IN SOUTHEASTERN CONNECTICUT

The act requires Connecticut Innovations, Inc. (CII) to develop a plan, for which it may spend up to \$50,000, to aid the growth of bioscience and pharmaceutical businesses in southeastern Connecticut. CII must (1) consult with the DECD commissioner to ensure that the plan aligns with the state's bioscience economic development strategy and (2) submit the plan to the

governor, DECD, and the Commerce Committee by January 1, 2014.

#### § 73 — CARBON FOOTPRINT DATA STUDY

The act requires the DAS commissioner to study the feasibility of including carbon footprint data as factors in awarding state contracts. The data must include the:

1. distance that bidders and proposers must travel in performing the contract,
2. bidders' and proposers' potential fuel consumption, and
3. potential environmental impact and pollution created by transporting necessary goods and services.

The commissioner must (1) conduct the study in consultation with UConn and other agencies or entities he chooses and (2) report on the study's results to the Government Administration and Elections Committee by February 1, 2014.

#### § 74 — DMHAS PILOT FOR ALCOHOL-DEPENDENT PEOPLE IN NEW HAVEN

The act requires the DMHAS commissioner to establish and implement a pilot program to help alcohol-dependent people discharged from New Haven-area hospitals. The program must help such people obtain outpatient treatment and community support services, including housing.

The act allows the commissioner to contract for services to administer the pilot program.

EFFECTIVE DATE: October 1, 2013

#### § 75 — LONG ISLAND SOUND ASSEMBLY GRANTS

The act carries forward up to \$150,000 of unspent funds previously appropriated to DEEP for environmental conservation and makes them available for grants to the Long Island Sound Assembly (LISA) of \$75,000 each in FYs 14 and 15. LISA, composed of three regional advisory councils and representing 36 coastal and watershed communities, submits annual reports to the legislature on the use and preservation of Long Island Sound.

#### § 76 — OPM YOUTH SERVICES PREVENTION

The act specifies that the OPM Youth Services Prevention appropriations must be distributed to certain governmental and non-governmental entities, in both FYs 14 and 15. Table 2 provides each grant recipient and amount received.

Table 2: OPM Youth Services Prevention Grants

| <i>Grant Recipient</i>                                       | <i>Grant Amount</i> |
|--------------------------------------------------------------|---------------------|
| Communities That Care                                        | \$42,177            |
| Supreme Being, Inc.                                          | 42,177              |
| Windsor Police Department Partnership Collaboration          | 42,177              |
| Hartford Knights                                             | 42,177              |
| Ebony Horsewomen, Inc.                                       | 42,177              |
| Boys and Girls Clubs of Southeastern Connecticut             | 81,104              |
| Compass Youth Collaborative Peacebuilders Program            | 396,661             |
| Artist Collective                                            | 43,740              |
| Wilson-Gray YMCA                                             | 43,740              |
| Joe Young Studios                                            | 43,740              |
| Believe in Me Inc.                                           | 50,000              |
| Institute for Municipal and Regional Policy                  | 341,339             |
| Solar Youth New Haven                                        | 30,446              |
| Dixwell Summer Stream - Dixwell United Church of Christ      | 100,000             |
| Town of Manchester Youth Service Bureau Diversion Program    | 85,303              |
| East Hartford Youth Task Force Youth Outreach                | 85,303              |
| City of Bridgeport Office of Revitalization                  | 67,163              |
| Walter E. Lockett, Jr. Foundation                            | 67,163              |
| Bridgeport PAL                                               | 134,326             |
| Regional Youth Adult Social Action Partnership               | 44,775              |
| Save Our Youth of Connecticut                                | 44,775              |
| Action for Bridgeport Community Development                  | 44,775              |
| Gang Resistance Education Training (Captain Roderick Porter) | 67,163              |
| Family Re-entry Inc. (Fresh Start Program)                   | 67,163              |
| The Village Initiative Project, Inc.                         | 134,326             |
| Yerwood Center                                               | 125,000             |
| Boys and Girls Club of Stamford                              | 45,994              |
| Chester Addison Community Center                             | 100,000             |
| Neighborhood Links Stamford                                  | 25,000              |
| River-Memorial Foundation, Inc.                              | 60,357              |
| Hispanic Coalition of Greater Waterbury, Inc.                | 60,357              |
| Police Activity League, Inc. (Long Hill Rec. Center)         | 60,357              |
| Willow Plaza Center                                          | 60,357              |
| Boys and Girls Club of Greater Waterbury                     | 60,357              |
| W.O.W. (Walnut Orange Wood) NRZ Learning Center              | 60,357              |
| Serving All Vessels Equally                                  | 211,584             |
| Human Resource Agency of New Britain, Inc.                   | 100,000             |
| Pathways Senderos                                            | 45,000              |
| Prudence Crandall of New Britain                             | 20,000              |
| OIC of New Britain                                           | 45,000              |
| Nurturing Families Network (New Britain)                     | 23,715              |
| City of Meriden Police Department                            | 150,652             |
| North End Action Team                                        | 64,579              |

## § 77 — EXPANSION OF HEALTH ENHANCEMENT PROGRAM

The act allows the comptroller to (1) develop and implement a plan to allow non-state public employees to participate in the Health Enhancement Program (HEP) established in accordance with the provisions of the 2011 Revised SEBAC Agreement and (2) adopt implementing regulations. HEP requires participants to maintain a prescribed schedule of check-ups and screenings or face higher health insurance premiums.

## §§ 81 & 82 — RECORDING FEES FOR NOMINEES OF MORTGAGEES

The act (1) increases the fees a “nominee of a mortgagee” must pay to town clerks when recording certain documents, including warranty deeds, quitclaim deeds, mortgage deeds, or mortgage assignments, and (2) specifies how the fee revenue must be allocated. Under prior law, anyone recording these documents paid \$10 for recording the first page and \$5 for each additional page. They also paid \$2 for each mortgage assignment after the first two assignments. The recording party had to pay separate \$3 and \$40 recording surcharges, a portion of which was remitted to the state and used to capitalize various accounts.

The act establishes, for nominees, a new recording fee schedule that depends on whether the nominee either appears as the assignor in the mortgage assignment or releases the mortgage. If the nominee appears as the assignor or releases the mortgage, there is a flat \$159 fee for the entire assignment or release, including the fees required under prior law. For any other document, the fee is \$116 for the first page, \$5 for each additional page, \$2 for each mortgage assignment after the first two assignments, plus a \$43 recording surcharge. The act also specifies how the fees collected from nominees must be allocated, as Table 3 shows.

Under the act, a “nominee of a mortgagee” is any person who (1) serves as mortgagee for a mortgage loan that is registered on a national electronic database that tracks changes in mortgage servicing and ownership interests in residential mortgage loans on behalf of its members and (2) is a nominee or agent for the promissory note’s owner or the note’s subsequent buyer, transferee, or owner.



Table 3: Fee Revenue Allocation Requirements

| <i>Document</i>                                                                                                              | <i>State Share</i>                                                                                                                                                                            | <i>Municipal Share</i>                                                                                                                                             |
|------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Any document recorded by a nominee except mortgage assignments in which nominee appears as assignor or releases the mortgage | \$110, of which:<br>1. \$74 goes to the General Fund and<br>2. \$36 to the Community Investment Account                                                                                       | \$49, of which:<br>1. \$39 goes to the municipality's general revenue and<br>2. \$10 to the town clerk's fund<br><br>Town also keeps any fees for additional pages |
| Mortgage assignment in which nominee appears as assignor or releases the mortgage                                            | \$127, of which:<br>\$31 goes to the General Fund,<br>\$36 to the Community Investment Account, and<br>\$60 to the State Banking Fund for Foreclosure Mediation Program until October 1, 2014 | \$32, which goes to the municipality's general revenue                                                                                                             |

EFFECTIVE DATE: July 15, 2013. (PA 13-184 (§§ 97 & 98) contains similar recording fee provisions that are effective July 1, 2013.)

#### §§ 83 & 84 — REPORTS BY BOARD OF REGENTS

The act requires BOR to report to the Appropriations and Higher Education committees, by November 1, 2013, on the status of the (1) development and implementation of remedial support offered by the regional community-technical colleges (CTC) and (2) employment of academic counselors by CSUS.

By law, CSUS and CTC must, beginning by the 2014 fall semester, offer certain students remedial support embedded with the corresponding entry level course in a college-level program. They must offer this support (1) to students who they determine, through use of multiple commonly accepted measures of skill level, are likely to succeed in college level work with supplemental support and (2) during the same semester as, and in conjunction with, the entry level course.

EFFECTIVE DATE: Upon passage

#### §§ 85 & 86 — WATER POLLUTION CONTROL AUTHORITY POWER

The act allows an ordinance establishing a water pollution control authority (WPCA) in a distressed municipality of at least 140,000 people (i.e., Bridgeport) to give the WPCA the power to recommend a levy on taxable real property in the authority's area for stormwater control systems. The levy may be for system planning, lay out, acquisition, construction,

reconstruction, repair, maintenance, supervision, and management.

The act permits the municipality, when imposing the levy, to consider the (1) amount of impervious surfaces making stormwater runoff, (2) land use types that make higher stormwater pollution concentrations, and (3) property's grand list valuation.

Under the act, levy charges unpaid 30 days after the due date are delinquent. The act (1) specifies that delinquent charges bear interest from the due date at the tax collector's delinquent property tax rate and (2) makes unpaid charges liens on the real property subject to the levy from the delinquency date. The liens may be continued, recorded, and released like property tax liens. EFFECTIVE DATE: October 1, 2013

#### §§ 87 & 328 — MUNICIPAL REIMBURSEMENT AND REVENUE ACCOUNT

The act establishes the municipal reimbursement and revenue account as a separate, nonlapsing General Fund account and specifies that its funds may be used by OPM for the Nutmeg Network, a tax incidence study, and the universal chart of accounts. It allocates:

1. \$1,087,000 for the Nutmeg Network in both FYs 14 and 15,
2. \$500,00 in FY 14 and \$200,000 in FY 15 for a tax incidence study, and
3. \$450,000 in FY 14 for the universal chart of accounts.

The act transfers, from the regional planning incentive account to the municipal reimbursement and revenue account: \$2,820,000 in FY 14, \$2,070,000 in FY 15, and \$1,870,000 in FY 16.

EFFECTIVE DATE: Upon passage, except the provision transferring money into the account is effective July 1, 2013

#### § 89 — RESIDENTIAL CARE HOMES (RCH)

PA 13-234 (§ 73) prohibits DSS from considering whether an RCH has rebased when determining rates in FYs 14 and 15. This act removes the prohibition. When a facility's rates are rebased, DSS looks at more recent costs when calculating the rate.

#### § 90 — NURSING HOME RATES—STOP LOSS

PA 13-234 (§ 74) prohibits DSS, in FY 14, from issuing a nursing home a rate that is 4% lower than the rate in effect on June 30, 2013. This act instead caps the amount a home's rate may decrease (stop-loss) at 4%.

## § 91 — MEDICAID RATES PAID TO HOSPITALS

PA 13-234 (§ 76) (1) requires the DSS commissioner to establish acuity-based rates for reimbursing acute care hospitals for Medicaid inpatient and outpatient services and (2) eliminates the department's statutory obligation to set the rates it pays chronic disease hospitals for serving Medicaid-eligible patients.

This act (1) provides that the prior system (reasonable cost-based) for paying both types of hospitals continues until the commissioner establishes the new payment system and (2) reinstates the requirement that DSS establish rates it pays to chronic disease hospitals.

## § 92 — HEALTHY START

PA 13-234 (§ 122) requires the Healthy Start plan for maximizing federal funds and expanding services within available state funds to include a (1) "venue-based" billing and payment system and (2) funding allocation formula. This act removes these requirements. Healthy Start provides services to lower income women who are pregnant by promoting and supporting positive maternal and neonatal health outcomes.

## § 93 — RESTORATION OF COMMUNITY RESIDENTIAL FACILITY REVOLVING LOAN FUND DEFINITION

PA 13-234 (§ 156) repeals definitions relating to the Community Residential Facility Revolving Loan Fund (CGS § 17a-220). This act restores the definitions.  
EFFECTIVE DATE: January 1, 2014

## § 94 — CHILDHOOD OBESITY TASK FORCE

PA 13-173 established a childhood obesity task force effective October 1, 2013. This act changes the effective date to upon passage.  
EFFECTIVE DATE: Upon passage

## § 95 — HEALTHCARE ADVOCATE BUDGET CARRY FORWARD

The act carries forward up to \$70,000 from the Office of the Healthcare Advocate's FY 13 unspent funds to FY 14 for equipment.

## § 96 — TOWN AID ROAD

The act allows the OPM secretary to approve a town's use of state Town Aid Road funds for purposes other than those related to building, improving, and maintaining roads and bridges, and for other highway,

traffic, and parking purposes. Under prior law, these funds, allocated by DOT, could be used only for these specified purposes

## § 113 — CONNECTICUT MEDAL OF BRAVERY

The act allows the DESPP commissioner to award the Connecticut medal of bravery directly or posthumously to any Connecticut citizen in recognition of (1) a valorous and heroic deed performed in saving a life or (2) injury or death or threat of such incurred (a) in service to Connecticut or the person's community or (b) on behalf of the health, welfare, or safety of other people.

Under the act, any person may submit recommendations for award recipients to the commissioner, in the form and manner he prescribes.

EFFECTIVE DATE: October 1, 2013

## § 114 — CONNECTICUT NATIONAL GUARD MEDAL OF ACHIEVEMENT

The act establishes a medal of achievement to be awarded to any Connecticut National Guard member for outstanding achievement or meritorious service during military service ordered by the governor, including state service, federal service, and emergency service in other states conducted under the emergency management assistance compact.

The act requires the adjutant general to appoint and work with two officers of field grade (i.e., the rank of major in the Army, Air Force, and Marines) or above to constitute a board to select medal recipients from recommendations made through military channels, within available appropriations.

Under the act, recipients receive a bronze oak leaf cluster for succeeding awards, and a silver oak leaf cluster must be worn in place of five bronze clusters.

EFFECTIVE DATE: Upon passage

## §§ 115 & 116 — STATE MILITARY EMERGENCY SERVICE AND OUTSTANDING UNIT AWARDS

The act makes technical changes to provisions allowing the Military Department to award service ribbons to (1) state armed forces members for emergency service and (2) Connecticut National Guard members for membership in an outstanding unit. By law, award recipients receive a bronze oak leaf cluster for succeeding awards. The act requires repeat recipients to wear a silver oak leaf cluster instead of five bronze clusters, rather than allowing them to wear a silver cluster instead of three bronze clusters, as under prior law.

EFFECTIVE DATE: Upon passage

## §§ 117 & 118 — REPLACEMENT HEATING EQUIPMENT PROGRAM

The act requires electric and gas companies to develop, by September 1, 2013, a three-year residential heating equipment replacement loan program that must be designed to minimize the impact on ratepayers. DEEP, in consultation with the Energy Conservation Management Board (ECMB), must approve or modify the program within 60 days of receiving it.

The companies must hire an administrator by January 1, 2014 to develop the program with their assistance. The administrator must provide financing for improvement projects by property owners, loan servicing, and program administration.

The program is open to all residential property owners who are electric company customers, regardless of how they heat their buildings. To be eligible, the customer (1) must have six consecutive months of on-time utility bill payments and (2) may not be behind on his or her electric or gas bill. Customers must apply to the administrator, who must screen each applicant to ensure that he or she meets the eligibility and other program requirements. The replacement equipment must result in net savings to the participating customer over the program's life.

### Costs

Participants must pay at least 10% of the cost of the replacement heating equipment (furnaces, boilers, and water heaters and associated equipment), which must be Energy Star rated. Program participants can receive loans for up to \$15,000 at up to 3% interest rates, based on income eligibility criteria set by the administrator. The maximum loan term is the lesser of (1) 10 years or (2) the amount of time it takes for the replacement heating equipment to pay for itself from energy savings, plus two years.

Under the act, participants must repay the loan on their electric or gas bill. If the property is sold, the unpaid loans must be transferred to the new owner, who may participate in the program, unless the seller and buyer agree that the loan will not be transferred. The third-party administrator can take legal actions to secure the loans, including attaching liens to participating properties.

The initial cost of the financing, the administrator's costs, and the cost of any defaults must be recovered through the systems benefits charge on electric bills. The electric companies must recover their administrative and capital carrying costs through this charge or another electric rate component, as approved by the Public Utilities Regulatory Authority.

### Report

By January 1, 2016, DEEP and ECMB must (1) engage an independent third party to evaluate the program and (2) report to the Energy and Finance, Revenue and Bonding committees on this program and a related one created by PA 13-298, under which loans for energy efficiency measures are funded by private capital and repaid on the participating customer's electric or gas bill. The report must cover, for each program, the (1) program's cost-effectiveness, (2) number of customers served and potential for growth, (3) customer classes served, and (4) fuel used by the replacement equipment.

EFFECTIVE DATE: Upon passage

## § 119 — ELECTRIC BILLING CREDITS

PA 13-298 gives certain electric company customers who install renewable generating systems on their property a partial credit on the transmission and distribution charges on their electric bills. It phases down the bill credit over three years starting July 1, 2013. This act begins the phase-down period based on when a customer's system begins operation, rather than tying the phase-down to specific dates.

## § 120 — ESTATE TAX

The act conforms law to DRS practice by modifying how estate taxes are calculated for Connecticut residents who have estate property in other states.

Existing law gives resident estates a credit against the estate tax for estate taxes paid to any other state or the District of Columbia on real or tangible personal property under another state's jurisdiction. Under prior law, the credit was the lesser of (1) the actual taxes paid to the other state or (2) the full Connecticut tax, excluding any gift tax credits, that would otherwise be due multiplied by the percentage of the gross estate that was under the jurisdiction of the other state for estate tax purposes. The act instead makes the credit equal to the full Connecticut tax, excluding gift tax credits, multiplied by the percentage of the gross estate's value that is attributable to real or tangible personal property located outside the state.

By law, Connecticut's estate tax has jurisdiction over a resident estate's (1) real and tangible personal property located in the state and (2) intangible personal property, regardless of its location. The act specifies that the intangible property must be included in the decedent's gross estate, not just owned by the decedent, in order for the estate tax to apply.

The act also provides, for both resident and nonresident estates, that the state is permitted to calculate and levy the tax to the fullest extent permitted by the U.S. Constitution.

EFFECTIVE DATE: Upon passage, and applicable to deaths on or after January 1, 2013.

#### §§ 121 & 122 — SOLDIERS', SAILORS' AND MARINES' FUND

The act generally puts the Soldiers', Sailors' and Marines' Fund (SSMF) under the American Legion's (AL) control by eliminating provisions that allowed the (1) Finance Advisory Committee to appropriate general funds to the SSMF, under certain conditions, and (2) comptroller to transfer excess SSMF interest earnings to the general fund. It also allows the AL to (1) consult with the state treasurer about investing SSMF assets and (2) utilize up to \$300,000 to administer the fund. By law, the AL administers the fund.

The act requires the AL to, biennially, on or before January 15, cause an independent audit of the SSMF. The audit report must include:

1. a detailed description of the fund investments;
2. a description of investment returns, including interest, dividends, realized capital gains, and unrealized capital gains organized by investment type;
3. a list of operating expenditures that describes the type and amount of each expenditure;
4. a list of the number of grant recipients each month;
5. the fund balance and interest earned for the current year, the estimated fund balance, and interest earned for the subsequent year; and
6. other information the treasurer requires.

The act further requires the AL to (1) report the audit's findings to the Finance, Revenue and Bonding and Veterans' Affairs committees within seven business days of receiving the report and (2) make the report publically available in paper and electronic form.

EFFECTIVE DATE: July 1, 2014

#### § 123 — PRESCHOOL MAGNET SCHOOL SLIDING TUITION SCALE

The act requires SDE, in consultation with DSS, to annually develop a sliding tuition scale based on family income to calculate the amount that a regional education service center (RESC) may charge for tuition to the parent or guardian of a child enrolled in a preschool program at a magnet school the RESC operates. The sliding scale tuition must be used in FY 15 and each following fiscal year.

EFFECTIVE DATE: Upon passage

#### §§ 124 & 125 — PRESCHOOL MAGNET SCHOOL TUITION

##### *Tuition Phase-in*

The act uses a multi-year approach to change the way the state permits RESC-operated interdistrict magnet schools to charge tuition for the preschool programs they operate. Under prior law, a RESC could charge tuition only to the district where the student lived. By FY 15, the act allows the school to charge tuition to the parents of the preschool student on a sliding scale, with SDE paying for the portion the sliding scale does not cover.

While the act has a slightly different phase-in for RESC magnet schools in the *Sheff* region compared with RESC magnets outside the *Sheff* region, the tuition calculation is the same for both. By law and unchanged by the act, tuition cannot be more than the difference between (1) the average per-pupil expense for the magnet school and (2) the per-student state grant under law plus any revenue from any other source on a per-student basis. For RESC magnets in the Hartford area, the tuition amount ranged from \$2,900-\$3,800 for the 2011-12 school year.

Table 4 presents the act's changes to the tuition for magnets outside the *Sheff* region.

Table 4: Parties Responsible for Preschool Tuition for Magnets Outside *Sheff* Region

|                                                         | <i>Prior Law</i>                       | <i>Act</i>         |                                                                                                                                                                       |
|---------------------------------------------------------|----------------------------------------|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Non- <i>Sheff</i> RESC Magnet School Preschool Programs | School districts where student resides | FYs 13 and 14: SDE | FY 15 and each following fiscal year: Parent or guardian of the child, with SDE responsible for any portion not charged to a parent or guardian per the sliding scale |

Table 5 presents the act's changes to the tuition for magnets inside the *Sheff* region.

Table 5: Parties Responsible for Preschool Tuition in *Sheff* Region

|                                                           | <i>Prior Law</i>                       | <i>Act</i>                              |            |                                                                                                                                                                       |
|-----------------------------------------------------------|----------------------------------------|-----------------------------------------|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Sheff</i> Region RESC Magnet School Preschool Programs | School districts where student resides | FY 13: Prohibited from charging tuition | FY 14: SDE | FY 15 and each following fiscal year: Parent or guardian of the child, with SDE responsible for any portion not charged to a parent or guardian per the sliding scale |

The *Sheff* region is defined as the Avon, Bloomfield, Canton, East Granby, East Hartford, East Windsor, Ellington, Farmington, Glastonbury, Granby, Hartford, Manchester, Newington, Rocky Hill, Simsbury, South Windsor, Suffield, Vernon, West Hartford, Wethersfield, Windsor, and Windsor Locks school districts. This region is the group of towns affected by the *Sheff v. O'Neill* court ruling and stipulation regarding racial desegregation of Hartford and its surrounding towns (see BACKGROUND).

The act permits the education commissioner to conduct a comprehensive review of the operating budget of any magnet school charging tuition to verify the tuition rate.

It also removes the ability of the Great Path Academy at Manchester Community College, operated by the Hartford School District, to charge preschool tuition. (Great Path currently does not offer preschool.)

#### § 126 — *SHEFF* REPORT

The act requires SDE to submit a report, by February 1, 2014, to the Education Committee on the levels of diversity and integration for each public school located in the *Sheff* region. The report must include (1) the number and percentage of minority students in each such school and (2) an analysis of how this data relates to the state's efforts to meet the goals of the 2008 *Sheff* court stipulation and order.

EFFECTIVE DATE: Upon passage

#### § 127 — MUNICIPAL AID ADJUSTMENT ACCOUNT

The act establishes a "Municipal Aid Adjustment" account in the General Fund. It requires the OPM secretary to spend account funds for grants to specified municipalities, totaling \$4,467,456 in FY 14 and \$3,608,728 in FY 15. The grant recipients include 14 municipalities, three boroughs, four regional school districts, four fire departments, and one municipal district. PA 13-184, § 66, also created this account, but did not specify grant amounts or recipients.

#### § 128 — GRANTS PURSUANT TO BONDING FOR MUNICIPAL AID

The act specifies the amounts and recipients of the municipal grants authorized by § 55 of the bond act (PA 13-239). That section authorized \$56,429,907 in general obligation (GO) bonds per year in FYs 14 and 15 for grants to municipalities for municipal purposes and projects. This act specifies that these bonds are authorized under the Town Aid Road program, but allows the bonds, in the OPM secretary's discretion, to be used for purposes other than Town Aid Road

projects.

The grants are for most municipalities and certain other municipal entities (such as several fire departments).

#### § 129 — FILM PRODUCTION TAX CREDIT MORATORIUM

PA 13-184 (§ 75) established a two-year moratorium on film production tax credits for FYs 14 and 15 by (1) barring the issuance of tax credit vouchers for motion pictures and (2) excluding motion pictures from the types of productions eligible for the credits for those years.

The act instead establishes the two-year moratorium for FYs 14 and 15 by barring the issuance of tax credit vouchers for motion pictures that have not been designated as state-certified productions prior to July 1, 2013.

The act creates an exception for FY 15 for a motion picture that conducts at least 25% of its principal photography days in a Connecticut facility that (1) receives at least \$25 million in private investment and (2) opens for business on or after July 1, 2013. PA 13-184 created the same exception.

EFFECTIVE DATE: July 1, 2013, and applicable to tax credits issued on or after that date.

#### § 130 — BEHAVIORAL HEALTH PARTNERSHIP (BHP) COUNCIL OVERSIGHT OF BHP RATES

By law, the Department of Children and Families (DCF), DSS, and DMHAS must submit BHP rate proposals to the BHP council. The act eliminates (1) the council's authority, if it does not accept these proposals, to make recommendations to the legislature and (2) the requirement for the legislature to hold a hearing and make recommendations on them. It continues to require the agencies of cognizance over BHP rates to make every effort to incorporate council recommendations when setting the rates.

Additionally, the act requires the BHP council, in consultation with DCF, DSS, and DMHAS, to identify \$1 million in savings in FY 15.

EFFECTIVE DATE: Upon passage

#### § 131 — REGIONAL GREENHOUSE GAS INITIATIVE (RGGI)

Under RGGI (in which Connecticut participates), electric generators buy allowances to emit carbon dioxide. The revenue from the allowance auctions goes into an account administered by DEEP and is used for energy efficiency and renewable energy programs.

The budget act temporarily redirects part of the auction revenue that would otherwise go to the Clean

Energy Finance and Investment Authority (CEFIA) to the General Fund. This act allows DEEP, until July 1, 2015, to allocate to CEFIA for energy efficiency programs, any part of auction proceeds above the amounts budgeted by electric companies in their 2012 conservation plan. The allocation may be on a pro rata basis at the conclusion of an auction.

#### § 132 — FIRST FIVE PLUS PROGRAM SUNSET EXTENSION

The act extends by two years, from June 30, 2013, to June 30, 2015, the sunset date for the First Five Plus economic development program. The program provides loans, tax incentives, and other forms of economic development assistance to up to 15 businesses committing to create jobs and invest capital within the law's timeframes.

#### § 133 — CONNECTICUT LOTTERY CORPORATION (CLC) TRANSFER OF MONEY TO CHRONIC GAMBLING TREATMENT

The act increases, from \$1.9 million to \$2.3 million, the annual amount CLC must transfer from lottery ticket sales revenue to the chronic gamblers treatment rehabilitation account.

#### § 134 — VETERAN-OWNED SMALL BUSINESS REGISTRY

The act requires the DECD, within available resources, to create and maintain a data registry that tracks small businesses in the state that are owned and controlled by either veterans or service-disabled veterans (those with service-connected disabilities). The registry must include the (1) name of the veteran or veterans who own the business and (2) type and location of the business. DECD must annually request this information from the U.S. Department of Veterans Affairs and any other appropriate state or federal agencies annually.

The act also requires DECD to report annually to the state Veterans' Affairs Committee on the number of these businesses.

EFFECTIVE DATE: Upon passage

#### *Veteran-Owned Small Businesses in Connecticut*

Under the act, a "small business concern," generally, is independently owned and operated and is not dominant in its field of operation. Such a business is "owned and controlled by veterans" if (1) more than 50% of the business or public stock in the business is owned by a veteran and (2) one or more veterans manage and operate the business on a daily basis.

Under the act, a small business is "owned and controlled by service-disabled veterans" if (1) more than 50% of the business or public stock in the business is owned by a veteran with a service-connected disability and (2) the business is managed and operated on a daily basis by at least one veteran with service-connected disabilities, or, if such veteran is permanently or severely disabled, by his or her spouse or permanent caregiver. A "veteran" means a person who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable. A "service-connected disability" is a disability that was incurred or aggravated in the line of duty in active military, naval, or air service.

Under the act, the registry must track only those businesses whose principal place of business is in Connecticut.

#### §§ 136-145 & 147-148 — CONNECTICUT HEALTH INSURANCE EXCHANGE

The act makes several changes affecting the HIX.  
EFFECTIVE DATE: Upon passage

#### § 137 — *Board of Directors*

The act (1) reduces the number of voting members on the HIX board of directors from 12 to 11 by removing the Special Advisor to the Governor on Healthcare Reform and (2) specifies that six, rather than seven, members constitutes a quorum. It also adds the DMHAS commissioner as a nonvoting member.

#### §§ 138, 140-144, 147-148, & 388 — *All-Payer Claims Database*

The act transfers responsibilities for the "all-payer claims database" from the Office of Health Reform and Innovation (OHRI) (which the act eliminates, see below) to the HIX. In doing so, it requires the (1) HIX board of directors to adopt written procedures for implementing and administering the database; (2) HIX to seek funding for the database and oversee the planning, implementation, and development of policies and procedures for it; and (3) HIX chief executive officer (CEO) to discuss the status of the HIX's implementation and administration of the database in his annual report to the governor and legislature (the last report is due January 1, 2014).

The act allows the HIX to (1) impose a civil penalty, after notice and hearing, of up to \$1,000 per day on insurers and other reporting entities that fail to report data to the all-payer claims database and (2) charge a fee to entities that request data from the database. It allows the HIX CEO to give the name of any reporting entity on which a penalty has been

imposed to the insurance commissioner. After consulting with the CEO, the commissioner may request the attorney general to bring action in Hartford Superior Court to recover the penalty.

The act permits disclosure of health information (as defined in federal regulations) from the database, as long as (1) the disclosure is allowed under the federal Health Insurance Portability and Accountability Act and related regulations and (2) any personal identifiers are removed. It requires that any disclosure of other information from the database protect the confidentiality of the information, as required by state and federal law.

The all-payer claims database receives and stores data relating to medical, dental, and pharmacy insurance claims. Insurers and various other reporting entities that administer health care claims and payments must provide information for inclusion in the database. Under the act, the HIX must use the data in the database to provide health care consumers with information concerning the cost and quality of health care services so they can make economically sound and medically appropriate health care decisions. It also must make data available to any state agency, insurer, employer, health care provider, health care consumer, and researchers to allow them to review data relating to utilization, cost, or service quality.

#### §§ 139 & 140 — *Miscellaneous Revisions*

The act allows the HIX to impose interest and penalties on health carriers that pay exchange assessments or user fees late. By law, the HIX may charge assessments or user fees to health carriers that are capable of offering a qualified health plan through the exchange.

The act allows the HIX to award grants to trained and certified people and institutions that will assist individuals, families, and small employers and their employees with enrolling in coverage through the exchange. Prior law allowed the HIX to award grants to “navigators.”

By law, the HIX must assign a rating to each qualified health plan offered through the exchange and determine each plan’s level of coverage in accordance with federal regulations. The act requires that the HIX do this on or before the open enrollment period for plan year 2017.

#### § 145 — *SustiNet Health Care Cabinet*

The act adds the HIX CEO, or his designee, to the Sustinet Health Care Cabinet, replacing the Special Advisor to the Governor on Healthcare Reform. It eliminates the requirement that the cabinet develop a business plan to evaluate private and public mechanisms to provide adequate health insurance products beginning

January 1, 2014. It also requires the lieutenant governor and healthcare advocate offices to provide support staff to the cabinet.

#### §§ 145-146 & 388 — OFFICE OF HEALTH REFORM AND INNOVATION

The act eliminates OHRI and makes technical and conforming changes. Among other things, prior law required OHRI to coordinate and implement the state’s responsibilities under state and federal health care reform.

Prior law required OHRI to report to the HIX board, governor, and the Appropriations and Insurance and Real Estate committees (1) an analysis of the cost impact on the state and (2) a cost-benefit analysis of the “essential health benefits” required by federal law. The act instead requires the HIX board of directors to do this analysis, which is due within six months after the U.S. Health and Human Services secretary publishes the benefits.

EFFECTIVE DATE: Upon passage

#### §§ 149 & 150 — FYS 14 AND 15 BANKING FUND TRANSFERS

The act increases, from \$8,000,000 to \$10,700,000 in FY 14 and from \$3,000,000 to \$5,700,000 in FY 15, the amounts transferred in PA 13-184 from the State Banking Fund to the General Fund.

EFFECTIVE DATE: Upon passage

#### § 151 — LOCAL PLANS OF CONSERVATION AND DEVELOPMENT

The law requires municipal planning commissions to prepare 10-year plans of conservation and development (plans of C&D) for their municipalities and, under certain conditions, disqualifies those that fail to update their plans from receiving discretionary state funds until they do so or the OPM secretary waives this provision.

Prior law relieved municipal planning commissions from the obligation to prepare or amend a municipal plan of C&D between July 1, 2010 and June 30, 2013 and specified that any municipality that chose to delay amending its plan during this period would be subject to the disqualification provision starting July 1, 2014.

The act delays by one year, from July 1, 2013 to July 1, 2014, the date by which municipal planning commissions must prepare or amend a municipal plan of C&D. It also suspends, until July 1, 2015, the provision disqualifying towns that fail to update their plans from receiving discretionary state funds until they do so or the OPM secretary waives the provision.

EFFECTIVE DATE: Upon passage

## §§ 152 & 153 — ECS FORMULA

The act revises the ECS formula, which is the largest form of state education aid to towns. (This act and the state budget act, PA 13-184, appropriate the money to be distributed through the formula.)

Fundamentally, the formula is comprised of three factors: (1) foundation aid, (2) the town's base aid ratio, and (3) the town's number of total need students (i.e., total students adjusted to account for educational and economic need). A "fully funded" ECS grant is the product of the three factors plus, for qualified districts, a relatively small regional bonus.

The act uses the fully funded amount for each town as the basis for determining ECS grants for the next two fiscal years. Under the act, the FY 14 and 15 grants are a portion of the fully funded amount. Under prior law and the act, the formula awards aid more generously to poorer towns. It provides minimum aid to the state's wealthiest towns.

### *Foundation*

For FY 14 and each year thereafter, the act raises the per-student foundation amount from \$9,687 to \$11,525. The foundation is the level of weighted per-student spending that ECS grants help towns achieve. All towns receive less than the foundation amount per student with the town's tax revenue accounting for most of the remainder of the per-student cost. A higher foundation increases grants to all towns.

### *Base Aid Ratio*

The base aid ratio is a numerical representation of a town's property wealth, with a small adjustment for income, in relation to a median town wealth level set in the formula. Poorer towns have higher ratios than wealthier towns. The larger a town's ratio, the closer the town comes to receiving the maximum aid.

Under prior law, in calculating a town's base aid ratio, town wealth was compared to the state guaranteed wealth level (GWL). The GWL was 1.75 times the state's median town wealth. The act replaces the GWL with the wealth adjustment factor (WAF) for FY 14 and each year thereafter.

The WAF is determined by a three-step process: (1) determining the property and income wealth measures with each expressed in a ratio, (2) applying weights to each, and (3) adding the ratios together.

The property wealth measure is the ratio of (1) a town's equalized net grand list (ENGL) per capita to (2) the ENGL per capita of the town with the state's median ENGL, multiplied by 1.5. The income wealth measure is the ratio of (1) a town's median household income to (2) the state's median town household income,

multiplied by 1.5. By lowering the multiplier (from 1.75 in prior law to 1.5), this part of the formula decreases the state's share of total education funding.

Next, WAF weighs the property wealth of a town at 90% and income wealth at 10%. In the last step of determining the wealth adjustment, the two resulting ratios are added together.

*Minimum Aid Ratio.* Under the act, the minimum aid ratio is 10% for alliance districts (the 30 districts with the lowest district performance indexes (DPIs) based on state standardized tests) and 2% for all other districts. Under prior law, the minimum aid ratio was 9%, except it was 13% for the 20 districts with the highest concentrations of low-income students. The minimum aid ratio guarantees that wealthier towns receive at least a minimum amount of ECS aid.

### *Student Need*

By law, the ECS formula weighs student counts for educational and economic need by increasing a town's student count for certain types of students. This creates a "need student" count for each town.

Prior law gave students in poverty, as measured by the number of students eligible for federal Title I funds, a weighting of 1.33 and limited English proficient students (in most circumstances) a weighting of 1.15 (it was possible for students to count in both). For school years starting with 2013-14, the act replaces both of these with the single weighting of 1.30 for every student eligible for free or reduced price lunch (FRPL) or free milk under the federal Department of Agriculture's National School Lunch Program. This means that under the act, 100 students that qualify for FRPL would count as 130 need students in the formula.

### *Base Aid*

The act makes each town's FY 13 ECS grant its base aid. Under prior law, a town's FY 07 ECS grant was its base aid.

### *FYs 14 and 15 Funding*

The act establishes the ECS grant levels for the next two fiscal years, with lower performing districts receiving a larger percentage of their fully funded grant. The act includes different funding percentages for three types of towns: (1) non-alliance districts, (2) alliance districts, and (3) educational reform districts. Reform districts are the 10 lowest performing alliance districts (see BACKGROUND). (The funding percentages for FY 14 are somewhat unclear.) The funding percentages are shown in Table 6.



Table 6: ECS Funding Percentage Increase by Town Type and Fiscal Year

| Type of Town      | FY 14 % | FY 15 % |
|-------------------|---------|---------|
| Non-alliance      | 1%      | 1.8%    |
| Alliance District | 8%      | 14.4%   |
| Reform District   | 12%     | 21.6%   |

For FYs 14 and 15 each town's grant is the greater of:

1. the amount received in FY 13 (its base aid) or
2. the sum of the town's (a) base aid plus (b) the difference between the town's fully funded grant and the town's base aid, multiplied by the funding percentage.

For example, for a non-alliance town, the FY 14 funding percentage is 1%, so the grant amount would be its base aid plus 1% of the difference between the fully funded grant and the town's base aid.

#### § 154 — MINIMUM BUDGET REQUIREMENT

##### *MBR for FYs 14 & 15*

By law, towns receiving ECS grants must budget minimum annual amounts for education. This is known as the MBR. Under the act, each town's base MBR for FY 14 is the amount it budgeted for education in FY 13 plus any ECS aid increase received for FY 14, with certain reductions permitted. Similarly, the MBR for FY 15 is the amount the town budgeted for education in FY 14 plus any ECS aid increase received for FY 15, again with reductions permitted.

##### *Allowable MBR Reductions*

The act maintains permitted MBR reductions through FYs 14 and 15. If eligible, towns may choose one from among the following potential ways to reduce their MBR. The reductions are:

1. Towns without high schools pay tuition to other towns so their resident students can attend school there. A town with no high school that is paying for fewer students to attend high school outside the district than it paid for in the previous year can reduce its budgeted education appropriation by the full amount of its lowered tuition payments.
2. A town may reduce its MBR when its student population has decreased. The reduction equals the difference in the number of students multiplied by \$3,000, up to a limit of 0.5% of the budgeted education appropriation for the previous fiscal year.

3. A town can reduce its MBR to reflect half of any new and documented savings from (a) increased efficiencies within its school district, as long as the education commissioner approves the savings or (b) a regional collaboration or cooperative arrangement with one or more other districts. The overall reduction for this savings is limited to a maximum of 0.5% of FY 13's budgeted education appropriation.

The act specifies that the decreasing student enrollment reduction for FY 14 must use the data of record as of January 31, 2013 and consider the difference in the student count from October 1, 2011 to October 1, 2012. The student count reduction for FY 15 must use the data of record as of January 31, 2014 and consider the difference in the student count from October 1, 2012 to October 1, 2013.

The act maintains a fourth type of MBR reduction, for permanent school closings, through FYs 14 and 15. It allows the commissioner to permit a town to reduce its MBR if a school district permanently closes one or more schools because of falling enrollment. The closures must take place in FYs 11, 12, or 13. The school closure reduction is permitted regardless of whether a town uses one of the three other reductions mentioned above.

##### *Alliance District MBR*

Prior law created a separate MBR for alliance districts. The act maintains it for FYs 14 and 15. It keeps the same mechanism for determining the MBR with each new fiscal year and requires an increased level of local funding.

An alliance district's MBR is the previous year's MBR plus the amount needed to bring the district up to its minimum local funding percentage (21% for FY 14 and 22% for FY 15). By law, minimum local funding percentages increase by one percentage point each year until reaching 24% for FY 17.

The education commissioner may permit an alliance district town to reduce its MBR if it can demonstrate that it has increased its local contribution for education for that fiscal year (see BACKGROUND).

#### § 155 — ALLIANCE DISTRICTS

The act makes some changes to the alliance district program. Prior law required the state comptroller to hold back any ECS grant increase over the prior year's amount that is payable to an alliance district in FY 13 or any following fiscal year. The comptroller was required to transfer the money to the education commissioner. The commissioner could withhold increases in ECS funding designated for an alliance district until the

district supplies the commissioner with a plan that addresses objectives and targets to improve student achievement.

The act applies the holdback requirement to FYs 14 and 15, but makes FY 12 the baseline ECS funding for this determination. This means any amount that represents an increase over FY 12 must be transferred to the education commissioner. By law, any other ECS funding is sent directly to the towns.

By law, the alliance district plan may contain a number of items, including a system of interventions in low-performing schools and ways to strengthen early reading programs. The act specifies that the plan may include provisions for implementing statewide education standards that the State Board of Education (SBE) adopts and activities related to these standards.

#### §§ 156-163 — CAPS ON EDUCATION GRANTS

The act maintains existing caps on certain state education formula grants to school districts and RESCs for two more fiscal years, through June 30, 2015. The caps require grants to be proportionately reduced if the state budget appropriations do not cover the full amounts required by the statutory formulas. The caps apply to state reimbursements for:

1. health services for private school students (CGS § 10-217a);
2. transportation for private school students (CGS § 10-281);
3. adult education programs (CGS § 10-71);
4. bilingual education programs (CGS § 10-17g);
5. RESC operations (CGS § 10-66j);
6. special education costs and excess costs, other than those for state-placed students for whom no financially responsible district can be identified (“no-nexus students”) (CGS § 10-76d & 10-76g); and
7. excess regular education costs for state-placed children educated by local and regional boards of education (CGS § 10-253).

#### § 164 — CHARTER SCHOOL GRANTS

The act reduces the scheduled increases in per-student grants to state charter schools. By law, the grant was \$10,200 per student in FY 13. Under the act:

1. for FY 14, the grant is reduced from \$11,000 to \$10,500 per student, and
2. for FY 15 and each following year, the grant is reduced from \$11,500 to \$11,000.

#### § 165 — SBE’S AUTHORITY TO ORDER LOCAL BOARDS TO INCREASE SPECIAL EDUCATION FUNDING

The act eliminates the SBE’s authority to order a local or regional school board to increase its special education spending following a finding that the board failed to implement the state’s educational interests. Existing law already prohibits SBE from ordering an increase in other educational spending in this circumstance, as long as the board is spending at least the minimum amount required by law.

#### §§ 166 & 167 — *SHEFF* MAGNET SCHOOL GRANTS AND BAN ON CHARGING TUITION

The act makes two funding changes that treat *Sheff* host magnet schools the same as Hartford host magnets. (A host magnet school means the school is operated by, and is part of, the district it is located in.) For FYs 14 and 15, it (1) extends to all *Sheff* host magnets the existing \$13,054 per student grant amount that Hartford host magnets receive and (2) continues the \$10,443 per student grant for non-host *Sheff* magnets (those operated by RESCs, colleges, and other entities approved by the commissioner).

It also bans all *Sheff* host magnets from charging tuition and continues the existing ban on Hartford host magnets charging tuition.

#### § 168 — ADDITIONAL OPEN CHOICE FUNDING

The act provides a higher grant, \$8,000 per participating student, for a district with at least 4% of its student population coming from the Open Choice interdistrict public school attendance program. Under the act, districts with Open Choice students equal to or greater than 3% but less than 4% receive \$6,000 per student, the top amount under the prior law.

The law provides a second way for a district to receive \$6,000 per student: when the education commissioner determines that the receiving district has an overall enrollment of more than 4,000 students and the number of Choice students has increased by at least 50%. The act changes the date the commissioner uses to make this determination from October 1, 2012 to the previous fiscal year (presumably the start of the fiscal year).

#### § 169 — *SHEFF* MAGNET SCHOOL TRANSPORTATION GRANTS

The act continues the *Sheff* magnet transportation grants at the same level, \$2,000 per student, for FYs 14 and 15.

It also (1) indefinitely authorizes the education commissioner to provide supplemental RESC transportation grants and (2) for FY 13, authorizes him to provide supplemental grants for *Sheff* magnet transportation and transportation provided by EASTCONN, a RESC, for interdistrict magnet schools. The supplemental grants are provided within available appropriations and upon an auditor's comprehensive financial review. The commissioner must select the auditor and the review must be paid for from part of the supplemental grant. Up to 50% of the grant may be paid by June 30, 2013 with the remainder (1) on or before September 1, 2013 and (2) after the auditor completes his or her review.

EFFECTIVE DATE: Upon passage

#### § 170 — PER-STUDENT GRANT AND TUITION FOR REGIONAL AG-SCIENCE CENTERS

The act increases, from \$1,750 to \$2,750, the per student grant for regional agricultural science and technology centers. As was the case in FY 13, it allows a board of education that operates a center to spend the increased state grant even if it exceeds the total amount budgeted for education. By law, the additional funds cannot be used to supplant local funding.

The act also lowers, from 82.5% to 62.47%, the maximum percentage of the state's per student foundation aid that is used to determine the tuition charged to the districts sending students to a center. Another provision in the act (§ 152) increases the foundation aid amount from \$9,687 to \$11,525 annually. This means the new percentage, 62.47%, will be applied to the new, higher foundation amount.

Table 7 displays how the two changes interact to produce a new maximum tuition of \$7,200, which is \$792 less than under prior law.

Table 7: Maximum Tuition for Regional Ag-Science Centers

|                                                                   | <i>Prior Law</i> | <i>Act</i> |
|-------------------------------------------------------------------|------------------|------------|
| Percentage of Foundation                                          | 82.5%            | 62.47%     |
| Foundation                                                        | \$9,687          | \$11,525   |
| Maximum Tuition (% of foundation multiplied by foundation amount) | \$7,992          | \$7,200    |

#### § 171 — AID FOR TOWN RANKED SIXTH IN POPULATION

The act increases annual additional state education aid, from \$650,000 to \$2,020,000, for Norwalk (the town ranked sixth when all towns are ranked by population).

#### § 172 — ADULT EDUCATION IN NEW HAVEN AND BRIDGEPORT

The act allows adult education programs in New Haven and Bridgeport to expand their scope to include more counseling and instructional services, including technology training, technical skills, literacy, and numeracy.

#### § 173 — APPROPRIATION FOR LITERACY HOW PROGRAM

The act requires SDE to use up to \$200,000 of the biennial budget appropriation for the alternative high school and adult incentive program as a grant to the Literacy How program in North Haven for adult literacy services for FYs 14 and 15.

#### §§ 174-185 & 389 — GOVERNOR'S SCHOLARSHIP PROGRAM

The act establishes the Governor's Scholarship program as a single, consolidated state financial aid program for Connecticut residents who are undergraduates at in-state public and private higher education institutions. The program replaces the state's previous undergraduate student aid programs: Connecticut Aid to Public College Students (CAPCS), Connecticut Independent College Student Grant (CICSG), the Capitol Scholarship, and Connecticut Aid to Charter Oak (see BACKGROUND).

The act limits eligibility for the Governor's Scholarship to Connecticut residents enrolled in at least six semester credit hours and pursuing their first associate or bachelor degree. It establishes four award categories: a (1) need and merit-based award, (2) need-based award, (3) performance incentive pool, and (4) Charter Oak Grant. The act specifies how the appropriation for the program must be allocated across these categories and establishes reporting and audit requirements for the program.

The act requires the Office of Higher Education (OHE) to administer the Governor's Scholarship. It repeals a provision that placed OHE, for administrative purposes only, within the BOR, thus removing BOR's responsibility to provide OHE with certain administrative support (§ 174).

The act requires OHE, rather than BOR, to (1) perform several financial aid-related duties, including (a) establishing statewide student financial aid policies, (b) reviewing and approving certain applications, and (c) assisting high school guidance counselors and financial aid officers and (2) administer any scholarship aid provided to students who attend out-of-state programs that prepare teachers of children requiring special education. It also eliminates a seven-member

advisory committee on student financial assistance matters (§§ 180, 181, & 184).

Additionally, the act repeals the award for excellence in science and technology, teacher incentive loan program, high technology assistantship program, and academic scholarship loan program. Each of these was defunct (§ 389).

#### § 182 — Governor's Scholarship Overview

This act establishes the Governor's Scholarship program as a single, consolidated state financial aid program for Connecticut residents who are undergraduates at in-state public and private higher education institutions. It eliminates CAPCS, CICSIG, the Capitol Scholarship, and Connecticut Aid to Charter Oak, but allows students who received awards under these programs in FY 13 to continue receiving them for the life of the original award so long as they meet and continue to meet the respective program's need and academic standards. Since these awards are one-year, renewable awards, the act presumably allows such renewals to continue until the students graduate.

The act specifies that the Governor's Scholarship begins with new and transfer students in FY 14. It appears that continuing students who did not previously receive a CAPCS, CICSIG, Capitol Scholarship, or Connecticut Aid to Charter Oak award would thus be ineligible for any state financial aid.

*Eligibility.* The act establishes student eligibility criteria for the Governor's Scholarship that are narrower than the criteria for the state's previous programs. It limits eligibility for the Governor's Scholarship to students pursuing their first associate or bachelor degree. Prior law required that students receiving assistance from CAPCS, CICSIG, and Connecticut Aid to Charter Oak be undergraduates, but did not limit participation to students pursuing their first associate or bachelor degree. (The Capitol Scholarship was available only to students who did not have a bachelor degree.) CAPCS also provided awards to students in precollege remedial programs, which are not allowed under the Governor's Scholarship.

Additionally, the act requires that part-time students be enrolled for at least six semester credit hours in order to be eligible for a Governor's Scholarship. Prior law did not establish a minimum credit load requirement for the four previous programs.

The act limits the costs to which the Governor's Scholarship can be applied to (1) tuition and required fees, as published by the institution, and (2) required books and educational supplies, in a fixed amount as determined by OHE. Prior law permitted the use of state financial aid for other costs (e.g., room and board).

The act also requires that Governor's Scholarship awards be based on a student's expected family

contribution, as determined by the Free Application for Federal Student Aid. Under prior law, award amounts for the existing programs were generally based on a student's financial need, which is the difference between an institution's costs and the student's expected family contribution. The federally determined expected family contribution is the same across different institutions, whereas financial need varies based on institutions' costs.

*Eliminated Awards.* Under prior law, Connecticut residents who attended an out-of-state institution could receive a Capitol Scholarship award of up to \$500. The act eliminates these students' eligibility for state financial aid, but presumably allows students who previously received this award to continue doing so (see above).

Prior law allowed CAPCS awards to fund student employment. It also required that a percentage of CAPCS and CICSIG awards be used for (1) needy minority students and (2) on-campus or off-campus community service work study placements. The act does not transfer these requirements to the Governor's Scholarship. It makes a conforming change by eliminating institutions' responsibility to have a student community service coordinator.

#### § 182 — Award Categories

The act establishes four Governor's Scholarship award categories: a (1) need and merit-based (merit) award, (2) need-based award, (3) performance incentive pool, and (4) Charter Oak Grant. It does not specify award amounts in any of the categories, thus leaving it to OHE to determine the amounts.

*Merit Award.* Under the act, OHE determines student eligibility for the merit award based on (1) financial need, as measured by expected family contribution and (2) merit, as measured by either high school academic achievement or performance on standardized academic aptitude tests.

The act requires OHE to make awards according to a sliding scale, annually determined by the office, up to a maximum family contribution and based on available appropriations and eligible students. It requires that the merit awards be higher than the need awards and prohibits merit recipients from receiving a need or incentive award. The accepting institution must disburse the merit award for payment of the student's eligible educational costs.

*Need Award.* The act requires OHE to determine eligibility for the need award based on expected family contribution.

Under the act, funds for the need award must be allocated to institutions for disbursement to students in accordance with requirements OHE establishes. The institution's allocation is determined by its actual

eligible enrollment (i.e., the number of its students who are eligible for an award) during the fiscal year before the grant year.

As with the merit award, OHE must annually establish a sliding scale based on available appropriations and the number of eligible students. Institutions must (1) adhere to this sliding scale when making awards to students and (2) spend their need award allocation as direct financial assistance for eligible educational costs.

*Performance Incentive Pool.* The act establishes an incentive pool to encourage retention and completion for students who (1) receive a need award, (2) return with sufficient credits to complete an associate degree in two years or a bachelor degree in four years (presumably two or four years from the time of initial enrollment), and (3) exceed minimum academic performance standards as determined by OHE. Students become eligible for a performance incentive award in the second year of their need award. The act requires that the incentive pool be distributed to participating institutions based on eligibility as determined by OHE.

The act does not specify any criteria for determining which eligible students will receive an incentive award.

*Charter Oak Grant.* Under the act, the requirements for the Charter Oak Grant are generally similar to those that existed under prior law for Connecticut Aid to Charter Oak (except for the changes to student eligibility noted above). Additionally, under prior law, an individual award could not exceed a student's financial need. Under the act, the award cannot exceed eligible educational costs.

Unlike with the other award components, the act does not require OHE to determine eligibility and award levels for the Charter Oak Grant. Instead, it requires only that the grant (1) be awarded to students who demonstrate substantial financial need and (2) not exceed a student's eligible educational costs.

#### §§ 179 & 182 — Appropriation

Under prior law, each of the scholarship programs received a separate appropriation. Under the act, the Governor's Scholarship receives a single appropriation.

The act allocates the appropriation across the four award categories as follows: (1) at least 20% for the merit award, (2) up to 80% for the need award, (3) at least 2.5% for the incentive pool, and (4) at least \$100,000 for the Charter Oak Grant. It also establishes an administrative allowance of \$100,000 or 0.25% of the appropriation, whichever is greater. It thus appears that no more than 77.25% of the appropriation, minus \$100,000, is available for the need award. Additionally, the act specifies that independent higher education institutions must receive at least (1) 38% of the FY 14

appropriation and (2) 36% of the FY 15 appropriation.

By law, the unexpended balance of an appropriation generally lapses at the end of the fiscal year for which it was made and reverts to the unappropriated surplus of the fund from which it was made (e.g., the General Fund). The act specifies that the appropriation for the Governor's Scholarship does not lapse until the end of the fiscal year after the one for which it was made. OHE must report annually by September 1, to the Appropriations Committee through the Office of Fiscal Analysis, on the amount of the appropriation carried over from the previous fiscal year.

The act requires that unexpended Governor's Scholarship funds be returned to OHE by February 15 each year for reallocation.

#### § 182 — Reporting and Audit Requirements

Under prior law, institutions that received CAPCS, CICSIG, and Capitol Scholarship funds had to report to OHE, annually by October 1, certain information regarding the students that received this financial aid, including a recipient's (1) birth year, (2) home town, (3) cumulative grade point average, (4) expected graduation date, and (5) expected family contribution towards educational costs.

The act maintains the reporting requirement for institutions that participate in the Governor's Scholarship but eliminates the specific components required under prior law. It instead requires institutions to provide OHE with data and reports on all Connecticut students who applied for financial aid, including those who received a Governor's Scholarship award. The act also eliminates the annual reporting date and instead requires that the report be submitted in a form and at a time OHE determines.

As under prior law, institutions that do not submit the required information to OHE are ineligible to receive student aid from the state in the following fiscal year.

*Accountability and Audit Requirements.* The act extends to all higher education institutions the accountability and audit requirements that independent institutions previously had to follow under the CICSIG program. These requirements include maintaining, for at least three years, (1) records substantiating the reported number of Connecticut students and (2) documentation used by the institution to determine students' eligibility for the awards.

The requirements also include biennial compliance audits, which under the act must begin in FY 15. Institutions must submit to OHE the results of an audit completed by an independent certified public accountant for each year of program participation. As under prior law for CICSIG, an institution that OHE determines not to be in substantial compliance with the Governor's

Scholarship requirements (1) is prohibited from receiving funds from the program in the following fiscal year and (2) does not regain eligibility until OHE determines that it has returned to substantial compliance.

#### § 186 — HIGHER EDUCATION CONSOLIDATION COMMITTEE

By law, the Higher Education Consolidation Committee, which is composed of certain members of the Appropriations and Higher Education committees, establishes a meeting and public hearing schedule to receive updates from BOR on the progress of the consolidation of the state system of higher education. Under PA 13-261, BOR must additionally report to the committee about the program approval process for all campuses of UConn, the Connecticut State University System, the regional-technical community colleges, and the Board for State Academic Awards. This act requires that UConn also report on the program approval process.

#### § 187 — ACADEMIC REVIEW COMMISSIONS

The act makes a technical change to the number of appointees to the panel from which OHE selects academic review commissions. The panel and commissions were established by PA 13-118. The commissions review and adjudicate appeals from OHE denial of licensure or accreditation involving independent higher education institutions.

#### §§ 188 & 189 — ACADEMIC ADVANCEMENT PROGRAM

The act requires SDE to establish an academic advancement program that allows students in grades 11 and 12 to graduate from high school early by accomplishing three substitute achievements in lieu of graduation requirements in state law. Students must:

1. achieve a passing score on an existing SDE-approved national examination, or on a series of examinations approved by the SBE;
2. achieve a certain SBE-approved cumulative grade point average; and
3. obtain at least three letters of recommendation from school professionals, who could be state-certified teachers, administrators, or other personnel.

The academic advancement program replaces the optional board examination series pilot program in prior law, which allowed students in grades 9 through 12 to participate and only required passing examination marks in order to graduate. SDE has chosen not to establish such a pilot program to date.

Beginning in the 2014-15 school year, the act requires local and regional boards of education to allow students to graduate from high school upon completing the academic advancement program. SBE must give an academic advancement program certificate to any student who successfully completes such program. Connecticut public colleges and universities must equate the certificate with a high school diploma when determining enrollment eligibility.

#### § 190 — RESCS REMOVED FROM DEFINITION OF STATE CONTRACTING AGENCY

The act deletes RESCs from the definition of state contracting agency, thus removing them from being under the authority of the State Contracting Standards Board. (This repeals the provision of PA 13-286 which placed RESCs under the board for bidding and contracting rules.) This means RESCs are again under the same bidding and contracting rules as all local or regional boards of education.

#### § 191 — SCHOOL SECURITY INFRASTRUCTURE COMPETITIVE GRANT PROGRAM

The act makes technical changes to PA 13-3, as amended by PA 13-122.

EFFECTIVE DATE: Upon passage

#### § 192 — INTERNET POSTING OF SCHOOL SPENDING

The act requires each local and regional board of education, regional education service center, and state charter school governing authority to annually post on its website, beginning FY 14, its aggregate spending on various items for each school under its jurisdiction. Such items include:

1. salaries,
2. employee benefits,
3. instructional supplies and equipment,
4. educational media supplies,
5. regular and special education tuition,
6. purchased services (excluding debt service), and
7. all other expenditure items.

#### § 193 — SCHOOL-BASED HEALTH CENTERS

The act allows all school-based health centers to:

1. extend their hours,
2. expand the health care services they provide,
3. service students who live outside of their school district,
4. provide behavioral health services,
5. conduct community outreach, and

6. receive reimbursement for services from private insurance.

The act also requires such services to be provided in accordance with DPH licensure terms.

#### § 194 — GRANTS FOR NEIGHBORHOOD YOUTH CENTERS

The act makes the following grants available to neighborhood youth centers through appropriations to SDE for FYs 14 and 15, as shown in Table 8.

Table 8: Youth Center Grants

| <i>Grant Recipient</i>                           | <i>Grant Amount</i> |
|--------------------------------------------------|---------------------|
| Boys and Girls Clubs of Southeastern Connecticut | \$70,586            |
| Boys and Girls Clubs of Bridgeport               | 94,115              |
| Bridgeport Housing Authority                     | 70,000              |
| Catholic Family Services                         | 80,468              |
| Connecticut Alliance of Boys and Girls Clubs     | 804,685             |
| Central Connecticut Coast YMCA                   | 71,057              |
| Rivera Memorial Foundation Incorporated          | 20,117              |
| Saint Margaret Willow Plaza                      | 20,117              |
| Valley Shore YMCA Incorporated                   | 40,234              |

#### §§ 195-230 — MERGER OF DAS AND DEPARTMENT OF CONSTRUCTION SERVICES

The act dissolves the Department of Construction Services (DCS) and transfers its powers and duties to DAS (see BACKGROUND). The act makes numerous minor, technical, and conforming changes to implement this merger. For example, it reduces the size of commissions and councils of which both the DAS and DCS commissioners were members to reflect the elimination of the DCS commissioner position. Similarly, in cases where school districts must reimburse the state for noncompliance with school construction grant requirements, prior law allowed DCS to refer these cases to DAS for collection. The act instead requires DAS to collect this money directly.

Under the act, if any of the departments' orders or regulations conflict, the act allows the DAS commissioner to implement policies or procedures to resolve the conflict while adopting the policies and procedures in regulation.

DCS's duties and responsibilities that the act transfers include:

1. administering most state capital improvement construction and planning projects;
2. selecting consultants to assist on such projects;
3. providing technical advice and services to agencies planning to improve their physical space;

4. assistance with developing a capital program and budget for the state;
5. enforcing the state's building and fire safety codes; and
6. administering the school construction grant process, with assistance from SDE.

#### § 231 — STATE LIBRARY OPERATING GRANTS

For FYs 14 and 15, the act allows a town to be eligible for a state library operating grant even if it reduces its annual tax levy or appropriation for its public library below the average amount for the three fiscal years immediately preceding the grant year.

EFFECTIVE DATE: Upon passage

#### §§ 232 & 233 — XL CIVIC CENTER MANAGEMENT

The act allows the Hartford-based Capital Region Development Authority (CRDA) to take any action with respect to the Hartford civic center and coliseum complex, now known as the XL Center, and qualifies it for certain insurance and utility rate benefits. Prior law limited CRDA's scope of action to renovating and rejuvenating the center. The center, along with the convention center, downtown higher education center, and various housing, redevelopment, and waterfront improvement projects, comprise the original Adriaen's Landing project.

The act also exempts the center's physical development from local oversight when undertaken by CRDA or another state or public entity. The exemption specifically applies to any work involving the center's demolition, construction, repair, improvement, expansion, or extension. The act also gives the state building inspector and state fire marshal original jurisdiction, including conducting necessary reviews and inspections and issuing building permits; certificates of occupancy; or other construction, occupancy, or fire safety permits.

The act designates the center as state-owned property for state insurance or self-insurance for as long as CRDA owns, leases, or manages it. The designation allows the state insurance and risk management board to determine, purchase, or arrange for the center's insurance or self-insurance.

Lastly, the act allows CRDA to purchase utility services for the center at rates available to state-owned facilities.

§§ 234 & 235 — GENERALLY ACCEPTED  
ACCOUNTING PRINCIPLES (GAAP)  
IMPLEMENTATION

*Annual GAAP Increments*

The law requires the state to amortize and pay off any unreserved negative balances that have accumulated in state funds as a result of not applying GAAP in the past (i.e., the accumulated GAAP deficit).

Under prior law, the accumulated GAAP deficit was aggregated and set up as a deferred charge on the state's combined balance sheet based on the accrued and unpaid expenses and liabilities and other adjustments for GAAP purposes as of June 30, 2013. The act instead specifies that the accumulated General Fund deficit, as determined according to GAAP, is the General Fund's "unassigned negative balance" identified in the state's comprehensive annual financial report (CAFR), excluding any funds deposited in the General Fund from other resources to reduce the fund's negative unassigned balance.

Under prior law, the comptroller had to pay off this amount in equal annual increments over 15 years, starting in FY 14. The act instead requires the state to make these payments over 13 years, starting in FY 16. (PA 13-184 (§ 92) contains an identical provision.)

The act also requires the comptroller, to the extent necessary to report the state's fiscal position in accordance with GAAP, to reconcile the General Fund's unassigned balance at the end of each fiscal year to the (1) unassigned balance on June 30, 2013, (2) portion already amortized, and (3) unassigned balance created after June 30, 2013.

*Balanced Budget Requirements*

By law, the governor must propose, and the General Assembly must adopt, a biennial budget for the state that balances appropriations and estimated revenue.

Starting with FY 14, the law requires the state budget act the General Assembly adopts to include, on the expenditure side, the amount needed to pay off the unreserved negative GAAP balance in any appropriated fund, as reported in the comptroller's most recently audited CAFR issued before the start of the fiscal year. The act replaces the term "unreserved negative balance" with "unassigned negative balance," to reflect the Government Accounting Standard Board's fund balance reporting requirements.

It also requires the General Fund's unassigned negative balance to exclude (1) the accumulated GAAP deficit, unamortized as described above, and (2) any funds from other resources deposited in the General Fund to reduce the accumulated GAAP deficit.

EFFECTIVE DATE: Upon passage

§ 236 — LANDFILL CLOSURE OBLIGATIONS

The act requires DEEP and the Connecticut Resources Recovery Authority to enter into a memorandum of understanding requiring DEEP to assume all legal obligations from closing the Ellington, Hartford, Shelton, Wallingford, and Waterbury landfills. EFFECTIVE DATE: Upon passage

§ 238 — UNDERGROUND STORAGE TANK (UST)  
PROGRAM

The act broadens the circumstances in which funding under the UST petroleum clean-up program is redistributed among different types of eligible recipients. The program, which is being phased out, enables owners and operators of certain petroleum USTs to demonstrate financial responsibility for paying cleanup costs or third-party liability compensation from a UST release, as required by law. It also provides reimbursement for investigation and remediation costs incurred due to petroleum releases from such tanks. State law provides a system for paying claims based, in part, on the type of claimant involved.

Under the program, funds available for payment are distributed evenly between (1) municipal and other applicants, (2) small station applicants, (3) mid-size station applicants, and (4) large station applicants. The law establishes a priority system within each category for distribution. In general, for small station and municipal or other applicants, payment priority is given to the earliest approved applications. Priority for mid-size and large station applicants is based on the results of a reverse auction, giving priority to applicants who, taking into account the maximum that can be paid, agree to accept the greatest reduction in payment.

By law, any funds remaining in a category that has no applications are redistributed to other categories and used to make payments. The act additionally requires redistribution from the mid-size and large station applicant categories if (1) as a result of the most recent reverse auction, no payment can be made to an applicant in these categories or (2) funds remain in either category after considering all potential payments that could be made to applicants. By law, the priority order for redistribution is as follows: (1) municipal and other applicants, (2) small station applicants, (3) mid-size station applicants, and (4) large station applicants.

Also under prior law, claim assignees assume the assignors' status for purposes of receiving payment under the program. Under the act, assignees who obtained assignments before July 1, 2012 are designated as "other applicants" for the purpose of receiving payments under the program, thereby potentially



advancing the date by which they will be paid. For assignments made after that date, assignees continue to assume the assignors' status.

EFFECTIVE DATE: Upon passage

#### § 239 — CONNECTICUT INNOVATIONS, INC. BOARD CHAIRPERSON

The act removes the DECD commissioner as chairperson of CII's board of directors and instead requires the governor to appoint one of the board members as the chairperson. By law, the commissioner continues to serve as an ex officio board member. Consequently, the governor may appoint her as chairperson.

#### §§ 240-243 — JUDICIAL COMPENSATION

The act increases salaries for judges, family support magistrates, family support referees, and judge trial referees by 5.3% in FY 14 and in FY 15. It similarly increases the additional amounts that certain judges receive for performing certain administrative duties. It also increases salaries of workers' compensation commissioners and probate court judges whose salaries are determined in relation to a Superior Court judge's salary by law.

##### *Judicial Salaries*

Table 9 shows the act's changes to judicial salaries.

Table 9: Judicial Salaries

| <i>Position</i>                                              | <i>Previous Salary</i> | <i>Salary Starting July 1, 2013</i> | <i>Salary Starting July 1, 2014</i> |
|--------------------------------------------------------------|------------------------|-------------------------------------|-------------------------------------|
| Supreme Court Chief Justice                                  | \$175,645              | \$184,954                           | \$194,757                           |
| Chief Court Administrator (if a judge)                       | 168,783                | 177,728                             | 187,148                             |
| Supreme Court Associate Judge                                | 162,520                | 171,134                             | 180,204                             |
| Appellate Court Chief Judge                                  | 160,722                | 169,240                             | 178,210                             |
| Appellate Court Judge                                        | 152,637                | 160,727                             | 169,245                             |
| Deputy Chief Court Administrator (if a Superior Court Judge) | 149,853                | 157,795                             | 166,158                             |
| Superior Court Judge                                         | 146,780                | 154,559                             | 162,751                             |
| Chief Family Support Magistrate                              | 127,782                | 134,554                             | 141,686                             |
| Family Support Magistrate                                    | 121,615                | 128,061                             | 134,848                             |
| Family Support Referee                                       | 190/ day*              | 200/ day*                           | 211/ day*                           |
| Judge Trial Referee                                          | 220/ day*              | 232/ day*                           | 244/ day*                           |

\* Plus expenses, mileage, and retirement pay

##### *Administrative Judges*

In addition to their salaries, the law provides extra compensation to judges who take on certain

administrative duties. The judges who receive this additional amount are (1) the appellate system's administrative judge; (2) each judicial district's administrative judge; and (3) each chief administrative judge for facilities, administrative appeals, the judicial marshal service, judge trial referees, and the Superior Court's Family, Juvenile, Criminal, or Civil divisions. The act increases the amount of these additional payments from \$1,000 to \$1,053 (5.3%) starting July 1, 2013, and to \$1,109 (5.3%) starting July 1, 2014.

##### *Compensation Commissioners and Probate Court Judges*

By law, a Workers' Compensation commissioner's salary is based on the commissioner's experience as a compensation commissioner and the salary paid to Superior Court judges. A commissioner receives \$6,000 less than a Superior Court judge in his or her first year of service, \$5,000 less in the second year, \$4,000 less in the third year, \$3,000 less in the fourth year, \$2,000 less in the fifth year, and \$1,000 less in the sixth year and beyond (CGS § 31-277). The act's salary increases for Superior Court judges will correspondingly increase compensation commissioners' salaries (e.g., a first year commissioner's salary will increase from \$140,780 to \$148,559 in FY 14 and \$156,751 in FY 15).

The law bases a probate court judge's salary on the judge's probate district classification and the salary paid to Superior Court judges. Band 1 probate district judges receive 45% of a Superior Court judge's salary, band 2 probate district judges receive 55%, band 3 probate district judges receive 65%, and band 4 probate district judges receive 75% (CGS § 45a-95a). The act's 5.3% salary increases for Superior Court judges will also increase probate court judges' salary 5.3% (e.g., a band 1 probate district judge's salary will increase from \$66,051 to \$69,552 in FY 14 and \$73,238 in FY 15).

#### §§ 244-248 — CREATING THE CONNECTICUT ARTS COUNCIL

The act creates the 13-member Connecticut Arts Council (CAC) within DECD to foster and support the arts.

##### *CAC Membership*

The CAC membership is as follows:

1. the head of a statewide arts organization, appointed by the governor to a four-year term, and four other members appointed by the governor to a four-year term;
2. the DECD commissioner, as a voting, ex-officio member;

3. a DECD employee responsible for arts and culture, appointed by the commissioner as a non-voting, ex-officio member; and
4. one member appointed for a three-year term by each of the six legislative leaders.

Initial appointments to the CAC must be made by October 1, 2013 and the governor must biennially designate a member to serve as chairperson.

#### *CAC Governance*

Under the act, CAC may transact business and exercise its powers only at a meeting of at least seven voting members and with the approval of a majority of the voting members present. CAC must meet at least quarterly, and more often if the chairperson deems it necessary. The chairperson must call the initial meeting by October 31, 2013.

Members may serve for only two consecutive terms. Any appointed member who misses three consecutive meetings or more than half of all meetings within a calendar year is deemed to have resigned from the council. The respective appointing authority must fill any vacancy for the balance of the unexpired term. The governor may remove any of his or her appointees for misconduct, material neglect of duty, or incompetent conduct as a member.

Members are entitled to reimbursement for actual and necessary expenses they incur while performing their CAC duties, but are not compensated.

#### *Connecticut Arts Council Foundation*

The act allows CAC to establish and manage a nonprofit foundation, called the Connecticut Arts Council Foundation (CACF), to raise funds from private sources to encourage, within the state or with other states, participation in, and promotion, development, acceptance, and appreciation of, artistic and cultural activities. This includes music, theater, dance, painting, sculpture, architecture, literature, films, heritage, historic preservation, humanities, and allied arts and crafts. If CAC establishes CACF, it must serve as its board of directors.

Under the act, subject to the direction, regulation, and authorization, or ratification of CAC, CACF may, generally:

1. receive, solicit, contract for, collect, and hold in separate custody endowments, donations, compensation, and reimbursement as money, debt obligations, services, material, equipment, or anything that may otherwise be acceptable;
2. disburse funds in order to (a) foster the creation, preservation and expansion of the arts in Connecticut, (b) disseminate information related to such activities, and (c) support CAC-

approved purposes that are consistent with DECD's arts activities and cultural programs;

3. apply for and receive grants and other assistance from national and state bodies and foundations, so long as CACF cooperates with and makes efforts to avoid competing directly with other Connecticut arts organizations when applying for such grants or assistance; and
4. execute contracts to foster the arts in Connecticut, including buying art works for the state art collection.

The act requires CACF to hold all its assets in trust for the principal purpose of supporting or improving DECD, with DECD as the beneficial owner and CAC exercising complete control of those assets.

#### *Integrating the CAC into DECD Arts Activities*

By law, Connecticut arts organizations may be eligible for an annual matching grant from the Connecticut Arts Endowment Fund (CAEF) in proportion to the amount of donor contribution a respective organization collects in the prior year. The act requires the state treasurer to annually notify CAC of CAEF's annual investment earnings and the amount available for matching grants by September 1. The law already requires the treasurer to notify DECD.

The act also requires CAC to annually notify DECD of the total amount of matching grants arts organizations are eligible to receive from CAEF, by January 15.

EFFECTIVE DATE: July 1, 2013, except the DECD arts activities and matching grants provisions are effective October 1, 2013.

#### § 249 — LOCAL PLANNING REGIONS

The act makes the following changes in the law that requires the OPM secretary, by January 1, 2014 and every 20 years thereafter, to analyze, designate, and update local planning regions. It requires the secretary to:

1. consult with the transportation commissioner;
2. consider United States Census Bureau (USCB)-designated urbanized areas and urbanized clusters;
3. consider the current capacity of each regional planning organization (RPO) to comply with relevant federal transportation laws;
4. consider whether proposed regions can deliver sophisticated planning activities and regional services, rather than necessary regional services; and
5. consider whether rural regions should be designated in parts of the state without urbanized areas.

The secretary must report to the Planning and Development Committee by October 1, 2013 on the status of his planning region analysis.

Under the act, when two or more contiguous planning regions that contain 14 or more municipalities voluntarily consolidate to form a single planning region, instead of a single council of governments (COG) or council of elected officials (CEO), they are exempt from OPM's planning region redesignation.

EFFECTIVE DATE: Upon passage

#### §§ 250, 252, 258-259, & 390 — CONVERSION TO COGS

The act requires CEOs and regional planning agencies (RPA) to reestablish themselves as COGs by January 1, 2015 and eliminates the procedure that allows a CEO and RPA to become a COG without member towns having to pass new ordinances.

#### *Powers*

By law, COGs have all the powers and responsibilities of CEOs and RPAs, including the authority to promote cooperative arrangements among neighboring municipalities related to health, safety, welfare, education, transportation, and the economy. The act specifies that COGs also have the authority to:

1. accept or participate in any grant, donation, or program available to any county or political subdivision of the state;
2. perform, jointly, alone, or in cooperation with another entity, any service, activity, or undertaking that a political subdivision of the state is authorized to perform; and
3. administer and provide services to municipalities, including delegation of authority to subregional groups of municipalities.

Under the act, COGs may provide any of the following services: engineering, inspection and planning, economic development, public safety, emergency management, animal control, land use management, tourism promotion, social, health, educational, data management, regional sewerage, housing, computerized mapping, household hazardous waste collection, recycling, public facility siting, coordination of master planning, vocational training and development, solid waste disposal, fire protection, regional resource protection, regional impact studies, and transportation. In addition, the act transfers many rights and duties of RPAs to COGs, including the right to be consulted on, and receive notice of, certain regional matters.

#### *Report to OPM and Legislature*

Annually, beginning January 1, 2014, the act also requires COGs to report to the OPM secretary and Planning and Development Committee. The report must describe:

1. any regional program, project, or initiative (regional program) the COG provided or planned;
2. any spending on a regional program, including the funding source and a cost-benefit analysis of the expenditure;
3. any state or municipal services that could be transferred to the COG and the expected efficiency;
4. the performance of any regional programs, including any recommendations for legislative action; and
5. specific annual goals, objectives, and quantifiable outcome measures for each regional program.

EFFECTIVE DATE: Upon passage

#### §§ 251 & 388 — COG FUNDING

The act renames the regional performance incentive account the regional planning incentive account and makes its primary use funding RPOs, as shown in Table 9, and its secondary use funding regional performance incentive program grants. Under the act, the account will no longer fund the Voluntary Regional Consolidation Bonus Pool (VRCBP), which the act eliminates. The VRCBP was used to offset consolidation costs associated with voluntary RPO mergers.

The act changes the funding formula for COGs and uses the regional planning incentive account as the funding source. Under prior law, RPOs received an annual state grant equal to 5.3% of the total state appropriation, and supplemental grants based on the ratio of their local dues to their state grant. Table 10 shows the funding formula that applies beginning in FY 14.

Table 10: Funding Formula for RPOs

|                                          | <i>FY 14</i>                                                                                         | <i>FY 15 and Beyond</i>                                                     |
|------------------------------------------|------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| Base Amount                              | \$125,000                                                                                            | \$125,000                                                                   |
| Additional Amount Per Person             | \$0                                                                                                  | 50¢, based on most recent census                                            |
| Additional payment for consolidated COGs | Amount that RPOs would have received if they had not voluntarily consolidated before January 1, 2014 | \$125,000 for each RPO that voluntarily consolidated before January 1, 2014 |

EFFECTIVE DATE: Upon passage

## §§ 253 & 254 — REGIONAL PERFORMANCE INCENTIVE PROGRAM

The act modifies the Regional Performance Incentive Program. By law, the program allows RPAs, CEOs, COGs, economic development districts, and two or more municipalities to annually submit to the OPM secretary proposals to provide, or study the provision of, any service on a regional basis that is currently provided by one or more towns in their regions. The act adds shared information technology services to the list of activities eligible for a grant. It also specifies that two or more municipalities that apply for funds must do so through an RPA.

Under the act, an individual municipality or COG may apply to the OPM secretary, by December 31, 2013 and annually thereafter, for a grant to fund:

1. operating costs for connecting to the statewide high-speed network and
2. capital costs associated with connecting to the network, including costs of building out the internal fiber network connections required to connect to the state network.

The act requires the secretary to make network build-out grants in conformity with the two-year schedule fixed for municipal and COG connection to the state network.

EFFECTIVE DATE: Upon passage

## §§ 255, 325, & 389 — COMMISSION FOR EDUCATIONAL TECHNOLOGY

The act increases, from 17 to 19, the membership of the Commission for Educational Technology and changes its composition. The commission is the state's principal educational technology advisor. Its duties include developing plans to connect educational institutions to the state network. The act removes from the commission:

1. the Public Utilities Regulatory Authority chairperson,
2. a representative of the Connecticut Educators Computer Association,
3. a representative of the Connecticut Association of Public School Superintendents,
4. a secondary school teacher designated by the Connecticut Education Association, and
5. an elementary school teacher designated by the Connecticut Federation of Educational and Professional Employees.

The act adds to the commission:

1. the OPM secretary;
2. the DECD commissioner;
3. the consumer counsel;
4. a representative of the Connecticut Conference of Municipalities (CCM);

5. a representative from the Connecticut Council of Small Towns (COST);
6. a chief elected municipal official, appointed by the Senate minority leader; and
7. a small business representative, appointed by the House minority leader.

The act changes the qualifications of four members. Under prior law, four members had to represent businesses and have expertise in information technology. Under the act, they must either represent businesses or have information technology expertise. The act increases, from one to two, the number of these representatives the governor appoints and eliminates the lieutenant governor's appointment.

The act allows designees of all members to serve in their place. Under prior law, only the agency officials' designees could serve. The act also requires the governor, instead of the members, to appoint the chairperson and requires the commission to meet at least once per calendar quarter.

The act repeals a law requiring DAS to develop, in consultation with the commission and the SDE, technology standards for school construction projects and the educational technology grant program (CGS § 4d-84). It also repeals a law requiring the SDE to cooperate with the commission to develop, and biennially update, a statewide standard and plan for teacher and administrator competency in the use of instructional technology (CGS § 4d-85).

## § 256 — TWO-YEAR SCHEDULE FOR STATE NETWORK CONNECTIONS

Under the act, the Bureau of Enterprise Systems and Technology must, in consultation with COGs, recommend a two-year schedule for connecting each municipality and COG to the state network. This schedule must be submitted to the Planning and Development Committee by October 1, 2013.

EFFECTIVE DATE: Upon passage

## § 257 — SYSTEM OF ACCOUNTING FOR MUNICIPAL REVENUE AND EXPENDITURES

The act requires the OPM secretary, in consultation with the SDE, CCM, and COST, to develop and implement, by July 1, 2014, a uniform system of accounting for municipal revenue and expenditures, including board of education and grant agency expenditures and revenue. The system must include a uniform chart of accounts for municipalities that lists (1) amounts and sources of revenue and (2) cash and real or personal property donations that, in the aggregate, total \$500 or more. OPM must make the chart available on its website.

By June 30, 2015, municipalities must implement the accounting system and use it to file any annual reports the OPM secretary may require.

EFFECTIVE DATE: Upon passage

#### § 260 — REPORT ON METROPOLITAN PLANNING ORGANIZATIONS (MPO)

Federal law requires the state to designate MPOs, which are regional entities responsible for carrying out certain transportation planning activities. The act requires the DOT commissioner, within available appropriations, to prepare a report on the redesignation of MPOs. The report must indicate:

1. a suggested redesignation process;
2. what assistance DOT will provide; and
3. any structures and resources that will be necessary to meet federal transportation requirements related to planning, capital programming, project selection, asset management, and performance measurement under the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (the primary federal surface transportation law).

The report must be submitted to the Transportation and Planning and Development committees by July 1, 2014.

#### § 320 — SCHOOL BUS DRIVER HEALTH INSURANCE POOL

The act creates a task force to study the creation of a statewide health insurance pool for school bus drivers employed by a local or regional school district or a private company that provides busing services for a district. The task force must investigate the estimated state and municipal fiscal impact of such a pool. The task force members include:

1. the chairpersons and ranking members of the education, insurance, and labor committees, or their designees;
2. the education, insurance, and labor commissioners and the Healthcare Advocate, or their designees; and
3. one representative of the health insurance industry, appointed by the Senate majority leader.

Appointing authorities must make their appointments by July 19, 2013 and fill any vacancies. The House speaker and Senate president pro tempore must select the chairpersons, who must schedule and hold the first meeting by August 18, 2013. The Insurance Committee's administrative staff serve as the task force's administrative staff.

The act requires the task force to report its findings and recommendations to the Insurance, Education, and Labor committees by January 1, 2014. The task force terminates on the later of that date or when it submits the report.

EFFECTIVE DATE: Upon passage

#### §§ 321-324 — UNIFORM REGIONAL SCHOOL CALENDARS

##### *Task Force to Develop Guidelines*

The act establishes a 19-member task force to develop guidelines for each RESC to use in developing uniform regional school calendars. The guidelines must include:

1. at least 180 days of sessions in a school year (as required by existing law);
2. a uniform start date;
3. uniform days for statutorily required professional development and in-service training for certified employees; and
4. up to three uniform school vacation periods during each school year, of which, up to two must be one-week vacations and one must be during the summer.

The task force members include the education commissioner or his designee, and two members of the Education and Planning and Development committees, one each appointed by each committee's chairpersons and ranking members. The act also requires the executive director or president of each of the following organizations, or their designees, to appoint a representative to the task force:

1. American Federation of Teachers,
2. Connecticut Association of School Administrators,
3. Connecticut Education Association,
4. Connecticut Association of Boards of Education,
5. Connecticut Association of Public School Superintendents,
6. Connecticut Parent Teacher Student Association,
7. Connecticut Catholic Conference,
8. each RESC (six in total), and
9. the school transportation service company serving the largest number of public school students in the state.

All task force appointments must be made by July 19, 2013. The appointing authority must fill any vacancy. The Education Committee's chairpersons must select the task force's chairpersons from among its members; the chairpersons must schedule the first meeting by August 18, 2013. The committee's administrative staff serve as the task force's

administrative staff.

The act requires the task force to submit its guidelines to each RESC and the Education Committee by January 1, 2014. The task force terminates on the date it submits the guidelines or January 1, 2014, whichever is later.

#### *Development and Implementation*

The act requires each RESC, by April 1, 2014, to (1) develop a uniform regional school calendar for each board of education in its service area that is consistent with the task force's guidelines and (2) submit the calendars to the SBE for approval. The calendars must be provided to the Education Committee no more than five days after SBE approval.

The act allows boards to adopt the uniform calendars for the 2014-15 school year and requires them to do so beginning with the 2015-16 school year.

#### *Reporting Requirements*

The act requires the education commissioner to report to the Education Committee on (1) the implementation of the uniform calendars and (2) any recommendations for legislation related to the implementation by the following dates:

1. July 1, 2014;
2. January 1, 2015;
3. July 1, 2016;
4. January 1, 2016; and
5. July 1, 2017 and annually thereafter.

EFFECTIVE DATE: Upon passage, except the conforming changes are effective July 1, 2013.

#### § 326 — NOTICE OF COMMUNITY-BASED RESOURCES FOR FORECLOSURE MEDIATION

The act repeals a requirement that municipalities include the Judicial Branch's form on community-based resources for people involved in foreclosure mediation with any statement sent to a homeowner about a public sewer, water service, or property tax arrearage.

#### § 327 — REGIONAL HUMAN SERVICES COORDINATING COUNCILS

Starting January 1, 2015, the act requires each state planning region to establish regional human services coordinating councils to encourage collaborations fostering the development and maintenance of a client-focused structure for each region's health and human services system. Each council must meet at least twice per year to (1) ensure that the region's plans and activities are coordinated with its human services needs and (2) develop approaches to improve service delivery

and achieve cost savings in the region.

Under the act, the councils' members must include the (1) children and families, correction, developmental services, education, mental health and addiction services, public health, and social services commissioners, or their designees, and (2) executive director of the Judicial Branch's Court Support Services Division or his designee. Each COG's executive director may appoint additional members, including (1) municipal elected officials, (2) workforce development boards (also referred to as workforce investment boards), (3) nonprofit agencies, and (4) family advocacy groups.

EFFECTIVE DATE: October 1, 2013

#### § 329 — LAND VALUE TAX PILOT PROGRAM

By law, municipalities must tax land and any improvements made to the land (e.g., buildings) at the same rate. The act increases, from one to three, the maximum number of municipalities that, under an OPM pilot program, may develop a plan for taxing land at a higher rate than buildings (i.e., land value tax). It also eliminates the criteria for municipal participation that, under prior law, restricted the pilot program to a distressed city with no more than 26,000 residents and a city manager and city council form of government (i.e., New London). By law, the OPM secretary must establish the application procedure. The act requires the secretary to send the Planning and Development Committee a copy of (1) the application procedure and program criteria and (2) any notice of municipalities selected for the program.

By law, a municipality may begin preparing its plan after the secretary approves its application. Under the act, the municipality's chief elected official, instead of the chief executive officer, must appoint a committee to prepare the plan. By law, the committee must include relevant taxpayers and stakeholders. The act adds the following people to the committee:

1. a representative of the municipality's legislative body, or, if it is a town meeting, board of selectmen;
2. a representative of the business community; and
3. a land use attorney.

The act adds a municipality's chief elected official to the list of people who must receive the committee's completed plan for review and comment. It adds the Commerce Committee to the list of legislative committees to which the plan must be submitted after it is approved by a municipality's legislative body. It also extends, from December 31, 2009 to December 31, 2014, the deadline by which municipalities must submit their plan to the committees.

EFFECTIVE DATE: October 1, 2013

### § 330 — TAX INCIDENCE STUDY

The act requires the DRS commissioner, starting by December 21, 2014, to biennially submit to the Finance, Revenue and Bonding Committee, and post on the DRS website, a report on the overall incidence of the income tax, sales and excise taxes, the corporation business tax, and property tax. The commissioner may contract with another entity in order to prepare the report, which must present information on the tax burden distribution as follows:

1. for individuals: (a) income classes, including income distribution expressed for every 10 percentage points and (b) other appropriate taxpayer characteristics the commissioner determines and
2. for businesses: (a) business size by gross receipts, (b) legal organization, and (c) industry by North American Industrial Classification System (NAICS) codes. (These codes group businesses into major sectors and subsectors.)

Under existing law, the DECD commissioner, in consultation with the DRS commissioner, must evaluate and report every three years on tax credit and abatement programs enacted to recruit and retain businesses (CGS § 32-1r). This report must also include information on the tax incidence of the state's corporation business tax.

### §§ 331-375, 387, & 391 — STATE EMPLOYEES

The act makes numerous changes in the statutes governing state employee personnel administration. Among other things, it (1) limits the circumstances under which nonunion employees can appeal certain grievances to the Employees' Review Board (ERB) and (2) expands the circumstances under which the DAS commissioner can waive civil service exam requirements.

#### § 331 — *Benefit Statements*

The act allows the comptroller, instead of the DAS commissioner, to issue state employee statements summarizing their salaries and fringe benefits.

#### § 333 — *Appointing Authority Designees*

The act allows appointing authorities (those authorized to hire) to designate their appointing powers to others.

#### §§ 339 & 391 — *Unclassified Executive Assistants and Personal Secretaries*

The act prohibits department heads from having more than four unclassified executive assistants. It also eliminates provisions that (1) prohibited a state agency

from employing more than one executive assistant and (2) allowed a classified employee to retain his or her classified status after becoming a personal secretary (an unclassified position) to an administrative head, undersecretary, or deputy.

#### §§ 344 & 346 — *Position Evaluations and Wage Inequities*

The act requires DAS to evaluate, at least once every five years, classified and unionized unclassified positions to determine if they are in an appropriate compensation plan based on reasonably objective job-related criteria. Prior law required DAS, with the advice of a committee representing various interested parties, to conduct similar evaluations and report annually to the Labor and Public Employees Committee on the evaluations for classified positions. The act eliminates the report requirement and advisory committee.

Prior law required the legislature to appropriate sufficient funds to eliminate wage inequities, including those based on gender, identified in the DAS classification evaluation, objective job evaluation studies of unclassified employees, and other studies negotiated in union contracts. The act instead requires (1) DAS to consider any wage inequities identified during the five-year evaluations and (2) the legislature, at DAS's request with the OPM secretary's approval, to appropriate sufficient funds to modify compensation plans based on the five-year evaluations and any other studies negotiated in union contracts.

#### § 347 — *Employees' Review Board*

The law allows individual or groups of nonunion state employees in permanent positions to appeal to the ERB over certain workplace grievances such as discrimination or unsafe or unhealthy working conditions. The act limits appeals over discrimination to grievances alleging unlawful discrimination. It also prohibits employees from appealing to the ERB over (1) discrimination if they also file a complaint with CHRO or (2) unsafe or unhealthy working conditions if they also file a complaint with the state or federal Occupational Safety and Health Administration.

The act prohibits the board from waiving the fee for its hearing transcripts. It also allows parties to mutually agree to waive appeal process deadlines. The agreement must be in writing between the employees or their designated representative and the OPM secretary or his designee.

#### § 348 — *Managerial Compensation Increase Caps*

By law, when a class of employees' compensation increases, the salaries of managerial employees in the

class increase by five percent. The act caps such a manager's new salary at the new salary grade's maximum amount.

#### § 349 — *DAS Approval for Dual Employment Overtime*

The act requires the DAS commissioner's approval of overtime pay to employees working for more than one state agency.

#### § 352 — *Candidate Lists*

By law, a candidate list contains those people who have passed a civil service examination for employment in a position in a specific class, occupational group, or career progression level. The act shortens the minimum amount of time, from six to three months, that a candidate list must remain in effect. It also reduces the maximum amount of time, from two to one year, that the DAS commissioner can extend a list's effectiveness.

Prior law allowed the commissioner to extend lists for continuous recruitment examinations for up to five years. The act eliminates this limit and instead allows the commissioner to extend candidate lists for continuous recruitment examinations based on the needs of the service.

#### §§ 353-354 & 357-358 — *Civil Service Examinations*

The act prohibits any agency other than DAS from giving examinations for a position subject to DAS's examination procedure. The act allows DAS to charge a fee to applicants who are not state employees. Under prior law, all examinations were free. The fee cannot exceed the cost of developing and administering the examination and the DAS commissioner can waive it if the applicant is financially unable to pay. The commissioner must prescribe a form and manner for applying for waivers and adopt regulations for the fees and waivers.

The act changes the time in which someone can appeal his or her rejection from taking an exam, from 10 days from receiving notice of the rejection, to 12 days from the notice's mailing. It also reduces the time allowed for a decision on the appeal from 30 to 15 days.

Prior law allowed any applicant who took an examination to inspect the papers, markings, background profiles, and other items used to determine their final earned rating. The act limits such inspection to people who did not achieve a passing rating. It also reduces the time in which someone can (1) perform the inspection, from 30 days after receiving the results to 30 days after the results are issued and (2) appeal their exam results, from 30 to 10 days after inspecting the record.

#### § 355 — *Personnel Hiring Analysis*

The act eliminates a requirement that each state agency include an analysis of the preceding year's personnel hiring in its annual report to the governor. The eliminated report had to indicate the extent to which volunteer experience had been considered among the qualifications of applicants for state employment.

#### § 359 — *Examination Waivers*

The act expands the circumstances under which the DAS commissioner can waive examination requirements and establishes a procedure for hiring under these circumstances. By law, if fewer than six applicants qualify to take a promotional examination, the commissioner may immediately certify them as eligible for appointment without further examination. The act additionally allows him to waive requirements for any examination if:

1. a professional license, degree, or accreditation is a mandatory requirement for appointment or promotion;
2. the appointment or promotion is to a job classification (a) used by a single state agency, (b) that is limited in number, and (c) with few vacancies in the professional or managerial series; or
3. the qualifications for a position in the managerial class are so specialized or unique that an examination for a general job classification would not (a) produce a list of qualified candidates and (b) be cost effective.

If the commissioner waives examination requirements under these circumstances, the act allows him to fully or partially delegate authority to a department head to recruit for the position. The delegation must be under a plan preapproved by the commissioner. It must (1) include standards for posting positions for at least one week, (2) specify how the notice must be posted, and (3) specify the procedures for accepting and rejecting applicants based on the minimum required qualifications.

Once the department head identifies a suitable candidate, he or she must submit to the commissioner the application and supporting documentation for the candidate and any other candidates he or she considers eligible for the position. The commissioner must certify in writing that the preferred candidate meets the minimum experience and training qualifications contained in the job specifications before the department head can make an employment offer certified by the commissioner.

The act requires all recruitments performed by a department head under these circumstances to have a post audit by the commissioner.



### *§§ 360 & 387 — Promotional Exams for Unclassified Employees*

As of July 1, 2013, the act eliminates a prohibition on unclassified employees taking a promotional exam for a classified position unless they had previous permanent status in the classified service.

### *§§ 360, 362, & 367 — Working Test Periods*

The law generally requires classified employees to serve a working test period at the start of their appointment to determine if they deserve permanent appointment to the position. The act eliminates a (1) provision that prevented appointing authorities from dismissing more than one employee every three months for the same position's working test period without DAS approval and (2) waiver for reports on the working test periods of positions involving unskilled or semiskilled labor or domestic, attending, or other housekeeping and custodial service at institutions.

Prior law exempted from a working test period any state employee laid off and subsequently rehired from a reemployment list. The act additionally exempts laid off state employees rehired from any employment list if they are rehired in a classification in which they had prior status.

### *§ 363 — Provisional Appointments*

In order to facilitate public business or avoid public inconvenience, prior law allowed the DAS commissioner to fill a classified position with a provisional (temporary) appointment when a candidate list had fewer than five candidates. The act limits the commissioner's ability to make such appointments by allowing them only when a position's candidate list or reemployment list has no one on it. It extends the provisional appointment's potential term, from until the establishment of a reemployment or candidate list to until an appropriate recruitment is made for the position. It also increases the appointment's maximum term, from six months to six months in any one fiscal year.

### *§ 368 — Sick Leave Reinstatement*

The act allows certain former state employees rehired by the state within one year to reinstate their previously accrued sick leave by repaying the amount they received for unused sick leave when they separated from state service. Eligible employees must have separated from state service because they became physically or mentally incapable or unfit to efficiently perform their duties due to infirmities from advanced age or other disability. They must make the repayment in a lump sum within 30 days of reemployment or

forfeit the right to reinstate the leave.

### *§ 369 — Unpaid Leave of Absence*

The law allows classified employees with at least five years of state service to be granted a leave of absence without pay if they are appointed to an unclassified position. The act (1) specifies that the DAS commissioner grants this leave and (2) limits it to two consecutive years, unless the employee requests, and the commissioner grants, a renewal.

### *§ 371 — Veterans' Reinstatement*

Subject to certain conditions, the law allows a state employee who leaves state service to serve in the U.S. Armed Forces to be reinstated after leaving the armed forces. The act requires the protections and benefits provided with such a reinstatement to at least equal those required by applicable federal law, including the Uniformed Services Employment and Reemployment Rights Act.

### *§ 373 — Penalties for Prohibited Political Activities*

By law, the DAS commissioner can dismiss or penalize classified state employees who use their official authority or influence to (1) interfere with or affect election or nomination results or (2) directly or indirectly coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes. The act additionally allows the commissioner to dismiss or penalize classified employees who violate the related regulations.

### *§ 374 — Connecticut Lottery Corporation*

The act requires, rather than allows, the Executive Branch to negotiate with unionized CLC employees.

### *§ 375 — State Police Dismissal Hearings*

The act requires the DESPP, rather than the DAS, commissioner, to hold the hearings required before a state police officer can be dismissed from service.

### *§ 391 — DCP Meat and Poultry Inspectors*

The act repeals obsolete provisions regulating the work hours of Department of Consumer Protection (DCP) meat and poultry inspectors.

### § 376 — PAROLE RELEASE HEARINGS

The act makes discretionary, rather than mandatory, parole board hearings for (1) non-violent offenders who have served 75% of their sentences minus any risk reduction credits and (2) violent offenders and those convicted of home invasion or 2<sup>nd</sup> degree burglary who have served 85% of their sentences. (By law, (1) the non-violent offenders are eligible for parole after serving 50% of their sentences minus risk reduction credits and (2) the violent offenders are eligible for parole after serving 85% of their sentences.)

If the board does not hold one of these hearings, the act requires it to document and provide the offender with the specific reasons why it chose not to hold a hearing. The act specifies that an offender cannot be released under these provisions without a hearing.

By law, the board must consider the offender's suitability for release based on whether (1) there is a reasonable probability he or she will not violate the law and (2) the benefits to the person and society from release to community supervision substantially outweigh the benefits of continued incarceration. The board must document why it denies parole after one of these hearings.

### § 378 — TRANSFER OF FUNDS FROM CLEAN ENERGY FINANCE AND INVESTMENT AUTHORITY TO GENERAL FUND

The act reduces, from \$24.2 million to \$19.2 million, the amount transferred under the budget act from the Clean Energy Finance and Investment Authority to the General Fund for FY 15.

EFFECTIVE DATE: Upon passage

### § 379 — TRANSFERRING UNEXPENDED FUNDS TO USE FOR PROVIDING DRIVER'S LICENSES TO PEOPLE WHO CANNOT PROVE LEGAL U.S. RESIDENCE

The act carries forward certain funds from the Departments of Motor Vehicles' (DMV) Personal Services account and transfers them to other DMV accounts for use in FY 14 for providing restricted driver's licenses to people who cannot prove legal U.S. residence. Specifically, it transfers up to \$750,000 from the unexpended fund balance in DMV's Personal Services account to its Other Expenses account and up to \$100,000 from its Personal Services account to its Equipment account for this purpose.

It repeals § 51 of PA 13-184, which carried forward the same amounts for the same purpose but did not state that the funds were to be transferred from DMV's Personal Services Account.

### § 380 — EFFECTIVE DATE CHANGE IN REVENUE ESTIMATE

The act makes a technical correction in the effective date of a revenue estimate provision in PA 13-184 (§ 122) by making it effective July 1, 2013, rather than July 1, 2011.

EFFECTIVE DATE: None stated

### § 381 — RECONSIDERATION OF OPM DECISION ON STATE-REIMBURSED PROPERTY TAX EXEMPTION IN DANBURY

The act gives Danbury taxpayers more time to ask the OPM secretary to reconsider his modification or denial of a state-reimbursed property tax exemption for manufacturing machinery and equipment included on the city's 2006 grand list. It allows a taxpayer who did not previously file a request for reconsideration to file one by July 19, 2013. The secretary must, within 30 days of receiving the request, reconsider the modification or denial and send a determination to the taxpayer. If the secretary approves the exemption, Danbury must reimburse the taxpayer for any taxes paid on the exempted machinery and equipment equal to the state reimbursement.

EFFECTIVE DATE: Upon passage

### § 382 — QUALIFIED APPRENTICESHIP TRAINING PROGRAMS

The law provides corporate tax credits for S corporations, limited liability companies, limited liability partnerships, or limited partnerships that employ apprentices from qualified apprenticeship training programs in the construction, manufacturing, plastics, or plastics-related trades. The act requires the labor commissioner to establish and implement a grant program for the entities eligible to receive this tax credit. Eligible apprenticeship programs must (1) be certified by the commissioner, (2) be registered with the Connecticut State Apprenticeship Council, and (3) require between 4,000 and 8,000 hours of apprenticeship training for council certification. Apprenticeship programs in the construction trades must be at least four years long.

Under the act, grant amounts for employing apprentices in the manufacturing, plastics, or plastics-related trade are \$4 for each hour the apprentice worked during the income year, but cannot exceed \$4,800 or 50% of the actual wages paid to the apprentice during the year, whichever is less. The grants apply only to apprentices in the first year of a two-year program or the first three years of a four-year program. In the plastics or plastics-related trades, the act limits eligibility to apprenticeships that exceed the average number of

apprenticeships begun by the grant-receiving entity over the past five years.

In the construction trades, the act's grant amounts are \$2 for each hour of the program the apprentice completes. The grant is awarded when the apprentice completes the program and cannot exceed \$4,000 or 50% of the actual wages paid over the apprenticeship's first four years, whichever is less.

Entities must apply to the labor commissioner for the grants on forms and in a manner that she provides. She must award the grants on a first-come, first-served basis. Total grants under the program cannot exceed \$50,000.

EFFECTIVE DATE: July 1, 2013 and applicable to tax years starting on or after January 1, 2013.

#### § 383 — CONNECTICUT TELEVISION NETWORK (CT-N) FUNDING

The act carries forward up to \$250,000 from Legislative Management's FY 13 personal services appropriation and transfers it to the minor capital equipment account for CT-N FY 14 funding.

#### § 384 — SWIMMING IN WATER IN WHICH "FLOOD-SKIMMING" IS CONDUCTED

The act permits people to swim in a body of water where "flood-skimming" is used to transfer excess water to a distribution reservoir if swimming (1) has been permitted in such body of water for at least 50 years and (2) does not occur during periods of flood-skimming. In general, individuals are subject to a \$500 fine for polluting or causing a nuisance in a public water supply or its tributary.

EFFECTIVE DATE: October 1, 2013

#### § 385 — MERS DISABILITY RETIREMENT

The act redefines eligibility for a disability retirement in the Municipal Employees Retirement System (MERS) and changes maximum benefit limits for employees disabled after January 1, 2013.

##### *Eligibility*

Under prior law, an employee could receive pension benefits after suffering a permanent and total disability that prevented him or her from performing any job for the employing municipality for more than 20 hours per week. The act instead specifies that an employee may receive disability retirement only for a permanent and total disability that prevents him or her from performing any work in his or her previous position.

The act requires employees to apply for, and re-verify, a disability retirement with the State Employees Retirement Commission's medical examining board, instead of the commission. (This conforms to current practice.) It requires the board to re-verify an employees' eligibility for a disability retirement every 24 months, based on any medical evidence and documentation the board requires. Prior law required determinations on continuing an employee's disability retirement benefits but did not specify a time frame in which they had to be made.

The act also:

1. eliminates a prohibition on disability retirement benefits to employees whose willful misconduct or intoxication caused their disability;
2. allows benefits to be dated from the employee's last day of municipal service, instead of the date for which the employee was last paid;
3. prohibits the medical examining board from reconsidering an employee's eligibility unless the employee discloses additional facts about his or her condition when applying for a redetermination; and
4. specifies that disability retirement benefits end if the disability ends.

##### *Benefit Limits*

The act establishes new maximum disability retirement benefit limits for employees disabled after January 1, 2013. Under prior law (and continuing for employees disabled on or before January 1, 2013), an employee's total annual benefits from MERS disability retirement, Social Security, and Workers' Compensation could not exceed 100% of the employee's final average annual pay (the average of the employee's three highest paid years). If this limit was exceeded, an employee's MERS benefit was reduced accordingly.

For employees who are disabled after January 1, 2013, and have no other employment, the act reduces this limit to 80% of either the employee's average salary or salary at the time of disability, whichever is higher. If the employee has other employment, the gross income from the employment, total annual MERS disability retirement benefits, Social Security benefits, and workers' compensation benefits, cannot exceed 100% of the employee's average salary or salary at the time of disability, whichever is higher. The act also specifies that the Social Security benefits used for these determinations are disability benefits and include payments to an employee's spouse and children.

## § 386 — COMMUNITY NOTIFICATION SYSTEMS

The act authorizes municipalities that maintain a community notification system to use it, at the chief elected official's direction, to notify enrolled residents of an upcoming referendum. The act defines "community notification system" as a communication system that is available to all residents of a municipality and permits them to opt to be notified of community events or news by e-mail, text, telephone, or other electronic or automated means.

The notice must be limited to (1) the referendum's date and time, (2) the question that will appear on the ballot, and (3) any explanatory text that the town clerk prepared and municipal attorney approved describing the question's intent and purpose. The act prohibits the notice from advocating for or against the success or defeat of a referendum question.

Other than for the notice described above, the act prohibits people from using, or authorizing the use of, municipal funds to send residents unsolicited communication by electronic or automated means to remind or encourage them to vote in a referendum. This prohibition does not apply to a regularly published newsletter or similar publication.

The act authorizes the State Elections Enforcement Commission (SEEC), after providing opportunity for a hearing, to impose a civil penalty of up to twice the amount of any improper expenditure or \$1,000, whichever is greater, on anyone who violates the prohibition on using municipal funds. If a person fails to pay the penalty within 30 days after receiving written notice of it, SEEC may apply to Hartford Superior Court for an order requiring compliance. A public employee cannot receive reimbursement from the state or municipality for any such penalty.

## BACKGROUND

### *Sheff v. O'Neill Court Decision and Settlement*

Following the state Supreme Court's 1996 ruling (*Sheff v. O'Neill*) that Hartford students were racially and economically isolated, the state has agreed to a number of steps to reduce racial isolation. Interdistrict magnet schools are part of the voluntary desegregation plan. The districts within the *Sheff* region are those primarily involved in desegregation efforts.

### *Alliance Districts and District Performance Index*

Alliance Districts are the 30 school districts with the lowest DPI. A town's DPI is its students' weighted performance on the statewide mastery tests in reading, writing, and mathematics given in grades three through eight and 10, and science in grades five, eight, and 10.

The index is calculated by weighting student scores in each of these subjects as follows: zero for below basic (the lowest score), 25% for basic, 50% for proficient, 75% for goal, and 100% for advanced.

The weightings mean the districts with the lowest test scores receive the lowest DPI. A zero score means all students scored below basic and 100% means all students scored at the advanced level.

### *Local Funding Percentage*

The local funding percentage is determined by dividing, for the fiscal year two years prior to the ECS grant year, a school district's:

1. total current education spending excluding (a) capital construction and debt service, private school health services, and adult education; (b) other state education grants, federal grants other than those for adult education and impact aid, and income from school meals and student activities; (c) income from private and other sources; and (d) tuition by
2. its total current education spending excluding only capital construction and debt service, private school health services, and adult education (CGS §10-262f (38)).

### *CAPCS*

CAPCS provided need-based grants to Connecticut residents who are undergraduates at the state's public colleges and universities.

### *CICSG*

CICSG provided need-based grants to Connecticut residents who are undergraduates at the state's independent colleges and universities.

### *Capitol Scholarship*

Capitol Scholarship grants were available to state residents who had not received a bachelor's degree and had been accepted at a postsecondary school, technical institute, college, or university in Connecticut, or in any other state that allows its students to bring state student financial assistance funds into Connecticut. Grant awards were based on academic performance and financial need. Maximum grants were \$3,000 per year for those attending in-state institutions and \$500 per year for those going out-of-state.

*Connecticut Aid to Charter Oak*

Connecticut Aid to Charter Oak provided need-based grants to Connecticut residents who were matriculated in a degree program at Charter Oak State College.

*Department of Construction Services*

PA 11-51 dissolved the Department of Public Works and transferred (1) its construction and construction management functions to DCS and (2) most of its other functions to DAS. The act also (1) transferred, from the former Department of Public Safety to DCS, the Office of the State Building Inspector and the Office of the State Fire Marshal, making DCS responsible for enforcing the state's building and fire safety codes, and (2) divided, between DCS and SDE, responsibility for the school construction grant process.

*Related Acts*

PA 13-304 makes several changes to the set-aside program, such as amending certain definitions and allowing the administrative services commissioner, after notice and a hearing, to impose fines of up to \$10,000 on small or minority businesses that included materially false statements in their applications.

PA 13-274 is identical to the e-Regulations sections of this act.

PA 13-256 returns statutory responsibility for regulating rocketry, explosives and blasting agents, and fireworks and special effects to DESPP from DCS. DESPP regulated these areas before the 2011 agency consolidations and continues to do so under a memorandum of understanding with DCS.

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**PA 13-70**—sSB 519

*Aging Committee  
Public Health Committee*

**AN ACT CONCERNING TRAINING NURSING HOME STAFF ABOUT RESIDENTS' FEAR OF RETALIATION**

**SUMMARY:** Existing law requires a nursing home administrator to ensure that all nursing home staff receive, from a trainer familiar with the home's patient population, annual in-service training in an area specific to the patients' needs. This act requires the training to include patients' fear of retaliation. Specifically, the training must discuss (1) patients' rights to file complaints and voice grievances, (2) examples of what constitutes or may be perceived as employee retaliation against patients, and (3) ways to prevent and alleviate patients' fear of such retaliation. The public health commissioner must make conforming changes to the Public Health Code.

The act also requires the state long-term care ombudsman to create and periodically update a training manual that provides nursing home administrators guidance on structuring and implementing this new training requirement.

EFFECTIVE DATE: October 1, 2013

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**PA 13-97**—HB 5759

*Aging Committee*

**AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL CORRECTIONS TO THE GENERAL STATUTES CONCERNING THE STANDING COMMITTEE ON AGING**

**SUMMARY:** This act makes technical revisions in the statutes pertaining to the Aging Committee's transition from a select to a standing committee. It also makes a technical change related to grandparents' visitation of their minor grandchildren.

EFFECTIVE DATE: Upon passage

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**PA 13-109**—sHB 6396

*Aging Committee*

**AN ACT CONCERNING LIVABLE COMMUNITIES**

**SUMMARY:** This act requires the Commission on Aging to establish a "Livable Communities" initiative to serve as a (1) forum for best practices and (2) resource clearinghouse to help municipal and state leaders design

livable communities that allow residents to age in place (i.e., remain in their own homes or community settings of their choice, regardless of age or disability).

The act defines a "livable community" as a community with affordable and appropriate housing, infrastructure, community services, and transportation options for residents of all ages.

The commission must report annually on the initiative to the Aging, Housing, Human Services, and Transportation committees, with the first report due by July 1, 2014. It must also, by January 1, 2014, establish a single portal on its website for information and resources on the initiative.

EFFECTIVE DATE: July 1, 2013

**LIVABLE COMMUNITIES INITIATIVE**

The act requires the Commission on Aging to:

1. establish and facilitate partnerships with (a) municipal leaders and representatives of senior and social services offices; (b) community stakeholders; (c) planning and zoning boards and commissions; and (d) representatives of philanthropic, social services, and health organizations;
2. plan informational forums on livable communities;
3. investigate innovative approaches to livable communities nationwide; and
4. identify public, private, and philanthropic funding sources to design these communities.

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**PA 13-125**—sSB 837

*Aging Committee*

**AN ACT CONCERNING THE DEPARTMENT ON AGING**

**SUMMARY:** The law established a Department on Aging effective January 1, 2013 and transferred to it all functions, powers, duties, and personnel of the Department of Social Services' (DSS) Aging Services Division. It required DSS to continue to administer programs that became the new department's responsibility until the governor appointed an aging commissioner (the commissioner was confirmed on April 18, 2013).

This act completes the Aging Department's establishment by transferring to it all Aging Services Division programs and responsibilities, including federal Older Americans Act (OAA) programs, the Statewide Respite Program, the Community Choices Program, the Long-Term Care Ombudsman Office, OAA funding for area agencies on aging, health insurance counseling, administration of state grants for

elderly community services and programs, oversight of municipal agents for the elderly, elderly nutrition, and fall prevention. It also specifies that the (1) aging commissioner is a state agency head and thus serves at the pleasure of the governor and is subject to legislative approval and (2) Aging Department is an executive branch agency.

The act makes the Department of Housing (DOH) responsible for the state's congregate and Section 8 housing programs, instead of the Department of Economic and Community Development (DECD) and DSS, respectively (see BACKGROUND). It also transfers, from DECD to DOH, responsibility for serving on the Long-Term Care Planning Committee.

Finally, the act makes minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2013, except that the provisions (1) designating the Aging Department as the state unit on aging; (2) making a technical change designating the Aging Department and commissioner as a state agency and state agency head, respectively; and (3) making a technical change regarding existing DSS orders and regulations take effect upon passage.

#### §§ 1, 5, 7, 14-17, & 19-22 — TRANSFER OF CERTAIN DSS FUNCTIONS

The act transfers authority over the following functions from DSS to the Aging Department:

1. overseeing municipal agents for the elderly (§ 1);
2. serving as the designated "state unit on aging" under the federal OAA and administering related programs (§§ 4 & 5);
3. establishing and overseeing a fall prevention program, within available appropriations (§ 7);
4. establishing an outreach program to educate consumers on long-term care, including financing, asset protection, and insurance (§ 8);
5. providing information to help people choose appropriate long-term care insurance (§ 8);
6. awarding state grants for elderly community services and programs and using up to 5% of funds appropriated for these grants for related administrative expenses (§§ 16 & 17);
7. administering elderly nutrition programs (§ 19);
8. serving on the Long-Term Care Planning Committee (§ 20); and
9. operating the Statewide Respite and Community Choices programs (§§ 21 & 22).

#### § 2 — CONGREGATE HOUSING

The act requires the DOH commissioner, instead of the DECD commissioner, to administer a congregate housing program.

It also requires the housing commissioner to consult with the aging commissioner, not only the DSS commissioner as DECD had to do under prior law, regarding the provision of services to residents with physical disabilities.

#### § 3 — REGULATIONS REGARDING NURSING HOME FINANCIAL SOLVENCY REPORTING

The act requires DSS to work in conjunction with the Aging Department, not only the Public Health Department as under prior law, when adopting regulations on reporting requirements regarding nursing homes' financial solvency and quality of care. Nursing homes submit these reports to the Nursing Home Financial Advisory Committee to help determine their financial viability, identify those experiencing financial distress, and identify the reasons for the distress.

#### §§ 3 & 4 — COORDINATION, STUDY, ASSESSMENT, AND MONITORING DUTIES

The act transfers, from DSS to the Aging Department, the requirement to continuously study the conditions and needs of the elderly for nutrition, transportation, home care, housing, income, employment, health, recreation, and other matters. It also makes the Aging Department, rather than DSS, responsible for overall planning, development, and administration of a comprehensive and integrated social service delivery system for the elderly. The department must do this in cooperation with federal, state, local, and area planning agencies on aging.

#### §§ 6 & 23-24 — MEMBERSHIP ON CERTAIN ADVISORY BOARDS AND COUNCILS

The act replaces the Commission on Aging's representative with the aging commissioner on the Low-Income Energy Advisory Board and the Connecticut Homecare Option Program for the Elderly Advisory Board.

It also adds the aging commissioner and the Aging Committee's chairs and ranking members, or their designees, to the membership of the Medical Assistance Program Oversight Council. The commissioner is an ex-officio, non-voting member of the Council.

#### §§ 9-13 — LONG-TERM CARE OMBUDSMAN

By law, the state's Long-Term Care Ombudsman's Office represents the interests of residents in nursing and residential care homes and assisted living facilities. Among other things, the office receives and investigates residents' complaints about their care; provides education and information to consumers, agencies, and providers; and monitors state and federal laws and

regulations.

The act moves the ombudsman's office from DSS to the Aging Department and makes other related technical and conforming changes.

The act also makes the aging commissioner, instead of the DSS commissioner, responsible for (1) appointing the Long-Term Care Ombudsman and (2) seeking funding for the ombudsman program's resident advocates.

#### §§ 14 & 15 — OAA PROGRAMS

The act transfers, from DSS to the Aging Department, responsibility for approving plans of the state's five area agencies on aging, allocating OAA funds to these agencies, and reviewing and reporting to the legislature on funding allocation methods.

It also requires the Aging Department to inform the Aging Committee, not only the Human Services Committee, whenever it seeks federal approval to spend more OAA funds on state administrative costs than federal law allows.

#### § 18 — CHOICES PROGRAM

The act transfers administration of the state's CHOICES program from DSS to the Aging Department. The program, which primarily helps seniors with their health care choices, including purchasing Medicare supplements, is authorized by and funded under both federal and state law. The act also:

1. requires the program to provide consumers access to, instead of maintain, a toll-free telephone number for obtaining advice and information on Medicare benefits;
2. requires the program to provide information through appropriate means and formats, instead of preparing and distributing written material;
3. requires the above information to include Medicare prescription drug benefits available through pharmaceutical drug company programs, not only those available through Medicare Part D;
4. eliminates a requirement that the program develop and distribute a Medicare consumer's guide and make it available to anyone who requests it (the federal Medicare agency already publishes such a guide that it updates annually);
5. eliminates a requirement that the program provide a worksheet for consumers to use when comparing and evaluating Medicare plan options;
6. eliminates a requirement that the program collaborate with other state agencies and entities to develop consumer-oriented websites that provide information on Medicare plans and

long-term care options (the Aging Department has a CHOICES website that appears to do this); and

7. permits the Aging Department, instead of requiring DSS, to include additional functions it deems necessary to conform to federal grant requirements.

The act permits the aging commissioner to adopt regulations to implement these changes. It also makes associated technical changes.

#### § 26 — LONG-TERM CARE INSURANCE CERTIFICATION

Previously, the insurance commissioner could precertify only those long-term care insurance policies that, among other requirements, alerted purchasers to consumer information and public education DSS provided. The act replaces DSS with the Aging Department for this purpose.

#### BACKGROUND

##### *Department on Housing*

PA 12-1, June Special Session, established DOH, making it DECD's successor with respect to its housing-related functions, powers, and duties (including community development, redevelopment, and urban renewal). The housing commissioner is responsible for (1) all aspects of state housing policy, development, redevelopment, preservation, maintenance, and improvement of the state's housing stock and (2) developing strategies to encourage housing provision in the state, including for very low-, low-, and moderate-income families.

##### *Elderly Programs and Services Remaining Under DSS*

DSS is the state's Medicaid agency, which means it is responsible for providing direct oversight of Connecticut's Medicaid programs. Thus, it will continue to administer all Medicaid-related elderly programs and services. These include, among others, the Connecticut Homecare Program for Elders, Money Follows the Person Rebalancing Demonstration, Medicaid Personal Care Attendant Waiver Program, the Balancing Incentive Program, and the Medicare and Medicaid Enrollee Demonstration.

##### *Related Act*

PA 13-234 makes the same changes concerning DOH.



**PA 13-131—sHB 5767***Aging Committee**Insurance and Real Estate Committee***AN ACT CONCERNING SYNCHRONIZING  
PRESCRIPTION REFILLS**

**SUMMARY:** This act prohibits certain health insurance policies that cover prescription drugs from denying coverage for refilling any drug prescribed to treat a chronic illness if the refill is made in accordance with a plan to synchronize the refilling of multiple prescriptions. The plan must involve the insured, a practitioner, and a pharmacist.

The act applies to individual and group health insurance policies delivered, issued, renewed, amended, or continued in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; (4) hospital or medical services, including coverage under an HMO plan; or (5) single-service ancillary health coverage plans, including dental, vision, and prescription drug plans.

Due to the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

EFFECTIVE DATE: January 1, 2014

**PA 13-218—sSB 523***Aging Committee***AN ACT CONCERNING THE RETURN OF A  
GIFT TO A PERSON IN NEED OF LONG-TERM  
CARE SERVICES**

**SUMMARY:** By law, the Department of Social Services (DSS) commissioner must impose a penalty period (period of Medicaid ineligibility) on institutionalized individuals who transfer or assign their assets for less than they are worth in order to shift their care costs to the Medicaid program. The penalty period (1) applies only when such transactions occur within five years before a person applies for Medicaid long-term care and (2) generally is not imposed if the entire amount of the transferred asset is returned to the institutionalized individual. Institutionalized individuals are people who apply for or are receiving long-term care facility or Medicaid waiver home- and community-based services.

The act requires the commissioner, to the extent permitted by federal law, to reduce the penalty period if (1) part of the transferred assets is returned to the individual and (2) the penalty period's original end date does not change. DSS must consider the entire amount of the returned asset to be available to the transferor from the date it was returned. It cannot determine the

transferor to be ineligible for Medicaid in the month the transferred asset is returned as long as the individual reduced the returned asset in accordance with federal law (e.g., did not make the transfer to shift care costs to the Medicaid program).

By law, a conveyance and subsequent return of an asset to shift costs to the Medicaid program is deemed a trust-like device, and the asset is considered available for determining Medicaid eligibility. The act specifies that this does not apply to a conveyance and return of an asset made exclusively for a purpose other than qualifying for Medicaid long-term care services.

The act also repeals a provision requiring DSS to penalize a nursing home resident for an improper asset transfer (as determined by the department) in which the entire amount is returned.

Lastly, the act makes technical changes.

EFFECTIVE DATE: July 1, 2013

**COMPLETE ASSET RETURNS**

The act eliminates a provision requiring DSS, based on the circumstances surrounding the transaction, to penalize a nursing home resident to whom the entire amount of a transferred asset is returned. Under this repealed provision, DSS had to penalize the resident if it determined that the individual, or his or her spouse or authorized representative, intended from the time the asset was transferred to (1) change the start date of the penalty period or (2) shift long-term care facility costs to the Medicaid program. Unless the individual could prove otherwise by clear and convincing evidence, the entire amount of the returned asset was available from the transfer date. If the individual prevailed, the asset was deemed available from the date of its return.

**PA 13-250—sSB 886***Aging Committee**Public Safety and Security Committee**Human Services Committee**Judiciary Committee***AN ACT CONCERNING AGING IN PLACE**

**SUMMARY:** This act makes changes in several statutes to help senior citizens remain in their own homes and communities as they age (i.e., "age in place"). Specifically, it:

1. requires the Department of Social Services (DSS) to incorporate into its existing efforts coordinated outreach to increase the awareness and use of the supplemental nutrition assistance program (SNAP) (§ 1);

2. requires local plans of conservation and development (C & D) to consider allowing seniors and individuals with disabilities to remain in their homes and communities (§ 2);
3. specifies that the exemption from obtaining a State Building Code variance or exemption for constructing homes with visitable features includes certain ramps allowing wheelchair access (§ 3);
4. adds anyone paid by an institution, organization, agency, or facility to care for seniors to the list of mandated elder abuse reporters and establishes a related training requirement for their employers (§ 4);
5. requires DSS, by July 1, 2014, to begin annually reporting to the legislature on the elder abuse and neglect complaints it received in the previous calendar year (§ 5); and
6. requires the Department of Consumer Protection, in collaboration with the aging and social services departments, to conduct a public awareness campaign, within available funds, to educate seniors and caregivers on ways to resist aggressive marketing tactics and scams (§ 6).

EFFECTIVE DATE: July 1, 2013

#### § 1 — SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

The act requires the DSS commissioner, within available appropriations, to incorporate into existing efforts coordinated outreach to increase awareness and use of the state's SNAP program (formerly known as Food Stamps) by those eligible for the program, including recipients of public assistance and home-delivered and congregate meals.

Under existing law, the commissioner must work with certain agencies, higher education institutions, and local governments to enroll eligible people in SNAP.

#### § 2 — LOCAL PLANS OF CONSERVATION AND DEVELOPMENT (C & D)

The act requires local plans of C & D to consider allowing seniors and individuals with disabilities to live in their homes and communities, whenever possible. Specifically, these plans may include allowing for home sharing and accessory apartments (e.g., in-law apartments).

By law, a local planning commission must prepare or amend a plan of C & D for its municipality at least every 10 years.

#### *Home Sharing*

The act allows local plans of C & D to permit home sharing in single-family zones for up to four adults (1) age 60 or older or (2) with disabilities of any age. These individuals need not be related, but must receive support services at home.

#### *Accessory Apartments*

Under the act, these plans may also allow for accessory apartments for seniors (age 60 or over), individuals with disabilities, or their caregivers in all residential zones. The apartments would be subject to municipal zoning regulations concerning design and the principal property's long-term use.

Plans may also expand the definition of "family" in single-family zones to allow for these accessory apartments.

#### § 3 — STATE BUILDING CODE

The law exempts developers from a requirement to obtain a State Building Code variance or exemption to construct visitable features in homes. These features include (1) interior doorways that provide a minimum 32-inch wide clear opening, (2) an accessible means of egress, and (3) a full or half bathroom on the first floor that complies with the 1990 Americans with Disabilities Act, as amended.

The act specifies that an accessible means of egress includes a ramp intended to allow wheelchair access that complies with the International Residential Code portion of the State Building Code.

#### § 4 — MANDATED REPORTERS OF ELDER ABUSE

Existing law requires certain professionals to notify DSS when they reasonably suspect an elderly person (1) has been abused, neglected, abandoned, or exploited or (2) needs protective services. The act adds to the list of mandated reporters anyone paid by an institution, organization, agency, or facility to care for an elderly person, including employees of (1) community-based services providers, (2) senior centers, (3) home care and homemaker-companion agencies, (4) adult day care centers, (5) village-model communities, and (6) congregate housing facilities.

The act requires the employers of these individuals to (1) provide mandatory training on detecting potential elder abuse and neglect and (2) inform staff of the mandatory reporting requirements.

§ 5 — DSS REPORT ON ELDER ABUSE AND  
NEGLECT COMPLAINTS

By July 1, 2014, the act requires the DSS commissioner or his designee to begin annually reporting to the Aging, Human Services, and Public Health committees on:

1. the number of elder abuse and neglect complaints received in the previous calendar year in the categories of (a) physical abuse, (b) mental abuse, (c) self-neglect, (d) neglect by others, and (e) financial exploitation;
  2. the disposition of these complaints; and
  3. whether and by how much complaints in each category have increased or decreased from the previous year.
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**PA 13-96**—sHB 5564

*Banks Committee*

### **AN ACT ENCOURAGING INCREASED SAVINGS DEPOSITS**

**SUMMARY:** This act allows Connecticut credit unions and community banks to offer savings promotion raffles under specified conditions. The act defines a “savings promotion raffle” as a raffle in which a person deposits a minimum specified amount of money in a savings account or savings program for a chance to win designated prizes. Each entry in the raffle must have an equal chance of winning.

The act requires Connecticut credit unions or community banks offering such a raffle to disclose its terms and conditions to each share account holder or account holder, who must be at least age 18. The institutions must maintain records sufficient to facilitate an audit of any such raffle.

The act limits participation to Connecticut credit unions and community banks that have secure financial integrity, as determined by the banking commissioner. It authorizes the commissioner to adopt implementing regulations.

EFFECTIVE DATE: October 1, 2013

**PA 13-106**—HB 6340

*Banks Committee*

### **AN ACT CONCERNING THE CONNECTICUT UNIFORM SECURITIES ACT**

**SUMMARY:** This act:

1. alters which securities are exempt from registration and filing certain sales material for prospective investors with the banking commissioner under the Uniform Securities Act,
2. specifies the notice and fee closed-end companies must provide the commissioner when offering securities in the state, and
3. makes minor and technical changes.

EFFECTIVE DATE: October 1, 2013

### **SECURITIES EXEMPT FROM REGISTRATION AND FILING SALES MATERIAL**

The law, with exceptions, requires securities to be registered before they may be sold in Connecticut. It also requires, with exceptions, certain sales materials for prospective investors to be filed with the commissioner.

Prior law exempted securities appearing on the list of over-the-counter and foreign securities approved for margin by the Federal Reserve System’s Board of

Governors that are not otherwise covered securities under federal law. The board no longer publishes this list, and the act instead exempts a security if it is:

1. an over-the-counter security or security issued by a foreign issuer regardless of whether it is a covered security and
2. either (a) a margin security, as defined by the board’s regulations or rules, or (b) an American depositary receipt (ADR), as defined in the regulations or rules, that represents such a margin security (see BACKGROUND).

The act also exempts warrants or rights to purchase or subscribe to any of the securities listed above, thus adding an exemption for a foreign security that is a covered security.

### **NOTICE FROM CLOSED-END COMPANIES**

The act requires closed-end companies (see BACKGROUND) to file a notice with the banking commissioner before they offer a security in the state. It requires them to pay a nonrefundable fee of .1% of the maximum aggregate offering price of the securities to be offered in the state, but the fee must be between \$300 and \$1,500. This conforms to agency practice.

The act specifies that the notice is valid for one year from its receipt by the commissioner or the date the federal Securities and Exchange Commission declares the security effective, whichever is later. The act requires the company to file any information the commissioner requires and again pay the required fee if the securities will continue to be offered or distributed after the one-year period.

### **BACKGROUND**

#### **ADR**

An ADR is a security representing the security of a non-U.S. company that trades in the U.S. financial markets. The stocks of many foreign companies that trade in the U.S. markets are traded through ADRs. U.S. depositary banks issue these stocks.

#### **Closed-End Company**

A closed-end company is a type of investment management company that sells a limited number of shares to investors on an exchange by way of an initial public offering. For investors to sell the shares, there must be buyers willing to buy them at a price determined by the market. The most common type of closed-end company is a closed-end mutual fund.

### *Margin Security*

Generally, a margin security is a security that an investor buys or sells using an account where the brokerage lends the account holder money to buy the security.

Under Federal Reserve Regulation T, a margin security is a:

1. security registered or having unlisted trading privileges on a national securities exchange,
2. security listed on the Nasdaq Stock Market,
3. non-equity security,
4. security issued by an open-end investment company or unit investment trust registered under federal law (15 USC § 80a-8),
5. foreign margin stock, or
6. debt security convertible into a margin security (12 CFR § 220.2).

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**PA 13-135**—sHB 6339

*Banks Committee*

### **AN ACT CONCERNING BANKS, LOAN PRODUCTION OFFICES, EXCHANGE FACILITATORS, PUBLIC DEPOSITS AND REAL PROPERTY TAX LIENS**

**SUMMARY:** This act makes a variety of changes in the banking laws as described in the section-by-section analysis below.

Among other things, the act (1) prohibits the disclosure of non-public information contained in certain Banking Department examination reports and (2) allows Connecticut banks, with the banking commissioner's approval, to establish loan production offices out of state.

The act makes changes in the exchange facilitator laws. It requires exchange facilitators to (1) provide certain notifications to their clients; (2) maintain a set minimum fidelity bond or other accounts with certain stipulations; (3) maintain a specific amount of insurance coverage, deposit a specified amount of cash or securities, or provide a specified minimum amount in irrevocable letters of credit; and (4) follow certain rules for handling and investing funds. It allows the banking commissioner to adopt implementing regulations.

The act makes changes in the public deposits laws that govern state and municipal money and money held by the Judicial Branch in a fiduciary capacity. It:

1. restricts the types of investments that can be considered eligible collateral,
2. generally increases the collateralization requirements for qualified public depositories (QPD),

3. sets new thresholds that determine the trust accounts to which the funds must be transferred depending on whether the QPD is a bank or a credit union,
4. requires a QPD to determine and adjust the market value of eligible collateral on a monthly basis, and
5. changes the QPD's reporting requirements and establishes new filing requirements for holders of eligible collateral.

The act requires the party to whom a municipality has assigned a tax lien, or any subsequent assignee, to provide written notice to the mortgage holder within 30 days after the assignment.

The act decreases, from 60 to 45 days, the time in which an appraisal management company must pay an appraiser for an appraisal or valuation assignment (§ 18). By law, the (1) time period starts when the appraiser transmits or otherwise provides the completed appraisal or valuation study to the company or its assignee and (2) deadline does not apply in cases of breach of contract or substandard performance of services or where the parties have mutually agreed upon an alternate payment schedule in writing.

The act establishes the amount of certain debt securities that Connecticut banks may purchase or hold for their accounts.

Lastly, the act makes technical and conforming changes.

**EFFECTIVE DATE:** October 1, 2013, except the provisions on Connecticut bank mergers, loan production offices, and QPDs are effective upon passage.

### **§§ 1-4 — BANKS AND THE ECONOMIC DEVELOPMENT OF LOAN PRODUCTION OFFICES**

The act prohibits directors, officers, employees, or agents of (1) licensed business and industrial development corporations and (2) entities licensed to act as trustees from disclosing non-public information contained in a licensee's Banking Department examination report without the banking commissioner's prior written consent. Under prior law, this restriction applied only to Connecticut banks and Connecticut credit unions. By law, a "business and industrial development corporation" is a person approved or seeking approval from the federal Small Business Administration as a participating lender under its loan guarantee programs.

The act allows Connecticut banks, with the banking commissioner's approval, to establish loan production offices out of state, instead of just in state. A "loan production office" is an office whose activities are limited to loan production and solicitation.

### *Mergers with Affiliates*

By law, a Connecticut bank can merge with one of its affiliates that is not a bank if the resulting institution is a Connecticut bank. The merger must be done in accordance with the law on merging Connecticut banks. For purposes of the merger proceedings, the act specifies that the affiliate is to be treated as a constituent Connecticut bank, as opposed to a federal bank. The act maintains the exception that for issues related to corporate procedure and mergers, an affiliate should comply with the laws of the state under which it was organized.

### §§ 5-12 — EXCHANGE FACILITATORS FOR TAX DEFERRED EXCHANGES

Under federal law, a taxpayer can transfer certain property held for productive use in a trade or business or for investment (the “relinquished property”) and subsequently receive “replacement property” of a like kind. If the taxpayer uses the replacement property for the same purpose as the relinquished property, the Internal Revenue Service (IRS) does not recognize a loss or a taxable gain from the transaction. The act imposes requirements on people or businesses that act as exchange facilitators in these transactions.

#### § 5 — *Exchange Facilitators*

The act defines an “exchange facilitator” as a person or entity that:

1. maintains a Connecticut office to solicit business facilitating the exchange of like-kind property or
2. for a fee (a) facilitates an exchange of like-kind property by entering into an agreement with a client in which the facilitator acquires contractual rights to sell the client’s relinquished Connecticut property and transfer a replacement property to the client, acting as an intermediary that qualifies under federal law; (b) enters into an agreement with a client to take title to a Connecticut property acting as an exchange accommodation titleholder that qualifies under federal law; or (c) enters into an agreement with a client to act as a qualified trustee or qualified escrow holder (see BACKGROUND). Fees include direct or indirect compensation, either monetary or non-monetary.

An “exchange facilitator” does not include:

1. a financial institution acting solely as a (a) depository for exchange funds, (b) qualified escrow holder, or (c) qualified trustee, and not otherwise facilitating exchanges;

2. a person or entity (a) teaching seminars or classes or giving presentations to attorneys, accountants, or other professionals about tax-deferred exchanges or how to act as exchange facilitators or (b) advertising the seminars, classes, or presentations; or
3. an entity that an exchange facilitator or person representing one wholly owns and uses to facilitate exchanges or take title to Connecticut property as an exchange accommodation titleholder.

Under the act, a “financial institution” is any state or federally chartered bank, credit union, savings and loan holding company, savings and loan association, savings bank, trust company, or trust bank whose accounts are insured by the full faith and credit of the United States, Federal Deposit Insurance Corporation, National Credit Union Share Insurance Fund, or other similar program.

#### § 6 — *Notice of Change in Control*

The act generally requires an exchange facilitator to notify each existing client whose relinquished property is located in Connecticut or whose replacement property held under a qualified exchange accommodation agreement is in Connecticut of any change in control of the facilitator (see BACKGROUND). This applies to any transfer or transfers within a 12-month period of more than 50% of the exchange facilitator’s assets or ownership interests, directly or indirectly.

The clients must be notified within 10 business days after the change in control by fax, email, or first class mail.

The facilitator must also post a notice of change of control on his or her web site for at least 90 days after the change. The notice must state the name, address, and other contact information of the person who received control.

The notification requirement does not apply to publicly traded companies that remain publicly traded after a change in control (i.e., those on the New York Stock Exchange (NYSE), the American Stock Exchange (ASE), the National Association of Securities Dealers Automated Quotation System (NASDAQ), or their subsidiaries).

### §§ 7-10 — *Financial Requirements and Handling Funds*

The act requires an exchange facilitator to, at all times:

1. maintain a minimum \$1 million fidelity bond executed by an insurer authorized to do business in Connecticut;
2. deposit all exchange funds (funds the exchange facilitator receives from, or on behalf of, the

client to facilitate an exchange of like-kind property) in a separately identified account and provide that any withdrawals from that account require both the facilitator's and client's written authorizations by commercially reasonable means, including the client's delivery of authorization to the facilitator and the facilitator's delivery to the depository institution of its sole authorization, or delivery to the depository institution of both the client's and the facilitator's authorization; or

3. deposit all exchange funds in a qualified escrow account or qualified trust with a financial institution and require both the facilitator's and the taxpayer's written authorizations for any withdrawals (see BACKGROUND).

The act also requires an exchange facilitator to, at all times, (1) maintain a minimum \$250,000 errors and omissions insurance policy executed by a Connecticut authorized insurer, (2) deposit an unspecified amount of cash or securities, or (3) provide at least \$250,000 in irrevocable letters of credit. (PA 13-253 specifies that the deposit of cash or securities must also be \$250,000.)

Additionally, an exchange facilitator must:

1. hold all of the client's exchange funds, other than the facilitator's compensation, in a way that provides liquidity and preserves principal;
2. notify the client, in writing, how the exchange funds will be invested or deposited; and
3. deposit or invest exchange funds in investments that satisfy liquidity and preservation of principal investment goals and meet the prudent investor standard.

Under Connecticut law, trustees must follow certain standards when investing and managing trust assets when the trust provisions are not explicit. For example, trustees must invest and manage assets as "prudent investors" would and use any special skills or expertise they have. This requirement is referred to as the "prudent investor standard."

Under the act, the facilitator violates the prudent investor standard if he or she:

1. knowingly commingles exchange funds with the exchange facilitator's operating accounts or
2. loans or transfers exchange funds to any person or entity affiliated with or related to the exchange facilitator. But, the funds may be transferred pursuant to the exchange contract (1) to pay an exchange expense or complete the acquisition of the replacement property; (2) to deposit exchange funds with a financial institution; or (3) to an exchange accommodation titleholder, a trustee of a qualified trust, or a qualified escrow agent.

The act allows exchange funds to be pooled. To "pool" is to (1) aggregate multiple clients' exchange funds for investment purposes to achieve common investment goals and efficiencies and (2) ensure that the exchange funds are readily identifiable to each client for whom they are held, through an accounting or subaccounting system.

Under the act, exchange funds are not subject to execution or attachment on any claim against the exchange facilitator.

#### §§ 10-12 — Prohibited Conduct

The act prohibits an exchange facilitator from knowingly keeping, or causing to be kept, any money in any financial institution under a client's name unless the money actually belongs to the client and the client entrusted it to the facilitator.

It also prohibits exchange facilitators or their owners, officers, directors, and employees, from knowingly:

1. making any intentionally misleading material representations about any exchange facilitator transaction;
2. pursuing a continued or flagrant course of misrepresentation or making false statements through advertising or by other means;
3. failing, within a reasonable time, to account for any money or property belonging to another person that the exchange facilitator may possess or control;
4. engaging in fraudulent or dishonest dealings;
5. committing any crime related to the exchange facilitation business involving fraud, misrepresentation, deceit, embezzlement, misappropriation of funds, robbery, or theft, except there is no violation if the crime was committed by an officer, director, or employee and (a) that individual's employment or appointment has been terminated and (b) no clients were harmed or those that were harmed received full restitution;
6. materially failing to fulfill the facilitator's contractual duties to the client to deliver property or funds to the client, unless the failure is due to circumstances beyond the facilitator's control; and
7. materially violating any of the act's provisions regarding exchange facilitators or the regulations adopted under them.

The act permits any person claiming to suffer damage due to the exchange facilitator's illegal actions to file a claim with the banking commissioner against the exchange facilitator to recover damages from such bonds, funds, policies, or letters of credit set forth above.

The act subjects any person who violates it to a possible civil suit and requires the person who commences the suit to notify the Department of Banking upon filing it.

#### §§ 13-15 — PUBLIC DEPOSITS

The act makes various changes in the public deposits laws.

##### *Eligible Collateral*

The act changes the definition of eligible collateral, restricting the investments that are considered eligible collateral. In general:

1. U.S. Treasury bills, notes, and bonds are still allowed as eligible collateral;
2. U.S. government agency securities and variable-rate securities have been limited to certain kinds;
3. government-issued mortgage backed securities are allowed, but privately issued mortgage backed securities are not allowed;
4. residential mortgages are no longer allowed; and
5. state and municipal bonds are still allowed but under more restricted parameters.

Specifically, the act defines “eligible collateral” as the following investments for which prices or values are quoted or readily available:

1. general obligations that the United States or Connecticut guarantees fully as to principal and interest or for which the United States or Connecticut pledges the full faith and credit for the payment of principal and interest;
2. general obligations of any federal agency, including government-sponsored enterprises, which are not guaranteed fully as to principal and interest by the United States or for which the full faith and credit of the United States is not pledged for the payment of principal and interest;
3. mortgage pass-through or participation certificates or similar securities that the Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac), or Government National Mortgage Association (Ginnie Mae) issued or guaranteed;
4. general obligations of municipalities and states other than Connecticut that are rated in the three highest rating categories by a rating agency recognized by the banking commissioner; and
5. revenue obligations for essential services, including education, transportation,

emergency, water, and sewer services of municipalities and states that are rated in the three highest rating categories by a rating agency recognized by the commissioner and determined to be a prudent investment by the QPD governing board, a management committee or board committee appointed by the governing board, or by an officer appointed by the governing board, management committee, or board committee.

##### *Collateral Requirements*

By law, each QPD must maintain at all times, separate from its other assets, a minimum amount of eligible collateral to secure public deposits (collateralization level). Under prior law, the required collateralization level was based primarily on a QPD’s risk-based capital ratio (a measure of its solvency), with more stringent requirements applying to QPDs that (1) were under sanctions, such as cease and desist orders or agreements with their regulators, or (2) had been in business in the state for less than two years. The act (1) establishes separate collateralization requirements for banks and credit unions, (2) uses a bank’s “tier one leverage ratio” and a comparable measure for a credit union as an alternative or additional measure of its solvency (see BACKGROUND), and (3) modifies when the stricter standards apply for QPDs under sanction.

*QPD Not Under a Formal Regulatory Order.* Under prior law, a QPD that was not under sanction had to maintain a collateralization level of 10% to 120% of uninsured deposits, depending on its risk-based capital ratio. The act instead requires a collateralization level of:

1. 10% for (a) banks with a risk-based capital ratio of 12% or more and a tier one leverage ratio of 6% or more and (b) credit unions with a net worth ratio of at least 8%;
2. 110% for (a) banks with a risk based capital ratio of less than 10% or a tier one leverage ratio of less than 5% and (b) credit unions with a net worth ratio of less than 7%, and
3. 25% in all other cases.

*QPD Under a Formal Regulatory Order.* Under prior law, a QPD that was under sanction generally had to maintain a collateralization level of 120% of all uninsured public deposits. This level was reduced to 100% of insured deposits if the QPD (1) had a risk-based capital ratio of 12% or more and (2) met certain other conditions. The act instead generally requires QPDs subject to formal regulatory orders to have a 110% collateralization level. Under the act, “formal regulatory order” means a written agreement related to enforcement, including a letter of understanding or agreement or a written order that a supervisory agency



is required to publish or publishes on its website. It does not include any written agreement or order under which the QPD's sole obligation is to pay a civil penalty, fine, or restitution.

Under the act, when (1) the formal regulatory order is not related to capital, asset quality, earnings, or liquidity and (2) the QPD notifies each of its public depositors of the issuance of the order, the required collateral may be reduced as follows:

1. if the QPD is a bank or out-of-state bank having a tier one leverage ratio of at least 5% and risk-based capital ratio of at least 10% or a credit union or federal credit union having a net worth ratio of at least 7%, the QPD may reduce the required amount of eligible collateral to at least 75% of all uninsured public deposits held by the QPD; or
2. if the QPD is a bank or out-of-state bank having a tier one leverage ratio of at least 7.5% and a risk-based capital ratio of at least 14% or a credit union or federal credit union having a net worth ratio of at least 9.5%, the amount of eligible collateral may be reduced to at least 50% of all uninsured public deposits held by the QPD.

*QPD Operating in the State for Less Than Two Years or Uninsured Bank.* By law, each QPD that (1) has been conducting business in Connecticut for less than two years, except for a successor institution to a depository that conducted business here for two years or more, or (2) is an uninsured bank, must maintain eligible collateral of at least 120% of all uninsured public deposits held by the QPD. The act maintains this requirement.

*Eligible Collateral Amounts Determined by Agreement.* By law, a QPD and a public depositor may agree on a collateralization level that is greater than the applicable statutory minimum amount required. By law, when determining the required statutory minimum, the amount of uninsured public deposit must be determined at the close of business on the day of receipt of any public deposit, and any deficiency in the required amount of eligible collateral must be cured no later than the close of business on the following business day.

The act maintains these requirements, but adds that in determining the minimum required amount of eligible collateral, the QPD's tier one leverage ratio and risk-based capital ratio or net worth ratio must be calculated, in accordance with applicable federal and state regulations, based on the most recent quarterly call report (see BACKGROUND). If, in subsequent calendar quarters, the depository experiences a decline in its tier one leverage ratio, risk-based capital ratio, or net worth ratio such that the agreed upon collateral level is lower than the applicable statutory minimum, the act requires the QPD to increase the amount of eligible

collateral maintained to the applicable statutory minimum. By law, the QPD must notify the commissioner of such actions.

*Commissioner's Adjustment of Eligible Collateral Requirements.* The act allows the commissioner to increase the required collateralization level, up to a maximum amount of 120%, if he reasonably determines that the increase is necessary to protect public deposits. If he determines that the increase is no longer necessary, he may allow the QPD to reduce the amount to not less than the applicable statutory minimum required amount.

*Segregation of Eligible Collateral From Other Assets.* By law, each QPD must transfer, in a manner consistent with the commissioner's requirements, the eligible collateral that it maintains to an account separate from its own assets based on the QPD's risk-based capital ratio. The act increases, from 8% to 10%, the risk-based capital ratio threshold and adds "tier one leverage ratio" as a new measure to determine the accounts to which the funds are to be transferred.

Specifically, if the QPD is a bank or out-of-state bank having a tier one leverage ratio of at least 5% or a risk-based capital ratio of at least 10%, the QPD must transfer eligible collateral to (1) its own trust department within the state, unless approved by the commissioner; (2) another financial institution's trust department within the state, unless approved by the commissioner; or (3) a federal reserve bank or federal home loan bank. If the QPD is a bank or out-of-state bank having a tier one leverage ratio below 5% or a risk-based capital ratio below 10% or a credit union, the QPD must transfer eligible collateral to (1) the trust department of a financial institution located in the state, unless approved by the commissioner, that is not owned or controlled by the QPD or by a holding company owning or controlling the QPD or (2) a federal reserve bank or federal home loan bank.

*Other Eligible Collateral Requirements.* The act requires a QPD to determine and adjust the market value of eligible collateral on a monthly basis, instead of quarterly. The act authorizes the commissioner to require the valuation of the collateral more frequently than monthly if necessary to protect public deposits.

By law, the commissioner has a perfected security interest in all eligible collateral held in the segregated trust accounts. Such interest has priority over all other perfected security interests and liens.

The act requires each holder of eligible collateral to file a report with the commissioner, at the end of each calendar quarter, containing the (1) description and par value of each investment it holds as eligible collateral and (2) CUSIP number (see BACKGROUND).

Under prior law, the QPD could reduce the amount of eligible collateral maintained if it gave written notice to its public depositors. The act allows reductions without written notice, but limits reductions to amounts

that are in excess of the applicable statutory minimum required amount. By law, a QPD can make substitutions of eligible collateral at any time without notice and keep the income from the assets.

The act repeals the provisions that pertain to required minimum collateral ratios which, under prior law, specified the market value to public deposit ratio for each form of eligible collateral that could be pledged to secure public deposits.

#### *QPD Reporting Requirements*

By law, each QPD must file a written report with the commissioner. The act requires the report to include (1) the QPD's tier one leverage ratio and risk-based capital ratio or net worth ratio, (2) uninsured as well as total amount of public deposits, and (3) the description and market value of any eligible collateral.

All other reporting requirements remain unchanged, including the requirements to (1) file the report on each call report date, (2) certify the report under oath, (3) indicate the amount and name of the issuer of any letters of credit, and (4) provide a copy of the report to public depositors upon request. Failure to furnish any report or give any information as required will result in disqualification and loss of the right to receive public deposits.

#### § 16 — NOTIFICATION OF SALE OF REAL PROPERTY TAX LIEN

The act requires the party to whom a municipality has assigned a tax lien, or any subsequent assignee, to provide written notice to the mortgage holder within 30 days after the assignment.

The act requires the notice to include (1) the name and address of the party to whom the tax lien was assigned; (2) the amount of unpaid taxes, interest, and fees as of the date of the assignment; and (3) information to identify the property.

#### § 17 — INVESTMENTS BY CONNECTICUT BANKS

The act establishes the amount of certain debt securities that Connecticut banks may purchase or hold for their accounts. It applies to:

1. general obligations of a federal agency, including government-sponsored enterprises, that are not guaranteed fully as to principal and interest by the United States or for which the United States does not pledge its full faith and credit for payment of principal and interest;
2. residential mortgage pass-through securities and other residential mortgage-backed securities, including collateralized mortgage

obligations and real estate investment conduits issued or guaranteed by the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, if at the time of issuance or guarantee they are operating under conservatorship or receivership of the Federal Housing Financing Authority; and

3. debt mutual funds where the portfolios of the investment companies consist only of the type of investments described above.

For these types of investments, the act allows the bank to purchase or hold them without regard to other liability to the bank of the maker, obligor, guarantor, or issuer if:

1. they are rated in the three highest rating categories by a rating service recognized by the banking commissioner or, if not so rated, determined by the bank's governing board to be a prudent investment;
2. the total amount of these investments from any one maker, obligor, or issuer does not exceed 75% of the bank's total equity capital and reserves for loan and lease losses, unless the commissioner provides prior approval; and
3. the total amount of them does not exceed 50% of the bank's assets.

Prior law allowed a Connecticut bank to purchase or hold the type of general obligations described above, but required that they meet only the first condition regarding ratings.

#### BACKGROUND

##### *Exchange Accommodation Titleholder and Qualified Exchange Accommodation Arrangement*

Federal law allows an exchange accommodation titleholder (EAT), through a qualified exchange accommodation arrangement (QEAA) with a property's taxpayer, to act as the beneficial owner of a property for income tax purposes in order to facilitate a like-kind exchange. In order to do so, the EAT must (1) not be the taxpayer for the property or a disqualified person; (2) be subject to federal income tax; and (3) hold the legal title to the property or other indicia of ownership, such as a contract for deed (IRS Rev. Proc. 2000-37).

##### *Qualified Intermediary*

Federal law defines a "qualified intermediary" as a person involved in a taxpayer's transfer of relinquished property who (1) is not the taxpayer or a disqualified person and (2) enters into a QEAA, acquires the relinquished property from the taxpayer and transfers it, then acquires the replacement property and transfers it to the taxpayer (26 CFR § 1.1031(k)-1(g)(4)).

*Qualified Trust*

According to federal law, a trustee and a taxpayer create a qualified trust through an agreement that expressly limits the taxpayer's rights to receive, pledge, borrow, or otherwise obtain the benefits of the cash or cash equivalent held by the trustee (26 CFR § 1.1031(k)-1(g)(3)).

*Qualified Escrow*

An escrow holder and a taxpayer create a qualified escrow account through an agreement that expressly limits the taxpayer's rights to receive, pledge, borrow, or otherwise obtain the benefits of the cash or cash equivalent held in the escrow account (26 CFR § 1.1031(k)-1(g)(3)).

*Qualified Public Depository (QPD)*

By law, "qualified public depository" or "depository" means a bank, Connecticut credit union, federal credit union, or an out-of-state bank that maintains a branch in the state, which receives or holds public deposits (CGS § 36a-330).

*Public Deposit*

"Public deposit" means (1) money of the state or its subdivisions, or any commission, committee, board or officer thereof; any housing authority; or any Connecticut court and (2) money held by the Judicial Branch in a fiduciary capacity (CGS § 36a-330).

*Uninsured Public Deposit*

"Uninsured public deposit" means the portion of a public deposit that is not insured or guaranteed by the Federal Deposit Insurance Corporation (FDIC) or by the National Credit Union Administration (NCUA). Amounts of a public deposit that are insured by FDIC or NCUA include amounts that have been redeposited, with the authorization of the public depositor, into deposit accounts in one or more federally insured banks, out-of-state banks, Connecticut credit unions, or federal credit unions, including the qualified public depository, provided the full amounts are eligible for insurance coverage by FDIC or NCUA (CGS § 36a-330).

*Tier One Leverage Ratio*

Tier one leverage ratio has the same meaning as "leverage ratio," which means the ratio of Tier 1 capital to total assets (12 CFR § 325.2).

*Risk-based Capital Ratio*

"Total risk-based capital ratio" is the ratio of qualifying total capital to risk-weighted assets, as calculated in accordance with the FDIC's Statement of Policy on Risk-Based Capital (12 CFR § 325.2).

*Net Worth Ratio*

"Net worth ratio" is the ratio of the net worth of the credit union to the total assets of the credit union (12 CFR § 702.2(g)).

*Net Worth*

"Net worth" means the retained earnings balance of the credit union at the end of a quarter as determined under generally accepted accounting principles (12 CFR § 702.2(f)).

*Total Assets*

For purposes of calculating net worth ratio, "total assets" means a credit union's total assets as measured by:

1. average quarterly balance, which is the average of quarter-end balances of the current and three preceding calendar quarters;
2. average monthly balance, which is the average of month-end balances over the three calendar months of the calendar quarter;
3. average daily balance, which is the average daily balance over the calendar quarter; or
4. quarter-end balance, which is the quarter-end balance of the calendar quarter as reported on the credit union's call report (12 CFR § 702.2(k)).

*CUSIP Number*

"CUSIP" stands for Committee on Uniform Securities Identification Procedures. A CUSIP number identifies most securities, including stocks of all registered U.S. and Canadian companies and U.S. government and municipal bonds. The CUSIP system facilitates the clearing and settlement process of securities. The number consists of nine characters (including letters and numbers) that uniquely identify a company or issuer and the type of security.

*Quarterly Call Report*

All regulated financial institutions in the United States are required to file periodic financial and other information with their respective regulators and other parties. One of the key reports required to be filed is the quarterly Consolidated Report of Condition and Income, generally referred to as the "call report." Call reports are

due no later than 30 days after the end of each calendar quarter.

*Related Act*

PA 13-253 makes a clarifying change regarding exchange facilitators.

**PA 13-136—sHB 6355**

*Banks Committee*

*Judiciary Committee*

*Planning and Development Committee*

**AN ACT CONCERNING HOMEOWNER PROTECTION RIGHTS**

**SUMMARY:** This act makes numerous changes in the Judicial Branch's foreclosure mediation program, including:

1. identifying the program's objectives and expanding its scope to include short sales and deeds in lieu of foreclosure as options;
2. extending the program for two years, to June 30, 2014, for foreclosure actions with return dates of July 1, 2008 through June 30, 2009;
3. establishing a premediation process and requiring the delivery and exchange of specified information during this period;
4. establishing new requirements for when to end or extend the mediation period, including requiring the mediator to file a report with the court after each mediation session indicating whether the parties will benefit from further mediation; and
5. requiring the chief court administrator to submit summaries of the mediator reports to the Banks Committee by February 14, 2014 and February 14, 2015.

The act also establishes expedited foreclosure procedures for vacant and abandoned properties.

Lastly, the act makes technical changes.

EFFECTIVE DATE: July 15, 2013

**§§ 1&3 — FORECLOSURE MEDIATION PROGRAM – SCOPE, OBJECTIVES, AND DEFINITIONS**

**§ 3 — Scope of the Program**

By law, the chief court administrator must, in each judicial district, establish a foreclosure mediation program in actions to foreclose mortgages on residential real property or real property owned by a religious organization.

By law, foreclosure mediation must address all issues of foreclosure, including:

1. reinstatement of the mortgage,
2. assignment of law days,
3. assignment of sale date,
4. restructuring of the mortgage debt, and
5. foreclosure by decree of sale.

The act expands the scope of foreclosure mediation to include the disposition of the property through means other than foreclosure, including short sales and deeds in lieu of foreclosure.

By law, foreclosure mediation must be conducted by foreclosure mediators who (1) are employed by the Judicial Branch, (2) are trained in mediation and all relevant aspects of the law, (3) know about available community-based resources, and (4) know about the mortgage assistance programs. The act requires mediators to be unbiased and prohibits them from giving legal advice to any party in mediation.

**§ 1 — Program Objectives**

Under the act, the mediation program's objectives include:

1. determining whether the parties can reach an agreement that will (a) avoid foreclosure by considering any loss mitigation options available through the mortgagee or (b) expedite or facilitate the foreclosure in a manner acceptable to the parties and
2. an expectation that all parties will try to reach such determination with reasonable speed and efficiency by participating in the mediation process in good faith without unreasonable and unnecessary delays.

**§ 1 — Definitions**

By law, "mortgagor" means: (1) the owner-occupant of one-to-four family residential real property located in Connecticut who is also the borrower under a mortgage encumbering such property, which is the primary residence of the owner-occupant, or (2) a religious organization that is the owner of real property located in Connecticut and the borrower under a mortgage encumbering such property. The act explicitly excludes from the definition of mortgagor an heir or occupying nonowner of a property encumbered by a reverse annuity mortgage.

The act defines "mortgagee" as the owner or servicer of the debt secured by a mortgage on residential real property or real property owned by a religious organization securing a loan made primarily for personal, family, religious, or household purposes that is the subject of a foreclosure action. Under prior law, a mortgagee was the original owner or the successors or

assigns holding any such mortgage.

Under the act, “ability to mediate” means exhibiting a willingness, including a reasonable ability, to participate in the mediation process (1) in a manner consistent with the mediation program’s objectives and (2) in conformity with any obligations the program imposes, including:

1. a willingness and reasonable ability to respond to questions and specify or estimate when particular decisions will be made or particular information will be provided and
2. with respect to mortgagees, a reasonable familiarity with the loan file, the loss mitigation options available to the mortgagor, and the material issues raised in prior mediation sessions, which may be achieved by becoming reasonably familiar with the mediator reports.

## § 2 — CHANGES TO MEDIATION TIMELINE AND PROCESS

By law, the foreclosure mediation program establishes separate timelines and requirements depending on the return date (i.e., the day by which certain action must be taken) of the foreclosure action, as follows:

1. residential foreclosures with return dates of July 1, 2008 through June 30, 2009;
2. residential foreclosures with return dates of July 1, 2009 through June 30, 2014; and
3. foreclosures of properties owned by religious organizations with return dates of October 1, 2011 through June 30, 2014.

### *Residential Foreclosures with Return Dates of July 1, 2008 through June 30, 2009*

Under prior law, the foreclosure mediation program for foreclosure actions on residential real property with return dates from July 1, 2008 through June 30, 2009 closed June 30, 2012. With regard to such return dates, on or after July 1, 2012, (1) no foreclosure action could commence and (2) no foreclosure mediation request form could be submitted to the court. The act reopens and extends the foreclosure mediation program for foreclosure actions on residential real property with return dates from July 1, 2008 through June 30, 2009 by two years, through June 30, 2014. Therefore, the court is prohibited from accepting foreclosure mediation request forms on or after July 1, 2014 for such foreclosure actions.

By law, when a mortgagee begins an action for the foreclosure of a mortgage on residential real property with a return date from July 1, 2008 through June 30, 2009, the following process and timeline apply:

1. the mortgagee must give notice to the mortgagor of the foreclosure mediation program and, among other things, provide a foreclosure mediation request form;
2. the mortgagor may request foreclosure mediation by submitting the foreclosure mediation request form to the court and filing an appearance within 15 days after the return date for the foreclosure action; and
3. upon receipt of the foreclosure mediation request form, the court must notify each appearing party that a foreclosure mediation request form has been submitted by the mortgagor.

Prior law authorized the court to grant a mortgagor permission to submit a foreclosure mediation request form and file an appearance after the 15-day period if good cause was shown, but no foreclosure mediation request form could be submitted and no appearance could be filed more than 25 days after the return date. The act removes the 25-day limit, thus allowing the court to extend the period so long as good cause is shown.

### *Residential Foreclosures With Return Dates on or After July 1, 2009 and Foreclosures of Property Owned by Religious Organizations With Return Dates on or After October 1, 2011*

The act makes several changes to the foreclosure mediation timeline and requirements for foreclosure actions with a return date of July 1, 2009 through June 30, 2014, for residential real property and October 1, 2011 through June 30, 2014, for real property owned by a religious organization, as follows.

**Mediation Information Form.** By law, when a mortgagee begins a foreclosure action on residential real property with a return date on or after July 1, 2009, or, with respect to real property owned by a religious organization, a return date on or after October 1, 2011, the mortgagee must give notice to the mortgagor of the foreclosure mediation program.

Under prior law, with respect to an action for the foreclosure of a mortgage on residential real property with a return date on or after October 1, 2011, the notice had to include a mediation information form and a notice containing contact information for Connecticut Housing Finance Authority (CHFA)-approved consumer credit counseling agencies. The act limits the use of the current mediation information form to foreclosure actions with a return date from October 1, 2011 through September 30, 2013, and establishes a new mediation information form that must be used for an action to foreclose a mortgage on residential real property with a return date on or after October 1, 2013. The new mediation information form must:

1. instruct the mortgagor on the mediation program's objectives,
2. explain the process of preliminary meetings with the mediator,
3. instruct the mortgagor to begin gathering financial documentation commonly used in foreclosure mediation, and
4. include contact information for CHFA-approved consumer counseling agencies.

The act requires the chief court administrator to design the mediation information form, in consultation with banking industry representatives and consumer advocates.

*Preparation for Mediation.* By law, the court must issue a foreclosure mediation notice to the mortgagor within three business days after the date the mortgagee returns the writ to the court. Under prior law, the notice had to (1) instruct the mortgagor to file the appearance and foreclosure mediation certificate forms with the court within 15 days after the return date for the foreclosure action and (2) remind the mortgagor to deliver the completed mediation information form and the accompanying documentation. The act limits this reminder to actions with a return date on or after October 1, 2011 through September 30, 2013. For actions with a return date on or after October 1, 2013, the act requires that the notice instruct the mortgagor, for purpose of premediation meetings and mediation, to begin gathering financial information commonly used in foreclosure mediation.

Under prior law, CHFA-approved housing counseling agencies could help prepare the mediation information form. The act broadens this by allowing them to help the mortgagor prepare for mediation in general.

*Assignment of Case to Mediation.* Prior law required the court to schedule a date for mediation and notify all appearing parties of the date when it received the mortgagor's appearance and foreclosure mediation certificate forms, provided the court confirmed the defendant in the foreclosure action was a mortgagor and the mortgagor had sent a copy of the mediation certificate form to the plaintiff.

The act instead requires that the court assign the case to mediation at this time and notify all appearing parties of (1) the assignment and (2) an e-mail address to be used for all mediation-related communications. Under the act, the court may not assign the case to mediation if the appearance and foreclosure mediation certificate forms are not received from the mortgagor within 15 days after the return date.

*Account History Requirement.* The act requires the mortgagee or its counsel, upon receiving the notice that the case has been assigned to mediation and within 35 days of the return date, to send via e-mail to the mediator and via first class, priority, or overnight mail

to the mortgagor:

1. an account history identifying all credits and debits assessed to the loan account and any related escrow account in the immediately preceding 12 months;
2. an itemized statement of the amount needed to reinstate the mortgage, with information, written in plain language, to explain any codes used in the history and statement that are not otherwise self-explanatory;
3. the name, business mailing address, e-mail address, fax number, and direct telephone number of someone who can respond with reasonable adequacy and promptness to questions about the information submitted, and provide prompt updates to such contact information;
4. all reasonably necessary forms and a list of all documentation reasonably needed for the mortgagee to evaluate the mortgagor for common foreclosure alternatives that are available through the mortgagee, if any;
5. a copy of the note and mortgage;
6. summary information on the status of any pending foreclosure avoidance efforts the mortgagee is undertaking;
7. a copy of any loss mitigation affidavit filed with the court; and
8. at the mortgagee's option, (a) the history of foreclosure avoidance efforts, (b) information on the condition of the mortgaged property, and (c) other information the mortgagee determines relevant to meeting the mediation program's objectives.

*Mediator and Mortgagor Premediation Meetings.*

The act requires the court to (1) assign a mediator and (2) schedule a premediation meeting with the mediator and the mortgagor after the mediator has received the account history information. (Presumably this occurs when such information has been delivered to the e-mail address provided for mediation-related communications.) The court must schedule the meeting if possible within 49 days following the return date. The meeting notice must instruct the mortgagor to (1) complete the forms before the meeting and (2) provide the forms and listed documentation, provided by the mortgagee, at the premediation meeting.

The act requires the mediator, at the meeting, to review the forms and documentation with the mortgagor along with the information the mortgagee supplies. This review is to (1) discuss the options available to the mortgagor, including community-based resources, and (2) help the mortgagor complete the forms and provide the documentation necessary for the mortgagee to evaluate the mortgagor for foreclosure alternatives.

The act allows the mediator to schedule subsequent meetings with the mortgagor and determine whether any mortgagor may be excused from appearing in person at such meetings.

*Delivery of Forms and Documents to Mortgagee.*

The act requires the mediator, as soon as practicable within 84 days following the return date, to facilitate and confirm the mortgagor's submission of the forms and documentation (1) electronically, to the mortgagee's counsel and (2) at the mortgagee's election, directly to the mortgagee per the mortgagee's instruction.

*Mediator's Report to the Court and the Court's Notice.* The act also requires the mediator, as soon as practicable within 84 days following the return date, to file a report with the court based on the mortgagor's attendance at the meetings and the extent to which the mortgagor (1) completed the forms and furnished the required documentation or (2) failed to perform such tasks through no material fault of the mortgagee. The report must indicate:

1. whether mediation must be scheduled with the mortgagee,
2. whether the mortgagor attended scheduled meetings with the mediator,
3. whether the mortgagor fully or substantially completed the forms and provided the documentation requested by the mortgagee,
4. the date on which the mortgagee supplied the forms and documentation, and
5. any other information the mediator determines to be relevant to the mediation program's objectives.

The act specifies that no meeting or communication between the mediator and mortgagor should be treated as an impermissible ex parte communication.

If the mediator determines that the mortgagee must participate in mediation, the court must promptly notify all parties and schedule a mediation session between the mortgagee and mortgagor. The act requires that the first mediation session be held within five weeks following the mortgagor's submission of the required forms and documentation to the mortgagee.

If the mediator determines that no sessions between the mortgagee and mortgagor should be scheduled, the court must promptly notify all parties and mediation must be terminated. The act allows any mortgagor wishing to contest this determination to petition the court and show good cause for being included in the mediation program, including (1) a material change in financial circumstances or (2) the mediator's mistake or misunderstanding of the facts.

*Court Referral to Mediation.* Under prior law, the court could refer a foreclosure action to the foreclosure mediation program at any time if (1) the mortgagor had filed an appearance and (2) the court sent a notice to

each appearing party within three business days after making the referral. The act limits the referral to when good cause is shown. The act specifies that, when determining whether good cause exists, the court must consider (1) whether the parties are likely to benefit from mediation and (2) in the case of a referral after prior attempts at mediation have been terminated, whether there has been a material change in circumstances.

Prior law required the court's referral notice to schedule the first foreclosure mediation session within 35 days after the referral date. The act instead requires the notice to assign the case to mediation and require the parties to participate in the premediation process (described above). The court must establish deadlines to ensure that the premediation process is completed as expeditiously as possible.

*Special Pleadings During the Eight-Month Stay.* By law, prior to July 1, 2014, there is an eight-month stay on certain pleadings from the return date of the foreclosure action. The act allows the mortgagor to file an answer, special defenses, or counterclaims during this period.

*Strict Foreclosure/Foreclosure by Sale.* Under existing law, prior to July 1, 2014, a judgment of strict foreclosure or foreclosure by sale cannot be entered on a mortgage for residential real property or real property owned by a religious organization that is in foreclosure mediation unless (1) the mediation period has expired or terminated and (2) if it is less than eight months after the return date, 15 days have passed since the mediation period terminated. The act additionally requires that if it is less than eight months after the return date and 15 days have passed since the period terminated, any pending motions or requests to extend the mediation period must also be heard and denied by the court before any such judgment can be ordered.

#### § 4 — MEDIATION PERIOD, INFORMATION REQUIRED, AND TERMINATION

Except as specified below, the following changes apply to all foreclosure actions covered by the foreclosure mediation program.

##### *Conclusion of the Mediation Period*

Prior law required the mediation period to conclude within 60 days after the return date for the foreclosure action. The act instead requires the period to end by the end of the third mediation session or seven months after the return date, whichever is earlier.

By law, the court has the discretion to extend or shorten the mediation period for good cause, subject to certain limitations. The act limits the exercise of this discretion to situations in which a party or the mediator

makes such a request. Under prior law, the court could extend the period by up to 30 days. The act removes the 30-day limit on the court's discretion to extend the period.

#### *Appearance at Mediation Sessions*

Prior law required that the mortgagor and mortgagee appear in person at each mediation session and with authority to agree to a proposed settlement. The act requires that the parties appear at each session with the ability to mediate. Prior law made an exception for a mortgagee who is represented by counsel under certain circumstances. The act makes this exception apply to all parties, but requires that the mortgagor attend the first mediation session in person.

Under prior law, in mediations involving two or more mortgagors, at least one mortgagor was required to appear in person at each mediation session subsequent to the first session, unless good cause was shown. The act limits this provision to apply to mortgagors who represent themselves. Prior law required the mortgagors who did not attend mediation in person to be available (1) during the mediation session and (2) to participate in the mediation session by speakerphone, if an opportunity is afforded for confidential discussions among the mortgagors and their counsel. The act removes the condition that there must be an opportunity for confidential discussions.

The act allows the mediator to grant permission to a party to participate in mediation sessions by telephone if the party suffers from a disability or other significant hardship that imposes an undue burden on such party to appear in person.

The act allows a mortgagor's spouse, who is not a mortgagor but who lives in the subject property, to appear at each mediation session, if (1) all appearing mortgagors consent, in writing, to the spouse's appearance or the spouse shows good cause for his or her appearance and (2) the mortgagors consent, in writing, to the disclosure of nonpublic personal information to the spouse.

#### *Complete Financial Package*

If the mortgagor has submitted a complete package of financial documentation in connection with a request for a particular foreclosure alternative, the act requires the mortgagee to (1) respond with a decision within 35 days from the receipt of the completed package and (2) if the decision is a denial, provide the reasons for the denial.

The act requires the mortgagee to request any missing or additional information if (1) the mortgagor submitted an incomplete financial package or (2) the mortgagee's evaluation of the complete package reveals

that additional information is necessary to underwrite a request for a foreclosure alternative. The mortgagee must make this request within a reasonable period of time of that evaluation.

The act allows the mortgagee's response date to be extended beyond the 35-day deadline if the mortgagee's evaluation of a complete package reveals that additional information is necessary to underwrite the request, but only for so long as is reasonable given the (1) timing of the mortgagor's submission of the additional information and (2) nature and context of the required underwriting.

#### *Mediator's Report*

The act requires the mediator to file a report with the court within three business days after each mediation session. The report must indicate:

1. the extent to which each party complied with the mediation program requirements;
2. whether the mortgagor submitted a complete package of financial documentation to the mortgagee;
3. a general description of the foreclosure alternative being requested by the mortgagor;
4. whether the mortgagor has previously been evaluated for similar requests and, if so, whether there has been any apparent change in circumstances since the decision in the prior evaluation;
5. whether the mortgagee has responded to the mortgagor's request for a foreclosure alternative and, if so, a description of the response and whether the mediator is aware of any material reason not to agree with the response;
6. whether the mortgagor has responded to an offer made by the mortgagee on a reasonably timely basis and, if so, an explanation of the response;
7. whether the mortgagee has requested additional information from the mortgagor and, if so, the stated reasons for the request and the date by which such additional information must be submitted so that, to the extent possible, the mortgagee may still use previously submitted information in conducting its review;
8. whether the mortgagor has supplied, on a reasonably timely basis, any additional information that was reasonably requested by the mortgagee and, if not, the stated reason for not doing so;
9. if information provided by the mortgagor is no longer current for purposes of evaluating a foreclosure alternative, a description of the out-of-date information, and an explanation of how



- and why such information is no longer current;
10. whether the mortgagee has provided a reasonable explanation of the basis for a decision to deny a request for a loss mitigation option or foreclosure alternative and whether the mediator is aware of any material reason not to agree with that decision;
  11. whether the mortgagee has complied with the act's timeframes for responding to requests for decisions;
  12. if a subsequent mediation session is expected to occur, a general description of the expectations for that session and for the parties prior to that session, and if not already addressed in the report, whether the parties satisfied the expectations described in previous reports; and
  13. whether the parties will benefit from further mediation.

The act requires the mediator to deliver a copy of the report to all the parties at the time he or she files it with the court. The act allows the parties the opportunity to submit their own supplemental information following the filing of the mediator's report but they must do so within five business days after receiving the mediator's report. Requests by the mortgagee to the mortgagor for additional or updated financial documentation must be made in writing.

#### *Court Sanctions*

The act allows the court to impose sanctions on any party or the party's counsel who, during the mediation process, engages in intentional, or a pattern or practice of, conduct contrary to the mediation program's objectives.

Under the act, any sanction imposed must be proportional to the conduct and consistent with the mediation program's objectives. Available sanctions include (1) terminating mediation, (2) ordering the mortgagor or mortgagee to mediate in person, (3) forbidding the mortgagee from charging the mortgagor for the mortgagee's attorney's fees, (4) awarding attorney's fees, and (5) imposing fines. In egregious situations, the sanctions must be more severe.

By law, the court is prohibited from awarding attorney's fees to a mortgagee for time spent in any mediation session if the mortgagee fails to comply with the requirements of the mediation sessions without good cause.

#### *Continuation of the Mediation Sessions*

Under prior law, if the mediator reported to the court after the first mediation session that the parties could benefit from further mediation, the mediation

period had to continue. The act extends this to the second session.

Under prior law, for foreclosure actions with a return date of July 1, 2009 through June 30, 2014 for residential real property and return date of October 1, 2011 through June 30, 2014 for real property owned by a religious organization, failure to comply with the mediation program's documentation requirements was not grounds for terminating the mediation period before a second mediation session was conducted. The act deletes this provision.

Under prior law, if the mediation period ended with unresolved issues, the mediator was allowed to refer the mortgagor to appropriate community-based services available in the judicial district where the mediation took place. The act allows the referral to these services in any judicial district. It also eliminates a provision specifying that the referral may not cause a delay in the mediation process.

#### *Policies and Procedures*

By law, the chief court administrator must establish policies and procedures that require the mediator to advise the mortgagor of certain conditions. Under prior law, the mediator had to advise the mortgagor that (1) mediation does not suspend the mortgagor's obligation to respond to the foreclosure action and (2) a judgment of strict foreclosure or foreclosure by sale may cause the mortgagor to lose the property to foreclosure. The act requires that the mediator provide this advice at the first premediation meeting, rather than the first mediation session as prior law required. For foreclosure actions with a return date of July 1, 2008 through June 30, 2009, the act removes the requirement to advise the mortgagor that mediation does not suspend the mortgagor's obligation to respond to the foreclosure action.

#### *Conclusion or Extension of the Mediation Period*

The act specifies that the mediation period ends (1) after the third mediation session or (2) if seven months have passed since the return date. It allows the period to be extended if a party or the mediator requests an extension within 15 days after the conclusion of the period and any extended sessions. The court must make its ruling within 20 days after the filing of the motion or request and is limited to granting one session per request if (1) it is highly probable that the parties will reach an agreement or (2) any party has engaged in conduct that is contrary to the mediation program's objectives. A judgment of strict foreclosure or foreclosure by sale cannot be entered until the court denies the motion or request to extend the mediation period or at the end of any extended sessions granted.

The act requires the court to set an expeditious deadline for any extended mediation sessions granted.

The act allows the court to consider all matters that have come up in mediation when determining whether to extend mediation, including:

1. the number of motions to extend mediation,
2. the reasons why an agreement has not been reached,
3. the mediation program's objectives,
4. whether parties will benefit from further mediation,
5. the mediator's reports,
6. papers that are submitted with motions, and
7. supplemental reports submitted by the parties.

The court must include its reasons in the order granting or denying a motion or request to extend mediation.

Under the act, if all parties agree that they would benefit from an additional session, the mediation period may be extended for one session without a hearing. The parties must consult with the mediator to set an expeditious deadline for the additional session.

The act specifies that the extended mediation period terminates after the extended session.

#### *Cases Pending on October 1, 2013*

For any case pending on October 1, 2013 in which mediation is ongoing, the act specifies how sessions should be counted for purposes of determining if mediation should end or be extended. Specifically, if three or fewer sessions have been held by that date, the case must be treated as if no sessions have been held. But, if four or more sessions have been held, any party or the mediator may move to end or extend mediation. If no motion is filed, the mediation period ends after the third session that is held after October 1, 2013.

#### § 4 — REPORTING REQUIREMENT

The act requires the chief court administrator to submit to the Banks Committee, by February 14, 2014, a summary of the mediation program and specified data collected from mediator reports that were submitted from July 1, 2013 to December 31, 2013. The summary must include:

1. the aggregate number of (a) cases in mediation, (b) mediation sessions held, (c) agreements reached before the conclusion of the mediation period, and (d) motions or requests for an extension or continuance and the identity of the party that made such a motion or request;
2. whether the loan was serviced by a third party;
3. the judicial district where the mediation took place; and

4. whether the mortgagor was self-represented.

The act also requires the chief court administrator to submit a second summary to the Banks Committee, by February 14, 2015, of data collected from mediator reports submitted from July 1, 2013 to December 31, 2014. The chief court administrator must work with the governor's office, the banking industry, and consumer advocates to develop the data points required for the second summary, including data to be collected but not reported.

#### § 5 — EXPEDITED FORECLOSURE PROCEDURES FOR VACANT AND ADANDONED PROPERTIES

##### *Expedited Proceedings Permitted*

The act allows an expedited foreclosure action by allowing a mortgagee to file a motion for judgment of foreclosure simultaneously with a motion for default for failure to appear. This is allowed only if the mortgagee proves by clear and convincing evidence, and with a proper affidavit, that the real property that is the subject of the foreclosure action is not occupied by a mortgagor, tenant, or other occupant and at least three of the following conditions exist:

1. statements of neighbors, delivery persons, or government employees indicate that the property is vacant and abandoned;
2. windows or entrances are boarded up or closed off or multiple window panes are damaged, broken, or unrepaired;
3. doors to the property are smashed through, broken off, unhinged, or continuously unlocked;
4. acts of vandalism, loitering, criminal conduct, or physical destruction of the property create a risk to the health, safety, or welfare of the public or any adjoining or adjacent property owners;
5. a municipal order declares that the property (a) is unfit for occupancy and (b) must remain vacant and unoccupied;
6. the mortgagee secured or winterized the property because the property was deemed vacant and unprotected or in danger of freezing; or
7. a written statement by any mortgagor or any tenant expressing the clear intent of all occupants to abandon the property.

##### *Expedited Proceedings Prohibited*

The act prohibits a foreclosure action from proceeding under expedited procedures if the property includes any of the following:

1. an unoccupied building undergoing construction, renovation, or rehabilitation that is moving toward completion and complies with all applicable ordinances, codes, regulations, and statutes;
2. a secure building occupied on a seasonal basis; or
3. a secure building that is the subject of a probate action to quiet title or other ownership dispute.

**PA 13-253—sSB 911**

*Banks Committee*

*Finance, Revenue and Bonding Committee*

### **AN ACT CONCERNING MONEY TRANSMISSION AND CONSUMER COLLECTION AGENCIES**

**SUMMARY:** This act makes numerous changes in the Money Transmission Act and consumer collection agency statutes.

With respect to the Money Transmission Act, it:

1. expands licensing requirements;
2. alters bonding, investment, and net worth requirements for affected businesses;
3. allows licensees to use authorized delegates, rather than agents, to conduct business;
4. changes the information applicants and licensees must provide to the banking commissioner; and
5. expands exemptions from the act's provisions.

With respect to the consumer collection agency statutes, the act:

1. subjects debt buyers to the same requirements as consumer collection agencies, with the exception of bond requirements;
2. expands licensing requirements;
3. adds new fund management and recordkeeping requirements;
4. requires consumer collection agencies to determine a debtor's legal obligation to pay collection fees;
5. requires consumer collection agencies to advise debtors that their debt may be uncollectible due to a statute of limitations and provides the specific required disclosure language; and
6. exempts banks and certain of their subsidiaries and affiliates from the consumer collection agency statutes.

The act also makes a clarifying change regarding exchange facilitators.

Lastly, the act makes conforming and technical changes.

EFFECTIVE DATE: October 1, 2013

### **§§ 1-19 — THE MONEY TRANSMISSION ACT**

Generally, the Money Transmission Act regulates businesses, other than banks, that receive and transmit money. It requires these businesses to be licensed, imposes financial conditions on them, and subjects them to Banking Department oversight.

### **§§ 2 & 3 — Covered Activities**

Prior law required a person to be licensed if he or she was in the business of (1) issuing Connecticut payment instruments or (2) receiving money for transmission, transmitting it by any means, or issuing stored value. The act eliminates the distinction between these two businesses and incorporates both under the term “money transmission” business. It extends the licensure requirement to anyone (1) issuing or selling payment instruments or stored value, including payment instruments that are checks or drafts, and (2) advertising or soliciting money transmission services.

The act deems someone to be engaged in the money transmission business in Connecticut if the person:

1. has a place of business in Connecticut,
2. receives money or monetary value in Connecticut or from a person located in Connecticut,
3. transmits money or monetary value from a location in Connecticut or to a person located in Connecticut,
4. issues stored value or payment instruments that are sold in Connecticut, or
5. sells stored value or payment instruments in Connecticut.

By law, knowingly conducting business without a license is a class D felony (see Table on Penalties).

### **§§ 2 & 4 — Application Information**

The act changes the information license applicants must provide to the banking commissioner. By law, applicants must provide information on a number of topics, including (1) principal office location; (2) information, including past criminal convictions, on the applicant and any partners, directors, trustees, officers, shareholders with at least 10% of each class of securities, or members; and (3) material litigation in the last five years.

Instead of requiring the name and address of each branch, subsidiary, affiliate, or agent in the state engaged in the (1) business of selling or issuing Connecticut payment instruments or (2) money transmission business, the act requires the name and address of each location and authorized delegate through which the licensee will engage in the money transmission business. The act defines an “authorized delegate” as a person designated by a licensee to

provide money transmission services on the licensee's behalf.

The act also requires applicants to submit:

1. the name and address of any financial institution used for a money transmission business in the state and
2. a sample of the contract showing the proposed arrangement between the applicant and any authorized delegate.

The act also changes the audits and financial statements that applicants must provide. Under prior law, they were required to provide an audited, unconsolidated financial statement, including a balance sheet, receipts, and disbursements for the preceding year prepared by an independent certified public accountant acceptable to the commissioner. The act instead requires:

1. the applicant's audited financial statement for the most recent fiscal year;
2. if the applicant is a wholly-owned subsidiary of a corporation, the (a) applicant's or parent corporation's most recent audited consolidated annual financial statements and (b) applicant's audited unconsolidated financial statement, including balance sheet, receipts, and disbursements for the preceding year;
3. if the applicant is a publicly traded entity, the applicant's most recent 10-K report filed with the Securities and Exchange Commission (SEC) (an annual report on the company's performance);
4. if the applicant is a wholly owned subsidiary of a publicly traded company, the parent company's most recent 10-K report filed with the SEC; and
5. if the applicant or parent of a wholly owned subsidiary is publicly traded on a foreign exchange, documents similar to the 10-K report filed with the appropriate securities regulator.

Prior law required the applicant to state whether he or she would engage in (1) issuing money orders, travelers checks, or electronic payment instruments or (2) the money transmission business. The act instead requires the applicant to describe the type of money transmission business he or she will conduct.

*Outstanding Money Transmissions.* Under prior law, applicants were required to provide the dollar amount of their outstanding payment instruments as of (1) the date of the financial statement they must file and (2) a date within 30 days of filing the application. The act instead requires them to provide the dollar amount of any outstanding money transmissions.

It also alters when a payment instrument is considered "outstanding." By law, a money order, travelers check, electronic payment instrument, or stored value is considered "outstanding" if (1) it is sold

or issued in the United States; (2) the licensee received a report of it from its agent (or authorized delegate under the act); and (3) the issuer has not yet paid it. Under the act, checks and drafts are considered outstanding under the same circumstances. The act provides that, for other types of money transmissions, "outstanding" means the value reported to the licensee for which the licensee or authorized delegate has received money or its equivalent from the customer for transmission, but has not completed the transmission by delivering the money or value to the person designated by the customer.

#### *§ 4 — Notices to Commissioner*

The act requires an applicant seeking to get or renew a license to give the commissioner notice of any change in information within 15 days after learning of it. Under prior law, changes had to be reported promptly.

By law, a licensee must provide written notice to the commissioner within one business day after having reason to know of certain convictions. This includes conviction of the licensee or a partner, director, trustee, principal officer, member, or shareholder owning at least 10% of each class of the licensee's securities of a (1) misdemeanor involving money transmission or issuing Connecticut payment instruments or (2) felony. The act also requires notice of indictments for these crimes.

Under prior law, an applicant was required to notify the commissioner of an agent's felony conviction. The act instead applies this notice requirement to crimes by authorized delegates and expands it to include a delegate's (1) conviction of a misdemeanor involving money transmission and (2) indictment for one of these misdemeanors or a felony.

#### *§ 5 — Nonrefundable Fees*

The act makes the initial license and license renewal fees nonrefundable. Prior law required the commissioner to refund the fee when an original license was denied, the commissioner refused to renew a license, or an application was withdrawn before issuance or renewal. The license fee is \$2,250, except it is \$1,250 if paid more than a year before a license expires. By law, applicants also pay a nonrefundable \$625 investigation fee.

#### *§ 5 — Surrendering Licenses*

Under prior law, a licensee was required to surrender its license to the commissioner in person or by registered or certified mail, within 15 days of ceasing business in the state. The act instead requires written notice of surrender to the commissioner and no longer

specifies how the licensee must surrender the license.

The act requires the notice to (1) identify the location where the licensee's records will be stored and (2) provide the name, address, and phone number of an individual authorized to give access to the records. The act specifies that surrendering the license does not reduce or eliminate the licensee's civil or criminal liability for acts or omissions before the surrender, including administrative actions by the commissioner to (1) revoke or suspend a license, (2) assess a civil penalty, (3) order restitution, or (4) exercise other authority.

#### § 6 — Application Approval

Under prior law, the commissioner was required to conditionally approve a license application after making certain findings and give the applicant 30 days, which the commissioner could extend for cause, to meet the law's bonding or investment requirements and achieve final approval for a license. The act eliminates the conditional approval process and requires an applicant to meet all of these requirements before the commissioner can issue a license.

#### § 6 — Application Denial for Specially Designated Nationals

The act allows the commissioner to deny an application if the applicant or any of its partners, directors, trustees, principal officers, major shareholders (at least 10% owners), or members is listed on the specially designated nationals and blocked persons list prepared by the U.S. Treasury Department (see BACKGROUND).

#### § 7 — License Suspension for Unpaid Fee

The act requires the commissioner to automatically suspend a license renewal that has been issued but has not gone into effect if the required investigation or license fee is paid by ACH (i.e., automated clearing house, an electronic network for financial transactions) and returned. By law, this suspension is mandatory when a fee is paid by a dishonored check.

#### § 8 — Bond Requirements

The act changes bonding requirements for licensees. Under the act, the bond runs concurrently with the license instead of being in force for the license period and two years after the license is surrendered, revoked, suspended, or expires.

The act specifies that the bond is conditioned on the licensee's and its authorized delegates' (1) faithful performance of their obligations related to the money transmission business in the state and (2) conducting

business in the state consistent with the laws.

The act alters the bond requirements, as shown in Table 1.

Table 1: Bond Requirements for Licenses Under Prior Law and the Act

| Amount of Bond | When Required Under Prior Law                                                                                                                                                                                                                                                                                                                                                                                                           | When Required Under the Act                                                                                                                                                                                                                                                         |
|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| \$300,000      | Licensee has: <ul style="list-style-type: none"> <li>• average daily balance of outstanding Connecticut payment instruments during the two previous reporting quarters of up to \$300,000 or</li> <li>• average weekly amount of money or monetary value received or transmitted (the greater of them) during the two previous reporting quarters of up to \$150,000</li> </ul>                                                         | For last year ending June 30, licensee has under \$300,000 average weekly amount of: <ul style="list-style-type: none"> <li>• money received or transmitted in the state and</li> <li>• stored value and payment instruments issued or sold in the state</li> </ul>                 |
| \$500,000      | Licensee has: <ul style="list-style-type: none"> <li>• average daily balance of outstanding Connecticut payment instruments during the two previous reporting quarters of more than \$300,000 but less than \$500,000 or</li> <li>• average weekly amount of money or monetary value received or transmitted (the greater of them) during the two previous reporting quarters of more than \$150,000 but less than \$250,000</li> </ul> | For last year ending June 30, licensee has between \$300,000 and \$500,000 average weekly amount of: <ul style="list-style-type: none"> <li>• money received or transmitted in the state and</li> <li>• stored value and payment instruments issued or sold in the state</li> </ul> |
| \$1 million    | Licensee has: <ul style="list-style-type: none"> <li>• average daily balance of outstanding Connecticut payment instruments during the two previous reporting quarters of</li> </ul>                                                                                                                                                                                                                                                    | For last year ending June 30, licensee has over \$500,000 average weekly amount of: <ul style="list-style-type: none"> <li>• money received or transmitted in the state and</li> <li>• stored value and payment instruments issued or sold in</li> </ul>                            |

| <i>Amount of Bond</i> | <i>When Required Under Prior Law</i>                                                                                                                                                     | <i>When Required Under the Act</i> |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|
|                       | \$500,000 or more or<br>• average weekly amount of money or monetary value received or transmitted (the greater of them) during the two previous reporting quarters of \$250,000 or more | the state                          |

As under prior law, the bond must be in favor of the commissioner.

The law deems the licensee's bond proceeds held in trust for the benefit of claimants against the licensee's faithful performance of its obligations. The act alters the scope of the licensee's obligations to match the act's expansion of the money transmission business and also makes the bond subject to an authorized delegate's obligations. (The act also makes these changes regarding the investments a licensee may make in place of some or all of the bond requirement.)

By law, the commissioner may proceed on the bond against the principal, surety, or both, to collect a civil penalty in Banking Department enforcement proceedings. The act also allows (1) the commissioner to collect restitution and unpaid costs of examining the licensee on the bond and (2) a person who may be damaged by the licensee's or authorized delegate's failure to perform their obligations in Connecticut to proceed against the bond to recover damages. The act limits claims on the bond to those made within two years of the act, error, or omission that allegedly caused or resulted in damage.

The act eliminates the commissioner's authority to lower the amount required on a bond based on a licensee's level of business and outstanding Connecticut payment instruments after a license is surrendered, revoked, suspended, or expires.

The act:

1. allows the commissioner to require a new bond when there is an action on a bond;
2. requires a licensee to file a new bond immediately when there is a recovery on a bond; and
3. allows the commissioner to require additional bonds if the licensee's financial condition requires it, based on (a) a reduction of tangible net worth, (b) financial losses, or (c) potential losses due to statutory violations. (The licensee must file such bonds within 10 days of receiving written notice from the commissioner requiring them.)

### *§ 9 — Investments*

Prior law required a licensee to maintain permissible investments with a value, using generally accepted accounting principles, of at least the aggregate amount of its outstanding Connecticut payment instruments and stored value. The act instead requires the investment to at least equal all outstanding money transmissions in the state. The act specifies that the value of receivables due from authorized delegates' proceeds from selling payment instruments that are not past due or doubtful of collection cannot exceed 30% of the permissible investments. It prohibits receivables due from one person from exceeding 10% of the permissible investments.

Under prior law, these investments were held in trust for the licensee's faithful performance of his or her obligations. The act alters the scope of the licensee's obligations to match the act's definition of the money transmission business and also makes the investments subject to an authorized delegate's obligations.

### *§ 10 — Net Worth Requirements*

The act changes the different net worth requirements set in prior law for licensees. It (1) subjects those who sell payment instruments to the net worth requirements and (2) requires that calculations be based on tangible assets, which excludes intangible assets (e.g., intellectual property rights).

By law, licensees issuing Connecticut money orders must maintain a minimum \$100,000 net worth. The act also applies this requirement to licensees issuing or selling checks or drafts.

Under prior law, a licensee who issued stored value was required to maintain a minimum \$500,000 net worth. The act increases the net worth requirement to \$1 million and retains the commissioner's authority to require a higher amount under generally accepted accounting principles.

By law, licensees that issue other forms of money transmission must have a net worth of \$500,000. The act extends this requirement to licensees that sell other forms of money transmission.

### *§ 12 — Annual Information From Licensees*

The act changes the information that licensees must provide to the commissioner each year.

Under prior law, they were required to provide the most recently audited unconsolidated financial statement, including balance sheets, receipts, and disbursements for the preceding year, prepared by an independent certified public accountant acceptable to the commissioner. Instead, the act requires:

1. the licensee's audited financial statement for the most recent fiscal year;
2. if the licensee is a wholly owned subsidiary of a corporation, the (a) parent corporation's or licensee's most recently audited consolidated annual financial statements and (b) licensee's most recently audited unconsolidated financial statement, including balance sheets, receipts, and disbursements for the preceeding year;
3. if the licensee is a publicly traded entity, the licensee's most recent 10-K report filed with the SEC;
4. if the licensee is a wholly owned subsidiary of a publicly traded company, the parent company's most recent 10-K report filed with the SEC; and
5. if the licensee or parent of a wholly owned subsidiary is publicly traded on a foreign exchange, documents similar to the 10-K report filed with the appropriate securities regulator.

The act also makes conforming changes to reflect the act's changes to the definition of the money transmission business.

#### *§ 13 — Compliance with Federal Reporting Law*

By law, licensees are required to comply with the federal Currency and Foreign Transactions Reporting Act (which requires reporting to combat money laundering and other criminal activities) and any regulations under it. The act requires a licensee, at the commissioner's request, to provide proof of compliance with the federal law. The act makes a violation of the federal law or its regulations also a violation of the Money Transmission Act and a basis for an enforcement action by the commissioner.

#### *§§ 2, 3, 11, 14-15, & 19 — Authorized Delegates*

Instead of allowing licensees to conduct business through agents, the act allows them to do so through authorized delegates. It requires delegates to work only with licensed entities. It prohibits them from working with an entity exempt from licensing, which prior law allowed for an agent.

The act requires licensees to notify the commissioner of all their authorized delegates. Under prior law, agents could not engage in business for a licensee through subagents. The act only allows authorized delegates to engage in business through other authorized delegates of the same licensee. Under prior law, the licensee and agent were required to notify the commissioner in writing if they terminated their contract. The act requires only the licensee to provide this notice if a licensee-authorized delegate contract is terminated.

The act applies many of the statutory rules that apply to agents to authorized delegates, including the following:

1. they do not need a license, but must have a contract with a licensee and provide services only within the contract's scope;
2. they hold proceeds in trust for licensees and must remit money under the contract's terms;
3. licensees are liable for any loss to a purchaser or holder of a payment instrument or stored value sold in Connecticut due to an authorized delegate's failure to forward the amount due;
4. their contracts are ineffective when a licensee's license is suspended;
5. licensees must provide delegates with policies and procedures to ensure compliance with the law;
6. the commissioner can examine them; and
7. the commissioner can terminate the relationship between the delegate and licensee.

Under prior law, one of the reasons for which the commissioner could order a licensee to terminate its relationship with an agent was the agent's refusal to allow an examination of its books and records. The act instead applies this to authorized delegates when the delegate fails to cooperate with an examination or investigation by the commissioner. It also allows the commissioner to terminate the relationship when an authorized delegate is convicted of an act involving fraud or dishonesty.

*Notice of Changes.* The act requires a licensee to notify the commissioner in writing within 15 days of any change in the licensee's list of authorized delegates or locations where the licensee or its authorized delegates engage in the money transmission business in Connecticut. The notice must state the name of each delegate and its location.

#### *§§ 15 & 18 — Records Requirements*

The act requires licensees to maintain and prepare records that enable the commissioner to determine whether the licensee and its authorized delegates are complying with the law. The records must be at the office named in the license. At the commissioner's request, the licensee must make the records available at that office or send them to the commissioner within five business days by (1) registered or certified mail, return receipt requested or (2) express delivery carrier that provides a dated delivery receipt. The commissioner can grant additional time on request.

The act requires licensees to maintain for at least five years:

1. a record of each payment instrument or stored value obligation sold in Connecticut;
2. a general ledger posted at least monthly with all asset, liability, capital, income, and expense accounts;
3. bank statements and reconciliation records;
4. records of outstanding money transmissions in Connecticut;
5. records of each payment instrument and stored value obligation paid in the last five years;
6. the last known names and addresses of all authorized delegates; and
7. other records the commissioner requires.

As with other violations of the Money Transmission Act, the act makes violations of these provisions grounds to suspend, refuse to renew, or revoke a license.

#### *§ 16 — Exclusions From Act's Provisions*

Under prior law, the Money Transmission Act's provisions were generally not applicable to federally insured federal banks, out-of-state banks, federal credit unions, and out-of-state credit unions unless they acted through an agent that was not (1) one of these entities, (2) a Connecticut bank, or (3) a Connecticut credit union.

The act instead exempts these entities unless they act through someone who is not (1) a federally insured bank or a credit union, (2) licensed under the Money Transmission Act or one of their authorized delegates, or (3) exempt from licensure.

Under prior law, Connecticut banks and credit unions were generally exempt from the act. The act exempts them under the same conditions as the other entities listed above.

By law, the U.S. Postal Service is generally exempt from the Money Transmission Act's provisions. The act exempts contractors who engage in the business of money transmission in Connecticut on the service's behalf.

By law, entities are exempt if their only activity is electronic funds transfers of government benefits for or on behalf of a federal, state, other government, or quasi-government agency or government-sponsored enterprise.

While prior law exempted these entities from most of the Money Transmission Act's provisions, it required them to follow provisions on agents, including (1) authorizing them to conduct business through agents, (2) making them liable for losses, (3) establishing agents' duties to hold and remit money, and (4) contract requirements. The act provides that exempt entities are not required to follow these provisions as applied to

authorized delegates under the act.

#### *§ 17 — Regulations*

The act extends the commissioner's authority to adopt regulations to cover new provisions added by the act.

### *§§ 22-27 — CONSUMER COLLECTION AGENCIES*

#### *§ 22 — Definition*

The act brings debt buyers under the jurisdiction of the consumer collection agency statutes by amending the definition of "consumer collection agency" to include any person who buys debt that is delinquent or in default and then engages in the business of collecting on such debt. By law, a "consumer collection agency" is generally any person engaged in the business of collecting or receiving (1) payment for others of any account, act, or other indebtedness from a consumer or (2) payment for property tax from a property tax debtor on behalf of a municipality.

The act also excludes from the definition (1) Connecticut and out-of-state banks, (2) subsidiaries or affiliates of such banks that are not primarily engaged in the business of purchasing and collecting delinquent debt, and (3) persons engaged in the business of collecting or receiving payment for debt secured by real property.

#### *§ 23 — Licensure Requirements*

By law, a person acting as a consumer collection agency in Connecticut must obtain a license from the Banking Department. The act requires a person to obtain a license for both the main office and each branch office where such business is conducted.

The act requires consumer collection agencies that are located out-of-state that collect on their own debt from consumers who reside in Connecticut to obtain a license. Under prior law, out-of-state collection agencies were required to obtain a license only if they collected debt on behalf of a third party in-state creditor from consumers who reside in Connecticut.

Prior law allowed the commissioner to issue a license if (1) he was satisfied that the applicant was properly qualified and trustworthy in all respects and (2) granting the license was not against the public interest. The act instead allows the commissioner to issue a license only if:

1. applicants, partners, members, officers, directors, and principal employees (i.e., related persons) demonstrate financial responsibility, character, reputation, integrity, and general fitness to warrant the belief that the applicant will operate soundly, efficiently, in the public



interest, and consistent with the law's purposes and

2. the applicant is financially solvent (e.g., not involved in bankruptcy or receivership proceedings).

The act requires the commissioner to deny a license if he fails to make such findings and requires him to notify an applicant of the reasons for such a denial.

#### § 24 — *Records Retention*

The act requires each consumer collection agency to maintain its consumer debtor and creditor records for at least two years after (1) the final entry date or (2) if the agency collects child support, the last payment date.

The records must clearly identify all consumer debtors' payment amounts and dates and remittances made to creditors. Agencies collecting child support must also keep originals or copies of the agreements they entered into with creditors owed the child support. These accounting records must follow generally accepted accounting practices and be made available to the banking commissioner.

The act also requires each third party consumer collection agency to deposit funds it collects on behalf of others in one or more trust accounts in a Connecticut financial institution (e.g., bank or credit union). The accounts must be reconciled monthly and cannot be comingled with the agency's funds or used by the agency to conduct business. The act specifies that these accounts may be used only to (1) deposit funds received from consumer debtors (using generally accepted accounting practices), (2) pay these funds to creditors, (3) refund overpayments to consumer debtors, and (4) pay consumer collection agency fees monthly. The act requires any withdrawal from the account, other than for these specified reasons, to be reimbursed by the consumer collection agency within 30 days after the withdrawal.

#### § 26 — *Prohibited Practices*

The act allows consumer collection agencies to (1) purchase claims for the purpose of collection or filing a lawsuit and (2) comingle money collected for a creditor, claimant, or forwarder with their own funds or using the money to conduct business.

By law, a consumer collection agency is prohibited from charging a consumer a fee when collecting a debt, unless the consumer is legally liable for the fee. In this case, the fee cannot exceed 15% of the total amount collected and accepted as full satisfaction of the debt. The act requires the agency to obtain from the creditor a copy of any contract or agreement between the consumer and creditor to determine if the consumer is legally liable for the fee. It also allows the agency to

charge the consumer a fee for court costs, which is not subject to the 15% limit.

The act prohibits a consumer collection agency from failing to inform a consumer in its initial communication that it is collecting a debt that is beyond the statute of limitation (see BACKGROUND). Specifically, the agency must provide the applicable disclosure below in at least ten-point font.

1. If the debt is not past the time limit under federal law:

"The law limits how long you can be sued on a debt. Because of the age of your debt, (INSERT OWNER NAME) will not sue you for it. If you do not pay the debt, (INSERT OWNER NAME) may report or continue to report it to the credit reporting agencies as unpaid."

2. If the debt is past the time limit under federal law:

"The law limits how long you can be sued on a debt. Because of the age of your debt, (INSERT OWNER NAME) will not sue you for it and (INSERT OWNER NAME) will not report it to any credit reporting agencies."

#### §§ 25 & 27 — *Enforcement*

The act requires each consumer collection agency to comply with the federal Fair Debt Collection Practices Act. It allows the banking commissioner to take certain enforcement actions against an agency that fails to do so, including license suspension, revocation, and non-renewal.

The act also allows the commissioner to issue a cease and desist order to a consumer collection agency he believes is engaging in unfair or deceptive practices. By law, the commissioner is allowed to impose a civil penalty for such a violation.

#### § 28 — EXCHANGE FACILITATORS

PA 13-135 requires an exchange facilitator to, at all times, (1) maintain a minimum \$250,000 errors and omissions insurance policy executed by a Connecticut-authorized insurer, (2) deposit an unspecified amount of cash or securities, or (3) provide at least \$250,000 in irrevocable letters of credit. The act specifies that the deposit of cash or securities must also be \$250,000.

#### BACKGROUND

##### *Specially Designated Nationals*

The Treasury Department's Office of Foreign Assets Control publishes a list of individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities, such as terrorists and narcotics

traffickers. Collectively, such individuals and companies are called “specially designated nationals.” Their assets are blocked and U.S. persons are generally prohibited from dealing with them.

#### *Federal Statute of Limitations*

The federal Fair Credit Reporting Act prohibits a consumer reporting agency from reporting accounts that have been (1) charged off (i.e., the original creditor deems it uncollectable); (2) placed for collection; or (3) subject to similar action (e.g., delinquent debts) that are more than seven years old, unless they involve a credit transaction of \$150,000 or more. The seven-year period starts 180 days from the date of the original delinquency (15 USC § 1681c(i)).

#### **PA 13-254—sSB 912**

##### *Banks Committee*

### **AN ACT CONCERNING PREPAID CARDS**

**SUMMARY:** This act establishes in law a “linked prepaid card” as a type of general-use prepaid card (i.e., card, code, or device) and specifies the conditions under which such a card may include an expiration date. Under the act, the card purchaser or person who increases or replenishes funds on the card (the customer) may:

1. get back the unused balance and the interest earned on the unused balance through a financial account linked to the card;
2. set an expiration date at least 90 days from the date of purchase or increasing or replenishing funds for the purpose of receiving a refund of any unused balance and any accrued interest on that balance; and
3. transfer the unused balance to a bank offering a higher yield and full insurance from the Federal Deposit Insurance Corporation until the funds are exhausted or the card expires, if the customer has a financial account linked to the card.

The act also makes technical changes (1) in various references to federal regulations to reflect the federal transfer of certain consumer protection issues to the U.S. Consumer Financial Protection Bureau and (2) to specify that expired general-use prepaid cards are not replaced if the unused balance has been returned to the card holder.

EFFECTIVE DATE: October 1, 2013

### **EXPIRATION DATE REQUIREMENTS**

By law, unchanged by the act, a general-use prepaid card cannot have an expiration date relative to the funds. But, the card itself can include an expiration date if certain disclosure, fees, and selling requirements are met. The act establishes similar disclosure, fees, and selling requirements for linked prepaid cards, making changes to reflect the card’s unique features, which include the linked financial account and the customer’s ability to set the expiration date.

#### *Disclosure*

Under the act, a linked prepaid card can have an expiration date only if it discloses in writing (1) that the card, but not the underlying funds, expires; (2) that the consumer may contact the issuer for a replacement card; and (3) a toll-free telephone number and Internet website address, if one is maintained, that a card holder may use to obtain a replacement card after it expires. The disclosures must be made with equal prominence and in close proximity to the expiration date on the card. These provisions do not apply if the customer has set the expiration date.

#### *Fees and Charges*

The act prohibits imposing fees or charges for replacements or refunds on the card holder or person who purchased or replenished a linked prepaid card that has an expiration date, unless the card was lost or stolen.

#### *Selling Policies and Procedures*

The act requires the seller of a linked prepaid card that has an expiration date to establish policies and procedures to provide consumers a reasonable opportunity to purchase a card that is valid for at least five years. The act waives this requirement if the customer has a financial account that (1) is linked to such card and (2) sets an expiration date on the card at least 90 days from the date of purchase or increasing or replenishing, at which time the unused balance and any accrued interest on the unused balance must be transferred to the linked financial account.

### **BACKGROUND**

#### *General-Use Prepaid Card*

A general-use prepaid card is a card, code, or other device (1) issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount, whether that amount may be increased or replenished, in exchange for payment and (2) redeemable upon presentation at multiple,

unaffiliated merchants for goods or services, or usable at automated teller machines (12 CFR § 1005.20(a)(3)).

General-use prepaid cards do not include any card that is:

1. usable only for telephone services;
  2. replenishable and not marketed or labeled as a gift card or gift certificate;
  3. a loyalty, award, or promotional gift card;
  4. not marketed to the general public;
  5. issued in paper form only; or
  6. redeemable solely for admission to events or venues at a particular location or group of affiliated locations, or to obtain goods or services in conjunction with admission to such events or venues (12 CFR § 1005.20(b)).
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**PA 13-40**—sHB 6346

*Children Committee*

*Human Services Committee*

*Public Safety and Security Committee*

**AN ACT REVISING VARIOUS STATUTES  
CONCERNING THE DEPARTMENT OF  
CHILDREN AND FAMILIES**

**SUMMARY:** This act makes various changes in the statutes concerning the Department of Children and Families (DCF). Specifically, the act:

1. requires, instead of allows, DCF to disclose records, without the subject's consent, to the Department of Social Services (DSS) in certain circumstances and makes related changes;
2. requires (a) DCF to provide a copy of a foster youth's credit report to his or her attorney or guardian ad litem (GAL) and (b) the attorney or GAL, if feasible, to review the report for identity theft evidence and, in conjunction with DCF, help the youth interpret and resolve any inaccuracies;
3. shortens, from 15 to five calendar days, the timeframe in which DCF must ask the State Police Bureau of Identification to perform a state and national criminal history record check of anyone living in a home where the department has made an emergency placement of a child; and
4. eliminates the (a) definition of permanent family residences and (b) licensing and regulatory requirements for such facilities.

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

**EFFECTIVE DATE:** October 1, 2013, except for the provision on emergency placements, which is effective upon passage.

**§ 2 — DCF RECORDS DISCLOSURES**

By law, DCF may not disclose its records to anyone unless (1) state law or federal regulations require or allow the disclosure or (2) the subject of the record or his or her authorized representative consents to the disclosure. The act requires, rather than allows, DCF to disclose a record without the subject's consent to DSS for (1) determining the person's suitability for payment from DSS for providing child care or (2) promoting the child's or youth's health, safety, and welfare. It also requires DCF to disclose a record to DSS without the subject's consent for DSS fraud investigations, provided no identifying information is disclosed unless it is essential to the investigation.

Additionally, under prior law, DCF could disclose a record without the subject's consent to a court of

competent jurisdiction whenever a DCF employee was subpoenaed and ordered to testify about the record. The act instead only allows DCF to make such a disclosure to a judge for *in camera* (private) inspection purposes to determine if the records may be disclosed if (a) the court ordered the department to provide the records or (b) a party to the proceeding subpoenaed the records.

**§ 3 — DCF-LICENSED CHILD CARE FACILITIES  
AND CHILD PLACING AGENCIES**

The act extends the definitions in the child welfare statutes to cover the provisions governing DCF-licensed child care facilities and child-placing agencies. Among other things, it expands the applicable definition of a child to include a person under age 21 who is in secondary or technical school, college, or a state-accredited job training program full-time.

**§ 4 — CREDIT REPORTS FOR FOSTER YOUTH**

By law, DCF must annually (1) request a free credit report for each foster youth age 16 and older, (2) review the report for evidence of identity theft, and (3) report any such evidence to the chief state's attorney within five business days of receiving the credit report.

The act requires the DCF commissioner to provide a copy of the credit report to the youth's attorney or GAL, if any. The attorney or GAL, if feasible, must review the report for evidence of identity theft and, in conjunction with DCF, help the youth interpret the report and resolve any inaccuracies.

The act also eliminates the requirements that the DCF commissioner:

1. request the first credit report no more than 15 days after the youth turns 16;
2. review a foster youth's most recent annual credit report when reviewing his or her treatment and permanent placement plan (at least every six months); and
3. advise the youth and his or her foster parent, case worker, and legal representative, if any, when reviewing the youth's treatment and permanent placement plan, if she found evidence of identity theft and reported it to the chief state's attorney.

**§ 5 — EMERGENCY PLACEMENTS**

The law authorizes DCF to request a federal name-based criminal history search from a criminal justice agency for anyone living in the home where a child has been placed as a result of the sudden unavailability of his or her primary caretaker. These emergency placements include private homes of the child's neighbors, friends, or relatives.

The act reduces, from 15 to five calendar days after the name-based search is performed, the period in which DCF must ask the State Police Bureau of Identification to perform a full state and national criminal history record check of anyone living in the home. By law, if anyone refuses to provide fingerprints or other identifying information for such checks when requested, the department must immediately remove the child from the home.

#### §§ 6-14 — PERMANENT FAMILY RESIDENCES

The act eliminates the statutory definition of permanent family residences, an obsolete category of child care facilities licensed by DCF to provide permanent care to handicapped children. Under the act, the department will no longer license or regulate such residences. The act also makes several conforming changes. (There are currently two such residences licensed in the state but no residents at either location.)

#### BACKGROUND

##### *Related Act*

PA 13-80 also shortens, from 15 to five calendar days, the timeframe in which DCF must ask the State Police Bureau of Identification to perform a state and national criminal history record check of anyone living in a home where the department has made an emergency placement of a child.

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#### **PA 13-50—sSB 887**

*Children Committee*

*Human Services Committee*

#### **AN ACT CONCERNING THE CARE 4 KIDS PROGRAM**

**SUMMARY:** This act codifies an existing practice in which the Department of Social Services (DSS), within available appropriations, pays Care 4 Kids subsidies for up to six weeks when a recipient takes unpaid leave due to a child's birth or impending birth. DSS must continue subsidy payments if (1) the parent intends to return to work at the end of the leave, (2) he or she verifies that the child will lose his or her slot in a licensed or school-based child care setting if subsidy payments are interrupted, and (3) the enrolled child continues to attend that program during the recipient's leave.

Under DSS regulations, the department extends program eligibility for up to 16 weeks when a recipient takes an extended maternity leave and declares her intent to work, but it does not pay subsidies to providers during that period (Conn. Agencies Reg., § 17b-749-19).

EFFECTIVE DATE: October 1, 2013

#### BACKGROUND

##### *Care 4 Kids Program*

Within available appropriations, DSS offers child care subsidies to working families with incomes under 50% of the state median income (SMI) and certain others. Currently, a family of three with income under \$42,829 per year can qualify. Once eligible, family income can rise to 75% of SMI, which for a family of three would be \$64,243 annually. Different eligibility rules apply for DCF adoptive parents and temporary family assistance recipients.

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#### **PA 13-52—SB 822**

*Children Committee*

*Human Services Committee*

#### **AN ACT CONCERNING INTERVIEWS OF CHILDREN BY THE DEPARTMENT OF CHILDREN AND FAMILIES DURING INVESTIGATIONS OF CHILD ABUSE AND NEGLECT**

**SUMMARY:** This act allows the Department of Children and Families (DCF), when investigating child abuse or neglect allegations, to interview a child without his or her caretaker's consent when it has reason to believe that seeking such consent would place the child at imminent risk of physical harm. DCF may already interview the child without such consent if it has reason to believe that the caretaker or a member of the child's household was the perpetrator of the abuse or neglect. By law, when conducting such investigation, DCF must generally obtain the consent of parents, guardians, or other individuals responsible for the care of the child it wishes to interview.

By law, if consent is not required, the interview must generally be conducted in the presence of a disinterested adult.

EFFECTIVE DATE: October 1, 2013

**PA 13-53—SB 821**  
*Children Committee*  
*Judiciary Committee*

**AN ACT CONCERNING RESPONSIBILITIES OF  
 MANDATED REPORTERS OF CHILD ABUSE  
 AND NEGLECT**

**SUMMARY:** This act (1) prohibits employers from attempting to prevent employees from reporting child abuse or neglect or testifying in child abuse or neglect hearings and (2) subjects employers to the whistleblower penalties, in addition to the current civil penalties, if they take adverse action against employees who report child abuse or neglect.

The act prohibits employers from hindering, preventing, or attempting to hinder or prevent an employee's efforts to report child abuse or neglect or testify in a child abuse or neglect proceeding. The law already prohibits discharging, discriminating, or retaliating against an employee for making such reports or providing such testimony. The attorney general may sue an employer who violates this provision and a court may impose a civil penalty or other equitable relief. The act extends this relief to these new violations.

The state's whistleblower law prohibits employers from discharging, disciplining, or otherwise penalizing employees who report certain violations of state law. The act extends this prohibition to instances when the employee reports suspected child abuse or neglect. An employee may sue an employer who violates this law for job reinstatement, back pay, and reestablishment of employee benefits after exhausting all available administrative remedies.

EFFECTIVE DATE: October 1, 2013

**BACKGROUND**

*Related Act*

PA 13-297 makes it a class A misdemeanor (see Table on Penalties) for mandated reporters to fail to report suspected child abuse or neglect to the Department of Children and Families. Under prior law, fines were between \$500 and \$2,500.

**PA 13-54—sSB 832**  
*Children Committee*  
*Human Services Committee*  
*Government Administration and Elections Committee*

**AN ACT CONCERNING FAMILY ASSESSMENT  
 CASES**

**SUMMARY:** This act requires the Department of Children and Families (DCF) to follow the same expungement process for family assessment response cases as applies to unsubstantiated cases of abuse and neglect. It requires DCF to seal family assessment case records, but it allows agency employees to access them to properly discharge their duties. It requires the commissioner to destroy the case files five years after DCF completes its investigation or closes the family assessment case, whichever is later, if the department has not received another report of abuse or neglect involving the family. But if a family has more than one unsubstantiated report within this period, DCF must keep the records for five years from the date it completed the most recent investigation.

The act also renames the DCF "differential response" program the "family assessment response" program. Under this program, when DCF receives a report of child abuse or neglect, it can make referrals to appropriate community providers for family assessment and services either when it decides not to investigate a case that it classifies as presenting a lower safety risk or, if it decides to investigate, at any time during the investigation.

EFFECTIVE DATE: October 1, 2013

**PA 13-114—HB 6465**  
*Children Committee*  
*Human Services Committee*

**AN ACT CONCERNING ANIMAL THERAPY**

**SUMMARY:** This act requires the Department of Children and Families (DCF), by January 1, 2014 and within available appropriations, to:

1. develop and implement training for certain DCF staff and mental health care providers on the (a) healing value of the human-animal bond for children, (b) value of therapy animals in dealing with traumatic situations, and (c) benefit of an animal-assisted therapy program and

2. consult with the Department of Agriculture commissioner to identify a coordinated volunteer canine crisis response team.

It also requires DCF, by July 1, 2014 and within available appropriations, to consult with the Governor's Prevention Partnership and the animal-assisted therapy community to develop a crisis response program using the response team to provide animal-assisted therapy to children and youths living with trauma and loss.

EFFECTIVE DATE: October 1, 2013

#### VOLUNTEER CANINE RESPONSE TEAMS

These teams must (1) consist of various handlers and dogs who have been trained, evaluated, and registered by an animal-assisted activity organization to provide aid to people during and after traumatic events; (2) operate on a volunteer basis; and (3) be available to provide animal-assisted therapy within 24 hours of receiving notice to do so.

#### DEFINITIONS

The act defines:

1. "animal-assisted therapy" as goal-directed intervention in which animals are used as an integral part of the crisis response process to aid people who have experienced mental, physical, or emotional trauma;
2. "animal-assisted therapy community" as the local or regional entities capable of providing animal-assisted therapy to people within the state; and
3. "animal-assisted activity organization" as any entity involved in training, evaluating, and registering members of the animal-assisted therapy community.

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#### PA 13-124—SB 273

*Children Committee*

#### AN ACT CONCERNING FOSTER CHILDREN AND INTERNSHIP OPPORTUNITIES

**SUMMARY:** This act requires state agencies, when hiring individuals for, or placing them in, internship programs they offer, to give preference to young adults who (1) are between the ages of 18 and 24 and (2) were in Department of Children and Families foster care on their 18<sup>th</sup> birthday. Preference is defined as priority over similarly qualified applicants.

The act provides that nothing in it (1) requires a new employee or applicant to request foster child status or disclose his or her status as a former foster child and (2) can be construed to give a new employee or applicant the right to sue for a violation of its provisions.

EFFECTIVE DATE: July 1, 2013

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#### PA 13-173—sHB 6525

*Children Committee*

*Education Committee*

*Public Health Committee*

#### AN ACT CONCERNING CHILDHOOD OBESITY AND PHYSICAL EXERCISE IN SCHOOLS

**SUMMARY:** This act requires public schools to include a total of 20 minutes of physical exercise in each regular school day for all elementary school students, rather than just those in kindergarten through grade five.

The act requires each local and regional board of education, by October 1, 2013, to adopt policies it deems appropriate for any school employee who, during the regular school day, (1) prevents, as a form of discipline, an elementary school student from participating in the required period of physical exercise or (2) requires any student in grade kindergarten through 12 to engage in physical activity as a form of discipline.

The act also establishes a 19-member task force to study the effects of obesity on children's health and report its findings to the Children's Committee by October 1, 2014.

EFFECTIVE DATE: July 1, 2013 except for the task force provision, which is effective on October 1, 2013. (PA 13-234 § 94 changes the latter effective date to upon passage.)

#### SCHOOL EMPLOYEE

With regard to the policies the boards of education must adopt, the act defines a school employee as a (1) teacher, substitute teacher, school administrator, school superintendent, guidance counselor, psychologist, social worker, nurse, physician, school paraprofessional, or coach employed by a local or regional board of education or working in a public elementary, middle, or high school; or (2) a person who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students in public elementary, middle, or high school under a contract with the local or regional board of education.

## CHILDHOOD OBESITY TASK FORCE

*Duties*

The act establishes a task force to study the effects of obesity on children's health. The task force must:

1. gather and maintain current information on childhood obesity that can be used to better understand its impact on children's health;
2. examine the nutrition standards for all food the state procures;
3. explore ways to increase children's physical activity;
4. recommend the implementation of a pilot program, through a local or regional board of education, to schedule recess before lunch in elementary school; and
5. advise the governor and General Assembly on how to coordinate and administer state programs to reduce the incidence of childhood obesity.

*Membership*

Task force members include:

1. the commissioners of children and families, education, public health (DPH), and social services, or their designees;
2. the Senate president pro tempore and House speaker, or their designees;
3. the House and Senate majority and minority leaders, or their designees;
4. the Children's Committee chairpersons, vice-chairpersons, and ranking members;
5. a licensed dietitian-nutritionist with a background in food service appointed by the DPH commissioner; and
6. two members of the public appointed by the Children's Committee chairpersons, one of whom is a children's health matters advocate and the other an academic, civic, or cultural leader specializing in children's health matters.

The appointing authorities must make their appointments by July 31, 2013 and fill any vacancies.

**PA 13-178—sSB 972**

*Children Committee*

*Human Services Committee*

*Public Health Committee*

**AN ACT CONCERNING THE MENTAL, EMOTIONAL AND BEHAVIORAL HEALTH OF YOUTHS**

**SUMMARY:** This act requires the Department of Children and Families (DCF) and the Office of Early Childhood (OEC), in consultation and collaboration with various individuals and agencies, to take several steps to address Connecticut children's mental, emotional, and behavioral health needs. It requires DCF to develop a comprehensive plan to (1) meet these needs and (2) prevent or reduce the long-term negative impact of mental, emotional, and behavioral health issues on children. It requires OEC to (1) provide recommendations to several legislative committees on coordinating home visitation programs that offer services to vulnerable families with young children and (2) design and implement a public information and education campaign on children's mental, emotional, and behavioral health issues.

The act requires training for school resource officers, mental health care providers, pediatricians, and child care providers. It also requires the (1) state to seek existing public and private reimbursement for mental, emotional, and behavioral health services and (2) Birth-to-Three program to provide mental health services to children eligible for early intervention services under federal law.

The act also (1) allows the Judicial Branch to seek funding to perform a study to determine whether children and young adults who primarily need mental health interventions are placed in the juvenile justice or corrections systems instead of receiving appropriate treatment and (2) establishes a 14-member task force to study the effects of nutrition, genetics, complementary and alternative treatments, and psychotropic drugs on children's mental, emotional, and behavioral health.

EFFECTIVE DATE: July 1, 2013, except the Judicial Branch and OEC provisions are effective on October 1, 2013.



## § 1 — DCF IMPLEMENTATION PLAN AND TRAINING REQUIREMENTS

### *Implementation Plan*

The act requires DCF to develop a comprehensive implementation plan across agency and policy areas for meeting the mental, emotional, and behavioral needs of all children in the state and preventing or reducing the long-term negative impact of mental, emotional, and behavioral health issues on children. DCF must develop the plan in consultation with (1) representatives of children and families the department serves; (2) providers of mental, emotional, or behavioral health services for children and families; (3) advocates; and (4) others interested in the well-being of children and families in the state.

*Plan Requirements.* The plan must include strategies to prevent or reduce the long-term negative impact of mental, emotional, and behavioral health issues on children by:

1. employing prevention-focused techniques that emphasize early identification and intervention;
2. ensuring access to developmentally appropriate services;
3. offering comprehensive care within a service continuum;
4. engaging communities, families, and youth in mental, emotional, and behavioral health care services planning, delivery, and evaluation;
5. reflecting race, culture, religion, language, and ability awareness;
6. establishing results-based accountability (RBA) measures to track progress towards the act's goals and objectives;
7. applying data-informed quality assurance strategies to address children's mental, emotional, and behavioral health issues; and
8. improving school and community-based mental health services integration.

The plan must also include strategies to enhance early interventions, consumer input, and public information and accountability by increasing:

1. family and youth engagement in medical homes, in collaboration with the Department of Public Health (DPH) (see BACKGROUND);
2. awareness of the 2-1-1 Infoline (a single telephone source for information about community services, referrals to human services programs, and crisis intervention), in collaboration with the Department of Social Services (DSS); and
3. in collaboration with each program that addresses the mental, emotional, or behavioral health of children and receives state public funds, data collection on each program's results,

including information on issues related to treatment response times, provider availability, and access to treatment options.

*Reporting Requirements.* The act requires the DCF commissioner to submit to the governor and Children's and Appropriations committees (1) a report on the implementation plan's progress by April 15, 2014 and (2) the implementation plan by October 1, 2014.

It requires DCF, starting by October 1, 2015 and biennially through 2019, to submit to the governor and Children's and Appropriations committees progress reports on the status of implementation and any data-driven recommendations to alter or augment implementation.

### *Mental Health Care Provider Training*

The act requires DCF, in collaboration with agencies that provide training for mental health care providers in urban, suburban, and rural areas, to provide phased-in, ongoing training for mental health care providers in evidence-based and trauma-informed interventions and practices.

## § 1 — SCHOOL BOARD REQUIREMENTS

### *Collaboration Between Health Care Providers and School Boards*

The act requires emergency mobile psychiatric service providers to collaborate with community-based mental health care agencies, school-based health care centers, and the contracting authority for each local or regional board of education in the state to, at a minimum, (1) improve coordination and communication in order to promptly identify and refer children with mental, emotional, or behavioral health issues to the appropriate treatment program and (2) plan for any appropriate follow-up with the child and family. This may be done through memoranda of understanding, policy and protocols regarding referrals and outreach, liaison between the respective entities, or other methods.

### *School Resource Officer (SRO) Training*

The act requires local law enforcement agencies and local and regional school boards that employ or engage SROs, provided federal funds are available, to train SROs in nationally recognized best practices to prevent students with mental health issues from being victimized or disproportionately referred to the juvenile justice system because of their mental health issues.

## §§ 2, 5, &amp; 6 — OEC

*Pediatrician and Child Care Provider Training*

The act requires OEC to collaborate with DCF to provide, to the extent that private, federal, or philanthropic funding is available, professional development training to pediatricians and child care providers to help prevent and identify mental, emotional, and behavioral health issues in children by using the Infant and Early Childhood Mental Health Competencies, or a similar model, with a focus on maternal depression and its impact on child development.

(This provision refers to OEC as created by SB 6359, which did not pass during the 2013 legislative session. OEC was instead created on June 24, 2013 by Executive Order No. 35. OEC's powers under the order are essentially the same as they would have been under the bill.)

*Home Visitation Programs*

The act requires OEC, by December 1, 2014 and through the Early Childhood Education Cabinet, to provide recommendations to the Appropriations, Children's, Education, and Human Services committees for implementing the coordination of home visitation programs that offer a services continuum to vulnerable families with young children, including prevention, early intervention, and intensive intervention within the early childhood system. (Apparently this refers to the system of early care and education and child development that the new OEC will administer.) Such families include those facing poverty; trauma; violence; special health care needs; mental, emotional or behavioral health care needs; substance abuse challenges; and teen parenthood. The recommendations must address, at a minimum:

1. a common referral process for families requesting home visitation programs;
2. a core set of (a) competencies and required training for all home visitors and (b) standards and outcomes for all programs, including requirements for a monitoring framework;
3. coordinated training for home visitation and early care providers, to the extent that training is currently provided, on cultural competency; mental health awareness; and issues such as child trauma, poverty, literacy, and language acquisition;
4. development of common outcomes;

5. shared annual outcome reporting to the Appropriations, Children's, and Human Services committees, including information on existing gaps in services, disaggregated (broken down) by agency and program;
6. home-based treatment options for parents of young children suffering from severe depression; and
7. intensive intervention services for children experiencing mental, emotional, or behavioral health issues, including relationship-focused intervention services for young children.

*Public Information and Education Campaign*

The act requires OEC, to the extent that private funding is available and in collaboration with DCF, DPH, and the Department of Education, to design and implement a public information and education campaign on children's mental, emotional, and behavioral health issues. The campaign must provide:

1. information on (a) access to support and intervention programs providing mental, emotional, and behavioral health care services to children, (b) the importance of a relationship with and connection to an adult in the early childhood years, and (c) existing public and private reimbursement for services rendered;
2. a list of emotional landmarks and the typical ages at which they are attained;
3. strategies that (a) parents and families can use to improve their child's mental, emotional, and behavioral health, including executive functioning and self-regulation and (b) address mental illness stigma; and
4. information to parents on methods to address and cope with mental, emotional, and behavioral health issues at various stages of a (a) child's development and (b) parent's work and family life.

The act requires OEC, by October 1, 2014 and to the extent private funding is available, to begin reporting annually to the Children's and Public Health committees on the status of the public information and education campaign. (In this provision, as above, the act refers to OEC as created by SB 6359. OEC was instead created by Executive Order No. 35.)

## § 3 — BIRTH-TO-THREE PROGRAM

The Birth-to-Three program administered by the Department of Developmental Services provides early intervention services as defined by federal regulation to children eligible under Part C of the Individuals with Disabilities Education Act (IDEA) (20 USC § 1431 et seq.) (see BACKGROUND). The act requires the

program to provide mental health services to any child eligible for early intervention services under that provision. The program must refer any child not eligible for services to a licensed mental health care provider for evaluation and treatment, as needed.

#### § 4 — MENTAL, EMOTIONAL, OR BEHAVIORAL HEALTH SERVICES REIMBURSEMENT

The act requires the state to seek existing public and private reimbursement for mental, emotional, and behavioral health services (1) delivered in the home and elementary and secondary schools or (2) offered through DSS under the federal Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program. It does not specify what agent of the state must seek the reimbursement.

#### § 7 — JUVENILE JUSTICE AND CORRECTIONS REFERRALS

The act allows the Judicial Branch, in collaboration with DCF and the Department of Correction, to seek public and private funding to perform a study:

1. disaggregated by race, to determine whether children and young adults whose primary need is mental health intervention are placed into the juvenile justice or corrections systems instead of receiving treatment;
2. to determine (a) the consequences of inappropriate referrals to the juvenile justice or correctional systems, including the impact on children and young adults' mental, emotional, and behavioral health and the cost to the state and (b) programs that would reduce inappropriate referrals; and
3. to make recommendations to ensure proper treatment is available for children suffering from mental, emotional, or behavioral health issues.

The act requires the Judicial Branch, upon completing the study, to report the results to the Appropriations, Children's, and Judiciary committees. (The act does not specify a timeframe for the study's completion.)

#### § 8 — CHILDREN'S MENTAL HEALTH TASK FORCE

The act establishes the Children's Mental Health Task Force to:

1. study the effects of nutrition, genetics, complementary and alternative treatments, and psychotropic drugs on children's mental, emotional, and behavioral health;

2. gather and maintain current information on those effects; and
3. advise the governor and General Assembly on how to coordinate and administer state programs to address the impact of those effects on children's mental, emotional, and behavioral health using an RBA framework.

The task force members must serve without compensation but must, within the limits of available funds, be reimbursed for necessary expenses incurred performing their duties. The members must include the Children's Committee chairpersons and ranking members and the following:

1. a state-licensed (a) psychologist appointed by the Senate president pro tempore, (b) child psychiatrist appointed by the House speaker, (c) pediatrician appointed by the Children's Committee Senate chairperson, and (d) dietitian-nutritionist appointed by the Children's Committee Senate ranking member;
2. a licensed and board-certified physician specializing in genetics, appointed by the Senate majority leader;
3. a public health expert in children's health issues, appointed by the Senate minority leader;
4. an educator with expertise providing school-based mental health services in collaboration with community-based mental health service providers, appointed by the House minority leader;
5. a complementary and alternative medicine or integrative therapy expert specializing in the treatment of physical, mental, emotional, and behavioral health issues in children, appointed by the Children's Committee House chairperson (PA 13-234 § 121 instead requires the House majority leader to make this appointment);
6. a psychotropic pharmacologist, appointed by the Children's Committee House ranking member; and
7. a pharmacologist appointed by the governor.

All task force appointments must be made by July 31, 2013. The appointing authority must fill any vacancy. The Children's Committee chairpersons must chair the task force and schedule the first meeting by August 30, 2013, and the committee's administrative staff serve as the task force's administrative staff.

The act requires the task force to report its findings and recommendations to the DCF commissioner and Children's Committee by September 30, 2014. It terminates on the date it submits the report or September 30, 2014, whichever is later.

## BACKGROUND

### *Medical Homes*

Medical homes, as defined by federal law, are for people eligible for Medicaid services who have (1) two chronic conditions, (2) one chronic condition with a risk of developing a second, or (3) a serious and persistent mental health or substance abuse condition. Medical home care includes:

1. comprehensive case management;
2. care coordination and health promotion;
3. comprehensive transitional care, including appropriate follow up, from inpatient to other settings;
4. patient and family support;
5. referral to community and social support services, if relevant; and
6. the use of health information technology to link services.

### *IDEA – Part C*

Part C of IDEA (20 USC § 1431 et seq.) provides federal grants to states for early intervention services for infants and toddlers up to age three with disabilities and their families. Part C provides general eligibility guidelines and leaves it to each state to define eligible developmental delays.

Under Connecticut regulations, a child age three or younger has a developmental delay that makes him or her eligible for early intervention services if his or her score on an appropriate norm-referenced standardized diagnostic instrument is (1) two standard deviations below the mean in one area of development or (2) one and one-half standard deviations below the mean in at least two areas of development (Conn. Agencies Reg., § 17a-248-1).

Under the federal regulations, early intervention services include family training, counseling, home visits, and psychological and social work services (39 CFR § 303.12).

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**PA 13-183**—sHB 6527  
*Children Committee*  
*Public Health Committee*  
*Judiciary Committee*

## **AN ACT CONCERNING GENETICALLY ENGINEERED FOOD**

**SUMMARY:** This act generally requires certain foods intended for human consumption that are entirely or partially genetically engineered to be labeled as such. The requirement also applies to seed or seed stock

intended to produce such food. The act generally deems such items misbranded if they do not contain the required label. These requirements go into effect in the October following the enactment of similar laws in four other states meeting certain criteria. One of these states must border Connecticut, and the total population of such states in the northeast must exceed 20 million.

The labeling requirement does not apply to certain food products, such as (1) alcohol, (2) food not packaged for retail sale that is intended for immediate consumption, and (3) certain farm products. Also, in two situations where the labeling requirement applies, failure to comply does not render the food items misbranded.

The act generally subjects knowing violators to a daily fine of up to \$1,000 per product. But retailers are liable for failure to label only under certain conditions.

By deeming food that violates the act's labeling requirements to be misbranded, the act also allows the Department of Consumer Protection (DCP) to place an embargo on and, in some circumstances, seize the food. A person who misbrands food or sells misbranded food in Connecticut may be subject to criminal penalties (see BACKGROUND).

The act requires the DCP commissioner to enforce the act's labeling requirements, within available appropriations. It authorizes him to adopt regulations to implement and enforce these requirements.

Among other things, the act also:

1. explicitly includes infant formula in the definition of "food" for purposes of the act's labeling requirements as well as other provisions in the existing state Food, Drug and Cosmetic Act and
2. specifically excludes genetically engineered foods from the definition of "natural food," for purposes of the laws regulating the advertisement, distribution, or sale of food as natural. (This applies to food for humans as well as animals.)

The act also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2013

## **MISBRANDED GENETICALLY ENGINEERED FOOD, SEED, AND SEED STOCK**

### *Genetic Engineering*

Under the act, "genetic engineering" is a process by which a food or food ingredient is produced from an organism or organisms in which the genetic material has been changed by:

1. in vitro nucleic acid techniques (see below), including recombinant DNA techniques and direct injections of nucleic acid into cells or organelles (parts of cells), or
2. fusing cells, including protoplast fusion, or hybridization techniques that overcome natural physiological, reproductive, or recombination barriers, where the donor cells or protoplasts do not fall within the same taxonomic group, in a way that does not occur by natural multiplication or natural recombination.

The act defines “in vitro nucleic acid techniques” as techniques, including recombinant DNA techniques, that use vector systems and techniques involving the direct introduction into organisms of hereditary material (e.g., genes) prepared outside the organisms, such as microinjection, macroinjection, chemoporation, electroporation, microencapsulation, and liposome fusion.

#### *When Labeling Requirement Takes Effect*

The labeling requirement (see below) goes into effect on the October 1 following the DCP commissioner’s recognition of the following:

1. four other states, including one state bordering Connecticut, have enacted a mandatory labeling law for genetically engineered foods that is consistent with the act’s labeling requirement and
2. the total population of these states located in the northeast region of the country exceeds 20 million, based on 2010 census figures (see BACKGROUND). Under the act, the northeast region includes the other New England states, New Jersey, New York, and Pennsylvania.

Within 30 days after his recognition that these conditions have been met, the commissioner must publish the date the act’s labeling requirements will take effect in the five newspapers in the state with the largest circulation.

#### *Labeling Requirement*

The act generally requires food intended for human consumption, and seed or seed stock intended to produce such food, that is entirely or partially genetically engineered, to be labeled with the clear and conspicuous words “Produced with Genetic Engineering.” Such food, seed, or seed stock is deemed misbranded if it does not contain the required label, subject to the exceptions set forth below.

The label must be displayed in the same size and font as the ingredients in the food label’s nutritional facts panel. (It is unclear how this provision applies to products that do not have such panels.) The specifics of

the labeling location vary depending on the type of item, as shown in Table 1.

**Table 1: Location of “Produced with Genetic Engineering” Label**

| <i>Item Type</i>                                                                                                                                                                    | <i>Required Location of Label</i>                                                                                                                                                                                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Food sold wholesale and not intended for retail sale                                                                                                                                | The bill of sale accompanying the food during shipping                                                                                                                                                                         |
| Packaged food for retail sale                                                                                                                                                       | Not specified (presumably on the package)                                                                                                                                                                                      |
| Raw agricultural commodity (i.e., a food in its raw or natural state, including fruit that is washed, colored, or otherwise treated in its unpeeled, natural form before marketing) | (1) The package offered for retail sale or (2) for such commodities that are not separately packaged or labeled, on the bill of sale or invoice for the items and on the retail store shelf or bin that displays them for sale |
| Seed or seed stock                                                                                                                                                                  | (1) The container holding the items displayed for sale or (2) any label identifying the item’s ownership or possession                                                                                                         |

*Responsibility for Labeling.* Under the act, anyone selling, offering for sale, or distributing in Connecticut food, seed, or seed stock subject to the labeling requirement must ensure that the item is labeled. But despite this provision, a retailer can be penalized or held liable for failing to label such items only if (1) the retailer produces or manufactures the item and sells it under a brand the retailer owns or (2) the failure to label was knowing and willful.

Also, in any action against a retailer for failure to label, it is a defense that the retailer reasonably relied on (1) a disclosure concerning genetically engineered foods contained in the bill of sale or invoice provided by the wholesaler or distributor or (2) the lack of any such disclosure.

The act defines a “retailer” as a person or entity that engages in the sale of food intended for human consumption to a consumer. A “manufacturer” is a person who produces such food, or seed or seed stock intended to produce such food, and sells such items to a retailer or distributor. A “distributor” is a person or entity that sells, supplies, furnishes, or transports food intended for human consumption in Connecticut that the person or entity did not produce.

*Exemptions from Labeling Requirement.* The act exempts from the labeling requirement:

1. alcoholic beverages;
2. food not packaged for retail sale that is (a) a processed food prepared and intended for immediate consumption or (b) served, sold, or otherwise provided in a restaurant or other food facility primarily engaged in the sale of food prepared and intended for immediate consumption;
3. farm products sold by a farmer or his or her agent to a consumer at a pick-your-own farm, roadside stand, on-farm market, or farmers' market;
4. food consisting entirely of, or derived entirely from, an animal that was not genetically engineered, regardless of whether the animal was fed or injected with any genetically engineered food or any drug produced through genetic engineering; and
5. processed foods that would be subject to such labeling solely because one or more processing aids or enzymes were produced or derived from genetic engineering.

Under the act, a "processed food" is any food intended for human consumption other than a raw agricultural commodity. The term includes food produced from a raw agricultural commodity that has been processed through canning, smoking, pressing, cooking, freezing, dehydration, fermentation, or milling.

A "processing aid" is a substance added during processing to a food intended for human consumption that:

1. is removed before packaging,
2. is converted into constituents normally present in the food without significantly increasing the amount of the constituents naturally found in the food, or
3. was added for its technical or functional effect in processing but is present in the finished food at insignificant levels without any technical or functional effect in the finished food.

*Exemptions from Being Deemed Misbranded.* While subject to the act's labeling requirement, the following are exempt from being deemed misbranded if they are not labeled:

1. food for human consumption that was produced without the producer's knowledge that a seed or other food component was genetically engineered (the act does not specify how a producer would show this) or
2. on or before July 1, 2019, a processed food subject to the act's labeling requirement solely because it contains one or more genetically engineered materials that in the aggregate do not account for more than 0.9% of the

processed food's total weight.

However, it appears that knowing violations of the labeling requirement in regard to such items are still subject to the civil penalty described below.

### *Civil Penalty*

Under the act, anyone found to knowingly violate the labeling provisions is subject to a civil penalty of up to \$1,000 per day. The penalty applies to each uniquely named, designated, or marketed product, but not to individual packages of the same product.

### INFANT FORMULA

Under existing law, the Food, Drug and Cosmetic Act defines "food" as (1) articles used for food or drink for people or other animals, (2) chewing gum, and (3) articles used for components of any such article. The act specifically includes infant formula in the definition. Presumably, infant formula already fits within the law's definition of food.

Thus, the act specifies that genetically engineered infant formula is subject to the act's labeling requirement unless an exception applies, as set forth above. Also, all infant formula is subject to the other provisions applicable to food in the Food, Drug and Cosmetic Act. Among other things, that act bans the sale in intrastate commerce of adulterated or misbranded food.

The act defines "infant formula" as a milk- or soy-based powder, concentrated liquid, or ready-to-feed substitute for human breast milk that is commercially available and intended for infants.

### NATURAL FOOD

Under existing law, "natural food" means food for humans or animals that has not been (1) treated with preservatives, antibiotics, synthetic additives, or artificial flavoring or coloring and (2) processed in a way that makes it significantly less nutritious.

Under the act, food also cannot be described as "natural" if it is genetically engineered. By law, foods advertised, distributed, or sold as "natural" without meeting the definition of that term are deemed misbranded.

### DISTRIBUTOR AND MANUFACTURER

Under the act, the definitions of distributor and manufacturer (see above) apply to an existing provision providing that packaged food is deemed misbranded if it does not have a label indicating the name and place of business of the manufacturer, packer, or distributor. As this provision applies to food intended for animals as

well as humans, its legal effect is unclear.

## BACKGROUND

### *Population of Northeast States*

According to the 2010 Census, the population of the other New England states, New Jersey, New York, and Pennsylvania is as follows:

**Table 2: Population of Other Northeast States, 2010 Census**

| <i>State</i>  | <i>Population</i> |
|---------------|-------------------|
| Maine         | 1,328,361         |
| Massachusetts | 6,547,629         |
| New Hampshire | 1,316,470         |
| New Jersey    | 8,791,894         |
| New York      | 19,378,102        |
| Pennsylvania  | 12,702,379        |
| Rhode Island  | 1,052,567         |
| Vermont       | 625,741           |

### *Misbranding Criminal Penalties*

The law prohibits misbranding food or selling misbranded food in Connecticut (CGS § 21a-93). A first violation is punishable by up to six months in prison, a fine of up to \$500, or both. Subsequent violations, or violations done with the intent to defraud or mislead, are punishable by up to one year in prison, a fine of up to \$1,000, or both (CGS § 21a-95).

Generally, a person is not subject to criminal penalties for selling misbranded food in Connecticut if he or she obtains a document signed by the person from whom he or she received the food in good faith, stating that the food is not misbranded in violation of this law. This exemption does not apply to violations committed with the intent to defraud or mislead (CGS § 21a-95).

### *DCP Embargo and Seizure of Misbranded Food*

The law authorizes the DCP commissioner to embargo food that he determines or has probable cause to believe is misbranded. Once the commissioner embargoes an item, he has 21 days to either begin summary proceedings in Superior Court to confiscate it or to remove the embargo.

Once the commissioner files a complaint, the law requires the court to issue a warrant to seize the described item and summon the person named in the warrant and anyone else found to possess the specific item. The court must hold a hearing, and must order the food confiscated if it appears that it was offered for sale in violation of the law.

If the seized food is not injurious to health and, if repackaged or relabeled, could be brought into

compliance with the law, the court may order it delivered to its owner upon payment of court costs and provision of a bond to DCP assuring that the product will be brought into compliance (CGS § 21a-96).

## **PA 13-228—sSB 833**

*Children Committee*

*Human Services Committee*

## **AN ACT ADDRESSING THE MEDICAL NEEDS OF CHILDREN**

**SUMMARY:** In child abuse and neglect cases, this act extends to the Department of Children and Families (DCF) or any agency or person to whom DCF has granted temporary care and custody of a child or youth on the basis of a court order of temporary custody (OTC), the following rights regarding that child or youth:

1. the obligation of care and control;
2. the authority to make decisions regarding emergency medical, psychological, psychiatric, or surgical treatment; and
3. other rights and duties that the court orders.

By law, DCF must file an affidavit requesting an OTC with the Superior Court when it has reasonable cause to believe that the child (1) is in immediate physical danger or is suffering from serious physical illness or injury and (2) the conditions or circumstances surrounding the child's care require that DCF assume immediate custody to protect the child.

Prior law was silent on these rights and duties, although DCF policy grants the agency some of them.

The act also makes technical changes.

EFFECTIVE DATE: October 1, 2013

## BACKGROUND

### *OTCs, 96-Hour Holds, and the Right to Make Certain Decisions*

By law, if (1) the DCF commissioner or her designee has probable cause to believe that a child or youth is at imminent risk of physical harm from the child's surroundings and (2) immediate removal of the child is needed to ensure the child's safety, the commissioner must authorize her staff or local law enforcement to remove the child or any other child similarly situated from the child's surroundings, without the parent's or guardian's consent. The removal or "hold" period may not exceed 96 hours. The law requires DCF, during the 96-hour hold, to provide the child with all necessary care, including medical care, without the parent or other responsible party's consent, provided reasonable attempts have been made to receive

consent (CGS § 17a-101g).

Typically, the court issues an ex-parte order immediately without notice to, or opportunity to contest by, any person affected adversely by the order, granting DCF temporary custody of the child. DCF will try to place the child with a relative when this occurs. Such an order does not transfer legal guardianship of the child or affect parental rights except as to the child's custody.

DCF policy authorizes the department to arrange for necessary medical and dental care for children once the court has issued an OTC, regardless of whether the parent or guardian has consented to it. But it requires DCF to make every effort to secure such consent before treatment is rendered (DCF Policy Manual, § 46-3-19).

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**PA 13-273—HB 6329**

*Children Committee*

*Education Committee*

#### **AN ACT CONCERNING DISSECTION CHOICE**

**SUMMARY:** This act requires school districts to excuse any student from participating in or observing animal dissections as part of classroom instruction if the student's parent or guardian has requested such in writing. An excused student must complete an alternate assignment that the school district determines.

EFFECTIVE DATE: July 1, 2013

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PA 13-2—sSB 801

*Commerce Committee*

*Finance, Revenue and Bonding Committee*

**AN ACT MAKING MANUFACTURING ASSISTANCE ACT FUNDS AVAILABLE FOR THE SMALL BUSINESS EXPRESS PROGRAM**

**SUMMARY:** This act authorizes an additional \$60 million in general obligation bonds for the Small Business Express Program (Express), increasing its total bond authorization to \$160 million. It does this by tapping portions of the bonds previously authorized for different purposes under the Manufacturing Assistance Act program (MAA). It specifically (1) reallocates to Express the \$40 million authorized in FY 13 for small business development under MAA and (2) requires \$20 million of the bonds authorized for general MAA purposes to be deposited in Express' account. The Department of Economic and Community Development, which administers the Express program, provides loans from this account.

EFFECTIVE DATE: Upon passage

**BACKGROUND**

*MAA and Express*

MAA and Express differ in several ways. Enacted in 1990, MAA provides grants, loans, loan guarantees, credit extensions, and other types of financing to small and large businesses, nonprofit corporations, municipalities, and regional planning organizations for a range of projects, including developing facilities, acquiring new machines and equipment, diversifying local and regional economies, and supporting research and development.

The amount of funds available for these projects depends on their location. Generally, projects located in the 17 municipalities with enterprise zones qualify for funding for up to 90% of project costs, while those located in other municipalities qualify for funding covering up to 50% of the costs. Funding levels are higher when municipalities collaborate on a project.

Created in 2011, Express provides matching grants and deferrable or forgivable loans under a streamlined application process to Connecticut-based businesses with fewer than 100 employees and that meet other criteria. Grant and loan amounts range from \$10,000 to \$300,000. Eligible businesses can use the funds to acquire machinery and equipment, construct facilities or make leasehold improvements, cover moving expenses, or meet working capital needs (CGS § 32-7g).

PA 13-19—sSB 619

*Commerce Committee*

**AN ACT CONCERNING THE COMMISSION ON CONNECTICUT'S FUTURE**

**SUMMARY:** This act reactivates a dormant economic development advisory commission, changes its name, expands its membership, and broadens its charge to include policies encouraging defense contractors and subcontractors to engage in environmentally sustainable and civilian product manufacturing.

It requires the reactivated commission to prepare a report addressing several issues, including some the dormant commission addressed in its 1993 five-year economic renewal plan. Under the act, the commission must address workforce development and defense diversification or conversion issues in the report, which the commission must submit to the governor and Commerce Committee by December 1, 2014.

The reactivated commission must perform the same advisory and analytical duties its predecessor had to perform under prior law, including preparing and reviewing short- and long-term defense conversion strategies. In devising these strategies, the act requires the commission to emphasize environmentally sustainable and civilian product manufacturing.

EFFECTIVE DATE: Upon passage

**REACTIVATED COMMISSION**

The act reactivates the Connecticut Commission on Business Opportunity, Defense Diversification and Industrial Policy and renames it the Commission on Connecticut's Future. In doing so, it expands and changes its membership.

The previous commission consisted of:

1. the labor, education, higher education, and economic and community development commissioners;
2. the chairpersons and ranking members of the Commerce Committee;
3. the presidents of the AFL-CIO, Connecticut Business and Industry Association, and Connecticut Academy of Science and Engineering; and
4. representatives of different business sectors appointed by legislative leaders.

The act adds two representatives of manufacturing unions, who must be recommended by the AFL-CIO president and appointed by the governor. It also changes two legislative appointments. It requires the House majority leader to appoint a representative of a peace organization instead of a representative of a large service-related industry. And it requires the Senate minority leader to appoint a representative of an

environmental organization instead of a representative of a small service-related business. Table 1 shows the new commission's composition.

Table 1: Composition of Commission on Connecticut's Future

| <i>Ex Officio Members</i>                                                                                           | <i>Appointed Members by Appointing Authority</i>                                                   |
|---------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| Commerce Committee chairpersons and ranking members, or their designees, and commissioners, or their designees, of: | Governor:                                                                                          |
| 1. Economic and Community Development                                                                               | 1. Two members representing manufacturing unions recommended by Connecticut AFL-CIO president      |
| 2. Education                                                                                                        | Senate president pro tempore:                                                                      |
| 3. Higher Education                                                                                                 | 1. Representative of large manufacturing concern                                                   |
| 4. Labor                                                                                                            | 2. Representative of a financial institution                                                       |
| Presidents, or their designees, of:                                                                                 | House speaker:                                                                                     |
| 1. Connecticut Academy of Science and Engineering                                                                   | 1. Representative of a large business heavily dependent on prime defense contracts or subcontracts |
| 2. Connecticut Business and Industry Association                                                                    | 2. Representative of a small business heavily dependent on prime defense contracts or subcontracts |
| 3. Connecticut AFL-CIO                                                                                              | House majority leader:                                                                             |
|                                                                                                                     | 1. Representative of a peace organization                                                          |
|                                                                                                                     | Senate minority leader:                                                                            |
|                                                                                                                     | 1. Representative of an environmental organization                                                 |
|                                                                                                                     | House minority leader:                                                                             |
|                                                                                                                     | 1. Representative of an educational institution                                                    |

All of the non ex officio members serve two-year terms, starting July 1, 2013. The terms of the appointed members of the dormant commission expire June 30, 2013.

The commission's chairperson, whom the governor continues to appoint from among the commission's members, must call the commission's first meeting by October 1, 2013. Subsequent meetings are held at the chairperson's discretion.

Like its predecessor, the commission exists within the Department of Economic and Community Development (DECD) for administrative purposes.

## REPORT

The act requires the reactivated commission to prepare a report addressing most of the same issues its predecessor addressed in its 1993 plan. Like the plan, the report must lay out a strategy for restoring the manufacturing sector and stimulating its growth, with the goal of increasing the number of manufacturing jobs within five years after the commission completes the report. It must also propose strategies for retaining or expanding the state's economic base and coordinate its economic development policies with public and private sector capital investment.

The act does not require the report to address the need for regional approaches to economic development, as prior law required the plan to do. But it requires it to include strategies for:

1. aligning the state's educational institutions with the state's manufacturing base and
2. diversifying or converting defense-related industries to other nonmilitary products, emphasizing environmentally sustainable and civilian product manufacturing.

The commission must submit the report to the governor and Commerce Committee by December 1, 2014.

## OTHER DUTIES

The act transfers the former commission's duties to the reactivated one, requiring it to:

1. advise the legislature and DECD about defense conversion, industrial policy, and the state's business climate;
2. evaluate legislation related to the state's economy, particularly as the legislation affects manufacturers and defense-related businesses;
3. provide a forum for business issues; and
4. stimulate and review public and private assistance to improve the state's economy.

Prior law required the commission to prepare and review strategies being implemented to help defense-dependent businesses convert from making defense to nondefense products. The act requires it to prepare and review strategies that emphasize environmentally sustainable and civilian product manufacturing. Prior law also required the commission to foster opportunities for public-private partnerships. The act requires it do so in a way that encourages the public to participate.

## BACKGROUND

### *Commission's 1993 Report*

The Commission on Business Opportunity, Defense Diversification and Industrial Policy submitted its five-year strategy to the governor and legislature in January 1993. The strategy consisted of four short-term recommendations for stemming the loss of jobs and talent and six long-term recommendations for preparing the state for future growth.

The short-term recommendations focused on promoting entrepreneurship and exporting; broadening the state's economic base, focusing particularly on ways to diversify its defense sector; and supporting job training and retraining. The long-term recommendations focused on improving the state's business climate, promoting educational innovation, supporting and encouraging research and development and technology transfer, reforming tax and regulatory policies, improving the network for delivering economic development services, and stimulating community economic development.

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## PA 13-45—HB 6466

### *Commerce Committee*

#### **AN ACT CLARIFYING COLLATERAL REQUIREMENTS FOR APPLICANTS FOR FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT AND CONNECTICUT INNOVATIONS, INCORPORATED**

**SUMMARY:** By law, most businesses that apply for financial assistance from the Department of Economic and Community Development and Connecticut Innovations, Inc. must provide these agencies with collateral, such as a letter of credit; a lien on real property; or a security interest in equipment, inventory, or other property.

This act exempts economic development grant applicants from providing collateral, regardless of the grant's term. Prior law exempted only applicants for grants with terms of less than one year. Loans for less than one year and equity investments are exempt from the collateral requirement under existing law.

EFFECTIVE DATE: Upon passage

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## PA 13-46—HB 6529

### *Commerce Committee*

#### **AN ACT INTEGRATING MUNICIPALITIES INTO THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT ELECTRONIC BUSINESS PORTAL**

**SUMMARY:** This act specifies the features the Department of Economic and Community Development must include in any electronic business portal it establishes. At a minimum, the portal must:

1. include specific branding that mirrors a statewide branding program directed by the governor's office,
2. be aligned with the nonprofit Connecticut Economic Resource Center's online business assistance information programs, and
3. allow municipalities to promote local resources.

The act requires each municipality to provide and maintain its own content.

EFFECTIVE DATE: October 1, 2013

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## PA 13-56—SB 1004

### *Commerce Committee*

#### **AN ACT ENCOURAGING THE EXPORTATION OF STATE PRODUCTS AND SERVICES THROUGH THE SMALL BUSINESS EXPRESS PROGRAM**

**SUMMARY:** This act allows, rather than requires, the Department of Economic and Community Development commissioner, when approving applications for Small Business Express Program loans and grants, to give priority to economic base industries in the fields of precision manufacturing, business services, green and sustainable technology, and bioscience and information technology. It additionally allows her to give priority to businesses seeking to export their products or services to foreign markets. By law, unchanged by the act, the commissioner must give priority to applications from small businesses creating jobs.

EFFECTIVE DATE: October 1, 2013

## BACKGROUND

### *Small Business Express Program*

The Small Business Express Program encourages job creation and growth by providing loans and grants to state-based small businesses.

### *Economic Base Industries*

Economic base industries are those the commissioner determines will materially contribute to the state's economy by (1) creating or retaining jobs; (2) exporting, encouraging innovation in, or adding value to products or services; or (3) otherwise supporting or enhancing existing activities important to the state economy (CGS § 32-222 (d)).

### **PA 13-115—sHB 6467**

*Commerce Committee*

### **AN ACT CONCERNING APPLICATIONS FOR FINANCIAL AID FROM CONNECTICUT INNOVATIONS, INCORPORATED**

**SUMMARY:** This act sets conditions under which Connecticut Innovations, Inc.'s (CII) governing board may delegate to CII staff the board's duty to approve or deny applications for loans, loan guarantees, equity investments, and other forms of economic development assistance. The board may delegate this duty for applications requesting no more than \$150,000 in assistance if:

1. the staff processed the application according to CII's written procedures and
2. the total amount of financial assistance that the applicant is requesting and has received during the preceding 12 months does not exceed \$150,000.

Under prior law, CII's 17-member board or one of its committees had to approve or deny each application recommended by CII's chief executive officer (CEO). By law, staff must submit all applications, together with application fees, to the CEO. Further, CII must process them according to its written procedures.

EFFECTIVE DATE: July 1, 2013

### **PA 13-123—HB 6652**

*Commerce Committee*

### **AN ACT CONCERNING MINOR AND TECHNICAL CHANGES TO ECONOMIC DEVELOPMENT STATUTES**

**SUMMARY:** This act makes many technical changes in the economic development statutes. Specifically, it conforms existing law to the 2012 economic development reorganizations, corrects internal statutory references and grammatical errors, and repeals obsolete statutes.

EFFECTIVE DATE: Upon passage

### **PA 13-202—HB 6528**

*Commerce Committee*

*Transportation Committee*

*Appropriations Committee*

*Planning and Development Committee*

### **AN ACT CONCERNING CLEAN MARINAS**

**SUMMARY:** This act increases, by 10%, the Department of Transportation (DOT) harbor improvement grant amount for, and gives priority to, eligible projects proposed by "certified clean marinas." These are facilities (1) committed to the Department of Energy and Environmental Protection's (DEEP) voluntary clean marina program and (2) trying to exceed DEEP's regulatory compliance standards.

Prior law allowed the DOT commissioner to enter into a contract with a municipality, acting through its harbor improvement agency, for a harbor improvement project grant according to a DOT-approved harbor improvement plan. The act eliminates the need for a (1) municipality to act through a harbor improvement agency and (2) harbor improvement plan. Instead, it allows a municipality, or any federal or state agency acting on its behalf, to enter into a harbor improvement project grant contract with DOT, if the DOT commissioner approves the project.

By law, the DOT commissioner must submit the grant application to the DEEP commissioner for review, and the DEEP commissioner must report his findings on the application, in writing, to the DOT commissioner.

EFFECTIVE DATE: July 1, 2013

### **CERTIFIED CLEAN MARINAS**

#### *Covered Projects*

Under the act, an eligible project includes any part of a sediment, dredging, or dredge disposal activity (1) for which the marina has received all necessary permits and certificates and (2) that complies with state laws on harbor improvement projects and grants.

#### *Grant Amounts and Priority Ranking*

Under the act, certified clean marinas receive priority ranking and are eligible for an additional grant equal to 10% of a project's costs. They remain eligible for priority ranking until July 1, 2018, or five years from the date of their most recent "certification," whichever is later.

DEEP's voluntary Connecticut Clean Marina program requires a marina to at least meet certain legal and regulatory environmental standards for DEEP to certify it as a Connecticut Clean Marina. Under the program, these marinas must, among other things,

minimize pollution from (1) mechanical activities; (2) cleaning, painting, and fiberglass repair; (3) hauling and storing boats; (4) fueling; and (5) facility management. DEEP certifies a marina as a pledged clean marina if it commits to becoming a certified clean marina within one year.

However, under the act, it appears that a marina committed to the program must only be engaged in efforts to exceed these standards to be certified. Thus, it is not clear at what point certification takes place or when the five-year priority ranking begins.

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**PA 13-265—sSB 1079**

*Commerce Committee*

*Finance, Revenue and Bonding Committee*

**AN ACT INCREASING THE MANUFACTURING APPRENTICESHIP TAX CREDIT**

**SUMMARY:** This act increases the corporation business tax credit for hiring manufacturing trades apprentices and raises the annual cap on the amount of credits businesses can claim per apprentice. It increases the credit from \$4.00 to \$6.00 per hour and raises the cap from \$4,800 or 50% of the actual apprentice wages, whichever is less, to \$7,500 or 50% of such wages, whichever is less.

By law, unchanged by the act, the period for claiming the credit depends on whether the apprenticeship is for two or four years. The period is the first year for a two-year apprenticeship program and three years for a four-year program. Such programs must be certified by the labor commissioner and registered with the Connecticut State Apprenticeship Council.

EFFECTIVE DATE: July 1, 2015 and applicable to income years beginning on or after January 1, 2015.

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**PA 13-266—sSB 1131**

*Commerce Committee*

*Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING CHANGES TO THE CONNECTICUT HISTORIC HOME TAX CREDIT**

**SUMMARY:** This act expands the business tax credit for rehabilitating historic homes by:

1. making the credit available statewide, not just in statutorily designated areas;
2. reducing, from more than \$25,000 to more than \$15,000, the minimum amount of money that must be spent rehabilitating a historic home; and

3. increasing, from \$30,000 to \$50,000 per unit, the maximum amount of credit businesses can claim when contributing funds to nonprofit corporations rehabilitating historic homes.

By law, unchanged by the act, the credit's total value equals 30% of the eligible rehabilitation costs.

People and nonprofit organizations rehabilitating historic homes must apply to the Department of Economic and Community Development (DECD) for a credit voucher, which they can exchange with businesses contributing funds toward the rehabilitation. The homes must have four or fewer units, one of which must be the owner's principal residence. DECD can award no more than \$3 million per year in credits.

The act also makes technical changes, including updating the statutes to conform with the 2011 elimination of the Connecticut Commission on Culture and Tourism and the transfer of its powers, duties, and offices to DECD. The transfer included the state historic preservation office and its role in certifying rehabilitated historic homes for the tax credits.

EFFECTIVE DATE: July 1, 2015, and applicable to income years beginning on or after January 1, 2015.

**ELIMINATED LOCATION REQUIREMENT**

The act eliminates the requirement limiting the credits to historic homes in targeted areas, thus making the credits available statewide for otherwise eligible historic homes. Prior law limited the credits to homes in:

1. census tracts in which at least 70% of the families have an income that is 80% or less of the statewide median;
2. chronically economically distressed areas the state designates, with federal approval; and
3. urban and regional centers identified in the State Plan of Conservation and Development Policies Plan.

Historic homes, regardless of location, must continue to meet the law's other requirements. Specifically, they (1) may have no more than four units, one of which must be the owner's principal residence for at least five years after the rehabilitation is completed and (2) must be listed on the National or State Register of Historic Places or located in a district listed in either register. With respect to the latter, DECD must determine that the home contributes to the district's historic character.

**REDUCED MINIMUM EXPENDITURE REQUIREMENT**

The act reduces, from more than \$25,000 to more than \$15,000, the minimum amount that must be spent on rehabilitating a historic home to qualify for a tax

credit voucher. By law, and unchanged by the act, the party rehabilitating the home cannot count the following expenditures toward the minimum expenditure requirement:

1. the owner's personal labor;
2. site improvements unrelated to making the home accessible to people with disabilities;
3. new additions that are not needed to comply with the state building and fire safety codes;
4. outbuildings that do not contribute to the home's historic significance; and
5. architectural, legal, and financing fees and other non-construction costs.

#### INCREASED PER UNIT CREDIT AMOUNT

The act increases, from \$30,000 to \$50,000 per unit, the maximum amount of credit available to businesses that contribute to historic home rehabilitation projects undertaken by nonprofit organizations. Such organizations qualify for credit vouchers they can exchange for business contributions if (1) they possess title or prospective title to the home, (2) their mission includes housing development, and (3) the DECD commissioner approved their articles of incorporation.

The maximum per unit credit for individuals rehabilitating historic homes remains \$30,000.

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**PA 13-279—SB 1006**

*Commerce Committee*

#### **AN ACT REQUIRING STATE AGENCIES TO CITE SPECIFIC STATUTORY AND REGULATORY AUTHORITY FOR THEIR ACTIONS**

**SUMMARY:** This act requires all state agencies taking certain regulatory actions under the Uniform Administrative Procedure Act (UAPA) to cite the legal authority for the action. The agencies must do this when rendering final decisions or taking actions against a license under that act. In either case, an agency must identify the statutes or its regulations supporting the decision or authorizing the action.

Under the act, an agency must also provide this information to a person or business affected by other specified regulatory actions if these parties request it. These actions include those involving (1) applications, permits, or requests for permits, licenses, approvals, or other permissions to conduct business or (2) the use of private property. The act specifies no deadline by which the agencies must respond to the request or consequences for failing to do so.

EFFECTIVE DATE: October 1, 2013

#### UAPA DECISIONS AND ACTIONS

The act requires state agencies to cite the legal authority for decisions they render under the UAPA. It specifically requires them to do so when rendering a proposed final decision, which by law they must do in writing, specifying the reasons for the decision and separate findings of fact and conclusions on each issue of fact or law upon which the decision rests. Under the act, the findings and conclusions must include the specific provisions of the law or the agency's regulations upon which the agency based its findings. By law, agencies must render proposed final decisions instead of adverse final decisions when a majority of the agency members who must render the final decision have not heard the matter or read the record. In these situations, the agency must allow the affected parties to file exceptions and present briefs and oral arguments to the agency's decision makers (CGS § 4-179).

Existing law also requires agencies to specify their findings of fact and conclusions of law supporting a decision in contested cases (CGS § 4-180). Under the act, the conclusions of law must also specify the provisions of the law or the agency's regulations on which the agency based its decision.

Lastly, the act requires agencies to provide this information when revoking, suspending, annulling, or withdrawing a license. By law, they must notify a licensee before they start a process that could potentially result in one of these outcomes. In doing so, they must notify the licensee by mail about the facts or the conduct that warrants the agency's intended action (CGS § 4-182).

#### ACTIONS AFFECTING BUSINESS ACTIVITIES OR PROPERTY USES

The act requires state agencies to specify the legal authority for an action that could affect a business activity or the use of private property when the affected party requests this information. Agencies must do this when:

1. acting on an individual's or business's application, petition, or request for a permit, license, approval, or other permission to conduct business or use private property;
2. restricting or imposing conditions on a business activity or use of private property; or
3. bringing an enforcement action, issuing a cease and desist order, or otherwise requesting the affected party to modify or stop any business activity or use of private property.

In these situations, the agency must specify the law, regulation, or general permit that authorizes its actions.

**PA 13-308**—sHB 6651

*Commerce Committee*

*Planning and Development Committee*

*Finance, Revenue and Bonding Committee*

**AN ACT IMPLEMENTING THE  
RECOMMENDATIONS OF THE STATE OF  
CONNECTICUT BROWNFIELD WORKING  
GROUP AND CONCERNING BROWNFIELD  
LIABILITY RELIEF, NOTIFICATION  
REQUIREMENTS FOR CERTAIN  
CONTAMINATED PROPERTIES AND THE USE  
OF NOTICE OF ACTIVITY AND USE  
LIMITATIONS**

**SUMMARY:** This act makes various changes to the programs for assessing and remediating contaminated property administered by Department of Economic and Community Development (DECD) and the Department of Energy and Environmental Protection (DEEP).

The act consolidates and reorganizes the laws governing DECD brownfield cleanup programs, making many programmatic and technical changes. It consolidates all DECD brownfield funds into a separate nonlapsing account and specifies the types of funds that must be deposited in the account. The programmatic changes include authorizing brownfield loans for reducing blight, narrowing the eligibility criteria for liability relief, and exempting private developers receiving financial assistance under the brownfield grant and loan programs from the statutory penalties for (1) relocating out of Connecticut within 10 years after receiving assistance and (2) failing to create or retain the number of jobs stipulated in the assistance agreements.

The act expands the requirements for notifying DEEP and other parties about different types of environmental hazards and provides new tools for addressing them. It creates a new program providing liability relief to municipal entities investigating and remediating such hazards and allows property owners to execute and record in local land records a notice of activity and use restrictions (NAUL), a legal tool used to minimize exposure to contamination by controlling the kind of activity that can occur on contaminated property. The act sets conditions under which the DEEP commissioner must shorten his deadline for deciding whether he will audit a remediated site and requires him to evaluate DEEP's methods for assessing the risks environmental hazards pose.

The act also makes technical and conforming changes.

**EFFECTIVE DATE:** July 1, 2013, unless otherwise stated.

**§§ 3-6, 8, 27, & 37 — CONSOLIDATED  
BROWNFIELD REMEDIATION AND  
DEVELOPMENT ACCOUNT**

The act eliminates two separate, nonlapsing accounts for funding brownfield projects and transfers their balances to a new, nonlapsing account it creates for depositing all brownfield funds. The eliminated accounts are the (1) Connecticut Brownfield Remediation account, which the legislature created in 2006 to fund the original Municipal Brownfield Pilot Program the legislature also created that year, and (2) Brownfield Remediation and Development account, which the legislature created in 2007 to fund the brownfield grant and loan program the legislature also created that year.

The new account is also called the Brownfield Remediation and Development account, and the funds that must be deposited in the account include those that had to be deposited in the original 2007 account. The funds are:

1. Urban Action bond proceeds issued for economic development programs and earmarked by the governor and State Bond Commission for the account;
2. principal and interest payments on loans made under the loan program and DECD's Special Contaminated Property Remediation and Insurance Fund, which provide loans for assessing and demolishing contaminated property;
3. principal and interest payments of loans made with grant proceeds;
4. money the attorney general recovers from the parties that polluted properties cleaned up under a state remediation program;
5. proceeds from any state bonds issued specifically for the loan and grant program and, if the Office of Policy and Management (OPM) secretary approves, any federal or private dollars provided for a project assisted under these programs;
6. interest or other income the fund's investments earn; and
7. other funds that, by law, must be deposited in the account.

The act makes several programmatic changes affecting the disposition of funds generated under the grant and loan programs, requiring that they be deposited in the consolidated account. It (1) requires grant and loan recipients to reimburse the state when they receive cleanup funds from other sources and (2) directs these funds to be deposited into the account. It also requires the proceeds generated from any activity conducted under the programs to be deposited in the fund, including the principal and interest a borrower



must immediately repay if he or she sells the remediated property before the period for repaying the loan ends.

The act allows the commissioner to use the account for the same purposes as the grant and loan programs' account under prior law. She can use the account to provide financial assistance through the separate grant and loan programs and cover administrative costs.

But the act changes the basis for determining the amount of funds she may use to cover these costs. Under prior law, she could use up to 4% of any funds available for grants or loans to (1) cover the programs' staffing, marketing, and website development costs and (2) fund DECD's Office of Brownfield Remediation and Development's (OBRD) administrative costs. Prior law also allowed her to use up to 5% of a grant's proceeds, including proceeds a grant recipient lends, to cover reasonable administrative expenses. Under the act, she may use up to 5% of the account's funds to cover administrative costs.

The act allows the commissioner to use the account to fund activities outside the loan and grant programs. These activities include the steps property owners take to mitigate contamination they discover on their property.

The act eliminates the criteria the commissioner had used to determine the source for funding a brownfield project. Under prior law, she had to consider the project's feasibility and its environmental and public health benefits, spillover economic opportunities, and contribution to the municipal tax base. Besides eliminating these requirements, the act also eliminates the requirement that the commissioner obtain the OPM secretary's approval before tapping the grant and loan program account to fund a project.

Lastly, the act allows the commissioner to use any remaining bond proceeds for an inoperative program to fund brownfield grants and loans. The program is the Regional Infrastructure Grant Program, which the legislature created in 1993 to fund infrastructure projects benefiting regions.

## §§ 1, 2, 4, 5, 19, & 20 — MUNICIPAL BROWNFIELD GRANT PROGRAM

### *Program Consolidation*

The act consolidates DECD's brownfield grant programs, making technical and programmatic changes in the process. Under prior law, DECD ran two grant programs — (1) a program established in 2006 as a pilot to clean up and redevelop brownfields in towns meeting statutory criteria and (2) a combined grant and loan program established in 2007, which was initially open to municipalities and private developers but subsequently changed to limit the grants to municipal entities. The act eliminates obsolete provisions and

makes technical changes in the laws governing OBRD.

### *Eligibility*

*Recipients.* The act expands the range of eligible recipients to include regional entities, specifically regional economic development commissions or corporations, regional councils of governments, regional councils of elected officials, and nonprofit economic development corporations formed to promote a region's economic development. Prior law limited eligibility to municipalities; municipal economic development agencies; nonprofit economic development corporations formed to promote a municipality's economic development; and for-profit entities that municipalities, the economic development agencies, or nonprofit corporations control.

*Projects.* The act narrows the range of eligible projects to those assessing the extent to which a property is contaminated (i.e., brownfield assessment projects) and cleaning up the contamination (i.e., brownfield remediation projects). Prior law allowed the grants to be used for any development project and its associated assessment and remediation costs. The act eliminates foreclosure as a type of brownfield project.

The act allows grant recipients to use up to 5% of the grant amount to cover a project's reasonable administrative costs.

*Costs.* The act limits a project's eligible costs to investigating, assessing, remediating, and developing brownfields, including:

1. investigating soil, groundwater, and infrastructure;
2. assessing, remediating, and abating contamination;
3. disposing of hazardous material or waste;
4. monitoring groundwater or natural attenuation measures;
5. imposing environmental land use restrictions, activity and use limitations, and other forms of institutional control;
6. retaining lawyers, planners, engineers, and environmental consultants; and
7. addressing building and structural issues, including demolition, asbestos abatement, polychlorinated biphenyls removal, contaminated wood or paint removal, or other remedial remedies.

The act eliminates some of the costs that prior law allowed, such as those incurred to foreclose on a property or purchase environmental insurance. It also eliminates the commissioner's authority to allow recipients to cover other expenses she determines are reasonable or necessary to start, implement, and complete a project.

Grant recipients can still lend the grant proceeds to brownfield redevelopers, as prior law allowed, but the act changes some of the requirements and conditions for doing so (see below).

### *Application Requirements*

*Content.* Municipalities and other eligible grant recipients must still apply to the commissioner for grants, providing mostly the same information as before. At a minimum, the application must:

1. describe the project and provide its budget,
2. explain how the project's expected benefits promote the grant program's objectives, and
3. provide information about the applicant's financial and technical capacity to implement the project.

The act narrows one of the requirements imposed under prior law, conforming to the distinction the act makes between assessment and remediation projects. Under prior law, the application had to describe the property's condition, including the results of any environmental assessment on the property. Under the act, the application must include this description only if the grant will be used to remediate the property. The act requires that the description include the results of an environmental assessment if the applicant has or can obtain it.

The act eliminates the requirement that applicants identify parties liable for remediating the property.

*Approval Criteria.* Prior law specified the criteria the commissioner must use to approve, reject, or modify grant applications. The act retains these criteria and adds new ones. As under prior law, the commissioner must base her decision on:

1. the available funds;
2. the estimated assessment and remediation costs, if known;
3. the relative economic condition of the municipality where the brownfield is located;
4. the project's relative need for financial assistance;
5. the degree to which a grant is needed to start the project;
6. the project's public health and environmental benefits;
7. the project's relative benefits to the municipality, region, and state, including how much it will contribute to the municipality's tax base and retain or create jobs;
8. the timeframe during which the contamination occurred;
9. the applicant's relationship to the party that caused the contamination;

10. how long the brownfield has been abandoned;
11. the taxes owed on the property and projected revenue that may be restored to the community; and
12. any other criteria the commissioner establishes to fulfill the grant program's purpose.

The act also requires the commissioner to consider (1) whether the project will reduce blight among its potential benefits to the municipality, region, and state and (2) the relative need to assess the property for contamination within the municipality or region.

*Application Cycle.* The commissioner must continue awarding grants by requesting and approving applications at least once every year, but the act pushes back the request deadline, from June 1 to October 1, annually. As under prior law, she can request and approve applications more frequently depending on the number of applicants and available funds.

Also as under prior law, the commissioner may award grants for up to \$4 million. But the act eliminates prior law's authorization for her to request or seek funding from other sources when a project's eligible costs exceed the \$4 million limit.

### *Grant Limits*

*Limits.* The act allows the commissioner to make up to \$4 million in grants, regardless of a project's location. Under prior law, the grant could not exceed this amount or a specified percentage of the cost, whichever was less. The percentage varied depending on the project's scope of work or location. If the scope involved only project planning or site evaluation, the grant could cover up to 90% of the costs. If the scope involved other activities, the grant could cover up to 90% of the cost for projects in the state's 17 municipalities with enterprise zones (i.e., targeted investment communities (TICs)) and (2) up to 50% of the cost for those in other municipalities. In all of these cases, prior law allowed grant recipients to make up the difference between the grant amount and the project's total cost with federal funds; private contributions; or noncash contributions, including a property's value.

The act also eliminates the provision allowing municipalities to cover the difference between the grant amount and the grant limit with funds from federal or other sources or noncash contributions, such as the property's value.

*Terms and Conditions.* As under prior law, the commissioner has general authority to set terms and conditions for making grants. She may impose terms and conditions that include assurances that the recipient will perform its duties in connection with the project and secure the grant with a letter of credit, lien on real or personal property, or other security. The act also allows her to impose terms requiring recipients to

reimburse the state if they receive funds from other sources.

### *Selling Remediated Property*

The act allows a recipient to keep the sales proceeds when it remediates, redevelops, and sells the property. As under prior law, recipients may remediate and sell the property or lend the grant funds to a redeveloper for remediation. But prior law imposed different rules for handling the proceeds from a sales transaction. The rules varied depending on the funding source.

If DECD funded the grant under the 2006 grant program, the recipient kept 20% of the sales proceeds and remitted the balance (80%) to OBRD for deposit in the program's account. If it funded the grant under the 2007 program, the recipient had to remit to that program's account an amount equal to the grant, minus 20% to cover its administrative and development costs and, if applicable, lost tax revenue. (The recipient kept the difference between the amount remitted to the account and the sales price.)

### *Lending Grant Proceeds*

*Requirements.* As mentioned above, recipients may continue lending grant proceeds to private redevelopers, presumably to fund the same types of eligible costs recipients could cover when they assess or remediate a project themselves. But the act changes the requirements for doing so. Under prior law, the recipient could lend the proceeds if the redeveloper co-applied for the grant, the co-applicants entered into an agreement, and the brownfield's future reuse was known. As under prior law, the act does not specify who qualifies as a redeveloper.

Under the act, co-applicants can apply for the grant first and enter into an agreement later, but within 90 days after receiving the grant. The agreement must be in writing and identify the property's post remediation use.

Prior law required the redeveloper to participate in a DEEP voluntary cleanup program. Under the act, a redeveloper can participate in DEEP's cleanup program or one of DECD's liability protection programs (i.e., The Abandoned Property Cleanup Program or the Liability Protection Program).

*Repaying Loan Principal and Interest Payments.* As under prior law, grant recipients must remit principal and interest payments to DECD, except for 20% of the principal. DECD must deposit the payments in the new consolidated account. As under prior law, recipients may require security for the loan by placing a state or municipal lien on the property.

### *Liability Protections*

The act continues the liability protections prior law afforded to grant recipients under the prior programs and extends these protections to liability under the law banning persons and municipalities from polluting the state's waters or discharging treated or untreated waste into those waters (CGS § 22a-427). The protections apply to contamination that existed before recipients acquired or took control of the property. The contamination could have happened in the past or exist when the recipient acquires or takes control of the property.

As under prior law, recipients generally enjoy these protections if they (1) did not cause, contribute to, or exacerbate the contamination and (2) comply with DEEP reporting requirements for significant environmental hazards.

### *Disposing of Remediate Property*

The act allows grant recipients to transfer property they remediate, specifies the conditions under which they may do so, and affords liability protection to the party acquiring the property (i.e., transferee).

*Conditions for Transfer.* The act sets conditions under which grant recipients may transfer remediated property and other parties may acquire it. Recipients may transfer property if:

1. DEEP approved the remediation or it was done under the Transfer Act, DEEP's voluntary remediation program, or DECD's liability protection programs and
2. the transferee is not liable to DEEP for causing or contributing to the contamination.

The act continues prior law's conditions for holding, possessing, maintaining, or acquiring title to a remediated property, including one remediated under the 2006 grant program. A party may not do these things if it:

1. owns, operates, or leases the property;
2. directly or indirectly contaminated it;
3. is otherwise liable to the DEEP commissioner for the contamination; or
4. is a successor to the liable party or directly or indirectly affiliated with or related to it.

As under prior law, any party that acquires title under these conditions must reimburse the state and the grant recipient for any costs they incurred to invest and remediate the property, plus 18% interest.

*Liability Protections.* The act mostly continues prior law's liability protections. It continues to protect transferees from liability from orders DEEP may issue regarding water and ground contamination and the cost of investigating and remediating the property. The act extends this protection to liability for violating the

general prohibition against polluting the state's waters.

A transferee receives this protection only if it did not cause or contribute to the contamination and is not related to or affiliated with the party that did. The act expands the grounds under which the transferee receives the protection by including remediation specifically done under DEEP's voluntary cleanup program, the Transfer Act, or DECD's liability protection programs.

In addition, the transferee must continue to receive a covenant not to sue without having to pay the statutory fee. (A covenant is an agreement between DEEP and the transferee that protects it from liability to the state for contamination that occurred before the covenant was signed.)

The act continues to protect the grant recipient and the transferee from liability under the Transfer Act, but changes two requirements the property must meet to receive this protection. The Transfer Act allows a potentially contaminated property to be sold only after the owner indicates its environmental condition and, if the property is contaminated, a party agrees to clean it up.

Prior law required the property to be remediated under a DEEP remediation order or voluntary cleanup program. Under the act, the property also qualifies for protection if it was remediated under a DECD liability protection program.

The second change concerns the remediated property's use. Under prior law, the property qualified for the protection regardless of its post remediation use. Under the act, the property qualifies only if it will not be used as an "establishment," which is any use that generates hazardous waste, generally receives such waste generated at another location, conducts dry cleaning, strips furniture, or repairs auto bodies (CGS § 22a-134 (3)).

#### *Transfer Act Exemption*

The act (1) exempts from the Transfer Act any property grant recipients acquire under the grant program and (2) continues the prior law's exemption for property they acquired under the 2006 grant program. EFFECTIVE DATE: July 1, 2013, except for a technical change that takes effect January 1, 2014.

#### §§ 4&6 — BROWNFIELD LOAN PROGRAM

Besides consolidating the municipal grant programs, the act separates the loan program from the consolidated grant program and revamps the loan program. In doing so, the act makes many technical and substantive changes.

#### *Eligible Projects*

Under the act, the loan program is available for the eligible costs of remediating contaminated property. The costs, which are the same for the grant program, include costs associated with investigating and assessing a property's condition as well as those associated with remediating the site, including abating contamination, disposing of hazardous waste and material, implementing long-term and natural attenuation monitoring, and imposing environmental land use restrictions and other institutional controls. They do not include foreclosure costs, which prior law allowed.

#### *Eligible Applicants*

The act consolidates the criteria DECD must use to determine eligible applicants. As under prior law, the act recognizes three types of eligible applicants—potential brownfield purchasers, existing owners of manufacturing facilities (i.e., manufacturers), and all other existing property owners. Prior law extended manufacturers' eligibility for brownfield assistance beyond the loan program to any brownfield assistance program. The act (1) limits manufacturers' eligibility for brownfield assistance to the loan program, (2) revamps the criteria applicable only to manufacturers, and (3) eliminates a criterion that applies to all existing property owners.

*Manufacturers.* Under prior law, manufacturers qualified for brownfield assistance if they could show that they:

1. did not cause hazardous substances or petroleum to be released on the property,
2. did not knowingly cause injury to human health or the environment by disposing of the substances or petroleum, and
3. were never found guilty of knowingly or willfully violating an environmental law.

In addition, the agency administering the assistance had to consider if a manufacturer could pay for some or all of the cleanup cost. After the agency determined a manufacturer's eligibility, it could require the manufacturer to:

1. keep the property for up to 10 years,
2. reimburse the state if the manufacturer got cleanup funds from another source, and
3. continue employing Connecticut residents at the property for at least 10 years.

The act eliminates these criteria and requirements. Under the act, a manufacturer qualifies for a loan if it or any of its subsidiaries or affiliates:

1. are not liable for a DEEP cleanup order on the property,
2. are not responsible for the contamination,
3. are not affiliated with the party responsible for the contamination, and
4. have not been found guilty of knowingly or willfully violating any environmental law.

*All Existing Owners.* The act eliminates the requirement that manufacturers and other existing property owners show that:

1. the cost of investigating and remediating the property keeps them from retaining or adding jobs,
2. they cannot afford to investigate and remediate the property on their own, and
3. they are in good standing with DEEP's regulatory programs.

They and potential purchasers must show that they are not liable for the contamination and intend to reduce blight on the property or develop it for industrial, commercial, residential, or mix use purposes. Under prior law, potential purchasers had to show only that they were not liable for the contamination.

#### *Eligible Projects and Performance Requirements*

The act expands the range of projects eligible for brownfield assistance to include reducing blight. Potential purchasers and existing owners can still use the loans to redevelop brownfields for industrial, commercial, residential and mix use purposes.

The act repeals specific performance requirements prior law placed on redevelopment projects that existing owners and potential purchasers proposed. Under prior law, commercial, industrial, and mix use projects qualified for loans if they retained or added jobs during the loan's term, unless DECD and the state's other economic development agencies agreed otherwise. Residential projects qualified if they developed affordable housing for first-time homebuyers, recent college graduates, or current workers.

#### *Eligible Costs*

The act narrows the range of eligible costs that borrowers can incur with loan proceeds. Under prior law, they could use the proceeds for any purpose, including current and past costs incurred to:

1. investigate, assess, or remediate a brownfield;
2. abate contamination or dispose of hazardous waste and material;
3. implement groundwater or natural attenuation monitoring;
4. hire and retain attorneys, planners, engineers, and environmental consultants; and

5. address building and structural issues, including demolishing structures, abating asbestos, removing polychlorinated biphenyls and other substances, and implementing other infrastructure remedial activities.

As explained above, the act limits eligible costs to those associated with these activities.

As with grant recipients, borrowers can no longer use the loan proceeds to acquire or foreclose on a property or purchase environmental insurance. Nor can the commissioner allow them to use the proceeds to cover other expenses she otherwise determines are reasonable or necessary to start, implement, and complete the project.

#### *Application Requirements*

*Content.* As under prior law, eligible applicants must apply to the commissioner for loans. At a minimum, the application must:

1. describe the project;
2. explain how the project's expected benefits promote the loan program's objectives;
3. provide information about the applicant's financial and technical capacity to implement the project;
4. provide its budget; and
5. describe the brownfield's condition, including the results of any environmental assessment the applicant has or can obtain.

The act eliminates the following application requirements:

1. a list of the people liable for remediating the property;
2. for loans over \$50,000, a redevelopment plan describing how the property will be reused, create jobs, and stimulate private investment; and
3. for residential developments, an agreement that the project will be affordable to first-time homebuyers, workers, and recent college graduates looking to remain in Connecticut.

*Approval Requirements.* As under prior law, the commissioner must approve applications based on the:

1. project's merit and viability;
2. economic and community development opportunity it presents;
3. degree to which the municipality supports it;
4. extent to which it contributes to the municipality's tax base; and
5. applicants' past experience, compliance history, and ability to pay.

The act eliminates the requirement that she also consider the number of jobs associated with the project.

### *Eligible Assistance*

The act limits the types of loans the commissioner may provide under the program to direct loans, eliminating her authority to purchase interest in a loan made by Connecticut Innovations, Inc, the state's quasi-public development financing agency.

### *Loans*

*Limits.* Under prior law, loan amounts were subject to the same limits as grants. The act eliminates the limit based on a project's location. Consequently, the commissioner can make loans of up to \$2 million per year, for up to two years, without reducing that amount if it exceeds the 90% cost limit for projects in TICs or 50% for those in the other municipalities. It also allows her to make loans up to the act's dollar limit for planning projects or evaluating their sites.

The act makes a conforming technical change, eliminating the provision allowing municipalities to cover the difference between the grant amount and the grant limit with funds from federal or other sources or noncash contributions, such as the property's fair market value.

The act's \$2 million per year cap applies only to assistance under the loan program. If a project needs additional funds, the act allows the commissioner to recommend funding under the other programs she administers. Prior law allowed her to recommend additional funding through the State Bond Commission.

As under prior law, the commissioner can set the loan repayment period for up to 20 years.

*Terms and Conditions.* As under prior law, the act gives the commissioner general and specific authority to set the loan terms and conditions. The general authority is the same for making grants. The act eliminates some of the specific requirements that had to be included in a loan's terms and conditions.

As under prior law, the commissioner may impose loan terms and conditions based on the criteria she uses to (1) determine an applicant's eligibility and (2) approve loans. But the act eliminates the requirement that the terms and conditions must include performance requirements and a commitment to maintain or retain jobs or provide a specified number of affordable housing units.

The act also eliminates the requirement that loan repayments coincide with the brownfield's restoration to a productive use or the completion of an expansion. But, if the borrower sells the property before repaying the loan, the act continues to require the borrower to repay it upon closing, unless the commissioner agrees otherwise. Alternatively, as allowed under prior law, the commissioner can carry the loan forward as an encumbrance to the purchaser under the same terms and

conditions as the original loan.

For loans made to municipalities, economic development agencies, regional entities, and other organizations otherwise eligible for grants, the commissioner may, as under prior law, forgive principal and interest payments or delay such payments if she determines that doing so is in the state's best interest.

### *Remediation Requirements*

Borrowers exempted from the Transfer Act must, under the act, enter a DEEP voluntary cleanup program or participate in a DECD liability protection program, as the DECD commissioner determines. Under prior law, all existing property owners had to enter a DEEP voluntary cleanup program, and brownfield purchasers had to comply with the Transfer Act or enter such a program if the loan exceeded \$30,000 or they intended to use the proceeds to conduct a Phase II environmental investigation (i.e., one that uses chemical analyses to identify hazardous substances or petroleum hydrocarbons).

## §§ 9 & 10 — DECD's LIABILITY PROTECTION PROGRAMS

### *Regulated Substance*

The act adopts stricter criteria for determining whether a substance constitutes a regulated substance and applies them to DECD's Abandoned Brownfield Cleanup (ABC) and Liability Relief programs. Under prior law, a regulated substance was any element, compound, or material that alters the physical, chemical, biological, or other characteristics of air, water, soil, or sediment when mixed with the substance. Under the act, a regulated substance is petroleum, any flammable substance, any substance the federal government defines as "hazardous" or "extremely hazardous," or polychlorinated biphenyls in concentrations greater than 50 parts per million.

(Polychlorinated biphenyls are chemicals that were formerly used in hydraulic fluids, plasticizers, adhesives, fire retardants, way extenders, de-dusting agents, pesticide extenders, inks, lubricants, and cutting oils. They were also used in heat transfer systems and carbonless paper reproduction.)

The act extends these criteria to the ABC Program, which exempts developers from investigating and remediating contamination that emanated from a property before they acquired it and limits their liability to the state and third parties for anything they do to cause or contribute to the contamination or negligently or recklessly exacerbate it. The Liability Relief Program protects developers from liability to the state and third parties for remediating a property according to the law's

requirements.

#### § 26 — BROWNFIELD WORKING GROUP

The act adds three members to the Brownfield Working Group, increasing its membership from 13 to 16, and extends the group's reporting deadline by two years, from January 15, 2013, to January 15, 2015. By law, the group must report its findings and recommendations on the state's brownfield remediation and development programs to the governor and Commerce and Environment committees.

The act adds the public health commissioner to the group (or her designee) as an ex officio member and gives the Senate president pro tempore and the House speaker each an additional appointment. In doing so, it requires that at least one of the Senate president pro tempore's two appointments include a representative of the Connecticut Conference of Municipalities and at least one of the House speaker's appointments include a representative of an environmental organization.

EFFECTIVE DATE: Upon passage

#### § 28 — RISK-BASED DECISION MAKING

The act requires the DEEP commissioner to (1) evaluate the risk-based decision making process for assessing brownfields and (2) recommend applicable statutory and regulatory changes. In doing so, he must consult with the public health commissioner and, within existing resources, engage independent risk-based assessment experts with broad national experience.

The experts must conduct the evaluation and prepare a report that assesses the existing risk-based decision making process and the tools used to assess and manage risk in a way that protects the public, general welfare, and environment. The report must also identify best practices for assessing and managing ecological and human health risks used by the U.S. Environmental Protection Agency and other regulatory agencies and published by the National Academy of Sciences. While evaluating the process, the DEEP commissioner must allow the public to review and comment on it.

After completing the evaluation and report, the commissioner must consider the results and recommend statutory and regulatory changes to the risk-based decision making process, including those provisions triggering notifications and assessments when a licensed environment professional (LEP) discovers contaminated soil and groundwater. The commissioner must do this by October 1, 2014.

EFFECTIVE DATE: Upon passage

#### § 29 — FINAL VERIFICATION AUDITS

The act requires the DEEP commissioner to shorten the deadline for making certain decisions when adopting regulations to implement a unified program for cleaning up sites where oil, hazardous substances, or other releases have occurred. The deadlines are those by which he must (1) decide whether to audit the final verification of a site's remediation and (2) indicate if additional remediation is required. The requirement to shorten the deadline applies (1) only to final verifications submitted by an LEP or another authorized person and (2) regulations adopted on or after July 1, 2014.

EFFECTIVE DATE: Upon passage

#### § 30 — LIABILITY RELIEF PROGRAM

The act establishes a DEEP liability relief program for municipal developers that remediate contamination that previously existed or currently exists on a property they acquire. As mentioned above, DECD's ABC Program also provides liability relief to municipal and other developers for investigating and remediating contamination that existed on a property before they acquired it, as long as they do not exacerbate the contamination (CGS § 32-91l). DEEP also provides liability protection under certain conditions to "innocent landowners" (CGS § 22a-452d, et seq.).

##### *Eligibility*

The act specifies eligibility criteria for the property and developers. A property must be one that has not been redeveloped or reused because it is contaminated or potentially contaminated (i.e., brownfield). The contamination (1) could be in the groundwater, soil, or buildings and (2) must be investigated, assessed, and cleaned up while the property is being redeveloped, reused, or expanded or before these activities can occur. The property must also meet any other criteria the commissioner deems necessary.

The program is open to municipalities, economic development agencies, nonprofit corporations a municipality forms and supports to promote its economic development, and nonstock or limited liability companies formed and controlled by these entities (municipal developers).

These municipal developers may apply to have a property admitted into the program before they acquire it. The commissioner must admit the property if the municipal developer:

1. intends to acquire it for redevelopment;
2. did not establish or create a facility or condition at or on the property that could reasonably be expected to pollute water;
3. is unaffiliated with the party responsible for the pollution or its source through any direct or indirect familial, contractual, corporate, or financial relationship other than through its regulatory, police, or tax powers or the relationship through which the property is conveyed or financed; and
4. is not required by law, a stipulated judgment, or a DEEP order or consent order to remediate the contamination on or emanating from the property.

#### *Application Requirements*

The commissioner must determine if a municipal developer's application is complete and the property meets the act's eligibility criteria. If it is, he must notify the applicant that he admitted the property into the program. This decision does not preclude the applicant or another party (presumably a developer that acquires the property from the municipal developer) from seeking funding under the state's other brownfield programs.

After the commissioner admits the property into the program and the municipal developer acquires it, the developer must submit a plan and schedule outlining how it intends to facilitate the property's investigation, remediation, and redevelopment. The developer must also continue minimizing the contamination and the environmental and public health risks it poses.

#### *Liability Protection for Municipal Developers*

The program's liability protection begins after the commissioner admits the property into the program and the municipal developer acquires title to it. The program protects the developer from liability to the state or any person for contamination that happened before it acquired the property. But the developer is liable for any contamination it causes. In these cases, it is liable to the extent its negligent or reckless actions exacerbated the contamination.

Further, the program protects the developer from liability for previously existing or current conditions on the property. The protection applies to water pollution laws; pollution abatement orders; and investigation, remediation, and abatement costs, including those others incur. The developer receives this liability relief only if it:

1. did not establish, cause, or contribute to the discharge, spillage, or uncontrolled loss, seepage, or filtration of the hazardous substance, material, waste, or pollution;
2. does not exacerbate the conditions;
3. complies with all statutory reporting and mitigation or abatement requirements; and
4. makes good faith efforts to minimize the brownfield's environmental and public health risks.

The developer is not relieved from addressing any preexisting conditions it exacerbates through negligent or reckless actions.

#### *Transfer Act Exemption*

The act exempts municipal developers from filing the required Transfer Act forms for property otherwise subject to the act (i.e., an establishment used to generate or handle hazardous waste, dry clean material, strip furniture, or repair motor vehicles).

### §§ 31-32 — ENVIRONMENTAL HAZARD NOTIFICATION REQUIREMENTS

#### *Context*

The act generally expands some of the requirements for notifying DEEP about environmental hazards, changes some notification deadlines, and imposes new reporting requirements. These changes take effect on or after July 1, 2015.

The notification and reporting requirements and the deadlines are part of a framework and process the law establishes for notifying DEEP and other parties about specific types of environmental hazards. Together they consist of contamination thresholds triggering notification, parties required to give or receive notice, and deadlines for providing these notices. The thresholds are based on the extent to which a contaminant is concentrated in soil or water and whether that concentration exceeds a contamination standard for that contaminant.

Notifications are triggered when a technical environmental professional (TEP) or a property owner finds contamination threatening the public welfare and environment. TEPs must notify their clients, who, in turn, must notify the affected property owners. The property owners must notify DEEP when they receive this notice or become aware of the contamination through other means. The deadlines for providing these notices vary depending on the hazard.



### *Drinking Water*

By law, the notification requirements for contamination found near public or private drinking water wells depend on the level of contamination or, with respect to contaminated groundwater, its proximity to such wells.

*Contamination Exceeding Groundwater Protection Criterion.* The law sets different notification requirements for substances contaminating groundwater, based on whether their concentration exceeds DEEP's regulatory groundwater protection criterion. The act requires notification when a TEP or property owner discovers a nonaqueous phase liquid (i.e., one that does not readily dissolve in water), regardless of whether it exceeds the criterion.

Under the act, the TEP must follow the same procedure for giving notice about other contaminants that exceed the criterion. He or she must notify his or her client and the property owner (if TEP can reasonably identify the owner) within 24 hours of the discovery. The owner has seven days to notify the commissioner and provide proof of providing the notification to the TEP's client. If the owner fails to do this, the client must notify the commissioner.

Existing law imposes notification requirements on property owners when they become aware of contamination exceeding the criterion. An owner must verbally notify the commissioner within one business day after discovering the contamination and again, in writing, within five days after becoming aware of the contamination. The act also imposes this notification requirement on owners when they become aware of a nonaqueous phase liquid.

The act also imposes an investigation requirement on a property owner when he or she finds out, from the TEP or through other means, about contamination exceeding the criterion or the presence of nonaqueous phase liquids. Within 30 days after becoming aware of the contamination, he or she must determine if there are other wells within 500 feet of the polluted well. The owner must do this by (1) determining if there are people and organisms near the contaminated well that are particularly sensitive to the contamination (i.e., receptor survey) and (2) analyzing water samples from wells on adjacent property within 500 feet of the polluted well, if the owner of the contaminated property can access them. The owner must report the finding to the commissioner and propose further steps for identifying the contaminants and eliminating exposure to them on a continuing basis.

*Contamination below Groundwater Protection Criterion.* The act also changes the notification requirements for contaminants below the groundwater protection criterion. By law, the TEP must notify his client and the property owner about the contamination

within seven days after discovering it. The owner must notify the commissioner about the contamination after learning about it from the TEP or on his or her own. The act extends the owner's deadline for notifying the commissioner from seven to 30 days.

The act imposes a similar requirement on owners when they learn about a concentration of contaminants below their groundwater protection criterion or a substance being investigated and remediated on the property. The owner must sample the well within 30 days after learning about the contamination, but must report the results to the commissioner only if he or she learned about the contamination from a TEP. In this case, the owner must submit the report to the commissioner within 30 days of the TEP's notice and include proposals for identifying the contaminants and eliminating exposure to them on a continuing basis. If the sample shows a concentration above the applicable groundwater protection criterion, the owner must follow the procedures outlined above for reporting contamination above that criterion.

### *Groundwater*

The act (1) reduces the thresholds triggering the notification requirements for contaminated groundwater near a residential or industrial or commercial building and (2) expands the area where the threshold applies. Under prior law, TEPs had to report if the contaminated groundwater was (1) beneath a residential building or (2) within 15 feet beneath an industrial or commercial building. Under the act, TEPs must report contamination anywhere within 15 feet of these buildings in any direction. But the act also reduces the reporting threshold from 30 to 10 times DEEP's regulatory volatilization criterion.

The act makes a parallel change regarding the reporting thresholds for owners who discover such contamination. But it also exempts them from reporting on contamination affecting:

1. occupied commercial or industrial buildings where federally regulated volatile organic compounds are being used and
2. unoccupied buildings until they are occupied, unless the concentration of contaminants subsequently falls below the applicable threshold.

The act exempts reporting when the contaminant concentration is below 10 times the volatilization criterion and makes conforming technical changes.

It also lowers the notification threshold for owners reporting groundwater contaminating indoor air from concentrations at or above 30 times the volatilization criterion to concentrations at or above 10 times the criterion.

The act continues to require reporting of contaminated soil vapor beneath residential and commercial or industrial buildings, but lowers the triggering threshold from concentrations at or above 30 times the applicable volatilization criterion to concentrations at or above 10 times the criterion. Existing law exempts reporting on groundwater contamination when:

1. the volatilization criterion for the affected land use is 50,000 parts per billion and
2. a monitoring program sampling the indoor air immediately over the contaminated groundwater is started within 30 days after the contamination's discovery.

Lastly, the act requires owners who must notify the commissioner about groundwater contamination to submit plans to mitigate exposure to the contamination or permanently abate it. These owners must do this within 30 days after becoming aware of the contamination.

#### *Contaminated Groundwater Plume*

The law imposes notification requirements when a contaminated groundwater flows up gradient within 500 feet of a private or public drinking well (i.e., upgradient direction). As with other types of contamination, TEPs must report this contamination to their clients and the affected property owners within seven days after discovering the contamination. The act also requires TEPs to notify these parties when they discover a contaminated groundwater flow within 200 feet of a public or private drinking well in any direction.

The act extends, from seven to 30 days after becoming aware of the contaminated groundwater, the deadline by which affected property owners must notify the commissioner in writing about the contamination. The act also gives these owners 30 days to identify any water supply wells within 500 feet of the contaminated groundwater and determine how it could affect humans and other organisms. An owner must seek access to those wells on adjacent property and, if they gain access, obtain and analyze water samples.

The owner must include a report on his or her findings with the notice to the commissioner. The report must include any necessary proposals to identify and eliminate exposure to the contaminants on an ongoing basis.

#### *Ground Surface*

The law requires TEPs to notify their clients and affected property owners when they discover contaminated soil on commercial or industrial property within two feet of the ground surface. Under prior law, TEPs had to provide this notice if the concentration

exceeded 30 times the residential or industrial and commercial direct exposure criterion, as applicable.

The act reduces the threshold to concentrations at or above 15 times the industrial and commercial direct exposure criterion for specified metals and other substances found on such property located within 300 feet of a residence, school, park, playground, or daycare facility. The substances are antimony, arsenic, barium, beryllium, cadmium, chromium, copper, cyanide, lead, mercury, nickel, selenium, silver, thallium, vanadium, zinc and polychlorinated biphenyls, but not arsenic or lead used in lawful pesticide applications. The act maintains the current threshold if the contaminated area is fenced off from the public or covered with pavement maintained in such a way as to keep the area covered. It also reduces the threshold for contamination found on residential property, from concentrations at or above 30 times the residential direct exposure criterion for all regulated concentrations to at or above 15 times that criterion.

By law, property owners must notify the commissioner about the contamination within 90 days after they become aware of it, unless certain conditions apply. The act expands those conditions. Under existing law, owners do not have to notify him if the soil is inaccessible, being remediated, or being treated and disposed as the law and regulations require. The act additionally exempts owners from providing notice of lead contamination on residential property being abated under a local health department lead abatement program.

The act allows some of these exempted owners to obtain a certificate of completion from DEEP if they voluntarily notified the commissioner about the contamination, which they may do at any time. The certificate is available if an owner remediates the soil according to DEEP's regulatory standards or treats or disposes of the soil exceeding the applicable criterion according to all applicable laws and regulations. DEEP must wait 90 days before posting the owner's notice on its website.

Owners who must notify the commissioner within 90 days after learning about the contamination must also do other things within that timeframe. At a minimum, they must determine the extent to which the contamination exceeds the applicable criterion and prevent exposure to the soil. They must also report on the evaluation and prevention measures they took and recommend other necessary actions, including maintaining and monitoring interim controls preventing exposure to contamination exceeding the applicable criterion. They must submit the report with the notification.

### *Surface Water*

The act requires TEPs to notify their clients and the affected property owners when they discover nonaqueous phase liquid-contaminated groundwater discharging into surface water. The TEPs must do this within seven days after discovering the contamination. The law already requires them to provide notice when a contaminant's concentration exceeds:

1. 10 times the acute aquatic life criterion for that substance or
2. a threshold determined by multiplying that criterion by a site-specific dilution factor, which must be calculated according to DEEP regulations.

By law, property owners must notify the commissioner about the contamination unless it was already reported to him at these levels within the preceding year. The act also exempts them from reporting if the contamination's physical state was reported to the commissioner within the preceding year.

The act requires property owners to notify the commissioner about contamination caused by a nonaqueous phase liquid unless it was already reported to him as the law and regulations require. An owner must report twice—verbally, within one business day after becoming aware of the contamination and in writing, within 30 days after becoming aware of the contamination.

The act pushes back the deadline for reporting other contaminants, from seven to 30 days after becoming aware of the contamination. Lastly, it requires owners subject to the 30-day reporting deadline to prepare monitoring, abatement, or mitigation plans.

### *General Administrative Requirements*

The act makes several changes in the rules for preparing, submitting, and distributing the soil and water contamination notices and reports. It requires property owners to submit contamination notices to DEEP's Remediation Division instead of the Water Management Bureau and allows the commissioner to provide any information he deems appropriate in his acknowledgement of these notices. It also gives owners more options for documenting the property's environmental status, including abatement or mitigation that already occurred.

The act also eliminates the requirement that the acknowledgements inform owners that they have up to 90 days to submit a remediation or abatement plan. It instead details the information owners must provide when they submit the plans and documents discussed above. In doing so, it distinguishes between mitigation, remediation, and abatement plans. Mitigation plans must describe how the contamination will be monitored

and controlled to minimize exposure, remediation plans describe how the contamination or the contaminated conditions will be cleaned up, and abatement plans must describe how the contamination or contaminated condition will be reduced.

The act also specifies the contents of the documents owners must submit confirming that mitigation or abatement occurred. Documents confirming mitigation must show (1) how the contaminants or the contaminated condition are being mitigated, (2) that no pathways from the contamination have been left exposed, and (3) how the mitigation measures will be maintained. Documentations confirming abatement must show how the contamination or contaminated condition was reduced. The act specifies that owners may submit these plans and documents with the required notices.

Lastly, the act eliminates several parties to whom the commissioner must forward copies of the contamination notices he receives. Under prior law, he had to forward them to:

1. the chief elected official of the affected municipality;
2. the state senator and representative in whose district the contaminated property is located;
3. the labor commissioner if the Labor Department's Division of Occupational Safety and Health has jurisdiction over the employers, employees, and facilities on the affected property;
4. employee representatives requesting such copies; and
5. federal Occupational Health and Safety Administration.

The act instead requires the commissioner to send copies to the affected municipality's chief elected official and the local or regional health director. It also allows him to electronically forward copies to these officials.

Lastly, the act requires the commissioner to remove a notice he posted on DEEP's website after the condition that triggered the posting was mitigated or permanently abated. By law, the commissioner must maintain a list of such notices on the website.

EFFECTIVE DATE: July 1, 2015

### §§ 33-36 — NOTICE OF ACTIVITY AND USE LIMITATIONS

#### *Overview*

As an alternative to environmental land use restrictions (ELURs), the act allows property owners to execute and record a notice of activity and use limitations (NAUL) in municipal land records. Like ELURs, NAULs are legal instruments used to prohibit

activities that could increase the risk of people being exposed to contamination.

Property owners may execute and record ELURs in the land records for the same reasons as NAULs—to minimize human exposure to environmentally contaminated property—but the law allows them to execute and record ELURs for broader reasons. By law, property owners may execute and record an ELUR in the land records to (1) prevent contaminated property from being used for homes, schools, or other types of land use that could increase the risk of exposure or, like NAULs, (2) prohibit certain (unspecified) activities there.

NAULs differ from ELURs in several respects. By law, property owners cannot record an ELUR unless each person holding an interest in the property irrevocably subordinates their interest in it. Under the act, a property owner can record a NAUL without the interest holders agreeing to subordinate their interest, but must notify them before recording a NAUL.

Another difference between ELURs and NAULs concern the extent to which their provisions bind the owner and his or her successors or assigns (i.e., the party to whom the owner assigns his or her rights, interests, or title). By law, an ELUR's provisions are enforceable, regardless of whether the successors or assigns have a legal right to use or benefit from the land. The act does not impose this condition on NAULs.

Unlike ELURs, property owners may not use NAULs in conjunction with a covenant not to sue. Another difference concerns recording deadlines. By law, property owners must record an ELUR within seven days after its execution. The act imposes no deadline on recording NAULs. Lastly, foreclosures, by law, do not extinguish ELURs, while such actions, under the act, extinguish NAULs.

Although the act establishes NAULs as a different kind of land use control, some of the conditions and requirements that applied only to ELURs under prior law could tacitly apply to NAULs under the act. This appears to be the case because the act describes both instruments as “environmental use restrictions.” Under prior law, this term law applied only to ELURs. Consequently, if a statute uses the generic “environmental use restrictions” instead of ELUR or NAUL, the conditions and requirements that apply to ELURs may also apply to NAULs.

#### *Conditions for Using NAULs*

The act allows property owners to execute and record NAULs under mostly the same conditions that apply to executing and recording ELURs. Consequently, an owner may execute and record a NAUL if:

1. its restriction will effectively protect the public and the environment from the contamination;
2. the DEEP commissioner has adopted regulatory standards for remediating contamination; and
3. the commissioner or an LEP signed off on the NAUL, signifying that it is consistent with applicable laws and regulations.

The act's conditions for using NAULs differ from those for using ELURs in one respect. A property owner can execute and record an ELUR under a LEP's signature only if the property (1) is located in an area where DEEP classified the ground water as unsuitable for human consumption and (2) will be remediated under a DEEP voluntary program. The owner can execute and record a NAUL signed by the commissioner or a LEP regardless of the groundwater's classification.

#### *Authorized Purposes*

The act allows property owners to execute and record NAULs to prevent actions that could potentially disturb or disrupt steps being taken to remediate contamination. They may use NAULs to:

1. comply with regulatory criteria for minimizing exposure to contaminated groundwater or soil vapor on industrial or commercial property that cannot be used for residence (i.e., the property is zoned only for industrial or commercial uses and no holder of interest in the property, except the owner, has a right to use it for residential purposes);
2. prevent low concentrations of polluted but inaccessible soil from being disturbed (i.e., concentrations below 10 times the applicable direct exposure criteria);
3. prevent an engineering control used to eliminate exposure to highly contaminated soil from being disturbed (i.e., concentrations exceeding 10 times the applicable direct exposure criteria);
4. prevent the demolition of a building or structure that isolates contaminated soil if (a) its contamination level does not exceed 10 times the applicable direct exposure and the pollutant mobility criteria or (b) the total volume of the isolated soil that exceeds 10 times these criteria is less than or equal to 10 cubic yards; or
5. fulfill any regulatory purpose.

A NAUL cannot be used for any of these purposes in an area if a prior holder of interest in the property holds an interest (1) permitting an activity that interferes with the NAUL's purpose or (2) allowing intrusions into the contaminated soil.

The act allows the commissioner to adopt regulations governing NAULs. As with ELURs, the regulations may specify NAULs' form and contents, require fees and financial surety, impose monitoring and reporting requirements, and specify filing and release procedures.

#### *Notice Requirements*

Property owners must notify specified parties before recording a NAUL. At least 60 days before doing so, a property owner must give written notice to each person holding an interest in all or part of the property. The property owner must send the notice by certified mail, return receipt requested to these persons, including mortgagees, lessees, lienors, and encumbrancers. The notice must (1) identify the contamination, (2) indicate where on the property it is located, and (3) specify the limited activities and uses. Owners may record the NAUL without giving an interest holder 60-days notice if he or she waives this right in writing.

#### *Recording Requirements*

Owners may record only NAULs prepared on a DEEP-prescribed form. Each NAUL must reference the document the commissioner or the LEP used to approve the NAUL (i.e., decision document), and that document must be recorded with the NAUL. The decision document must be signed by the commissioner or signed and sealed by an LEP.

The decision document must specify:

1. why the NAUL is appropriate for achieving and maintaining DEEP remediation standards;
2. the activities and uses inconsistent with this purpose;
3. the permitted uses and activities;
4. the obligations and conditions necessary to achieve the NAUL's objectives; and
5. the nature and extent of the contamination the NAUL addresses, including a list of the contaminants and their concentrations and how they are distributed below and across the property.

#### *Compliance*

A NAUL takes effect once the property owner records it in the land record. At that point, it must be implemented and adhered to by the property owner, the owner's successors or assigns, interest holders, and any other person licensed to use or remediate the property. Similar provisions apply to ELURs.

#### *Transferring, Extinguishing, or Terminating NAULs*

The act specifies the (1) requirements for transferring property subject to a NAUL and (2) conditions under which it may be extinguished or terminated. A NAUL must be included in full or by reference in the documents transferring all or part of the property to another party, but it can still be enforced if it is not included in those documents. Transfer documents include deeds, easements, mortgages, leases, and occupancy agreements. The act's recording requirement applies to the property owner or lessee or any person who has the right to subdivide or sublease the property.

If a foreclosure, mortgage lien, or other encumbrance extinguishes a NAUL, the owner must remediate the contamination consistent with DEEP's standards. If the action is a foreclosure, the property owner must remediate the contamination within one year of the foreclosure, unless the commissioner agrees in writing to a different schedule. If the commissioner is not notified about the foreclosure, the owner must notify him in writing within 30 days after the foreclosure. The property owner must do so by certified mail, return receipt requested, providing his or her name, the property's address, and NAUL's identification.

Property owners may terminate a NAUL if they remediate the subject property according to DEEP's remediation standards and comply with DEEP's requirements for remediating the contamination.

#### *Enforcement*

The act allows NAULs to be enforced the same way as ELURs. As under the existing law governing ELURs, the attorney general and the commissioner can act to enforce NAULs. The attorney general must bring a civil action upon the commissioner's request, and the commissioner can issue cease and desist and other orders. When the commissioner starts an administrative or civil proceeding to enforce any order, any person may intervene as a matter of right.

As with ELURs, property owners and lessees subject to a NAUL are strictly liable for any violation of its limitations and jointly and severally liable for abating them. They are also liable for a civil penalty of up to \$25,000 for each offense, which is in addition to any injunctive or other equitable relief.

EFFECTIVE DATE: October 1, 2013

**PA 13-10**—sHB 6502

*Education Committee*

## AN ACT CONCERNING THE MEMBERSHIP OF THE PARAPROFESSIONAL ADVISORY COUNCIL

**SUMMARY:** This act alters the membership and duties of the Paraprofessional Advisory Council by (1) increasing the required number of paraprofessional members, (2) adding new members from specified groups, and (3) expanding the council's advisory role. By law, the council advises the education commissioner on paraprofessional training needs.

EFFECTIVE DATE: July 1, 2013

### MEMBERSHIP

Existing law requires the council's membership to consist of one representative from each paraprofessionals' union, of which there are five. In practice, however, the council has 17 members. The act requires the council's membership to consist of:

1. one representative, who is a paraprofessional, from each paraprofessionals' union;
2. one representative from each teachers' union;
3. two Regional Education Service Center representatives;
4. the most recent Connecticut Paraprofessional of the Year award recipient; and
5. one school administrator appointed by the Connecticut Federation of School Administrators.

### DUTIES

The act increases the frequency with which the council must advise the education commissioner and adds required topics. Under the act, the council must advise the commissioner at least quarterly, instead of annually. The act also expands the topics on which the council must advise the commissioner to include professional development, staffing strategies, and other relevant issues relating to paraprofessionals.

**PA 13-31**—SB 996

*Education Committee*

## AN ACT CONCERNING RECOMMENDATIONS BY THE LEGISLATIVE COMMISSIONERS FOR TECHNICAL REVISIONS TO THE EDUCATION STATUTES

**SUMMARY:** This act makes numerous technical changes in the education statutes.

EFFECTIVE DATE: Upon passage except (1) the charter school enrollment lottery section is effective July 1, 2013 and (2) the teacher tenure and termination section is effective July 1, 2014.

**PA 13-41**—sHB 6383

*Education Committee*

## AN ACT CONCERNING HIRING STANDARDS FOR ATHLETIC DIRECTORS

**SUMMARY:** This act (1) establishes in statute, with some changes, hiring standards for school and school district athletic directors that were in state regulations, (2) requires that all directors hired on or after October 1, 2013 meet the new standards, and (3) permits those hired before that date to continue in their current jobs even if they do not meet the new standards. It establishes duties for all school and school district athletic directors.

It also makes conforming changes.

EFFECTIVE DATE: October 1, 2013, except July 1, 2013 for the provisions regarding coach evaluations and regulations for coach qualifications.

### ATHLETIC DIRECTOR STANDARDS

The act defines "athletic director" as someone responsible for (1) administering the athletic program of a school or school district under a local or regional board of education and (2) supervising athletic coaches.

The act establishes two levels of athletic director qualifications, one for school director and one for school district director. Both standards apply to those hired on or after October 1, 2013 (see Table 1 below).

Table 1: Athletic Director Standards

| <i>Program Responsibility</i>       | <i>Prior Law (regulations)</i>                                                                                          | <i>The Act</i>                                                                                                                                                                                                            |
|-------------------------------------|-------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Individual School (non supervisory) | <ul style="list-style-type: none"> <li>SBE issued coaching permit</li> </ul>                                            | <ul style="list-style-type: none"> <li>SBE issued coaching permit, and either</li> <li>state educator's certificate or national athletic administrators association-issued certificate, as approved by the SDE</li> </ul> |
| Individual School (supervisory)     | <ul style="list-style-type: none"> <li>SBE issued coaching permit, and</li> <li>state educator's certificate</li> </ul> | <ul style="list-style-type: none"> <li>SBE issued coaching permit, and either</li> <li>state educator's certificate or national athletic administrators association-issued certificate, as approved by the SDE</li> </ul> |

| <i>Program Responsibility</i>                       | <i>Prior Law (regulations)</i>                                                                                                                                                              | <i>The Act</i>                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| School District                                     | <ul style="list-style-type: none"> <li>• SBE issued coaching permit, and</li> <li>• state educator's certificate with endorsement for intermediate administration or supervision</li> </ul> | <ul style="list-style-type: none"> <li>• SBE issued coaching permit, and either</li> <li>• state educator's certificate with endorsement for intermediate administration or supervision or a master's certificate from a national athletic administrators association, as approved by SDE</li> </ul> |
| Responsible for evaluation of state certified staff | <ul style="list-style-type: none"> <li>• SBE issued coaching permit, and</li> <li>• state educator's certificate with endorsement for intermediate administration or supervision</li> </ul> | <ul style="list-style-type: none"> <li>• same as under regulations</li> </ul>                                                                                                                                                                                                                        |

#### EXISTING ATHLETIC DIRECTORS

School or school district athletic directors hired before October 1, 2013, who do not meet the new standards can continue to serve in their current positions if they met the director qualifications stated in regulations at the time they were hired.

The act prevents any local or regional board of education from hiring a person “grandfathered” in at another district for its district, unless the person can meet the act’s standards.

#### DIRECTOR DUTIES

The act states an athletic director’s responsibilities, which apply whether the person directs a program for a school or a district. They include:

1. ensuring that each athletic coach in the athletic program holds a SBE-issued coaching permit;
2. supervising and evaluating athletic coaches, according to the act’s provisions;
3. supervising students participating in interscholastic athletics;
4. possessing knowledge and understanding of the governing authority for interscholastic athletics and the related rules and regulations;
5. administering and arranging the scheduling of and transportation to athletic activities and events;
6. administering and arranging the hiring of officials;
7. ensuring a safe and healthy environment for all athletic activities and events; and

8. any other duties relevant to the organization and administration of the athletic program for the school or school district.

The act also makes conforming changes to the law requiring coaches to be evaluated by their supervisors annually. It adds the requirement that each coach be given a copy of his or her evaluation.

#### REGULATIONS

The act also requires the SBE to adopt regulations fixing the qualifications for athletic coaches as the act defines.

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**PA 13-64—sSB 1002**  
*Education Committee*

#### AN ACT CONCERNING COMMUNITY SCHOOLS

**SUMMARY:** This act allows a local or regional board of education to establish a community school or schools to participate with community partners to provide various educational and social services to students, families, and community members. The act spells out the steps a board must complete in order to establish a community school, which include (1) conducting a school operations and instructional audit and a community needs audit, (2) conducting a community resource assessment, and (3) developing a community school plan.

The act requires boards that establish these schools to report to the state Department of Education (SDE) on the school’s progress. In turn, SDE must report to the Education Committee on community schools.

The act also adds community schools to the list of school turnaround options that can be used under the commissioner’s network of schools.

EFFECTIVE DATE: July 1, 2013

#### PROCESS TO ESTABLISH COMMUNITY SCHOOLS

On and after July 1, 2013, a local or regional board can establish a community school at a new or existing school.

Under the act a “community school” is a public school that participates in a coordinated, community-based effort with community partners to provide comprehensive educational, developmental, family, health, and wrap-around services to students, families, and community members.

Under the act, a “community partner” is a provider of at least one of the following services:

1. primary medical or dental care,
2. mental health treatment and services,
3. academic enrichment activities,
4. programs designed to improve student attendance,
5. youth development programs,
6. early childhood education,
7. parental involvement programs,
8. child care services,
9. programs that assist students who are truant or have been suspended or expelled,
10. youth and adult job training and career counseling services,
11. nutrition education,
12. adult education,
13. remedial education and enrichment activities,
14. legal services, or
15. any other appropriate services or programs.

#### *Required Steps*

Before opening a community school, a board of education must complete several steps. For an existing school, it must conduct a school operations and instructional audit pursuant to the audit required under the law creating the commissioner’s network of schools program (see BACKGROUND). For both new and existing schools the board must conduct a community needs audit to identify the academic, physical, social, emotional, health, mental health, and civic needs of students and their families that could impact student learning and academic achievement.

The board must also conduct a community resource assessment of potential resources, services, and opportunities available within or near the community that students, families, and community members may access and integrate into the community school.

The board must also develop, based on the community resource assessment results, a community school plan that addresses the specific needs identified in the school operations and instructional audit and community needs audit. The plan must coordinate, integrate, and enhance services for students, families, and community members to improve the academic achievement of students and increase family and community involvement in education.

#### REPORTING REQUIREMENTS

##### *Reports to SDE*

At the conclusion of each school year, any board that has established a community school must submit a report on each school to SDE, in a form and manner

SDE determines.

The report must:

1. evaluate the community school’s effectiveness in providing services to students, families, and community members, including whether the implementation of the plan has improved student achievement and increased family and community involvement in education;
2. measure the development and implementation of partnerships with community partners;
3. provide information on the degree of communication between schools and families, neighborhood safety, school climate, the degree of parental participation in school activities, student health, and student civic participation;
4. analyze, as appropriate, how student learning and academic achievement, graduation rates, attendance rates, school readiness, the number of suspensions and expulsions, and graduate enrollment in higher education institutions have been affected by the community school; and
5. provide any other information relevant to evaluating the community school.

##### *Reports to the General Assembly*

By January 1, 2015, the act requires the education commissioner to begin submitting annual reports on community schools to the Education Committee. The reports must evaluate the community schools operating during the prior school year and provide information on:

1. state and federal barriers to implementation and effective coordination of services at the community schools,
2. the extent of coordination between state agencies providing services at the schools, and
3. the efficiency and adequacy of local and state programs and policies with respect to student and family services provided at the schools.

#### COMMISSIONER’S NETWORK SCHOOL TURNAROUND MODELS

The act adds community schools to the list of school turnaround models that can be used under the commissioner’s network of schools.

Under the commissioner’s network, certain low-performing schools are selected to craft turnaround plans aimed at improving student performance. The state supplies additional funds to help implement a school’s turnaround plan, once the commissioner approves it.



The existing commissioner's network law provides a menu of turnaround school models for a school turnaround committee to choose from, including (1) CommPACT schools; (2) a social development model; (3) institution of higher education- or regional education service center-administered schools; and (4) a school reorganization model that includes such mandatory items as block scheduling for math and reading.

## BACKGROUND

### *Operations and Instructional Audit*

By law, the operations and instructional audit required under the commissioner's network of schools must be conducted pursuant to SDE guidelines and determine the extent to which the school:

1. has established a strong family and community connection;
2. has a positive environment;
3. has effective leadership, teachers, and support staff;
4. uses time effectively;
5. has a curriculum and instructional program that is rigorous and based on student needs and research; and
6. uses evidence for continuous improvement and informed decision-making.

The audit must be informed by an inventory of before- and after- school programs, school-based health centers, or family resource centers, the number of teachers employed and the number who have left in each of the previous three school years, the school's curricula, the number of school psychologists and social workers, and a number of other items.

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**PA 13-108**—sHB 6358

*Education Committee*

## **AN ACT UNLEASHING INNOVATION IN CONNECTICUT SCHOOLS**

**SUMMARY:** This act:

1. allows high school students to earn academic credits using mastery-based standards, instead of traditional coursework, based on guidelines established by the State Board of Education (SBE);
2. establishes an eight-member task force to study education mandate relief for high-performing school districts;
3. eliminates an annual interdistrict meeting requirement related to the Open Choice attendance program; and

4. requires the State Department of Education (SDE) to study issues relating to local partnerships for advancing the teaching profession and submit the results and recommendations to the Education Committee by June 30, 2015.

EFFECTIVE DATE: July 1, 2013, except for the task force and local partnership study provisions, which are effective upon passage.

### § 1 — MASTERY-BASED ACADEMIC CREDITS

The act creates an additional, non-traditional method for high school students to earn academic credits towards graduation by demonstrating mastery based on competency and performance standards, in accordance with guidelines adopted by SBE. Existing law allows students to earn credit nontraditionally by completing coursework (1) at an accredited institution of higher education or (2) online, in accordance with local or regional board of education policy. By law, local and regional boards of education have the discretion to determine eligible credits, as long as the credit curriculum matches course requirement subject matter.

### § 2 — OPEN CHOICE INTERDISTRICT ATTENDANCE PROGRAM

The act eliminates a requirement related to the Open Choice interdistrict attendance program. It removes the requirement that each regional education service center (RESC) organize an annual meeting of school district representatives to receive a count of available spaces for out-of-district students for the upcoming school year. RESCs must still provide an annual count of these open spaces to SDE by April 15, as required under prior law, but the act allows them to collect the numbers by any means they choose.

### § 4 — TASK FORCE TO STUDY MANDATE RELIEF

#### *Duties*

The act creates a task force to study education mandate relief for high-performing school districts, including (1) reviewing mandates in state statutes and regulations and recommending which ones may be waived for high-performing districts and (2) exploring how such districts can work with SDE to relieve other administrative mandates. In doing so, the task force may consult with the governor's Red Tape Review and Removal Task Force.

The act defines a “high performing school district” as one that is among the:

1. 15 school districts with the highest absolute district performance index (DPI) for the 2012-13 school year (see BACKGROUND);
2. five school districts with the greatest rate of progress in DPI during the school years 2010-11 through 2012-13; or
3. five school districts with the greatest decrease in the achievement gap for students eligible for free or reduced price lunches, as measured by the DPI for such students during the school years 2010-11 through 2012-13.

#### *Membership*

Task force members are appointed by legislative leaders as follows:

1. two each by the House speaker and Senate president pro tempore and one each by the House and Senate majority and Senate minority leaders, each of whom may be a legislator and
2. one superintendent of a high-performing school district, appointed by the House minority leader.

Appointing authorities must make their appointments by July 6, 2013 and fill any vacancies. The House speaker and Senate president pro tempore must select the chairpersons from among the members, and the chairpersons must schedule the first meeting by August 5, 2013.

#### *Report and Termination*

The task force must report its findings and recommendations to the Education Committee by October 1, 2013. It terminates on the date it submits the report or on October 1, 2013, whichever is later.

### BACKGROUND

#### *DPI*

A school district’s DPI is its students’ weighted performance on the statewide mastery tests in (1) reading, writing, and mathematics in grades three through eight and 10 and (2) science in grades five, eight, and 10.

### **PA 13-122—sHB 6624**

*Education Committee*

*Finance, Revenue and Bonding Committee*

### **AN ACT CONCERNING MINOR REVISIONS TO THE EDUCATION STATUTES**

**SUMMARY:** This act makes numerous changes to the education statutes. Specifically, it:

1. requires interdistrict magnet school operators to annually report aggregate as well as individual school financial audits to the education commissioner;
2. requires exclusive use of a “state-assigned student identifier” to track official student documents;
3. eliminates indemnification eligibility for teacher mentors and assessors offered by employing boards of education under prior law;
4. broadens the scope of services that marital and family therapists must offer while employed by local or regional boards of education;
5. exempts certain teacher records kept by the State Department of Education (SDE) from public access;
6. changes the procedure for establishing tuition rates for vocational apprenticeship programs;
7. expands the validity of the elementary education teaching certificate for kindergarten instruction;
8. requires SDE to study alternative school programs;
9. expands eligibility for alternative route to certification (ARC) programs for school administrators;
10. allows schools to apply for a school security infrastructure competitive grant for expenses incurred on or after January 1, 2013, rather than April 4, 2013;
11. exempts a person who holds an out-of-state teacher certification from the Connecticut competency and subject matter exams, if the person has completed at least three school years of service (30 months) in the sought-after endorsement area in another state’s public or private school during the previous 10 years; and
12. allows local or regional boards of education to award a diploma to those who withdrew from high school to work in a job that helped the war effort in World War II.

The act also makes several technical and conforming changes.

EFFECTIVE DATE: Various (see below), with technical and conforming changes effective upon passage.

#### §§ 1-2 — MAGNET SCHOOL FINANCIAL AUDITS

The act specifies that interdistrict magnet school operators, rather than the schools themselves, must annually give the education commissioner certain financial audits. Additionally, the act requires operators to report two types of audits, rather than just one. The first type of audit is for each individual magnet school, as required under existing law, by its operator. The second type is an aggregate audit combining all magnet schools run by the operator. By law, a magnet school operator may be: (1) a local or regional board of education; (2) a regional education service center (RESC); (3) multiple school districts in a cooperative agreement; or (4) the Board of Trustees of the Community Technical Colleges, on behalf of Quinebaug Valley Community College and Goodwin College.

The act also makes related changes in provisions that adjust magnet school grant payouts based upon annual financial audits. It requires SDE to adjust the final grant payment to a magnet operator in a fiscal year based upon the aggregate financial audit submitted by the operator, rather than the audit submitted by individual magnet schools.

EFFECTIVE DATE: July 1, 2013

#### §§ 3-4 — USE OF STUDENT IDENTIFIERS

The act (1) requires that a student's state-assigned identifier be used for tracking purposes on official school documents, as well as during matriculation at in-state higher education institutions and (2) eliminates a school district's option to use a district-provided identifier.

##### *Official Student Documents*

The act requires all local and regional boards of education to include a student's state-assigned student identifier on all official student documents, rather than only on transcripts as required under prior law. Under the act, "official student documents" include (1) transcripts, (2) report cards, (3) attendance records, (4) disciplinary reports, and (5) student withdrawal forms.

##### *Post-High School Tracking*

Prior law required the Board of Regents for Higher Education (BOR) to require state-funded Connecticut colleges and universities to track the state-assigned or

district-provided student identifiers of all in-state students until they graduated or ended their enrollment. The act eliminates (1) BOR's role and (2) the requirement that the colleges and universities track students with district-provided identifiers. Thus, it requires the colleges and universities to track students with state-assigned identifiers.

EFFECTIVE DATE: July 1, 2013

#### § 6 — TEACHER INDEMNIFICATION

The act removes teacher mentors and assessors from the class of employees eligible to receive indemnification under prior law from their respective boards of education. Such indemnification covers fees and costs relating to legal claims, demands, suits, or judgments. Claims eligible for indemnification must be related to negligence or civil rights and must arise while the employee is acting within the scope of employment.

EFFECTIVE DATE: Upon passage

#### § 8 — MARITAL AND FAMILY THERAPISTS

The act requires marital and family therapists employed by local or regional boards of education to provide services to students, families, and students' parents or guardians. It requires the State Board of Education (SBE) to adopt implementing regulations by July 1, 2014.

EFFECTIVE DATE: July 1, 2013

#### §§ 9 & 13 — NONDISCLOSURE OF TEACHER PERFORMANCE RECORDS

##### *§ 9 — Records Kept by SDE in the State Longitudinal Data System*

Under the act, records of individual teacher performance and evaluation kept by SDE in the state longitudinal data system are not public records and are exempt from disclosure under the Freedom of Information Act (FOIA), unless a teacher consents in writing to have a local or regional board of education release them. This change has no legal effect, since existing law does not require SDE to develop a state longitudinal data system. (PA 13-247, § 389, deletes this provision.)

##### *§ 13 — Records Kept by SDE in General*

The act establishes that records kept by SDE about teacher performance and evaluations are not public records and are exempt from disclosure under FOIA, unless a teacher consents to their release in writing. It also explicitly establishes that any records kept by SDE about teacher misconduct are public records that may be disclosed without consent. Under existing law, such

records kept by local and regional boards of education are already subject to these provisions.

EFFECTIVE DATE: Upon passage, except the provision regarding the state longitudinal data system is effective July 1, 2013.

#### § 10 — VOCATIONAL EDUCATION EXTENSION FUND

The act requires the technical high school system board, rather than SBE, to set tuition fees for students in preparatory and supplemental programs, including apprenticeship programs, established under the Vocational Education Extension Fund. Established by SBE, this fund contains a vocational education extension account, which must be used to (1) operate preparatory and supplemental programs and apprenticeships and (2) buy necessary materials and equipment.

Also, the act eliminates the \$100 fee ceiling for enrollment in a single apprenticeship program or course, thus allowing the board to charge any tuition fee it chooses.

EFFECTIVE DATE: July 1, 2013

#### § 11 — ELEMENTARY EDUCATION CERTIFICATION ENDORSEMENT

The act allows individuals who complete an elementary education teacher preparation program before June 30, 2017 to become certified to teach kindergarten, in addition to grades one through six. Under prior law, any elementary education certificate issued prior to July 1, 2013 was valid for grades kindergarten through six; any issued after that date was valid only for grades one through six. Prior law also granted an exception for certain individuals certified between July 1, 2013 and July 1, 2017: those who had been admitted to a teacher preparation program for elementary education certification before the fall 2012 semester and completed the program by June 30, 2017 could use the certificate to teach kindergarten. The act broadens this exception to include individuals who are admitted to and successfully complete such program at any time before June 30, 2017, regardless of enrollment date.

EFFECTIVE DATE: Upon passage

#### § 12 — ALTERNATIVE SCHOOL PROGRAM STUDY

The act requires SDE to study all alternative school programs offered by local and regional boards of education and report to the Education Committee by February 1, 2014.

Each board of education that offers an alternative school program, including the following, must give SDE all relevant information for the study:

1. alternative schools offered by boards for students age 19 and older who lack credits for graduation before age 21;
2. alternative educational opportunities offered by youth service bureaus;
3. alternative educational opportunities in adult education during a period of expulsion;
4. alternative educational opportunities offered by boards for students under age 16 during a period of expulsion, or for students between ages 16 and 18 who wish to continue their education during a period of first-time expulsion;
5. alternative programs for students having difficulty succeeding in traditional education programs;
6. alternative schools for students to develop career awareness and orientation through exploration of career interests; and
7. alternative schools that educate struggling, at-risk students separately from students in the general education program.

SDE's study must:

1. examine the alternative school programs' enrollment and discharge criteria; enrollment data by gender, race, and ethnicity; curriculum; length of school day and year; attendance, truancy, and graduation rates; and academic performance;
2. evaluate each program's effectiveness in meeting students' needs; and
3. determine the degree of compliance with statutory requirements for alternative scheduling of school sessions, length of school year, and curriculum.

When SDE reports the study findings to the Education Committee, it must include recommendations for legislation on topics including (1) defining "alternative school program," (2) enrollment requirements, (3) length of school day and year, (4) curriculum requirements, (5) graduation requirements, and (6) continuous evaluation and oversight of alternative school programs.

EFFECTIVE DATE: Upon passage

#### § 14 — ARC PROGRAMS FOR SCHOOL ADMINISTRATORS

The act requires any SBE-approved ARC program for school administrators to admit any person who:

1. provided service to a local or regional board of education in a supervisory or managerial role for at least four school years (40 months),

2. held professional educator certification for at least one school year out of the four (10 months),
3. holds a bachelor's degree from a college or university (a) accredited by BOR or SBE or (b) regionally accredited, and
4. produces a performance-based recommendation from his or her immediate supervisor or district administrator.

EFFECTIVE DATE: Upon passage

#### § 15 — SCHOOL SECURITY INFRASTRUCTURE GRANTS

By law, the departments of Emergency Services and Public Protection, SDE, and Construction Services must jointly administer a competitive school security infrastructure grant program. The act allows the grant program to reimburse a town for certain safety expenses incurred by its board of education on or after January 1, 2013, rather than on or after April 4, 2013 as required by PA 13-3. The grant program invites boards of education to apply, on behalf of their towns, for reimbursement of expenses related to development or improvement of a school's security infrastructure based upon a building assessment and either (1) school personnel training in the use of the infrastructure or (2) the purchase of portable entrance security devices, such as screening machines or wands.

EFFECTIVE DATE: Upon passage

#### § 16 — TESTING WAIVER FOR CERTIFIED OUT-OF-STATE PUPIL PERSONNEL

The act allows SDE to waive completion of the competency and subject matter exams for a person seeking Connecticut educator certification if the person (1) holds out-of-state certification in the same subject or endorsement area that is at least equivalent to a Connecticut initial educator certificate and (2) has completed at least three years of service in the endorsement area in the past 10 years at an SBE-approved public or private out-of-state school.

Under existing law, a person who is certified out-of-state is already eligible for test waiver (1) upon completing at least three years of teaching experience in the same endorsement area during the previous 10 years in an SBE-approved public or private out-of-state school or (2) if he or she holds a master's degree or higher in the subject area for the sought-after Connecticut certification.

EFFECTIVE DATE: July 1, 2013

#### § 17 — HONORARY HIGH SCHOOL DIPLOMAS

The act allows local or regional boards of education to award a diploma to any person who withdrew from

high school between December 7, 1941 and December 31, 1946 to work in a job to help the war effort in World War II, as long as that person has been a Connecticut resident for at least 50 consecutive years.

EFFECTIVE DATE: July 1, 2013

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#### PA 13-188—SB 1099

*Education Committee*

*Public Safety and Security Committee*

#### AN ACT CONCERNING SCHOOL SAFETY

**SUMMARY:** This act (1) establishes requirements for municipalities and boards of education to hire active or retired police officers to provide armed security at public schools and (2) requires all armed school security to be active or retired police officers.

EFFECTIVE DATE: Upon passage

#### REQUIREMENTS FOR HIRING ARMED SECURITY AT PUBLIC SCHOOLS

Beginning with the 2013-14 school year, a municipality or local or regional board of education seeking to provide school security services that use firearms must only employ or enter into an agreement with a sworn member of a local police department or a retired state or local police officer (see BACKGROUND).

State law generally bans possession of firearms on school grounds except under certain circumstances, one of which is when a person possesses the firearm under an agreement between school officials and the person or his or her employer. The act applies its requirements to these agreements, thus narrowing who can possess firearms on school grounds under these agreements to active or retired police officers.

#### RETIRED OFFICERS

The act defines a retired police officer as a sworn member who retired or separated in good standing from:

1. an organized local police department and was certified by the Police Officer Standards and Training Council (POST) or
2. the State Police.

The act permits a municipality or board of education to employ or enter into an agreement with a retired police officer to provide security in a public school if the retired officer is a qualified retired law enforcement officer, as defined in federal law (18 USC § 926C, as amended). The federal definition means the officer, among other requirements, (1) separated from service in good standing, (2) was authorized to make arrests before separation, (3) met the active duty

qualification in firearms training within the last 12 months on the job, and (4) has not been found unqualified due to mental health reasons by a qualified medical professional employed by the officer's agency.

Under the act, the retired officers must (1) receive annual POST school security training according to state law, which includes drug detection and gang identification, and (2) successfully complete annual firearms training provided by a certified firearms instructor who meets or exceeds the POST standards or the federal qualified retired law enforcement officer standards. Under the act, these retired police officers are exempt from the licensing requirements for private security officers.

## BACKGROUND

### *Firearm*

As defined in CGS § 53a-3, a "firearm" means any sawed-off shotgun, machine gun, rifle, shotgun, pistol, revolver or other weapon, loaded or unloaded, from which a shot can be discharged.

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## PA 13-193—HB 6384

*Education Committee*

*Appropriations Committee*

## AN ACT CONCERNING THE DISPROPORTIONATE OR INAPPROPRIATE IDENTIFICATION OF ENGLISH LANGUAGE LEARNERS AS REQUIRING SPECIAL EDUCATION

**SUMMARY:** By law, when the State Department of Education (SDE) informs a local or regional board of education that it disproportionately and inappropriately identifies minority students as needing special education due to a reading deficiency, the board must annually report to SDE on how it is reducing the misidentifications. Then, SDE must study these reduction plans to determine whether a correlation exists between improvements in teacher training for reading instruction and a reduction in misidentified students.

This act extends these reporting and study requirements to situations where SDE informs a board that it is misidentifying students who are English language learners as needing special education due to a reading deficiency. It also defines "English language learners" as those students reported as English language learners by their local or regional school board to SDE.

EFFECTIVE DATE: July 1, 2013

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## PA 13-206—HB 6622

*Education Committee*

## AN ACT CONCERNING DISTRICT PARTNERSHIPS

**SUMMARY:** Beginning in the 2013 school year, this act allows a school district designated as an alliance district to mutually agree with a charter school within the district to use the charter school's students' academic achievement scores as part of the district's overall scores. Under prior law, this was permitted as a pilot program for the Bridgeport, Hartford, and New Haven school districts that was scheduled to expire on June 30, 2013. By law, unchanged by the act, the State Board of Education (SBE) must approve these agreements.

The act expands the type of charter school that can enter into these agreements to include local charters. By law, state charters, which are granted by SBE, are already permitted. Local charters may be granted by local boards of education; there are none currently in Connecticut.

The act also changes the measure of academic achievement from the prior law's "adequate yearly progress and academic performance" to the "calculation of the district performance index" (DPI). DPI is the method of measuring academic performance using a district's standardized test scores. By law, DPI is used to determine which 30 districts are designated as the lowest performing districts. Alliance districts receive additional state assistance because they are low performing. The act specifies that the State Department of Education (SDE) calculates the DPI.

The act also extends, from October 1, 2013 to October 1, 2014, the deadline for SDE to report to the Education Committee on DPI scores reported under the act.

EFFECTIVE DATE: July 1, 2013

## BACKGROUND

### *District Performance Index*

A school district's DPI is its students' weighted performance on the statewide mastery tests in reading, writing, and mathematics given in grades three through eight and 10, and science given in grades five, eight, and 10. The index is calculated by:

1. weighting student scores in each of these subjects as follows: zero for below basic (the lowest score), 25% for basic, 50% for proficient, 75% for goal, and 100% for advanced;
2. adding up the weighted student scores for each subject;

3. multiplying the aggregate student results in each subject by 30% for mathematics, reading, and writing and 10% for science; and
4. adding up the weighted subject scores.

The weightings produce the lowest indexes for districts with the lowest test scores.

#### *Alliance Districts*

An alliance district is a town whose school district is among those with the lowest academic performance as measured by DPI. SDE does not release an alliance district's increase in Education Cost Sharing (ECS) aid unless the district agrees to take certain steps to improve student performance. These districts also receive a greater increase in ECS aid than non-Alliance districts.

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**PA 13-207**—sHB 6623

*Education Committee*

### **AN ACT CONCERNING STUDENT ASSESSMENTS**

**SUMMARY:** This act makes numerous changes in the education statutes that affect standardized testing. Specifically, it:

1. allows students to take their final mastery examinations in reading, writing, math, and science in either grade 10 or 11, rather than only in grade 10, beginning in the 2013-14 school year;
2. renames the "state-wide mastery examination" as the "mastery examination," but retains the "state-wide" name for the science test;
3. requires the State Department of Education (SDE) to (a) approve, as well as provide and supervise, administration of all mastery exams and (b) conduct a study on the use of standardized testing in public schools;
4. allows endowed or incorporated high schools to base promotion or graduation on a student achieving a satisfactory mastery exam score, even though state law does not require such schools to administer the exams;
5. extends to April 1, 2014 the deadline for the education commissioner to develop and implement an assessment tool for measuring a child's kindergarten readiness (prior law required that this be done within available appropriations by October 1, 2007); and
6. eliminates the statutory requirement that mastery testing conform with the testing requirements of the federal No Child Left Behind Act (NCLB).

The state received an NCLB waiver in May 2012 from the federal government and must now comply with its provisions instead. Elsewhere state law requires a statewide performance plan that uses mastery scores to comply with federal requirements.

The act also makes many technical and conforming changes.

EFFECTIVE DATE: July 1, 2013, except for the provision on the study of standardized testing, which takes effect upon passage.

### **STUDY OF STANDARDIZED TESTING**

The act requires SDE to conduct a study of standardized test use in public schools. The study topics must include (1) the fiscal, administrative, and educational impact of standardized tests, including the impacts on instructional time, curricula, professional flexibility, administrative time and focus, and school district budgets and (2) a review of standardized tests currently implemented and proposed in the state. SDE must submit the study and any recommendations to the Education Committee by July 1, 2014.

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**PA 13-243**—sSB 876

*Education Committee*

*Finance, Revenue and Bonding Committee*

### **AN ACT CONCERNING AUTHORIZATION OF STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS**

**SUMMARY:** This act authorizes \$510.1 million in state grant commitments to 27 local school construction projects. It also reauthorizes and increases grant commitments for (1) six previously authorized local projects whose cost and scope have changed and (2) a previously authorized state technical high school system project.

Furthermore, the act approves various exemptions, waivers, and changes for either new grant authorizations or changes to previous authorizations for an additional state cost of \$250.7 million.

Under the school construction grant program, local districts are reimbursed by the state Department of Construction Services for eligible costs of a construction project. Each district's reimbursement rate is individually determined based on the district's ranking by wealth among all of the state's districts. Poorer districts are reimbursed at a higher rate than wealthier districts. The state sells general obligation bonds to raise the money for the grants.

EFFECTIVE DATE: Upon passage

## § 1 — SCHOOL CONSTRUCTION PROJECTS

### *New Authorizations*

Table 1 shows the 27 new school projects the act authorizes.

Table 1: New School Construction Projects Authorized

| <i>School District</i> | <i>School</i>                                      | <i>Project</i>                                        | <i>Estimated Project Costs</i> | <i>Estimated State Grant</i> | <i>State Reimbursement Percentage</i> |
|------------------------|----------------------------------------------------|-------------------------------------------------------|--------------------------------|------------------------------|---------------------------------------|
| CREC                   | Greater Hartford Academy of Arts Elementary Magnet | New construction/site purchase                        | \$49,673,596                   | \$39,738,877                 | 80%                                   |
| CREC                   | Greater Hartford Academy of Arts Middle Magnet     | New construction/site purchase                        | 74,614,104                     | 59,691,283                   | 80%                                   |
| CREC                   | Two Rivers Magnet High School                      | New construction/site purchase                        | 108,308,509                    | 86,646,807                   | 80%                                   |
| East Windsor           | Broad Brook Elementary                             | Extension & energy conservation                       | 3,770,000                      | 2,181,322                    | 57.9%                                 |
| Ellington              | Crystal Lake School                                | Extension & alteration/site purchase/roof replacement | 18,457,497                     | 10,744,109                   | 58.2%                                 |
| Ellington              | Windermere School                                  | Alteration                                            | 2,582,503                      | 1,503,275                    | 58.2%                                 |
| Greenwich              | Greenwich High School                              | Extension & alteration                                | 30,115,000                     | 6,023,000                    | 20%                                   |
| Hartford               | Weaver High School                                 | Alteration/roof replacement/ energy conservation      | 100,000,000                    | 80,000,000                   | 80%                                   |
| Milford                | East Shore Middle School                           | Extension & alteration                                | 18,950,000                     | 10,422,500                   | 55%                                   |
| Naugatuck              | Naugatuck High School                              | Extension & alteration/energy conservation            | 77,967,900                     | 58,475,925                   | 75%                                   |
| Naugatuck              | Central Administration                             | Extension & alteration                                | 3,032,100                      | 1,137,038                    | 37.5%                                 |
| Norwalk                | Rowayton School                                    | Extension & alteration                                | 7,695,260                      | 2,473,257                    | 32.1%                                 |
| Norwalk                | Naramake Elementary School                         | Extension & alteration                                | 4,139,284                      | 1,330,366                    | 32.1%                                 |
| Regional District 16   | Region 16 PK-5 Elementary School                   | New construction                                      | 36,609,000                     | 21,310,099                   | 58.2%                                 |
| Regional District 16   | Laurel Ledge School                                | Extension & alteration/roof replacement               | 7,746,000                      | 5,283,547                    | 68.2%                                 |
| Regional District 16   | Central Administration                             | Alteration                                            | 2,371,000                      | 808,630                      | 34.1%                                 |
| Regional District 18   | Mile Creek School                                  | Energy conservation                                   | 597,900                        | 209,265                      | 35%                                   |
| Regional District 6    | Wamogo Regional H.S. (Vo-Ag)                       | Equipment                                             | 61,740                         | 49,392                       | 80%                                   |
| Rocky Hill             | Rocky Hill High School                             | Extension & alteration/roof replacement               | 44,955,000                     | 19,910,570                   | 44.3%                                 |
| Southington            | Joseph A. DePaolo Middle School                    | Extension & alteration/site purchase/roof replacement | 45,000,000                     | 25,231,500                   | 56.1%                                 |
| Southington            | John F. Kennedy Middle School                      | Extension & alteration/site purchase/roof replacement | 45,000,000                     | 25,231,500                   | 56.1%                                 |



| <i>School District</i> | <i>School</i>               | <i>Project</i>                          | <i>Estimated Project Costs</i> | <i>Estimated State Grant</i> | <i>State Reimbursement Percentage</i> |
|------------------------|-----------------------------|-----------------------------------------|--------------------------------|------------------------------|---------------------------------------|
| Stamford               | Dolan School                | Energy conservation                     | 1,225,019                      | 354,398                      | 28.9%                                 |
| Stamford               | Davenport Ridge School      | Energy conservation                     | 1,000,000                      | 528,600                      | 52.9%                                 |
| Wallingford            | Mark T. Sheehan High School | Energy conservation                     | 174,135                        | 87,694                       | 50.4%                                 |
| Wallingford            | Lyman Hall High School      | Energy conservation                     | 131,135                        | 66,040                       | 50.4%                                 |
| Waterbury              | John F. Kennedy High School | Extension & alteration                  | 25,232,000                     | 12,706,835                   | 50.4%                                 |
| Wethersfield           | Wethersfield High School    | Extension & alteration/roof replacement | 74,816,617                     | 37,939,506                   | 50.7%                                 |

### *Reauthorizations*

The act also reauthorizes grants for seven previously authorized projects whose scope or cost have changed substantially (see Table 2).

Table 2: State and Local Projects for Reauthorization

| School District                                                                                         | School                                      | Project                        | Previous Grant Authorization | New Grant Authorization | Change in cost |
|---------------------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------|------------------------------|-------------------------|----------------|
| Brooklyn                                                                                                | Brooklyn Middle School                      | Extension & alteration         | \$1,250,690                  | \$1,519,221             | \$268,531      |
| Connecticut Technical High School System                                                                | Eli Whitney (Hamden)                        | Extension & alteration         | 98,000,000                   | 104,075,000             | 6,075,000      |
| CREC                                                                                                    | International Magnet for Global Citizenship | New construction/site purchase | 25,236,090                   | 30,002,425              | 4,766,335      |
| Eastford                                                                                                | Eastford Elementary School                  | Energy conservation            | 90,000                       | 245,563                 | 155,563        |
| Meriden                                                                                                 | Francis Maloney High School                 | Renovation & extension*        | 82,925,500                   | 82,925,500              | 0              |
| New Haven                                                                                               | East Rock Global Magnet (new)               | New construction               | 31,428,000                   | 38,499,300              | 7,071,300      |
| Stratford                                                                                               | Honeyspot House (Stratford Academy)         | New construction               | 7,815,924                    | 8,944,155               | 1,128,231      |
| *This project reauthorization is solely to change the scope of the project to include purchase of land. |                                             |                                |                              |                         |                |

## SCHOOL CONSTRUCTION NOT WITHSTANDINGS

The act exempts specified school construction projects from various statutory and regulatory requirements to allow them to qualify for state grants. These exemptions are referred to as “notwithstanding” provisions. Table 3 indicates the act section for each and summarizes each exemption and any applicable conditions.

Table 3: School Construction Notwithstanding

| § | School District/ Entity | Project                                                           | Exemption/Waiver or Other Change                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|---|-------------------------|-------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2 | New Haven               | Daniels School new construction                                   | Waives repayment of funds by allowing enrollment figure of 600                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2 | New Haven               | Cooperative Arts & Humanities High School new construction        | Waives repayment of funds by allowing enrollment figure of 650                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2 | New Haven               | Worthington Hooker alteration, extension & roof replacement       | Waives repayment of funds by allowing enrollment figure of 527                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 3 | Berlin                  | Berlin High School                                                | <ul style="list-style-type: none"> <li>extension and alteration project changed to renovation project</li> <li>allows greater square footage for maximum project size</li> <li>allows full rather than half the reimbursement percentage for a natatorium or auditorium</li> <li>permits town to enter into contract for or issue bonds that exceed the town's approved appropriation for the school project, but by no more than \$15 million provided town legislative body approves the additional appropriation by June 30, 2014</li> </ul> |
| 4 | West Haven              | Engineering and Science University Magnet School new construction | Makes off-site improvement costs not to exceed \$2.5 million reimbursable as eligible costs                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 5 | New Haven               | Common Ground High School extension and alteration                | Modifies an existing authorization by: <ul style="list-style-type: none"> <li>increasing project maximum cost from \$4 million to \$7,450,000,</li> <li>extending the application deadline by one year until June 30, 2014, and</li> <li>requiring the lease terms be approved by the construction services commissioner</li> </ul>                                                                                                                                                                                                             |
| 6 | Montville               | Leonard J. Tyl Middle School change orders                        | Waives the deadline to submit change orders for reimbursement as long as they are approved by Bureau of                                                                                                                                                                                                                                                                                                                                                                                                                                         |

| §  | School District/ Entity | Project                                                                                 | Exemption/Waiver or Other Change                                                                                                                                                                                                                                                                                                                        |
|----|-------------------------|-----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    |                         |                                                                                         | School Facilities                                                                                                                                                                                                                                                                                                                                       |
| 7  | Montville               | Murphy Elementary School change orders                                                  | Waives the deadline to submit change orders for reimbursement as long as they are approved by Bureau of School Facilities                                                                                                                                                                                                                               |
| 8  | Montville               | Oakdale Elementary School change orders                                                 | Waives the deadline to submit change orders for reimbursement as long as they are approved by Bureau of School Facilities                                                                                                                                                                                                                               |
| 9  | East Hartford           | East Hartford Middle School alteration                                                  | Makes project eligible for state aid provided cost does not exceed \$5,569,750, application is submitted by June 30, 2014, and is otherwise eligible                                                                                                                                                                                                    |
| 10 | Colchester              | William J. Johnston Middle School renovation and expansion                              | Requires education and construction services commissioners to give review and approval priority to school renovation and expansion project (i.e., treat as if it were on the 2014 school construction authorization list); waives local funding commitment requirement provided application with local funding commitment is filed by November 30, 2013 |
| 11 | Vernon                  | Center Road School alteration and energy conservation                                   | Waives repayment of funds by allowing enrollment figure of 497                                                                                                                                                                                                                                                                                          |
| 12 | Vernon                  | Lake Street School extension, alteration, and roof replacement                          | Waives repayment of funds by allowing enrollment figure of 306                                                                                                                                                                                                                                                                                          |
| 13 | Vernon                  | Skinner Road School alteration project                                                  | Waives repayment of funds by allowing enrollment figure of 375                                                                                                                                                                                                                                                                                          |
| 14 | Vernon                  | Rockville High School extension and alteration, code violation, and energy conservation | Permits town to use 261,967 square feet as maximum project footage with no penalty                                                                                                                                                                                                                                                                      |
| 15 | Wallingford             | Lyman Hall High School (Vo-Ag) new construction                                         | Waives deadline for submitting project change orders for reimbursement as long as they are approved by Bureau of School Facilities                                                                                                                                                                                                                      |
| 16 | Clinton                 | The Morgan School new construction and site acquisition                                 | Makes project eligible for state aid provided cost does not exceed \$64,750,000, application is submitted by June 30, 2014, and is otherwise eligible                                                                                                                                                                                                   |
| 17 | Region 19               | E O Smith High School outdoor athletic facilities                                       | Makes outdoor athletic facilities, including field lighting, eligible for reimbursement in full for the reasonable costs of the project not to exceed \$250,000, provided the town submits a completed application by June 30, 2014                                                                                                                     |
| 18 | West Haven              | West Haven High School renovation                                                       | <ul style="list-style-type: none"> <li>waives the two-year deadline to begin construction after legislative approval</li> <li>waives the requirement that renovation project be</li> </ul>                                                                                                                                                              |

| §  | School District/ Entity | Project                                                         | Exemption/Waiver or Other Change                                                                                                                                                                                                |
|----|-------------------------|-----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    |                         |                                                                 | comparable to a new facility by allowing exclusion of ice rink, natatorium, and outdoor athletic facilities from the renovation                                                                                                 |
| 19 | Enfield                 | Enfield High School extension, alteration, and roof replacement | Makes project eligible for state aid provided cost does not exceed \$103,316,775, application is submitted by June 30, 2014, and is otherwise eligible                                                                          |
| 20 | North Branford          | North Branford High School roof replacement                     | Waives requirement for public invitation to bid and that bid and specifications be approved and properly sealed before being sent out to bid, provided specifications are later approved by Department of Construction Services |
| 21 | North Branford          | North Branford Intermediate School extension and alteration     | Waives space standards for the purpose of state reimbursement for extension and alteration                                                                                                                                      |
| 22 | Eastford                | Eastford Elementary School energy conservation                  | Permits bid prior to plan approval, provided specifications are approved by Department of Construction Services                                                                                                                 |
| 23 | Granby                  | Kelly Lane School extension and alteration and roof replacement | Waives repayment of funds by allowing enrollment figure of 445                                                                                                                                                                  |
| 24 | Orange                  | Turkey Hill School alteration                                   | Makes project eligible for state aid provided cost does not exceed \$1,839,889, application is submitted by June 30, 2014, and is otherwise eligible                                                                            |
| 25 | Orange                  | Peck Place School alteration                                    | Makes project eligible for state aid provided cost does not exceed \$1,034,000, application is submitted by June 30, 2014, and is otherwise eligible                                                                            |
| 26 | Orange                  | Race Brook School alteration                                    | Makes project eligible for state aid provided cost does not exceed \$2,560,152, application is submitted by June 30, 2014, and is otherwise eligible                                                                            |
| 27 | Orange                  | Mary L. Tracy School alteration                                 | Makes project eligible for state aid provided cost does not exceed \$306,750, application is submitted by June 30, 2014, and is otherwise eligible                                                                              |
| 28 | New London              | C.B. Jennings new construction                                  | Waives deadline for submitting project change orders for reimbursement provided they are approved by Bureau of School Facilities                                                                                                |
| 29 | Norwich                 | Kelly Middle School extension and alteration                    | Permits town to use 133,034 square feet as maximum project footage with no penalty                                                                                                                                              |
| 30 | Goodwin College         | Pathways to Technology Magnet High School new construction      | Makes site acquisition costs eligible for reimbursement as part of new construction project                                                                                                                                     |

| §  | School District/ Entity | Project                                                                                                                                                                              | Exemption/Waiver or Other Change                                                                                                                                                                                                                    |
|----|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 30 | Goodwin College         | Pathways Academy of Design and Technology                                                                                                                                            | Makes architectural design costs eligible for reimbursement provided it does not exceed previously authorized amounts                                                                                                                               |
| 30 | Goodwin College         | New construction: <ul style="list-style-type: none"> <li>• Pathways Academy of Design and Technology</li> <li>• CT River Academy</li> <li>• Early Childhood Magnet School</li> </ul> | Reduces the existing authorization for Pathways Academy by \$3 million and increases the previously authorized grants for Connecticut River Academy and Early Childhood Magnet School by \$1.5 million each                                         |
| 31 | West Hartford           | Hall High School alterations                                                                                                                                                         | Makes alterations to locker rooms and restrooms eligible for reimbursement in full for the reasonable costs of the project not to exceed \$375,000, provided the town submits a completed application by June 30, 2014                              |
| 32 | West Hartford           | Conard High School alterations                                                                                                                                                       | Makes alterations to locker rooms and restrooms eligible for reimbursement in full for the reasonable costs of the project not to exceed \$375,000, provided the town submits a completed application by June 30, 2014                              |
| 33 | Waterbury               | Reed School new construction/site purchase                                                                                                                                           | Allows unexpended funds, including funds for site acquisition, to be used for site remediation provided it does not exceed the authorized project cost                                                                                              |
| 34 | New Haven               | Helene Grant School new construction                                                                                                                                                 | Makes project eligible for state aid provided cost does not exceed \$41,600,000, application is submitted by June 30, 2014, and is otherwise eligible                                                                                               |
| 35 | New Haven               | Central Administration Offices new construction                                                                                                                                      | Makes project eligible for state aid provided cost does not exceed \$1,400,000, application is submitted by June 30, 2014, and is otherwise eligible                                                                                                |
| 36 | New Haven               | New Haven Academy alteration                                                                                                                                                         | Makes project eligible for state aid provided cost does not exceed \$40,000,000, application is submitted by June 30, 2014, and is otherwise eligible                                                                                               |
| 37 | Fairfield               | Osborn Hill Elementary code violation                                                                                                                                                | Waives requirement for public invitation to bid and that bid and specifications be approved and properly sealed before being sent out to bid, provided specifications are later approved by Department of Construction Services                     |
| 38 | CREC                    | 10 magnet school new construction projects                                                                                                                                           | Allows reasonable costs of (1) short-term or temporary financing and (2) prorated salary and benefits of staff assigned to project management, subject to audit and only for time before certificate of occupancy, to be eligible for reimbursement |

| §  | School District/ Entity | Project                                                              | Exemption/Waiver or Other Change                                                                                                                                                                                                                                                  |
|----|-------------------------|----------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 39 | CREC                    | Medical Professions and Teacher Preparation Academy new construction | Waives the requirement that scope of project be determined at time of application to allow additional grades and expand curriculum                                                                                                                                                |
| 40 | Hartford                | Kinsella Magnet facility purchase, extension and alteration          | <ul style="list-style-type: none"> <li>Makes project eligible for state aid provided cost does not exceed \$30,000,000, application is submitted by June 30, 2014, and is otherwise eligible</li> <li>Allows project to receive 95% reimbursement rate rather than 80%</li> </ul> |

**PA 13-245**—sSB 1097  
Education Committee

## AN ACT CONCERNING REVISIONS TO THE EDUCATION REFORM ACT OF 2012

**SUMMARY:** This act makes a number of substantive and procedural changes to teacher evaluation provisions of the 2012 Education Reform Act (PA 12-116). Among other things, it:

1. requires the new teacher evaluation program for each school district to be adopted through mutual agreement between the local board of education and the local professional development and evaluation committee;
2. specifies the steps for adopting a program if the parties cannot reach agreement on one;
3. modifies the dates for completing evaluation training before teachers are evaluated under the new program; and
4. deletes a requirement that the State Board of Education (SBE) validate the evaluation guidelines after it receives the Neag report on the pilot and instead requires SBE to review and revise, if necessary, the guidelines and the model teacher evaluation program.

It makes other changes, including:

1. extending deadlines for new reading assessments, the intensive reading instruction program, the intensive reading strategy, and selection of low-performing elementary schools to participate in the intensive reading program;
2. requiring all kindergarten through third grade (K-3) reading teachers to take a survey, rather than a test, on reading instruction and for districts to use the survey results to provide professional development for individual teachers; and

3. modifying which schools get preference for selection in the education commissioner's network of schools, which is aimed at improving student achievement in low performing schools.

The act also makes technical and conforming changes.

EFFECTIVE DATE: Various, see below.

## §§ 1 & 7 — STATE BOARD OF EDUCATION APPROVAL OF NEW TEACHER EVALUATION PROGRAM

By law, the SBE, in consultation with the Performance Evaluation Advisory Council (PEAC), had to adopt guidelines for a model teacher evaluation and support program by July 1, 2012. The law requires the guidelines to provide (1) teacher ratings in four categories (exemplary, proficient, developing, and below standard); (2) a scoring system to determine the ratings; and (3) periodic evaluation training for teachers and administrators, among many other items. Teacher evaluation programs used by local school districts must be consistent with the state's model.

The act eliminates a requirement that the SBE validate the guidelines after (1) the completion of the teacher evaluation pilot program and (2) receipt of a study, required by law, of the pilot by UConn's Neag School of Education. Instead, it requires the SBE to review and revise, if necessary, the guidelines and the model teacher evaluation program after the pilot and study are complete. The act makes conforming changes to the Neag study.

### Implementation Plan & Evaluation Program Waivers

By law, school districts must generally implement the new evaluation program by September 1, 2013. The act permits school districts to phase in full implementation of new teacher evaluation and support programs during the 2013-14 and 2014-15 school years in accordance with the teacher evaluation implementation plan adopted by SBE in consultation with PEAC by July 1, 2013. (SBE adopted such a plan in February 2013.)

The act also allows the education commissioner to waive, for districts that request a waiver no later than July 1, 2013:

1. the requirement to implement the new evaluation by September 1, 2013 and develop the program through mutual agreement with the professional development and evaluation committee (see below) and
2. the implementation phase-in.

Under prior law, the SBE could grant a waiver to districts with evaluation programs already in place that the SBE deemed to substantially comply with the new teacher evaluation program required under law.

EFFECTIVE DATE: Upon passage

#### § 1 — LOCAL APPROVAL OF NEW EVALUATION PROGRAM

The act modifies the steps that a school district superintendent and local and regional school board must take to adopt and implement the new teacher evaluation program at the school district level.

Prior law required a board to develop the new evaluation program by September 1, 2013 that was consistent with (1) the SBE guidelines for the evaluation and support program and (2) the professional development plan developed by the district professional development committee. The act requires boards to adopt rather than develop the plan. It drops the requirement that the plan be consistent with the district professional development plan, and instead requires that the program be developed through mutual agreement with the district professional development committee by September 1, 2013 (see below for steps to be taken when there is no mutual agreement). The act changes the committee's name to the professional development and evaluation committee.

By law, superintendents of each local or regional board of education must annually evaluate each teacher. Under prior law, the evaluation had to be consistent with the SBE-adopted evaluation guidelines and other guidelines as may be established by mutual agreement between the board and the teachers union. The act instead requires the evaluations to be consistent with the plan the board must adopt, as specified above. The act requires these evaluations to begin with the 2013-14 school year and take place each following year.

EFFECTIVE DATE: Upon passage

#### §§ 1 & 2 — DISTRICT PROFESSIONAL DEVELOPMENT COMMITTEES

The act provides a multi-step process for situations where a board of education and the professional development and evaluation committee cannot agree on the new teacher evaluation program, with final authority resting with the board. By law, the district professional development committee is charged with developing, evaluating, and annually updating the professional development plan for teachers and other certified staff in a school district.

The act changes this committee's name to include teacher evaluation and requires the committee to participate in the development of the teacher evaluation and support program for the district. By law the

committee includes certified employees (teachers and other professionals), other district employees, and representatives of the teachers' union. The act specifies that the union representatives are chosen by the union.

The act requires the following steps if the board and committee cannot agree on the new evaluation program:

1. The parties must consider adopting by mutual agreement the SBE adopted model teacher evaluation and support program without any modifications.
2. If the two parties fail to agree on the SBE model, the board has the authority to adopt and implement a teacher evaluation program that it chooses as long as it is consistent with the evaluation guidelines SBE adopts under the act.

EFFECTIVE DATE: Upon passage

#### § 3 — PEAC

Under prior law, PEAC was responsible for helping the SBE develop and implement teacher evaluation guidelines. The act instead requires PEAC to help SBE develop guidelines for a model evaluation and support program. It adds the requirement that PEAC help SBE develop evaluation and support program implementation standards, as required by the act.

EFFECTIVE DATE: Upon passage

#### §§ 4-6 & 9 — CONFORMING CHANGES

These sections make conforming and technical changes.

EFFECTIVE DATE: July 1, 2014 for conforming changes affecting teacher tenure and upon passage for the other changes.

#### § 8 — EVALUATOR TRAINING BEFORE IMPLEMENTING EVALUATION

Under prior law, school boards had to provide training for all evaluators and orientation to all of their teachers on the evaluation program before implementing it, but no later than July 1, 2014. The act changes this deadline for the training and orientation to upon implementation of the new teacher evaluation program. It also requires that for each school year beginning with 2014-15, each local and regional board must (1) conduct the evaluator training and teacher evaluation orientation as described in law at least biennially, (2) conduct this training for all new evaluators before they conduct any evaluations, and (3) provide evaluation orientation to all new teachers before they are evaluated.

EFFECTIVE DATE: Upon passage

§ 10 — STATE DEPARTMENT OF EDUCATION (SDE) STUDY ON TEACHER TRAINING AND MISIDENTIFICATION OF STUDENTS FOR SPECIAL EDUCATION

By law, SDE must study the plans and strategies used by school districts to reduce disproportionately and inappropriately identifying minority students as requiring special education due to reading deficiencies. Prior law also required SDE to examine the correlation between improvements in teacher training in the science of reading and reducing misidentification of students requiring special education services. The act requires SDE to examine the “association” rather than the “correlation” between teacher training improvements and reduced misidentification.

EFFECTIVE DATE: July 1, 2013

§§ 11 & 12 — DATE CHANGES FOR READING INITIATIVES

The act extends several deadlines regarding new reading assessments, the intensive reading instruction program, intensive reading strategy, and selection of low-performing elementary schools to participate in the intensive reading program. Table 1 below presents the date changes.

Table 1: Date Changes for Reading Program Deadlines

| Act Section | Requirement                                                                                                                            | Prior Law                                    | Act                                          |
|-------------|----------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|----------------------------------------------|
| 11          | SDE must develop or approve new reading assessments for school boards to identify K-3 students who are below proficiency in reading    | 2013-14 school year                          | 2014-15 school year                          |
| 12          | Education commissioner must create an intensive reading instruction program for K-3 students                                           | 2012-13 school year                          | 2014-15 school year                          |
| 12          | Commissioner must select five low-performing elementary schools to participate in the intensive reading instruction program            | 2012-13 school year                          | 2014-15 school year                          |
| 12          | Commissioner must select five additional low-performing elementary schools to participate in the intensive reading instruction program | 2013-14 school year, and each following year | 2015-16 school year, and each following year |
| 12          | SDE must develop an intensive reading instruction strategy for use by the low-performing schools the commissioner selects              | By July 1, 2012                              | By July 1, 2014                              |

The act also makes a conforming change to the requirement that low-performing schools selected to be part of the intensive program provide supplemental reading instruction to K-3 students reading below

proficiency. Under the act, the supplemental instruction must be provided starting with the 2014-15 school year, rather than the 2012-13 school year.

Similarly, it extends the deadline by which SDE must report on the intensive reading instruction program from October 1, 2013 to October 1, 2015.

EFFECTIVE DATE: July 1, 2013

§ 13 & 19 — READING INSTRUCTION SURVEY FOR ELEMENTARY SCHOOL TEACHERS

Prior law required, beginning with the 2014-15 school year, and each following school year, all local and regional boards of education to require their K-3 teachers to take a practice version of the reading instruction examination approved by SBE on April 1, 2009. The act instead requires these employees to take a biennial survey on reading instruction based on that exam or an equivalent exam. SDE must design the survey to identify strengths and weaknesses of the teachers’ reading instruction practice and knowledge on an individual, school, and district level. The survey will be done at no cost to the teacher.

The act specifies that the survey results cannot be included in a summative performance evaluation rating under the new teacher evaluation program. Also, the results are not subject to disclosure under the Freedom of Information Act, but they must be used in developing the professional development plans for the individual teacher. The professional development plan includes improving reading instruction by developing student learning objectives and teacher practice goals.

EFFECTIVE DATE: July 1, 2013

§ 14 — STATEWIDE READING POLICY

The act delays, from July 1, 2013 to January 1, 2014, the deadline for SDE to develop a coordinated statewide reading plan for K-3 students that includes strategies that are research driven to produce effective instruction and improvement in student reading performance.

By law, this plan must contain a number of items, including (1) the alignment of reading standards, instruction, and assessments for K-3 students and (2) an intervention for each student not making adequate progress in reading to help the student read at the appropriate grade level. The act specifies that the literacy training requirement for early childhood care and education providers and instructors working with children up to age five must include transition plans relating to oral language and preliteracy proficiency for children between prekindergarten and kindergarten.

EFFECTIVE DATE: July 1, 2013

## §§ 15 & 16 — SPECIAL EDUCATION AND REMEDIAL READING ENDORSEMENTS

Under prior law, starting July 1, 2013, certified teachers with comprehensive special education, remedial reading, or remedial language arts endorsements had to pass the reading instruction test approved by SBE. The act limits this provision to applicants who are either (1) certified but do not hold the endorsement or (2) are applying for initial, provisional, or professional educator certificates, and changes the date it takes effect to September 1, 2013. This means certified teachers who hold these endorsements before the new date do not have to take and pass the exam. The act also (1) extends the requirement to cover applicants for reading consultant endorsements and (2) specifies that the exam can be an equivalent one to that which SBE approves.

EFFECTIVE DATE: Upon passage

## § 17 — COMMISSIONER'S NETWORK SCHOOLS

PA 12-116 created the commissioner's network of schools to allow the state to intervene in low-performing schools to attempt to raise their student achievement through school turnaround plans and greater state assistance. The law set the parameters for the program and the process by which the commissioner would select schools to participate. It required the commissioner to give preference to schools that volunteered to participate or that had union contracts that were to expire before the turnaround plan would be implemented. The act adds to the preference list any school that is located in a district with experience in school turnaround reform or previously received a federal school improvement grant (which were only given to schools that agreed to implement a turnaround plan).

EFFECTIVE DATE: Upon passage

## § 18 — ALLIANCE DISTRICT AND READING INSTRUCTION

PA 12-116 created the category of Alliance Districts, which are the state's 30 lowest performing school districts based on a performance index. The districts had to apply for additional funding and state approval for the funds was based on the district's application.

By law, the applications must address a number of objectives. The act specifies that strengthening reading must be accomplished through the intensive reading instruction program created under PA 12-116 and modified in the act. (Another provision of this act extends the deadline for completion of the reading instruction program (see § 12)).

EFFECTIVE DATE: July 1, 2013

## § 20—TEACHER EVALUATION EXCLUDED FROM COLLECTIVE BARGAINING

The act explicitly states that for purposes of the Teacher Negotiation Act development or adoption of teacher evaluation and support programs are not part of "other conditions of employment." This means that adoption of a teacher evaluation program is not a required matter for collective bargaining. Prior case law interpreted the statutes to exclude the adoption of a teacher evaluation program from collective bargaining (see BACKGROUND).

EFFECTIVE DATE: Upon passage

## BACKGROUND

### *Case Law on Teacher Evaluation and Collective Bargaining*

In *Wethersfield Board of Education v. State Board of Labor Relations*, 201 Conn. 685 (1986), the state Supreme Court ruled that a local board of education's adoption of a teacher evaluation plan is a permissive subject of collective bargaining and not the subject of mandatory collective bargaining.

## PA 13-286—sSB 1096

*Education Committee*

*Government Administration and Elections Committee*

## AN ACT REQUIRING GREATER TRANSPARENCY AND A TRANSITION PLAN FOR THE GOVERNANCE OF THE STATE EDUCATION RESOURCE CENTER

**SUMMARY:** This act explicitly applies state laws for (1) awarding contracts through competitive bidding, (2) awarding personal service agreements (PSAs), (3) reviews by the Auditors of Public Accounts, and (4) the Freedom of Information Act (FOIA) to the State Education Resource Center (SERC). In a separate provision, it also applies to SERC and regional education service centers (RESCs) state standards for awarding contracts for supplies, material, and contractual services, but it does so by linking them to an inoperative statute. (PA 13-247, § 190, repeals this provision regarding RESCs).

The act also requires:

1. the State Department of Education (SDE) to report annually to the Education and Government Administration and Elections committees on all SDE- or SERC-awarded contracts, private funding sources, and other

items and

2. SDE to submit a transition plan recommending whether SERC should be a state agency, quasi-public agency, or nonprofit organization.

EFFECTIVE DATE: Upon passage

#### STANDARDS FOR AWARDING CONTRACTS

By law, the State Board of Education (SBE) established SERC to help it provide programs and activities that promote educational equity and excellence. Most of SERC's duties focus on professional development and special education. The law does not address SERC's status as an agency or its degree of independence from SBE.

##### *Contracts for Supplies, Material, Equipment, and Contractual Services*

The act requires SERC to comply with the competitive bidding requirements that state agencies must meet when purchasing supplies, material, equipment, and contractual services. Under these requirements, SERC must solicit competitive bids for contracting opportunities by providing public notice. Some exceptions are permitted, including for minor or emergency purchases.

A separate law requires the State Contracting Standards Board (SCSB) to issue regulations defining, for the above types of contracting opportunities, competitive sealed bidding, competitive sealed proposals, and other types of procurement by state contracting agencies. The act makes SERC and any RESC a "state contracting agency" and, thus, subject to SCSB's regulations. But SCSB, which was created in 2007, has never been fully functioning and has not adopted regulations. (PA 13-247, § 190 repeals the provision making RESCs a "state contracting agency" under SCSB.)

##### *Personal Service Agreements*

The act also makes SERC a "state agency" under state law regarding PSAs. The law governing PSAs requires these agreements, which are between a state agency and an individual or a firm, to follow:

1. specific standards issued by the Office of Policy and Management (OPM),
2. mandatory competitive negotiation or quotations before making agreement awards (with some exceptions), and
3. limits on amendments to agreements.

OPM must annually report to the legislature information on each agreement, the name of the contractor, the payments made to the contractor, and other information.

#### AUDITORS OF PUBLIC ACCOUNTS

The act also explicitly subjects SERC to audits by the Auditors of Public Accounts, under the law creating that office. The law requires the auditors, biennially, or as frequently as they deem necessary, to audit the books and accounts of each agency, and agencies are required, upon request, to make all records and accounts available to them. The auditors are required to report on any unauthorized, illegal, irregular, or unsafe handling of state funds.

#### FOIA

The act explicitly applies FOIA to SERC. With certain exceptions, this makes SERC's meetings public and generally makes all its records available for public inspection.

#### REPORTING REQUIREMENTS

##### *Contracts, Funding, and Employee Compensation*

By January 15, 2014 and every year following, the act requires the education commissioner to submit a report to the Education and Government Administration and Elections committees containing:

1. all SDE- or SERC-awarded contracts, including PSAs, with private vendors and RESCs during the previous year for purposes of fulfilling SDE's duties;
2. all amounts and sources of private funding, including grants, received by SDE and SERC; and
3. the amounts SDE and SERC paid in salary, fringe benefits, and other compensation for any department or SERC employee or consultant.

The report must be posted on SDE's and SERC's Internet websites.

##### *Transition Plan for SERC's Future*

By January 15, 2014, the act requires the education commissioner to submit a plan to the Education Committee to transition SERC from its status under existing law to becoming a quasi-public agency, state agency, or nonprofit corporation (see BACKGROUND). The plan must include the option the commissioner recommends and an analysis of the following issues as they relate to each of the possible options:

1. a description of how the transition will affect SERC's current programs;
2. which personnel, payroll, and administrative and business office functions being provided for SERC by an entity (i.e., the fiduciary)



- under contract with SDE will be transferred to SERC staff (see BACKGROUND);
3. how current SERC employees' retirement benefits will be affected, including whether employee participation in the teachers' retirement system and in the deferred compensation plan offered by the fiduciary will continue;
  4. how the transition will affect any outstanding workers' compensation claims, PSAs, or other personnel issues;
  5. whether the transition will change the relationship between SERC and SDE and other educational organizations, including RESCs;
  6. how the center will address any recommendations state auditors make; and
  7. any legislation necessary to implement the option the commissioner recommends.

The commissioner must submit any revisions to the plan to the committee no later than March 1, 2014.

## BACKGROUND

### *State Education Resource Center's Current Status*

Currently, SDE has a contract with Rensselaer Hartford Graduate Center, a private institution of higher education, to act as the fiduciary for SERC. Under the contract, Rensselaer must implement appropriate fiscal controls and accounting in order to properly disburse the SERC's funds. SERC has approximately 100 employees and consultants under contract and they are not state employees. Rensselaer handles the payroll and benefits for these employees.

Past reviews of SERC by state auditors included recommendations that its legal status be clarified, possibly by making SERC either a quasi-public agency, a state department (or part of one), or a nonprofit corporation under the federal tax code.

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PA 13-5—sSB 950

*Energy and Technology Committee***AN ACT CONCERNING TECHNICAL AND MINOR REVISIONS TO AND REPEAL OF OBSOLETE PROVISIONS OF ENERGY AND TECHNOLOGY STATUTES**

**SUMMARY:** This act eliminates the requirement that the Public Utilities Regulatory Authority's (PURA) database on electric companies and competitive suppliers include information about the mix of generating resources each company or supplier uses (e.g., the proportion of its power that comes from fossil fuel plants that are subject to federal New Source Performance Standards versus various types of renewable energy). (PA 13-298 reinstates this requirement.) By law, PURA must maintain this database and make it available to customers on request.

The act also makes minor and technical changes in the energy and utility statutes, notably regarding PURA's jurisdiction relative to that of the Department of Energy and Environmental Protection (DEEP). PURA is part of DEEP, but has a wide range of powers and responsibilities regarding utility regulation. The act also repeals several obsolete provisions.

EFFECTIVE DATE: Upon passage

PA 13-6—SB 946

*Energy and Technology Committee***AN ACT CONCERNING CONTRACT EXTENSIONS FOR PROJECT 150 PROJECTS**

**SUMMARY:** By law, electric companies must enter into long-term contracts to buy 150 megawatts of power produced at renewable energy plants (Project 150). This act requires the Public Utilities Regulatory Authority (PURA), upon request, to extend a Project 150 project's in-service deadline (the time by which it must be operational) by up to 24 months if it has less than a five megawatt capacity. By law, PURA must extend a project's in-service deadline for 12 months if the project is located in a distressed municipality with a population of more than 125,000 (i.e., Bridgeport and New Haven, according to the 2010 census).

EFFECTIVE DATE: Upon passage

PA 13-61—sSB 203

*Energy and Technology Committee  
Appropriations Committee***AN ACT CONCERNING PROPERTY TAX EXEMPTIONS FOR RENEWABLE ENERGY SOURCES**

**SUMMARY:** This act (1) exempts from the property tax certain renewable energy sources installed on or after January 1, 2014 and (2) allows municipalities to abate the property taxes for renewable energy sources installed between January 1, 2010 and December 31, 2013.

For assessment years starting on or after October 1, 2014, the act exempts from the property tax renewable energy sources installed on or after January 1, 2014. The exempt property must (1) be for energy generation or displacement for commercial or industrial purposes; (2) not have a nameplate capacity that exceeds its location's load (i.e., it does not produce more energy than the location will need); and (3) be a (a) Class I renewable energy source (e.g., solar or wind power), (b) Class II renewable hydropower facility, or (c) solar thermal (e.g., solar heated water) or geothermal renewable energy source.

The exemption begins one year earlier in a distressed municipality with a population between 125,000 and 135,000 (i.e., New Haven) and applies to the same renewable energy sources installed as early as January 1, 2010.

For the same renewable energy sources installed between January 1, 2010 and December 31, 2013, the act allows other municipalities to abate up to 100% of the property taxes in assessment years starting on or after October 1, 2013. The exemption must be approved by the municipality's legislative body, or, if the legislative body is a town meeting, the board of selectmen. The energy source or facility receiving the abatement cannot be in a distressed municipality with a population between 125,000 and 135,000.

Existing law exempts Class I renewable energy sources and Class II hydropower from the property tax if they were installed on or after October 1, 2007 to generate electricity for farm and residential use on farms and homes. The application process for the act's tax exemption is the same as existing law's process for the residential and farm exemption. The applicant must file a written application with the town assessor or board of assessors by November 1. Failure to do so waives the exemption for that assessment year. Once approved, the exemption does not need to be renewed unless the renewable energy source is altered in a way that requires a building permit.

EFFECTIVE DATE: Upon passage and applicable to assessment years starting on or after October 1, 2013.

## BACKGROUND

### *Class I Renewable Energy Source*

By law, Class I renewable energy sources include solar power, wind power, a fuel cell, methane gas from landfills, ocean thermal power, wave or tidal power, low emission advanced renewable energy conversion technologies, run-of-the-river hydropower facilities under five megawatts that began operation after July 1, 2003 and do not cause an appreciable change in river flow, and certain sustainable biomass facilities (CGS § 16-1(a)(26)).

### *Class II Hydropower*

A Class II hydropower facility is the same as a Class I hydropower facility, except that it began operation before July 1, 2003 (CGS § 16-1(a)(27)).

**PA 13-78**—sSB 807

*Energy and Technology Committee*

## **AN ACT CONCERNING WATER INFRASTRUCTURE AND CONSERVATION, MUNICIPAL REPORTING REQUIREMENTS AND UNPAID UTILITY ACCOUNTS AT MULTI-FAMILY DWELLINGS**

**SUMMARY:** This act establishes additional conservation-related principles that the Public Utilities Regulatory Authority (PURA) and municipal legislative bodies must consider when setting water company rates. It also requires (1) the Water Planning Council, in conjunction with the Energy Conservation Management Board (ECMB), to identify and recommend conservation programs to PURA and (2) PURA to implement, under certain circumstances, a revenue adjustment mechanism to let water companies meet their allowed revenues regardless of their customers' water usage.

The act also:

1. increases the maximum water infrastructure and conservation adjustment (WICA) from 7.5% to 10%;
2. expands the list of WICA eligible projects to include purchasing efficiency equipment, among other things;
3. allows a water company voluntarily acquiring an economically non-viable water company to receive a reasonable acquisition premium as part of a PURA-approved rate surcharge;

4. exempts municipal water utilities from reporting annually to PURA;
5. eliminates a requirement that the Office of Policy and Management prepare an annual report on, among other things, the Water Planning Council's goals and recommendations, other states' water resource planning, funding for water data analysis, water conservation programs, and funding requirements and mechanisms for water resource planning; and
6. allows utility companies to pursue post-judgment remedies against the owner of a building in receivership for failure to pay utility bills.

EFFECTIVE DATE: Upon passage

## **§§ 1 & 4 — CONSERVATION-BASED RATE MAKING PRINCIPLES**

The act requires PURA to authorize water company rates that promote comprehensive supply-side and demand-side water conservation. It must also consider (1) state energy policies, (2) the capital intensive nature of supporting water systems that minimize water loss, and (3) the competition for capital to invest in such water systems. The act requires municipal legislative bodies setting rates for a municipal water utility to consider measures that promote water conservation and reduce the demand on the state's water and energy resources.

The act requires PURA, and municipal legislative bodies setting water rates, to consider:

1. demand projections that recognize conservation's effects,
2. implementing metering and measures to provide timely price signals to consumers,
3. multi-year rate plans,
4. measures to reduce system water losses, and
5. alternative rate designs that promote conservation.

When setting utility rates in general, the law requires PURA to consider, among other things, (1) if the company is performing with economy, efficiency, and care for public safety and energy security to promote economic development with consideration for energy and water conservation, energy efficiency, the development and utilization of renewable resources, and the prudent management of the natural environment; (2) if the rates are sufficient, but no more than sufficient, to allow the company to cover operating costs and attract the capital needed to maintain its financial integrity; and (3) if rates reflect prudent and efficient management (CGS § 16-19e). The law also requires PURA to implement rate making procedures that (1) encourage conservation and (2) modify or eliminate any direct

relationship between a utility company's sales volume and earnings, including the adoption of a sales adjustment clause (CGS § 16-19kk).

## § 2 — CONSERVATION PROGRAMS

The act requires PURA to open a proceeding to identify any water and energy conservation programs, including measures approved in the water supply plans required by law for certain water companies, for which a water company could recover expenses in a general rate case if the company (1) implements the programs and (2) shows, through publicly available information, that the program's expenses were reasonable and prudent.

The act requires the Water Planning Council and ECMB to submit a joint report that identifies and recommends conservation programs to PURA by January 1, 2014. The recommendations can include renewable energy use; meters and technology to promote timely price signals; and consumer programs such as monthly billing, water audits, and leak detection programs. PURA can consider the report in its proceeding to identify water company conservation programs or incorporate it into the Conservation and Load Management Plan it must develop by law.

## § 3 — REVENUE ADJUSTMENT MECHANISM

The act creates a revenue adjustment mechanism to allow a water company to make up the difference between its allowed annual revenue and actual annual revenue. Allowed annual revenue includes revenue for water sales, including sales for resale, from (1) charges approved by PURA in the company's last general rate case and WICA and (2) customer growth, since the company's last general rate case from a (a) PURA-approved merger, (b) PURA-ordered acquisition of another water company, or (c) voluntary acquisition of an economically non-viable water company.

Actual annual revenue includes the revenues received or accrued for water sales, including sales for resale, from (1) charges approved by PURA in the company's last general rate case and WICA and (2) PURA approved revenues from mergers and acquisitions since the company's last general rate case.

The adjustment can be implemented through a rate modification (i.e., increasing present rates to make up the difference), a rate surcharge (i.e., an additional charge to make up the difference), or a balance sheet deferral that can be recovered in the company's next general rate case (i.e., raising future rates to make up the difference).

Under the act, any under-recovery, over-recovery, or deferred amounts from the previous year's adjustment must be included when calculating the

subsequent annual adjustment or general rate case, whichever occurs first. (Presumably PURA would make annual adjustments as part of the act's requirement for it to annually authorize approved adjustment mechanisms.) The act implements the adjustment mechanism through pending general rate cases, at a water company's request, and through general rate cases. Any company receiving the adjustment must file with PURA an annual reconciliation of actual revenues to allowed revenues, and include a report on the company's water demand changes and water conservation measures.

### *Pending Rate Cases*

The act requires PURA to include a revenue adjustment mechanism for any water company's draft or final general rate case pending on June 5, 2013. After approving the adjustment, PURA must annually authorize it until the company's next general rate case.

### *Water Company Requests*

The act requires PURA to start a limited reopener proceeding to approve a revenue adjustment mechanism for a requesting water company if the company's actual annual revenues are at least 1% less than its allowed annual revenue. Once the adjustment mechanism is approved, PURA must annually authorize it until (1) six years after the company's last general rate case or (2) the company's next general rate case, whichever comes first.

### *General Rate Cases*

The act requires PURA to approve a revenue adjustment mechanism at a water company's request during its general rate case. After approving the adjustment, PURA must annually authorize it until the company's next general rate case.

### *Earnings Sharing Mechanism*

The act requires PURA to concurrently establish an earnings sharing mechanism that requires a water company's earnings beyond its allowed return on equity to be split equally between the company's ratepayers and shareholders.

## §§ 6 & 7 — WICA

The law allows a water company to receive a water infrastructure and conservation adjustment to help defray the costs of funding certain infrastructure projects between general rate cases. The act adds to the list of WICA-eligible projects:

1. energy efficient equipment purchases for water company operations,
2. capital improvements needed to comply with river and stream flow regulations, and
3. reasonable and necessary system improvements required for a P URA-approved water system acquisition.

The act increases the maximum adjustment from 7.5% to 10% of the company's annual retail water revenues approved in its last rate case. Under existing law, unchanged by the act, WICA cannot exceed 5% of a company's approved annual revenues for any 12-month period.

#### § 8 — ACQUISITION PREMIUMS

Existing law allows a water company (private or municipal) to voluntarily acquire another water company (private or municipal) deemed economically non-viable by PURA. Under these circumstances, the acquiring company can ask PURA to approve a rate surcharge to cover the acquisition costs and any improvements needed in the acquired system.

The act allows this rate surcharge to include an additional reasonable acquisition premium. The premium is calculated by adding an acquisition's costs beyond the depreciated original cost to the rate base and amortizing it as an addition to expenses over a reasonable period of time with corresponding rate base reductions. Under the act, PURA can allow the premium when a water company shows that a proposed acquisition will benefit customers by (1) enhancing system viability or (2) avoiding capital costs or saving operating costs.

Instead of imposing all or part of a rate surcharge, the act also allows PURA to let the acquiring water company defer the acquisition costs' collection until the company's next general rate case. It allows PURA to award an acquiring water company a premium rate of return at its next general rate case if the company shows the same benefits to customers described above.

#### § 5 — MUNICIPAL WATER COMPANY REPORTS TO PURA

Prior law required all municipal utility companies to submit annual status reports to PURA. The act exempts municipal water companies from this requirement. It also exempts them from PURA's authority to (1) prescribe how to keep report-related records and (2) conduct report-related examinations.

#### §§ 9-11 — RESIDENTIAL BUILDING RECEIVERSHIPS

Existing law prohibits a utility from terminating service to a residential building's tenants for nonpayment if it knows that the (1) building's owner, and not the tenants, is responsible for the bills and (2) tenants cannot receive service in their own names. When a building owner defaults under these circumstances, the law allows a utility to request that the court appoint a receiver to collect the building's rents and fees to pay the ongoing utility bills. The act allows a utility to additionally pursue any post-judgment remedies (e.g., a wage execution) against the owner to collect for its past due and ongoing bills. This provision applies to all utility companies, including municipal utilities.

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#### PA 13-116—sHB 6472

*Energy and Technology Committee*

#### **AN ACT CONCERNING THE COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM**

**SUMMARY:** This act adds (1) district heating and cooling and (2) solar thermal or geothermal system projects to the types of energy efficiency and renewable energy improvements that may be financed under the commercial property assessed clean energy (C-PACE) program. By law, energy efficiency and renewable energy improvements are eligible for the program.

Under the act, a district heating and cooling system is a local system consisting of a pipeline or network providing hot water, chilled water, or steam from one or more sources to multiple buildings. The Legislative Office Building and the Capitol are served by such a system.

EFFECTIVE DATE: Upon passage

#### BACKGROUND

##### *C-PACE Program*

The law requires the Clean Energy Finance and Investment Authority to establish a C-PACE program for qualifying commercial property (including multifamily buildings with five or more units). Under the program, owners of such property in participating municipalities may finance energy improvements by paying a special assessment on the participant's property tax bill. Municipalities can participate in the program under a written agreement approved by their legislative bodies.

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**PA 13-119**—sHB 6473

*Energy and Technology Committee  
Finance, Revenue and Bonding Committee  
Judiciary Committee*

**AN ACT CONCERNING THE PUBLIC UTILITIES REGULATORY AUTHORITY, WHISTLEBLOWER PROTECTION, THE PURCHASED GAS ADJUSTMENT CLAUSE, ELECTRIC SUPPLIER DISCLOSURE REQUIREMENTS, AND MINOR AND TECHNICAL CHANGES TO THE UTILITY STATUTES**

**SUMMARY:** This act makes several unrelated changes in the energy statutes. Among other things, it requires electric suppliers to notify residential customers of rate changes 30 to 60 days before their fixed rate term expires. It also establishes disclosure requirements for suppliers offering power generated from renewable energy sources.

The act transfers several regulatory powers from the Department of Energy and Environmental Protection (DEEP) to the Public Utilities Regulatory Authority (PURA), which is within DEEP. It also makes administrative changes to the process by which PURA reviews gas and electric company charges and credits made under the adjustment clauses for purchased gas, energy, and transmission rates.

By law, a utility company and its contractors cannot threaten or retaliate against an employee who reported the company's malfeasance or illegal activities. Employees who feel they are being retaliated against can file a complaint with PURA. Starting July 1, 2013, the act extends the deadline for PURA to issue a preliminary finding on the complaint from 30 to 90 days. It also expands PURA's enforcement powers to include ordering the company to pay the employee back pay or attorney's fees. Existing law, unchanged by the act, allows PURA to issue orders and impose civil penalties.

The act allows PURA to hold more than one hearing on a utility company's proposed rate amendment. The law requires the companies to notify their customers of a proposed rate amendment by mail at least one week before a public hearing on the amendment. The act limits how early the notice can be issued to no earlier than six weeks before the first public hearing. It also requires the notice to include (1) the date, time, and location of any scheduled hearing and (2) a statement that customers can appear at the hearing or provide written comments on the proposal to PURA.

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

**EFFECTIVE DATE:** October 1, 2013, except for the provisions regarding (1) whistleblower protection, which are effective July 1, 2013, and (2) changes to PURA's regulatory power over (a) electric supplier defaults and billing, (b) electric company reliability reports, and (c) management audits and consultants, all of which are effective upon passage.

**§ 11 — ELECTRIC SUPPLIERS**

*Rate Disclosure*

The act requires an electric supplier to provide its residential customers with written notification of any changes to the customer's electric generation rate 30 to 60 days before the customer's fixed price term expires.

Starting January 1, 2014, when electric suppliers, aggregators, or their agents advertise or disclose electricity prices, the act requires them to indicate the advertised price's expiration terms in at least a 10-point font size in a conspicuous part of the ad or disclosure.

*Renewable Energy Disclosure*

The law's renewable portfolio standard (RPS) requires electric suppliers to obtain a certain portion of their power from Class I (e.g., solar or wind), Class II (e.g., certain biomass or trash-to-energy), and Class III (e.g., certain cogeneration or energy conservation) energy sources. Existing law limits electric suppliers' renewable energy advertising to their renewable energy that exceeds the Class I and Class II RPS requirements. The act expands this advertising limit to include the Class III RPS requirement.

Under the act, any electric supplier offering any services or products containing renewable energy attributes other than those used to meet the Class I and II RPS requirements must disclose the service's or product's renewable energy content in its customer contracts and marketing materials. The supplier must also make information sufficient to substantiate its renewable energy marketing claims available on its web site.

*Regulatory Power Over Suppliers Transferred from DEEP to PURA*

Starting October 1, 2013, the act transfers from DEEP to PURA the authority to:

1. approve the form on which customers can opt out of having their contact and rate class information shared with electric suppliers;
2. determine the reasonable amount of time in which electric companies must provide suppliers with updated customer lists;

3. receive copies of customer contracts and records from suppliers;
4. penalize suppliers that violate the law's restrictions on using customer information, promotional inserts, disclosure requirements, and procedures for entering and terminating service contracts; and
5. make regulations on suppliers' abusive switching practices, solicitations, and renewals.

#### §§ 1, 2, 8, 10, 12, & 13 — PURA

As of June 18, 2013, the act transfers several regulatory powers from DEEP to PURA. It requires PURA, instead of DEEP, to adopt regulations on how to notify customers when an electric supplier defaults. It also requires this notice to include the option to return to standard service.

The act requires PURA, instead of DEEP, to adopt regulations on (1) the standard billing format for electric service and (2) direct customer billing and collection services from electric suppliers. It extends the deadline for PURA to report on its study of supplier direct billing from February 1, 2012 to October 1, 2013 and allows PURA to submit the report to the Energy and Technology Committee electronically.

It also requires PURA, instead of DEEP, to (1) determine what storms and scheduled outages are not included in electric company reliability reports and (2) prepare an annual report on electric supplier licenses. It allows PURA to submit this report to the Energy and Technology Committee electronically.

Prior law allowed PURA to hire, within available appropriations, consultants to perform management audits on the utility companies it regulates. However, funding for the audits comes from an assessment on regulated utilities. The act removes the available appropriations limit and allows PURA to electronically submit its annual report on the audits to the General Assembly.

#### § 5 — ADJUSTMENT CLAUSE REVIEW

By law, PURA can approve an energy adjustment clause for electric companies and a purchased gas adjustment clause for gas companies. These clauses adjust rates for such things as changes in the cost of purchased power and natural gas. They can include a provision allowing an electric or gas company to charge or reimburse customers for over- or under-recovery of its overhead or fixed costs due solely to actual sales varying from projected sales.

Prior law required PURA to hold a public hearing once every six months to determine if the charges or credits made under the adjustment clauses reflected actual prices. The act decreases the hearing frequency to once every year, but also requires PURA to hold a hearing upon the Office of Consumer Counsel's application. Under existing law, unchanged by the act, PURA can also hold such a hearing whenever it deems it necessary.

#### PA 13-120—HB 6534

*Energy and Technology Committee*

#### AN ACT CONCERNING GASOLINE VAPOR RECOVERY SYSTEMS

**SUMMARY:** This act (1) repeals requirements that gasoline dispensing facilities (e.g., gas stations) install stage II vapor recovery systems and (2) requires the facilities to decommission such systems. The systems have been superseded by on-board vehicle technologies, and the U.S. Environmental Protection Agency (EPA) has lifted the requirement that facilities in Connecticut and certain other areas have such systems.

The act also requires the owner of any gasoline dispensing facility with a stage I vapor recovery system to (1) perform a pressure decay test of the system annually and (2) notify the Department of Energy and Environmental Protection (DEEP) commissioner at least seven business days before the test on a form he prescribes. The federal stage I requirements, which address emissions of air toxics, remain in effect.

EFFECTIVE DATE: Upon passage

#### REPEALED PROVISIONS

The act repeals provisions that required the DEEP commissioner to adopt regulations to:

1. initially require installing a stage II gasoline vapor recovery system for all gasoline pumps at (a) new gasoline dispensing facilities that dispense more than 10,000 gallons of gasoline per month and (b) any such existing facility for all gasoline tanks that are replaced,
2. allow DEEP to reduce the threshold to 1,000 gallons per month, and
3. allow DEEP to require that the vapor recovery equipment (a) meet California Air Resources Board (CARB) standards and (b) be tested annually using CARB-approved methods.

Prior law allowed DEEP to require additional testing, but allowed anyone to install a stage II system that used only coaxial hoses and had been tested and approved by CARB.

## DECOMMISSIONING VAPOR RECOVERY EQUIPMENT

The act requires the owner of any gasoline dispensing facility, by July 1, 2015, to decommission any installed stage II vapor recovery equipment. Under the act, decommissioning means rendering a stage II vapor recovery system inoperational by (1) permanently disconnecting all above-ground stage II vapor recovery equipment and (2) sealing all above- and below-ground vapor or liquid paths that may release vapor or liquid into the ambient air. Decommissioning does not require removing below-ground stage II equipment.

The act requires that decommissioning:

1. start after the facility owner has notified the DEEP commissioner of the intent to decommission, which must occur at least 30 days before decommissioning, on a form prescribed by the commissioner;
2. be performed according to Section 14 of the 2009 “Recommended Practices for Installation and Testing of Vapor Recovery Systems at Vehicle Refueling Sites” of the Petroleum Equipment Institute; and
3. be completed within 100 days from initiation, unless the DEEP commissioner extends this deadline for good cause after the owner requests an extension.

Starting on the act’s passage date, the act bars facility owners from installing a stage II vapor recovery system.

## BACKGROUND

### *Vapor Recovery Systems*

Vapor recovery systems capture pollutants released during refueling that create ozone (smog). Starting with the 1998 model year, onboard refueling vapor recovery (ORVR) systems were phased into the vehicle fleet, and this technology is now in widespread use.

In 2012, the EPA determined that the emissions reductions from ORVR would soon surpass the emission reductions achieved by stage II systems alone. Accordingly, it waived the federal stage II requirements and has allowed states that have mandated stage II systems under the federal Clean Air Act to revise their state plans that implement the act to remove this requirement.

## PA 13-298—sHB 6360

*Energy and Technology Committee*

## AN ACT CONCERNING IMPLEMENTATION OF CONNECTICUT'S COMPREHENSIVE ENERGY STRATEGY AND VARIOUS REVISIONS TO THE ENERGY STATUTES

**SUMMARY:** This act, among other things:

1. contains various measures to expand the natural gas distribution system;
2. expands the ability of electric and telecommunication companies to trim trees and other vegetation near their lines;
3. specifies conditions when telecommunications towers can be sited on water company lands;
4. modifies how electric and gas companies develop their conservation plans and how the plans are reviewed and approved and potentially increases funding for conservation plans;
5. eliminates the \$99 cap on fees in the Home Energy Solutions audit program and the annual \$500,000 cap on the subsidy for audits for customers who do not heat with electricity or gas;
6. requires the Energy Conservation Management Board (ECMB) and the Clean Energy Finance and Investment Authority (CEFIA) to establish a program to finance residential energy efficiency and renewable energy measures using private capital, with loans repaid on the electric or gas bills of participating customers;
7. modifies how the comprehensive energy strategy (CES) and integrated resources plan (IRP) are developed and approved;
8. (a) broadens eligibility for “virtual net metering,” which provides a billing credit for customers who generate electricity using certain renewable resources, (b) expands the maximum size of the generating unit that can take advantage of virtual net metering, and (c) potentially increases the value of the electric bill credit that participating customers receive;
9. broadens the circumstances where electric submeters can be installed;
10. transfers various responsibilities and powers from the Department of Energy and Environmental Protection (DEEP) to the Public Utilities Regulatory Authority (PURA);
11. requires DEEP to establish a pilot program to promote combined heat and power (cogeneration) systems by limiting the electric demand charge imposed on them;
12. reduces the maximum sulfur content of heating oil;



13. requires energy consumption benchmarking in state buildings to permit comparisons of building energy use; and
14. requires PURA to study the financial capacity and system viability of small community water companies.

The sections not described below make minor, conforming, and technical changes.

EFFECTIVE DATE: Upon passage, except as noted.

#### § 1 — PURA DIRECTORS

The act renames the three individuals who run PURA “utility commissioners,” rather than “directors.”

#### § 2 — DEEP COMMISSIONER

The act allows the DEEP commissioner’s designee to act on his behalf with regard to the energy and utility statutes.

#### § 3 — PURA CHAIRPERSON’S AUTONOMY AND PURA DECISION GUIDELINES

The act expands the PURA chairperson’s autonomy. Under prior law, the chairperson needed the DEEP commissioner’s approval when prescribing the duties of staff assigned to PURA in its various areas of responsibility. Under the act, the chairperson must still obtain the commissioner’s approval when dealing with PURA’s organization and planning its functions. But, to implement this organization and planning, he does not need the commissioner’s approval for:

1. prescribing the duties of staff assigned to PURA,
2. coordinating PURA’s activities,
3. determining how staff are assigned in rate cases,
4. entering contracts,
5. receiving outside revenue, and
6. requiring PURA staff to have relevant expertise.

By law, PURA’s decisions must be guided by DEEP’s statutory goals, the IRP’s goals, and the CES’s goals. The act additionally requires that PURA decisions, including those related to rate cases arising from the CES, IRP, conservation load management plan, and DEEP policies, be guided by the plans, strategy, and policies.

Under prior law, a PURA hearing panel had to ask the DEEP commissioner to appoint a hearing officer from the division to investigate a case for it. The act instead allows a panel of one or more PURA utility commissioners to assign hearing officers.

#### § 4 — DIVISION OF ADJUDICATION

The act places the Division of Adjudication in PURA, rather than DEEP, and eliminates the prior law’s requirement that the division advise the DEEP commissioner.

#### § 6 — REGULATION MAKING

The act eliminates the requirement in prior law that PURA consult with DEEP in adopting regulations on utility rates, services, operating procedures, and related matters. It allows PURA, rather than DEEP in consultation with PURA, to adopt regulations regarding competitive electric suppliers. It allows PURA, rather than DEEP in consultation with the Office of Policy and Management (OPM), to establish standards for cogeneration technologies and renewable fuel resources. In the last case, PURA must act in accordance with DEEP policies.

#### § 7 — RIGHT OF ENTRY

Under prior law, the PURA directors and DEEP employees assigned to PURA could enter utilities’ and electric suppliers’ buildings at all reasonable times, and anyone who interfered with a director or employee in performing his or her duties was subject to a fine of up to \$200, imprisonment for up to six months, or both. The act modifies the right of entry to include all designees of the PURA utility commissioners, rather than DEEP employees.

#### § 8 — CONSULTANTS

The act allows DEEP, in consultation with PURA and the Office of Consumer Counsel (OCC), to retain consultants to (1) provide expertise in areas in which its staff lacks expertise or (2) supplement staff expertise for proceedings before certain federal regulatory entities. These entities are the Federal Energy Regulatory Commission, the U.S. Department of Energy, the U.S. Nuclear Regulatory Commission, the U.S. Securities and Exchange Commission, the Federal Trade Commission, and the U.S. Department of Justice. Similarly, the act allows PURA, in consultation with OCC, to retain consultants for these purposes for proceedings before the Federal Communications Commission.

In both cases, the utilities affected by a proceeding that requires retaining consultants must pay their reasonable and proper expenses in a manner that PURA directs. The expenses must be (1) apportioned to the revenue each affected entity reported for its most recent assessment and (2) under \$2.5 million per calendar year for all proceedings, including appeals, unless PURA

finds good cause for exceeding the limit. PURA must allow the utilities to recover these payments in their rates, if applicable.

EFFECTIVE DATE: July 1, 2013

#### §§ 9, 10 — DEEP PARTICIPATION IN PURA PROCEEDINGS

Under prior law, the DEEP commissioner could be made a party to any PURA rate case arising out of an alleged need to raise funds to expand capital equipment and facilities. The act instead automatically makes the commissioner a party in all PURA proceedings, and allows him to participate in proceedings at his discretion.

#### § 10 — RATEMAKING POLICIES

The law requires PURA to use new pricing principles and rate structures if it is in the public interest. The act specifies that DEEP determines the public interest in the IRP and CES. It also requires that PURA be guided by DEEP's statutory goals, the IRP, CES, and the conservation and load management plan.

By law, DEEP's actions must conform with, as far as possible, the state energy policy as described in statute. The act additionally requires DEEP to act, as far as possible, in conformity with state energy policies as described in the IRP and CES.

The act allows the Department of Economic and Community Development and the Siting Council to be made parties in any electric or gas company rate case, rather than just those based on the need to raise funds to expand capital equipment and facilities.

#### § 11 — RATE DECOUPLING

The act restricts how PURA can decouple an electric or gas company's rates from its sales. Under prior law, as part of a rate case, PURA was required to order the company to use one or more of the following:

1. a mechanism that adjusts actual distribution revenues to allowed distribution revenues;
2. rate design changes that increase the amount of revenue recovered through fixed distribution charges; or
3. a sales adjustment clause, rate design changes that increase the revenue recovered through fixed distribution charges, or both.

Under the act, PURA must order an electric company to use the first approach for rate cases initiated on or after July 8, 2013 or pending cases for which a final decision has not been issued by this date. For gas companies, the act bars the decoupling mechanism from removing the incentive to support expanding gas use pursuant to the 2013 CES, such as a mechanism that

decouples distribution revenue based on a use-per-customer basis.

In making its determination for gas and electric companies, PURA must consider the impact of decoupling on the company's return on equity and make necessary adjustments to it.

#### §§ 12-14 — POWER PROCUREMENT

The act makes any PURA request for proposals or other procurement process to acquire electricity products or services to benefit ratepayers an uncontested proceeding. This eliminates the possibility of appealing decisions in these cases to the court.

The law requires PURA's procurement manager, in consultation with the electric companies, to prepare a plan for procuring power for the standard service the companies provide to small- and medium-sized customers who have not chosen a competitive supplier. The act specifically allows the procurement manager to consult with the commissioner in developing the plan. It eliminates the requirement of prior law for the procurement manager to have quarterly meetings with the DEEP commissioner.

The act requires PURA, instead of DEEP, to (1) conduct an uncontested proceeding to approve the procurement plan with any amendments it finds necessary and (2) submit an annual report on the plan to the Energy and Technology Committee. The act allows PURA to submit the report electronically.

The act allows PURA to recover all of its reasonable costs in developing the plan through the standard assessment on the utilities it regulates. It requires the electric companies to recover their reasonable costs from developing the plan through a reconciling bypassable component of their electric rates, as determined by PURA.

#### §§ 15, 16 — ELECTRIC AND GAS CONSERVATION PLANS

##### *Combined Conservation Plan*

The act requires the electric and gas companies to develop a combined conservation plan, as is current practice, rather than requiring each company to develop a separate plan. The combined plan must be developed by November 1, 2015 and every three years thereafter. Prior law required the companies to develop annual plans (implicitly in the case of electric companies), with the next plan due October 1, 2013; in fact, the current plan runs until 2015.

Prior law required the ECMB to help the companies develop and implement their individual plans; the act requires ECMB to help them to do this for the combined plan. It requires all of the companies to review the

programs in the plan jointly, rather than each company reviewing its own plan.

The act requires that the combined plan contain all of the information currently contained in the electric companies' conservation plans. It extends to proposed gas conservation programs, the evaluation, measurement, and verification measures that previously only applied to electric programs. It allows the plan to include water, as well as energy, conservation programs. It requires the plan to include a detailed budget sufficient to fund all energy efficiency that is cost-effective or lower cost than acquiring equivalent supply. DEEP must review and approve the budget. The act requires the combined plan to evaluate and select all supply and conservation and load management options within an integrated supply and demand planning framework, a provision that previously only applied to the gas companies' plans.

Under prior law, ECMB accepted, modified, or rejected the individual programs in gas plans before submitting them to PURA, which then approved each company's plan. In the case of the electric company plans, ECMB approved or rejected the individual programs before submitting the plans to DEEP for its approval. The act requires ECMB to accept, modify, or reject the programs in the combined plan and approve the plan as a whole (in addition to its programs) before submitting it to the DEEP commissioner for his approval.

The act allows DEEP to hold a public meeting, rather than a hearing, when acting on the combined plan. Under prior law, PURA could hold a hearing when acting on the gas plans and DEEP could hold a hearing when acting on the electric company plans. The act extends this provision to PURA's review of the combined plan.

By law, the cost-effectiveness of the programs must be reviewed annually, or otherwise as practicable. The act specifies that this review must compare all energy savings to program costs. Under prior law, PURA conducted this review for gas programs (the law was silent on who reviewed electric programs). The act requires DEEP to review the cost-effectiveness of the programs in the combined plan. Under prior law, a program that failed the cost-effectiveness test had to be modified or terminated; the act allows such programs to continue in their current form if they are integral to other programs that are cost-effective in combination.

The act requires each electric company to apply to ECMB for reimbursement of expenditures it makes under the plan.

### *Funding Conservation Programs*

Currently, electric conservation programs are primarily funded by a 0.3 cents per kilowatt-hour (kwh) charge on electric bills. Under the act, if the conservation budget for electric companies in the DEEP-approved combined plan exceeds the revenues collected by this charge, PURA must ensure that the additional revenues needed to fund the budget are provided through a fully reconciling conservation adjustment mechanism within 60 days of the plan's approval. This additional charge can be no more than 0.3 cents per kwh sold to each electric customer during any three years of any plan.

Currently, gas conservation programs are funded by an adjustment mechanism on gas bills. The act requires that PURA ensure that the revenues required to fund the conservation budget for gas companies are provided through a fully reconciling adjustment mechanism for each gas company of not more than the equivalent of 4.6 cents per hundred cubic feet during the three years of any plan (approximately twice the current charge on gas bills).

### *Energy Conservation Management Board*

The act expands the ECMB by adding a representative of a statewide farm association. It allows the attorney general to name a designee to serve on the board. Under prior law, the DEEP commissioner chaired the ECMB. The act instead requires ECMB to elect its chairperson from among its voting members (its utility members are non-voting).

By law, ECMB must report annually to the Energy and Technology and Environment committees on the Energy Efficiency Fund. The act eliminates the requirement that the report describe activities done jointly or in collaboration with the Clean Energy Fund.

Under prior law, ECMB had to report every five years to the Energy and Technology Committee on the program and activities of the Energy Efficiency Fund. The act instead specifies that this report must cover the programs and activities contained in the combined electric and gas conservation plan.

By law, there is a joint committee of ECMB and the CEFIA board. The act requires the joint committee to examine opportunities to provide financing to increase the benefits of programs funded by the combined conservation plan.

By law, ECMB must periodically review program contractors to determine whether they are qualified to conduct work related to the programs. The act additionally requires ECMB to ensure that a fair and equitable process is followed in selecting contractors. It establishes a rebuttable presumption that contractors are considered technically qualified if certified by the

Building Performance Institute or another organization selected by the commissioner.

#### §§ 19, 20, 23, 26, & 33 — CONNECTICUT ENERGY ADVISORY BOARD

The act eliminates most of the responsibilities of the Connecticut Energy Advisory Board (CEAB). These include:

1. reporting to the legislature on the status of DEEP-administered programs;
2. reviewing, within available appropriations, requests from the legislature; and
3. consulting with the DEEP commissioner on the CES and IRP.

The act also (1) eliminates CEAB's authority to retain consultants for these responsibilities, (2) removes CEAB's chairperson as a member of the Home Heating Oil Planning Council, and (3) eliminates the sunset review of CEAB.

#### §§ 20, 21 — INTEGRATED RESOURCES PLAN DEVELOPMENT

The law requires DEEP, in consultation with the electric companies, to review the state's energy and capacity resources and develop an IRP for procuring energy resources. The act eliminates the requirements of prior law that (1) the PURA procurement manager, in consultation with various parties, develop a procurement plan as part of the IRP process and (2) the manager hold public hearings on this plan.

The act also eliminates prior law's requirement for DEEP to hold a public hearing on the IRP. Instead, it requires the DEEP commissioner to conduct an uncontested proceeding with at least one public meeting and one technical meeting at which technical personnel will answer questions. The act requires the commissioner to publish the proposed IRP and notice of a meeting on DEEP's web site at least (1) 15 days before a public meeting and (2) 30 days before a technical meeting.

The act applies much of the prior law's notice requirement for the PURA public hearings to the public and technical meetings. However, it additionally requires (1) any newspapers publishing the notice to have statewide circulation and (2) the notice to indicate the time period in which comments can be submitted to the commissioner. It increases the time the commissioner must allow for the public to review and comment on the proposal from 45 to 60 days. It also requires the meetings to be transcribed and posted on DEEP's web site.

It eliminates the requirements that DEEP's Bureau of Energy recommend plan modifications after the hearing. By law, the commissioner must consider all

comments on the proposed plan; the act specifically requires that he do so before approving the final plan. The act allows him to (1) correct any clerical errors in the IRP without following its required procedures and (2) file the biannual progress report on the IRP electronically with the Energy and Technology and Environment committees. It requires that the next report be filed within two years after the adoption of the IRP, rather than by March 1, 2014.

The law allows DEEP to recover all costs associated with developing the IRP. The act specifies that these costs must be reasonable. It also requires the electric companies to recover their reasonable costs associated with developing the plan through a reconciling non-bypassable component of their rates, as determined by PURA.

The act allows PURA to open a proceeding to review any provision in the final IRP that requires funding through new or amended rates or charges to ensure that rates remain just and reasonable.

By law, PURA must oversee implementation of the IRP. The act additionally requires that it oversee implementation of the standard service procurement plan.

The act eliminates the requirement that PURA decisions be based on the record of the proceeding, although this requirement remains in place under the Uniform Administrative Procedure Act regarding contested cases, such as rate cases.

#### § 21 — INTEGRATED RESOURCES PLAN IMPLEMENTATION

By law, PURA must issue a request for proposals if the IRP specifies constructing a generating facility. The act broadens this requirement to cover IRP options to procure any new sources of generation. It requires PURA, when considering proposals responding to the request, to favor proposals for generation without any financial assistance, including long-term contract financing or ratepayer guarantees. It also adds the DEEP commissioner to the list of officials to whom PURA must make the bid information available.

#### § 23 — COMPREHENSIVE ENERGY STRATEGY

The law requires the DEEP commissioner to prepare a comprehensive energy plan every three years. The act (1) renames the plan the comprehensive energy strategy, (2) extends the deadline for the next CES from July 1, 2015 to October 1, 2016, and (3) eliminates a requirement that the commissioner consult with CEAB in preparing the plan. In addition to the many factors the CES must consider by law, the act requires it to incorporate the Energy Assurance Plan developed for the state under the 2009 federal American Recovery and

Reinvestment Act, or any successor plan developed reasonably before the CES's preparation.

By law, the CES must address the benefits, costs, obstacles, and solutions related to the expansion, use, and availability of natural gas in the state. Under prior law, if DEEP found that expansion was in the public interest, it had to develop a plan to increase gas's availability and use for transportation purposes. The act expands this requirement to cover all types of gas uses if DEEP finds that expansion is in the public interest.

The act eliminates the requirement of prior law for the DEEP commissioner to hold a public hearing on the CES. Instead, it requires him to conduct an uncontested proceeding with at least one public meeting and one technical meeting at which technical personnel will answer questions. The act requires the commissioner to publish the proposed CES and notice of a meeting on DEEP's web site at least (1) 15 days before a public meeting and (2) 30 days before a technical meeting.

Similar to its IRP notice provisions, the act applies much of the prior law's public hearing notice requirement to the notice requirement for these meetings. It additionally requires (1) any newspapers publishing the notice to have statewide circulation and (2) the notice to indicate the time period in which comments can be submitted to the commissioner. It increases the time the commissioner must allow for the public to review and comment on the proposal from 45 to 60 days. It also requires the meetings to be transcribed and posted on DEEP's web site.

Prior law required PURA to comment on the plan's ratepayer impact during the proposed plan's comment period. The act limits PURA's comments to the strategy's impact on natural gas and electric rates and does not specify when the comments must be provided in the approval process.

The act eliminates the electric companies' ability to recover their reasonable costs for developing the resource assessment through the systems benefit charge. Presumably, they will be able to recover these costs (which are related to the IRP) through the IRP-related reconciling non-bypassable component of their rates allowed under the act.

## § 25 — CONDEMNATION OF POWER PLANTS

Under prior law, a municipality could not condemn or restrict the operations of certain energy facilities without written approval from CEAB, DEEP, and the Siting Council. The act eliminates the need for CEAB's approval.

## §§ 27, 28 — ENERGY EFFICIENCY IN STATE BUILDINGS

The act allows DEEP to electronically file its reports on (1) its plan to save energy in state buildings and (2) energy audits in these buildings and related activities. Under prior law, the latter had to list state agencies that failed to cooperate with DEEP and the Department of Administrative Services in implementing the improvements required by OPM arising from the audits. The act instead refers to improvements required by DEEP in consultation with OPM.

The act eliminates the requirement that CEAB annually measure the success in implementing DEEP's plan.

## § 29 — LOW INTEREST LOAN PROGRAM

The act modifies eligibility for a Department of Economic and Community Development low interest energy efficiency loan program administered by the Connecticut Housing Investment Fund. With regard to the part of the program funded by bonds authorized before July 1, 1992, the act:

1. makes one- to four-unit residential buildings built between January 1, 1980 and December 31, 1995 eligible for the program (older buildings are already eligible) and
2. decreases, from 200% to 110% of area median income, the maximum income a household can have and be eligible for the program.

For buildings with more than four units, it increases the (1) per unit loan cap from \$2,000 to \$3,500 and (2) per building cap from \$60,000 to \$100,000.

## § 30 — REPLACEMENT HEATING EQUIPMENT PROGRAM

The act makes ductless heat pumps eligible under DEEP's residential heating equipment financing program.

## § 31 — HOME ENERGY SOLUTIONS PROGRAM

The act eliminates the \$99 cap on fees, charges, copays, and other terms for the Home Energy Solutions audit program, instead requiring ECMB to set a cap for each type of customer (those who heat with electricity, gas, or other heating fuels). It eliminates the annual \$500,000 cap on the subsidy for audits for customers who do not heat with electricity or gas.

### § 34 — MICROGRIDS

By law DEEP must establish a microgrid grant and loan pilot program to support onsite electricity generation at “critical facilities” (e.g., hospitals, police and fire stations, and municipal commercial areas). The act expands critical facilities to include production and transmission facilities of Federal Communication Commission-licensed TV and radio stations.

By law, a “microgrid” is a group of interconnected electricity users and generators that (1) is within clearly defined boundaries that acts as a single controllable entity in respect to the larger grid and (2) can operate as either a part of the grid or independent of it.

### § 35 — VIRTUAL NET METERING

The act broadens eligibility for “virtual net metering,” expands the maximum size of the generating unit that can take advantage of virtual net metering, and potentially increases the value of the electric bill credit that participating customers receive.

By law, an electric company customer who owns a class I renewable resource (e.g., a photovoltaic system) receives a net metering credit on his or her electric bill when the resource produces more power than the customer uses in a billing period. In effect, the customer’s meter runs backwards when the resource generates surplus power. The credit, which is tied to the electric company’s retail rate, rolls over from month to month. At the end of each 12 months, if the customer still has a credit, he or she is paid for it at the company’s wholesale rate.

By law, municipalities are eligible for virtual net metering, which allows them to share the billing credit among their electric accounts. For example, a town could install a photovoltaic system on the roof of a school and share the billing credits the system produces with a fire station. This increases the likelihood that the customer will fully utilize its credits (paid at the retail rate) during a year, and therefore not have any remaining credits at the end of the year, for which it would be paid at the wholesale rate.

The act expands eligibility for virtual net metering in several ways. It opens the option to state agencies and agricultural customers and increases the maximum size of the renewable resource from two to three megawatts. For municipal and state agency customers, it allows (1) virtual net metering for class III resources, such as cogeneration, as well as class I resources and (2) customers to lease the renewable resource or enter into a long-term contract for it.

By law, municipalities can share the billing credit with no more than five other municipal accounts. The act extends this provision to state accounts. It allows municipal or state accounts to share the credits with up

to five additional non-state or municipal critical facilities connected to a microgrid. It allows agricultural customers to share their credits with up to ten accounts that (1) use electricity for agriculture, (2) are municipalities, or (3) are non-commercial critical facilities.

Under prior law, the credit for virtual net metering customers went against the customer’s Generation Service Charge (GSC), i.e., the part of the electric bill that covers the cost of power. (For other net metering customers, the credit goes against the customer’s entire bill.) The act applies the virtual net metering credit against the GSC and a declining percentage of the distribution and transmission charges, thereby potentially increasing its value. The percentage is 80% until July 1, 2014, 60% for July 2, 2014 through July 1, 2015, and 40% starting July 2, 2015. The act requires each electric company to report annually by January 1 to PURA, rather than DEEP, on the program’s costs.

Prior law required DEEP, by February 1, 2012, to develop administrative processes and specifications for the program, including a statewide cap of \$1 million per year on the cost of the virtual net metering. The act requires PURA, rather than DEEP, to do this by October 1, 2013 and raises the cap to \$10 million per year. Of this amount, no more than 40% can go to municipal, state, and agricultural customers.

The act allows any customer that participates in virtual net metering to aggregate the electric meters that are billed to the customer that hosts the generation facility.

EFFECTIVE DATE: July 1, 2013

### §§ 36, 37 — SUBMETERING

The act broadens the places where electric submeters can be installed. By law, electric companies must permit submeters at (1) campgrounds, (2) slips at marinas, and (3) other locations approved by PURA. The act additionally requires the companies to permit submetering at commercial, industrial, multi-family residential, or multiuse buildings where the electric power or thermal energy is provided by a Class I renewable energy source (e.g., photovoltaic systems or fuel cells) or a combined heat and power (cogeneration) system. It allows PURA to permit submetering at other locations when this promotes the state’s energy goals, as described in the CES, while protecting consumers against termination of residential utility service or other related issues. It requires PURA to adopt regulations to protect submetered customers against termination of service or related issues.

The act requires PURA to develop an application and approval process that allows for the reasonable implementation of submetering at allowed facilities, while protecting consumers against termination of

residential utility or other related issues. Each entity PURA approves to submeter must provide electricity to an allowed facility at a rate no greater than the rate charged to that customer class for the service territory where the facility is located. The act repeals a provision that prohibits electric companies from charging campgrounds more than their residential rates. Such entities may not charge a submetered account for usage for any common areas of a commercial, industrial, or multi-family residential building or other use not solely for the use of the account.

The act requires entities that submeter to comply with the utility laws and PURA orders and regulations. It subjects those that do not comply to a civil penalty of up to \$10,000 per violation in most cases.

EFFECTIVE DATE: July 1, 2013

#### § 38 — DEFINITIONS OF ELECTRIC AND GAS COMPANIES

Under prior law, with limited exceptions, any entity that distributes electricity on wires that run along or across a highway or street was considered an electric company subject to PURA jurisdiction. The act excludes governmental entities that PURA authorizes to distribute electricity across streets or highways (see § 39) and entities that PURA approves to submeter from the definition of electric companies. It also exempts the latter entities from the definition of gas companies subject to PURA jurisdiction.

EFFECTIVE DATE: July 1, 2013

#### § 39 — MUNICIPAL MICROGRIDS

The act requires PURA to authorize any municipality, state, or federal entity that owns, leases, or operates any Class I or III renewable resource (e.g., a combined heat and power system) or any other generation resource under five megawatts, to independently distribute electricity generated from any such resource across a public highway or street if it is connected to a municipal microgrid. It requires the entity to work with the local electric company to ensure that the interconnection of the microgrid to the utility grid is in accordance with PURA's interconnection standards.

EFFECTIVE DATE: July 1, 2013

#### § 40 — ENERGY IMPROVEMENT DISTRICTS AND MICROGRIDS

The act allows energy improvement district boards to own, lease, or finance microgrids. By law, a municipality may, by a vote of its legislative body, establish such districts, which are governed by boards. Among other things, districts can develop and operate

small power plants and certain conservation programs and issue revenue bonds.

EFFECTIVE DATE: July 1, 2013

#### § 41 — BENCHMARKING STATE BUILDINGS' ENERGY USE

The act allows DEEP, by January 1, 2014, to benchmark the energy and water consumption for all nonresidential buildings owned or operated by the state or any state agency with a gross floor area of 10,000 square feet or more, using the U.S. Environmental Protection Agency's Energy Star Portfolio Manager. By April 1, 2014, DEEP must make this information public for all such buildings.

By April 1, 2014, DEEP may benchmark such consumption for all residential buildings owned or operated by the state or any state agency with a gross floor area of 10,000 square feet or more. By July 1, 2014, DEEP must make public the portfolio manager benchmarking information for all such buildings.

#### §§ 42, 43 — COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM

By law, under this program, CEFIA can enter into an agreement with a commercial property owner in participating municipalities to finance energy efficiency or renewable energy improvements. The improvements are repaid by an assessment on the property, which is backed by a lien on the property.

Under prior law, the municipality had to place a notice on the land records indicating that the assessment and lien are anticipated once the improvements are completed. The act alternatively allows CEFIA to direct the municipality to levy the benefit assessment and file the lien on the land records based on the estimated costs of the improvements before or once they are completed.

Under the act, if assessments are paid in installments and an installment is late, the lien may be foreclosed to the extent of any unpaid installments and related penalties, interest, and fees. If the lien is foreclosed, the lien survives the foreclosure judgment to the extent of any unpaid installments secured by the lien that were not the subject of the judgment.

#### § 44 — WIND FACILITY REGULATIONS

The act eliminates the requirement that the Siting Council's regulations on siting wind turbines include different requirements for different size projects.

#### § 45 — STATE BUILDING CODE

By law, the state building code must promote and ensure that buildings and structures are designed and

constructed in a way that conserves energy and, wherever practicable, facilitates the use of renewable energy. The act additionally requires that any code adopted after July 8, 2013 include provisions for electric circuits that can support electric vehicle charging in a new residential garage.

#### § 46 — SULFUR CONTENT OF HEATING OIL

Under prior law, the maximum sulfur content of heating oil was 0.3% (3,000 parts per million or ppm) by weight, going down to 0.15% and 0.125% when Massachusetts, New York, and Rhode Island all adopted these standards. Also under prior law, the maximum would go down to 50 ppm between July 1, 2011 and June 30, 2014 and 15 ppm thereafter if Massachusetts, New York, and Rhode Island adopted comparable standards (this has not yet happened). The act instead reduces the limit to 500 ppm from July 1, 2014 until June 30, 2018 and 15 ppm thereafter, regardless of whether the neighboring states adopt these standards. The act also eliminates a requirement that the sulfur standard for off-road diesel fuel drop from 0.3% to 500 ppm once the other three states adopted this limit.

#### § 47 — WATER REGULATION STUDY

The act requires PURA to study the financial capacity and system viability of small community water companies that are not covered by the water supply plans required by law. The study must at least address the potential (1) factors affecting the costs to maintain and operate these systems safely and effectively and (2) benefits of creating a financial assistance account to help them defray the costs of essential infrastructure improvements. PURA must conduct the study in consultation with the Department of Public Health (DPH) and the Water Planning Council (an inter-agency group that includes PURA, DEEP, DPH, and OPM).

The act allows PURA, in consultation with DPH and the council, to retain a consultant to help develop the study. The consultant's reasonable and proper expenses, to a maximum of \$49,000, must be borne by water companies under PURA's jurisdiction and paid when and how PURA directs. PURA must allow the companies to recover the costs in rates.

The act requires PURA to report its findings to the Energy and Technology, Public Health, and Planning and Development committees by February 1, 2014.

#### § 48 — AQUIFER PROTECTION ZONE

The law requires certain municipalities to develop regulations limiting the types of developments that can occur above aquifers. By November 1, 2013, the act requires the DEEP commissioner, at the request of a

municipality and in consultation with DPH, to examine the impact of the municipality's regulations on economic development in the municipality. The examination must at least include the potential impact caused by future expansions of an aquifer protection area if DEEP issues a water diversion permit or a general permit for minor water activities.

For municipalities with existing wells that (1) are owned by a water company that serves at least 1,000 people and (2) also serve people in other municipalities, the DEEP commissioner must recommend regulatory changes to cover the host municipality's costs associated with enforcing the aquifer protection regulations and any potential economic development losses associated with an expansion of the aquifer protection area. By February 1, 2014, the commissioner must report the examination findings and any recommended regulatory changes to the Energy and Technology Committee.

#### § 49 — WATER CONSERVATION AND RATES

By law, PURA must authorize water company rates that promote conservation. The act requires PURA to consider consumers who are low water users (including those who have already implemented conservation measures) in adopting these rates, in addition to the factors PURA already must consider.

The act requires the rates to prioritize demand projections that recognize the effects of conservation and account for declining rates of water consumption in order to minimize the use of a revenue adjustment mechanism (which is authorized by PA 13-78) following a rate case.

#### §§ 50, 51 — GAS SYSTEM EXPANSIONS

##### *Expansion Plan*

The act requires the gas companies, by June 15, 2013, to jointly submit a natural gas expansion plan to DEEP and PURA. The plan must be designed to provide gas service to customers currently on and off distribution mains, consistent with the goals of the 2013 CES.

The plan must include steps to:

1. expand the gas network,
2. increase cost-effective customer conversions,
3. provide access to gas for industrial facilities to the greatest extent possible,
4. reduce the cost of adding new customers,
5. ensure the reliability of the gas supply and its expansion in time to meet demand, and
6. decrease risk to existing gas customers by adjusting the pace of conversions to reflect changes in gas prices.



The plan must include:

1. a 10-year customer conversion plan and schedule;
2. an analysis for meeting customer conversion goals as specified in the CES;
3. outreach and marketing plans for each customer segment;
4. steps the companies will take to reduce conversion costs;
5. strategies for procuring (pipeline) capacity and leveraging outside investment to finance equipment replacement and main extensions for new customers;
6. a plan to synchronize infrastructure expansion with steps to reduce methane leaks from existing lines;
7. measures to encourage customers targeted for conversion to install efficient equipment and improve their building's energy efficiency when they switch fuels, such as by providing them information about the Home Energy Audit program and, to the extent possible, the audit application form; and
8. proposals for rate design changes, including a description of the rate impacts of these changes and specific cost recovery mechanisms for each customer segment.

Once the plan is filed, PURA can approve new rate mechanisms to recover its costs for an individual company. It must do so in a contested proceeding (i.e., one in which the OCC can participate and whose decision can be appealed to the courts).

#### *Plan Approval*

The act requires the DEEP commissioner to review the plan and make a preliminary determination as to whether it is consistent with the goals of the CES within 30 days of receiving the plan. If he determines that the plan is consistent with these goals, PURA must approve or modify the plan. PURA must do this in a contested proceeding, with a public hearing, within 120 days after the plan is submitted to PURA.

#### *Cost Recovery*

Under current practice, when a gas company seeks to expand its distribution system, it determines whether the projected new distribution revenues will equal or exceed the cost of the expansion over a specified period (15 years for Yankee Gas Services and 20 years for Connecticut Natural Gas and Southern Connecticut Gas). If the expansion will pay for itself in this period, all gas ratepayers pay for it in rates. If it does not, the benefitted customers must pay for the shortfall. The act instead requires PURA to use a 25-year horizon to make

this allocation in implementing the expansion plan. As part of its analysis, PURA must develop a methodology to reasonably account for revenues that would be collected from new customers who signal that they intend to switch to gas over a period of at least three years within a common geographic location.

The act also requires PURA to establish a:

1. new rate for customers added pursuant to the plan to offset the incremental costs of implementing the plan and
2. rate mechanism for the companies to recover their prudent investments under the approved plan in a timely manner outside of a rate proceeding, that must consider the additional revenues they will generate by implementing the plan.

The companies provide gas on a nonfirm (interruptible) basis to some of their nonresidential customers and receive a credit for providing this service. The act requires PURA to assign at least half of the nonfirm margin credit to offset the rate base of the gas companies, the costs of which are recovered from ratepayers. It requires PURA to assign the lesser of (1) half of this credit or (2) \$15 million annually from the credit for the companies in the aggregate to offset expansion costs. These include the costs of adding new state, municipal, commercial, and industrial customers when this provides societal benefits. These benefits include increased or retained employment, local economic development, environmental benefits, and supporting transit-oriented development goals. PURA must allocate the latter amount among the companies in proportion to their revenues and the capacity for which they contract.

#### *Report*

The act requires the gas companies, by June 15 annually from 2014 through 2023, to jointly report to DEEP and PURA on the status and progress in implementing the plan. The report must:

1. identify the number of new customers added over the previous year,
2. compare the actual and estimated expenditures for that year,
3. forecast new customers and expenditures for the coming year, and
4. provide other information that DEEP or PURA considers appropriate.

#### § 52 — FUEL SWITCHING AND EFFICIENCY PILOT PROGRAM

The act requires DEEP, CEFIA, and ECMB to establish a pilot program in at least four municipalities to:

1. ensure that potential customers targeted for conversion to gas are given incentives to install efficient equipment and improve the efficiency of building envelopes (e.g., windows) at the time of conversion,
2. ensure that customers who cannot cost-effectively convert to gas are given incentives to install efficient equipment and improve the efficiency of the building envelope, and
3. provide access to low-cost financing for gas conversion or efficiency upgrades.

The agencies must act in coordination with the electric and gas companies and the program must be consistent with the policy goals of the CES.

The program must use a community-based marketing campaign and a competitive solicitation for volume pricing on high efficiency heating equipment and insulation.

The program ends on December 31, 2014. Thereafter, DEEP may evaluate the results of the program and determine whether to reestablish the pilot program or establish a permanent program.

#### § 53 — FUNDING FOR ALTERNATIVE VEHICLES

The act allows DEEP, from non-appropriated resources, to provide grants or rebates to municipalities, academic institutions, and other entities to buy or install alternative fuel vehicles, alternative vehicle fueling equipment, and energy efficient devices.

#### § 55 — FUNDING FOR THERMAL AND ELECTRIC ENERGY STORAGE

The act requires CEFIA to provide grants and other forms of financial assistance for thermal energy storage and electric storage.

#### §§ 56, 57 — WEATHERIZATION STANDARDS AND EFFICIENCY

The act requires DEEP, by July 1, 2014, in consultation with ECMB and the Department of Housing, to develop weatherization standards and procedures for buildings participating in the Rental Assistance Program, including considering expedited scheduling of an energy efficiency audit. When a tenant secures or renews a lease under the rental assistance program, once the standards and procedures become effective, the landlord must (1) schedule an energy audit under the Home Energy Solutions program or a program deemed comparable by the DEEP commissioner and (2) install free weatherization measures under the program. The act also requires, starting July 1, 2013, Operation Fuel, Incorporated and the agencies administering state fuel assistance program funds to provide their clients (1)

information regarding the Home Energy Solutions audit program and (2) an application form for the audit.

#### § 58 — ON-BILL FINANCING PROGRAM

The act requires ECMB and CEFIA, in consultation with the electric and gas companies, to establish a program by April 1, 2014 to finance residential energy efficiency and renewable energy measures using private capital. The loans must be repaid on the electric or gas bills of participating customers.

##### *Program Features*

The program must:

1. establish a process for determining which measures qualify for it;
2. prioritize measures based on their cost-effectiveness;
3. reduce peak electricity demand;
4. help participating customers obtain incentives, other cost savings, and financing for the measures, including gas heating equipment that is Energy Star rated as well as oil and propane equipment that is at least 84% efficient;
5. identify knowledgeable contractors to install the measures and ensure that they are installed successfully;
6. finance the measures so that the repayment term does not exceed the improvement's average expected life; and
7. provide that the repayment, added to the customer's utility bill after installation, is no more than the original utility bill.

Under the program, if the customer does not repay his or her loan, his or her utility service can be shut off. This provision does not apply if the customer has a pending complaint, investigation, hearing, or appeal challenging the accuracy, terms, or related issues regarding the loan. The loan repayment is treated like a utility bill for purposes of the laws that limit when and under what circumstances a utility can terminate service. In addition, the program must:

1. establish program guidelines to address the ramifications of on-bill repayment and the risks of service disconnections for low-income and other hardship customers;
2. require that the billing and collection services be available whether or not the energy or fuel the utility delivers is the customer's primary energy source; and
3. require that the repayment obligation must be assigned to subsequent property owners once ECMB and CEFIA develop guidelines regarding timely notice to the new owner, but the obligation does not apply when a tenant or

receiver of rents becomes liable for utility bills under existing laws.

These three guidelines are subject to PURA review and approval. The review, an uncontested proceeding, must begin when the guidelines are filed with PURA and is considered complete no more than 90 days after the filing.

Repayments for improvements connected with heating must be counted as heating expenses for (1) the Connecticut Energy Assistance Program and (2) utility programs that match customer payments in reducing the customer's arrearage.

#### § 59 — COMBINED HEAT AND POWER PROGRAM

The act requires DEEP to establish a pilot program to promote large combined heat and power (cogeneration) systems by limiting the demand charge electric companies impose on them. Electric companies impose this charge on their larger customers to help recover their infrastructure costs. Under a provision known as the ratchet, an increase in demand increases the demand charge for an extended period. For customers with cogeneration systems, the increase in demand could be caused by an outage of the system.

##### *Eligible Systems*

To be eligible, a system must:

1. provide electricity and heat to a commercial, industrial or residential facility;
2. have a nameplate capacity between 500 and 5,000 kilowatts; and
3. have been placed in service between January 1, 2012 and January 1, 2015.

Systems that are eligible for assistance under two existing programs are ineligible for the pilot program.

##### *Project Selection and Program Benefits*

The act requires DEEP to solicit applications from qualifying projects and select program participants on a first-come, first-served basis. DEEP can select as many eligible projects as it wishes, subject to a 20 megawatt limit on the total capacity for the pilot program. Thus, the program can have a maximum of between four and 40 participants, depending on their size.

Program participants are not required to pay the charge associated with the ratchet if the project experiences an outage. If the project experiences an outage longer than three hours, the demand charge must be based on daily demand pricing pro-rated from standard monthly rates. No demand charge can be imposed for shorter outages.

Participants can receive this benefit for 10 years from the time the project goes into service. They can also aggregate all electric meters that are on the same premises as the project and are billable to the customer.

If a project does not go into operation within one year of selection, its share of the 20-megawatt limit must be offered to at least one other project that participated in the selection process.

##### *Data Collection and Analysis*

Program participants must give PURA and the DEEP commissioner all system performance and supplemental utility data PURA reasonably considers necessary to measure the program's performance. The data must include the following, in 15-minute intervals:

1. the project's net electric production;
2. the project's net thermal production (e.g., steam) measured in millions of British thermal units (mmBTUs);
3. fuel the project consumed in mmBTUs; and
4. supplemental electricity received from the electric company, measured in kilowatt-hours and kilovolt-amperes.

The data also must include (1) all downtimes for the project, including the time of day of the downtime, its duration, and the reasons for it and (2) any other data PURA deems appropriate. The data must be provided on a PURA-approved form.

Using this data, PURA must analyze (1) the projects' system performance; (2) the demand charges paid, as opposed to the standard demand charges for customers who have distributed generation (cogeneration is a type of distributed generation); and (3) the viability of establishing an as-used daily demand tariff for all distributed generation cogeneration systems.

##### *Report*

Ninety days after three years' worth of data have been received, the DEEP commissioner must report to the Energy and Technology Committee, recommending whether to continue, expand, modify, or eliminate the program.

#### § 60 — UTILITY TREE-TRIMMING

The act expands the ability of electric and telecommunication utilities to trim trees and other vegetation near their lines.

Under prior law, electric and telephone companies had to seek the consent of property owners when they cut or trimmed trees overhanging highways or public grounds. (The strip between a sidewalk and a street is typically part of the highway right of way.) If the owner

did not consent, the company could proceed with the approval of PURA or the municipal tree warden, following notice and an opportunity for a hearing.

The act instead allows electric and telecommunications companies, with somewhat different notice and appeals procedures, to perform vegetation management in the “utility protection zone” to secure the reliability of utility services by protecting wires and other utility infrastructure from trees, shrubs, and other vegetation in the zone. Under the act, the zone is the area extending eight feet horizontally from the outermost line and vertically from the ground to the sky. “Vegetation management” includes pruning and removing vegetation that jeopardizes utility infrastructure, while retaining compatible vegetation that does not. Until DEEP issues standards for identifying compatible trees and shrubs, the compatible trees and shrubs are those listed in the 2012 final report of the State Vegetation Management Task Force.

#### *Notice Requirements and Appeals*

Under the act, before a utility can prune or remove any tree or shrub (1) in the zone or (2) on or hanging over any highway or public ground, it generally must notify the abutting property owner. The notice can be (1) delivered by first class mail, (2) deposited at the location of this property, or (3) delivered orally and in writing. Under the first two options, the notice must be provided at least 15 business days before starting any pruning or removal. Under the last option, pruning or removal can take place any time after the notice is provided, so long as the owner has (1) not filed a written objection within 10 business days or (2) waived, in writing, the right to object.

The notice must indicate that (1) the property owner can object to pruning or removal in writing with the utility and either the municipal tree warden or the Department of Transportation (DOT), as appropriate, within 10 business days after the notice is delivered and (2) the objection may include a request for consultation with the tree warden or DOT, as appropriate. While the act does not specify this, it appears that DOT would be involved for pruning or removal along state highways. If the owner does not object, the utility can proceed with the pruning or removal.

If the property owner objects, the tree warden or DOT, as appropriate, must issue a written decision within 10 business days after the objection is filed. This decision may not be issued before a consultation with the property owner if a consultation has been requested.

The property owner or the utility may appeal the tree warden’s decision to PURA within 10 business days after the decision. PURA must (1) hold a hearing within 60 business days of receiving a written appeal of the tree warden’s decision and (2) provide notice of the

hearing to the property owner, the tree warden, and the utility. PURA may authorize the pruning or removal of any tree or shrub that is the subject of the hearing if it finds that public convenience and necessity require it.

When an objection has been filed, no tree or shrub subject to the objection may be pruned or removed until PURA or DOT has reached a final decision.

#### *Cases When Notice Is Not Required*

A utility is not required to provide notice if the tree warden or DOT, as appropriate, gives the utility written authorization to prune or remove a hazardous tree (1) within the utility protection zone or (2) on or overhanging any public highway or public ground. A “hazardous tree” is all or part of a tree that is (1) dead; (2) extensively decayed; or (3) structurally weak and that would endanger utility infrastructure, facilities, or equipment if it fell. A utility is also not required to provide notice, or obtain a permit required under existing law, to prune or remove a tree, as necessary, if any part of it directly contacts a live electric line or has visible signs of burning. None of these provisions require a utility to prune or remove a tree.

EFFECTIVE DATE: July 1, 2013

#### § 61 — SITING COUNCIL APPROVAL OF TELECOMMUNICATIONS TOWERS

By law, a Siting Council certificate is required to build or modify a variety of energy and telecommunications facilities. Generally, the council can grant a certificate only if it finds that there is a public need for the facility and that this need outweighs the environmental harm the facility may cause.

The act establishes a presumption, in the case of cell phone tower certificate applications, that there is a public need for personal wireless (e.g., cell phone) services. It limits the council’s consideration of need to the specific need for the proposed tower to provide these services.

By law, the council must consider a proposed facility’s environmental and public health impacts in determining whether to grant a certificate. For proposals involving new ground mounted cellphone towers to be installed on land owned by a water company, the act requires the council to consult with DPH to consider potential public health impacts to public drinking water supplies as part of this review.

By law, the council can deny an application for a cell phone or cable TV tower for several reasons. The act additionally allows the council, in the case of a proposed tower owned or operated by the state, to deny an application if no public safety concerns require that it be constructed in the proposed location.

EFFECTIVE DATE: July 1, 2013

## § 62 — TELECOMMUNICATIONS TOWERS IN WATERSHEDS

By law, (1) a private or public water utility needs a DPH permit to lease or change the use of any of its watershed lands and (2) there are restrictions on the circumstances under which DPH can issue these permits.

The act allows the DPH commissioner to grant a permit to allow for telecommunications towers, ancillary equipment, or related access drives and utilities on water utility land used to provide cellphone and other personal wireless services under certain circumstances. These are that (1) the lease or change of use will not harm the purity and quality of the public water supply and (2) any use restrictions she imposes as a permit condition can be enforced against subsequent owners, lessees, and assignees.

The act requires the permit application for such facilities to at least (1) document the extent that the telecommunications service provider considered other sites and found them unsuitable and (2) include a finding by the commissioner that the lease or change of use will not significantly harm the public drinking water supply purity or adequacy. A permit is subject to any conditions or restrictions the commissioner considers necessary to maintain the water supply's purity or adequacy.

EFFECTIVE DATE: July 1, 2013

## § 63 — MIX OF GENERATION SOURCES USED BY SUPPLIERS

By law, PURA must maintain a database of information regarding electric companies and competitive suppliers. By law, the database must include information on the environmental characteristics of various types of generation. PA 13-5 eliminated the requirement that the database include the percentage of electric output for each company and supplier derived from each energy source category. This act reinstates this requirement.

## § 64 — TIME OF USE RATES FOR ELECTRIC VEHICLE CHARGING STATIONS

The act requires PURA, with regard to (1) electric companies and (2) municipal electric utilities that have sales of over 500 million kilowatt-hours annually, to determine within one year whether it is appropriate to implement "time of day rates" for electric vehicle charging stations that do not charge people to charge their vehicles. Such rates reflect the cost to the utility of providing power for electric vehicles, but do not include demand charges.

## § 65 — TYING ELECTRIC VEHICLE AND CHARGING STATIONS

The act prohibits vehicle manufacturers or distributors from requiring a dealer to purchase goods or services, including vehicle battery charging stations, from a vendor chosen by the manufacturer or distributor if substantially similar items of like appearance, function, and quality are available from other sources. The provision applies regardless of any franchise or other agreement between a manufacturer or distributor and a dealer. But it does not allow a dealer to (1) impair or eliminate the manufacturer's or distributor's intellectual property rights or (2) erect or maintain signs that do not conform to the intellectual property usage guidelines of the manufacturer or distributor. PA 13-247 repeals this provision.

## § 66 — ELECTRIC COMPANY RATE RECOVERY

The law allows an electric company to recover costs it prudently incurs under various statutes through (1) its rates, (2) the energy adjustment clause, or (3) the federally mandated congestion charge on electric bills. PURA determines the appropriate cost-recovery mechanism. The act additionally allows a company that incurs costs under the net metering (including virtual net metering) and submetering laws to recover them through these three mechanisms.

Under prior law, if an electric company earned a rate of return on its equity (roughly, its profit rate) that was below its authorized rate for six consecutive months due to decreased energy use arising from the above statutes, it was entitled to recover the lost earnings under the decoupling provision described above. The act instead entitles the company to recover revenues lost as a result of these statutes (including those newly added, such as net metering) under the three mechanisms described above, whether or not its rate of return is affected.

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**PA 13-303—sSB 1138**

*Energy and Technology Committee*

## **AN ACT CONCERNING CONNECTICUT'S CLEAN ENERGY GOALS**

**SUMMARY:** This act modifies the state's renewable portfolio standard (RPS), which requires electric companies and competitive suppliers to get part of their power from renewable resources. Among other things, the act:

1. expands the types of resources that count as Class I resources used to meet part of the RPS and

2. requires that the value of renewable energy credits (RECs) associated with certain biomass facilities be reduced. (Suppliers and companies use RECs to meet their RPS obligations.)

The act also allows the Department of Energy and Environmental Protection (DEEP) commissioner to (1) solicit proposals from Class I and large-scale hydropower generators and (2) direct the electric companies to enter into agreements with them, subject to review and approval by the Public Utilities Regulatory Authority (PURA). It allows large scale hydropower to count towards the RPS under certain conditions.

The act requires that PURA determine whether a supplier or company has met its RPS obligations in an uncontested, rather than contested, proceeding. It requires PURA, by December 31, 2013, to issue a decision on those proceedings for calendar years through 2012 that have not already been issued. It requires that subsequent determinations be made by December 31, 2014 and annually thereafter.

By law, if a supplier or company does not meet its RPS obligations, it must make an alternative compliance payment (ACP). Under prior law, ACP revenues had to go to the Clean Energy Finance and Investment Authority to develop new Class I resources. The act instead requires that these revenues be used to reduce electric rates.

EFFECTIVE DATE: Upon passage

#### §§ 1-3, 5 — WHAT COUNTS AS A RENEWABLE RESOURCE

Under the RPS, electric companies and suppliers must obtain part of their power from (1) Class I resources, such as wind and solar power; (2) either Class I or Class II resources (e.g., power from resource recovery facilities); and (3) Class III resources (e.g., power from cogeneration facilities or savings from certain energy conservation programs). They meet their obligations by buying RECs on the regional market, which can be sold separately from the power generated by these resources and the rights to the facilities' generating capacity. (Capacity rights are analogous to an attorney's retainer, while power rates are analogous to his or her hourly rate.)

#### § 1 — Hydropower

The act expands the scope of Class I resources with regard to hydropower facilities. To be eligible under prior law, a facility had to be "run-of-the-river" and have a capacity of up to 5 megawatts (MW) and could not cause an appreciable change in the river flow. The act increases this limit to 30 MW and eliminates the requirement that the facility not cause an appreciable

change in the river flow. However, for all facilities that apply for certification as Class I resources after January 1, 2013, the facility may not be on a (1) new dam or (2) dam the DEEP commissioner has identified as a candidate for removal. In addition, such facilities must meet applicable state and federal requirements, including applicable site-specific standards for water quality and fish passage.

#### §§ 3, 5 — Biomass

*RECs for Biomass Facilities.* The act requires the DEEP commissioner, by January 1, 2014, to establish a schedule gradually reducing REC values for biomass or landfill methane gas facilities that qualify as Class I resources, other than anaerobic digestion or other biogas facilities. He must do this in developing or modifying the integrated resources plan. The commissioner may review the schedule in preparing each subsequent integrated resources plan and make any necessary changes to it to ensure that the rate of reductions is appropriate given the availability of other Class I resources. The schedule takes effect on January 1, 2015.

The reduction does not apply to any biomass or landfill methane gas facility that has entered into a power purchase agreement (1) with an electric supplier or electric company in the state by June 5, 2013 or (2) that is executed under the request for proposals described below.

*Eligible Biomass Facilities.* The act narrows the types of facilities where certain types of biomass can be used to produce power that counts as a Class I resource. By law, certain types of biomass, such as construction and demolition waste and finished products from sawmills, generally do not count as sustainable biomass, and the power they produce does not count as a Class I resource. But, under prior law, these types of biomass could be used in four types of facilities:

1. those that received funding from the Clean Energy Fund before May 1, 2006;
2. those that have long-term contracts with electric companies under the Project 150 program;
3. facilities that meet specified requirements, until the plants identified in category 1 go into operation; or
4. if no facilities in categories 1 or 3 are accepting such biomass, other facilities that meet different criteria.

The act eliminates the third and fourth exceptions, limiting the eligibility to use biomass such as construction and demolition wood to facilities in the first two categories. By law, biomass facilities that do not meet the Class I criteria, but meet other criteria, are considered Class II resources.

### § 1 — Class I Provisions

The act classifies as Class I resources (1) electricity from geothermal resources and (2) thermal electric direct energy conversion from a certified Class I resource. By law, methane gas from landfills is a Class I resource; the act additionally includes other biogas derived from biological processes, such as anaerobic digestion.

Starting January 1, 2014, the act makes electrical generation from Class I resources ineligible to count towards Connecticut's RPS if a load-serving entity (e.g., an electric company), province, or state claims or counts it to comply with another state's RPS or renewable energy goals. (Most of the states in the northeast have an RPS; Vermont has renewable energy goals.)

### § 2 — Class III

The act limits the types of resources that count as Class III. Under prior law, these resources were the (1) energy produced by certain cogeneration or waste heat recovery facilities and (2) electric savings produced by conservation programs that began on or after January 1, 2006. Starting January 1, 2014, the act restricts eligibility to those resources that have not received support from ratepayers. However, this provision does not apply to demand-side management (conservation) projects awarded a contract under an existing program, which continue to count as Class III resources for the term of the contract.

### §§ 6-8 — REQUESTS FOR PROPOSALS

#### § 6 — New Class I Facilities

Starting January 1, 2013, the act allows the DEEP commissioner to solicit proposals from providers of Class I renewable energy sources built on or after January 1, 2013. He must do this in conjunction with the (1) state official who procures power for the standard service that electric companies provide to customers who have not chosen competitive suppliers, (2) Office of Consumer Counsel (OCC), and (3) attorney general (AG). He may do this in coordination with other New England states.

If the commissioner finds the proposals are (1) in ratepayers' interest and (2) consistent with the policy goals outlined in the Comprehensive Energy Strategy and the state's goals to reduce greenhouse gas emissions, he may select proposals to serve up to 4% of power distributed by the electric companies. He may direct the electric companies to enter into agreements for up to 20 years with the providers. The agreements must be for energy, generating capacity, and environmental attributes (e.g., the RECs used to comply

with the RPS), or any combination of them. The agreements are subject to PURA review and approval. A review must start when an agreement is filed with PURA. If PURA does not issue a decision within 30 days, the agreement is deemed approved.

The RECs that are bought under the agreements must be sold in the regional market to be used by suppliers and electric companies to meet their Connecticut RPS requirements.

The net costs of the agreements must be recovered through a fully reconciling component of electric rates for all of the electric companies' customers. These costs may include reasonable costs incurred by electric companies under this provision.

#### § 7 — Class I and Large Scale Hydropower

The act also allows the commissioner, starting July 1, 2013, in conjunction with the procurement official, OCC, and the AG, to solicit proposals from providers of Class I resources built before January 1, 2013 or large-scale hydropower. The act defines the latter as any hydropower that:

1. began operation on or after January 1, 2003;
2. is in the area that is eligible to participate in the New England REC market (New Brunswick, New England, New York state, and Quebec) or an area abutting the northern boundary of this area that is not connected with any other control area (e.g., Labrador and Newfoundland);
3. delivers power into the New England REC market area; and
4. has a generating capacity of more than 30 MW.

To be eligible, hydropower must be "verifiable," which the act does not define. The commissioner can conduct the solicitation in coordination with other New England states.

If the commissioner finds the proposals meet certain conditions, he may direct the electric companies, on behalf of all their customers, to enter into agreements for energy, capacity, and environmental attributes, or any combination of them, for periods of no more than 20 years (15 years for large scale hydropower). The conditions are that the proposals be:

1. in ratepayers' interest,
2. consistent with the (a) policy goals outlined in the Comprehensive Energy Strategy and (b) state's goals to reduce greenhouse gas emissions, and
3. in accordance with the state's energy policy goals.

The latter include such things as peak load shaving and the promotion of wind, solar, and other renewable energy technologies. The commissioner may select proposals that meet these conditions to supply up to 5%

of the load distributed by the electric companies.

PURA must (1) hold a public hearing and (2) review and approve any agreement within 60 days after receiving it.

The RECs that are bought under the agreements must be sold in the regional market to be used by suppliers and electric companies to meet their Connecticut RPS requirements.

The net costs of the agreements must be recovered through a fully reconciling component of electric rates for all electric company customers. These costs may include the reasonable costs incurred by the electric companies under this provision.

#### § 8 — *Specified Class I Resources*

The act allows the DEEP commissioner, on or after October 1, 2013, to solicit proposals from providers of Class I run-of-the-river hydropower, landfill methane gas, or biomass resources for up to 10 years. He must do this in conjunction with the procurement official, OCC, and the AG.

If the commissioner finds the proposals meet certain conditions, he may direct the electric companies to enter into agreements for energy, capacity, and environmental attributes, or any combination of them, to meet up to 4% of the load distributed by the electric companies. The commissioner, in reviewing proposals, must consider:

1. whether the proposal is in ratepayers' interest, including the delivered price for the energy and other products;
2. the facility's emissions profile and any investments it has made to improve its emissions profile;
3. the length of time a facility has received RECs;
4. any positive impacts on the state's economic development; and
5. if the proposal is consistent with the (a) policy goals in the Comprehensive Energy Strategy and (b) state's goals to reduce greenhouse gas emissions.

PURA must review and approve any agreement within 60 days after receiving it.

The RECs that are bought under the agreements must be sold in the regional market to be used by suppliers and electric companies to meet their Connecticut RPS requirements. The net costs of the agreements must be recovered through a fully reconciling component of electric rates for all electric company customers. These costs may include the reasonable costs incurred by the electric companies under this provision.

#### § 9 — ALLOWING LARGE SCALE HYDROPOWER TO COUNT TOWARDS THE RPS

By law, if an electric company or competitive supplier does not meet its RPS obligation, it must make an ACP of 5.5 cents for each kilowatt-hour of its shortfall.

Under the act, if in 2014 or any subsequent calendar year, a company or supplier makes an ACP, there is a presumption for the calendar year in which the payments are made that there is an insufficient supply of Class I renewable energy sources to comply with the RPS. If this presumption applies, the DEEP commissioner may determine whether the payments resulted from a material shortage of Class I resources. In making this determination, he must consider whether the payments resulted from intentional or negligent action by a supplier or electric company to purchase RECs available in the market.

If the commissioner finds that the payments were due to a material shortage of Class I resources, he must determine the actual or potential adequacy of Class I resources to meet the RPS in the following year. In making this determination, he may consider the:

1. future cost and availability of REC certificates in the New England market based on the status of projects under development in the region,
2. future requirements of certificates issued in this market, and
3. projected compliance costs of Class I resources.

If (1) the presumption applies and (2) the commissioner finds a material shortage of Class I renewable energy sources, in addition to determining the future adequacy of such resources, he must solicit proposals from Class I providers that are operational when the solicitation is issued. He must do so in consultation with the procurement manager, OCC, and the AG.

If the commissioner, in consultation with the procurement manager, finds the proposals (including the delivered price) to be in ratepayers' interest and consistent with the state's greenhouse gas emissions reduction goals and policy goals in the Comprehensive Energy Strategy, the commissioner, in consultation with the procurement manager, may select proposals to fill the identified shortage. The commissioner must direct the electric companies to enter into power purchase agreements for energy, capacity, and environmental attributes, or any combination, from the selected proposals for periods of up to 10 years. The purchased Class I RECs must be sold in the regional REC market to be used by any supplier or electric company to meet its RPS obligations.



The agreements are subject to review and approval by PURA, which must begin when the signed agreements are filed with it. PURA must issue a decision on an agreement within 30 days of its filing; if it does not, the agreement is considered approved.

The net costs of the agreements must be recovered through a fully reconciling component of electric rates for all customers of electric companies. These costs may include reasonable costs incurred by electric companies.

If the presumption applies and the commissioner finds (1) a material shortage of Class I resources and (2) an inadequacy of future Class I resources, on or after January 1, 2016, he may allow up to one percentage point of the Class I RPS for following calendar years to be satisfied by large-scale hydropower procured under the act. The RPS is thus reduced by not more than one percentage point in proportion to the commissioner's action. But (1) the commissioner may not allow a total of more than five percentage points of the Class I RPS to be met by large-scale hydropower by December 31, 2020 and (2) the large-scale hydropower may not participate in the New England REC market.

#### §§ 10, 11 — USE OF ACP REVENUES

Under prior law, ACP revenues had to go to the Clean Energy Finance and Investment Authority to develop new Class I resources. The act instead requires that these revenues be used to offset existing ratepayer costs. Specifically, the act requires, starting January 1, 2014, that these payments be first refunded to ratepayers to offset the costs to all customers of electric companies of the costs of long-term contracts with zero- and low-emission renewable energy generators under two existing programs. Any remaining amount must be applied to reduce the costs of contracts under another existing program. If any amount remains, it must be applied to reduce costs collected through non-bypassable, federally mandated congestion charges on electric bills.

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**PA 13-15—sSB 1010**  
*Environment Committee*

**AN ACT CONCERNING SEA LEVEL RISE AND THE FUNDING OF PROJECTS BY THE CLEAN WATER FUND**

**SUMMARY:** This act expands the factors that the energy and environmental protection commissioner must consider when establishing the priority list and ranking system for making clean water fund grants and loans for eligible water quality projects. Specifically, it requires him to consider the necessity and feasibility of implementing measures designed to mitigate sea level rise impact over a project's life span.

Existing law already requires him to consider all factors he deems relevant, including:

1. public health and safety,
2. environmental resources protection,
3. population affected,
4. state water quality goals and standards attainment,
5. consistency with the state plan of conservation and development,
6. state and federal regulations, and
7. municipalities' formation of local housing partnerships.

By law, the commissioner must make the grants and loans to municipalities based on the priority list order. The priority list must (1) include a description of each project and its purpose, impact, cost, and construction schedule and (2) explain how the priorities were established.

An "eligible water quality project" includes the planning, design, development, construction, repair, extension, improvement, remodeling, alteration, rehabilitation, reconstruction, or acquisition of a water pollution control facility approved by the commissioner (CGS § 22a-475).

EFFECTIVE DATE: October 1, 2013

**BACKGROUND**

*Clean Water Fund*

The Clean Water Fund provides financial aid to municipalities through grants and loans for planning, designing, and constructing water pollution control facilities. It is financed through a combination of federal funding, state general obligation bonds for the grant portion, and state revenue bonds for the loan portion.

**PA 13-23—HB 5799**  
*Environment Committee*

**AN ACT REQUIRING PET BOARDING FACILITIES AND KENNELS TO DISPLAY THEIR LICENSE NUMBER ON ALL FORMS OF ADVERTISING**

**SUMMARY:** This act requires anyone who maintains and advertises a commercial kennel to include his or her license number in any advertisement. It authorizes the agriculture commissioner to adopt regulations, which may establish the size, font, and location of the license number in advertisements. By law, a person must have a license from the agriculture commissioner to operate a commercial kennel.

EFFECTIVE DATE: October 1, 2013

**PA 13-27—sHB 6540**  
*Environment Committee*

**AN ACT CONCERNING THE SALE OF CERTAIN BEVERAGES IN MIXED MATERIAL CONTAINERS**

**SUMMARY:** The beverage packaging law generally prohibits selling or offering for sale plastic beverage containers that include aluminum or steel in the containers' basic structure.

This act exempts beer and other malt beverages from the law's definition of "beverage," thus allowing the sale or offer for sale of beer and other malt beverages in plastic containers containing these metals. It continues to ban the sale or offer for sale of these containers for mineral waters, soda water, and carbonated soft drinks.

EFFECTIVE DATE: Upon passage

**PA 13-33—sHB 5310**  
*Environment Committee*

**AN ACT CONCERNING THE DUTIES AND AUTHORITY OF THE CONNECTICUT AGRICULTURAL EXPERIMENT STATION**

**SUMMARY:** This act increases the minimum fine, from \$5 to \$500, and the maximum fine, from \$100 to \$2,500, for (1) interfering with the Connecticut Agricultural Experiment Station (CAES) director's duties or (2) violating quarantines or CAES regulations. By law, the CAES director is in charge of controlling insects or diseases that threaten plants of economic importance (e.g., emerald ash borer). He may (1) prohibit or regulate the transport of plants and plant

material likely to carry dangerous pests and (2) enforce other provisions of the law concerning plant and insect disease and infestation.

CAES is managed by an eight-member board of control. By law, the board must direct CAES to make scientific inquiries, perform experiments, and perform analyses for other state agencies. The act requires CAES to perform these duties within available resources.

Lastly, the act explicitly allows the CAES director, in carrying out his statutory duties, to issue permits or enter into compliance agreements with any party.

EFFECTIVE DATE: Upon passage

**PA 13-38**—HB 6313

*Environment Committee*

#### **AN ACT CONCERNING LOCALLY GROWN POULTRY IN CONNECTICUT FOOD MARKETS**

**SUMMARY:** This act allows certain poultry processing facilities to sell poultry to retail food establishments (e.g., grocery stores). These facilities are approved by law to sell food to household consumers, restaurants, hotels, and boarding houses. The facilities must (1) meet applicable criteria for federal Food Safety and Inspection Service exemptions and (2) pass state Department of Agriculture inspections.

Under the law, “poultry” means any species of domestic fowl, including chickens, turkeys, ostriches, emus, rheas, cassowaries, waterfowl, and game birds raised for food production, breeding, exhibition, or sale.

EFFECTIVE DATE: Upon passage

**PA 13-39**—sHB 6315

*Environment Committee*

#### **AN ACT CONCERNING THE RESALE OF DOGS TO MILITARY AND LAW ENFORCEMENT AGENCIES**

**SUMMARY:** This act exempts from the pet shop licensing requirement people who acquire dogs to resell them to the military or a law enforcement agency for law enforcement or security work. Thus, these people will no longer be subject to the Department of Agriculture’s pet shop regulations governing sanitation, animal health and welfare, and the protection of public safety.

By law, unless exempted, anyone acquiring a dog or cat for resale must obtain a pet shop license from the agriculture commissioner. A violation is a class B misdemeanor (see Table on Penalties).

EFFECTIVE DATE: Upon passage

**PA 13-42**—sHB 6437

*Environment Committee*

*Judiciary Committee*

#### **AN ACT CONCERNING A MATTRESS STEWARDSHIP PROGRAM**

**SUMMARY:** This act establishes a mattress stewardship program to manage discarded mattresses. It requires mattress producers, or their designees, to join a nonprofit mattress recycling council that they, or a trade association representing them, establish. It prohibits producers who fail to participate in the program from selling mattresses in Connecticut.

The council must develop a plan to, among other things, minimize public sector involvement in managing discarded mattresses. The plan must be submitted to the Department of Energy and Environmental Protection (DEEP) for approval. The program is funded through a fee on most mattresses sold in the state. An auditor must review the fee and any proposed change to it.

The act allows the DEEP commissioner to enforce the program’s requirements, establishes reporting requirements, and immunizes producers and the council from claims of antitrust or unfair trade practice violations under certain circumstances. It also allows the council to collaborate with another state with a mattress recycling program.

Under the act, the program’s preferred disposal method is recycling if it is technologically feasible and economically practical.

EFFECTIVE DATE: October 1, 2013, except the covered entity fee provision is effective July 1, 2014.

#### **MATTRESS PRODUCERS**

The act applies to “producers” (manufacturers or renovators) of mattresses sold, offered for sale, or distributed in Connecticut under the producer’s own name or brand. The term includes (1) the owner of a trademark or brand under which a mattress is sold, offered for sale, or distributed in the state and (2) any person who imports a mattress into the United States that is sold or offered for sale in Connecticut and manufactured or renovated by a person without a U.S. presence. The act defines “renovator” as a person who alters discarded mattresses for resale to consumers by replacing the ticking (outermost fabric or material layer) or filling, adding filling, or replacing components. A “brand” is a name, symbol, word, or mark that attributes a mattress to its producer.

Under the act, a “mattress” is any resilient material or combination of materials enclosed by ticking, used alone or with other products, and intended or promoted for sleeping upon. It includes (1) ticking-covered structures used to support the mattress composed of a constructed frame, foam, or box spring (a “foundation”) and (2) renovated mattresses. But it does not include any mattress pad, mattress topper, sleeping bag, pillow, car bed, carriage, basket, dressing table, stroller, playpen, infant carrier, lounge pad, crib bumper, or certain water beds, air mattresses, and upholstered furniture.

A “sale” is the transfer of title of a mattress for consideration, including through a sales outlet, catalog, or website or similar electronic means.

### PROGRAM CREATION AND PURPOSES

By July 1, 2014, the act requires producers, or their designees, to join the mattress recycling council. The council is a nonprofit organization to design, submit, and implement the mattress stewardship program. It is created by the producers or any trade association that represents the producers that account for the majority of U.S. mattress production. The act allows retailers to participate in the council.

By the same date, the mattress recycling council must submit a plan to establish a statewide mattress stewardship program for the DEEP commissioner’s approval.

The act requires the council’s fee structure to cover but not exceed the costs of (1) developing the plan, (2) operating and administering the program, and (3) maintaining a sufficient financial reserve to operate the program in a fiscally prudent and responsible manner over a multi-year period.

The mattress stewardship program must (1) minimize public sector involvement in managing discarded mattresses; (2) include a mattress stewardship fee that is sufficient to cover the program’s operating and administrative costs; and (3) establish a financial incentive that provides for payment of an amount, set by the council, to consumers who recycle mattresses according to the program’s requirements. It must also provide:

1. free, convenient, and accessible statewide opportunities for receiving discarded mattresses from anyone with a mattress that was discarded in Connecticut, including (a) participating covered entities (see below) with at least 50 mattresses and (b) municipal transfer stations that discard at least 30 mattresses at one time;
2. free collection of discarded mattresses from municipal transfer stations that accumulate and segregate fewer than 30 mattresses and need

- collection due to space or permit requirements;
3. council-financed end-of-life management for collected discarded mattresses; and
4. suitable storage containers at, or some other mutually agreed-to storage and transport arrangement for, permitted municipal transfer stations for segregated, discarded mattresses, at no cost if the transfer stations make space available and charge no fee.

The program must do these things to the extent they are technologically feasible and economically practical.

Under the act, a “discarded mattress” is a mattress a consumer discarded, intends to discard, or abandoned.

### PLAN COMPONENTS

The council’s plan must:

1. identify each participating producer,
2. describe the program’s fee structure,
3. establish performance goals for the program’s first two years,
4. identify proposed facilities for the program,
5. detail the program’s plans to promote recycling of discarded mattresses, and
6. describe its public education program.

Under the act, a “performance goal” is a council-proposed metric to annually measure the program’s performance. It must consider technical and economic feasibility of achieving continuous and meaningful improvement in (1) the state’s mattress recycling rate and (2) any other specified goal.

### PLAN APPROVAL AND IMPLEMENTATION

The act requires the DEEP commissioner to approve the plan if it meets the act’s program and plan requirements. He must determine whether to approve the plan within 90 days after its submission. The commissioner must post the plan on DEEP’s website and solicit public comments before deciding whether to approve it. The act specifies that the solicitation is not conducted according to the Uniform Administrative Procedure Act, which generally sets requirements for agencies adopting regulations.

If the plan is disapproved, the commissioner must give the council a notice of determination describing the reasons for disapproval. The council must revise and resubmit the plan within 45 days after receiving the disapproval notice. The commissioner must then review and either approve or disapprove the revised plan within 45 days after receiving it and provide a notice of determination to the council. The act restricts resubmitting a revised plan for approval to no more than two occasions. It requires the commissioner to modify and approve a submitted plan to make it conform with the program and plan requirements if the council fails to

provide an acceptable plan.

The act requires the council to implement the mattress stewardship program within (1) 120 days after plan approval or (2) 180 days after a DEEP modified plan is approved.

#### PROGRAM CHANGES

The act requires the council to submit proposed substantial program changes to the DEEP commissioner for approval. Under the act, a “substantial change” is a (1) change in the processing facilities used for the collected mattresses or (2) material change to the system for collecting mattresses. A proposed substantial change is deemed approved unless the commissioner disapproves it within 90 days after receiving notice of the proposed change.

The act also requires the council to notify the commissioner of other material program changes on a continual basis and without resubmitting the plan for approval. These changes include such things as a change in the council’s (1) composition, (2) officers, or (3) contact information.

By October 1, 2016, the council must submit to the commissioner updated performance goals based on the program’s experience during its first two years.

#### FUNDING

By July 1, 2014 and biennially thereafter, the council must propose a mattress stewardship fee for all mattresses sold in Connecticut, except crib and bassinette mattresses. The act authorizes the council to propose a fee change more often if needed to avoid a funding shortfall or excess.

The act requires a proposed fee to be reviewed by an auditor to assure that it does not exceed the costs of (1) the program and (2) maintaining sufficient financial reserves to operate the program in a fiscally prudent and responsible manner over a multi-year period. The council selects the auditor and the cost of the auditor’s work is funded by the fee.

Within 60 days after the council proposes the fee, the auditor must give an opinion to the DEEP commissioner on the reasonableness of the fee to achieve the program’s goals. If the auditor concludes the fee is reasonable, the proposed fee goes into effect. But if the fee is unreasonable, the auditor must notify the council in writing, explaining his or her opinion. Within 14 days after receiving the notice, the council may (1) propose a new fee or (2) provide written comments on the opinion. The commissioner must then determine if the proposed fee should be approved based on the auditor’s opinion and comments from the council.

Beginning on the program’s implementation date, the fee must be added to the cost of mattresses sold by producers to retailers and distributors in Connecticut. Retailers and distributors must then add the fee amount to the purchase price of mattresses sold in the state. The fee, and a brief description of it, must appear on each invoice.

The act authorizes the council to establish an alternative, practicable way to collect or remit the fee if DEEP approves.

#### PROGRAM AUDIT

Two years after program implementation, and then every three years, the council must pay for a program audit. The audit must (1) review the accuracy of the council’s program data and (2) provide any other information requested by the DEEP commissioner except for any proprietary information or trade or business secrets. The act also allows the commissioner to request an audit, but no more than once per year.

It requires the council to maintain all program records for at least three years.

#### MATTRESS COLLECTION FEES

When the program is implemented, but no sooner than July 1, 2014, any participating “covered entity” is prohibited from charging a fee for receiving mattresses discarded in Connecticut, but is allowed to charge for the service of collecting mattresses. The act allows them to refuse mattresses based on number, source, or physical condition.

Under the act, a “covered entity” is an entity that possesses a mattress discarded in Connecticut. It includes a political subdivision of the state (e.g., a municipality); mattress retailer; permitted transfer station; military base; commercial or nonprofit lodging establishment; or waste-to-energy, health care, educational, or correctional facility. It excludes renovators, refurbishers, and people who only transport discarded mattresses.

#### CIVIL PENALTIES

The act authorizes the DEEP commissioner to enforce the program’s requirements under his existing authority.

It allows the commissioner to ask the attorney general to bring an action for injunctive relief in New Britain Superior Court if the commissioner believes that a person has engaged in, or is about to engage in, any act, practice, or omission that violates the program’s requirements. It permits the court to issue a permanent or temporary injunction, restraining order, or other appropriate order, including requiring remedial measures and direct compliance.

The act requires that such actions by the attorney general generally take precedence over other actions in the order of trial.

#### LIABILITY PROTECTION

To the extent a producer or the council is exercising authority under the act, it is immune from liability for any antitrust or unfair trade practice claim based on a violation of antitrust law.

#### REPORTS

Annually by October 15, the council must submit a report to the DEEP commissioner on a form he prescribes. DEEP must post the report on its website. The report must include the:

1. tonnage of mattresses collected from municipal transfer stations, retailers, and other covered entities;
2. tonnage of mattresses diverted for recycling;
3. weight of mattress materials recycled, by the weight of each commodity sold to secondary markets; and
4. weight of mattress materials sent for disposal to waste-to-energy facilities, landfills, and other facilities.

It must also include (1) a summary of the program's public education efforts, (2) an evaluation of methods and processes used to achieve program performance goals, and (3) recommendations for program changes.

Within three years after the plan's approval, the commissioner must submit a report to the Environment Committee that evaluates the program. The report also must establish goals, considering technical and economic feasibility, for the (1) amount of discarded mattresses managed by the program and (2) recycling of such mattresses.

#### INTERSTATE COLLABORATION

The act allows the council to collaborate with another state that implements a mattress recycling program to conserve efforts and resources, as long as the collaboration is consistent with the act's requirements.

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#### **PA 13-58—sSB 564**

*Environment Committee*

#### **AN ACT CONCERNING MERCURY EMISSIONS TESTING AT CERTAIN POWER PLANTS**

**SUMMARY:** This act allows the owner or operator of a coal-burning electric power plant to reduce the frequency of mercury emissions stack testing, from

quarterly to annually, if the plant complies with the law's mercury emissions requirements for eight consecutive calendar quarters. But, if the annual stack testing demonstrates non-compliance, the plant must resume quarterly testing.

By law, these plants must monitor mercury emissions by (1) performing quarterly stack tests or (2) averaging continuous emissions monitoring data, if possible. The act retains the requirement that a plant owner or operator submit a quarterly report of stack test or monitoring data results to the energy and environmental protection commissioner.

Currently, the Bridgeport power plant is the only electric power plant in the state that burns coal.

EFFECTIVE DATE: October 1, 2013

#### BACKGROUND

##### *Mercury Emissions Rate Requirement*

By law, plant owners and operators must meet a mercury emissions rate (1) equal to or less than 0.6 pounds of mercury per trillion British Thermal Units (tBTU) or (2) equal to a 90% reduction from the amount of mercury introduced into the system, whichever the owner or operator determines is more readily achievable.

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#### **PA 13-59—SB 806**

*Environment Committee*

*Planning and Development Committee*

#### **AN ACT CONCERNING THE MUNICIPAL PURCHASE OF DEVELOPMENT RIGHTS FOR AGRICULTURAL LAND PRESERVATION**

**SUMMARY:** This act expands the allowable uses for municipal agricultural land preservation funds. Specifically, it allows a municipality to use the funds to acquire an agricultural land owner's rights to build any residence or farm structure on agricultural land. It also explicitly allows the municipality to accept these rights as a gift.

By law, a municipality may establish an "agricultural land preservation fund" for the purposes of acquiring the development rights of, and preserving, agricultural land. "Development rights" are the agricultural land owner's rights to develop, build on, sell, lease, or improve the land for uses that make the land no longer agricultural. But it does not include the owner's rights to build residences for people directly incidental to farm operation and other farm structures, among other things (CGS § 7-131q).

The act also makes technical changes.

EFFECTIVE DATE: Upon passage

## BACKGROUND

### *Related Acts*

PA 13-90 establishes a procedure to preserve and manage certain state-owned property known as the “Farm at the Southbury Training School” for agricultural use.

PA 13-104 generally applies certain requirements for acquiring development rights to agricultural land under the Farmland Preservation Program (FPP) to the Community Farms Program (CFP). It also expands the development rights that a municipality may jointly own with the state under the FPP if the municipality pays part of the purchase price and correspondingly applies the expanded purchase rights to the CFP.

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### **PA 13-72—sSB 804**

*Environment Committee*

*Government Administration and Elections Committee*

### **AN ACT CONCERNING A PREFERENCE FOR CONNECTICUT GROWN PROTEIN IN CERTAIN STATE CONTRACTS AND THE INCLUSION OF FARMERS' MARKETS IN CERTAIN PROMOTIONAL MATERIALS OF THE DEPARTMENT OF AGRICULTURE**

**SUMMARY:** This act requires the administrative services commissioner to give preference to beef, pork, lamb, and farm-raised fish produced or grown in Connecticut if their cost is comparable to those produced or grown out of state when he is purchasing or contracting for such products. The law already requires him to give preference to Connecticut-grown or -produced dairy products, poultry, eggs, fruits, and vegetables. By law, he must generally purchase or contract for all supplies and materials needed by state agencies.

The act also requires the Department of Agriculture (DoAg) commissioner, upon request of any farmers' market, to include the market (1) on any list of farmers' markets that appears on DoAg's website and (2) in any promotional material about farmers' markets that DoAg publishes or distributes.

EFFECTIVE DATE: Upon passage

## BACKGROUND

### *Related Act*

PA 13-177 requires public higher education institutions to give preference to Connecticut-grown or -produced dairy products, poultry, farm-raised seafood, beef, pork, lamb, eggs, fruits, and vegetables when their

cost is comparable to those grown or produced out of state.

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### **PA 13-82—sSB 1016**

*Environment Committee*

*General Law Committee*

*Judiciary Committee*

### **AN ACT REGULATING THE PLANTING AND SALE OF RUNNING BAMBOO**

**SUMMARY:** This act makes people liable for failing to contain “running bamboo” (i.e., bamboo in the genus *Phyllostachys*, including yellow-groove bamboo) on their property beginning October 1, 2013. It requires a 100-foot setback from (1) abutting property or (2) a public right of way, for running bamboo planted after that date, unless it is properly contained. It also requires people who sell or install running bamboo to educate customers on the plant's growing habits, the act's provisions, and recommended containment methods.

The act subjects violators of its (1) setback and containment provisions to a \$100 fine per day of violation and (2) education requirements to a \$100 fine per plant sold. Fines may be mailed to the Centralized Infractions Bureau without a court appearance.

Lastly, the act (1) requires environmental conservation officers to enforce the setback, containment, and education requirements and (2) authorizes the Department of Energy and Environmental Protection, any duly authorized municipal constable, municipal tree warden, zoning enforcement officer, or inland wetlands and watercourses enforcement officer to do the same.

EFFECTIVE DATE: Upon passage, except the environmental conservation officers' enforcement powers are effective October 1, 2013.

### **LIABILITY FOR DAMAGE TO NEIGHBORING PROPERTY**

The act prohibits people from allowing running bamboo to grow beyond their property boundaries. Beginning October 1, 2013, it makes people who plant running bamboo, or allow it to be planted, on their property liable for any damage the bamboo causes to neighboring properties, including the cost of removing any bamboo that spread to neighboring property.

### **SETBACK OR CONTAINMENT REQUIRED**

The act requires anyone planting or allowing running bamboo to be planted on his or her property after October 1, 2013 to plant it at least 100 feet from an abutting property or public right-of-way. But it allows a

person to plant it within 100 feet if the running bamboo is properly contained. The containment system must be (1) a properly constructed and maintained barrier system or (2) an above ground container that does not allow the bamboo to come in contact with the ground's soil.

Violators are subject to a \$100 fine, and each day of a continuing violation is a separate offense.

#### EDUCATING PURCHASERS

The act requires retail sellers and installers of running bamboo to provide buyers with a statement that includes:

1. a disclosure that running bamboo is a fast growing plant that may spread if not properly contained;
2. a plain language summary of the act's containment requirements and liability provisions; and
3. recommendations on how to properly contain the bamboo, based on the best available information.

Violators are subject to a \$100 fine for each plant sold without the required statement.

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**PA 13-83**—sSB 1018

*Environment Committee*

#### AN ACT CONCERNING ENFORCEMENT OF ENVIRONMENTAL CONSERVATION LAWS

**SUMMARY:** This act makes various changes in the environmental conservation laws. Among other things, it lowers the fine, from up to \$1,000 to up to \$85, for importing, possessing, or liberating fish or aquatic invasive species and makes a violation an infraction. It exempts from the prohibition on possessing potentially dangerous animals (1) certain veterinarians and (2) people possessing cats certified by specified organizations.

The act authorizes the Department of Energy and Environmental Protection (DEEP) to (1) suspend a marine waters fishing license for violations of marine sport fishing regulations and (2) specify marking requirements for commercial fishing vessels and gear in regulations. It requires people to have a marine waters fishing license to use certain seines, nets, and traps for taking marine bait species.

The act also requires DEEP to maintain donated improvements to real property or, if not economically practicable, raze the structures and return the property to its natural condition.

EFFECTIVE DATE: Various, see below.

#### §§ 2-3 & 9 — PENALTY FOR AQUATIC INVASIVE SPECIES

The law prohibits importing, introducing, possessing, or liberating any live fish, wild bird or mammal, reptile, amphibian, or invertebrate into Connecticut. Violators are subject to a civil penalty of up to \$1,000, to be set by the court, for each offense.

The act lowers the maximum fine to \$85 for violators who import, introduce, possess, or liberate live fish or aquatic nuisance invertebrates (e.g., Asian carp or zebra mussels) and makes the violation an infraction. Importing, possessing, or liberating each fish or invertebrate is a separate offense, and each day of a continuing violation is a separate offense.

EFFECTIVE DATE: Upon passage

#### § 10 — EXEMPTIONS TO POTENTIALLY DANGEROUS ANIMALS LAW

The act exempts from the law that makes it illegal to possess a potentially dangerous animal (1) a licensed veterinarian treating or caring for such an animal and (2) anyone possessing a breed of cat certified by the International Cat Association, Cat Fanciers Association, or American Cat Fanciers Association. By law, certain municipal parks, zoos, public nonprofit aquaria, nature centers, museums, exhibitors, and research facilities are exempt.

Under prior law, anyone possessing certain Bengal cats was exempt from the ban on possessing a potentially dangerous animal. The Bengal cats had to be certified by an internationally recognized multiple-cat domestic feline breeding association as being without wild parentage for at least four prior generations and registered with the agriculture commissioner by October 1, 1996. Prior law also prohibited the importation of such Bengal cats into Connecticut after June 6, 1996. And it required a state or municipal official taking action to control rabies to consider Bengal cats as not vaccinated against rabies. The act eliminates these provisions.

EFFECTIVE DATE: Upon passage

#### §§ 4 & 5 — MARINE WATERS FISHING LICENSE

##### *License Suspension*

The act allows DEEP to suspend a marine waters fishing license for violations of marine sport fishing regulations, after notice and hearing. By law, DEEP may already suspend a hunting, fishing, and trapping license for violations of fish and game laws and regulations.



### *License Required to Use Seines, Nets, and Traps*

The act requires a person to have a marine waters fishing license to use certain seines, nets, and traps to take bait species and other species in the marine district for personal use. Existing law requires a person to have a sport fishing license to use the seines, nets, and traps to take such species in the inland district.

EFFECTIVE DATE: October 1, 2013

### § 6 — TAKING FINFISH WITH LOBSTER POT LICENSE

The act requires finfish taken incidentally under a personal use lobster pot license to meet the sport fishing length limits and seasons adopted in state regulations. Under existing law, unchanged by the act, finfish must also meet the regulation's sport fishing creel limits.

EFFECTIVE DATE: October 1, 2013

### §§ 7-8 & 12 — MARKING COMMERCIAL FISHING BOATS AND GEAR

The act repeals the law that sets requirements for marking commercial fishing boats and gear. It instead authorizes the DEEP commissioner to specify marking requirements in regulations. In doing so, it decreases the penalty for violating the marking requirements from a class D misdemeanor to an infraction (see Table on Penalties).

EFFECTIVE DATE: October 1, 2014

### § 11 — DONATED PROPERTY IMPROVEMENTS

The act requires DEEP to maintain any real property improvements donated to it in a safe, sanitary, and secure condition at least equivalent to the improvement's condition at the time of donation. If the maintenance cost becomes economically impracticable, the act requires DEEP to raze the structure and return the real property to its natural condition.

EFFECTIVE DATE: Upon passage

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### **PA 13-90—HB 6542**

*Environment Committee*

*Government Administration and Elections Committee*

*Human Services Committee*

### **AN ACT CONCERNING THE PRESERVATION OF FARMLAND AT THE SOUTHBURY TRAINING SCHOOL**

**SUMMARY:** This act establishes a procedure to preserve and manage state-owned property known as the "Farm at the Southbury Training School." It requires

the Department of Developmental Services (DDS) commissioner to transfer the care, custody, and control of the property to the Department of Agriculture (DoAg) commissioner, who must grant a permanent conservation easement on it to a nonprofit organization.

The act specifies that the easement must (1) provide for conservation of the farm for agricultural use, conducted according to a federally prepared and DoAg-approved conservation plan, and (2) allow the DoAg commissioner to lease, permit, or license the property for such use. The proposed easement and any proposed DoAg lease, permit, or license is subject to State Properties Review Board review and approval. The board must complete its review within 30 days after receiving the proposal.

The act exempts the leased, permitted, or licensed property from local property taxes and adds its value to the assessed value of state-owned land and buildings for calculating payments in lieu of taxes (PILOT) (see BACKGROUND). The law requires the state to reimburse towns for 45% of their lost revenue from state-owned property.

EFFECTIVE DATE: Upon passage

### **SOUTHBURY TRAINING SCHOOL PROPERTY**

#### *Transfer and Easement*

The act requires the DDS commissioner to transfer the care, custody, and control of the land and buildings that comprise the "Farm at the Southbury Training School" to the DoAg commissioner. The DoAg commissioner must obtain a survey of the property that conforms to a horizontal Class A-2 (boundary) survey.

The DoAg commissioner must grant a permanent conservation easement on the property, based on the survey, to a nonprofit organization whose mission includes protecting agricultural lands for agricultural use.

The easement must:

1. provide for conservation of the farm for agricultural use;
2. allow the DoAg commissioner to lease, permit, or license any part of the farm to one or more persons or entities for agricultural use; and
3. provide that all agricultural activity conducted on the farm be done according to a conservation plan prepared by the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) and approved by the DoAg commissioner.

The act requires the conservation plan to provide for farm management that is consistent with (1) generally accepted agricultural practices, including those identified in the NRCS Field Office Technical Guide, and (2) protecting the farm's agricultural and

conservation values. The plan must be updated periodically and whenever the farm's agricultural operation changes.

Under the act, the leases, permits, or licenses must (1) be for a term of up to 15 years and (2) require compliance with the permanent conservation easement. They are renewable for up to 15 years.

## BACKGROUND

### *PILOT Payments*

The law generally requires anyone leasing state-owned property for nongovernmental purposes to pay property taxes on the leased property's assessed value. This assessed value is excluded from the town's annual list of assessed values of state-owned property for PILOT. Leases to tax exempt entities, such as charitable organizations, are exempt from these requirements (CGS § 12-64).

### *Related Acts*

SA 13-23 requires the conveyance of a separate 45-acre piece of land that is part of the Southbury Training School property to the town of Southbury for housing purposes.

PA 13-59 expands the allowable uses of municipal agricultural land preservation funds. Specifically, it allows a municipality to use the funds to acquire a landowner's rights to build any residence or farm structure on agricultural land and it explicitly allows the municipality to accept these rights as a gift.

PA 13-104 generally applies certain requirements for acquiring development rights to agricultural land under the Farmland Preservation Program (FPP) to the Community Farms Program (CFP). It also expands the development rights that a municipality may jointly own with the state under the FPP if the municipality pays part of the purchase price and correspondingly applies the expanded purchase rights to the CFP.

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**PA 13-98**—HB 5811

*Environment Committee*

## **AN ACT CONCERNING THE OPERATION OF VESSELS WITH ELECTRIC MOTORS ON INLAND WATERS OF THE STATE**

**SUMMARY:** This act allows certain people to operate electric motor boats without having a (1) safe boating certificate from the Department of Energy and Environmental Protection or (2) valid operator license from the U.S. Coast Guard. It applies to anyone who operates a boat between one hour before sunrise and one

hour after sunset with an electric motor rated at 106 pounds of thrust or less on inland Connecticut waters where motor boats exceeding 10 horsepower are prohibited.

The law prohibits a boat owner from knowingly letting a child under age 16 operate the boat unless the child has a safe boating certificate or is supervised by a person age 18 or older who has held a safe boating certificate for at least two years. The act waives this provision for a person operating an electric motor boat under the circumstances described above.

EFFECTIVE DATE: October 1, 2013

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**PA 13-99**—sHB 5836

*Environment Committee*

## **AN ACT CONCERNING THE AVAILABILITY OF FUNDING FOR THE VACCINATION AND STERILIZATION OF DOGS AND CATS OWNED BY LOW INCOME PERSONS**

**SUMMARY:** This act increases, from 10% to 20%, the amount of certain animal population control program funds that may be used for sterilizing and vaccinating dogs and cats owned by low-income people. The funds are from a surcharge on dog licenses, certain animal adoption fees for pounds' unspayed or unneutered cats and dogs, and proceeds from commemorative "Caring for Pets" license plates.

By law, the agriculture commissioner operates the animal population control program, which, among other things, provides sterilization and vaccination benefits for dogs and cats (1) adopted from municipal pounds in Connecticut or (2) owned by low-income people.

EFFECTIVE DATE: July 1, 2013

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**PA 13-104**—sHB 6316

*Environment Committee*

## **AN ACT CONCERNING THE STATE PURCHASE OF DEVELOPMENT RIGHTS FOR AGRICULTURAL LAND PRESERVATION AND CERTAIN REVISIONS TO THE COMMUNITY FARMS PROGRAM**

**SUMMARY:** This act makes changes in the state's community farms and farmland preservation programs, under which the state purchases development rights to certain agricultural land. By law, the Department of Agriculture (DoAg) administers these programs.

The act generally applies certain requirements for acquiring development rights to land under the Farmland Preservation Program to the Community Farms Program. Among other things, it:

1. requires the DoAg commissioner to file a notice of acquisition of the land's development rights,
2. provides a procedure to remove the restriction on development,
3. allows the DoAg commissioner to enter into partnerships with nonprofit organizations and municipalities to purchase development rights, and
4. allows special terms when purchasing development rights with federal funds under an agreement with the U.S. Department of Agriculture (USDA).

The act also expands the development rights that a municipality may jointly own with the state under the Farmland Preservation Program if the municipality pays part of the purchase price for the rights. Prior law restricted a municipality's ownership to the development rights of the land within its borders. The act removes this restriction, thus allowing a municipality to jointly own all of the purchased development rights, even if part of the land is outside its borders. It correspondingly applies the expanded purchase rights to the Community Farms Program.

EFFECTIVE DATE: Upon passage

## COMMUNITY FARMS PROGRAM

### *Existing Program*

By law, DoAg administers the Community Farms Program to preserve farmland that may contribute to local economic activity through agricultural production but is ineligible for the state's Farmland Preservation Program due to size, soil quality, or location (see BACKGROUND). Under the program, the DoAg commissioner is allowed to (1) purchase up to 100% of the value of the land's development rights from an eligible owner or (2) acquire development rights on qualifying farmland jointly with a municipality, subject to appraisal and review requirements the department establishes.

The act applies certain provisions for acquiring development rights under the Farmland Preservation Program to the Community Farms Program.

### *Recording Notice of Development Rights in the Land Records*

When the DoAg commissioner acquires development rights to agricultural land under the Community Farms Program, the act requires him to file notice of the acquisition in the appropriate land records and the Secretary of the State's Office. The notice must provide a sufficient description of the land to notify prospective purchasers or the landowner's creditors about the development restriction.

Once the notice is filed, the owner is prohibited from developing the land. The development rights are generally considered dedicated to the state in perpetuity. No earlier than 90 days before the sale of any such restricted agricultural land, the owner must provide written notice of the sale to the commissioner, stating the name and address of the new owner.

### *Releasing Development Rights*

Under the act, the DoAg commissioner is allowed to release the development rights restriction, subject to the procedure set forth below, if there is a petition to remove it by the (1) owner of the restricted land that is approved by a resolution of the town's legislative body or (2) legislative body of the town where the land is located that is approved, in writing, by the owner.

The act requires the petition to include all the facts and circumstances the commissioner must consider. The commissioner may approve the release of the restriction only if he determines that there is an overriding public interest in giving up control of the development rights. He must consult with the energy and environmental protection commissioner and any advisory groups he appoints.

The commissioner must hold at least one public hearing before he makes a decision on the petition. If he approves a petition, the town's legislative body must submit the question of removing the restriction to a vote at a referendum held at a regular election or a special election noticed and called for the purpose of such removal. The petitioner must pay the public hearing and referendum expenses.

If a majority votes in favor of removal, the (1) restriction must be removed by filing the referendum's certified results in the land records and the Secretary of the State's Office and (2) commissioner must convey the development rights to the owner if the owner pays him an amount equal to the value of the rights. The act specifies that if the state sells any development rights through the restriction removal procedure, it must receive the value of the rights.

### *Nonprofit and Municipal Partnerships*

The act allows the DoAg commissioner to issue a letter of intent requesting assistance from a nonprofit organization to acquire the development rights to certain agricultural land. It also permits him to enter into a joint ownership agreement with a nonprofit organization to acquire the development rights to eligible agricultural land if the organization's mission is to permanently protect agricultural land for agricultural use.

If the organization acquires the development rights, the act allows it to sell the rights to the commissioner according to a purchase agreement. The agreement may

include reimbursement for reasonable expenses incurred to acquire the development rights, in addition to payment for the rights.

Under the act, the state and a municipality may jointly own the development rights to agricultural land if the (1) land is located at least partly within the municipality's borders and (2) municipality pays a part of the purchase price from a municipal fund for preserving agricultural land. The act requires the commissioner to adopt regulations establishing procedures for joint acquisition of development rights. It permits removing the development restriction through the procedure described above.

#### *USDA Agreements*

The act allows the DoAg commissioner to agree to special terms when he purchases development rights using federal funds under a cooperative agreement with the USDA.

It allows the commissioner to require that the land to which the rights are acquired under such a cooperative agreement be managed according to a conservation plan that uses the standards and specifications of, and is approved by, the USDA's Natural Resources Conservation Service.

Under the act, the document used to acquire the rights may give a contingent right to the federal government if the USDA secretary determines that Connecticut has not enforced any of the development right's terms. The secretary may use the contingency to enforce any of the state's rights by any legal authority. The acquisition document may also require rights to be vested in the United States if Connecticut tries to terminate, transfer, or otherwise divest itself of development rights without (1) the USDA secretary's consent and (2) paying consideration to the federal government. The document may also provide that the United States hold title to the development rights when the secretary requests it.

The act allows the commissioner to agree to hold the United States harmless for any negligent act in procuring or managing these rights. He may also assure that (1) proper title evidence is secured, (2) the title is insured to the amount the federal government paid for its interest in the development rights, and (3) the United States will be reimbursed for the amount it paid if a court determines the title is not secure and the title insurance company pays the state for the title's failure.

#### *Additional Provisions*

Under the act, when the DoAg commissioner acquires development rights, he may pay the purchase price in two or three annual installments if (1) he and the owner agree in writing and (2) the purchase price is

at least \$10,000. The act prohibits interest payments on the unpaid balance.

The act also permits the commissioner to (1) acquire or accept as a gift the owner's rights to construct residences or farm structures on agricultural land and (2) incorporate deed requirements under the federal Farm and Ranch Lands Protection Program when acquiring development rights for the state (7 CFR 1491.1 et seq.).

The act specifies that acquiring development rights is not considered ownership of the land and the state is not liable for pollution or contamination of such land. It prohibits anyone from bringing a civil action against the state for damages from pollution or contamination of the land.

#### BACKGROUND

##### *Farmland Preservation Program*

This program is the state's primary program to preserve farmland. Under the program, DoAg preserves farmland by acquiring the development rights to agricultural properties. The farms remain in private ownership but a permanent restriction on nonagricultural uses is placed on the properties.

##### *Related Acts*

PA 13-59 expands the allowable uses of municipal agricultural land preservation funds. Specifically, it allows a municipality to use the funds to acquire a landowner's rights to build any residence or farm structure on agricultural land and it explicitly allows the municipality to accept these rights as a gift.

PA 13-90 establishes a procedure to preserve and manage certain state-owned property known as the "Farm at the Southbury Training School" for agricultural use.

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#### **PA 13-179—sSB 1012**

*Environment Committee*

*Planning and Development Committee*

#### **AN ACT CONCERNING THE PERMITTING OF CERTAIN COASTAL STRUCTURES BY THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION**

**SUMMARY:** This act makes many changes in the state's Coastal Management Act (CMA) and laws related to conducting certain activities in the state's tidal wetlands and coastal, tidal, or navigable waters. Among other things, it:

1. allows towns and property owners to temporarily fortify property above the coastal jurisdiction line before a hurricane or tropical storm;
2. expands the types of structures and activities that may be eligible for a certificate of permission from the Department of Energy and Environmental Protection (DEEP) and requires the DEEP commissioner to issue these certificates for certain previously unauthorized structures;
3. allows shoreline flood and erosion control structure applicants to request a hearing and an advisory engineering evaluation when the DEEP commissioner makes a tentative determination to deny certain permit applications;
4. invalidates and discharges DEEP civil penalty orders that are not judicially enforced within 15 years;
5. allows municipal zoning commissions to exempt residential elevated decks from coastal site plan review;
6. allows the DEEP commissioner to require anyone removing material from the state's tidal, coastal, or navigable waters to make it available to coastal towns and certain districts for beach nourishment or habitat restoration;
7. makes it a policy under the CMA for agencies to encourage cooperative use of confined aquatic disposal cells for dredged material; and
8. expands when structural solutions (e.g., seawalls) can be used to protect structures under the CMA.

The act requires (1) the state and towns to consider federal National Oceanic and Atmospheric Administration (NOAA) sea level change scenarios when developing certain plans and programs and (2) UConn to update the scenarios.

It also requires DEEP to (1) acquire information relevant to developing a best practices guide for coastal structures permitting from certain governmental and commercial entities and (2) establish a pilot program to help certain residential property owners understand their rights and responsibilities under coastal management and water resources laws.

The act also makes several minor and technical changes.

EFFECTIVE DATE: October 1, 2013, except the requirement for DEEP to consult on information related to a best practices guide takes effect upon passage.

## § 11 — TEMPORARY FORTIFICATION

The act allows towns and property owners to fortify property above the coastal jurisdiction line with

temporary structures (e.g., sandbags or blocks) when the (1) National Hurricane Center issues a hurricane or tropical storm warning for any part of the state or (2) DEEP commissioner authorizes it (see BACKGROUND). The structures may be erected up to 24 hours before the storm is predicted to start. They must be removed within 48 hours after the warning is lifted unless the commissioner extends the deadline.

## §§ 9 & 10 — CERTIFICATE OF PERMISSION

### *Eligible Activities*

By law, certain activities involving such things as dredging, building structures, or maintaining fill in the state's tidal wetlands or tidal, coastal, or navigable waters may be eligible for a certificate of permission (COP) from DEEP instead of needing an individual permit. Substantial maintenance or repair of existing authorized structures, fill, obstructions, or encroachments is one such example. The act makes the following activities also potentially eligible for a COP:

1. beach nourishment undertaken or supervised by DEEP;
2. substantial maintenance of structures, fill, obstructions, or encroachments put in place between June 24, 1939 and January 1, 1995, if continuously maintained and serviceable; and
3. minor alterations or amendments to activities completed between June 24, 1939 and January 1, 1995.

### *COP Exemption*

The law exempts certain activities from needing a COP or a DEEP permit, including routine maintenance of (1) permitted structures, fill, obstructions, or encroachments and (2) structures, fill, obstructions, or encroachments in place before June 24, 1939 and continuously maintained and serviceable since then.

Under prior law, "routine maintenance" included replacing or repairing up to 25% of DEEP-approved pilings in any one year, as long as their footprint, elevation, and materials were unchanged. The act expands, from 25% to 50%, the proportion of these pilings that can be repaired or replaced.

### *COP Approval*

The act requires, rather than allows, the DEEP commissioner to issue a COP for certain unauthorized activities and reduces the applicants' burden when seeking a COP for them.

Under prior law, the commissioner could issue a COP for an unauthorized activity completed before January 1, 1995, if the applicant demonstrated that the

activity complied with all applicable standards and criteria. The act instead requires him to issue a COP for such an activity when the applicant shows substantial compliance. It also requires, instead of allows, the commissioner to authorize maintenance of or minor additions to such an activity, including using alternative materials for (1) deck surfacing and (2) seawalls designed using generally accepted engineering practices.

The act eliminates the commissioner's authority to consider, when deciding whether to issue a COP for these activities conducted without prior authorization, (1) the date when the applicant acquired the subject property; (2) if the applicant is not otherwise liable for the unauthorized activity; and (3) if the applicant knew, or had reason to know, of the unauthorized activity.

It also eliminates his authority to require a tidal wetlands or coastal structure permit application when he finds that changes in the conditions or circumstances of a permitted structure, fill, obstruction, or encroachment are likely to significantly affect the environment or coastal resources.

#### *Mediation*

Under the act, an applicant that is denied a COP may request, within 30 days after the initial denial is issued, a meeting with a DEEP Office of Adjudication mediator. The purpose of the mediation is to try to resolve any disagreement about the initial denial.

#### *Waterfront Access Easements*

The act specifies that waterfront access easements created after January 1, 1995 do not entitle impacted property owners to build additional structures for river or shoreline access.

### § 13 — ADVISORY ENGINEERING EVALUATION

Under the act, when the DEEP commissioner makes a tentative determination to deny a permit application prepared by a licensed professional engineer for a shoreline flood and erosion control structure (e.g., seawall, jetty, riprap), such as one to conduct certain activities in tidal wetlands or tidal, coastal, or navigable waters, the applicant may request (1) a hearing on the application and (2) an advisory engineering evaluation from the Connecticut Academy of Science and Engineering (CASE) on the application's engineering aspects. CASE is a private, nonprofit, public-service institution modeled after the National Academy of Sciences that identifies and studies issues and technological advances and provides advice on science- and technology-related issues.

The hearing request must be submitted in writing to the commissioner within 30 days after he publishes the

notice of tentative determination. The advisory evaluation request must be submitted with the hearing request and include the fee set by CASE in consultation with the commissioner.

CASE must review submissions from all parties to the application and meet with the parties, as needed, to resolve any differences. It must issue a written advisory engineering evaluation within 120 days of receiving payment and the submissions, but it may extend this deadline by 60 days. The commissioner must consider CASE's evaluation, but it is not binding on him.

The commissioner must schedule a hearing on the application, held in conformity with the Uniform Administrative Procedure Act, within 30 days after CASE issues its evaluation. An applicant may, any time prior to the hearing, withdraw the hearing request.

### § 14 — EXPIRATION OF ORDERS

By law, the DEEP commissioner is authorized to impose civil penalties for certain violations. The act makes a DEEP civil penalty order invalid and discharged after 15 years unless the commissioner takes judicial action to enforce the order before then.

### § 7 — COASTAL SITE PLAN REVIEW EXCEPTION

Under the CMA, towns review coastal site plans for certain activities conducted at least partly in the coastal boundary and landward of the mean high water mark (see BACKGROUND). A coastal site plan must be filed by an applicant with the municipal zoning commission to help determine if a proposed building, use, structure, or shoreline flood and erosion control structure conforms to municipal zoning regulations and certain state laws.

The act allows municipal zoning commissions to exempt, by regulation, from coastal site plan review constructing or modifying residential elevated decks. The law already allows these commissions to exempt constructing or modifying such things as residential walks, terraces, driveways, docks, and detached accessory structures.

### § 8 — USE OF SAND, GRAVEL, AND OTHER MATERIAL

By law, anyone seeking to dredge, erect a structure, or place fill, an obstruction, or an encroachment in the state's tidal, coastal, or navigable waters, waterward of the coastal jurisdiction line, must obtain a permit from DEEP.

The act authorizes DEEP's commissioner to require anyone removing sand, gravel, or other material waterward of the mean high water mark pursuant to a permit to make it available for authorized beach nourishment or habitat restoration to coastal towns and

special taxing districts or districts created by special act to plan, maintain, and manage flood or erosion control systems. Towns accepting these materials must pay the transport costs and the districts must pay a reasonable fee for the materials.

## § 12 — CMA POLICY CHANGES

The CMA sets goals and policies to balance development and preservation of the state's coastal resources. It provides policies for government agencies to follow when carrying out their responsibilities under the CMA in the coastal boundary.

The act makes it a policy for federal, state, and local agencies to encourage cooperative use of confined aquatic disposal cells for dredged material in appropriate circumstances. These cells are depressions at the bottom of a harbor or other aquatic areas that are used to manage contaminated sediments.

The act also makes it a policy for these agencies to allow using structural solutions when it is necessary and unavoidable to protect businesses, homes, or attached or integral substantial appurtenances built by January 1, 1995, instead of only inhabited structures as allowed under prior law. Existing law allows structural solutions to protect infrastructure facilities, burial grounds, and water-dependent uses. Structural solutions are allowed if there is no feasible, less environmentally damaging alternative and all reasonable mitigation efforts have been taken to minimize adverse environmental impacts.

## § 2 — RISE IN SEA LEVEL DEFINITION

The act specifies that “rise in sea level” under the CMA is the average of the most recent equivalent per decade rise in tidal and coastal waters surface level, as documented in NOAA online or printed publications for NOAA's Bridgeport and New London tide gauges. Under prior law, it was the average as documented for an annual, decadal, or centenary period at any state sites specified in NOAA publications.

## §§ 3-6 — APPLYING NOAA SEA LEVEL CHANGE SCENARIOS

### *Plans of Conservation and Development*

*State.* Prior law required the state Office of Policy and Management (OPM) to consider the risks associated with increased coastal erosion from a rise in sea level when revising the state's plan of conservation and development (Plan of C&D). The act instead requires OPM to consider the risks from increased coastal erosion as anticipated in sea level change scenarios published in NOAA's Technical Report OAR CPO-1 (see BACKGROUND). By law, OPM must also (1) identify impacts of the increased erosion on

infrastructure and natural resources and (2) make recommendations for siting future infrastructure and development that minimizes use of erosion-prone areas. The state Plan of C&D is revised every five years.

*Municipal.* The law generally requires municipal planning commissions to adopt a municipal Plan of C&D at least once every 10 years, and regularly review and maintain it. These plans are statements of policies, goals, and standards for towns' physical and economic development.

The act requires the commissions, or special committees appointed by them, to consider the sea level change scenarios in NOAA's Technical Report OAR CPO-1 when preparing their Plans of C&D.

### *Civil Preparedness Plan and Program*

By law, the commissioner of emergency services and public protection must prepare a comprehensive state plan and program for civil preparedness (activities and measures to address certain disasters or emergencies), subject to the governor's approval. Beginning October 1, 2013, the plan and program must consider the sea level change scenarios from NOAA's Technical Report OAR CPO-1.

### *Municipal Evacuation or Hazard Mitigation Plan*

Also beginning October 1, 2013, towns must consider the sea level change scenarios from NOAA's Technical Report OAR CPO-1 when preparing a municipal evacuation or hazard mitigation plan. By law, “hazard mitigation” includes actions taken to reduce or eliminate long-term risk to human life, infrastructure, and property from natural hazards (e.g., flooding, high winds, and wildfires).

### *UConn Update*

Under the act, UConn's Marine Sciences Division must update the sea level change scenarios from NOAA's Technical Report OAR CPO-1 at least once every 10 years. At least 90 days before any update to the scenarios, the division must conduct at least one public hearing. It must conduct the hearing and update the scenarios within available resources.

## § 1 — BEST PRACTICES GUIDE INFORMATION

Under the act, DEEP must acquire information related to developing a best practices guide for coastal structures permitting. For this purpose, DEEP must, by October 1, 2013, consult with (1) other coastal states' environmental protection and planning and development agencies, (2) commercial entities professionally engaged in activities that require permitting, and (3) the federal government. The act does not require DEEP to

develop such a guide by any deadline.

Within 90 days after completing the consultations, the DEEP commissioner must submit a summary of the consultations' results to the chairs and ranking members of the Environment and Planning and Development committees.

## § 15 — COASTAL VIOLATION PILOT PROGRAM

The act requires the DEEP commissioner to establish a two-year pilot program for homeowners who receive noncompliance notices from DEEP for violating the state's coastal management or water resources laws. The program, operating from October 1, 2013 to September 30, 2015, must help owners understand their rights and responsibilities under these laws. The commissioner must submit a summary of the pilot program to the Environment and Planning and Development committees by January 1, 2016.

### BACKGROUND

#### *Coastal Jurisdiction Line*

The "coastal jurisdiction line" is the location of the topographical elevation of the highest predicted tide from 1983 to 2001. For any of the state's tidal, coastal, or navigable waters upstream of a tide gate, weir, or other device that modifies tidal water flow, it is the elevation of mean high water found at the device's downstream location.

#### *Coastal Boundary*

The "coastal boundary," within the state's coastal area, is the furthest inland of (1) the 100-year-frequency coastal flood zone, (2) a 1,000-foot linear setback from the mean high water mark, or (3) a 1,000-foot linear setback from the inland boundary of the tidal wetlands.

#### *Mean High Water Mark*

The "mean high water mark" is the line on the shore indicating the average shoreward extent of all high tides. It also denotes the seaward limit of private property ownership in Connecticut.

#### *NOAA Technical Report OAR CPO-1*

The December 6, 2012 NOAA Technical Report OAR CPO-1 entitled, "Global Sea Level Rise Scenarios for the United States National Climate Assessment," provides sea level rise scenarios to help experts and stakeholders analyze vulnerability, impacts, and adaptation strategies. It identifies four global mean sea level rise scenarios ranging from eight inches to 6.6 feet by 2100. The report specifies that the scenarios should

be used with local and regional information on climatic, physical, ecological, and biological processes and the coastal communities' culture and economy.

### *Related Act*

PA 13-209 expands the circumstances where the DEEP commissioner must hold a public hearing for a permit to conduct certain activities in tidal, coastal, or navigable waters. It also allows him to (1) set the fee, by regulation, for beneficial or commercial use of sand, gravel, or other material removed pursuant to a permit in these waters and (2) waive the fee.

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### **PA 13-189—sHB 5844**

*Environment Committee*

*Judiciary Committee*

### **AN ACT CONCERNING THE OVERNIGHT TETHERING OF DOGS OUTDOORS AND THE TETHERING OF DOGS OUTDOORS UNDER CERTAIN WEATHER CONDITIONS**

**SUMMARY:** This act prohibits tethering a dog outdoors to a stationary object or mobile device, such as a trolley or pulley, when (1) local, state, or federal authorities issue a weather advisory or warning or (2) weather (e.g., extreme heat, cold, wind, rain, snow, or hail) poses an adverse risk to the dog's health or safety based on its breed, age, or physical condition. But it allows a person to tether a dog outdoors in these conditions if the tethering lasts no longer than 15 minutes.

The act also expands the existing tethering prohibition. Prior law prohibited attaching a dog to a tether that allowed the dog to reach an object (e.g., a window sill, pool edge, fence, porch, or terrace railing) if the dog had a substantial risk of being injured or strangled if it jumped over the object. The act prohibits attaching a dog to a tether that allows the dog to reach an object or a hazard, including a public road or highway into which the dog could walk. It prohibits tethering a dog near an object or hazard that poses any risk, instead of substantial risk, of injuring or strangling the dog if it jumps over or walks into the object or hazard. It provides an exception to these prohibitions if anyone is in the dog's presence, instead of when the dog's keeper or owner is on the premises.

Under the act, as in existing law, violators are subject to a fine of (1) \$100 for a first offense, (2) \$200 for a second offense, and (3) between \$250 and \$500 for subsequent offenses.

EFFECTIVE DATE: July 1, 2013

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PA 13-197—sHB 6441

*Environment Committee*

## AN ACT CONCERNING THE DAM SAFETY PROGRAM AND MOSQUITO CONTROL

**SUMMARY:** This act makes changes in the state's dam safety laws and certain provisions regarding mosquito control.

By law, the Department of Energy and Environmental Protection (DEEP) commissioner has jurisdiction over dams, dikes, reservoirs, and other similar structures whose failure might endanger life or property. The act requires owners of certain unregistered dams or similar structures to register them by October 1, 2015. It generally shifts, from the commissioner to the owners of dams or similar structures, regularly scheduled inspection and reporting requirements. The act also makes owners generally responsible for supervising and inspecting construction work and establishes new reporting requirements for owners when the work is completed.

Under the act, the commissioner must consider tidal wetland impact when deciding whether to issue a dam construction permit. The act exempts these permit applicants from additional environmental permit requirements. It (1) allows the commissioner to issue a general permit for dam removal projects providing certain ecological benefits and (2) disallows anyone from making certain written comments on proposed activities covered by a general permit.

The act requires owners of high or significant hazard dams or similar structures to develop and implement emergency action plans. The commissioner must adopt regulations for (1) regularly scheduled dam inspections and (2) the emergency action plans.

The act also requires the DEEP commissioner to (1) establish a plan for using or applying larvicide to control mosquitoes and (2) update the plan by September 1, 2013 for certain specified purposes, including restricting the use or application of methoprene or resmethrin in the state's coastal boundary. It allows introducing methoprene or resmethrin into certain storm drains, wetlands, or other water bodies if the commissioner recommends it to prevent an increasing threat of mosquito-borne disease.

The act requires the DEEP commissioner to take certain steps to prevent West Nile virus, including (1) coordinating with the Department of Public Health (DPH) commissioner and local health departments to survey certain lands for mosquitoes, (2) enforcing a ban on standing water on private property, and (3) encouraging public outreach programs on standing water risks and West Nile virus symptoms.

It also makes minor and technical changes.

EFFECTIVE DATE: October 1, 2013, except the mosquito control provisions take effect upon passage.

## DAM SAFETY

### § 4 — Dam Registration

The act requires owners of unregistered dams or similar structures that may endanger life or property if they fail to register them by October 1, 2015 with the DEEP commissioner on a form he prescribes. The owner must report the location and dimensions of the dam or structure and any other information the commissioner requires. Prior law specified that any dam or similar structure had to be registered by July 1, 1984, but provided no registration requirement for dams established after that date.

Under the act, as long as the form is submitted to the commissioner by October 1, 2015, he cannot use information it contains, that he cannot otherwise independently obtain, to order payment of a civil penalty for violating (1) the dam and reservoirs laws (see BACKGROUND) or (2) a law on the payment of costs associated with DEEP administrative hearing recordings and transcripts.

The law requires owners to notify the commissioner, by registered or certified mail, return receipt requested, about a transfer in ownership of a dam or similar structure within 10 days after the transfer.

### §§ 3 & 4 — Dam Inspection

*Regularly Scheduled Inspection.* Prior law required the DEEP commissioner to periodically inspect registered dams. Under the act, by January 15 of any year when an inspection is due, he must provide written notice to the owner of a registered dam or similar structure by certified mail, return receipt requested. The notice must identify the dam's classification and state the frequency of inspection, as provided in regulations. Once the owner receives the notice, he or she must cause the dam or structure to be inspected.

The act requires the owner to:

1. have it inspected by a Connecticut-licensed registered professional engineer according to regulations DEEP adopts and
2. submit the inspection results to the commissioner, on a form he prescribes, by March 15 of the year after the inspection.

The act still requires the commissioner to periodically inspect registered dams, but only (1) for quality assurance when an owner fails to undertake a regularly scheduled inspection and (2) as necessary after a flood. It retains the current \$660 inspection fee until superseding regulations are adopted for DEEP-conducted inspections.

Prior law required the commissioner to set in regulations, among other things, (1) an inspection frequency schedule and (2) fees for regularly scheduled inspections. The act requires these regulations to include (1) dam inspection procedures and (2) fees for DEEP-conducted inspections, instead of fees for regularly scheduled inspections.

*Construction Inspection.* The act requires a dam owner, or his or her representative, supervising work on a dam or similar structure under DEEP's jurisdiction, to have it inspected by a Connecticut-licensed registered professional engineer to determine if it will be safe and secure. Prior law (1) specified that the DEEP commissioner or his representative supervised the work and (2) required him or his representative to inspect or have the dam or similar structure inspected.

But the act allows the commissioner to place a competent inspector on the work of a dam or similar structure if (1) it involves a high or significant hazard dam (see BACKGROUND) or (2) he determines a sensitive ecological condition exists. Prior law allowed him to do so when he believed circumstances warranted it. By law, unchanged by the act, the cost of such inspector is shared equally by the state and the owner.

The act requires a dam owner to submit a sworn statement from the inspecting engineer to the commissioner within 30 days after the work is completed. The statement must attest that (1) the engineer inspected the work and determined the dam or similar structure to be safe within its design parameters and (2) all appurtenances were built, repaired, altered, or removed according to the plans, specifications, and drawings approved by the commissioner under a permit or order. It must bear the engineer's professional seal.

#### §§ 2 & 6 — Dam Permits

*Individual Permit Requirements.* By law, anyone seeking to construct, alter, rebuild, substantially repair, add to, replace, or remove a dam or similar structure must obtain a DEEP permit.

The act requires the DEEP commissioner or his representative, engineer, or consultant to determine the proposed construction's impact on tidal wetlands before issuing a permit, in addition to determining its impact on the (1) environment; (2) safety of people and property; and (3) inland wetlands and watercourses, as existing law requires.

*Exemptions.* Under the act, a permit applicant seeking to alter, rebuild, repair, or remove an existing dam need not obtain separate permits for (1) conducting a regulated activity in tidal wetlands or (2) dredging, erecting structures, or placing fill, obstructions, or encroachments in tidal, coastal, or navigable waters. The law already exempts these applicants from needing a stream channel encroachment, diversion, or inland

wetland and watercourse regulated activity permit.

The act also grants an additional exemption for new dam construction applicants. Existing law exempts them from needing a permit to conduct a regulated activity in an inland wetland or watercourse. Under the act, they no longer need a permit to conduct a regulated activity in a tidal wetland.

Additionally, state agency applicants no longer need to obtain DEEP's approval to engage in certain proposed activities within or affecting a floodplain.

*General Permits.* By law, the DEEP commissioner can issue a general permit for minor dam activity, such as routine maintenance and repair, which he determines would have minimal environmental effects, unless it is covered by an individual permit (see BACKGROUND). The act expands the activities that may be covered under a general permit to include dam removal to improve fish passage or provide other ecological benefits.

The law generally exempts people conducting minor dam activity under a general permit from also needing an individual permit for (1) an inland wetland or watercourse regulated activity, (2) stream channel encroachment, (3) diversion, or (4) dam construction. The act correspondingly extends this exemption to dam removal projects to improve fish passage or provide other ecological benefits.

Prior law required anyone intending to do work under a minor dam activity general permit to provide at least 60 days' written notice to the (1) inland wetlands agency, zoning commission, planning commission or combined planning and zoning commission, and conservation commission of any municipality that would or could be impacted by the activity and (2) departments that make such notices publicly available. The act instead requires notice only when mandated by the general permit and eliminates the deadline. It also removes a provision under prior law allowing any person or an inland wetlands agency, planning and zoning commission, or conservation commission to submit written comments on an activity covered by a general permit to the DEEP commissioner at least 25 days before the activity starts.

#### § 5 — Emergency Action Plan

The act requires an owner of a high or significant hazard dam or similar structure to develop and implement an emergency action plan after the DEEP commissioner adopts regulations establishing plan requirements. The regulations must include:

1. criteria and standards for inundation (flooding) studies and zone mapping;
2. procedures to monitor dams or structures during heavy rainfall and runoff periods, including personnel assignments and dam

features to be inspected at given intervals during these periods; and

3. a formal notice system to alert appropriate local officials responsible for warning and evacuating residents in the inundation zone during an emergency.

The act requires a dam owner to file a copy of the emergency action plan with the DEEP commissioner and chief executive officer of any potentially affected municipality. The plan must be updated biennially.

## MOSQUITO CONTROL

### § 7 — *Methoprene and Resmethrin*

Prior law required the DEEP commissioner to consult with the agriculture and public health commissioners and establish a contingency plan for spraying larvicide to control mosquitoes if there are outbreaks of mosquito-borne human or animal infectious disease.

The act requires him to also consult with the Connecticut Agricultural Experiment Station (CAES) director and instead develop a plan for using or applying larvicide to control mosquitoes, regardless of a related infectious disease outbreak. As under prior law, he must develop the plan within available appropriations.

The plan must be updated by September 1, 2013 to:

1. prohibit using or applying methoprene or resmethrin in a storm drain or water conveyance in the state's coastal boundary, except in a city with over 100,000 people and a documented death from West Nile virus (see below);
2. establish a record-keeping, reporting, and Internet posting requirement for the state and towns using or applying methoprene or resmethrin for mosquito control in the coastal area; and
3. establish recommendations for a pilot program to evaluate the retail sale and use of methoprene and resmethrin in the coastal area that is labeled for mosquito control in streams, storm drains, storm gutters, and bird baths, to ensure their use is consistent with labeling requirements (see BACKGROUND).

Notwithstanding the above prohibition, the act allows introducing methoprene or resmethrin into a storm drain, wetland, or other water body where mosquito larvae are found or suspected if the DEEP commissioner, in consultation with the DPH commissioner and DEEP's mosquito management coordinator, recommends it to prevent an increasing threat of mosquito-borne disease. This recommendation must be based on CAES' surveillance in accordance with the state's mosquito management program.

### § 8 — *West Nile Virus Prevention*

The act requires the DEEP commissioner to coordinate with the DPH commissioner and local health departments to survey for the presence of breeding mosquitoes on land, wetlands, and watercourses in any city with a population over 100,000 (i.e., Bridgeport, Hartford, New Haven, Stamford, and Waterbury) where there has been a documented death from West Nile virus. (From 2000 to 2012, there have been three West Nile deaths in Connecticut, including one in New Haven.) It allows him to conduct any work needed to eliminate the breeding.

The act bans on private property in any such city, standing water that the DEEP commissioner determines, in consultation with the DPH commissioner and local health departments, creates a risk of mosquito-borne illness. The DEEP commissioner must enforce the ban and coordinate with the DPH commissioner and local health departments to encourage public outreach programs that instruct residents and private property owners of the (1) risks of standing water and (2) West Nile virus signs and symptoms.

## BACKGROUND

### *Dam Safety Penalties*

By law, the DEEP commissioner may issue warning notices for certain violations of the dam safety laws and take enforcement actions to correct them (CGS § 22a-6s). A violator of the dam safety laws or an order or permit issued under them is subject to a fine of up to \$1,000 for each offense, as determined by the court. The attorney general, at the commissioner's request, must take action to enjoin the violation, require its correction, and collect the fine (CGS § 22a-407).

### *High or Significant Hazard Dam*

State regulations classify dams by the hazards they pose if they fail. A high hazard dam is one whose failure would result in (1) probable loss of life; (2) major damage to habitable structures, homes, hospitals, convalescent homes, or schools; (3) damage to main highways; or (4) great economic loss.

A significant hazard dam is one whose failure would result in (1) possible loss of life; (2) minor damage to habitable structures, homes, hospitals, convalescent homes, or schools; (3) utility service damage or interruption; (4) damage to primary roads or railroads; or (5) significant economic loss (Conn. Agencies Reg. § 22a-409-2(d)).

### *DEEP General Permits*

DEEP uses both individual and general permits to regulate activities. Individual permits are issued directly to an applicant, while general permits authorize similar minor activities by one or more applicants. The authorization of an activity under a general permit is governed by that general permit.

### *Methoprene and Resmethrin*

Methoprene is introduced into still water to combat mosquito larvae. Resmethrin is a broad-spectrum insecticide with many uses, including controlling adult mosquitoes.

### *Coastal Boundary*

The “coastal boundary,” within the state’s coastal area, is the furthest inland of (1) the 100-year-frequency coastal flood zone, (2) a 1,000-foot linear setback from the mean high water mark, or (3) a 1,000-foot linear setback from the inland boundary of tidal wetlands (CGS § 22a-94(b)).

### *Coastal Area*

The state’s “coastal area” includes land and water within the area delineated by the westerly, southerly, and easterly limits of the state’s jurisdiction in Long Island Sound and the towns of Branford, Bridgeport, Chester, Clinton, Darien, Deep River, East Haven, East Lyme, Essex, Fairfield, Greenwich, Groton, Guilford, Hamden, Ledyard, Lyme, Madison, Milford, Montville, New Haven, New London, North Haven, Norwalk, Norwich, Old Lyme, Old Saybrook, Orange, Preston, Shelton, Stamford, Stonington, Stratford, Waterford, West Haven, Westbrook, and Westport (CGS § 22a-94(a)).

### *Related Act*

PA 13-209 allows the DEEP commissioner to electronically notify a dam construction permit applicant and certain municipal officials of his intent to grant or deny a permit.

### **PA 13-203—sHB 6538**

*Environment Committee*

*Finance, Revenue and Bonding Committee*

*Planning and Development Committee*

*Judiciary Committee*

### **AN ACT CONCERNING ARBORISTS AND TREE WARDENS**

**SUMMARY:** This act establishes a registration requirement for arborist businesses, modifies the arborist license fees, and creates a coursework requirement for municipally appointed tree wardens.

The act requires businesses performing certain tree work (arboriculture) to (1) annually register with the Department of Energy and Environmental Protection (DEEP) and pay a \$240 fee and (2) employ at least one licensed arborist at each place of business. Among other things, it also:

1. prescribes the manner in which an arborist business applies for a certificate of registration;
2. allows the DEEP commissioner to deny, revoke, or suspend registrations;
3. requires arborist businesses to keep detailed records for at least five years; and
4. subjects violators to a fine for each day a violation continues.

The act increases, (1) from \$50 to \$200, the nonreturnable arborist license application fee and (2) from \$190 to \$285, the license renewal fee. It establishes an initial license fee of \$285. But it exempts certain certified pesticide applicators from paying an arborist license fee.

The act (1) generally requires municipal tree wardens to complete certain coursework approved by DEEP within one year after being appointed or reappointed and (2) extends, from one year to two, the term length of municipally appointed tree wardens. But it exempts from the coursework requirement tree wardens who (1) complete similar coursework and provide evidence of its completion, (2) are licensed arborists, or (3) appoint deputy tree wardens with similar qualifications. The act requires wardens to keep coursework records and provide the records upon request to DEEP and the officials who appointed them. And it allows a reasonable fee to be charged for coursework costs.

The act also makes technical changes.

EFFECTIVE DATE: October 1, 2013

## ARBORIST BUSINESSES

### *Registration Requirement*

The act requires anyone operating a business that, at least in part, holds itself out for hire to perform arboriculture (“arborist business”) to have a certificate of registration from DEEP. By law, “arboriculture” includes (1) improving the condition of fruit, shade, or ornamental trees by feeding, fertilizing, pruning, trimming, bracing, treating cavities, or other methods or (2) protecting trees from, or curing them of, insect or disease damage by spraying or other methods (CGS § 23-61a). The act exempts a registered arborist business that engages in pesticide application from also having to register with DEEP as a pesticide application business.

The act requires arborist businesses with more than one place of business in Connecticut or operating under more than one name to register and pay the application fee for each location and name.

Under the act, an arborist businesses’ “place of business” is a physical location where its functional operations, such as financial transactions, contract arrangements and assignments, work assignments, and recordkeeping, regularly occur. It excludes places or buildings used only for storing equipment or supplies or any telephone answering service.

### *Application and Decision Process*

Applicants must apply for a certificate of registration on a form the DEEP commissioner prescribes and supply the following information, together with any other information the commissioner requests:

1. applicant’s name and home address;
2. business name, address, and phone number;
3. name and license number of the licensed arborist employed by the business; and
4. business type.

A registrant must notify the commissioner in writing within 30 days after any change in the application information or in its status as an arborist business.

Businesses applying for an initial or renewed certificate of registration must also provide a summary for the previous calendar year of the (1) names and certification numbers of its commercial pesticide application supervisors and operators and (2) kinds and amounts of pesticides it used.

The act requires the commissioner to review applications and, if he denies one, inform the applicant of his reasons by certified mail, return receipt requested. No later than 30 days after the date of the decision, a denied applicant may request a hearing before the commissioner to be held in accordance with the

Uniform Administrative Procedure Act (UAPA).

### *Fees and Expiration Dates*

Under the act, registration certificates expire on the August 31 after they are issued. The application for a certificate of registration or its renewal must include a \$240 fee, but the commissioner may waive the fee for the first renewal if the registration was issued during the three months before the expiration date. Applications are considered incomplete or insufficient until the fee is fully paid.

### *Grounds for Registration Denial, Suspension, or Revocation*

In addition to denying registrations, the DEEP commissioner may revoke or suspend a certificate of registration in accordance with the UAPA. The reasons for such actions include:

1. violating or helping someone avoid the state’s pesticide control or arboriculture and public shade trees laws or a regulation, permit, certificate, registration, or order adopted, administered, or issued under them;
2. including false or misleading information in an application or failing to notify the commissioner of a change in application information;
3. including false or misleading information in the act’s required records, or failing to maintain or provide them to the commissioner when requested;
4. using a pesticide in a manner inconsistent with its registered label or state or federal restrictions;
5. applying pesticides generally known in the trade to be ineffective or improper for the intended use;
6. operating faulty or unsafe equipment that may result in improper pesticide application or harm the environment, a worker, or other people;
7. applying a pesticide or performing arboriculture in a faulty, careless, or negligent manner;
8. making a false or misleading statement during an inspection or investigation concerning pest infestation; a pesticide application accident; pesticide misuse; or a violation of a law, regulation, certificate, registration, or order;
9. performing arboriculture that does not meet generally accepted industry standards;
10. performing work outside of the arborist’s certification, whether or not for compensation; and
11. conviction of a felony.

The act specifies that an arborist business with a denied, suspended, or revoked certificate of registration is ineligible to reapply until the commissioner allows it to do so.

Under the act, in any proceeding on registration denial, suspension, or revocation, the action, omission, or failure to act of an officer, agent, or person acting for or employed by the business is also considered to be that of the business.

#### *Recordkeeping*

The act requires arborist businesses to maintain the following records for at least five years:

1. for each pesticide application, the (a) name and certification number of the commercial supervisor and operator; (b) kind and amount of pesticide used and the amount of acreage treated, if applicable; (c) date and place of application; (d) pest treated for; and (e) crop or site treated;
2. a list of the names and U.S. Environmental Protection Agency (EPA) registration numbers of pesticides applied by the business;
3. the names and certification numbers of all certified commercial pesticide applicators who are employees or agents of the business and a list of the types of applications each performs; and
4. for each location where arboriculture was performed without pesticide use, the (a) type of work performed, (b) date and place of work, (c) name and license number of the supervising arborist, and (d) names of people working under the supervising licensed arborist.

The act allows the pesticide name and EPA registration number information to be either kept separately from, or integrated with, the pesticide application records. Integrated records must include the pesticide's full name and registration number on the record of each application.

If a record is amended, it must be kept for at least five years from the amendment date.

#### *Records Inspections*

The act requires arborist businesses to keep the records at their places of business. It allows the DEEP commissioner to inspect them. If the place of business is located outside of Connecticut, the business must make the records available to the commissioner at a location in the state no more than 10 days after receiving the commissioner's request to do so.

Arborist businesses must, in response to a customer's written request, provide copies of the records that relate to the arboriculture performed for the

customer.

#### *Penalties*

Violators of the act's arborist business provisions must be fined up to \$5,000 for each day of violation. The act requires the attorney general to bring a civil action in Hartford Superior Court to recover the fine if the DEEP commissioner requests it. These actions take precedence over all private civil actions in the order of trial except those taken on probate bonds.

#### LICENSED ARBORISTS

The law generally requires anyone who advertises, solicits, or contracts to do arboriculture in Connecticut to be licensed by DEEP. Applicants must take an examination and include in the application their qualifications and proposed operations.

The act increases, from \$50 to \$200, the nonreturnable application fee. It establishes an initial license fee of \$285 and increases the license renewal fee from \$190 to \$285. Certified supervisory pesticide applicators that are also licensed as arborists are exempt from having to pay an arborist license fee if they paid to be licensed as a pesticide applicator. (By law, the license fee for certified supervisory pesticide applicators is also \$285).

By law, an arborist license is valid for five years. But the act allows the DEEP commissioner to issue licenses (1) for a period of less than five years and prorate the license fee and (2) in a way that causes 20% of the licenses to expire each year.

#### TREE WARDENS

##### *Appointment Term Length*

The act extends, from one year to two, the term length for municipally appointed tree wardens. By law, the wardens (1) are appointed for the term and until successors are appointed and have qualified and (2) may appoint deputy tree wardens.

##### *Coursework Requirement*

The act requires tree wardens to successfully complete coursework related to the position no later than one year after their appointment or reappointment. The coursework, approved by the DEEP commissioner, must at least include tree laws, biology, maintenance, pruning, and urban forest management.

The act allows the commissioner to administer the coursework or delegate the responsibility to a professional or educational organization that can provide the training. The commissioner or his designee can charge a reasonable fee for coursework costs. The

act requires municipalities to pay the coursework cost for appointed tree wardens who are volunteers.

The act makes tree wardens who fail to complete the coursework ineligible for reappointment. But it allows a municipal chief elected official to make a written request to DEEP for a six-month extension to complete the coursework.

The act exempts from the coursework requirement tree wardens who (1) are DEEP-licensed arborists or (2) successfully complete the Tree Wardens Association of Connecticut (TWAC) coursework before October 1, 2013, if a duly authorized TWAC officer certifies to that fact, in writing, to the commissioner and the municipal chief elected official by December 31, 2013. It also exempts wardens who appoint deputy tree wardens who (1) successfully complete the required coursework, (2) successfully complete the TWAC coursework before October 1, 2013 and provide the certification described above, or (3) are DEEP-licensed arborists.

The act also requires tree wardens to (1) maintain a record of coursework completion and (2) provide, upon request, the records to the commissioner or his designee and the chief elected municipal officials who appointed them.

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**PA 13-205—sSB 1019**

*Environment Committee  
Judiciary Committee*

**AN ACT CONCERNING ADMINISTRATIVE  
STREAMLINING AT THE DEPARTMENT OF  
ENERGY AND ENVIRONMENTAL  
PROTECTION**

**SUMMARY:** This act expands the scope of the law governing radiation and radioactive material. It allows the Department of Energy and Environmental Protection (DEEP) commissioner to (1) issue, modify, or revoke orders to correct or abate violations of the law's operation or possession, registration, licensing, and recordkeeping requirements and (2) suspend or revoke certain registrations. The act broadens his ability to issue cease and desist orders and seek an injunction. It also establishes criminal penalties for certain violations and false statements.

The act makes other changes in the environmental laws. It:

1. allows DEEP to publish certain notices of tentative determination on its website, instead of in newspapers;
2. allows, rather than requires, the DEEP commissioner to establish boundary lines restricting activity along certain tidal or inland waterways or flood-prone areas without authorization, and revokes any order

establishing these lines; and

3. repeals the Mid-Atlantic States Air Pollution Control Compact.

The act eliminates three DEEP reporting requirements on (1) known contaminated wells and leaking underground storage tanks, (2) emissions reductions from the state's motor vehicle emissions inspection program, and (3) air quality.

It also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2013, except the section removing the emissions and air quality report requirements takes effect July 1, 2013.

**§§ 3-7, 11-12, & 14 — RADIATION AND  
RADIOACTIVE MATERIAL**

*Prohibited Acts*

Existing law prohibits anyone from using, manufacturing, producing, transporting, transferring, receiving, acquiring, owning, or possessing any ionizing radiation source (e.g., x-ray machines) unless exempt, licensed, or registered. The act expands this prohibition to include (1) operating x-ray devices for diagnostic or therapeutic purposes in medicine without being registered by DEEP and (2) using naturally occurring radioactive material or radioactive isotopes to diagnose or treat diseases or for research or other purposes in hospitals without registering this information with DEEP.

*Eliminated Hearing Requirement*

The act removes a requirement that the DEEP commissioner hold a hearing, subject to judicial review, at the request of anyone whose interests may be affected, in proceedings on (1) issuing or modifying rules and regulations to control ionizing radiation sources; (2) determining compliance with, or granting exceptions from, DEEP rules and regulations; and (3) granting, suspending, revoking, or amending a license.

*Orders to Abate or Correct Violations, Service, and  
New Hearing Procedure*

The act authorizes the DEEP commissioner to issue, modify, or revoke any order to correct or abate violations of provisions of the radiation and radioactive material law concerning operation or possession, registration, licensing, and recordkeeping, and any regulation adopted or license issued under it. The order may include necessary remedial measures.

The act requires these orders to be served by (1) certified mail, return receipt requested; (2) a state marshal; or (3) an indifferent person. If a state marshal or indifferent person serves the order, he or she must serve a true copy of it. The original, with an endorsed

return of service, must be filed with the commissioner. The order is deemed issued upon service or deposit in the mail, whichever applies. It must state why it was issued and give a reasonable time for compliance.

Under the act, an issued order is final unless a person aggrieved by it files a written request for a hearing before the commissioner within 30 days after its issuance. In that case, the commissioner must then hold a hearing as soon as practicable. After the hearing, he must consider all the evidence and affirm, modify, or revoke his order. He must notify the order recipient of his decision by certified mail, return receipt requested. The commissioner may modify or extend the time for complying with an order if he believes the modification or extension is advisable or necessary. Any modification or extension is considered a revision of an existing order, not a new order, and there can be no hearing or appeal from it.

The act allows anyone aggrieved by the commissioner's final order to appeal to New Britain Superior Court.

#### *Cease and Desist Orders and Registration Revocation or Suspension*

By law, the DEEP commissioner can issue a cease and desist order when he finds that a person is causing, engaging in, maintaining, or about to cause, engage in, or maintain, certain conditions or activities, including those under the radiation and radioactive material laws, that will, or are likely to, result in imminent and substantial damage to the environment or public health (CGS § 22a-7). He can also issue the order when he believes a person is conducting, is about to conduct, or has conducted an activity without a required license that will, or is likely to, result in imminent and substantial damage to the environment or public health. A person to whom the commissioner issues the order must immediately comply with it.

The act expands the commissioner's authority by allowing him to also issue cease and desist orders for any violation of the radiation and radioactive materials law's operation or possession, registration, licensing, and recordkeeping requirements. It also allows him to, upon showing cause and after a hearing, suspend or revoke a registration to operate an ionizing radiation source, to conduct certain activities involving radioactive materials, or for an x-ray device for medical treatment.

#### *Injunctions Against Violations*

The act expands the DEEP commissioner's authority to seek an injunction. Under prior law, when he believed anyone had engaged in or was about to engage in an act or practice that violated certain laws,

rules, regulations, or orders pertaining to radioactive material or radiation sources, he could ask the attorney general to seek an order (1) enjoining the act or practice or (2) directing compliance. The court could issue a permanent or temporary injunction, restraining order, or other order.

The act repeals this provision and replaces it with a broader one that covers any act, practice, or omission that violates or will violate the radiation and radioactive material laws, including the hospital and x-ray devices registration requirements not covered by prior law, and any regulation adopted or order issued under these laws. It specifies that the attorney general must bring the action for injunctive relief in New Britain Superior Court. It allows the court's order to require remedial measures, in addition to direct compliance. The act also requires that these actions generally take precedence over others in the order of trial.

#### *Penalties for Criminally Negligent Actions and False Statements*

The act subjects anyone who, with criminal negligence, violates the radiation and radioactive material laws, or a regulation, order, or license adopted or issued under them, to a penalty of up to \$25,000 for each day of violation, up to one year in prison, or both. A subsequent conviction is punishable by a fine of up to \$50,000 for each day of violation, up to two years in prison, or both.

It also subjects anyone who, with criminal negligence, makes a false statement, representation, or certification in an application, registration, notification, or other document filed or required to be maintained under these laws, to the same penalties as above.

By law, a person acts with "criminal negligence" with respect to a result or a circumstance described by a statute defining an offense when he or she fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation (CGS § 53a-3).

#### *Penalties for Making Knowing False Statements*

The act subjects anyone who knowingly makes a false statement, representation, or certification in an application, registration, notification, or other document filed or required to be maintained under the radiation and radioactive material laws, to a penalty of up to \$50,000 for each day of violation, up to three years in prison, or both. A subsequent conviction is punishable by a fine of up to \$50,000 for each day of violation, up to 10 years in prison, or both.



A separate, generally applicable law already prohibits anyone from intentionally making a false written statement, under oath or on a form with a notice that a false statement is punishable, if he or she (1) does not believe the statement is true and (2) intends to mislead a public servant. A violation is a class A misdemeanor (see Table on Penalties) (CGS § 53a - 157b).

#### §§ 2 & 12 — PUBLIC NOTICE

The act allows the DEEP commissioner to publicly notice a tentative determination (i.e., DEEP's recommended action) for a permit that requires newspaper publication on the department's website. He may do so if the (1) public notice is posted on the website for the entire public notice period and (2) date, time, and nature of opportunity for public participation is published at the same time in an advertisement in a newspaper with general circulation in the affected area. The advertisement must be at least 1/16 of a page and include the website address for details on the public notice.

#### §§ 1, 10, & 13 — STREAM CHANNEL ENCROACHMENT LINES

By law, the DEEP commissioner is responsible for permitting encroachments, obstructions, or hindrances along certain tidal or inland waterways or flood-prone areas. He establishes, by order, the boundary (encroachment) lines along these waterways or areas beyond which no one can place or maintain an encroachment, obstruction, or hindrance without his authorization.

Prior law required him to establish these lines. The act permits him to do so. It also specifies that any order from the commissioner establishing these lines on or before October 1, 2013 is deemed revoked. By revoking the established lines and allowing rather than requiring that the commissioner establish them, the act ends the current permitting program as of October 1, 2013.

#### §§ 8-9 & 12 — REPORTING REQUIREMENTS

##### *Motor Vehicle Emissions Inspection Program*

The act eliminates two DEEP reports related to the Department of Motor Vehicles' motor vehicle emissions inspection program. Specifically, it eliminates the requirement that the commissioner report to the Transportation Committee (1) quarterly on emissions reductions from operating the program and (2) annually on air quality in Connecticut.

##### *Contaminated Well and Leaking Underground Storage Tank Inventory*

By law, the DEEP commissioner must compile an inventory of known contaminated wells and leaking underground storage tanks. The act eliminates a requirement that he annually submit the inventory to the Environment Committee.

#### §§ 10 & 14 — AIR POLLUTION CONTROL COMPACT

The act repeals the Mid-Atlantic States Air Pollution Control Compact, an interstate compact authorized in 1967 to create a commission for addressing interstate air pollution problems. The compact was not implemented.

#### BACKGROUND

##### *Radioactive Materials and Ionizing Radiation*

By law, "radioactive materials" include any solid, liquid, or gas that spontaneously emits ionizing radiation. "Ionizing radiation" includes gamma rays, x-rays, alpha and beta particles, neutrons, protons, high-speed electrons, and other atomic or nuclear particles, but not sound, radio, or light waves.

##### *Federal Nuclear Regulation*

Under federal law, the U.S. Nuclear Regulatory Commission is responsible for regulating nuclear power plants; uses of nuclear material, such as in nuclear medicine; and nuclear waste.

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#### **PA 13-209—sHB 6653**

*Environment Committee*

*Planning and Development Committee*

#### **AN ACT CONCERNING DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION REGULATORY STREAMLINING TO ASSIST MUNICIPALITIES**

**SUMMARY:** This act makes many changes in the state's environmental laws. Among other things, it:

1. modifies the public notice information certain permit and license applicants must provide to the Department of Energy and Environmental Protection (DEEP) commissioner (§ 1);
2. eliminates the commissioner's authority to inventory and map the state's tidal wetlands (§§ 2 & 19);
3. allows the commissioner to provide certain notices electronically (§§ 3, 7, & 8);

4. removes the (a) 60-day deadline by which certain inland wetlands general permit applicants must notify local land use agencies and (b) provision allowing the agencies or any person to submit written comments on the applicant's proposed activity to the commissioner (§ 4);
5. expands the circumstances where the commissioner must hold a public hearing for a permit to conduct certain activities below the coastal jurisdiction line (§ 6);
6. extends the date by which regulations exempting categories of water discharges from certain plan and specification requirements must be adopted (§ 9);
7. requires the commissioner to issue and record a certificate of revocation when he revokes a final order to correct potential sources of, or abate, water pollution (§ 11); and
8. allows the commissioner to (a) set the fee, by regulation, for beneficial or commercial use of sand, gravel, or other material removed from certain tidal, coastal, or navigable waters and (b) waive the fee (§ 13).

The act repeals several environmental statutes, including those concerning a (1) public education program on solid waste disposal practices, (2) program related to greenhouse gas labeling for motor vehicles, and (3) requirement that DEEP offer certain carbon dioxide allowances. It also eliminates requirements that DEEP adopt regulations on (1) farm resources management plans, (2) sewage system additive registration, (3) residential underground heating oil storage tank systems, and (4) official recycling symbols (§§ 5, 10, 12, 14-18, & 20, see Table 1).

Lastly, the act makes many technical and conforming changes.

EFFECTIVE DATE: October 1, 2013

#### § 1 — NOTICE FOR INDIVIDUAL PERMITS OR LICENSES

By law, applicants for certain permits or licenses must publish a notice in a newspaper of general circulation in the affected area. These applicants must also notify the chief elected official in the town where the regulated activity is proposed. These requirements apply to permits or licenses for (1) conducting regulated activities in tidal or inland wetlands or certain activities below the coastal jurisdiction line, (2) solid waste facility construction, (3) dam construction or alteration, and (4) water diversion, among other things.

Prior law also required such applicants to (1) include with the application a signed statement certifying that they would publish notice of the activity on a form the DEEP commissioner supplied and (2)

send a certified copy of the notice, as it appeared in the newspaper, to the commissioner. The act instead requires them to include with the application a (1) copy of the notice as it appeared in the newspaper and (2) signed statement certifying that they notified the town's chief elected official.

The act prohibits the commissioner from processing an application until the applicant submits the signed statement and a copy of the newspaper notice, instead of only the notice which prior law required.

#### §§ 2 & 19 — TIDAL WETLANDS INVENTORY

The act eliminates DEEP's authority to inventory Connecticut's tidal wetlands. It correspondingly removes prior law's requirements on the:

1. depiction of tidal wetlands in boundary maps;
2. procedure by which the maps are created, provided to the public, and appealed; and
3. process for the commissioner to (a) periodically inspect the wetlands to determine if revisions to the maps are necessary and (b) update the maps.

#### §§ 3, 7, & 8 — ELECTRONIC NOTICE

The act allows the DEEP commissioner to provide certain notices by electronic means, instead of only by mail, in connection with permit applications for (1) inland wetlands regulated activities, (2) water diversion, and (3) dam construction.

#### *Inland Wetlands Regulated Activity*

By law, the DEEP commissioner reviews applications to conduct regulated activities in inland wetlands (1) by most state departments, agencies, or instrumentalities and (2) in towns that do not regulate such wetlands. He can waive the public hearing required on the application if he determines the activity is not likely to significantly impact the wetlands involved. To do so, he must (1) publish, in a newspaper with general circulation in the affected towns, notice of his intent to waive the hearing and (2) mail notice of his intent to (a) the chief administrative officer in the towns where the activity will occur and (b) such towns' conservation commission and inland wetlands agency. The act allows the commissioner to notify the town officials electronically, instead of by mail.

If the commissioner holds a public hearing on an application, the act allows him to provide the required notice electronically to the chief administrative officer in the towns where the activity will occur and the towns' conservation commission and inland wetlands agency. Prior law required him to do so by mail.

### *Diversion Permit*

The act allows the commissioner to electronically notify a water diversion permit applicant when the application is complete. Prior law limited the notification method to certified mail, return receipt requested.

By law, after the commissioner notifies the applicant about a complete application, he must immediately provide notice of the application and a description of the proposed diversion to the:

1. governor,
2. attorney general,
3. House speaker,
4. Senate president pro tempore,
5. Office of Policy and Management secretary,
6. public health and economic and community development commissioners,
7. Public Utilities Regulatory Authority (PURA) chairperson,
8. chief executive officer and chairpersons of the conservation commission and wetlands agency of towns affected by the diversion, and
9. anyone who requested notice.

The act requires this notice and description to be provided electronically.

### *Dam Work Permit*

The act allows the commissioner to notify an applicant to conduct certain dam work of his intent to grant or deny a permit by electronic means. Prior law limited this notice to certified mail, return receipt requested.

The act also allows the commissioner to provide notice of his intent by electronic means, instead of only by mail, to the chief executive officer; inland wetlands agency; and planning, zoning, and conservation commissions of each town where the work will occur or have an effect.

### § 4 — INLAND WETLANDS GENERAL PERMIT NOTICE

By law, state agencies, departments, or instrumentalities, except regional or local boards of education, intending to conduct minor regulated activities in inland wetlands under a general permit (see BACKGROUND) must provide written notice to the:

1. inland wetlands agency, zoning commission, planning commission or combined planning and zoning commission, and conservation commission of a municipality that will or may be affected by the activity and

2. departments that make such notices publicly available.

Prior law required an applicant to provide the notice at least 60 days before the activity began. Under the act, there is no specific timeframe to give this notice.

The act also eliminates a provision allowing any person, inland wetlands agency, planning and zoning commission, or conservation commission to submit written comments on the activity to the commissioner at least 25 days before the activity starts.

### § 5 — FARM RESOURCES MANAGEMENT PLANS

The act allows, rather than requires, the DEEP commissioner to adopt regulations for farm resources management plans. Prior law required him to publish notice of intent to adopt such regulations by July 1, 1999, but they have not been adopted. The act also allows, rather than requires, the regulations to include such things as:

1. a priority system and procedures for deciding if a farm management plan is necessary;
2. best management practices, restrictions, and prohibitions for manure management, pesticide storage and handling, fertilizer management, and storage tanks; and
3. criteria and procedures for submitting and reviewing the plans and amendments to them.

By law, the commissioner may require a farm resources management plan from anyone engaged in agriculture on land in an aquifer protection area with gross sales from agricultural products of at least \$2,500 during the prior calendar year. But he must do so according to the above regulations.

### § 6 — HEARINGS BY PETITION

The act expands the circumstances in which the DEEP commissioner must hold a public hearing, upon petition, on a permit application to conduct certain activities below the coastal jurisdiction line in tidal, coastal, or navigable waters. These activities include such things as dredging, erecting structures, placing fill, and other related work.

Prior law required the commissioner to hold a public hearing on a permit application if (1) he received a petition requesting one signed by at least 25 people and (2) the application would (a) significantly affect a shellfish area, (b) have interstate ramifications, or (c) require a certificate of environmental compatibility and public need or approval from the Federal Energy Regulatory Commission. The act instead requires him to hold a public hearing on an application if he receives a petition signed by at least 25 people requesting one for any reason.

Existing law allows the commissioner to hold a public hearing on a permit application if he believes it is in the public interest and requires him to do so if the applicant requests one.

#### § 9 — REGULATIONS FOR EXEMPTING DISCHARGE SYSTEMS

The act extends, from June 30, 2011 to February 1, 2015, the date by which the DEEP commissioner must adopt regulations exempting additional categories of wastewater discharges from submitting certain plans and specifications with their permit applications. By law, these regulations may (1) set minimum standards for designing and operating a discharge treatment system and (2) impose reporting requirements.

The law already allows the commissioner to exempt people and municipalities from the plan and specification submission requirement if the discharge:

1. comes from a new system that is substantially the same as the current one, if the current one is operating in compliance with a DEEP permit;
2. is described in a general permit;
3. comes from a system the commissioner determines was not designed to treat toxic or hazardous substances; or
4. is one the commissioner determined is not likely to cause substantial pollution.

#### § 11 — CERTIFICATE OF REVOCATION

The act requires the DEEP commissioner to issue a certificate of revocation when he revokes a final order to abate water pollution or correct potential sources of such pollution. He must record the certificate on the land records in the town where the land at issue is located and send a certified copy of it to the landowner. Existing law requires him to issue and record a certificate of compliance and mail a copy of it to the landowner when such an order is complied with.

#### § 13 — BENEFICIAL OR COMMERCIAL USE FEE

By law, anyone who conducts certain work in Connecticut's tidal, coastal, or navigable waters waterward of the coastal jurisdiction line, such as dredging, erecting structures, or placing obstructions, must obtain a certificate or permit from DEEP.

The law generally requires anyone removing sand, gravel, or other material lying waterward of the mean high water mark in the tidal, coastal, or navigable waters under this permit to pay a fee to the state if making beneficial or commercial use of it. Under prior law, the fee was \$4 per cubic yard. The act authorizes the DEEP commissioner to adopt regulations

establishing the fee amount. Until then, the fee remains \$4 per cubic yard. The act also allows the commissioner to waive the fee if the sand, gravel, or other material is decontaminated or processed to meet applicable environmental standards for reuse.

#### §§ 10, 12, 14-18, & 20 — REPEALED STATUTES AND REGULATIONS

The act repeals many environmental statutes and eliminates several provisions requiring DEEP to adopt regulations, as described in Table 1. It also makes technical and conforming changes based on their removal.

Table 1: Repealed Statutes and DEEP Regulation Requirements

| <i>Statutory Citation</i>           | <i>Description</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <i>Act §</i>     |
|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| §§ 16-246g and 22a-174l             | DEEP must issue a general permit for constructing and operating certain emergency engines and distributed generation resources. Related pilot program to increase the operation of these electric generation resources, implemented by PURA.                                                                                                                                                                                                                                                                    | 14 & 20          |
| § 22a-31                            | DEEP must appoint hearing officers for tidal wetlands applications proceedings.                                                                                                                                                                                                                                                                                                                                                                                                                                 | 20               |
| § 22a-174m                          | DEEP must offer for sale carbon dioxide allowances to certain combined heat and power sources (cogeneration) subject to long-term power purchase agreements.                                                                                                                                                                                                                                                                                                                                                    | 14 & 20          |
| §§ 22a-201 to 22a-201b; 22a-201c(b) | DEEP must establish programs for (1) greenhouse gas labeling for new vehicles sold or leased in Connecticut and (2) public education about the labeling. Prohibition on selling or leasing a new motor vehicle without the Connecticut-specific label. Authority to use up to 40% of funds from a "greenhouse gas reduction fee" charged on the registration of new motor vehicles to implement the labeling and education programs. (Federal law requires similar informational labels on new motor vehicles.) | 14, 15, & 20     |
| § 22a-213a                          | Each biomedical waste generator must inform DEEP of its disposal contractor, waste amount, and disposal site. (The state's solid waste management regulations require providing this information.)                                                                                                                                                                                                                                                                                                              | 14 & 20          |
| § 22a-240                           | Public education program requirement for DEEP to inform the public on risk assessment and risk management of solid waste disposal practices.                                                                                                                                                                                                                                                                                                                                                                    | 14, 16, 17, & 20 |
| § 22a-255c                          | DEEP must adopt, by regulation, official recycling symbols and procedures for their use.                                                                                                                                                                                                                                                                                                                                                                                                                        | 14, 18, & 20     |
| § 22a-370                           | People requesting a water diversion permit must inform the chief executive officer of the towns where the diversion will occur. (Another law, § 22a-6g, requires water diversion permit applicants to provide the same notice.)                                                                                                                                                                                                                                                                                 | 20               |
| § 22a-449m(b)                       | DEEP must adopt regulations (1) establishing standards and criteria for residential underground heating oil storage tank systems and (2) regarding the removal                                                                                                                                                                                                                                                                                                                                                  | 12               |

| <i>Statutory Citation</i> | <i>Description</i>                                                                                                                                                                                         | <i>Act §</i> |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
|                           | of pipes connected to aboveground and underground residential heating oil storage tank systems when a tank is removed. (The former DEEP residential underground heating oil tank program expired in 2001.) |              |
| § 22a-461(e)              | DEEP must adopt regulations requiring registration of sewage system additives.                                                                                                                             | 10           |

## BACKGROUND

### *General Permits*

DEEP uses both individual and general permits to regulate activities. Individual permits are issued directly to an applicant; general permits authorize similar minor activities by one or more applicants. The authorization of an activity under a general permit is governed by that general permit.

### **PA 13-230—SB 918**

*Environment Committee  
Public Health Committee*

## **AN ACT CONCERNING DISCIPLINARY ACTION AGAINST VETERINARIANS**

**SUMMARY:** This act allows the Connecticut Board of Veterinary Medicine, when determining if a veterinarian acted with negligence, to consider the American Veterinary Medical Association's published standards of care and guidelines, including those for using, distributing, and prescribing prescription drugs. By law, the board can discipline a veterinarian for a number of causes, including cruelty or negligence toward animals or birds.

EFFECTIVE DATE: October 1, 2013

### **PA 13-231—sSB 1015**

*Environment Committee  
Judiciary Committee*

## **AN ACT CONCERNING THE NEW ENGLAND NATIONAL SCENIC TRAIL AND ESTABLISHING A CONNECTICUT ANTIQUES TRAIL**

**SUMMARY:** This act requires the Department of Energy and Environmental Protection (DEEP) to preserve and maintain Connecticut's portion of the New England National Scenic Trail. It authorizes (1) DEEP to acquire land for the trail, including rights-of-way and easements and (2) other agencies to transfer land to DEEP. It specifies that the primary trail use is as a footpath, but that other uses may be permitted if they do not

substantially interfere with this purpose. It gives immunity from liability to a person who grants a trail right-of-way across his or her property, except for willful or wanton misconduct.

The act also requires the Department of Economic and Community Development (DECD), within available appropriations, to establish a Connecticut antiques trail to identify and market Connecticut sites where antiques are sold. DECD must develop criteria to identify and include in the trail major antique dealers, communities with a high concentration of antique dealers, and auction houses with annual sales over \$1 million. DECD must also promote the trail through signs, notices, and an Internet website.

EFFECTIVE DATE: Upon passage for the New England National Scenic Trail provisions and October 1, 2013 for the antiques trail provisions.

## NEW ENGLAND NATIONAL SCENIC TRAIL

### *Preservation of Trail as State Policy*

The act declares as state policy that the Connecticut portion of the New England National Scenic Trail be preserved in its natural character, as proposed in the federal Omnibus Public Land Management Act of 2009 (P.L. 111-11).

### *Acquisition of Land*

The act specifically authorizes DEEP to acquire land by purchase, gift, or otherwise, including rights-of-way and easements, to establish, protect, and maintain the Connecticut portion of the trail after considering recommendations of the National Park Service's 2006 Metacombet Monadnock Mattabesett Trail System National Scenic Trail Feasibility Study and Environmental Assessment.

### *Transfer of Land from Other Agencies*

The act allows any department or agency of the state or its political subdivisions to (1) transfer to DEEP land or rights in land on terms and conditions that may be agreed upon or (2) enter into agreements with the DEEP commissioner to establish and protect the trail.

### *Uses of Trail and Land*

As ordered in federal law, the act requires the New England National Scenic Trail to be held, developed, and administered primarily as a footpath. But other trail and land uses may be permitted if they do not substantially interfere with the primary trail use. The act does not limit (1) the public's right to travel over existing public roads that become part of the trail or (2) DEEP's ability to perform necessary work for forest fire

protection and insect, pest, and disease control.

#### *Maintenance Agreements*

The act authorizes the DEEP commissioner to enter into agreements with federal agencies or private organizations to maintain the trail.

#### *Liability of Grantor of Right-of-Way*

Under the act, no grantor of a trail right-of-way across his or her land, or a successor in title, is liable to any trail user for injuries suffered on the right-of-way unless the injuries are caused by the grantor's willful or wanton misconduct.

#### *Use of Funds*

The act authorizes DEEP to use any available department funds and any available funds from the U.S. Land and Water Conservation Fund or other federal assistance programs to carry out its provisions.

### BACKGROUND

#### *New England National Scenic Trail*

The trail is a continuous trail extending approximately 220 miles from the New Hampshire-Massachusetts border, through Massachusetts and Connecticut, to Long Island Sound in Guilford, Connecticut. The trail is comprised primarily of the Mattabesett, Metacomet, and Monadnock trails. Pursuant to federal law, the United States cannot acquire land or interest in land for the trail without a landowner's consent (P.L. 111-11, § 5202).

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#### **PA 13-238—sSB 803**

*Environment Committee*

*Energy and Technology Committee*

### **AN ACT CONCERNING AQUACULTURE AND THE CULTIVATION OF SEAWEED**

**SUMMARY:** This act allows aquaculture producers to cultivate seaweed and other aquatic plants in Connecticut's coastal waters. By law, the Department of Agriculture (DoAg) commissioner must license and inspect aquaculture producers who cultivate and harvest aquatic animals. The act expands the definition of aquaculture producer to include one who cultivates and harvests aquatic plants, including seaweed, for various purposes (e.g., food, feed, or fertilizer).

Under the act, to receive an aquaculture producer license, aquatic plant producers must (1) be registered with the U.S. Food and Drug Administration as a food

facility, (2) pass inspection by the Department of Consumer Protection, and (3) receive species approval from the DoAg commissioner. The law allows the commissioner to assess civil penalties of up to \$2,500 per violation and \$250 per day of a continuing violation of these licensing requirements (CGS § 22-7). He may also issue cease and desist orders (CGS § 22-4d).

The act also allows the DoAg commissioner to issue a nontransferable license, for up to five years, to anyone who wants to plant and cultivate seaweed in Connecticut's coastal waters. Anyone issued a seaweed license can buy, possess, ship, transport, or sell seaweed approved by the commissioner. Any such license is subject to an annual fee of \$25 per acre. Anyone who has a shellfish grounds lease is exempt from the seaweed license fee.

The act prohibits the commissioner from granting a seaweed license if it would conflict with an "established right" of fishing or shellfishing. (The act does not indicate how someone receives a right. Presumably, a right is established when a person is granted a privilege through a license or contract.) The act specifies that any seaweed license that interferes with established rights is void. Anyone who interferes with a person's enjoyment of his or her seaweed license is subject to a fine of up to \$500, imprisonment for up to six months, or both.

The act authorizes the commissioner to adopt implementing regulations.

Lastly, the act increases deposits into the Shellfish Fund by allowing the commissioner to divert into the fund a portion of the deposits that currently go into the "expand and grow Connecticut agriculture" account.

EFFECTIVE DATE: Upon passage

### AQUATIC PLANTS

The act defines "aquatic plants" as fresh or saltwater algae and plants, including aquatic macrophyte, microalgae, and macroalgae (i.e., seaweed) species intended for sea vegetable, biofuel, animal feed, fertilizer, medical, industrial, or other commercial applications. "Seaweed" is a marine macroalgae species the commissioner approves for cultivation in Long Island Sound.

### SEAWEED LICENSE

Under the act, anyone issued a seaweed license must make a good faith effort to cultivate and harvest seaweed from the licensed area. A license can be renewed. A licensee who meets his or her obligations under the license will be given preference for license renewal for a similar term and purpose. But the commissioner is prohibited from renewing a license if the licensee fails to pay the required license fee. Also, the commissioner cannot renew a license unless he

advertises the pendency of the renewal application. The commissioner can deny a license renewal if, for cause, he decides to stop licensing the grounds for seaweed cultivation.

The act allows the DoAg's Bureau of Aquaculture, Department of Energy and Environmental Protection's Office of Long Island Sound Programs, and the U.S. Army Corps of Engineers to subject any seaweed licensee to the laws that require permits and authorizations for dredging and erecting and maintaining structures.

#### **SHELLFISH FUND**

The act requires the DoAg commissioner to deposit a portion of the fees he collects from utility companies into the Shellfish Fund. Specifically, he must deposit into the Shellfish Fund and the "expand and grow Connecticut agriculture" account 75% of the fee he assesses the owners of certain facilities that cross Long Island Sound (e.g., electric power lines or gas pipelines). The act allows the commissioner to determine the portion of the 75% to be deposited in each account. Prior law required the entire 75% to be deposited in the expand and grow account. By law, the commissioner must deposit the remaining 25% of the proceeds in the General Fund.

By law, the commissioner collects an annual fee of 40 cents per linear foot of the facility located in Connecticut. The fee applies to facilities that require either (1) a certificate of environmental compatibility from the Connecticut Siting Council or (2) Federal Energy Regulatory Commission approval.

The law allows the commissioner to use the Shellfish Fund for the state shellfish program. Under the program, DoAg may purchase cultch (shell or other material upon which young oysters can fasten), management supplies, material, and spawn oyster stock.

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#### **PA 13-248—SB 1020**

*Environment Committee*

*Judiciary Committee*

*Government Administration and Elections Committee*

#### **AN ACT CONCERNING THE INTERSTATE WILDLIFE VIOLATOR COMPACT**

**SUMMARY:** This act enacts, and commits Connecticut to the terms of, the Interstate Wildlife Violator Compact. It makes the energy and environmental protection (DEEP) commissioner, or his designee, Connecticut's compact administrator and authorizes DEEP to adopt regulations to carry out the compact.

The compact is an agreement that requires member states to recognize hunting, fishing, and trapping license sanctions in other member states and take reciprocal action. Thus, if a person's hunting, fishing, or trapping license is suspended in a member state, his or her Connecticut license must also be suspended if the offense would have resulted in a suspension had it occurred here. And, if a person's hunting, fishing, or trapping license is suspended in Connecticut, his or her privileges or rights may be suspended in other member states as well.

The compact establishes a process by which wildlife violations by a non-resident of a member state are handled as if the person were a resident. Under the compact, violators are issued a ticket and released rather than arrested and required to post a cash bond as a condition of release.

The act also repeals the Northeast Conservation Law Enforcement Compact, which is a mutual aid agreement for enforcing state fisheries, wildlife, and environmental laws (see BACKGROUND).

**EFFECTIVE DATE:** Upon passage, except the repeal of the Northeast Conservation Law Enforcement Compact is effective October 1, 2013.

#### **COMPACT PURPOSE**

The Interstate Wildlife Violator Compact's stated purpose is to provide:

1. a way for member states to participate in a reciprocal program to make the compact's policies effective in a uniform and orderly manner and
2. for the fair and impartial treatment of wildlife violators operating within member states in recognition of their due process rights and a member state's sovereign status.

#### **ISSUING STATE PROCEDURES**

The compact requires a member state that cites a non-resident for a wildlife violation ("issuing state") to (1) cite the person in the same manner as if he or she were a resident and (2) not require the person to post collateral to secure an appearance if the person agrees to comply with the terms of the citation (i.e., gives his or her personal recognizance). ("Citations" include summonses, complaints, tickets, or penalty assessments.) Personal recognizance is acceptable if (1) not prohibited by local law or rule and (2) the person provides adequate proof of his or her identity to the officer issuing the citation.

The appropriate official in the issuing state must, upon a person's (1) conviction of a wildlife violation subject to a suspension of license privileges or (2) failure to comply with the terms of a wildlife citation,

report the conviction or failure to comply to his or her state's licensing authority. Upon receipt, the licensing authority must report the information to the violator's home state.

#### HOME STATE PROCEDURES

Upon receipt of a conviction or failure to comply report from the licensing authority of another member state, the violator's home state's licensing authority must act. For a conviction, the home state's licensing authority must enter the conviction in its records and treat it as if it occurred in the home state (i.e., initiate the license suspension process). For a failure to comply, the home state's licensing authority must notify the violator, initiate a suspension action, and suspend the violator's license until the issuing state provides satisfactory evidence that the person complied with the terms of the citation.

The home state's licensing authority must keep a record of its actions and report to the issuing states.

#### RECIPROCAL RECOGNITION OF SUSPENSION

The compact requires member states to recognize the suspension of license privileges or rights by any member state as if the violation had occurred in the person's home state and would have been the basis for suspension in that state. "Suspension" includes revocation, denial, or withdrawal of license privileges or rights.

#### BOARD OF COMPACT ADMINISTRATORS

The compact creates a board of compact administrators as the compact's governing body. The board is made up of one administrator from each member state. The DEEP commissioner, or his designee, is Connecticut's compact administrator.

The compact allows a compact administrator to select an alternate to act on his or her behalf on the board, but an alternate cannot serve unless written notice is given to the board.

Each board member is entitled to one vote. A majority of member states must be present at a meeting for the board to act. Action by the board is binding only if a majority of votes are in favor of the action.

The board must (1) annually elect a chairperson and vice chairperson from its members and (2) adopt bylaws for the conduct of its business. It can amend and rescind its bylaws.

The board may (1) accept, receive, use, and dispose of donations and grants from any state, the United States, or any governmental agency and (2) contract with or accept services or personnel from any person or entity (e.g., governmental or intergovernmental agency,

firm, corporation, or private nonprofit organization).

The board must (1) formulate all needed procedures and (2) develop uniform forms and documents for administering the compact. DEEP must enact rules to adopt these procedures and forms.

#### ENTRY INTO AND WITHDRAWAL FROM COMPACT

A state may join the compact by enacting an act or resolution and submitting it to the board's chairperson. Entry into the compact is effective no earlier than 60 days after notice is given to the chairperson.

A member state may withdraw from the compact by enacting an act or resolution and giving written notice to other member states. Withdrawal will be effective 90 days after notice is given to each member state's compact administrator.

#### CONNECTICUT-SPECIFIC PROVISIONS

The act authorizes the DEEP commissioner to suspend a Connecticut-issued hunting, fishing, or trapping license of a person convicted of a wildlife violation in a member state if the violation would have been the basis for license suspension in Connecticut.

It prohibits DEEP from issuing a license to hunt, fish, or trap in Connecticut to anyone whose license; privilege; or right to hunt, fish, trap, possess, or transport wildlife has been suspended or revoked in a member state.

By law, DEEP is prohibited from issuing a hunting, fishing, or trapping license to anyone whose similar license is suspended or revoked in another state or Canada for violations similar to certain specified activities prohibited by Connecticut law. If such person already has a Connecticut hunting, fishing, or trapping license, DEEP may suspend or revoke it after notice and a hearing (CGS § 26-61(g)).

The act requires the DEEP commissioner, before suspending a Connecticut-issued hunting, fishing, or trapping license, to give the affected person written notice. It permits a suspension to take effect when the notice is given in person or three days after it is mailed.

#### *Hearing*

A person who receives a notice of license suspension may, within 20 days after notice is given, request a hearing before the DEEP commissioner on whether the requirements for suspension or penalty have been met. The person may present evidence and arguments at the hearing regarding whether:

1. a member state suspended the person's privileges,
2. there was a conviction in a member state,



3. the person failed to comply with the terms of a wildlife violation citation in a member state, or
4. a conviction in a member state could have led to a license suspension or penalty in Connecticut.

At the hearing, the commissioner or designated hearing officer may (1) administer oaths; (2) issue subpoenas for the attendance of witnesses; and (3) admit all relevant evidence and documents, including notifications from member states.

After the hearing, the commissioner or hearing officer may, based on the evidence, affirm, modify, or rescind the license suspension or penalty.

#### *Suspension and Appeals*

The act specifies that (1) a license suspension under chapter 490 of the Connecticut General Statutes is a civil suspension and (2) the commissioner's or hearing officer's decision is not appealable.

### BACKGROUND

#### *Interstate Wildlife Violator Compact*

There are currently 39 states participating in the Interstate Wildlife Violator Compact: Alabama, Alaska, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Iowa, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

#### *Northeast Conservation Law Enforcement Compact*

There are three states participating in the Northeast Conservation Law Enforcement Compact: Connecticut, New Hampshire, and Pennsylvania.

The compact provides for cooperation and assistance on enforcement of fisheries, wildlife, and environmental laws among the participating states. It allows the state to send conservation officers to assist other participating states and to request such assistance. It authorizes DEEP to place officers under the operational control of participating states that request assistance and establishes the terms and conditions of such assistance.

A participating state may withdraw from the compact by enacting a law to repeal it. Withdrawal is effective one year after the governor gives written notice of it to the governors of the other participating states.

### **PA 13-262—sHB 5480**

*Environment Committee*

*Appropriations Committee*

### **AN ACT PROHIBITING TAMPERING WITH HYDRANTS**

**SUMMARY:** This act prohibits opening, operating, taking water from, or tampering with a hydrant, or taking water from or tampering with a public water supply reservoir, without (1) legal authority to do so or (2) consent from the water utility, municipality, or other entity that owns or controls the hydrant or reservoir.

Violators are subject to a \$500 fine for a first offense and a \$1,000 fine for subsequent offenses. The act allows violators to pay the fine without having to appear in court, in accordance with the mail-in procedures for infractions and certain violations.

**EFFECTIVE DATE:** October 1, 2013, except the mail-in procedure provision is effective upon passage.

### **PA 13-285—sSB 1081**

*Environment Committee*

*Planning and Development Committee*

### **AN ACT CONCERNING RECYCLING AND JOBS**

**SUMMARY:** This act makes several changes in the state's laws relating to solid waste management. Among other things, it:

1. makes certain solid waste and used material transporters exempt from registration and reporting requirements applicable to solid waste collectors;
2. increases the information scrap metal processors must provide to the Department of Energy and Environmental Protection (DEEP) commissioner to be exempt from needing a solid waste facility permit;
3. broadens the scope of the law requiring certain organic materials generators to separate the materials from other solid waste and recycle them at composting facilities;
4. requires the DEEP commissioner to consult with state or quasi-public agencies to identify opportunities to establish a new recycling infrastructure investment program or expand an existing one;
5. allows municipalities to adopt ordinances providing a property tax exemption for certain recycling machinery or equipment; and
6. allows certain solid waste contracts to be extended beyond the law's 30-year term limit.

The act establishes a Resources Recovery Task Force to study the operations, financial stability, and business models for resource recovery facilities in Connecticut. It requires (1) DEEP to audit the Connecticut Resources Recovery Authority (CRRA) and provide a summary of the audits' findings and (2) CRRA to develop a transition plan for either long-term financial stability or dissolution.

The act also repeals several obsolete CRRA-related provisions and makes other minor and technical changes.

EFFECTIVE DATE: October 1, 2013, except the property tax provision is applicable to assessment years starting on or after that date, and the provisions relating to CRRA, the Resources Recovery Task Force, and the solid waste contract term limitation take effect upon passage.

#### §§ 1 & 3 — SOLID WASTE DEFINITIONS

By law, a solid waste collector must, among other things, register with and provide certain information to each municipality where he or she collects solid waste. Under prior law, "solid waste collectors" were people who held themselves out for hire to collect solid waste on a regular basis from residential, business, commercial, or other establishments. The act instead makes collectors people who hold themselves out for hire regularly to collect such waste. It specifies that collectors are not people who transport:

1. solid waste incidentally generated during professional or commercial activity unrelated to solid waste collection (e.g., home repairs) if it is (a) self-generated by the person's activities and (b) transported to an authorized or permitted recycling facility or a permitted solid waste facility or
2. used materials to a (a) charitable organization that distributes reused household items or (b) retail facility that sells reused household items.

The act also specifies that an "end user" under the solid waste management laws is a (1) person who uses a material for its original use or (2) manufacturer who uses a material as feedstock to make a marketable product.

#### § 2 — SCRAP METAL PROCESSORS

Prior law exempted scrap metal processors from obtaining a solid waste facility permit if they annually reported to the DEEP commissioner, on March 31, the amount of scrap metal purchased or received from (1) a municipality, (2) a municipal or regional authority, (3) the state, or (4) a political subdivision of the state. It also required that each Connecticut municipality included in the report receive a copy of the information

that related to it.

Under the act, to be exempt from obtaining the permit, these processors, by July 31, 2014 and annually afterward, must report to the commissioner, on a form he prescribes, the amount of scrap metal generated in Connecticut and purchased or received by them for the prior fiscal year. They must include a good faith estimate of the amount received directly from Connecticut construction or demolition sites. The report must identify (1) the monthly amounts that the processor sends out of scrap metal generated in-state, other recyclable materials generated in-state, and generated recycling residue; (2) the type of destination facility for the materials; and (3) whether the destination facility is in Connecticut.

#### § 4 — ORGANIC MATERIALS

The act broadens the scope of the law requiring certain organic materials generators to separate the materials and recycle them at composting facilities by (1) establishing specific dates for when they must do so, (2) making smaller generators comply with the law, and (3) requiring generators to recycle the materials at authorized facilities instead of only at permitted facilities (see BACKGROUND).

Under prior law, commercial food wholesalers or distributors, industrial food manufacturers or processors, supermarkets, resorts, and conference centers generating an average of at least 104 tons of source-separated organic materials a year had to (1) separate the materials from other solid waste and (2) recycle them at a permitted source-separated organic material composting facility located within 20 miles of the generation site. They had to do this within six months after at least two such facilities with a combined capacity to accept the generators' materials opened for business in the state. The act eliminates these requirements as of October 1, 2013.

Instead, under the act, beginning January 1, 2014, these same large generators of organic materials (i.e., facilities generating at least 104 tons a year) located within 20 miles of an authorized, instead of permitted, source-separated organic material composting facility, must separate the materials from other solid waste and recycle the materials at any such facility with available capacity that will accept them.

Beginning January 1, 2020, the act applies these requirements to generators (1) generating an average of at least 52 tons of source-separated organic materials a year and (2) located within 20 miles of an authorized source-separated organic material composting facility.

By law, generators may comply with the requirements by composting the source-separated organic materials or treating it with certain organic treatment equipment on-site. The law also requires

permitted facilities receiving the organic materials to provide DEEP with a summary of the fees charged for receiving it.

#### § 6 — PROPERTY TAX EXEMPTION

The act allows municipalities to adopt ordinances exempting from the property tax recycling machinery or equipment installed on or after October 1, 2013. The exemption must apply only to the (1) increased value of the commercial or industrial property attributable to the machinery or equipment and (2) first 15 assessment years after installation.

#### § 7 — CRRA AUDITS

The act requires DEEP, in consultation with the Office of Policy and Management (OPM), to begin at least one audit of CRRA by June 30, 2013. It requires CRRA to (1) cooperate fully with any such audit and (2) pay the audits' costs as long as they do not exceed \$500,000 in total.

An audit may include a review or analysis of CRRA's:

1. audits or investigations conducted before July 12, 2013;
2. financial condition;
3. short and long-term liabilities, such as liabilities (a) to bond holders, employees, and former employees and (b) from lawsuits, leases, contracts, and other matters;
4. existing and projected revenues;
5. cash flow projections for each of the next three calendar years;
6. operations, such as human resources, facilities use, information technology services, and potential operating efficiencies;
7. internal controls, financial management, and risk management practices; and
8. transactions.

With OPM, DEEP must provide a summary of the audits' findings to the governor and the Appropriations, Environment, and Government Administration and Elections committees by October 30, 2013.

#### § 8 — RESOURCES RECOVERY TASK FORCE

The act establishes a 13-member Resources Recovery Task Force to study the operations, financial stability, and business models for resource recovery facilities operating in Connecticut.

##### *Task Force Membership*

The act requires the task force to consist of the DEEP and administrative services commissioners and

the OPM secretary, or their designees, and ten members appointed by the legislative leaders and the governor.

The House speaker, Senate president pro tempore, House minority leader, and Senate minority leader each appoint one member who must be a municipal official or a representative of an organization that represents municipalities. The House majority leader must appoint a member who represents the solid waste hauling industry. The Senate majority leader appoints a member with energy procurement experience. The governor's four appointees must each represent resource recovery facilities in Connecticut or have energy procurement experience.

Appointments must be made by August 11, 2013. The DEEP commissioner, or his designee, serves as the chairperson. The chairperson must schedule the first meeting, which must be held by September 10, 2013. Any task force vacancy must be filled by the appointing authority.

DEEP's administrative staff serves as administrative staff of the task force.

##### *Report and Termination*

The task force must submit its findings and recommendations to the Energy and Technology Committee by December 15, 2013.

The report must include (1) a review of the applicable laws and regulations on renewable energy certificate credits given to in-state resource recovery facilities and (2) an analysis of the financial status of the resource recovery facilities operating in Connecticut, including whether bilateral purchasing agreements with resource recovery facility-based businesses and the state or municipalities would improve these facilities' long-term financial stability.

The report must provide recommendations on:

1. modifications, if any, to the renewable energy certificate credits laws, including the modification's expected economic impact on resource recovery facilities, municipalities, and energy consumers;
2. improvements to the financial status of in-state resource recovery facilities;
3. changes to laws and regulations on bilateral purchase agreements, including a description of the effect of the changes on the (a) anticipated structure of the agreements and (b) financial impact of the agreements on resource recovery facilities, municipalities, and energy consumers; and
4. whether such facilities should be considered electric municipal utilities for the municipalities they serve.

It must also include any other recommendations appropriate to the future of in-state resource recovery facilities and their long-term financial status.

The task force terminates when it submits the report or on December 15, 2013, whichever is later.

#### § 9 — CRRA TRANSITION PLAN

The act requires CRRA to develop a transition plan for (1) achieving a sustainable business model to improve its long-term financial stability or (2) dissolving it and disposing of its assets. The plan must be developed in consultation with the Resources Recovery Task Force (see above) and provided to the governor and the Energy and Technology and Environment committees by November 30, 2013.

When it develops the plan, CRRA must detail and consider such things as:

1. consequences and benefits of (a) closing or selling the Mid-Connecticut Resource Recovery Facility; (b) transitioning the facility to an alternative use, such as a solid waste management facility; and (c) selling other CRRA assets;
2. reductions in expenses, such as management and legal fees, labor costs, and contract obligations;
3. CRRA's financial and legal liabilities and whether they can be eliminated or mitigated;
4. operational requirements of its regional transfer stations, landfills, and its other functional roles;
5. its statewide role in bonding, education, and development, and how the plan affects that role; and
6. its post-closure responsibilities and liabilities for landfills it cares for and controls.

#### §§ 10 & 12 — REPEALED CRRA-RELATED PROVISIONS

The act repeals three obsolete statutes concerning CRRA related to the CRRA-Enron-Connecticut Light and Power Company (CL&P) transaction, including (1) the attorney general's supervision over CRRA's legal matters and claims from the transaction, (2) authority to temporarily borrow funds from the state to repay certain debt issued by CRRA, and (3) a reporting requirement for CRRA's board of directors to describe efforts taken to mitigate the effects of lost revenue from the transaction. CRRA's last Enron-related obligation to the state was paid in 2008.

The act repeals a statute requiring CRRA's board to establish a special committee to study and present options for disposing of solid waste from municipalities contracting with CRRA, including private sector management, by a certain date before outstanding bonds

for a waste management project administered by CRRA mature.

It also eliminates a provision establishing a CRRA board steering committee to (1) establish and implement a financial restructuring plan to mitigate the impact of the CRRA-Enron-CL&P transaction on municipalities with CRRA contracts and (2) review CRRA's finances and administration.

#### § 11 — SOLID WASTE CONTRACT EXTENSIONS

Prior law limited the length of contracts the state, municipalities, and municipal or regional authorities could make for solid waste collection, transport, separation, volume reduction, processing, storage, and disposal to thirty years. The act exempts from the limitation extensions of contracts approved by the DEEP commissioner and in force as of December 31, 2008.

#### BACKGROUND

##### *Organic Material and Composting Facilities*

By law, "source-separated organic material" includes food scraps, food processing residue, and soiled or unrecyclable paper that are separated, at generation, from nonorganic material (CGS § 22a-207(29)).

A "composting facility" is land, appurtenances, structures, or equipment where organic materials originating from another process or location and separated at generation from nonorganic material are recovered, using a process of accelerated biological decomposition of organic material under controlled aerobic or anaerobic conditions (CGS § 22a-207(28)).

##### *Related Acts*

PA 13-42 establishes a mattress stewardship program to manage discarded mattresses. The program, designed by a nonprofit council, is funded by a fee on most mattresses sold in Connecticut. Mattress producers who fail to participate in the program are prohibited from selling mattresses in the state.

PA 13-247 requires DEEP and CRRA to enter into a memorandum of understanding to make DEEP assume the legal obligations from closing the Ellington, Hartford, Shelton, Wallingford, and Waterbury landfills.



**PA 13-150**—sHB 6567

*Finance, Revenue and Bonding Committee  
Judiciary Committee*

**AN ACT CONCERNING DEPARTMENT OF  
REVENUE SERVICES PROCEDURES  
REGARDING PENALTY WAIVERS,  
PERSONNEL PROCEEDINGS, SALES TAX  
PERMITS AND LICENSE RENEWALS**

**SUMMARY:** This act:

1. increases, from \$500 to \$1,000, the threshold for penalty waivers requiring Penalty Review Committee review and approval;
2. allows the Department of Revenue Services (DRS) commissioner to disclose certain tax information in connection with personnel proceedings involving current or former DRS employees;
3. imposes, on anyone conducting business without a sales tax permit, a civil penalty of \$250 for the first day, and \$100 for each subsequent day; and
4. bars the DRS commissioner from issuing or renewing certain permits and licenses for anyone who he determines owes state taxes for which all administrative or judicial remedies have expired or been exhausted.

**EFFECTIVE DATE:** July 1, 2013, except the provisions concerning the disclosure of certain tax information are effective upon passage.

**§ 1 — TAX AND LOTTERY SALES AGENT  
PENALTY WAIVERS**

By law, the Penalty Review Committee must review and approve (1) tax penalty waivers granted by the DRS commissioner and (2) lottery sales agent penalty waivers granted by the consumer protection commissioner, if they exceed a minimum threshold. The act increases this minimum from \$500 to \$1,000.

The Penalty Review Committee consists of the comptroller, DRS commissioner, and Office of Policy and Management secretary or their designees. The committee (1) must meet at least monthly and make an itemized statement of all approved waivers available for public inspection and (2) may approve a waiver only by majority vote.

**§§ 2 & 3 — DISCLOSURE OF CERTAIN TAX  
INFORMATION IN PERSONNEL PROCEEDINGS**

The act allows the DRS commissioner to disclose tax returns and return information (see **BACKGROUND**) in connection with personnel proceedings, including any related administrative or

judicial proceedings, involving a current or former DRS employee if the commissioner determines that the information is relevant and material to the proceeding. The commissioner may prescribe terms and conditions for the disclosures, which can be used only for purposes of, and to the extent necessary in, the proceedings.

The act also requires the commissioner, upon request, to disclose the tax information to the employee who is the subject of the proceeding, or his or her collective bargaining agent, if the information is relevant and material to the proceeding. The commissioner must release the information regardless of whether he introduces it or otherwise relies on it during the proceeding.

The act prohibits anyone involved in the proceeding from further disclosing the information and subjects violators to a fine of up to \$1,000, up to one year in prison, or both. The same penalty already applies under existing law for other unauthorized disclosures of tax information (CGS § 12-15(g)).

**§ 4 — CIVIL PENALTY FOR FAILING TO GET OR  
RENEW A SALES TAX PERMIT**

By law, those engaged in the business of selling in Connecticut must hold a DRS-issued sales tax permit for each place of business.

The act imposes a civil penalty of \$250 for the first day, and \$100 for each subsequent day, that the person conducts business without a sales tax permit. It allows the DRS commissioner to waive all or part of the penalty if he finds that the person's failure to get or renew a permit has a reasonable cause and is not intentional or due to neglect. Any waiver is subject to the existing tax penalty waiver requirements described above.

By law, the penalty for each knowing violation of the sales tax permit law is a fine of up to \$500, up to three months in prison, or both.

**§ 5 — STATE TAX PAYMENT AS A CONDITION  
OF ISSUING A LICENSE**

The act bars the DRS commissioner from issuing or renewing a (1) cigarette dealer, distributor, or manufacturer license; (2) tobacco product distributor or unclassified importer license; and (3) sales tax seller's permit, for anyone who he determines owes any state taxes for which all administrative or judicial remedies have expired or been exhausted. Under the act, the applicant must pay what he or she owes or arrange to do so, to the commissioner's satisfaction, before the commissioner may issue or renew the license.

**BACKGROUND***Tax Returns and Return Information*

By law, a “return” is any of the following filed with the DRS commissioner by, on behalf of, or with respect to, anyone: (1) a tax or information return; (2) an estimated tax declaration; (3) a refund claim; or (4) any license, permit, registration, or other application. The term also covers amendments or supplements, including supporting schedules, attachments, or lists that supplement or are part of a filed return.

“Return information” includes:

1. a taxpayer’s identity;
2. the nature, source, or amount of the taxpayer’s income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax collected or withheld, tax under- or over-reportings, or tax payments; and
3. any other data received, recorded, prepared, or collected by or furnished to the DRS commissioner regarding a return or regarding any determination of liability for a tax, penalty, interest, fine, forfeiture, or other imposition or offense (CGS § 12-15 (h)(1) & (2)).

**PA 13-151—sHB 6576**

*Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING THE APPLICABILITY OF THE SALES AND USE TAX TO WINTER STORAGE OF BOATS**

**SUMMARY:** This act extends the length of time that boats stored during the winter are exempt from the sales and use tax. It extends the sales tax exemption for storing noncommercial boats by two months, by starting the period sooner and ending it later. Under prior law, the exemption period ran from November 1 to April 30. Under the act, it runs from October 1 to May 31.

The act also extends the use tax exemption for boats brought into Connecticut only to be stored, maintained, or repaired, by ending the period one month later. Under prior law, the exemption period ran from October 1 to April 30. Under the act, it runs from October 1 to May 31.

**EFFECTIVE DATE:** Upon passage

**PA 13-204—HB 6565**

*Finance, Revenue and Bonding Committee  
Planning and Development Committee*

**AN ACT ELIMINATING A TOWN’S ABILITY TO PHASE IN A REAL PROPERTY ASSESSMENT DECREASE AND ALLOWING A PROPERTY TAX ABATEMENT FOR EMERGENCY MEDICAL TECHNICIANS**

**SUMMARY:** This act eliminates a municipality’s authority to phase in all or part of the decreases in real property assessments after a property revaluation. PA 12-2, June 12 Special Session, gave municipalities the option to do so, using methods comparable to those the law allows for phasing in increases in property values.

The act also allows municipalities to extend a property tax abatement program for surviving spouses of police officers or firefighters killed in the line of duty to surviving spouses of emergency medical technicians killed in the line of duty. By law, municipalities may establish the program, by ordinance, to abate all or part of property taxes due on an eligible spouse’s principal residence.

**EFFECTIVE DATE:** The revaluation phase-in provision is effective July 1, 2013, and applicable to assessment years beginning on or after October 1, 2013; the property tax abatement provision is effective October 1, 2013.

**PA 13-232—sSB 1052**

*Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING THE INTEREST PAID BY THE STATE ON OVERPAYMENTS OF TAXES, VARIOUS CHANGES TO TAX CREDIT PROGRAMS AVAILABLE UNDER THE INSURANCE PREMIUMS TAX AND THE CORPORATION BUSINESS TAX, EXEMPTIONS FROM THE PETROLEUM PRODUCTS GROSS RECEIPTS TAX, AND A STUDY OF THE STRUCTURE OF THE PERSONAL INCOME TAX**

**SUMMARY:** This act makes various changes to laws concerning state tax administration. Among other things, it (1) reduces the period during which the state must pay interest on overpayments of gift, estate, and gross earnings taxes; (2) extends a credit against the petroleum products gross earnings tax to the first sale of petroleum products sold to a purchaser who then incorporates them into paint, coating, or adhesive material for use or sale outside Connecticut; (3) requires captive insurance companies to pay premium taxes on assumed reinsurance premiums by March 1 annually,

rather than in March; and (4) permits insurance companies and HMOs to transfer to their affiliates an insurance premium tax credit that, under existing law, may not be transferred or assigned.

The act also makes various changes to business tax credit programs, including (1) extending, from 15 to 25 years, the maximum period for carrying forward the credit for donating land for educational purposes; (2) allowing taxpayers to whom film infrastructure tax credits were assigned to carry them forward for up to three years; (3) allowing the economic and community development commissioner to limit the period for claiming the three-year job expansion tax credits and imposing an aggregate credit cap for the years they may be claimed; and (4) repealing certain obsolete or rarely used tax credit programs.

Lastly, the act requires the Department of Revenue Services (DRS) commissioner to study the state's income tax structure and how its rates and credits affect different taxpayers.

EFFECTIVE DATE: Various, see below.

#### §§ 1-2 & 5-6 — PERIOD FOR PAYING INTEREST ON TAX OVERPAYMENTS

By law, the state pays 0.66% per month or part of a month in interest to taxpayers when they overpay the gift tax; estate tax; or gross earnings taxes on railroad companies, cable and satellite television and video service providers, utility companies, and petroleum products distributors. Under prior law, the period for paying interest on:

1. gift tax overpayments began on the tax return's due date or the date the tax was paid, whichever was later;
2. gross earnings taxes overpayments was the period between the (a) later of the taxes' due date or the date they were overpaid and (b) date of the revenue services commissioner's notice that refunds were due (excluding refunds due to intentional overpayments); and
3. estate tax overpayments depended on the day a decedent died. For those who died before July 1, 2009, the state paid interest starting nine months after the transferor's death or the payment date, whichever was later. For those dying on or after that date, the period began six months after the transferor's death or the payment date, whichever was later.

The act shortens the period for paying interest on overpayments of gift and gross earnings taxes, depending on whether the overpayment was made pursuant to a tax return or amended tax return. For tax returns, the period for paying interest begins 91 days after the later of the (1) deadline for filing the return or (2) date the return was filed. For amended tax returns,

the period begins 91 days after the amended tax return was filed. For gift tax returns, the deadline for filing the return is determined regardless of any filing extension.

Although the act prescribes the same shortened periods for paying interest on estate tax overpayments, it retains the existing provisions requiring the period to begin nine months or six months after the transferor's death or the payment date. Consequently, it is unclear how the two periods combine to establish a new period for paying interest.

EFFECTIVE DATE: July 1, 2013, and applicable to refunds issued on or after that date.

#### §§ 3-4 — PETROLEUM PRODUCTS GROSS EARNINGS TAX

The act exempts from the petroleum products gross earnings tax the first sale of cosmetic grade mineral oil sold on or after July 1, 2013.

The law allows companies subject to the tax to receive a credit for products which the initial purchaser exports outside the state for sale or use, provided the purchaser properly documents the sale and the company passes the credit through to the purchaser. The act extends this credit to companies for petroleum products they sell to an initial purchaser who (1) incorporates them into a material used by businesses manufacturing paint, coatings, and adhesives (i.e., included in the North American Industrial Classification System's industry group 3255) and (2) subsequently exports the products for sale or use outside Connecticut. The credit equals the amount of tax the company paid when it sold the product to the initial purchaser.

The act similarly extends a credit to companies that import petroleum products into the state to incorporate in paints, coating, or adhesives they subsequently export for sale or use outside Connecticut. By law, companies qualify for a credit against the tax when they import petroleum products and subsequently export them for sale or use outside the state.

EFFECTIVE DATE: July 1, 2013, except for the tax credit provisions, which take effect July 1, 2015 and are applicable to quarterly periods beginning on or after that date.

#### § 7 — ORDER FOR CLAIMING INSURANCE PREMIUM TAX CREDITS

The act establishes the order in which insurers must claim multiple credits in a calendar year. The order depends on whether the insurer can carry a credit backwards or forwards. The insurer must:

1. first apply the credits that it can carry backward to a preceding year, in the order in which they expire and, if more than one credit



expires at the same time, in the order that gives the insurer the maximum benefit;

2. then apply credits it can neither carry backward or forward in the order that gives the insurer the maximum benefit; and
3. finally, apply the credits it can carry forward, in the order in which they expire and, if more than one credit expires at the same time, in the order that gives the insurer the maximum benefit.

A similar order applies under existing law to businesses eligible to claim more than one corporation business tax credit (CGS § 12-217aa).

The act specifies that insurers cannot claim an insurance premium credit more than once.

EFFECTIVE DATE: Upon passage and applicable to calendar years beginning on and after January 1, 2013.

#### §§ 8-9 — TAX CREDITS FOR DONATING LAND FOR EDUCATIONAL USE

The act extends, from 15 to 25 years, the maximum time during which taxpayers may carry forward the corporation business tax credit for donating land for educational uses. The 25-year carry forward period applies to credits allowed in any tax year starting on or after January 1, 2013. The 15-year carry forward period continues to apply to credits allowed during prior tax years.

By law, the credit equals 50% of the donated land's market value at its highest and best use or the value of the discounted sales price of the land or the interest in the land. Taxpayers qualify for the credit if they donate the land or sell the land or interests in it to any town, city, borough, or school district or regional school district that will use it for schools or related facilities.

The law already authorizes a 50% credit for donating land to be permanently preserved as open space or used as a public water supply source. The act consolidates the statutes authorizing this credit and the one for donating land for educational uses.

EFFECTIVE DATE: July 1, 2013 and applicable to income years beginning on and after January 1, 2013.

#### § 10 — CARRY FORWARD FOR FILM INFRASTRUCTURE INVESTMENT TAX CREDIT

By law, parties investing in qualified film infrastructure projects qualify for tax credits, which they can claim over four years or assign (i.e., sell or transfer) to other taxpayers (i.e., assignees). Prior law required assignees to claim the tax credit only for the income year in which eligible expenditures were made for the infrastructure project. The act instead allows assignees to claim the credits during the year in which the expenditures were made or in the three immediately

succeeding income years.

EFFECTIVE DATE: Upon passage

#### § 11 — JOB EXPANSION TAX (JET) CREDIT

The act allows the Department of Economic and Community Development (DECD) commissioner to reduce the time during which businesses may claim the JET credit for hiring certain types of employees from three years to one year.

By law, businesses qualify for the credit based on employee criteria. The credit equals \$500 per month for each new employee who lives in Connecticut (i.e., new employee) or \$900 per month if the employee either:

1. is (a) receiving unemployment compensation benefits or has not had a full-time job since exhausting them, (b) receiving vocational rehabilitation services from the Department of Rehabilitation Services, (c) receiving employment services from the Department of Mental Health and Addiction Services, or (d) participating in employment opportunities and day services operated or funded by the Department of Developmental Services (i.e., qualifying employee) or
2. is a current armed forces member or one who was honorably discharged or released under honorable conditions from active service in the armed forces (i.e., veteran employee).

Under prior law, businesses could claim the credit in the year the employee was hired and the next two income years. Beginning January 1, 2014, the act requires the commissioner to base her decision on whether to approve second- or third-year credits for new employees on whether doing so is consistent with the state's economic development priorities. She must continue basing her decision on whether to approve second- or third-year credits for qualifying and veteran employees on the current eligibility criteria.

The act also changes the cap on the JET credits. Prior law imposed an aggregate \$20-million-per-year cap on these credits and those issued under three earlier job creation programs, which JET replaced. The act changes the cap from \$20 million per year to \$40 million over the JET program's duration. (However, it does not make conforming changes to the caps in the three other programs' statutes.)

By law, a business qualifies for the JET credit for jobs it creates between January 1, 2012 and January 1, 2014. Because JET is a three-year credit, the commissioner must apply the cap to the year she awards them and the subsequent two years during which businesses may claim them, including 2014 and 2015.

EFFECTIVE DATE: July 1, 2013

## § 12 — INCOME TAX STUDY

The act requires the DRS commissioner to study the state's personal income tax structure and how its rates and credits affect taxpayers, grouped according to their state tax filing status.

The study must:

1. analyze the taxes and credits imposed on each group of taxpayers at the same or equivalent income levels, based on adjusted gross income, and whether taxes and credits are the same or equivalent;
2. compare the effect of basing the income tax on federal adjusted gross income versus federal taxable income; and
3. consider how the tax rates and credits could be restructured to require all taxpayers to pay equivalent amounts while maintaining current revenue levels.

The commissioner must report his findings by January 15, 2014 to the Finance, Revenue and Bonding Committee, along with any recommendations for legislative changes to ensure an equitable income tax structure.

EFFECTIVE DATE: Upon passage

## §§ 13-14 &amp; 18 — REPEALED TAX CREDIT PROGRAMS

The act repeals the:

1. \$125 per month tax credit for employers hiring Temporary Family Assistance program recipients for at least 30 hours per week (CGS § 12-217y),
2. 25% tax credit for research and development grants businesses make to colleges and universities in Connecticut exceeding the three-year average of prior grants (CGS § 12-217l),
3. \$1,500 per worker credit available to electricity suppliers who hire workers displaced by electrical industry restructuring (CGS § 12-217bb), and
4. \$1,500 credit for hiring workers whose (a) jobs were eliminated because of business restructuring in which at least 10 employees were terminated and (b) new salary is at least 75% of their previous wages or salaries (CGS § 12-217hh).

Under prior law, all of these credits applied against the corporation business income tax. The credit for hiring workers displaced by business restructuring also applied to the insurance premium and utility company taxes.

The act also makes conforming technical changes to laws referring to tax credit programs it repeals.

EFFECTIVE DATE: July 1, 2013

## § 15 — CAPTIVE INSURANCE COMPANY PREMIUM TAX PAYMENTS

The act requires captive insurance companies to pay premium taxes on assumed reinsurance premiums by March 1 annually, rather than in March. Under existing law, unchanged by the act, captive insurers must pay premium taxes on direct-written premiums by March 1 annually.

EFFECTIVE DATE: July 1, 2013

## § 16 — ESTIMATED INSURANCE PREMIUM TAX OVERPAYMENTS

The act allows domestic insurers who have timely filed their tax returns to (1) apply tax overpayments to the following year's estimated tax or (2) receive a refund as existing law provides.

By law, these insurers must pay their estimated insurance premium taxes in four installments during the calendar year according to the schedule the law specifies. If a company overpays an installment, the law requires the excess to be credited against the next installment. But, if the amount paid for the year exceeds the amount of tax due for that year, under prior law, the insurer had to receive a refund.

Under the act, the insurer can elect to apply the excess taxes to its estimated taxes for the following year instead of receiving a refund. If the insurer elects to do this, the state must apply the excess to the first installment due in the next income year and to any subsequent installments in the order they are due. The act also eliminates the DRS commissioner's authority to adopt regulations concerning how excess estimated insurance premium tax payments are credited from one year to the next.

EFFECTIVE DATE: July 1, 2013, and applicable to estimated tax payments for calendar years starting on or after January 1, 2014.

## § 17 — TRANSFERABILITY OF INSURANCE PREMIUM TAX CREDITS

The law allows insurers and HMOs to apply tax credits against their insurance premium tax liability. Some tax credit programs require the entity that earns the credit to claim it, while others allow entities to transfer or assign the credits they earn to other taxpayers. The act allows insurers and HMOs to transfer credits to an affiliate that they would otherwise have to claim themselves (e.g., electronic data processing equipment property tax, historic homes rehabilitation, housing program contribution, and Neighborhood Assistance Act tax credits).

Existing law allows insurance companies and HMOs to transfer specific tax credits to other taxpayers (e.g., urban and industrial site reinvestment, film

production, film infrastructure, digital animation, historic preservation, and insurance reinvestment fund tax credits). The transfers are generally subject to restrictions, including limits on the (1) number of times a particular credit may be transferred and (2) tax period for which a transferee may claim the credit. These restrictions apply to any tax credit transferred by an insurance company or HMO to its affiliate.

Although the act allows insurers and HMOs to transfer a credit to an affiliate, it prohibits the revenue services commissioner from allowing the affiliate to claim the transferred credit unless certain conditions are met. The insurer or HMO and affiliate must file any information the commissioner requires by the due date of the tax return on which the insurer or HMO would have taken the credit if it had not transferred it to the affiliate.

EFFECTIVE DATE: July 1, 2015, and applicable to calendar years beginning on or after January 1, 2015.

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**PA 13-233—sSB 840**

*Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING NEXT GENERATION CONNECTICUT**

**SUMMARY:** This act authorizes \$1.551 billion in new bonds for “Next Generation Connecticut,” a capital improvement program under the UConn 2000 infrastructure program.

The act specifies the purposes of the Next Generation program and requires UConn to develop a comprehensive plan to guide the program’s investments. It requires UConn to (1) develop the plan in consultation with various groups, including leaders in the science, technology, engineering, and math-related industries, and (2) annually report to the legislature, beginning January 1, 2016, on its progress towards achieving the plan’s goals. It also requires UConn to assess its progress in meeting the Next Generation program’s purposes by December 31, 2019 and December 31, 2024.

Lastly, the act requires UConn to develop a strategic master plan that (1) encompasses all of its academic programs and (2) establishes strategic goals and objectives for the university and such programs. UConn must submit the plan, by July 1, 2015, to the Higher Education and Finance committees. The committees must hold a joint hearing on the plan within 30 days of receiving it.

EFFECTIVE DATE: July 1, 2013

**NEXT GENERATION CONNECTICUT PURPOSES**

The act specifies that the purposes of the construction, renovations, infrastructure, and equipment related to Next Generation Connecticut are to:

1. develop preeminence in UConn’s research and innovation programs,
2. hire and support outstanding faculty,
3. train and educate graduates to meet the state’s future workforce needs, and
4. initiate collaborative partnerships that lead to scientific and technological breakthroughs.

The act requires UConn to undergo an assessment of its progress in meeting these purposes by December 31, 2019 and December 31, 2024. UConn must select peers from nationally-ranked research universities, which must conduct the assessment with input from the chairpersons and ranking members of the Finance, Commerce, and Higher Education committees.

**COMPREHENSIVE PLAN**

The act requires UConn to develop a comprehensive plan to guide Next Generation Connecticut investments that identifies strategic growth areas based on the state’s research, innovation, workforce, and economic development needs.

UConn must develop the plan in consultation with:

1. a UConn-selected industry advisory board that
  - (a) represents the state’s science, technology, engineering, and math-related industries and
  - (b) includes chief science or technology officers from these industries;
2. a UConn-selected independent research and development advisory firm;
3. university academic leaders;
4. federal and private funding agencies; and
5. UConn-identified research and innovation benchmarks and an analysis of its progress in meeting the benchmarks compared with nationally-ranked research universities.

The act requires the industry advisory board, research and development advisory firm, and university leaders to seek input from the chairpersons and ranking members of the Finance, Commerce, and Higher Education committees before UConn completes the plan. UConn’s board of trustees must review and approve the plan by July 1, 2014.

*Reporting Requirement*

By January 1, 2016, and annually thereafter, UConn must report to the Finance, Commerce, and Higher Education committees on its progress towards achieving the goals in the Next Generation Connecticut plan. The report must summarize UConn’s research and

economic development activities, including:

1. research proposals, awards, and expenditures;
2. student applications and enrollment;
3. bachelor's, master's, and doctorate degrees awarded;
4. industry partnerships, including joint and consortium projects and incubator support;
5. university and joint university-industry intellectual property activities, including the number of disclosures, patents, licenses, new businesses, and entrepreneurial activities established with university technologies; and
6. research and innovation benchmarks and an analysis of the university's progress in meeting them compared with nationally-ranked research universities.

### PROJECT AUTHORIZATIONS

As Table 1 shows, the act (1) increases bond authorizations for existing UConn 2000 Phase III projects, (2) adds three new Phase III projects, and (3) expands an existing Phase III project for Stamford campus improvements to also include housing. These changes and additions total \$1.551 billion in new bond authorizations under the program.

Table 1: Phase III Project Authorizations (in millions)

| <i>Project</i>                                                 | <i>Prior Authorization</i> | <i>New Authorization</i> | <i>Change</i>  |
|----------------------------------------------------------------|----------------------------|--------------------------|----------------|
| Academic and Research Facilities (new)                         | \$0                        | \$450                    | \$450          |
| Avery Point Renovation (new)                                   | 0                          | 15                       | 15             |
| Deferred Maintenance/Code/ADA Renovation Lump Sum              | 215                        | 805                      | 590            |
| Equipment, Library, Collections & Telecommunications           | 200                        | 470                      | 270            |
| Hartford Relocation Acquisition/Renovation (new)               | 0                          | 70                       | 70             |
| Parking Garage #3                                              | 15                         | 78                       | 63             |
| Residential Life Facilities                                    | 90                         | 162                      | 72             |
| Stamford Campus Improvements/ Housing (adds housing)           | 3                          | 13                       | 10             |
| Deferred Maintenance/ Code/ ADA Renovation Sum – Health Center | 50                         | 61                       | 11             |
| <b>TOTAL CHANGE</b>                                            |                            |                          | <b>\$1,551</b> |

### Phase III Project Dates

The act extends Phase III of the program by six years, from 2018 to 2024. It also extends, from 2018 to

2024 or until completion of the UConn 2000 infrastructure program, UConn's authority to plan, design, acquire, remodel, alter, repair, enlarge, or demolish any real asset or other project on its campuses.

### Annual Bond Limits

To conform to the increased bond authorizations, the act (1) adjusts the annual bond limits for the UConn 2000 program from FY 14 through FY 18 and (2) adds new limits for FY 19 through FY 24 (see Table 2). By law, any difference between the amount actually issued in any year and the cap can be carried forward to any succeeding fiscal year. Financing transaction costs can be added to the caps.

Table 2: Annual Bond Limits for UConn 2000 (in millions)

| <i>FY</i>           | <i>Prior Limit</i> | <i>New Limit</i> | <i>Change</i>  |
|---------------------|--------------------|------------------|----------------|
| 2014                | \$198.0            | \$204.4          | \$6.4          |
| 2015                | 208.5              | 315.5            | 107.0          |
| 2016                | 199.5              | 312.1            | 112.6          |
| 2017                | 160.9              | 266.4            | 105.5          |
| 2018                | 91.0               | 269.5            | 178.5          |
| 2019                | -                  | 251.0            | 251.0          |
| 2020                | -                  | 269.0            | 269.0          |
| 2021                | -                  | 191.5            | 191.5          |
| 2022                | -                  | 144.0            | 144.0          |
| 2023                | -                  | 112.0            | 112.0          |
| 2024                | -                  | 73.5             | 73.5           |
| <b>TOTAL CHANGE</b> |                    |                  | <b>\$1,551</b> |

### PA 13-239—sSB 842

*Finance, Revenue and Bonding Committee*

### AN ACT AUTHORIZING AND ADJUSTING BONDS OF THE STATE FOR CAPITAL IMPROVEMENTS, TRANSPORTATION, ELIMINATION OF THE ACCUMULATED GAAP DEFICIT AND OTHER PURPOSES

**SUMMARY:** This act authorizes up to \$1.559 billion in state general obligation (GO) bonds for FY 14 and up to \$1.522 billion for FY 15 for state capital projects and grant programs, including school construction, water quality, and economic development projects; farmland and open space acquisition and preservation; improvements to state buildings and property; and grants to municipalities and nonprofit entities.

The act additionally authorizes (1) up to \$712.4 million in revenue bonds over the two years for Clean Water Fund loans and (2) up to \$706.9 million special tax obligation (STO) bonds in FY 14 and up to \$588.8 million in FY 15 for transportation projects, including \$120 million over the two years for the town-aid road grant program.

The act authorizes the treasurer to issue (1) up to \$750 million in bonds, notes, or other obligations to reduce the state's accumulated General Fund deficit, determined according to generally accepted accounting principles (GAAP), and (2) additional bonds or other debt to fund up to two years of interest payable or accrued on the bonds and issuance costs. It also commits the state to paying off the remaining GAAP deficit in annual increments over 13 years, beginning in FY 16, and authorizes actions to assure bondholders that the state will do so.

The act establishes the Connecticut Bioscience Innovation Fund (CBIF) to finance a wide range of commercially viable bioscience projects that will create jobs while lowering health care costs and improving the delivery of health care services. It capitalizes the fund by authorizing up to \$200 million in GO bonds over 10 years and allows the proceeds to be used for grants or loans to, or investments in, projects proposed by start-up or early stage businesses, colleges and universities, and nonprofit organizations (eligible recipients). It establishes a 13-member advisory committee to oversee the fund's operations and requires Connecticut Innovations, Inc. (CII), the state's quasi-public economic development agency, to administer the fund under the committee's supervision.

The act requires the transportation commissioner to establish a local transportation capital program to provide state funding, instead of specific available federal funding, to municipalities and local planning agencies to improve certain state or local roads or facilities. It also increases the amount of state grant money available to municipalities under the local bridge program, eliminates the program's loan component, and makes other changes to the program.

The act makes numerous changes to previous bond authorizations. Among other things, it (1) cancels or reduces \$22.5 million in GO bond authorizations for past years; (2) transfers, from the Department of Construction Services (DCS) to the Department of Administrative Services (DAS), responsibility for existing bond authorizations for school construction and various state capital projects; and (3) transfers, from the Office of Policy and Management (OPM) to the Department of Housing (DOH), responsibility for the Main Street Investment Fund program and a previous bond authorization for the incentive housing zone program.

Lastly, the act repeals laws requiring the use of unappropriated General Fund surpluses to (1) reduce the state's accumulated GAAP deficit and (2) redeem outstanding economic recovery notes (ERNs) and economic recovery revenue bonds (ERBs), thus restoring a requirement that these surpluses be deposited in the Budget Reserve ("Rainy Day") Fund at the end of each fiscal year.

EFFECTIVE DATE: July 1, 2013 for FY 14 bond authorizations and July 1, 2014 for FY 15 authorizations. Other sections are effective July 1, 2013 unless otherwise noted below.

#### §§ 1-38 & 55 — BOND AUTHORIZATIONS FOR STATE AGENCY PROJECTS AND GRANTS

The act authorizes up to \$695.7 million in GO bonds for FY 14 and up to \$649.8 million for FY 15 for the state capital projects, housing, and grant programs listed in Table 1. The bonds are subject to standard issuance procedures and have a maximum term of 20 years.

The act includes a standard provision requiring that, as a condition of bond authorizations for grants to private entities, each granting agency include repayment provisions in its grant contract in case the facility for which the grant is made ceases to be used for the grant purposes within 10 years of the entity receiving it. The required repayment is reduced by 10% for each full year that the facility is used for the grant purpose.

Table 1: GO Bond Authorizations for FY 14 and FY 15

| §§                                 | Agency                                                         | For                                                                                                                                                                                                                                                                                                                                                                                                               | FY 14       | FY 15       |
|------------------------------------|----------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-------------|
| <i>State Projects and Programs</i> |                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                   |             |             |
| 2(a), 21(a)                        | OPM                                                            | Design and implement the consolidation of higher education systems with the state's CORE system                                                                                                                                                                                                                                                                                                                   | \$5,000,000 | \$5,000,000 |
|                                    |                                                                | Development and implementation of CORE financial system databases associated with results-based accountability                                                                                                                                                                                                                                                                                                    | 5,000,000   | 0           |
|                                    |                                                                | Design and implementation of the Criminal Justice Information Sharing System                                                                                                                                                                                                                                                                                                                                      | 7,900,000   | 5,500,000   |
|                                    |                                                                | Information technology capital investment program                                                                                                                                                                                                                                                                                                                                                                 | 50,000,000  | 25,000,000  |
|                                    |                                                                | Transit-oriented development predevelopment fund, provided the fund (1) is developed as a public-private partnership and (2) raises at least \$2 million from nonstate resources                                                                                                                                                                                                                                  | 1,000,000   | 0           |
| 2(b), 21(b)                        | Department of Veterans' Affairs                                | Alterations, renovations, and improvements to state buildings and grounds                                                                                                                                                                                                                                                                                                                                         | 750,000     | 750,000     |
| 2(c), 21(c)                        | DAS                                                            | Alterations and improvements (1) to comply with the Americans with Disabilities Act (ADA) or (2) for improved accessibility to state facilities                                                                                                                                                                                                                                                                   | 2,000,000   | 2,000,000   |
|                                    |                                                                | Infrastructure repairs and improvements, including (1) fire, safety, and ADA compliance improvements and (2) improvements to state-owned buildings and grounds, including (a) energy conservation, off-site improvements, and preservation of unoccupied buildings and grounds and (b) office development, acquisition, renovations for additional parking, and security improvements at state-occupied buildings | 25,000,000  | 25,000,000  |
|                                    |                                                                | Development, including acquisition and equipment, of a new thermal facility, including extension of the distribution pipeline, for the capitol area district heating and cooling system in Hartford                                                                                                                                                                                                               | 29,000,000  | 0           |
|                                    |                                                                | Removal or encapsulation of asbestos and hazardous materials in state-owned buildings                                                                                                                                                                                                                                                                                                                             | 10,000,000  | 10,000,000  |
| 2(d), 21(d)                        | Department of Emergency Services and Public Protection (DESPP) | Design, construction, and equipment for a consolidated communications center at the Middletown headquarters building                                                                                                                                                                                                                                                                                              | 4,000,000   | 0           |
|                                    |                                                                | Replacement and upgrade of radio communication systems                                                                                                                                                                                                                                                                                                                                                            | 19,500,000  | 45,000,000  |
|                                    |                                                                | Alterations and improvements to buildings and grounds, including utilities, mechanical systems, and energy conservation                                                                                                                                                                                                                                                                                           | 5,000,000   | 5,000,000   |

| §§                                 | Agency                                                   | For                                                                                                                                                                                                                                                                                                                                                                                                                    | FY 14      | FY 15      |
|------------------------------------|----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------------|
| <i>State Projects and Programs</i> |                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                        |            |            |
|                                    |                                                          | Alterations, renovations, and improvements to the Forensic Science Laboratory in Meriden                                                                                                                                                                                                                                                                                                                               | 1,500,000  | 0          |
| 2(e), 21(e)                        | Department of Motor Vehicles                             | Alterations, renovations, and improvements to buildings and grounds                                                                                                                                                                                                                                                                                                                                                    | 1,703,000  | 1,697,000  |
| 2(f), 21(f)                        | Military Department                                      | Alterations and improvements to buildings and grounds, including utilities, mechanical systems, and energy conservation                                                                                                                                                                                                                                                                                                | 1,000,000  | 1,000,000  |
|                                    |                                                          | State matching funds for anticipated federal reimbursable projects                                                                                                                                                                                                                                                                                                                                                     | 2,000,000  | 2,000,000  |
|                                    |                                                          | Renovations and improvements to the skylight and water and heating systems at the William A. O'Neill Armory in Hartford                                                                                                                                                                                                                                                                                                | 3,150,000  | 0          |
| 2(g), 21(g)                        | Department of Energy and Environmental Protection (DEEP) | Dam repairs, including state-owned dams                                                                                                                                                                                                                                                                                                                                                                                | 6,000,000  | 5,000,000  |
|                                    |                                                          | Energy efficiency and renewable energy projects in state-owned buildings                                                                                                                                                                                                                                                                                                                                               | 0          | 25,000,000 |
|                                    |                                                          | Various flood control improvements, flood repair, erosion damage repairs, and municipal dam repairs                                                                                                                                                                                                                                                                                                                    | 4,500,000  | 6,900,000  |
|                                    |                                                          | Recreation and Natural Heritage Trust Program: recreation, open space, and resource management                                                                                                                                                                                                                                                                                                                         | 10,000,000 | 10,000,000 |
| 2(h), 21(h)                        | Capitol Region Development Authority                     | Alterations, renovations, and improvements to the Connecticut Convention Center and Rentschler Field                                                                                                                                                                                                                                                                                                                   | 4,122,000  | 3,727,500  |
|                                    |                                                          | Alterations, renovations, and improvements at the XL Center                                                                                                                                                                                                                                                                                                                                                            | 35,000,000 | 0          |
| 2(i), 21(i)                        | Department of Developmental Services (DDS)               | (1) Fire, safety, and environmental improvements to regional facilities and intermediate care facilities for client and staff needs, including improvements in compliance with current codes and (2) site improvements, handicapped access improvements, utilities, repair or replacement of roofs, air conditioning, and other interior and exterior building renovations and additions at all state-owned facilities | 5,000,000  | 5,000,000  |
| 2(j), 21(j)                        | Department of Mental Health and Addiction Services       | Design and installation of sprinkler systems in direct patient care buildings, including related fire safety improvements                                                                                                                                                                                                                                                                                              | 2,275,000  | 4,175,000  |

| §§                                 | Agency                                      | For                                                                                                                                                                                                                                                                                                                                                                                                                    | FY 14      | FY 15      |
|------------------------------------|---------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------------|
| <i>State Projects and Programs</i> |                                             |                                                                                                                                                                                                                                                                                                                                                                                                                        |            |            |
|                                    |                                             | (1) Fire, safety, and environmental improvements to regional facilities and intermediate care facilities for client and staff needs, including improvements in compliance with current codes and (2) site improvements, handicapped access improvements, utilities, repair or replacement of roofs, air conditioning, and other interior and exterior building renovations and additions at all state-owned facilities | 0          | 5,000,000  |
| 2(k), 21(k)                        | State Department of Education (SDE)         | For the technical high school system: Alterations and improvements to buildings and grounds, including new and replacement equipment, tools and supplies necessary to update curricula, vehicles, and technology upgrades                                                                                                                                                                                              | 28,000,000 | 15,500,000 |
| 2(l), 21(l)                        | Board of Regents for Higher Education (BOR) | All community colleges: New and replacement instruction, research, or laboratory equipment                                                                                                                                                                                                                                                                                                                             | 9,000,000  | 5,000,000  |
|                                    |                                             | All community colleges: System technology initiative                                                                                                                                                                                                                                                                                                                                                                   | 5,000,000  | 5,000,000  |
|                                    |                                             | All community colleges: Alterations, and improvements to facilities, including fire, safety, energy conservation, code compliance and acquisition of property                                                                                                                                                                                                                                                          | 2,000,000  | 5,000,000  |
|                                    |                                             | Quinebaug Community College: Parking and site improvements                                                                                                                                                                                                                                                                                                                                                             | 2,189,622  | 0          |
|                                    |                                             | Quinebaug Community College: Heating, ventilating, and air conditioning system improvements                                                                                                                                                                                                                                                                                                                            | 1,750,000  | 0          |
|                                    |                                             | Tunxis Community College: Feasibility study for acquiring property to create a premanufacturing workspace and relocate continuing education operations                                                                                                                                                                                                                                                                 | 250,000    | 0          |
|                                    |                                             | Middlesex Community College: New academic building planning, design, and construction                                                                                                                                                                                                                                                                                                                                  | 4,800,000  | 39,200,000 |
|                                    |                                             | Housatonic Community College: Parking garage improvements                                                                                                                                                                                                                                                                                                                                                              | 0          | 3,907,258  |
|                                    |                                             | Housatonic Community College: Implementation of phase III of the master plan for renovations and additions to Lafayette Hall                                                                                                                                                                                                                                                                                           | 0          | 40,467,047 |
| 2(m), 21(m)                        | Department of Correction                    | Renovations and improvements to existing state-owned buildings for inmate housing, programming and staff training space, additional inmate capacity, and for support facilities and off-site improvements                                                                                                                                                                                                              | 10,000,000 | 10,000,000 |
| 2(n), 21(n)                        | Department of Children and Families (DCF)   | Alterations, renovations, and improvements to buildings and grounds                                                                                                                                                                                                                                                                                                                                                    | 1,230,900  | 1,515,000  |
| 2(o), 21(o)                        | Judicial Department                         | Alterations, renovations, and improvements to buildings and grounds at state-owned and maintained facilities                                                                                                                                                                                                                                                                                                           | 7,500,000  | 7,500,000  |
|                                    |                                             | Development of a juvenile court in Meriden or Middletown                                                                                                                                                                                                                                                                                                                                                               | 2,000,000  | 13,000,000 |
|                                    |                                             | Mechanical upgrades and code-required improvements at the superior courthouse in New Haven                                                                                                                                                                                                                                                                                                                             | 1,000,000  | 8,500,000  |



| §§                          | Agency                                                  | For                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | FY 14      | FY 15      |
|-----------------------------|---------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------------|
| State Projects and Programs |                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |            |            |
|                             |                                                         | Security improvements at various state-owned and maintained facilities                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 1,000,000  | 1,000,000  |
| Housing Projects            |                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |            |            |
| 9, 28                       | DOH                                                     | Housing development and rehabilitation, including improvements to various kinds of state-assisted affordable housing; earmarks (1) \$30 million to revitalize moderate rental housing units in the Connecticut Housing Finance Authority's state housing portfolio, (2) \$1 million to develop adult family homes, and (3) \$1 million for grants for accessibility modifications for those transitioning from institutions to homes under the Money Follows the Person program (a Department of Social Services program that moves people out of nursing homes or other institutional settings into less restrictive, community-based settings) | 70,000,000 | 70,000,000 |
|                             |                                                         | Supportive housing initiatives                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 20,000,000 | 0          |
| Grants                      |                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |            |            |
| 13(a), 32(a), 55            | OPM                                                     | Grants to private, nonprofit, tax-exempt health and human service organizations for alterations, renovations, improvements, additions, and new construction, including (1) health, safety, ADA compliance, and energy conservation improvements; (2) information technology systems; (3) technology for independence; and (4) vehicle purchases                                                                                                                                                                                                                                                                                                  | 20,000,000 | 20,000,000 |
|                             |                                                         | Grants to municipalities for infrastructure projects and programs, including planning, property acquisition, site preparation, construction, and off-site improvements                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 50,000,000 | 0          |
|                             |                                                         | Grants to municipalities for municipal purposes and projects*                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 56,429,907 | 56,429,907 |
| 13(b), 32(b)                | Department of Agriculture                               | Farm Reinvestment program                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 500,000    | 500,000    |
| 13(c), 32(c)                | DEEP                                                    | Grants to municipalities for open space acquisition and development for conservation or recreational purposes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 10,000,000 | 10,000,000 |
|                             |                                                         | Grants to municipalities for improvements to incinerators and landfills, including bulky waste landfills                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 1,400,000  | 1,000,000  |
|                             |                                                         | Grants for identifying, investigating, containing, removing, or mitigating contaminated industrial sites in urban areas                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 5,000,000  | 5,000,000  |
|                             |                                                         | Grants to municipalities for providing potable water                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 0          | 1,000,000  |
|                             |                                                         | Program to establish energy microgrids to support critical municipal infrastructure                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 15,000,000 | 15,000,000 |
| 13(d), 32(d)                | Department of Economic and Community Development (DECD) | Grants to nursing homes for alterations, renovations, and improvements for conversion to other uses in support of right-sizing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 10,000,000 | 10,000,000 |
|                             |                                                         | Small Business Express program                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 50,000,000 | 50,000,000 |
|                             |                                                         | Brownfield remediation and redevelopment projects                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 20,000,000 | 10,000,000 |

| §§                                 | Agency                             | For                                                                                                                                                                                                                                                                                                                                                                  | FY 14      | FY 15      |
|------------------------------------|------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------------|
| <b>State Projects and Programs</b> |                                    |                                                                                                                                                                                                                                                                                                                                                                      |            |            |
| 13(e)                              | DOH                                | Grants to municipalities for the incentive housing zone program                                                                                                                                                                                                                                                                                                      | 2,000,000  | 0          |
| 13(f), 32(e)                       | Department of Public Health        | Stem Cell Research Fund                                                                                                                                                                                                                                                                                                                                              | 10,000,000 | 10,000,000 |
| 13(g), 32(f)                       | Department of Transportation (DOT) | Grants for improvements to ports and marinas, including dredging and navigational direction                                                                                                                                                                                                                                                                          | 5,000,000  | 5,000,000  |
| 13(h), 32(g)                       | SDE                                | Grants for <i>Sheff</i> magnet school program start-up costs: Purchasing a building or portable classrooms, leasing space, and purchasing equipment, including computers and classroom furniture, provided that title to any such building that ceases to be used as an interdistrict magnet school may revert to the state as the education commissioner determines | 17,000,000 | 7,500,000  |
|                                    |                                    | Grants to towns and tax-exempt organizations for facility improvements and minor capital repairs to school readiness programs and state-funded day care centers operated by towns and organizations                                                                                                                                                                  | 11,500,000 | 15,000,000 |
|                                    |                                    | Grants to targeted local and regional school districts for alterations, repairs, improvements, technology, and equipment in low-performing schools                                                                                                                                                                                                                   | 0          | 10,000,000 |
|                                    |                                    | Grants to local or regional boards of education for capital costs related to enrollment expansion in the <i>Sheff</i> statewide interdistrict public school attendance program (i.e., Open Choice): Building renovations, classroom expansions, and equipment, including computers, laboratory equipment, and classroom furniture                                    | 750,000    | 0          |
| 13(i), 32(h)                       | State Library                      | Grants to public libraries not located in distressed municipalities for construction, renovations, expansions, energy conservation, and handicapped accessibility                                                                                                                                                                                                    | 5,000,000  | 5,000,000  |

\* PA 13-247 (§ 128) lists the amount each municipality receives under this grant in FY 14 and FY 15 and requires them to use the funds for town-aid road program purposes, unless the OPM secretary approves their use for other purposes.

#### §§ 39-50 — TRANSPORTATION PROJECTS

The act authorizes up to \$706.9 million in STO bonds in FY 14 and up to \$588.8 million in FY 15 for DOT's capital improvement program, as shown in Table 2. The authorizations include \$286 million for bus and rail facilities and equipment and \$126 million for DOT's interstate highway program.

Table 2: STO Bond Authorizations for DOT Projects

| Authorized Program Areas                                                                   | FY 14         | FY 15        |
|--------------------------------------------------------------------------------------------|---------------|--------------|
| <b>Bureau of Engineering and Highway Operations</b>                                        |               |              |
| Interstate highway program                                                                 | \$113,000,000 | \$13,000,000 |
| Urban systems                                                                              | 8,500,000     | 8,500,000    |
| Intrastate highway program                                                                 | 54,000,000    | 44,000,000   |
| Environmental compliance, soil and groundwater remediation, hazardous materials abatement, | 5,000,000     | 13,990,000   |

| Authorized Program Areas                                                                                                                                                         | FY 14      | FY 15      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------------|
| demolition, salt shed construction and renovation, storage tank replacement, and environmental emergency response at or near state-owned properties or related to DOT operations |            |            |
| State bridge improvement, rehabilitation, and replacement                                                                                                                        | 33,000,000 | 33,000,000 |
| Capital resurfacing and related reconstruction                                                                                                                                   | 68,900,000 | 68,900,000 |
| Fix-it-First bridge repair program                                                                                                                                               | 60,687,500 | 60,440,000 |
| Fix-it-First road repair program                                                                                                                                                 | 55,000,000 | 55,000,000 |
| Local Transportation Capital Program                                                                                                                                             | 45,000,000 | 45,000,000 |
| Town-aid road (TAR) (see below)                                                                                                                                                  | 60,000,000 | 60,000,000 |
| Local bridge program                                                                                                                                                             | 15,000,000 | 0          |
| Preliminary engineering studies to improve and widen the interchange of I-91 and I-84 in Hartford                                                                                | 200,000    | 0          |

| <i>Authorized Program Areas</i>                                                                                                     | <i>FY 14</i> | <i>FY 15</i> |
|-------------------------------------------------------------------------------------------------------------------------------------|--------------|--------------|
| <b><i>Bureau of Aviation and Ports</i></b>                                                                                          |              |              |
| Developing and improving general aviation airports, including grants to municipal airports other than Bradley International Airport | 2,000,000    | 2,000,000    |
| <b><i>Bureau of Public Transportation</i></b>                                                                                       |              |              |
| Bus and rail facilities and equipment, including rights-of-way, other property acquisition, and related projects                    | 143,000,000  | 143,000,000  |
| Preliminary engineering studies for upgrades of MetroNorth track infrastructure between New Haven and New York state                | 200,000      | 0            |
| <b><i>Bureau of Administration</i></b>                                                                                              |              |              |
| Department facilities                                                                                                               | 18,731,600   | 16,000,000   |
| STO bonds, cost of issuance and debt service reserve                                                                                | 24,700,000   | 26,000,000   |

### §§ 40 & 46 — TAR

The act authorizes up \$60 million in STO bonds each year for FY 14 and FY 15 to fund TAR grants to municipalities. The law requires the state to allocate specified annual amounts from DOT appropriations to provide grants to towns for highway and bridge improvements and for emergency aid to repair damage to roads, bridges, and dams caused by natural disasters. The authorizations in this act replace these allocations from DOT's annual budget.

### §§ 51-54 & 56-67 — BOND AUTHORIZATIONS FOR STATUTORY PROGRAMS AND GRANTS

The act increases bond authorization limits for various statutory grants and purposes and allocates new bonding for these purposes for FY 14 and FY 15, as shown in Table 3.

Table 3: Statutory Bond Authorizations for FY 14 and FY 15

| <i>§</i> | <i>Agency</i>          | <i>Purpose/Fund</i>                                              | <i>FY 14</i> | <i>FY 15</i> |
|----------|------------------------|------------------------------------------------------------------|--------------|--------------|
| 51       | OPM                    | Urban Action (economic and community development project grants) | \$50,000,000 | \$50,000,000 |
| 52       | OPM                    | Small Town Economic Assistance Program (STEAP)                   | 20,000,000   | 20,000,000   |
| 53       | OPM                    | Capital Equipment Purchase Fund                                  | 40,000,000   | 35,000,000   |
| 54       | OPM                    | Local Capital Improvement Program (LoCIP)                        | 30,000,000   | 30,000,000   |
| 56       | DECD                   | Housing Trust Fund                                               | 30,000,000   | 30,000,000   |
| 57       | SDE                    | Charter school capital expenses                                  | 5,000,000    | 5,000,000    |
| 58       | DCS (transfers to DAS) | School construction projects                                     | 510,300,000  | 469,900,000  |
| 59       | SDE                    | School construction interest subsidy grants                      | 1,000,000    | 4,300,000    |
| 63       | DEEP                   | Farmland preservation                                            | 10,000,000   | 10,000,000   |
| 65       | DEEP                   | Clean Water Fund grants                                          | 67,000,000   | 218,000,000  |
| 66       | DEEP                   | Clean Water Fund loans                                           | 380,430,000  | 331,970,000  |

| <i>§</i> | <i>Agency</i> | <i>Purpose/Fund</i>          | <i>FY 14</i> | <i>FY 15</i> |
|----------|---------------|------------------------------|--------------|--------------|
|          |               | (revenue bonds)              |              |              |
| 67       | DECD          | Manufacturing Assistance Act | 100,000,000  | 0            |

### §§ 60 & 61 — Construction Grants for Public Libraries

The act increases, from one-third to one-half of total construction costs, the State Library Board's grants for public library construction for project applications submitted on or after July 1, 2013. As under existing law, the maximum grant is \$1 million. The grants are subject to available funding.

The act also allows the board to make grants to public libraries for emergency repairs to buildings and equipment of up to one-half of the repair cost, up to \$100,000 for each approved project. The grants are subject to the board's approval and available funding.

### § 62 — Microgrid Grant and Loan PILOT Program

The act eliminates the \$15 million limit on total grants and loans that DEEP may issue under its microgrid grant and loan pilot program. P A 12-148 required DEEP to establish the program to help develop microgrid infrastructure to support critical facilities, including hospitals, police and fire stations, water and sewage treatment plants, and correctional facilities.

### § 64 — Clean Water Funds for Certain Phosphorus Removal Projects

The act increases, from 30% to 50%, the share of the cost of phosphorus removal that is covered by clean water fund grants for certain phosphorus removal projects.

Under the act, the first three construction contracts awarded by a municipality by July 1, 2018 that are eligible for clean water funds as phosphorus removal projects (at or below 0.2 milligrams per liter effluent discharge) must receive a (1) grant of 50% of the project's phosphorus removal cost, (2) 20% grant for the project costs unrelated to phosphorus removal, and (3) loan for the rest. These funds cannot exceed 100% of the eligible water quality project costs. If there are more than three eligible projects, DEEP must first give priority to those with the lowest permitted phosphorus discharge limit, as contained in their valid discharge permits, and then to those that remove the most pounds of phosphorus per year.

By law, other phosphorus removal projects are eligible for clean water financing as nutrient removal projects. They receive (1) a project grant of 30% of the project's costs associated with the nutrient removal, (2) a 20% grant for project costs unrelated to nutrient removal, and (3) a loan for the rest.

## §§ 68 & 69 — GAAP DEFICIT FUNDING

Existing law (1) requires the state's budget and financial statements to conform to GAAP starting in FY 14 and (2) establishes a procedure under which the state must amortize and pay off any unreserved negative balances that have accumulated in state funds as a result of not applying GAAP in the past (i.e., the accumulated GAAP deficit).

The act authorizes the treasurer to issue up to \$750 million in bonds to reduce the state's accumulated General Fund deficit, determined according to GAAP, as reported in the state's FY 13 audited financial statements. It also authorizes the treasurer to issue (1) additional bonds or other debt to fund up to two years of interest payable or accrued on the bonds and issuance costs and (2) refunding bonds to retire GAAP deficit bonds issued under the act. The bonds are state general obligations and must mature before June 30, 2028. In addition to the provisions described below, the bonds are subject to standard statutory conditions.

EFFECTIVE DATE: Upon passage

### *State Commitment to Repaying Deficit*

Starting in FY 16 and for each subsequent fiscal year in which the bonds are outstanding, the act automatically appropriates from the General Fund an amount, distributed from FY 16 to FY 28, equal to the difference between the (1) accumulated General Fund GAAP deficit as of June 30, 2013, estimated by the OPM secretary, and (2) amount of GAAP deficit bonds authorized under the act. The appropriations cease in the fiscal year following the year in which the comptroller's annual financial report to the governor states that there is no GAAP deficit for such fiscal year. A related act, PA 13-247 (§ 235), delays by two years, from FY 14 to FY 16, the date by which the state must begin paying off the accumulated GAAP deficit in annual increments.

The act pledges that the state will not treat the bond proceeds as General Fund revenue or use them for any current or future budget appropriation. It also promises, and authorizes the state treasurer to promise bondholders, that the General Assembly will not reduce the GAAP deficit appropriation until the state repays the GAAP bonds in full. It allows the state to reduce this appropriation (1) if it protects bondholders' rights in another way; (2) in an emergency or extraordinary circumstance, provided certain conditions are met; or (3) in other circumstances permitted under the bonds' terms.

*Emergency Reduction in State Contribution.* The act allows the state to reduce the GAAP deficit appropriation while the bonds are outstanding if all of the following conditions are met.

1. The governor must declare an emergency or the existence of extraordinary circumstances.
2. The governor must invoke his statutory rescission authority (CGS § 4-85). This law (a) gives him discretion to reduce allotment requisitions or allotments already in force up to certain amounts because he determines circumstances have changed since the budget was adopted or estimates that budgeted resources will be insufficient to fully fund all appropriations and (b) requires him to make such reductions when the comptroller's cumulative monthly financial statement projects a General Fund budget deficit greater than 1% of total General Fund appropriations.
3. At least three-fifths of the members of each chamber of the General Assembly must approve the reduction.

### *Federal Tax Benefits*

The act allows the treasurer to make whatever representations and agreements are necessary or appropriate to ensure that note holders receive available federal tax benefits on note interest. The agreements may include (1) promises to provide secondary market disclosure information; (2) arrangements for the information to be provided through an agent or trustee; and (3) remedies, limited to specific performance, for breaching an agreement. (A "secondary market" is any sale after the initial public offering.)

### *Investment*

The act makes the bonds legal investments for banks, insurance companies, fiduciaries, and public bodies and allows public officers to accept them for any purpose for which they may receive or deposit state obligations.

## §§ 70-73 — CONNECTICUT BIOSCIENCE INNOVATION FUND

The act establishes CBIF to finance projects to improve the delivery of health care services, lower health care costs, and directly or indirectly create bioscience jobs. The projects can involve improvements or developments in services, therapeutics, diagnostics, and devices in pharmaceuticals, bioscience, biomedical engineering, medical care, medical devices, medical diagnostics, personalized medicine, health information management, and other related disciplines.

Nonprofit corporations, accredited colleges and universities, and for-profit start-up or early-stage businesses can propose the projects. Early stage businesses are those that have been operating for no

more than three years and are developing or testing a product or service that is not yet available for commercial release or available only in a limited manner, including clinical trials or market testing of prototypes.

The fund can provide grants, credit extensions, loans, loan guarantees, equity investments, or any other form of financial assistance. Eligible recipients can use this assistance to pay for facilities; necessary furniture, fixtures, and equipment; materials and supplies; peer reviews; proof of concept or relevance; compensation; and other costs the advisory committee approves (see below).

CII must manage the fund's assets; provide financial assistance to eligible recipients; and prepare the fund's annual plan, budget, and report. By law, unchanged by the act, CII provides different types of financial assistance, including equity investments, to businesses developing a wide range of technology-based products, techniques, and services. The act allows CII to continue providing this assistance without risking or spending its funds to administer CBIF.

Besides providing financial assistance to eligible recipients for the reasons described above, the fund must (1) repay the bonds in the amounts the bond commission requires and (2) cover CII's administrative costs.

EFFECTIVE DATE: Upon passage

#### *Bond Authorizations*

The act capitalizes the fund by authorizing up to \$200 million in state GO bonds over 10 years, as Table 4 shows. Any issuance costs and capitalized interest may be added to the annual authorizations. If the advisory committee does not use all or part of the maximum amount in a fiscal year, that amount is added to the following year's authorization.

Table 4: Annual Bond Authorization for CBIF

| <i>FY</i> | <i>Amount<br/>(millions)</i> |
|-----------|------------------------------|
| 13        | \$10                         |
| 14        | 10                           |
| 15        | 15                           |
| 16        | 15                           |
| 17        | 25                           |
| 18        | 25                           |
| 19        | 25                           |
| 20        | 25                           |
| 21        | 25                           |
| 22        | 25                           |
| TOTAL     | 200                          |

*Bond Commission Approval.* The bond commission must authorize the total bond issuance. The act requires CII to enter into a memorandum of understanding (MOU) with the OPM secretary and state treasurer regarding the bond issuance, including the extent to which federal, private, and other available funds should be added to the bond proceeds. The bond commission must approve the MOU, which satisfies the standard approval requirements under the State General Obligation Bond Procedure Act. The act deems the principal amount of the authorized bonds to be an appropriation and allocation of the bond amounts. The bonds are subject to standard statutory conditions.

#### *Managing the Fund's Assets*

CII must manage the fund by holding, administering, investing, and disbursing its assets, as the act requires. It must put funds from the following sources in the fund:

1. money the law requires or permits to be deposited in the fund;
2. public or private contributions, gifts, grants, donations, bequests, or devises made to it;
3. principal and interest payments on loans CII makes with the fund's assets; and
4. returns on the fund's equity or other investments, including loan repayments, guarantee fees, royalties, options, warrants, debentures, and all forms of remunerations received in return for the fund's financial assistance.

Lastly, CII must carry forward any of the fund's year-end balance to the next fiscal year.

The act allows CII to deposit money the fund receives, or already has, in an institution it chooses. The institutions receiving these funds must invest or pay them as CII directs. CII may tap these deposits to make payments for the purposes the act authorizes.

The act specifies that the CBIF is not a General Fund account and is available only for the purposes the act authorizes.

#### *Advisory Committee*

*Composition.* The act establishes a 13-member advisory committee to oversee the fund. The committee consists of four members appointed by the governor; one appointed by each of the six top legislative leaders; the public health and economic and community development commissioners or their designees, who serve as ex-officio voting members; and CII's executive director, who serves as the committee's chairperson. The governor and the legislative leaders must make their appointments by July 1, 2013.

*Qualifications.* The appointing officials must appoint members who have skill, knowledge, and experience in health care delivery systems, medical devices, life science, insurance, or information technology-related businesses and sciences. These members serve the same term as the official who appoints them, but must hold their position until that official appoints a successor. Appointing officials fill any vacancies for the term's balance.

*Compensation.* The members receive no compensation for their service, but must be reimbursed for their actual and necessary expenses while performing their official duties.

*Meetings.* The chairperson must call the committee's first meeting by September 30, 2013, and the committee must meet at least quarterly thereafter and when the chairperson deems it is necessary. The committee may transact business or exercise its powers only when it has a quorum (i.e., seven members present). In these situations, the committee must decide matters by a majority vote of the attending members.

*Conflict of Interest.* The act specifies that it does not constitute a conflict of interest for committee members to be affiliated with an eligible recipient or hold a financial interest in that recipient, as long as they abstain from any deliberation, action, or vote specifically related to that recipient. The affiliation can be as a trustee, director, partner, officer, manager, shareholder, proprietor, counsel, or employee.

*Approving Financial Assistance.* The advisory committee must establish a process for receiving and approving financial assistance applications that includes guidelines and terms for receiving such assistance. The guidelines and terms must include:

1. provisions requiring that applicants operate in Connecticut or relocate all or part of their operations here as a condition of receiving the assistance,
2. limits on total grant and loan amounts,
3. grant and loan eligibility requirements that encourage and support collaboration among eligible recipients,
4. requirements for peer reviews,
5. a process for CII to screen applications for strength and eligibility before presenting them to the committee for its consideration,
6. objectives for returns on investments, and
7. any other guidelines and terms the committee determines are necessary and appropriate to further the fund's objectives.

*Expenditure Control.* The advisory committee must approve all CBIF expenditures except those made to CII to cover its administrative costs and the amounts required by the bond commission to repay the bonds issued to capitalize the fund. The committee must exercise expenditure control by approving expenditures

for:

1. specific purposes;
2. budgeted amounts, with variations the committee authorizes when it approves the budget; or
3. financial assistance to eligible recipients, subject to any limits, eligibility requirements, or conditions the committee may impose.

#### *CII's Fund Administration Duties*

Besides managing CBIF's assets and providing financial assistance, CII must use the fund to cover the act's administrative requirements. Specifically, it must provide any staff, office space and systems, and administrative support needed to do so. In administering the fund, CII may use any of its statutory powers as the state's venture capital and technology innovation arm (e.g., enter into agreements providing financial assistance for marketing new and innovative services based on the use of specific technologies, products, techniques, services, or processes).

Beginning January 1, 2014, CII must prepare an annual operations plan and operating and capital budgets for each fiscal year. It must submit these documents to the advisory committee for review and approval no later than 90 days before the fiscal year begins.

CII must recover its administrative costs from the fund's assets. These costs include peer reviews, professional fees, allocated staff costs, and other out-of-pocket costs CII attributes to operating and administering the fund. The act limits the total reimbursement for these costs to 5% of the fund's total annual allotment, as specified in the operating budget.

#### *Reporting Requirement*

By April 15, 2014, and annually thereafter, CII must report on the fund's activity to the advisory committee, providing any available information on (1) the fund's status; (2) its operational performance; (3) the type, amount, and recipients of the financial assistance it provided; and (4) any returns on the fund's investment. The committee must review the report and, upon approving it, submit it to the Appropriations; Commerce; Public Health; Higher Education; and Finance, Revenue and Bonding committees.

#### §§ 74 & 75 — LOCAL TRANSPORTATION CAPITAL PROGRAM

The act requires the DOT commissioner to establish a local transportation capital program to provide state funding, instead of specific available federal funding, to municipalities and local planning agencies to improve

certain state or local roads or facilities. The roads or facilities must be eligible for funding under the federal Surface Transportation-Urban Program (STP-Urban). This federal program provides funds for a wide range of projects in urban areas, including road widening and reconstruction and transit projects.

The act allows the commissioner to request authorization of special tax obligation bonds to fund the program. The bonds must mature no later than 20 years after the state bond commission allocates them, and must be used to fund improvements that have a service life of approximately 20 years. The act exempts the program, when used to fund locally owned roads or facilities, from state floodplain management laws.

DOT must accept applications from eligible recipients, based on project priorities, through the appropriate regional planning agency and provide funding through guidelines it develops.

## §§ 76-82 — LOCAL BRIDGE PROGRAM

### *Grant Amounts*

Under prior law, the local bridge program provided grants and loans to municipalities to remove, replace, reconstruct, rehabilitate, or improve local bridges.

The act (1) eliminates the loan program and (2) increases the amount of grant funding available to between 15% and 50% of a project's necessary and reasonable costs. Under prior law, a municipality could receive a grant for between 10% and 33% of these costs. The grants are awarded based on a municipality's ranking according to its adjusted equalized net grand list per capita.

### *Grant Terms and Conditions*

The act authorizes the commissioner to prescribe the grant's terms and conditions. It specifies that the grants are not deemed to be "public works contracts" for the purposes of state affirmative action, set-aside, and nondiscrimination requirements associated with such contracts. The law already exempts municipal public works contracts from these requirements. The act also exempts the grants from a law requiring the DEEP commissioner to approve or exempt the project from state floodplain management requirements.

### *Disregarding Ranking in Certain Situations*

Under prior law, the commissioner could award grants without regard to a municipality's ranking if a public emergency required a bridge's immediate removal, replacement, reconstruction, rehabilitation, or improvement. The act eliminates the need for immediate action, instead allowing the commissioner to do this if, in his opinion, an emergency makes a bridge's removal, replacement, reconstruction, rehabilitation, or improvement more urgent than other eligible bridge projects with a higher ranking.

### *Application Deadlines Changed; Hearing Eliminated*

Under the act, applicants must file grant applications with the commissioner by May 1, rather than March 1, of the fiscal year immediately preceding the year the grant is awarded. As under existing law, the commissioner may extend the application deadline for good cause.

As under existing law, a municipality may authorize the issuance and sale of supplemental project obligations to finance its portion of bridge project costs. The act eliminates the requirement that a municipal legislative body hold at least one public hearing on an eligible bridge project, including the authorization of supplemental project obligations, before voting on whether to approve the project and authorize financing.

### *Other Changes*

By law, municipalities that jointly own or maintain a bridge eligible for a grant may agree that, among other things, one municipality is responsible for (1) the project, (2) maintaining the bridge, and (3) applying for the grant. The act also allows these municipalities to agree that one municipality is responsible for apportioning the project's costs. As under existing law, the commissioner may deem the municipality that has agreed to undertake the project to be the only municipality eligible for that project.

By law, the commissioner may make an advance grant to a municipality to fund the engineering portion of an eligible bridge project. The grant must equal the municipality's grant percentage multiplied by the engineering costs. Under prior law, the engineering costs could not exceed 15% of the project's construction cost. The act eliminates this cap. As under existing law, the amount of this advance is subtracted from the total grant.

By law, the state deposits certain payments from municipalities in the local bridge revolving fund. The act requires the state to also deposit municipal repayments of grants.

The act also makes conforming changes.

#### §§ 58, 83, 85-93, & 95-103 — CHANGES IN PRIOR GO BOND AUTHORIZATIONS

##### §§ 58, 83, 87-88, 93 & 99 — *Authorizations Transferred from DCS to DAS*

The act transfers, from DCS to DAS, responsibility for bond authorizations for school construction projects and the following capital projects related to state buildings and property:

1. various security improvements;
2. infrastructure repairs and improvements, improvements to state-owned buildings and grounds, and preservation of unoccupied buildings and grounds;
3. capital construction, improvements, repairs, renovations, and land acquisition at fire training schools; and
4. removal or encapsulation of asbestos in state buildings.

A related act, PA 13-247 (§§ 195-230), dissolves DCS and transfers its powers and duties to DAS.

EFFECTIVE DATE: Upon passage, except for the school construction provision, which is effective July 1, 2013.

##### §§ 85, 90-91, 95, 98, & 101-102 — *Authorizations Transferred to DOH*

The act transfers, from DECD to DOH, responsibility for bond authorizations for (1) housing development and rehabilitation and (2) a grant to the Connecticut Housing Finance Authority for its Emergency Mortgage Assistance Program. It also transfers, from OPM to DOH, (1) responsibility for the Main Street Investment Fund and the related grant program and (2) a previous bond authorization for the incentive housing zone program. A related act, PA 13-234, transfers various housing-related responsibilities to DOH from other agencies.

EFFECTIVE DATE: July 1, 2013, except that the provisions transferring responsibility for authorizations from DECD to DOH are effective upon passage.

##### § 86 — *Authorization for Baseball Field Renovations in Wallingford*

The act modifies the purpose of a previous \$525,000 GO bond authorization for a grant to Wallingford by requiring that it be used for renovations

at the town's public school athletic fields, rather than the baseball field at Sheehan High School.

##### § 89 — *Community College Manufacturing Technology Programs*

The act expands, from three to four community colleges, the schools at which BOR may use a previous \$17.8 million GO bond authorization to establish or expand manufacturing technology programs. Existing law and the act do not specify the colleges, but require those chosen to demonstrate a commitment to precision manufacturing and ability, through space and faculty, to establish or expand such programs.

##### § 92 — *Supertotal Change*

The act reduces, by \$7 million, a bond supertotal in PA 11-57 that corresponds to FY 12 bond authorizations for state capital projects, but it does not reduce any of the specific bond authorizations that make up that total. In doing so, it reduces the aggregate amount of bonds that may be issued for the state capital projects enumerated under the act by \$7 million.

##### §§ 96-97 — *State Building Improvements*

The act expands the purpose of a previous \$24 million bond authorization for DAS for improvements to the State Office Building by allowing the bonds to be used for (1) improvements anywhere in the building, not just its exterior; (2) alterations, in addition to renovations and improvements; (3) planning, design, development, and demolition work related to the improvements; and (4) associated parking facilities.

The act specifies that security improvements funded by a \$192.5 million bond authorization for DAS must be used at state-occupied facilities. As under existing law, the bonds may be used for a range of infrastructure repairs and improvements to state-owned buildings and grounds, including energy conservation and off-site improvements.

It also reserves \$750,000 of a previous \$4 million bond authorization for alterations, renovations, and improvements at state-owned and maintained facilities to be used for repairs, improvements, and land acquisition for an annex and parking proximate to the courthouse facilities in Hartford.

##### § 100 — *Firearms and Vehicle Operations Training Facilities*

The act expands the purpose of a previous \$6.6 million bond authorization for the design and construction of a firearms training facility and vehicle operations training center to include land acquisition.



## § 103 — SDE High-Quality School Models

PA 12-189 authorized \$25 million in GO bonds for SDE to provide grants for alterations, repairs, improvements, technology, equipment, and capital start-up costs to expand the availability of high-quality school models. The act allows SDE to also use the authorization for capital improvements and start-up costs that assist schools in implementing common core

state standards and assessments, in accordance with procedures the education commissioner establishes.

## §§ 84-85, 94-95, &amp; 104-134 — CANCELLATIONS AND REDUCTIONS

The act cancels or reduces \$22.5 million in GO bond authorizations, as listed in Table 5.

Table 5: Cancellations and Reductions in Prior Authorizations

| §   | Agency or Grantee                                    | For                                                                                                                                                                                                                                          | Prior Authorization | Amount Cancelled |
|-----|------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------|
| 85  | DECD (transfers to DOH)                              | Housing development and rehabilitation                                                                                                                                                                                                       | \$21,000,000        | \$600,000        |
| 95  | DECD (transfers to DOH)                              | Housing development and rehabilitation                                                                                                                                                                                                       | 25,000,000          | 494,817          |
| 105 | DEEP                                                 | Grants and loans to municipalities for acquiring land for public parks, recreational and water quality improvements, water mains, and water pollution control facilities, including sewer projects                                           | 5,000,000           | 42,000           |
| 107 | State Library                                        | Grant to West Hartford to expand the West Hartford Main Library                                                                                                                                                                              | 500,000             | 500,000          |
| 108 | DCF                                                  | Grant to private nonprofit mental health clinics for children for fire, safety, and environmental improvements                                                                                                                               | 1,000,000           | 9,060            |
| 110 | Connecticut Commission on Culture and Tourism (CCCT) | Renovations and restoration at state-owned historic museums                                                                                                                                                                                  | 1,000,000           | 1,000,000        |
|     |                                                      | Old New-Gate Prison improvements                                                                                                                                                                                                             | 50,000              | 50,000           |
| 112 | SDE                                                  | Grant to Project Oceanology                                                                                                                                                                                                                  | 500,000             | 500,000          |
| 113 | State Library                                        | Grant to Waterbury for improvements to Silas Bronson Library                                                                                                                                                                                 | 1,000,000           | 1,000,000        |
| 114 | DCF                                                  | Grants to private, nonprofit organizations, including the Boys and Girls Clubs of America, YMCAs, YWCAs, and community centers for construction and renovation of community youth centers for neighborhood recreation or education purposes. | 4,702,000           | 19,193           |
| 116 | DAS                                                  | Development and implementation of the Connecticut Education Network                                                                                                                                                                          | 4,100,000           | 4,100,000        |
|     |                                                      | Planning and design of a data center                                                                                                                                                                                                         | 2,500,000           | 2,500,000        |
|     |                                                      | Development and implementation of information technology systems to comply with the Health Insurance Portability and Accountability Act                                                                                                      | 6,310,500           | 6,310,500        |
| 117 | CCCT                                                 | Prudence Crandall Museum, Carter House Visitor Center: Alterations, improvements, renovations                                                                                                                                                | 500,000             | 500,000          |
| 118 | Connecticut State University System                  | Eastern: Facility alterations, renovations, and improvements                                                                                                                                                                                 | 1,165,000           | 22,396           |
|     |                                                      | Eastern: Develop new parking garage                                                                                                                                                                                                          | 18,296,000          | 971,000          |
| 120 | Department of Public Safety (now DESPP)              | Grant to Montville to convert the old town hall to a police station                                                                                                                                                                          | 800,000             | 800,000          |
| 121 | CCCT                                                 | Grant to restore and preserve historic structures and landmarks                                                                                                                                                                              | 300,000             | 100,000          |
| 122 | DPH                                                  | Grant to purchase digital mobile mammography unit                                                                                                                                                                                            | 500,000             | 500,000          |
| 123 | SDE                                                  | Grant to Waterford Country School to construct a gymnasium                                                                                                                                                                                   | 1,000,000           | 100,000          |
| 124 | State Library                                        | Grant to public libraries not located in distressed                                                                                                                                                                                          | 3,500,000           | 7,902            |

| §   | Agency or Grantee                          | For                                                                                                        | Prior Authorization | Amount Cancelled |
|-----|--------------------------------------------|------------------------------------------------------------------------------------------------------------|---------------------|------------------|
|     |                                            | municipalities for construction, renovation, expansion, energy conservation, and handicapped accessibility |                     |                  |
| 125 | State Library                              | Grant to North Branford for renovations and additions to Edward Smith Library in Northford                 | 439,025             | 439,025          |
| 126 | DCF                                        | Grant to Pathway-Senderos Teen Pregnancy Prevention Center in New Britain to acquire new facility          | 825,000             | 500,000          |
|     |                                            | Grant to Child Guidance Center of Southern Connecticut in Stamford for expansion                           | 2,000,000           | 500,000          |
| 128 | Department of Mental Retardation (now DDS) | Fire, safety, and environmental improvements to regional facilities for client and staff needs             | 5,000,000           | 44,590           |
| 130 | CCCT                                       | Grant to restore and preserve historic structures and landmarks                                            | 300,000             | 300,000          |
| 132 | Community College System                   | Quinebaug Valley: East wing code improvements                                                              | 980,367             | 555,710          |
| 134 | DOT                                        | Grants for improvements to ports and marinas, including dredging and navigational direction                | 6,000,000           | 1,250            |

EFFECTIVE DATE: July 1, 2013, except for the cancellations where responsibility for the authorizations is transferred from DECD to DOH, which are effective upon passage.

#### § 135 — USE OF BUDGET SURPLUSES

The act repeals laws requiring unappropriated General Fund surpluses to be used (1) starting with FY 14, first to pay the annual increment required to pay off the accumulated GAAP deficit and (2) from FY 10 to FY 17, to redeem outstanding ERNs before they mature and then to reduce the state's obligations for ERBs, which were never issued. In doing so, it restores a requirement that the state treasurer transfer any unappropriated General Fund surpluses at the end of each fiscal year to the Budget Reserve ("Rainy Day") Fund.

The act also repeals a law requiring the comptroller, for FY 12 and FY 13, to apply \$75 million and \$50 million, respectively, of any such surplus to any net increase in the unreserved General Fund deficit for FY 11 before allocating the balance as otherwise required. EFFECTIVE DATE: Upon passage

the 1983 settlement boundary and taken into trust by the federal government for the Mashantucket Pequot before June 8, 1999 and (2) taken into trust by the federal government for the Mohegans at any time. Prior law exempted this property from revaluation.

PA 12-1, June 12 Special Session (§ 98) made this land eligible for a state payment in lieu of taxes (PILOT) grant equal to 45% of the property taxes that would have been paid on the land and phased in the payment over five years (see BACKGROUND). By law, PILOT grants are based on a property's assessed value as of the prior October 1. Thus, by requiring the Mohegan and Mashantucket property to be revalued, the act also ties the land's PILOT grant to its revalued assessment.

The act also eliminates the requirement that the governor report to the General Assembly in October, January, and April on whether a deficit is projected for the current fiscal year. Existing law, unchanged by the act, requires the Office of Policy and Management secretary to submit (1) monthly reports on potential deficiencies in appropriation accounts to the governor, comptroller, and legislature (CGS § 2-36); (2) monthly budget projections to the state comptroller (CGS § 4-66); and (3) together with the Office of Fiscal Analysis, annual fiscal accountability reports to the legislature each November (CGS § 2-36b).

EFFECTIVE DATE: July 1, 2013 and applicable to assessment years starting on or after October 1, 2013, except that the reporting provision is effective upon passage.

**PA 13-291—sHB 6490**

*Finance, Revenue and Bonding Committee*

#### **AN ACT CONCERNING GRANTS IN LIEU OF TAXES FOR LEDYARD AND MONTVILLE AND REPEALING A DEFICIT REPORTING REQUIREMENT**

**SUMMARY:** This act requires certain Mohegan and Mashantucket Pequot property to be revalued every five years. It applies to real property (1) designated within

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## BACKGROUND

### *PILOT Grants for Tribal Land*

The law requires the state to pay a PILOT grant of 100% of the property taxes that would have been paid for land the federal government took into trust for the Mashantucket Pequots on or after June 8, 1999 that was designated within the 1983 settlement boundary. Under PA 12-1, June 12 Special Session, the state must also pay a 45% PILOT grant for land the federal government took into trust for the (1) Mashantucket Pequots before this date that is within the boundary and (2) Mohegans at any time, phased in over five years.

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**PA 13-11**—sHB 6212  
*General Law Committee*

### **AN ACT CONCERNING WINE TASTING AT PACKAGE STORES**

**SUMMARY:** This act increases, from four to 10, the maximum number of open wine bottles allowed at package store wine tastings at one time. Previously, state regulations limited the maximum number to four (Conn. Agencies Reg. § 30-6-B21a(a)(5)).

By law, package store permittees, on their premises, may offer free alcoholic liquor samples for tasting or conduct fee-based wine education and tasting classes and demonstrations. By regulation, these tastings must (1) be held between noon and 8:00 p.m., but not during times when off-premises alcohol sales are prohibited (e.g., New Year's Day, Thanksgiving, Christmas, and after 5:00 p.m. on Sundays) and (2) not exceed the following amounts per patron: one half ounce for liquor, one ounce for wine, and two ounces for beer.

EFFECTIVE DATE: Upon passage

**PA 13-12**—sHB 6405  
*General Law Committee*

### **AN ACT CONCERNING BARROOM PARTITIONS**

**SUMMARY:** This act requires the Department of Consumer Protection (DCP) to amend its regulations to allow the commissioner, or his designee, to exempt a restaurant and café permittee from the requirement to have separate toilet facilities for men and women that may be reached without passing the barroom.

DCP must also amend its regulations to allow an applicant to request, and the department to grant, an exception to the effective separation requirement during the department's plan review for new applications for restaurant and café permits. The separation requirement mandates separating the dining room or lounge from the barroom if the café consists of more than one public room.

EFFECTIVE DATE: Upon passage

**PA 13-13**—sSB 752  
*General Law Committee*

### **AN ACT CONCERNING SELF-SERVICE STORAGE FACILITY LIENS**

**SUMMARY:** By law, a self-service storage facility owner has a lien on any personal property left in the

facility by a renter who defaults on a rental agreement. This act generally allows the owner to satisfy the lien notice procedures by sending the notice electronically. The electronic notice must include a statement indicating that opening it is acceptance of the notice.

Under the act, if the owner does not receive confirmation that the renter has opened the electronic notice within seven days after the owner sent it, he or she must send written notice by registered or certified mail, return receipt requested, to the renter's last known address. By law, an owner can also notify the renter by delivering written notice in person.

The authority to send the electronic notice does not extend to vessels that are not documented under federal maritime or admiralty laws. (Such vessels have a separate lien process.) The act specifies that owners must follow this separate process if the property is a vessel.

Additionally, the electronic notice authority does not extend to certain notices concerning motor vehicles. Thus, written notice must continue to be sent to the (1) motor vehicles commissioner and (2) vehicle's lienholder or owner (if different from the renter).

EFFECTIVE DATE: July 1, 2013

### **BACKGROUND**

#### *Self-Service Storage Facility Liens*

The lien is for any rent, labor, or other valid charges pertaining to the property in the storage facility; valid expenses incurred in its preservation; and reasonable costs for its sale or other disposition. The facility owner must follow specified procedures for, among other things, notifying a defaulting property owner, advertising the property sale, disposing of sale proceeds, and redeeming the property.

**PA 13-30**—SB 881  
*General Law Committee*

### **AN ACT CONCERNING FARM WINERIES**

**SUMMARY:** By law, a farm winery permittee must grow, on land he or she controls, an average crop of at least 25% of the fruit used to make the permittee's wine. Generally, an "average crop" is the average yield of the permittee's two largest annual crops in the preceding five years. But during the first seven years after a farm winery permit is issued, the average crop is calculated as three tons of grapes for each vineyard acre farmed, which usually is a lower threshold.

This act specifies that the seven-year period does not restart if the farm winery property is transferred or sold during the seven-year period.

EFFECTIVE DATE: Upon passage

**PA 13-85—SB 879**

*General Law Committee*

*Judiciary Committee*

**AN ACT CONCERNING THE  
CONFIDENTIALITY OF INFORMATION  
OBTAINED BY THE ATTORNEY GENERAL  
DURING THE COURSE OF ANTITRUST  
INVESTIGATIONS**

**SUMMARY:** This act allows the attorney general to disclose confidential material to a person testifying in an antitrust investigation when the attorney general or his designee reasonably:

1. determines its use is necessary to bring out evidence of a suspected antitrust violation and
2. believes the person providing the testimony (a) is an author or recipient of the confidential material or (b) has read it or is aware of its substance.

By law, the Attorney General's Office can subpoena documents, subpoena people to testify and transcribe their testimony, and issue written interrogatories in an antitrust investigation. Existing law allows the attorney general to share these documents with federal and other states' officials, but prior law prohibited disclosing them to the public. Under the act, "confidential material" refers to (1) original or copies of documents, responses to interrogatories, or written transcripts of oral testimony or (2) other information produced after a demand or voluntarily.

The act prohibits the person providing testimony from keeping any of the confidential material.

The act's authorized use of confidential material does not apply to investigations of proposed mergers or acquisitions.

EFFECTIVE DATE: October 1, 2013

**BACKGROUND**

*Related Case*

In 2010, the Connecticut Supreme Court ruled that the law barred disclosing material and information gathered in an antitrust investigation to anyone outside the attorney general's office, except federal and other states' officials. The court stated that the material cannot be disclosed in connection with taking oral testimony as part of an antitrust investigation.

Regarding disclosure to federal or other states' officials, the court stated that the attorney general must obtain an agreement that the officials will abide by the same confidentiality restrictions as the attorney general.

The court also stated that when materials are filed or entered into evidence in a court proceeding, the statutory confidentiality provisions must be balanced against the presumption that documents submitted in court related to an adjudication are publicly available. The court stated that court rules allow the party who provided the documents to seek to seal them or limit their disclosure, and the trial court must then determine whether (1) they involve trade secrets or sensitive information and (2) the need for confidentiality outweighs the public's interest in viewing them (*Brown and Brown, Inc. v. Blumenthal*, 297 Conn. 710 (2010)).

**PA 13-88—sHB 5345**

*General Law Committee*

*Judiciary Committee*

**AN ACT CONCERNING HOMEMAKER-  
COMPANION AGENCIES AND CONSUMER  
PROTECTION**

**SUMMARY:** This act expands several notice requirements for homemaker-companion agencies (agencies). It also adds certain consumer protections to agency contracts, including specifying (1) when contracts are enforceable and can be cancelled and (2) payment obligations, including allowing agencies to recover payment for work performed.

By law, a "homemaker-companion agency" is any public or private organization that employs people who provide companion or homemaker services, such as help with personal hygiene, cooking, household cleaning, laundry, and other household chores, but not home health care.

EFFECTIVE DATE: January 1, 2014

**CONTRACT NOTICE PROVISIONS**

By law, an agency must, within seven calendar days after beginning services, provide the client with a written contract or service plan. These contracts or plans must provide notice that the:

1. client or his or her representative has the right to request changes or review the contract or plan,
2. agency's employees must submit to a comprehensive background check, and
3. agency's records are available for inspection or audit by the Department of Consumer Protection.

The act requires these notices to be conspicuous and in boldface type and also indicate that:

1. upon the request of the client or the client's representatives, the agency must provide written notice that the comprehensive

background check, as required by law, was performed for all agency employees that perform homemaker services for the client;

2. the agency is not able to guarantee the extent to which its services will be covered under any insurance plan; and
3. the client may cancel the contract or plan if it does not contain a specific period of duration.

By law, these notice requirements do not apply to agencies servicing clients in the Connecticut Home Care Program for Elders.

#### CONTRACT ENFORCEABILITY AND CANCELLATION

Under the act, written contracts or service plans are not enforceable against the client or his or her representative unless they contain all the provisions the law requires. The act also allows a client to cancel a contract or service plan at any time if it does not state a specific period of duration.

#### PAYMENT OBLIGATIONS

The act requires clients to pay only for actual services rendered. It prohibits an agency from billing for excess fees or costs when it provides the services of a higher-skilled individual than the client needs.

The act specifically allows an agency that complies with the notice requirements to recover payment for work performed based on the reasonable value of the services the client requested and received. The court must have determined that it would be inequitable to deny such recovery.

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#### **PA 13-100—HB 5908 (VETOED)**

*General Law Committee  
Environment Committee*

#### **AN ACT CONCERNING SAFETY AND CERTIFICATION STANDARDS FOR THE SPRAY FOAM INSULATION INDUSTRY**

**SUMMARY:** This act requires the consumer protection commissioner, in consultation with the commissioners of public health and energy and environmental protection, to adopt regulations developing safety and certification standards for the spray foam insulation industry.

EFFECTIVE DATE: Upon passage

#### BACKGROUND

##### *Spray Foam Insulation*

Spray polyurethane foam is an insulation and air sealant material that is installed as a liquid and then expands upon application. It can be used as insulation on roofs, walls, and pipes, among other uses.

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#### **PA 13-101—HB 6211**

*General Law Committee*

#### **AN ACT CONCERNING THE OFFERING AND TASTING OF DISTILLED SPIRITS**

**SUMMARY:** This act allows permit-holding manufacturers of alcohol, beer, wine, or spirits to offer free on-premises tasting of samples of spirits distilled on the premises to anyone other than minors (under age 21) or intoxicated people. The samples may not exceed one-half ounce per patron.

Tastings are allowed between 10:00 a.m. and 8:00 p.m. every day except Sunday and between 11:00 a.m. and 8:00 p.m. on Sunday.

EFFECTIVE DATE: Upon passage

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#### **PA 13-110—sHB 6404**

*General Law Committee*

#### **AN ACT CONCERNING REGISTERED INTERIOR DESIGNERS**

**SUMMARY:** This act limits the information that registered interior designers may use on their seals to the interior designer's name and registration number and the words "Registered Interior Designer, State of Connecticut."

EFFECTIVE DATE: July 1, 2014

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#### **PA 13-111—HB 6407**

*General Law Committee  
Judiciary Committee*

#### **AN ACT CONCERNING THE ASSAULT OF A LIQUOR CONTROL AGENT**

**SUMMARY:** This act makes assault of a liquor control agent a class C felony (see Table on Penalties), the same penalty as for assault of public safety, emergency medical, and public transit personnel, among others. A person commits this crime by assaulting a reasonably identifiable liquor control agent performing his or her duties, with intent to prevent the agent from performing

them, by doing any of the following to the agent:

1. causing injury;
2. throwing objects capable of causing harm;
3. using tear gas, mace, or a similar harmful agent;
4. throwing paint, dye, or any other offensive substance; or
5. throwing bodily fluid, such as feces, blood, or saliva.

By law, people arrested for certain serious felonies must provide a blood or DNA sample before they are released from custody if the arrestee was previously convicted of a felony and has not already provided a blood or DNA sample. The act makes assaulting a liquor agent such a serious felony.

Prior law did not have the specific crime of assault of a liquor control agent. Generally, assaults are punishable, depending on the conduct, by penalties ranging from a class A misdemeanor to a class A felony.

EFFECTIVE DATE: October 1, 2013

## BACKGROUND

### *Liquor Control Agents*

Department of Consumer Protection liquor control agents conduct investigations and enforce the civil and licensing portions of the Liquor Control Act. In addition, agents provide training and assistance to local and state police officers on criminal aspects of liquor law enforcement.

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**PA 13-172—HB 6406**  
*General Law Committee*

## **AN ACT CONCERNING THE ELECTRONIC PRESCRIPTION DRUG MONITORING PROGRAM**

**SUMMARY:** This act expands the Department of Consumer Protection's (DCP) electronic prescription drug monitoring program by requiring prescription information reporting by (1) out-of-state pharmacies that ship, mail, or deliver prescription drugs into the state and (2) any other drug dispensing practitioner. Practitioners include certain medical professionals (physicians, dentists, veterinarians, and podiatrists), researchers, pharmacies, hospitals, and other people or institutions permitted to dispense drugs in the course of professional practice or research. Existing law already requires pharmacies and out-patient pharmacies in hospitals or institutions to report.

The act exempts physicians from having to report dispensing samples of controlled substances to patients. (PA 13-208 makes additional exemptions. See BACKGROUND.)

By law, the program collects information on schedules II through V controlled substances. The act allows the DCP commissioner to identify additional products to include in the program. It also requires covered pharmacies and practitioners to report prescription information to DCP weekly, instead of twice monthly, as under prior law.

The act prohibits any person or employer from preventing a prescribing practitioner or pharmacy from requesting controlled substance prescription information from DCP.

Finally, the act requires practitioners who distribute, administer, or dispense controlled substances, or who seek to do so, to register for access to the program, in a manner DCP chooses, in addition to the existing requirement for such practitioners to register with DCP. These practitioners include certain medical professionals (physicians, dentists, veterinarians, podiatrists, optometrists, physician assistants, advanced practice registered nurses, and nurse-midwives), scientific investigators, hospitals, and other people or institutions who dispense in the course of professional practice or research.

EFFECTIVE DATE: Upon passage

## BACKGROUND

### *Electronic Prescription Drug Monitoring Program*

This program requires DCP to collect prescription information to prevent improper or illegal drug use. Pharmacists must electronically report certain drug information to DCP, including the dispensing date, dispenser identification and prescription number, and certain patient identification data.

### *Related Act*

PA 13-208 exempts from the electronic prescription drug monitoring program's reporting requirements (1) hospitals, when dispensing controlled substances to inpatients and (2) institutional pharmacies or pharmacist's drug rooms operated by Department of Public Health-licensed health care institutions, when dispensing or administering opioid antagonists directly to a patient to treat a substance use disorder.

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**PA 13-175—SB 320**  
*General Law Committee*  
*Judiciary Committee*

## **AN ACT PROHIBITING PRICE GOUGING DURING SEVERE WEATHER EVENTS**

**SUMMARY:** This act extends the bar on excessive price increases (price gouging) to consumer goods and services sold during a severe weather event emergency proclaimed by the governor (weather emergency). By law, price gouging is already barred for (1) products under a civil preparedness emergency declaration, (2) products and services under a supply emergency declaration, and (3) energy resources during abnormal market disruptions.

Under the act, no distributor or seller can sell or offer to sell consumer goods or services for an “unconscionably excessive price” during a weather emergency. It exempts energy resource (e.g., gasoline) sellers, who are covered under a separate price gouging law. Whether a price is unconscionably excessive is based on several factors, which a defendant may rebut.

A seller who violates the act commits an unfair trade or deceptive practice (CUTPA) violation and each day the violation occurs or continues is a separate offense.

The act does not limit the Department of Consumer Protection (DCP) commissioner’s or a court’s authority to find CUTPA violations in the absence of a governor’s proclamation.

EFFECTIVE DATE: Upon passage

### **SEVERE WEATHER EVENT**

Under the act, the governor may proclaim a weather emergency exists when adverse weather conditions create an unusually high demand for consumer goods or services. He must post a notice of the proclamation and its end date on his office website.

### **PRICE GOUGING**

During a proclaimed weather emergency, the act prohibits distributors and sellers from selling or offering to sell for an unconscionably excessive price, goods and services vital and necessary for consumer health, safety, or welfare and used, bought, or rendered primarily for personal, family, or household purposes. Goods and services include lodging, snow removal, flood abatement, and post-storm cleanup or repair services.

To determine if a violation occurs, the DCP commissioner or court must consider: (1) whether the price was unconscionably excessive, (2) whether unfair leverage or unconscionable means were used in setting the price, or (3) a combination of these factors. Prima

facie evidence of unconscionably excessive pricing exists when there is (1) a gross disparity between the price of the goods or services during the weather emergency and their average price 30 days before the emergency began or (2) evidence that the sale price for the goods or services grossly exceeded the sale price to other consumers in the trade area.

A defendant may rebut prima facie evidence by showing that (1) he or she incurred additional costs to acquire the goods or services and (2) the additional costs were out of his or her control.

### **BACKGROUND**

#### *Price Gouging Law—Goods*

The law prohibits anyone from increasing the retail price of any goods, but not services, when the governor issues a disaster or transportation emergency declaration or the president issues a major disaster or emergency declaration. A violation is deemed a CUTPA violation and violators are also subject to a fine of up to \$99 (CGS § 42-230).

#### *Supply Emergency*

In the event of a statewide, regional, or threatened shortage of a product or service because of an abnormal market disruption, the governor may proclaim a supply emergency exists. He may then designate a product or service to be in short supply and impose price restrictions or ration it (CGS § 42-231).

Under a supply emergency, no one can sell or offer to sell a product or service at a price higher than it was sold or offered in the course of business just before the declaration. A violation is deemed a CUTPA violation and violators are also subject to varying fines and imprisonment terms (CGS § 42-232).

#### *Connecticut Unfair Trade Practices Act (CUTPA)*

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney’s fees; and impose civil penalties of up to \$5,000 for a willful violation and \$25,000 for violation of a restraining order.



**PA 13-196**—sHB 6403  
*General Law Committee*

# **AN ACT MAKING MINOR AND TECHNICAL CHANGES TO DEPARTMENT OF CONSUMER PROTECTION STATUTES**

**SUMMARY:** This act makes various unrelated changes in the Department of Consumer Protection (DCP) statutes.

These changes, among other things:

1. allow posting regulations and rosters online to fulfill certain publishing and distribution requirements;
2. allow permit and license applicants with lapsed licenses to apply for reinstatement to the appropriate DCP board;
3. extend certain consumer protections to more types of buying clubs, including those that offer services;
4. impose home improvement contractor penalties on people who propose or offer to do work without a certificate;
5. make condominium associations eligible for Home Improvement Guaranty Fund payouts;
6. extend, and require printed notice of, the cancellation period for social referral service contracts; and
7. require drug wholesalers to obtain a separate certificate of registration or license for each location.

The act also makes minor and technical changes.

**EFFECTIVE DATE:** Upon passage

## **§§ 1-5 — DCP ELECTRONIC POSTING**

The act allows DCP to post certain regulations and rosters on its website to comply with its publishing and distribution requirements. This applies to DCP's obligation to:

1. biennially publish a pamphlet with the current liquor regulations and provide it to anyone who requests it;
2. at least annually, publish a pamphlet with the current gaming regulations and provide it to anyone who requests it;
3. annually place a roster with the names and addresses of all registered interior designers and licensed architects with the secretary of the state and with each town's building department and library; and
4. annually prepare a roster of all registered well drillers and distribute it to each local health director and building inspector.

The act also gives certain DCP boards the option of fulfilling their publishing and distribution requirements by posting rosters and deletions on DCP's website. This applies to the boards for Electrical Work; Heating, - Piping, Cooling, and Sheet Metal Work; Plumbing and - Piping Work; Elevator Installation, Repair, and Maintenance; Fire Protection Sprinkler Systems; and Automotive Glass and Flat Glass Work, which must (1) biennially furnish a copy of a roster with everyone licensed or registered by them to each town clerk and (2) notify the clerk of any deletion from the roster within five days of the deletion.

## **§ 6 — WEIGHTS AND MEASURES ELECTRONIC RECORDING**

The act requires the DCP commissioner to maintain a record, rather than a written report, of the annual test of all scales, weights, and measures used to check supply receipt or disbursement in each institution that receives state appropriations. It requires the commissioner to make the record available, rather than provide it, to the supervisory board and executive officer of the institution involved.

The act allows DCP to charge a fee for calibrating testing equipment to registered dealers and repairers of weighing and measuring devices who do not reside and have a business place in Connecticut. DCP may set the fee by regulation. Prior law prohibited DCP from charging any registrant a fee for calibrating testing equipment.

## **§ 7 — GAMING RECEIPTS**

The act eliminates the requirement that DCP submit to the state treasurer before the tenth day of each month (1) all gaming money in its possession and (2) a monthly statement on all gaming receipts. In practice, DCP will continue to transfer such gaming money to the treasurer, and such gaming information is available electronically through CORE-CT.

## **§ 8 — BAZAAR OR RAFFLE PERMITS**

The act allows any three state residents to apply for a bazaar or raffle permit in a municipality. Prior law required three voters in the municipality where the permit was sought to apply for the permit.

## **§ 9 — PUBLIC CHARITIES REGISTERED TO SOLICIT FUNDS**

The act eliminates the DCP commissioner's authority to grant, for good cause, a six-month extension for charities to file their annual reports in order to renew their registration. It instead extends the renewal registration deadline to file their annual reports by six

months, from five to 11 months after the end of the fiscal year, thereby giving each charity the same amount of time to renew.

#### § 10 — REAL ESTATE LICENSES

The act changes the reinstated license expiration date from the next succeeding April 30 to the next succeeding (1) March 31 for real estate brokers and (2) May 31 for real estate salespersons.

#### § 11 — NEW HOME CONSTRUCTION CONTRACTOR

The act (1) allows a new home construction certificate to be renewed after its one year expiration and (2) clarifies that the renewal is valid for two years and costs the same \$240 as the original application. Under prior law, a certificate could not be restored unless it was renewed within a year of its expiration.

#### §§ 12 & 25 — HOME IMPROVEMENT GUARANTY FUND

The act requires the DCP commissioner to notify a contractor, before issuing a payment out of the Home Improvement Guaranty Fund, that he or she can contest the payment if he or she is complying with a payment schedule in accordance with a court judgment. By law, DCP already provides this notification regarding contractors who have already paid the owner.

The law requires an applicant for payment from the guaranty fund to first attempt to collect on a court judgment against the contractor. The act requires the owner to attempt to collect on the contractor's personal, rather than real, property. This conforms to DCP practice. By law, the applicant must also attempt to collect from a contractor's bank account.

#### § 13 — BUYING CLUBS

The act requires buying clubs that sell or lease (1) goods for leisure and entertainment or (2) services for personal, family, or household use, to provide the same statutory consumer protections as buying clubs that sell or lease goods for personal, family, or household use. These protections include the right to cancel a contract within three days after signing and related contractual agreements. A "buying club" is a business that offers memberships to consumers for a fee of more than \$200 that allows them to exclusively purchase consumer goods.

#### §§ 14 & 26 — HOME IMPROVEMENT CONTRACTOR

The act imposes existing home improvement contractor penalties on people who offer or propose to do work without the proper certificate. Violators may be guilty of a class A or B misdemeanor (see Table on Penalties) depending on the price of the project and a civil penalty of up to \$500 for the first violation, up to \$750 for a second violation within three years of the prior violation, and up to \$1,500 for a third or subsequent violation within three years of the prior violation (CGS § 20-427).

The act specifies that a condominium association working as an agent for condominium owners has the same rights as a private owner under the Home Improvement Act, including access to the Home Improvement Guaranty Fund. It also limits an association to one claim for each contract from the guaranty fund, regardless of the number of units for which it acts as an agent.

#### § 15 — REAL ESTATE APPRAISAL

Prior law allowed the DCP commissioner to adopt regulations relating to real estate appraisal schools, but prohibited him from adopting regulations requiring DCP to approve instructors. The act allows the regulations to require instructor approval.

#### § 16 — ELEVATOR LICENSES

The act eliminates the elevator craftsman license and elevator helper's license. There are currently no elevator craftsman or helper licensees.

#### §§ 17-20 — LICENSE REINSTATEMENTS AFTER EXPIRATION

The act allows an applicant whose license has lapsed beyond the time allowed for automatic reinstatement to apply for reinstatement to the appropriate DCP board. The application must include the proper fee, along with a notarized letter stating the applicant's related work experience in his or her occupation or profession in the lapsed time. The applicant must, upon board approval, pay all back license and late fees.

The act extends, from one to two years, the time certain licensees have to reinstate their licenses without retaking a licensing examination.

The affected licensees are electricians; plumbers; solar, heating, piping and cooling contractors and journeymen; elevator and fire protection sprinkler craftsmen; irrigation contractors and journeymen; gas hearth installer contractors and journeymen; automotive glass or flat glass work contractors and journeymen; limited sheet metal power industry contractors and journeymen; television and radio service dealers; and electronic technicians.

Under the act, a shorthand reporter who fails to renew his or her license for more than two years after its expiration date may have the license reinstated only by complying with the examination requirements. The act allows the shorthand reporter board, in its discretion, to reinstate a license without examination when someone applies and pays the fee. The application must include a notarized letter stating, to the board's satisfaction, the applicant's related experience in shorthand reporting or similar work in the lapsed time. The applicant, upon board approval, must pay all back license and late fees.

#### § 21 — RADIO AND TELEVISION

The act eliminates the \$40 temporary permit for television and radio service dealers, electronics technicians, radio electronics technicians and service dealers, antenna technicians, and telecommunication infrastructure layout technicians. Under prior law, a temporary permit was issued while the applicant sought licensure. Currently, no one has such a permit.

#### § 22 — BOUNCED CHECK

By law, DCP may impose a \$20 fine on any permit or license applicant whose check is returned as uncollectable. The act also allows the DCP commissioner to require the applicant to pay DCP any fees a financial institution charges the department as a result of a returned check.

#### § 23 — ITINERANT VENDORS

The act clarifies that vendors pay \$200, not \$100, to the Itinerant Vendor Guaranty Fund, which conforms to vendors' licensing requirements (CGS § 21 -28). Guaranty funds are used to offer repayment to consumers financially damaged as a result of problem transactions with itinerant vendors.

#### § 24 — SOCIAL REFERRAL SERVICE CONTRACT

The law allows a consumer to cancel a social referral service (e.g., dating service) contract within three business days after the date the consumer received the contract. The act extends the cancellation period to three business days after the social referral service is made available to the consumer, if the period is longer.

The act also requires this extended cancellation period to be printed on the (1) contract, near the signature line, and (2) cancellation notice. By law, social referral services contracts must provide the cancellation policy in at least 10-point bold face type.

Social referral services provide dating, matrimonial, or personal referral services involving (1) an exchange of names, telephone numbers, addresses, and statistics; (2) a photograph or video selection process; (3) personal introductions provided by the seller at the seller's place of business; and (4) a social environment provided by such seller intended primarily as an alternative to singles' bars or club-type environments.

#### §§ 27-35 — ADVERTISING AND SALE OF SUBDIVISIONS IN ANOTHER STATE

The law sets licensing, advertising, and documentation requirements for real estate brokers and salespersons and establishes certain consumer protections. The act makes technical changes in these statutes, by (1) eliminating application to timeshares, which are governed by another statute (CGS § 42-103cc); (2) specifying that certain real estate records be filed with the secretary of Housing and Urban Development or any successor federal agency (currently the Consumer Financial Protection Bureau); and (3) transferring certain administrative functions DCP already performs from the Real Estate Commission to the department.

The law prohibits anyone from referring to the Real Estate Commission or one of its members or employees in any advertisement, including making any representations that the commission had inspected or approved any property. Violators are subject to a \$1,000 to \$5,000 fine. The act prohibits any such advertisement from referencing DCP or its employees and subjects violators to the same fine.

#### §§ 36 & 37 — DRUG CERTIFICATE OF REGISTRATION

By law, drug wholesalers must pay \$190 annually to obtain a (1) certificate of registration to distribute non-controlled substances, medical devices, and cosmetics or (2) license to distribute controlled substances. The act requires drug wholesalers to obtain a separate certificate or license and pay the annual \$190 fee for each location (1) inside the state and (2) outside of the state that distributes products in the state.

Existing law, unchanged by the act, requires a separate and additional fee for each business place or professional practice where the licensee uses, manufactures, stores, distributes, analyzes, or dispenses controlled drugs. The act imposes this additional fee on a business place or professional practice where the

licensee uses, manufactures, stores, distributes, analyzes, or dispenses drugs, medical devices, or cosmetics. By law, wholesalers must annually pay \$190, laboratories must pay \$80, and manufacturers must pay between \$285 and \$940 depending on the number of pharmacists or qualified chemists they employ.

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**PA 13-215—HB 5607**

*General Law Committee*

**AN ACT CONCERNING PROVISIONAL PERMITS FOR THE RETAIL SALE OR MANUFACTURE OF ALCOHOLIC LIQUOR**

**SUMMARY:** This act gives the Liquor Control Commission discretion to issue a 90-day provisional permit that allows any liquor permit applicant and his or her backer to manufacture alcoholic liquor. Existing law already allows the commission to issue provisional permits for retail alcohol sales. (Liquor permit applicants may apply for a provisional permit while waiting for their permit to be approved.)

By law, provisional permits cost \$500. If the applicant or his or her backer causes any delay in the Department of Consumer Protection investigation, the provisional permit may be terminated immediately. Only one nonrenewable permit is issued to any applicant and backer for each alcoholic permit location. Permits may be extended if there are delays not caused by the applicant.

EFFECTIVE DATE: Upon passage

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**PA 13-216—SB 327**

*General Law Committee*

**AN ACT CONCERNING PROFESSIONAL ENGINEER LICENSES**

**SUMMARY:** This act requires the Department of Consumer Protection to amend its regulations to allow a licensed professional engineer to (1) surrender his or her license to the State Board of Examiners for Professional Engineers and Land Surveyors while not living and working in the state and (2) get a new license when he or she returns to Connecticut and wants to resume working, without having to pay the \$225 annual license renewal fees for the period of the hiatus.

EFFECTIVE DATE: Upon passage

**BACKGROUND**

*Professional Engineers' License Renewal*

Under current license renewal regulations, a professional engineer whose license lapses may renew up to five years after the lapse without reapplying for a license, but must pay the (1) \$225 renewal fee for each year the license was invalid and (2) renewal fee for the upcoming year. The applicant must also submit a notarized letter describing any engineering experience since applying for a license. Professional engineers who do not renew within five years after the license lapses must reapply for a license, fulfill all the current application requirements, and pay all accompanying fees (Conn. Agencies Reg. § 20-300-11).

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**PA 13-241—SB 326**

*General Law Committee*

*Environment Committee*

**AN ACT CONCERNING CONNECTICUT'S EGG STATUTES AND REQUIRING THE ESTABLISHMENT OF A STANDARD OF CARE FOR ANIMAL IMPORTERS**

**SUMMARY:** This act updates Connecticut's statutes regulating eggs and the humane treatment of imported animals. It requires chicken eggs to be labeled, stored, handled, and graded in accordance with federal law. By law, a violator is subject to a fine of up to \$50 for a first offense and up to \$200 for each subsequent offense. Also, by law, egg producers who sell eggs directly to consumers (e.g., from the farm or at a farmers' market) are exempt from Connecticut's egg statutes (CGS § 22-47).

For regulatory purposes, the act splits egg facilities into two categories, egg-grading plants and egg distributors. It grants regulatory authority of (1) egg-grading plants to the Department of Agriculture (DoAg) and (2) egg distributors to the Department of Consumer Protection (DCP). It establishes annual registration fees for both egg-grading plants and egg distributors. Registrations are nontransferable and the commissioners may refuse, suspend, or revoke them for cause.

The act also requires the DoAg commissioner, by December 31, 2013, to prescribe the conditions that constitute humane treatment of animals by animal importers. The conditions must include the appropriate shelter, availability of food and water, and standard of care animal importers must provide for imported animals. By law, animal importers, those who bring dogs or cats into Connecticut for sale, adoption, or transfer, must register with the DoAg commissioner and comply with requirements he prescribes for the health,

safety, and humane treatment of the imported animals. People acting as animal importers without being properly registered are subject to a fine of up to \$500.  
EFFECTIVE DATE: Upon passage

## § 1 — EGG LABELING, STORAGE, AND HANDLING

### *Labeling*

The act requires eggs to be labeled in accordance with federal law, and distinguishes between chicken eggs and eggs from other birds (e.g., turkeys, ducks, quail, or guinea fowl). Prior law required all shell eggs sold or offered for sale for human consumption to be labeled by grade and size.

The act requires sellers of chicken eggs to label the eggs in accordance with the federal Food, Drug and Cosmetic and Egg Products Inspection acts. These acts require eggs to be labeled with safe handling instructions, nutrition information, and pasteurization information, if applicable.

The act requires sellers of other birds' eggs to label the eggs in accordance with the federal Food, Drug and Cosmetic and Nutrition and Labeling and Education acts. These acts require eggs to be labeled with safe handling instructions and nutrition information, as well as the name of the species.

### *Storage and Handling*

The act requires (1) retail establishments to handle and store all eggs in accordance with the federal Food, Drug and Cosmetic Act and (2) egg-grading plants and egg distributors to handle, store, and transport all eggs in accordance with the federal Egg Products Inspection Act. These acts generally require eggs to be kept at or below 45 degrees Fahrenheit.

The act specifies that all eggs must be held, stored, and transported at no more than 45 degrees, but for functional reasons, eggs may be tempered for processing for up to 36 hours at room temperature.

## § 2 — GRADING CHICKEN EGGS

The act requires chicken eggs to meet at least one of the consumer grades the U.S. Department of Agriculture (USDA) has established under the Egg Products Inspection Act. USDA allows edible eggs to be graded as AA, A, or B. The grades indicate the quality of the egg. (Prior state law allowed for eggs to be graded as AA, A, B, or C.)

As under existing law, nonconforming eggs must be sold as undergrade eggs, checks, cracks, or dirties. Although the act does not define these terms, USDA defines a (1) "dirty" as an egg with an unbroken shell

with adhering dirt or foreign material or stains and (2) "check" as an egg with a broken or cracked shell but with the shell membrane intact so that its contents do not leak.

The act, as under existing law, requires grading determinations to be made through a process called candling, in which eggs are examined under certain lighting to determine their condition.

## § 4 — CONNECTICUT EGGS

The act shifts from DCP to DoAg the duty to register egg packers who use the word "Connecticut" in their grading system. The eggs must continue to be produced on Connecticut farms.

## § 3 — WEIGHT AND SIZE REQUIREMENTS OF CHICKEN EGGS

The act applies the USDA's net weight and size requirements to all chicken eggs sold or offered for sale in Connecticut. It does not specify weight and size requirements for eggs from other birds.

Prior law required the net weight and size requirements for eggs developed by the DoAg commissioner, in consultation with the DCP commissioner, to apply to all eggs sold or offered for sale.

## § 5 — SALE OF NONCONFORMING EGGS PROHIBITED; EXCEPTION

The act prohibits advertising, falsely labeling, selling, or offering for sale any eggs that do not conform to the state's egg laws. Prior law prohibited such activity for eggs that did not meet the standards for quality and size established by the DoAg and DCP commissioners.

Existing law prohibits the sale of inedible eggs. The act additionally prohibits the sale of adulterated eggs, as that term is defined in federal law. The federal Egg Products Inspection Act defines an "adulterated egg" as an egg that is generally injurious to health or unfit for human consumption.

The law also prohibits the sale of incubated eggs, with one exception. Under prior law, incubated eggs could be sold as commercial feed or for other commercial purposes, other than human consumption, if they were broken and denatured at the same location where they were incubated and in a manner the DCP commissioner approved. The act instead requires the DoAg commissioner, or his designee, to grant approval.

## § 6 — REGULATORY AUTHORITY

Prior law required the DCP commissioner to enforce the egg statutes and allowed him to adopt regulations. The act splits the enforcement responsibilities between the DCP and DoAg commissioners.

Specifically, the DCP commissioner, or his designee, must enforce the provisions on retail and wholesale distributors. The DoAg commissioner, or his designee, must enforce the provisions on egg distributors and egg-grading plants. They determine the frequency of the inspections.

The commissioners may issue any notices of violation or orders needed to ensure compliance. They may also consult with each other to adopt implementing regulations.

## § 7 — REGISTRATION OF EGG-GRADING PLANTS AND EGG DISTRIBUTORS

### *Egg-grading Plants*

The act, as under existing law, requires egg-grading plants in Connecticut to register with the DoAg commissioner. Registrations must be renewed annually in October. The act defines “egg-grading plant” as a person or entity that grades, washes, or packs eggs in Connecticut. It requires each location where eggs are graded, washed, or packed to be registered separately. It prohibits anyone from receiving, distributing, processing, or offering eggs for sale without a registration. (Under prior law, registration granted a permit to receive eggs for processing. No one could receive eggs for processing without a permit.)

### *Egg Distributors*

The act requires egg distributors in Connecticut to register with the DCP commissioner on forms he prescribes. Registrations must be renewed annually in October. The act defines an “egg-distributor” as a person or entity who receives packed eggs and distributes them in the original packaging to institutional, wholesale, or retail establishments. It prohibits anyone from receiving, distributing, processing, or offering eggs for sale without registering.

### *Registration Fees*

The act establishes a graduated fee structure for egg-grading plant and egg distributor registrations and renewals. The registration and annual renewal fees are:

1. \$20 for firms processing or handling 6,000 or fewer dozen eggs per year,

2. \$100 for firms processing or handling between 6,000 and 30,000 dozen eggs per year,
3. \$300 for firms processing or handling between 30,000 and 150,000 dozen eggs per year, and
4. \$400 for firms processing or handling 150,000 or more dozen eggs per year.

### *List of Egg Sources*

The act requires all registered egg-grading plants and egg distributors to keep a list of the sources from which eggs are received and a list of accounts to which eggs are sold. The lists are subject to review upon request by the DoAg and DCP commissioners, or their designees. (Prior law required registered egg-grading plants to keep a list of all producers from whom they received eggs.)

### *Registrations can be Refused, Suspended, or Revoked for Cause*

The commissioners may suspend, revoke, or refuse to issue a registration for cause. In doing so, they must consider the applicant’s or registrant’s history of compliance with any written orders or notices for violating the egg statutes or any laws or regulations on food storage, handling, sanitation, or safety; egg room sanitation; and egg disinfection, holding, packing, storage, or cooling requirements.

### *Registrations are Nontransferable*

The act specifies that egg-grading plant or egg distributor registrations are nontransferable.

### *Appeal; Administrative Hearing*

The act allows a person aggrieved by an order of either the DoAg or DCP commissioner, or their designees, to appeal the order and request an administrative hearing. The appeal must be in writing and received by the applicable commissioner within 10 days after the applicant received the order. An administrative hearing must be held within 45 days after the request.

An appeal must be limited to whether the conditions or violations cited in the order existed. The applicable commissioner or his designated hearing officer must issue a final decision based upon all the evidence introduced, applying all pertinent laws and regulations. A final order may be appealed to the Hartford Superior Court.

**PA 13-270**—sHB 5907  
*General Law Committee*

**AN ACT REQUIRING THE DISPLAY OF DIESEL  
FUEL CETANE NUMBERS ON FUEL PUMPS**

**SUMMARY:** This act requires anyone selling diesel fuel for motor vehicles or motor boats to publicly display and maintain the minimum cetane number on each diesel pump or other dispensing device. ( The cetane number is similar to the octane rating of gasoline and measures diesel combustion quality.) Violators are subject to a fine of between \$50 and \$250.

By law, anyone selling gasoline or other products intended as a fuel for aircraft, motor boats, or motor vehicles to the public must publicly display and maintain a sign on each pump or other dispensing device that informs the public of the octane rating and per-gallon price.

EFFECTIVE DATE: January 1, 2014

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**HJ 36***Government Administration and Elections Committee***RESOLUTION APPROVING AN AMENDMENT TO THE STATE CONSTITUTION TO GRANT INCREASED AUTHORITY TO THE GENERAL ASSEMBLY REGARDING ELECTION ADMINISTRATION**

**SUMMARY:** This resolution proposes a constitutional amendment to (1) eliminate the requirement for electors to gather on Election Day to cast votes for state officers and legislators and (2) remove restrictions on absentee voting.

The resolution also lifts the constitutional deadlines by which the lists of results (i.e., moderator returns) for state officers and legislators must be delivered to town clerks and the secretary of the state (within three and 10 days after an election, respectively) (see BACKGROUND).

The ballot designation to be used when the amendment is presented at the general election is: "Shall the Constitution of the State be amended to remove restrictions concerning absentee ballots and to permit a person to vote without appearing at a polling place on the day of an election?"

The state constitution currently sets the first Tuesday after the first Monday in November in specified years as the day of election for legislative and statewide offices (Article Third § 8 and Article Fourth § 1). With one exception, it requires electors to gather at a meeting on this day to elect legislators and state officers (Article Third § 9 and Article Fourth § 4). The exception authorizes the General Assembly to pass a law allowing electors to cast their votes by absentee ballot if they will be out of town, are sick or have a physical disability, or the tenets of their religion prohibit secular activity on Election Day (Article Sixth § 7). The General Assembly exercised this authority and passed laws codified at CGS § 9-135.

**EFFECTIVE DATE:** The resolution will appear on the 2014 general election ballot. If a majority of those voting in the general election approves the amendment, it will become part of the state constitution.

**BACKGROUND***Moderator Returns*

The statutes require moderators to deliver their returns by:

1. electronic means to the secretary of the state no later than midnight on Election Day (in which case they must also deliver a paper copy no later than three days after an election);

2. hand to the secretary of the state no later than 6:00 p.m. the day after an election; or
3. hand to the State Police by 4:00 p.m. the day after an election, and they must then deliver them by hand to the secretary no later than 6:00 p.m. the same day.

Moderators must deliver the returns to their respective town clerks on or before the day after an election (CGS § 9-314).

**PA 13-21—sSB 1118***Government Administration and Elections Committee***AN ACT CONCERNING QUALIFICATIONS OF ELECTION MODERATORS**

**SUMMARY:** This act prohibits the secretary of the state from certifying as an election moderator or alternate moderator an individual who has been convicted of or pled guilty or nolo contendere to any (1) felony involving fraud, forgery, larceny, embezzlement, or bribery or (2) state election law criminal offense (felony or misdemeanor).

**EFFECTIVE DATE:** Upon passage

**BACKGROUND***Moderator Eligibility*

By law, moderators are the chief public officials at polling places and are responsible for presiding over them in accordance with election law. To be eligible for moderator certification, individuals must (1) be state electors and (2) successfully complete an instructional session and secretary of the state-administered examination.

The secretary of the state may disqualify a moderator if, after consulting with the registrars of voters, she determines the moderator has committed material (1) misconduct, (2) neglect of duty, or (3) incompetence in the discharge of duties (CGS § 9-228a).

*Related Act*

PA 13-180 generally prohibits individuals from becoming campaign treasurers or deputy campaign treasurers for similar offenses.



**PA 13-51**—sSB 977

*Government Administration and Elections Committee*

## **AN ACT CONCERNING THE MEMBERSHIP OF CONSTRUCTION SERVICE PANELS**

**SUMMARY:** This act reduces the size of several construction services panels established within the Department of Construction Services (DCS). It reduces the size of the construction services selection panels, which recommend consultants, from five members to three for (1) projects valued at less than \$5 million and (2) “on-call” contracts. It also reduces from six members to five, the size of the construction services award panels. The award panels recommend firms for (1) projects that use the design-build approach and (2) certain “fast-track” projects.

EFFECTIVE DATE: July 1, 2013

### **CONSTRUCTION SERVICES SELECTION PANELS**

#### *Consultant Services*

The law requires DCS to establish selection panels to evaluate consultant services proposals (e.g., architectural services, professional engineers, accountants, and others) valued at more than \$300,000. The panels must submit a list of the most qualified firms to the DCS commissioner for his consideration. Each panel is project-specific (i.e., a new panel is appointed for each project).

Under prior law, consultant services selection panels had five members, four current or retired DCS employees appointed by the commissioner and one appointed by the head or acting head of the user agency (i.e., the one for which the project is being administered). The act reduces the size of these panels, from five members to three, for projects valued at less than \$5 million, by eliminating two of the members who are current or former DCS employees.

#### *On-Call Consultant Contracts*

The act similarly reduces, from five members to three, the size of the selection panels that recommend firms for “on-call” consultant contracts. By law, members of these panels are appointed by the DCS commissioner and must be current employees of DCS or any agency for which consultant services may be contracted. Members serve only for deliberations involving the selection of consultants for which they are appointed.

An on-call contract defines a broad range of consultant services and is generally valid for two to three years. An on-call contract is not connected to a specific project; rather, DCS subsequently issues task letters to firms with on-call contracts that identify a

specific scope of services to be performed and the fee for those services.

### **CONSTRUCTION SERVICES AWARD PANELS**

The act reduces, from six members to five, the size of the construction services award panels by eliminating the neutral party member appointed by the DCS commissioner, thus leaving the panels with three current DCS employees appointed by the commissioner and two members appointed by the head of the user agency. By law, the panels recommend to the commissioner the most qualified firms for (1) DCS-administered design-build construction projects (where DCS contracts with a single entity that both designs and builds the project) and (2) certain “fast-track” projects.

Under the fast-track process, the DCS commissioner submits three or more qualified contractors who are prequalified to an award panel, which then makes a recommendation to the commissioner. The law establishes five fast-track projects: a community court project, the downtown Hartford higher education center project, a correctional facility project, a juvenile detention center project, and Connecticut State University System student dormitories.

Like the selection panels described above, each award panel is project-specific.

**PA 13-68**—HB 5602

*Government Administration and Elections Committee  
Higher Education and Employment Advancement  
Committee*

## **AN ACT EXEMPTING INSTITUTIONS OF HIGHER EDUCATION THAT OFFER FREE COURSES TO INMATES FROM STATE CONTRACTING REQUIREMENTS**

**SUMMARY:** This act specifies that a higher education institution that enters into an agreement with the Department of Correction (DOC) for the institution’s employees or agents to teach for-credit courses to inmates at no charge to DOC or the inmates is not considered a state contractor for the purposes of the agreement.

This means that, with respect to the agreement, the institution does not have to, among other things, (1) file a representation and documentation that it complies with state anti-discrimination laws; (2) permit the Commission on Human Rights and Opportunities (CHRO) access to pertinent books, records, and accounts on its employment practices and procedures; or (3) file compliance and employment reports with CHRO.

EFFECTIVE DATE: October 1, 2013

**PA 13-86—SB 903**

*Government Administration and Elections Committee  
General Law Committee*

**AN ACT INCREASING THE MEMBERSHIP OF  
THE COMMISSION OF PHARMACY**

**SUMMARY:** This act increases, from six to seven, the Commission of Pharmacy's membership by adding a fifth pharmacist. (The other two members are from the public.) Under existing law, the commission must have at least two community retail pharmacists. The act specifies that one of these pharmacists must be from an independent retail setting, and one must be from a chain retail setting.

The commission, which is within the Department of Consumer Protection, has jurisdiction over pharmacy practice in the state and approves the licensure and registration of pharmacies, pharmacists, and pharmacy interns. Members are appointed by the governor and serve terms that are coterminous with the governor's.

EFFECTIVE DATE: July 1, 2013

**PA 13-91—SB 111**

*Government Administration and Elections Committee*

**AN ACT IMPLEMENTING THE  
RECOMMENDATIONS OF THE PROGRAM  
REVIEW AND INVESTIGATIONS COMMITTEE  
CONCERNING THE IMPLEMENTATION OF E-  
GOVERNMENT**

**SUMMARY:** This act modifies the membership of the information and telecommunication systems executive steering committee. It (1) removes the comptroller, treasurer, and the chairpersons of the UConn Board of Trustees and the Board of Regents for Higher Education and (2) adds the secretary of the state (or a designee) and up to four commissioners (or their designees) of executive branch agencies, jointly appointed by the Office of Policy and Management (OPM) secretary and Department of Administrative Services (DAS) commissioner. By law, the committee, among other things, must (1) advise DAS on its organization and functions regarding information and telecommunications systems and (2) review and approve the state's information and telecommunications system strategic plan. The DAS commissioner or a designee chairs the committee.

Under existing law, the DAS commissioner must annually submit a report by October 1 to the governor, OPM secretary, and legislature on technology projects,

information and telecommunication system expenditures, and opportunities for efficiencies or cost reductions. The act requires the report to also identify the efforts of DAS's Division of Information Technology and executive branch agencies in using e-government solutions to deliver state services and conduct state programs, including (1) feedback and demands from the agencies' clients and (2) plans to address these concerns with online solutions, when determined to be feasible by the agencies. It requires agencies to submit to the DAS commissioner all plans, documents, and other information he requests for developing the report. The act also specifies that the report must be submitted to the Appropriations, Government Administration and Elections, and Program Review and Investigations committees, rather than the legislature as a whole.

Lastly, the act makes technical changes.

EFFECTIVE DATE: October 1, 2013

**PA 13-162—HB 5358**

*Government Administration and Elections Committee*

**AN ACT PROHIBITING STATE CONTRACTS  
WITH ENTITIES MAKING CERTAIN  
INVESTMENTS IN IRAN**

**SUMMARY:** This act prohibits state and quasi-public agencies from entering into, renewing, or amending a large state contract with any "entity" that (1) fails to certify that it has not directly invested \$20 million or more in Iran's energy sector or (2) certifies that it has made, renewed, or increased such an investment. The prohibition applies to investments made on and after October 1, 2013 and to prior investments increased or renewed on and after that date.

Under the act, an "entity" is any corporation, general partnership, limited partnership, limited liability partnership, joint venture, nonprofit organization, or other business organization whose principal place of business is outside the U.S., except U.S. subsidiaries of foreign corporations. A large state contract is one valued at more than \$500,000 in a calendar or fiscal year for building construction, procurement, or service contracts; leases; or licensing agreements. Iran's energy sector, as defined by federal law, includes activities to develop petroleum or natural gas resources or nuclear power in Iran.

The act does not apply to any contract of the state treasurer in her role as trustee of the Connecticut retirement plans and trust funds. By law, the treasurer must divest and not invest further in any Iranian-issued security or investment. She may divest, or decide against future investments of, state funds in any company doing business in Iran after various

considerations.

Lastly, the act requires the secretary of the state to notify the U.S. attorney general of the act's requirements within 30 days of its passage, as required by federal law.

EFFECTIVE DATE: October 1, 2013, except that the provision requiring notification by the secretary of the state is effective upon passage.

#### CERTIFICATION REQUIREMENT

Bidders and proposers that are covered by the act must submit the certification before submitting a bid or proposal for a large state contract. The certification must be sworn as true to the entity's best knowledge and belief, subject to the penalties for false statement. Agencies must include notice of these requirements in bid specifications or requests for proposals (RFP) for such contracts.

The act exempts from the penalty for false statement affiants who make a good faith effort to verify whether they have made a prohibited investment. It specifies that a good faith effort includes determining that the entity does not appear on a list, published by the California Department of General Services, of people who have made prohibited investments.

#### BACKGROUND

##### *Federal Law*

The 2010 federal Comprehensive Iran Sanctions, Accountability, and Divestment Act (P.L. 111-195) allows state and local governments to divest or prohibit the investment of assets in certain entities that do business with or invest in Iran's energy sector. The state or local government must (1) determine, using credible information available to the public, that an entity has done business with or invested in Iran's energy sector and (2) give such an entity 90 days' written notice before divesting or prohibiting the investment of assets.

#### **PA 13-180—HB 6580**

*Government Administration and Elections Committee*

#### **AN ACT CONCERNING DISCLOSURE OF INDEPENDENT EXPENDITURES AND CHANGES TO OTHER CAMPAIGN FINANCE LAWS AND ELECTION LAWS**

**SUMMARY:** This act modifies laws affecting elections, campaign finance, the Citizens' Election Program (CEP), and the State Elections Enforcement Commission (SEEC). Generally, the act:

1. authorizes persons, not only individuals, entities, and committees, to make unlimited independent expenditures (IEs);
2. authorizes persons to accept unlimited covered transfers;
3. changes reporting and disclaimer requirements for IEs and establishes them for covered transfers;
4. specifies that political committees do not have to register with SEEC if they will make only IEs;
5. expands contribution and expenditure exemptions;
6. raises various contribution limits;
7. limits the circumstances under which a candidate may be cross-endorsed by a minor party;
8. authorizes candidate committees to reimburse each other for shared expenses when no legal obligation to pay exists;
9. eliminates certain periodic campaign finance reporting requirements for specified candidates and committees;
10. limits who may serve as a campaign treasurer or deputy treasurer, or apply for a CEP grant, based on previous felonies or campaign finance violations;
11. creates a gift exception under the Code of Ethics for certain expenses incurred by a public official that are paid by the official's party committee;
12. makes changes affecting the service and terms of SEEC members, including lifting the ban on serving consecutive terms;
13. increases maximum penalties for failing to file IE reports and knowing and willful campaign finance violations;
14. makes a candidate and his or her treasurer or agent jointly and severally liable for certain penalties SEEC levies; and
15. authorizes SEEC to waive penalties associated with certain reports that were due in January 2012 and modifies what constitutes a timely filing.

The act also:

1. extends the deadline by which treasurers must deposit contributions in their committee's depository account from 14 to 20 days after receiving them (§ 5);
2. requires a political committee's (PAC) treasurer, rather than its chairperson, to report most changes to information on the registration statement it files with SEEC (the chairperson remains responsible for filing the initial statement and reporting any committee officer changes) (§§ 13 & 16);

3. specifies that the \$1,000 payment the law allows CEP candidates to pay their treasurers from surplus funds is in addition to any payments made to the treasurer under a written services agreement (§ 15);
4. authorizes candidate committees, other than those for participating CEP candidates, to distribute surplus funds to charitable 501(c)(19) (veterans') organizations following an unsuccessful primary or election (§ 15); and
5. requires the word "party" to appear after the names of political parties and party designations on the ballot (§ 40).

The act makes several conforming and technical changes. Among other things, it replaces the terms "campaign treasurer" with "treasurer" and "deputy campaign treasurer" with "deputy treasurer" throughout the campaign finance statutes (§§ 1 & 12).

EFFECTIVE DATE: Upon passage

## §§ 1-3 & 6 — DEFINITIONS

### § 1 — *Candidate*

By law, "candidate" means an individual who seeks election or nomination for election to public office. The act limits what it means to "seek nomination for election or election" and thus, who is considered a candidate.

Under prior law, an individual was deemed to be seeking nomination or election if, among other things, he or she (1) solicited or received any contribution or (2) gave his or her consent to any person to solicit or receive contributions, or make expenditures, with the intent of bringing about his or her nomination or election. The act allows an individual to solicit or receive contributions for, or give his or her consent to, a party committee for the above purposes without being considered a candidate.

### § 1 — *Entities*

By law, an "entity" is an organization, corporation, cooperative association, limited partnership, professional association, limited liability company, or limited liability partnership, whether organized in Connecticut or another state. The act specifies that entities include (1) for- and not-for-profit corporations and (2) tax-exempt 501(c) and 527 organizations.

### § 1 — *Covered Transfers and Affiliates*

The act defines "covered transfer" as any donation, transfer, or payment of funds by a person to another person if the recipient (1) makes IEs or (2) transfers funds to another person who makes IEs.

Under the act, "covered transfer" does not include:

1. a donation, transfer, or payment that a person makes in the ordinary course of trade or business;
2. a donation, transfer, or payment that (a) a person makes and prohibits from being used for IEs or covered transfers and (b) the recipient agrees not to use for these purposes and deposits in an account that is segregated from one from which IEs or covered transfers are made; or
3. dues, fees, or assessments that are transferred between affiliated entities and paid by individuals on a regular, periodic basis in accordance with a per-individual calculation made on a regular basis.

For purposes of covered transfers, "affiliated" means that:

1. the entity's governing instrument requires it to be bound by another entity's decisions;
2. the entity's governing board includes people who are specifically designated representatives of the other entity or who are members of the governing board, officers, or paid executive staff of the other entity, or whose service on the governing board is contingent upon the other entity's approval; or
3. the entity is chartered by the other entity.

The act specifies that "affiliated" includes entities that are affiliates of each other or both affiliates of a third entity.

### § 1 — *Party Building Activities*

The act defines "party building activity" as any (1) political meeting, conference, convention, or other event and (2) associated expenses, including travel, lodging, admission fees, or other costs. Involvement or attendance at the event must promote or advance the interests of a party at the local, state, or national level, but the party need not sponsor the event.

### § 1 — *Social Media*

The law defines "social media" as an electronic medium where users may create and view user-generated content, such as uploaded or downloaded videos or still photographs, blogs, video blogs, podcasts, or instant messages. Previously, this definition applied only in the context of certain de minimis activities that are not considered contributions. The act applies the definition to all state campaign finance laws.

### § 1 — *Solicit*

Existing law defines “solicit,” in part, as participating in a committee’s fundraising event by, among other things, receiving contributions for transmission to the committee. The act expands the definition to include (1) serving on the committee hosting a fundraising event, (2) introducing the candidate or making other public remarks at a fundraising event, or (3) being honored or otherwise recognized at a fundraising event. The act specifies that mere attendance at such an event is not considered solicitation.

### §§ 2 & 3 — *Contribution and Expenditure*

*Anything of Value Promoting a Candidate or Party.* Prior law defined “contribution,” in part, as any gift, subscription, loan, advance, payment, or deposit of money or anything of value made (1) “for the purpose of influencing” the nomination or election of any person or (2) “on behalf” of a political party. The act expands the definition to cover anything of value that promotes either the success or defeat of a candidate or political party. It makes the same change to the parallel definition of “expenditure.”

*Communications.* Prior law defined “expenditure,” in part, as any advertisement that (1) referred to one or more clearly identified candidates; (2) was broadcast by radio or television, other than on a public access channel, or appeared in a newspaper, magazine, or on a billboard; and (3) was broadcast or appeared during the 90-day period immediately preceding a primary or an election.

The act expands the definition to include communications, not only advertisements, and communications and advertisements that:

1. are broadcast by satellite or the Internet, paid-for telephone communications, or sent by mail and
2. appear at any time, not only during the 90-day period immediately preceding a primary or an election.

However, under the act, such a communication is not considered an expenditure or a contribution if it is (1) made more than 90 days before the primary or election and for the purpose of influencing legislative or administrative action, as defined by the Ethics Code, or executive action or (2) during the legislative session to influence legislative action.

### § 6 — *Lawful Purposes of a Committee*

The act expands the definition of “lawful purposes of the committee” for PACs’, party committees’, legislative leadership committees’, and legislative caucus committees’ permissible expenditures.

For PACs, it adds promoting a political party, including party-building activities. For party committees, it adds party-building activities.

For legislative leadership and legislative caucus committees, it adds spending funds to defray costs associated with legislative or constituency-related business that the state does not pay for or reimburse. Under prior law, legislative leadership committees could not spend funds for these purposes. Legislative caucus committees could, but were limited to defraying their members’ costs.

### §§ 2 & 3 — CONTRIBUTION AND EXPENDITURE EXEMPTIONS

The law creates contribution and expenditure exemptions for certain items and services. The act expands both.

#### § 2 — *Ad Books*

The law creates a contribution exemption for certain advertising space purchases from town committees in a program (i.e., ad book) for, or on a sign at, a fundraising affair. The act extends the exemption, and its limits, to purchases from state central and political committees, other than exploratory committees. Under the act, business entities and individuals may purchase advertising space valued at up to \$250 and \$50, respectively, in such a program or on such a sign. The act applies to these purchases existing law’s prohibition on advertising space purchases from town committees by (1) lobbyists and their immediate family members and (2) current and prospective state contractors, their principals, and immediate family members.

#### § 2 — *De Minimis Activities*

The law creates a contribution exemption for certain de minimis campaign activities that benefit PACs and party, slate, and candidate committees. The act expands the list of de minimis activities to include voluntarily creating a digital photo or video, free of charge, that is part of an electronic file.

### §§ 2 & 3 — *Endorsement Communications*

The act exempts from the definitions of contribution and expenditure certain endorsement communications. Specifically, it exempts communications:

1. in any form, that contain an endorsement by a statewide or legislative office candidate for another statewide or legislative office candidate for nomination or election, provided the (a) endorser is unopposed at the time of the

- communication and (b) endorsee pays for the communication or
2. sent by mail, that contain an endorsement by a legislative office candidate for another legislative candidate for nomination or election if the (a) communication is sent to addresses in the district where the endorsee is running for office, (b) endorser and endorsee are not running in districts that share any geographical area, and (c) endorsee pays for the communication.

#### §§ 2 & 3 — *Volunteer Services*

By law, volunteer services provided by individuals are not considered campaign contributions or expenditures. Individuals are considered volunteers if they do not receive compensation for the services they perform, regardless of whether they could receive compensation in the future for the same services.

The act conforms the expenditure exemption for uncompensated volunteer services to the parallel contribution exemption that PA 11-48 modified for these services. The act also expands both exemptions to cover volunteers who could receive compensation in the future for similar, not only the same, services.

#### §§ 2 & 3 — *House Parties*

The act conforms the expenditure exemption for costs associated with hosting a house party to the parallel contribution exemption that PA 11-48 modified for these costs.

In addition, the act specifies that the candidate or committee on whose behalf the party is being hosted may pay any portion of the invitation costs; the host need not cover the costs. In that case, the amount the candidate or committee spends on invitations does not count toward the exemption threshold.

#### §§ 2 & 3 — *Office Space and Equipment*

The act exempts from the definitions of contribution and expenditure any office space or office equipment that a party, legislative caucus, or legislative leadership committee provides if those committees use the space as their headquarters and use the equipment. Office equipment includes telephones, computers, and similar equipment. The act eliminates as an organization expenditure the provision of offices and office equipment by such a committee (see ORGANIZATION EXPENDITURES).

#### §§ 2 & 3 — *Campaign Training Events*

The act exempts from the definitions of contribution and expenditure the costs that a legislative caucus committee incurs, up to an aggregate value of \$6,000 in a calendar year, for (1) providing campaign training to multiple individuals and (2) associated materials.

#### §§ 2 & 3 — *Internal Communications*

Prior law exempted from the definitions of contribution and expenditure all communications made by a corporation, organization, or association to its members, owners, stockholders, executive or administrative personnel, or families. Under the act, the exemption applies only when the communication is made solely to the above-listed recipients.

#### § 3 — *Communications by Nonprofit Organizations*

The act specifies that lawful communications by charitable 501(c)(3) organizations are not considered expenditures. Under federal law, these organizations are prohibited from engaging in political campaign activities.

#### § 3 — *Expenses of Up to \$200*

The act exempts as an expenditure expenses of up to \$200 in the aggregate that a human being acting alone incurs to benefit a candidate for a single election.

#### §§ 1 – 3 & 28 — ORGANIZATION EXPENDITURES

By law, organization expenditures are made by legislative caucus, legislative leadership, or party committees for the benefit of candidates or their committees. They are not considered campaign contributions, but the law places restrictions and limits on those made to benefit legislative candidates participating in the CEP.

The act:

1. allows state central committees to make unlimited organization expenditures to benefit the general election campaigns of legislative candidates participating in the CEP;
2. makes changes to what qualifies as another type of organization expenditure (i.e., party candidate listing); and
3. eliminates one type of organization expenditure (i.e., for offices and office equipment).

### § 28 — Organization Expenditure Limits

Under prior law, \$10,000 was the maximum amount a party committee (i.e., state central or town) or legislative caucus or leadership committee could spend on organization expenditures made to benefit the general election campaign of a CEP candidate for state senator. For a CEP candidate for state representative, \$3,500 was the maximum amount.

The act removes these limits for state central committees. Additionally, it requires SEEC, by January 15, 2014 and every two years thereafter, to adjust organization expenditure limits for the other committees in accordance with any change during the two preceding calendar years in the Consumer Price Index for All Urban Consumers (CPI-U) as published by the U.S. Department of Labor, Bureau of Labor Statistics.

### § 1 — Party Candidate Listings

By law, a party candidate listing is a communication that identifies one or more candidates and meets several criteria (e.g., distributed through public advertising or other specified delivery methods). The act expands the content that these listings may cover by eliminating the requirement that they (1) treat all candidates in the communication substantially similarly and (2) limit subject matter to (a) identifying information for each candidate; (b) encouragement to vote for them; and (c) information about voting, including voting hours and locations.

Instead, under the act, party candidate listings may promote the success or defeat of a (1) candidate or slate of candidates seeking nomination or election, (2) referendum question, or (3) political party. As under existing law, these listings cannot solicit for or on behalf of a candidate.

### § 1 — Mechanism for Online Contributions

The act establishes a new type of organization expenditure. Specifically, it authorizes legislative caucus, legislative leadership, and party committees to make, as organization expenditures, expenditures for an electronic page that provides merchant account services that a candidate uses to collect online contributions.

### §§ 1-3 — Offices and Equipment

The act eliminates from the definition of “organization expenditure” the use of offices, phones, computers, and similar equipment that do not result in an additional cost to the party, legislative caucus, or legislative leadership committee. It instead creates contribution and expenditure exemptions for similar activities (see CONTRIBUTION AND EXPENDITURE EXEMPTIONS).

### §§ 4, 7-8, & 33 — INDEPENDENT EXPENDITURES

The law defines “independent expenditure” as an expenditure that is made without the consent, coordination, or consultation of a (1) candidate or candidate’s agent, (2) candidate committee, (3) PAC, or (4) party committee.

Previously, state law authorized individuals, entities, or committees to make unlimited IEs. The act instead authorizes persons (which include individuals, entities, and committees) to make unlimited IEs. It also authorizes them to accept unlimited covered transfers.

By law, “person” means an individual, committee, firm, partnership, organization, association, syndicate, company trust, corporation, limited liability company, or any other legal entity of any kind. It does not mean the state or any political or administrative subdivision of the state.

### §§ 8 & 33 — Committees That Make Only IEs

By law, committees, unlike individuals and entities, must register with SEEC before making IEs, and the contributions they receive are subject to limits (e.g., a labor PAC may contribute no more than \$2,000 per calendar year to another labor PAC).

Under the act, committees that will make only IEs do not have to register, or be registered, with SEEC, and may accept unlimited covered transfers. However, like other persons making IEs, they must submit IE reports.

Further, existing law, unchanged by the act, requires any committee that makes, solicits, or receives contributions to register with SEEC. Thus, under the act, if a committee makes only IEs, it must nonetheless register with SEEC if it makes, solicits, or receives contributions.

The act maintains the law’s limits on contributions to committees that will make other types of expenditures. But because covered transfers are not designated as such, it is unclear how to differentiate them from contributions.

### §§ 7 & 8 — IE Reporting Requirements

Existing law requires an individual, entity, or committee that makes or obligates to make IEs exceeding \$1,000 in the aggregate during a primary or general election campaign to file a report with SEEC. The act replaces prior law’s reporting forms and requirements for IEs in an election or primary for statewide office or legislative candidates with new ones. It maintains existing reporting forms and requirements for persons making IEs for other reasons (e.g., to promote or oppose a statewide referendum or municipal office candidate).

*Long- and Short-Form Reports.* Under the act, a person must file a long-form report, as well as a short-form report, after first making or obligating to make an IE during a primary or general election campaign that (1) promotes the success or defeat of a statewide office or legislative candidate and (2) exceeds \$1,000 in the aggregate. By law, “primary campaign” means the period beginning the day after the close of the convention, caucus, or town committee meeting, whichever applies, to endorse a statewide office or legislative candidate and ending on primary day. “General election campaign” means the period beginning the day after the primary or day the candidate is nominated and ending when the campaign treasurer files the committee’s final campaign finance statement.

For any subsequent IE, a person must file only the short-form report. Both reports must be filed with SEEC electronically within 24 hours after making or obligating to make an IE.

The long-form report must identify:

1. for the person making or obligating to make the IE or IEs, (a) name; (b) tax exempt status if applicable; (c) mailing address; (d) principal business address if different; and (e) address, telephone number, and e-mail address of the agent for service of process in Connecticut;
2. the date of the primary or election for which the IE or IEs were made or obligated;
3. the name of any candidate who was the subject of an IE or IEs, and whether the expenditures supported or opposed the candidate; and
4. for the individual filing the report, (a) name, (b) telephone number, and (c) e-mail address.

The short-form report must identify:

1. the name of the person making or obligating to make the IE;
2. the IE amount;
3. whether the IE supported or opposed a candidate, and any such candidate’s name;
4. a brief description of the IE, including (a) the type of communication, based on categories SEEC determines, and (b) if it supports or opposes more than one candidate, an allocation for each; and
5. the name, telephone number, and e-mail address of the individual filing the report.

*Affirmation.* The individual who files the long- and short-form report must affirm, under penalty of false statement, that the expenditure is an IE. The penalty for false statement is a class A misdemeanor (see Table on Penalties).

*Disclosing Covered Transfers.* As part of both the long- and short-form reports, a person must disclose the source and amount of any covered transfer of \$5,000 or more, in the aggregate, it received during the 12 months before the applicable primary or election if the (1)

transfer is intended to promote or oppose a candidate for statewide or legislative office and (2) IE (for which the report is being filed) is made or obligated to be made 180 or fewer days before the primary or election.

This disclosure requirement does not apply to any person that discloses the source and amount of such a covered transfer in a report it files with the Federal Election Commission (FEC) or Internal Revenue Service (IRS), provided it includes a copy of such report in the report it files with SEEC. But if the source and amount of a covered transfer is not included in an FEC or IRS report, the person must include that information in its report to SEEC.

*Deadlines.* The act requires both the long- and short-form reports to be filed with SEEC no later than 24 hours after making or obligating to make the IE. Prior law required a person to file IE reports within (1) 48 hours after making or obligating to make an IE more than 90 days before the primary or general election and (2) 24 hours after making or obligating to make the expenditure 90 days or fewer before the primary or general election.

#### § 8 — Dedicated IE Account

The act authorizes a person to establish a dedicated IE account to engage in IEs, unless otherwise prohibited by law. The dedicated account must be segregated from other accounts the person controls. It (1) may receive covered transfers directly from other persons but (2) cannot receive transfers from another account that the person that established it (IE maker) controls, with the following exception. If a person makes a covered transfer to a non-dedicated account that an IE maker controls, and requests that it be used for IEs from the dedicated account, the amount of that covered transfer may be transferred into the dedicated IE account. In that case, it is treated as a covered transfer directly to the IE account.

Under the act, if an IE maker establishes a dedicated account, any required disclosure of the source and amount of covered transfers is account-specific. This means disclosures are made on an account-by-account basis. Thus, the reports and disclaimers cannot include persons that made covered transfers (1) to any other account that the account owner controls and (2) that were subsequently transferred to the dedicated account, except as noted above.

#### § 8 — Failure to File an IE Report

The law, unchanged by the act, requires individuals, entities, and committees that make or obligate to make IEs exceeding \$1,000 in the aggregate during a primary or general election campaign to file IE reports with SEEC. The act requires persons to file IE



reports and increases the maximum (1) civil penalties SEEC may impose for failure to file or failure to timely file an IE report and (2) fine a court may impose for a knowing and willful failure to file.

Specifically, the act increases the maximum penalty that SEEC may impose from (1) \$5,000 to \$10,000 for failure to file or timely file more than 90 days before a primary or general election and (2) \$10,000 to \$20,000 for failure to file or timely file 90 days or fewer before a primary or general election. These reports are considered timely if the individual, entity, or committee files them within 24 hours after making or obligating to make the IE.

Previously, a knowing and willful failure to file an IE report was a crime punishable by up to five years in prison, up to a \$5,000 fine, or both. The act (1) eliminates imprisonment as a potential penalty and (2) increases, from \$5,000 to \$50,000, the maximum fine. It also specifies that SEEC may refer the matter to the chief state's attorney.

#### § 4 — *Rebuttable Presumption When Determining IEs*

The law creates a rebuttable presumption that certain expenditures are not IEs, and thus are coordinated and considered contributions for campaign finance purposes. The act (1) replaces one type of expenditure under the rebuttable presumption with a similar type of expenditure; (2) expands another; and (3) specifies criteria, including the creation of a firewall policy, that SEEC must consider when evaluating expenditures.

*Expenditures that are Not IEs.* The act adds to the rebuttable presumption expenditures made by a person or an entity, on or after January 1<sup>st</sup> in an election year, that benefit a candidate when (1) the person or entity has hired an individual as an employee or consultant and (2) such individual was an employee of, or consultant to, the candidate's committee or that of his or her opponent during any part of the 18-month period preceding the expenditure. This provision replaces a similar provision in prior law, which the act eliminates, that covered expenditures made by a person who has an executive or policymaker who also serves or served, in the same election cycle, as the (1) candidate or the chairperson, treasurer, or deputy treasurer of a candidate, political, or party committee benefitting from the expenditure or (2) in any other executive or policymaking position of the committee.

Under existing law, the rebuttable presumption also covers expenditures that a person or entity makes for consultant or creative services to promote or oppose a candidate when the provider is providing services (i.e., at the time when the expenditure occurs) to the candidate, his or her committee, or his or her opponent or opponent's committee. The act expands this

expenditure to cover services that (1) engage campaign-related vendors; (2) are provided to a committee's agent; or (3) were provided in the past, if the provision was after January 1 in the year the expenditure occurs. Under the act, "campaign-related vendor" includes a vendor that provides polling, mail design, mail strategy, political strategy, general campaign advice, or phone banking services.

*Evaluation Criteria.* The act specifies that when SEEC evaluates an entity's expenditure to determine whether it is an IE, it cannot presume that any of the following constitute evidence of consent, coordination, or consultation:

1. participation by a candidate or his or her agent in an event that the entity sponsors, unless the event (a) promotes the candidate's success or his or her opponent's defeat or (b) occurs during the 45 days before the applicable primary or election;
2. membership of the candidate or his or her agent in the entity, unless the candidate or agent holds an executive or policymaking position with the entity after the candidate becomes a candidate; and
3. financial support for, or solicitation or fundraising on behalf of, the entity by a candidate or his or her agent, unless the entity has made or obligated to make IEs in support of the candidate.

The act requires SEEC to consider a firewall policy, created by the person making the expenditure, as an effective rebuttal to the presumption. Under the act, the firewall policy must be designed and implemented to prohibit the flow of information between (1) employees, consultants, or other individuals providing services to the person paying for the expenditure and (2) the candidate or his or her agents.

#### §§ 8 & 9 — DISCLAIMERS AND ATTRIBUTIONS

By law, printed, video, and audio political advertisements must include certain attributions, which the act refers to as disclaimers. The act changes certain disclaimer requirements.

Generally, it:

1. expands the IE disclaimer requirements to cover persons, not only entities;
2. eliminates the requirement that 501(c) and 527 organizations list the names of their top five contributors during the 12 months before the date of the communication;
3. requires all persons that make IEs during the 90 days before a primary or election that promote or oppose a candidate to list the names of the five persons that made covered transfers, in the five largest aggregate amounts, during

- the 12 months immediately preceding the applicable primary or election; and
4. requires all persons making IEs to provide SEEC's website as a source for additional information about the person making the communication (the act does not specify the information that must be provided).

Under prior law, the IE disclaimer requirements applied only to advertisements that (1) promoted a candidate's election or defeat, (2) promoted or opposed a political party, or (3) solicited funds for a political party or PAC. Under the act, they apply to any communication that refers to one or more clearly

identified candidates.

Since IEs are not, by definition, considered contributions, the act makes a technical change to the disclaimer provisions by substituting "donation" for "contribution" and "donor" for "contributor."

#### § 9 — Disclaimer Requirements

Table 1 lists each type of IE and its disclaimer requirements under prior law and the act. When a disclaimer is on a flyer or leaflet, or in a newspaper, magazine, or similar literature, the act requires it to be printed in at least an eight-point, uniform font.

Table 1: Disclaimer Requirements Under Prior Law and the Act

| <i>Type of Independent Expenditure</i>                                    |                                                        | <i>Disclaimer Requirements</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Prior Law</i>                                                          | <i>The Act<br/>(lists changes, otherwise the same)</i> | <i>Prior Law</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <i>The Act<br/>(lists changes, otherwise the same)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Written communication, including one that is typed, printed, or web-based | Includes billboards                                    | <p>The communication must bear upon its face:</p> <ul style="list-style-type: none"> <li>• "Paid for by" and the name of the entity, the chief executive officer (CEO) or equivalent, and the principal business address</li> <li>• "This message was made independent of any candidate or political party"</li> <li>• In the case of a 501(c) or a 527 tax-exempt organization, "Top Five Contributors," followed by a list of the five people or entities making the largest reportable contributions during the previous 12 months</li> </ul>                                                                                                                                                                        | <p>The communication must bear upon its face:</p> <ul style="list-style-type: none"> <li>• "Paid for by" and the name of the person making the IE</li> <li>• For IEs made during the 90 days before a primary or election, the names of the five persons that made the five largest aggregate covered transfers to the person making the communication during the 12 months immediately preceding the applicable primary or election</li> <li>• A statement that additional information about the person making the communication is available on SEEC's website</li> </ul>                                               |
| Television or Internet video advertising                                  | Adds videos broadcast by satellite                     | <p>The end of the advertisement must show, for at least four seconds:</p> <ul style="list-style-type: none"> <li>• A clearly identifiable image of the entity's CEO or equivalent</li> <li>• A simultaneous, personal audio message, stating "I am (name of entity's CEO or equivalent), (title) of (entity). This message was made independent of any candidate or political party, and I approved its content"</li> <li>• In the case of a 501(c) or a 527 tax-exempt organization, a written message stating "The top five contributors to the organization responsible for this advertisement are," followed by a list of the five people or entities making the largest reportable contributions during</li> </ul> | <ul style="list-style-type: none"> <li>• The end of the advertisement must show, for at least four seconds, the following audio message and written statement: "This message was paid for by (person making communication) and made independent of any candidate or political party"</li> <li>• For IEs made during the 90 days before a primary or election, the names of the five persons that made the five largest aggregate covered transfers to the person making the communication during the 12 months immediately preceding the applicable primary or election</li> <li>• A statement that additional</li> </ul> |

| <i>Type of Independent Expenditure</i>         |                                                        | <i>Disclaimer Requirements</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------------------------------------------|--------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Prior Law</i>                               | <i>The Act<br/>(lists changes, otherwise the same)</i> | <i>Prior Law</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <i>The Act<br/>(lists changes, otherwise the same)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                                                |                                                        | the previous 12 months                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | information about the person making the communication is available on SEEC's website                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Radio or Internet audio advertising            | Adds audio communication broadcast by satellite        | <p>The communication must end with a personal audio statement by the CEO or equivalent:</p> <ul style="list-style-type: none"> <li>Identifying the entity paying for the expenditure</li> <li>Indicating that the message was made independent of any candidate or political party, using the following form: "I am (name of entity's CEO or equivalent), (title) of (entity). This message was made independent of any candidate or political party, and I approved its content"</li> <li>In the case of a 501(c) or a 527 tax-exempt organization, an audio message stating (1) "The top five contributors to the organization responsible for this advertisement are," followed by a list of the five people or entities making the largest reportable contributions during the previous 12 months or (2) an audio message providing a website that lists the same if the advertisement is 30 seconds or less</li> </ul> | <p>The communication must end with a personal audio statement by the person's agent:</p> <ul style="list-style-type: none"> <li>Identifying the person paying for the expenditure</li> <li>Indicating that the message was made independent of any candidate or political party, using the following form: "I am (name of person's agent), (title) of (person). This message was made independent of any candidate or political party."</li> <li>For IEs made during the 90 days before a primary or election, the names of the five persons that made the five largest aggregate covered transfers to the person making the communication during the 12 months immediately preceding the applicable primary or election</li> <li>A statement that additional information about the person making the communication is available on SEEC's website</li> </ul> |
| "Robo Calls" (i.e., automated telephone calls) | Adds non-automated telephone calls                     | <ul style="list-style-type: none"> <li>The narrative of the telephone call must identify the entity and its CEO or equivalent</li> <li>In the case of a 501(c) or a 527 organization, the narrative must also include a message stating, "The top five contributors to the organization responsible for this telephone call are," followed by a list of the five people or entities making the largest reportable contributions during the previous 12 months</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <ul style="list-style-type: none"> <li>The narrative of the telephone call must identify the person making the expenditure</li> <li>For IEs made during the 90 days before a primary or election, the names of the five persons that made the five largest aggregate covered transfers to the person making the communication during the 12 months immediately preceding the applicable primary or election</li> <li>The communication must state that additional information about the person making the communication is available on SEEC's website</li> </ul>                                                                                                                                                                                                                                                                                             |

### § 9 — Referenda

Existing law requires a business entity, organization, association, committee, or group of two or more individuals that makes or incurs an expenditure for a printed communication supporting or opposing a referendum question to include a disclaimer with the words “paid for by” and the name of the person making the communication.

Under the act, a communication by a business entity, organization, or association that occurs during the 90 days before the referendum must also state (1) the names of the five persons that made the five largest covered transfers to it, in the aggregate, during the 12 months immediately preceding the referendum and (2) that additional information about the entity, organization, or association can be found on SEEC’s website.

### §§ 8 & 9 — Disclosing Covered Transfers

Under the act, if any person that is listed on a disclaimer as one of the “top five transferors” (i.e., the five persons that made the five largest aggregate covered transfers, to the person making the IE, during the 12 months immediately preceding the applicable primary or election) is also a recipient of a covered transfer, the person making the IE must, with the exceptions described below, disclose in its reports to SEEC (see § 8) the names of the top five transferors with respect to those recipients.

**Exceptions.** The act prohibits disclosing the name of any person that made a covered transfer to a 501(c)(4) organization if the organization is a top five transferor. Under federal law, these organizations are not required to publicly disclose their donors. The prohibition applies provided the 501(c)(4) has not had its tax exempt status revoked.

The act also prohibits disclosing the name of any person that made a covered transfer to a top five transferor listed on a disclaimer if the recipient accepts covered transfers from at least 100 different sources. The prohibition applies if no such source accounts for 10% or more of the covered transfers accepted by the recipient during the 12 months immediately preceding the applicable primary or election.

Additionally, the act specifies that no person making an IE is required to list in a disclaimer any other person that made covered transfers to it of less than \$5,000, in the aggregate, during the 12 months immediately preceding the applicable primary or election.

Finally, if the person makes the IE from a dedicated IE account, the disclaimer (and IE report) can include only persons who made covered transfers to it directly.

### § 9 — Internet Searches

The act does not require disclosure of the top five transferors on an Internet text advertisement (1) that appears based on the result of an Internet search and (2) has 200 or fewer characters in its text. But in that case, the communication must (1) include a link to a website disclosing the names of the top five transferors and (2) contain the other disclaimer statements required by law and under the act.

### § 9 — Slate Promotions

The act specifies that disclaimers by individual candidates are not required for any print, television, or social media promotion by a party committee for a slate of candidates. Rather, the party committee must use the applicable disclaimer as required by law and under the act.

### §§ 7, 18, & 19 — INCREASED CONTRIBUTION LIMITS

Prior law prohibited an individual from contributing more than \$15,000 in the aggregate during a single primary and election to (1) candidate committees, (2) exploratory committees, and (3) slate PACs for justice of the peace (in a primary). The act increases this aggregate contribution limit to \$30,000. It also removes the \$15,000 aggregate limit on labor PAC contributions to party committees and PACs, other than exploratory or referendum committees.

The act otherwise increases the limits on contributions from individuals to most PACs and party committees during a calendar year, as Table 2 shows.

Table 2: Individual Contribution Limits

| <i>Recipient</i>                                                                                                                      | <i>Prior Law</i> | <i>The Act</i> |
|---------------------------------------------------------------------------------------------------------------------------------------|------------------|----------------|
| State Central Committee                                                                                                               | \$5,000          | \$10,000       |
| Town Committee, Legislative Leadership Committee, Legislative Caucus Committee                                                        | 1,000            | 2,000          |
| Most other PACs (except a referendum PAC, labor PAC, exploratory committee, or slate committee for justice of the peace in a primary) | 750              | 1,000          |

### §§ 14 & 17 — CAMPAIGN FINANCE REPORTING

#### §§ 14 & 17 — Eliminated Reports

The act eliminates certain campaign finance reporting requirements for specified candidates and committees as shown in Table 3. The candidates and committees remain responsible for filing termination reports when the committees dissolve.

Table 3: Eliminated Campaign Finance Statements

| Section    | Candidate or Committee                                                                      | Eliminated Reporting Requirement                                                                                                        |
|------------|---------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| § 14       | Special election candidate and exploratory committees                                       | Quarterly campaign finance reports                                                                                                      |
| § 14       | Candidates in a municipal election who do not qualify for ballot access                     | Campaign finance report on the 7th day preceding the election                                                                           |
| §§ 14 & 17 | Candidates in a state election who do not qualify for ballot access                         | (1) Campaign finance report on the 7th day preceding the election and (2) weekly supplemental campaign finance statements under the CEP |
| § 14       | Candidates who are unsuccessful in a primary and do not otherwise qualify for ballot access | Periodic campaign finance reports following the primary                                                                                 |

#### § 14 — State Central Committees

Prior law required state central committees to file campaign disclosure statements on the 12<sup>th</sup> day preceding any regular or special election. For special elections, the act limits the requirement to those for which the committee makes or receives a contribution or expenditure. It retains the requirement for all regular elections.

The act also extends this reporting requirement to primaries and referenda for which a state central committee makes or receives a contribution or expenditure. The statement must be complete as of the 19<sup>th</sup> day preceding the election, primary, or referendum.

#### § 17 — Supplemental Campaign Finance Statement Schedule

By law, a candidate committee in a primary or general election with at least one candidate participating in the CEP must file supplemental weekly campaign finance statements according to a specified schedule. The act extends, by one week, the deadline for filing the initial supplemental statement.

Under the act, candidate committees must file the initial supplemental statement for a primary on the second, rather than the first, Thursday following the July filing deadline for quarterly campaign finance statements (usually July 10). Similarly, for a general election, they must file on the second, rather than the first, Thursday following the October filing deadline for quarterly campaign finance statements (usually October 10).

### §§ 20, 29–30, 38, & 39 — CANDIDATES

#### § 20 — Party Endorsements

Under the act, a party endorsement or certificate of endorsement for a candidate running for the municipal office of state senator or state representative (i.e., in a single-town legislative district) to be voted on at a state election is valid or may be filed only when the candidate's name appears on the party's last-completed enrollment list within the senatorial or assembly district, as applicable, in which he or she will run.

#### § 29 & 30 — Expense Reimbursements

Existing law allows a candidate committee to pay its pro rata share of expenses for operating a campaign headquarters or preparing, printing, or disseminating political communications on behalf of that candidate or any other candidates. The act authorizes a candidate committee to reimburse another candidate committee for its pro rata share of these expenses when the other committee is under a contract with the vendor. The committee that pays or reimburses need not be under contract.

#### §§ 38 & 39 — Cross-Endorsements

The act prohibits a candidate from being cross-endorsed by a major or minor party unless a candidate for statewide office, belonging to the endorsing minor party, received at least 15,000 votes at the previous state election. For cross-endorsement purposes, statewide office candidates are those for governor, secretary of the state, treasurer, comptroller, and attorney general.

### § 31 — LEGISLATIVE LEADERSHIP COMMITTEES

The act authorizes the House and Senate majority and minority leaders-elect to each establish a legislative leadership committee, subject to certain restrictions. Specifically, the legislative leadership committee:

1. for the individual who is leaving the same leadership position, may not accept additional contributions and
2. for the leader-elect, may not accept certain contributions for the rest of the calendar year that the existing committee would not be able to accept because of the law's contribution limits.

The latter does not apply to contributions from business or labor PACs, PACs organized for ongoing purposes, or single-election PACs.

## § 32 — CEP GRANTS

The CEP is a system of public campaign financing under which statewide and legislative candidates are eligible to receive state grants to fund their campaigns if they (1) receive qualifying contributions, (2) agree to abide by certain spending limits, and (3) comply with other requirements.

The act establishes CEP grants for qualified participating candidates who tie in a primary or election for legislative office and will be on the ballot in an adjourned primary or election. For both adjourned primaries and adjourned elections, the grant amounts are (1) \$15,000 for Senate candidates and (2) \$5,000 for House candidates.

Adjourned primary grants are available only to qualified major party candidates. Qualified major party, minor party, and petitioning candidates may receive adjourned election grants. The adjourned primary winner must have his or her general election grant reduced by the amount of any unused portion of the adjourned primary grant.

By January 15, 2016 and every two years thereafter, SEEC must adjust the limits in accordance with any change during the two preceding calendar years in the CPI-U.

## § 36 — CODE OF ETHICS

The act exempts, from the definition of gift under the State Code of Ethics, a public official's expenses, paid by the party committee of which he or she is a member, for accomplishing the committee's lawful purposes. A party committee's (i.e., state central or town committee) lawful purposes include promoting the party, its candidates, and its continuing operating costs. (The act adds party-building activities to these purposes.) By law, lobbyists and people seeking to do or doing business with the state generally cannot give gifts to public officials and state employees (see BACKGROUND).

## §§ 37 & 41 — SEEC MEMBERS

The act makes changes affecting SEEC members' terms. Specifically, it (1) allows members to serve two consecutive terms and (2) eliminates the prohibition on service by individuals who, during the previous three years, were (a) public officials or (b) members of, or employees who received compensation from, a political party's national committee or a state central or town committee. It retains the prohibition for political party officers.

By law, the commission consists of five members; the governor, Senate president pro tempore, House speaker, Senate minority leader, and House minority leader each appoint one member. No more than two

members may be from the same political party, and at least one must be unaffiliated with any political party. Both houses of the General Assembly must confirm the appointments.

## §§ 24–27 — PRIOR CRIMES AND CAMPAIGN FINANCE VIOLATIONS

Existing law requires that campaign treasurers, deputy treasurers, and candidates for public office be state electors. Thus, it prohibits an individual who has been convicted and imprisoned for a felony from serving as a treasurer or deputy, or being a candidate, until his or her electoral privileges are restored (see BACKGROUND).

### §§ 24 & 25 — *Treasurers*

The act extends the prohibition on serving as a treasurer or deputy treasurer to individuals who have:

1. unpaid civil penalties or forfeitures assessed under state campaign finance laws or
2. been convicted of or pled guilty or nolo contendere to a (a) felony involving fraud, forgery, larceny, embezzlement, or bribery or (b) state election law criminal offense (felony or misdemeanor), unless eight years have elapsed since the conviction, plea, or sentence completion, whichever is latest, without a subsequent conviction or plea.

In addition, the act authorizes SEEC, after providing an opportunity for a hearing, to prohibit an individual from serving as a treasurer, deputy treasurer, or solicitor for any time period when it finds he or she has intentionally violated state campaign finance law. Under prior law, SEEC could prohibit such an individual from serving in these roles for up to four years.

### §§ 26 & 27 — *CEP Candidates and Grant Certifications*

The act prohibits participating CEP candidates from applying for a public financing grant if they have been convicted of, or pled guilty or nolo contendere to:

1. a state election law criminal offense, unless eight years have elapsed since the conviction, plea, or sentence completion, whichever is latest, without a subsequent conviction or plea or
2. for office holders, a felony related to their public office, other than one described above.

By law, participating candidates and their treasurers jointly submit the CEP grant application. The application includes several written certifications that they must initial under penalty of false statement. SEEC may deem an application incomplete if any of the

certifications are missing, thus delaying its review and any grant disbursement.

In addition to the certifications required by existing law, the act requires applications to include certifications that (1) the candidate and his or her treasurer are in compliance with all of the above-listed prohibitions and (2) the candidate's committee (current or former) has paid any civil penalties or forfeitures assessed under state campaign finance laws. For candidates, the certification concerning penalties and forfeitures applies only to those penalties and forfeitures assessed no later than (1) 24 months before a candidate for statewide office submits an application and (2) 12 months before a legislative candidate submits an application.

#### §§ 10–11, 22, & 23 — PENALTIES

##### *§ 10 — Knowing and Willful Campaign Finance Violations*

The act changes the criminal penalties for a knowing and willful violation of Chapter 155 of the General Statutes (i.e., campaign finance). Specifically, it (1) eliminates imprisonment as a possible penalty and (2) increases, from \$5,000 to \$25,000, the maximum fine, unless the law otherwise provides for a larger fine. (Effective October 1, 2013, PA 13-258, § 40, supersedes this provision. It classifies a knowing and willful violation of Chapter 155 as a class D felony, thus retaining the prison penalty and \$5,000 maximum fine.)

##### *§ 11 — Joint Liability*

If SEEC finds that any expenditure is coordinated with a candidate, his or her treasurer, or his or her agent in a manner that campaign finance law prohibits, the act makes the candidate, treasurer, or agent, whichever applies, jointly and severally liable for paying any penalty SEEC levies. The liability applies if the candidate, treasurer, or agent participated in or knew of the coordination.

##### *§ 22 — Penalties for January 2012 Filings*

The act authorizes SEEC to waive any penalty it imposed because a campaign finance report, due in January 2012, was not received in a timely manner and the commission determines that the treasurer's actions were such that the filing reasonably should have been received on or before the applicable deadline.

##### *§ 23 — Timely Submission to SEEC*

The act prohibits SEEC from levying a penalty on a treasurer for failing to file a hard copy of a campaign finance statement in a timely manner if the treasurer has

a (1) copy of the statement time stamped by SEEC showing timely receipt or (2) return receipt from the U.S. Postal Service or a similar receipt from a commercial delivery service confirming timely receipt.

#### BACKGROUND

##### *Code of Ethics*

With several exceptions, the law prohibits public officials, candidates for public office, and state employees from accepting gifts (generally anything of value over \$10) from lobbyists. It also prohibits (1) public officials and state employees from accepting gifts from (a) people doing, or seeking to do, business with their agency; (b) people engaged in activities regulated by their agency; or (c) prequalified state contractors and (2) these people from giving gifts to public officials and employees.

##### *Electoral Status*

An individual forfeits his or her right to be an elector upon conviction of a felony and commitment to any state or federal prison. The right may be restored after the individual has paid all fines and completed any required prison and parole time (CGS §§ 9-46 and -46a).

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#### **PA 13-191—HB 6290**

##### *Government Administration and Elections Committee*

#### **AN ACT CONCERNING DONATIONS MADE FROM JOINT CHECKING ACCOUNTS**

**SUMMARY:** This act creates an exception to the law that generally requires campaign treasurers to attribute campaign contributions from a joint checking account to the individual who signs the check.

Under the act, joint checking account holders may submit a check signed by one account holder that includes a donation from each individual on the account, provided the account holders submit a signed statement indicating how to allocate the contribution.

By law, unchanged by the act, if more than one account holder signs the check, treasurers must divide it equally among them, unless they submit a statement indicating how to allocate the contribution differently. Previously, the statement had to be written. The act instead requires that it be signed.

EFFECTIVE DATE: Upon passage

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**PA 13-210—sHB 6671***Government Administration and Elections Committee***AN ACT CONCERNING GOVERNMENT ADMINISTRATION**

**SUMMARY:** This act requires (1) the governor to proclaim the following months and day of each year to honor Americans of different ancestry and (2) suitable exercises to be held in the State Capitol and elsewhere as the governor designates:

1. March as Irish-American Month,
2. October as Italian-American Month,
3. November as Native American Month, and
4. June 24 as French Canadian-American Day.

The act also establishes (1) the ballroom polka as the state polka and (2) Beautiful Connecticut Waltz, composed by Joseph Leggo, as the second state song. It specifies that Powered Flight Day is in honor of the first powered flight by Gustave Whitehead, rather than the Wright Brothers.

The act requires the legislature to commemorate the 14<sup>th</sup> anniversary of the Connecticut-Taiwan sister state relationship. Suitable exercises must be held in the State Capitol and elsewhere as the legislature may designate. The act allows the economic and community development commissioner to designate a day, week, or month for celebrating ethnic, cultural, or heritage groups, upon the application of such groups. In practice, such days, weeks, or months are proclaimed by the governor in his role as the chief executive.

Additionally, the act allows state employees in the unclassified service to compete in promotional examinations for positions in the classified service without having previous permanent status in the classified service. Under prior law, unclassified employees could compete for classified positions if they possessed the minimum qualifications the administrative services commissioner established, but they had to have previous permanent status in the classified service to compete in promotional examinations for the positions. PA 13-247 (§§ 360 & 387) delays the effective date of this change until July 1, 2013.

Lastly, the act makes technical changes.

EFFECTIVE DATE: Upon passage

**PA 13-225—sSB 434***Government Administration and Elections Committee  
Judiciary Committee***AN ACT CONCERNING THE DEPARTMENT OF ADMINISTRATIVE SERVICES AND E-GOVERNMENT, EXTENSIONS OF EXISTING CONTRACTS, A STATE AMERICANS WITH****DISABILITIES ACT COORDINATOR  
ADVISORY COMMITTEE AND SETTLEMENTS  
BY THE CLAIMS COMMISSIONER**

**SUMMARY:** This act makes several unrelated changes concerning government administration. It:

1. eliminates a requirement that the administrative fee associated with e-government services be deposited in the General Fund;
2. allows the Department of Administrative Services (DAS) commissioner to extend certain goods and services contracts without competitive bidding or quotations;
3. revises the charge and increases the size of the committee established to encourage employment by the state of people with disabilities; and
4. increases, from \$7,500 to \$20,000, the threshold under which the claims commissioner can administratively settle claims against the state.

Additionally, the act eliminates the Committee on Career Entry and Mobility and repeals a statute that authorizes state agencies or institutions to enter into a hospital laundry services co-operative (§§ 3, 4, and 9). Both of these are obsolete.

EFFECTIVE DATE: July 1, 2013, except that the provision concerning the administrative fee is effective upon passage

**§ 1 — E-GOVERNMENT ADMINISTRATIVE FEE**

The law allows the Office of Policy and Management secretary, regardless of other state laws, to authorize state agencies to contract with private and nonprofit entities to facilitate the public's electronic utilization of government programs and services. The entities may charge an administrative fee, as approved by the Finance Advisory Committee. The act eliminates a requirement that this fee be deposited in the General Fund, thus allowing the entities to keep the fee.

**§ 2 — GOODS AND SERVICES CONTRACT EXTENSIONS**

With certain exceptions, the law prohibits state agencies from extending contracts (1) for supplies, materials, equipment, or contractual services and (2) subject to competitive bidding requirements, without complying with those requirements. It requires agencies not using competitive bidding to solicit at least three competitive quotations in addition to the contractor's quotation. The act specifies that this requirement does not apply to situations where the contractor is a sole source provider.



Additionally, the act allows the DAS commissioner to extend, for up to one year and without competitive bids or quotations, a contract for supplies, materials, equipment, or contractual services if he certifies in writing that failing to extend the contract would compromise an agency's systems or operations continuity.

#### § 5 — COMMITTEE TO ADVISE AMERICANS WITH DISABILITIES ACT (ADA) STATE COORDINATOR

Prior law established an eight-member committee to encourage the state to employ people with disabilities. The committee had to advise state agencies regarding adaptation of employment examinations and alternative hiring processes for, and reasonable accommodation of, such individuals. It also had to review state agencies' (1) career mobility programs, (2) programs of accommodation and entry level training of people with disabilities, and (3) employment practices with respect to such individuals.

The act eliminates the above requirements and instead requires that the committee, upon the state ADA coordinator's request, advise him regarding (1) employment by the state of people with disabilities and (2) how the state can fulfill its other ADA obligations, including its obligations as a provider of public services and a place of accommodation.

Additionally, the act (1) increases the committee's size by adding representatives from the Department of Construction Services and the Commission of Human Rights and Opportunities and (2) potentially further increases its size by allowing each represented entity to have more than one representative. The act also requires that the ADA coordinator, rather than the DAS commissioner, (1) appoint committee members and (2) chair the committee (or appoint a designee to do so). The DAS commissioner currently serves as the state's ADA coordinator.

#### §§ 6-8 — CLAIMS AGAINST THE STATE

By law, claims against the state must be filed with the claims commissioner. Under prior law, the commissioner had to either (1) deny or dismiss the claim, (2) order a payment of up to \$7,500, (3) recommend to the legislature a payment that exceeds \$7,500, or (4) authorize the claimant to sue the state. A person filing a claim exceeding \$7,500 could request legislative review if the claims commissioner dismissed the claim or ordered a payment of \$7,500 or less.

The act increases each of these thresholds to \$20,000. It thus (1) allows the commissioner to order a payment of up to \$20,000, (2) requires him to forward a recommended payment to the legislature for approval

only if it exceeds \$20,000, and (3) prohibits claimants from requesting legislative review unless (a) the claim exceeds \$20,000 and (b) the commissioner dismisses it or orders a payment of \$20,000 or less.

Additionally, the act makes a similar change regarding claims for damages because of any official act or omission by the public health or developmental services commissioners, their staffs, or certain other officials. Under prior law, such claims could be brought as civil actions against the commissioners in their official capacities if the damages exceeded \$7,500. Claims of \$7,500 or less had to be presented to the claims commissioner. The act increases both thresholds to \$20,000, thus requiring that damages exceed \$20,000 in order to be brought as a civil action.

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#### PA 13-227—sSB 761

*Government Administration and Elections Committee*

#### **AN ACT MAKING THE JANITORIAL WORK PILOT PROGRAM FOR PERSONS WITH A DISABILITY OR A DISADVANTAGE PERMANENT**

**SUMMARY:** This act makes permanent the janitorial work pilot program for people with a disability or a disadvantage, which was established in 2006 and is administered by the Department of Administrative Services (DAS). It (1) generally extends, with some modifications, the pilot program's existing requirements and establishes new ones and (2) allows the Board of Regents for Higher Education (BOR) and the Judicial Branch to participate in the program.

Additionally, the act requires the Government Administration and Elections Committee to continue studying the program's effectiveness, but eliminates the requirement to study the need for making it permanent. It also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2013

#### JANITORIAL WORK PROGRAM

Under the janitorial work pilot program, the DAS commissioner awarded contracts to qualified partnerships, which are commercial janitorial contractors and community rehabilitation programs, designated by the Connecticut Community Providers Association (CCPA), that meet certain criteria. The act makes this program permanent and allows BOR and the Judicial Branch to participate. It extends to the chief court administrator and BOR president a prohibition, previously applicable to the DAS commissioner only, on delegating program-related responsibilities to an outside vendor. BOR governs the Connecticut State University System, regional community-technical

colleges, and Charter Oak State College.

Under existing law and the act, the program must create and expand work opportunities, specifically full-time jobs or full-time equivalents at standard wage rates, for people with a disability (excluding blindness) and people with a disadvantage (see BACKGROUND). The act eliminates requirements that the program (1) consist of four janitorial work projects, (2) create at least 60 full-time jobs or equivalent, and (3) have a total market value of at least \$3 million. It also eliminates a provision authorizing DAS to adopt regulations concerning the program.

#### *Modifications to Existing Requirements*

Under prior law, if more than one qualified partnership submitted a bid for a janitorial contract, the contract had to be awarded to the lowest responsible qualified bidder. The act additionally allows an award to the most advantageous proposer (i.e., the one whose proposal is deemed most advantageous to the state, according to criteria specified in the request for proposals). It specifies that if no qualified partnership submits a bid, then the Judicial Branch or BOR must award the contract according to their regular contracting laws. (DAS must already do this under existing law.)

Under existing law, qualified partnerships awarded janitorial contracts under the program must provide CCPA with a list of their employees who have a disability or disadvantage no later than six months after the contract starts. CCPA must certify to DAS, in a manner and form the DAS commissioner prescribes, that the contractor continues to employ the required number of people with disabilities in positions equivalent to those created under the contract and has integrated them into the contractor's general workforce. The act additionally requires that (1) qualified partnerships provide lists to CCPA on an annual basis after the initial provision of the list and (2) CCPA (a) provide DAS with the certification on an annual basis and (b) also provide it to BOR and the Judicial Branch.

Under prior law, if DAS awarded an exclusive contract during the pilot program's term under the state's preferential purchasing law for people with disabilities, including one for janitorial services, the contract had to remain in effect with no change in the fair market value formula used by DAS for determining whether a vendor should be awarded the contract. The act instead specifies that exclusive contracts awarded during the pilot program's term (which ends October 1, 2013) must remain in effect until terminated by either party, with at least 60 days' written notice. The contract can be amended to include updated terms and conditions, but cannot allow for price increases except for those mandated for minimum and standard wages. If the contract is terminated, the next one can be awarded

under (1) the janitorial work program, (2) the preferential purchasing law for people with disabilities, or (3) standard contracting laws.

#### *New Requirements*

The act prohibits awarding authorities from awarding contracts, under the program, at sites where employees are employed pursuant to a collective bargaining agreement or under the state's preferential purchasing law for people with disabilities, including those for janitorial services, unless a contract has previously been awarded to a qualified partnership under the program.

The act specifies that if a position is not available at a job site for a janitorial contract award and a person with a disability or disadvantage is placed at an alternate job site, then he or she must be paid the alternate site's wage rate. It requires that, when a position becomes available at the original job site, the person be transferred and paid the standard wage rate at the original site. The act further specifies that if a person who is transferred subsequently leaves the position, then it must be filled by another person with a disability or disadvantage.

#### **BACKGROUND**

##### *Person With a Disadvantage*

To qualify as a person with a disadvantage, an individual must either (1) have income up to 200% of the federal poverty level for a family of four or (2) be eligible for employment services under the federal Workforce Investment Act as the state Labor Department determines.

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#### **PA 13-244—sSB 900**

*Government Administration and Elections Committee*

#### **AN ACT CONCERNING REVISIONS TO THE STATE CODES OF ETHICS**

**SUMMARY:** This act makes several changes to the state codes of ethics for public officials and lobbyists. It expands the codes' exemption for gifts to the state to include goods or services that support participation by a public official or a state employee at an event and further a state or quasi-public agency function.

With respect to the Citizen's Ethics Advisory Board (CEAB), the act (1) expands the board's administration and enforcement of the code, (2) reconfigures board members' terms of office, and (3) allows people who sought or held positions as justices of the peace and notaries public to serve on the board.

The act also requires that a public official or state employee act with specific intent before he or she may be found to violate the Code of Ethics for counseling, authorizing, or otherwise sanctioning actions that the code prohibits. It expands the grounds for contractor disqualification by the State Contracting Standards Board (SCSB) and makes contractors, consultants, and certain other people liable for damages if they violate the law on unethical bidding or contracting practices to advance their own financial interests.

Lastly, the act (1) revises certain financial and Office of State Ethics (OSE) reporting requirements, (2) exempts OSE attorneys from paying various court fees when acting in their official capacity, and (3) makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2013, except that provisions relating to CEAB member terms, counseling or sanctioning a violation of the code, and certain technical changes are effective upon passage.

#### §§ 1, 14 — GIFTS TO THE STATE

The act expands the state codes of ethics' exemption for gifts to state or quasi-public agencies to include goods or services that support participation by a public official or state employee at an event and facilitate a state or quasi-public agency's action or function. Existing law allows a state or quasi-public agency to accept goods or services (1) for use on agency property or that support an event and (2) that facilitate agency actions or functions. By law, lobbyists and people seeking to do or doing business with the state generally cannot give gifts to public officials and state employees.

#### CITIZEN'S ETHICS ADVISORY BOARD

##### §§ 2, 3 — *Terms and Composition*

By law, the board and OSE staff are responsible for enforcing the codes, including advising those subject to it. The act staggers the nine board members' terms of office in a way that prevents more than three terms from expiring in a single year.

By law, each board member is appointed to one four-year term. Under prior law, once every four years, four members' terms expired. Under the act, two members appointed to terms that began on October 1, 2009 will each serve one five-year term, and subsequent appointments to those positions are for four years. The result of this reconfiguring is that, in any four-year period, the board will have three years with two vacancies to fill and one year with three vacancies to fill (see Table 1).

Table 1: CEAB Member Term Expiration Dates

| Term Expiration Date | Number of Terms Expiring |         |
|----------------------|--------------------------|---------|
|                      | Prior Law                | The Act |
| September 30, 2013   | 4                        | 2       |
| September 30, 2014   | 0                        | 2       |
| September 30, 2015   | 3                        | 3       |
| September 30, 2016   | 2                        | 2       |

The act allows people who sought or held positions as justices of the peace or notaries public to serve on the board. By law, board members and OSE employees may not (1) hold or campaign for public office, (2) have held or campaigned for public office in the three years prior to appointment, (3) hold office in a political party or committee, or (4) be a registered lobbyist or member of a lobbying organization.

##### §§ 6, 16 — *CEAB Authority*

The act authorizes CEAB to administer and enforce all parts of the code by giving it explicit authority to issue advisory opinions on miscellaneous lobbyist provisions (Part III of the code) and ethical considerations concerning bidding and state contracts (Part IV of the code).

#### § 11 — ETHICS CODE VIOLATIONS

##### *Specific Intent Required*

The act requires an intentional act before a public official or state employee may be found in violation of the Code of Ethics for counseling, authorizing, or otherwise sanctioning actions that the code prohibits. By law, people who intentionally violate the code are guilty of a class A misdemeanor for a first violation (or a class D felony if the violator derived a financial benefit of at least \$1,000 from the violation) and a class D felony for subsequent violations (see TABLE ON PENALTIES).

#### STATE CONTRACTORS AND CONSULTANTS

##### § 13 — *Penalties for Violations*

The act makes state contractors and potential state contractors liable to the state for damages if they:

1. solicit undisclosed information for their competitive advantage;
2. intentionally or recklessly charge the state or a quasi-public agency for unperformed work or undelivered goods;
3. intentionally violate or try to circumvent competitive bidding or ethics laws;

4. provide, or get others to provide, information on the donation of goods or services with the intent to unduly influence the award of a state contract; or
5. when serving as a consultant on a contract, act as a consultant for anyone bidding on that contract.

The act subjects state consultants and independent contractors to the same penalty if they benefit financially from (1) abusing their contractual authority or using confidential information acquired in performing the contract, (2) accepting another state contract that impairs their judgment on the first contract, or (3) accepting anything of value on the understanding that a person acting on the state's behalf would be influenced. Lastly, it subjects to the same penalty anyone who gives anything of value to a state consultant or independent contractor with the understanding that the consultant or contractor, acting on behalf of the state, would be influenced.

Under the act, damages equal the amount of the financial advantage. The penalty applies to anyone who commits the violation or knowingly receives a financial gain from it. Additionally, OSE must immediately inform the attorney general of the violation.

#### § 24 — Contractor Disqualification

The act authorizes SCSB to disqualify a contractor who is deemed a nonresponsible bidder (a contractor or potential contractor who willfully or egregiously commits acts (1) through (5) listed under § 13 above) under the Code of Ethics. By law, SCSB can disqualify a contractor, for various reasons, from bidding on, applying for, or participating as a contractor or subcontractor on a state contract for up to five years.

#### OTHER PROVISIONS

##### §§ 6, 8, 25 — Reporting Requirements

The act (1) requires OSE to submit its annual activity report to the governor two months earlier, by February 15 rather than April 15 each year; (2) allows public officials and employees who must file a statement of financial interests to do so on the first business day after May 1 if May 1 falls on a weekend or legal holiday; and (3) requires the Public Utilities Regulatory Authority directors to annually file a statement of financial interests with OSE, by May 1, instead of a financial disclosure statement with the secretary of the state by July 30.

#### PA 13-260—HB 5289

*Government Administration and Elections Committee*

#### AN ACT CONCERNING THE TIMING OF CERTAIN SPECIAL MUNICIPAL ELECTIONS

**SUMMARY:** By law, a special municipal election held to fill a vacancy or a newly-created office may be convened by the board of selectman or upon application of 20 electors. In the latter case, this act creates an exception to the election calendar. Specifically, it authorizes the secretary of the state to combine the special election with a regular municipal election when the special election would fall 30 days or fewer before the regular election. The act thus extends, from 150 to 180 days, the maximum length of the election calendar in these cases.

The act does not otherwise affect special municipal election calendar requirements (e.g., time for party endorsements and a primary).

EFFECTIVE DATE: Upon passage

#### PA 13-263—sHB 5598

*Government Administration and Elections Committee  
Planning and Development Committee*

#### AN ACT CONCERNING THE DEPARTMENT OF ADMINISTRATIVE SERVICES AND THE DISPOSITION OF SURPLUS STATE PROPERTY, SHORT TERM EMERGENCY LEASES, THE DEFINITION OF EXECUTIVE SESSION AND DUPLICATIVE STATEMENTS OF FINANCIAL INTEREST

**SUMMARY:** This act modifies the process for disposing of surplus state property. Among other things, it:

1. requires state agencies to give the Office of Policy and Management (OPM) secretary and affected municipality at least six months' notice of property that is expected to become surplus;
2. requires various commissioners, within 30 days of receiving notice from OPM, to advise the secretary of the property's potential use for their agencies' purposes;
3. requires the secretary, if the property is declared surplus, to hold a public hearing in the affected municipality at the municipality's request;
4. gives the affected municipality a one-time opportunity to acquire the property through procedures other than a sale, but removes the municipality's ability to match later offers made by other parties;

5. requires that notice of available property also be given to the Connecticut Economic Resource Center and the applicable regional planning organization;
6. requires that municipalities receive more frequent updates on a property's status; and
7. modifies a separate process for disposing of certain surplus Department of Correction (DOC) property.

Additionally, the act allows the Department of Administrative Services (DAS) to enter into leases of up to one year in certain emergency situations without OPM or State Properties Review Board (SPRB) approval. It also extends to state agencies a Freedom of Information Act (FOIA) provision that allows political subdivisions to hold executive sessions to discuss real estate transactions or site selections.

The act eliminates a requirement that SPRB members and nonclerical employees in DAS's unit that acquires, leases, and sells real property file a statement of financial interest with SPRB or DAS as appropriate. It maintains the requirement that these members and employees file such a statement with the Office of State Ethics (§ 8).

Lastly, the act makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2013, except that the DOC, FOIA, and leasing provisions are effective upon passage.

## §§ 1, 2, & 9 — SURPLUS PROPERTY DISPOSITION

### *Notice of Surplus Property*

The act requires state agencies, departments, and institutions (agencies) to give the OPM secretary written notice at least six months before they anticipate that they will no longer need land, or an improvement to or interest in land (property), in their custody and control. Under prior law, agencies did not notify OPM of available property until they determined it was no longer needed. The act also requires the agency to notify the municipality in which the property is located when it notifies OPM.

Under prior law, upon receiving notice of surplus property, the OPM secretary had to arrange for custody and control of the property to be transferred to DAS, along with adequate funding for personnel and other operating expenses required to maintain the property. The act instead gives the secretary discretion to decide whether to (1) transfer the property to DAS or (2) require the agency to maintain custody and control. It also specifies that the funding includes, at the secretary's discretion, any available funds for maintenance purposes, rather than adequate funding.

By law, the OPM secretary must notify all state agencies of the available property. Previously, an agency that was interested in the property, upon receiving this notice, had 90 days to submit to the secretary a plan for its use. The act shortens this period to 30 days.

### *Use by Other State Agencies*

Under prior law, the Department of Economic and Community Development (DECD) had the right of first refusal for available state property and had to be given custody and control of a property if the department:

1. determined that the property could be (a) used for an emergency shelter or a transitional living facility for homeless people or (b) used or exchanged for property that could be used for the construction, rehabilitation, or renovation of housing for low- or moderate-income individuals or families;
2. submitted to OPM a preliminary plan for the property within 90 days after receiving notification of the property's availability; and
3. submitted to OPM a comprehensive plan for the property within six months after the 90-day period ends.

The act eliminates this right of first refusal. It instead requires the commissioners of the following agencies to notify the OPM secretary in writing, no later than 30 days after receiving notice from the secretary, if the land, improvement, or interest serves the following needs:

1. DECD, whether, in addition to the above possible uses, it can be used or adapted for economic development or exchanged for property that can be used for economic development;
2. the Department of Transportation (DOT), transportation purposes;
3. the Department of Energy and Environmental Protection, open space purposes or to otherwise support the department's mission;
4. the Department of Agriculture, farming or agricultural purposes;
5. the Department of Veterans' Affairs, veterans' housing;
6. the departments of Children and Families and Developmental Services, to support their missions; and
7. DAS, to house state agencies or be leased.

The act does not require the secretary to give these possible uses preference over plans submitted by other agencies. By law, if one or more agencies submit a plan for the property, the secretary must determine whether to transfer the property to one of those agencies or treat it as surplus.

### *Conveyance to Affected Municipality*

Under prior law, if a property were determined to be surplus, the state had to first offer to sell it to the municipality in which it is located, subject to conditions of sale acceptable to the state. The act instead requires that the state offer to convey the property to the municipality (e.g., sell, lease, exchange, or enter into agreements concerning it).

Under the act, the OPM secretary must, at the request of the municipality in which the property is located, first hold an informational public meeting in that municipality. The meeting must describe the property and the disposition process, allow public comment, and inform the public of its right to submit written comments to the secretary, including comments on the land's natural or recreational resources.

The act requires the secretary, after the meeting, to notify the DAS commissioner of his determination on whether the property may be treated as surplus. If the secretary determines that it is surplus, the commissioner must offer to convey the property to the municipality.

Under the act, the municipality has 120 days from receiving this notification to accept the conveyance, but the DAS commissioner can extend this period by up to 60 days. To accept the property, the municipality must (1) by a vote of its legislative body, accept the conveyance and (2) deliver a resolution of the action, verified by the municipal clerk, to the commissioner. If the municipality does not act within the specified time period, it is deemed to have declined the conveyance.

Under prior law, if the municipality declined to purchase surplus property, it retained the right to purchase it later by matching the terms of a proposed sale to another entity, so long as those terms were different from those offered to the municipality. The act eliminates this right by specifying that the municipality waives all rights to purchase the property if it declines or is deemed to decline the conveyance.

### *Sale to Other Entities*

Under prior law, the DAS commissioner could sell, exchange, lease, or enter into agreements concerning surplus property after notifying (1) the municipality where it is located, (2) the state legislators who represent the municipality, and (3) potential incentive housing developers who have registered with DECD. The act requires the commissioner to also notify the (1) regional planning organization of the region where the property is located and (2) Connecticut Economic Resource Center. By law, regional planning organizations include regional councils of government, regional councils of elected officials, and regional planning agencies.

The act also requires that municipalities and their state legislators receive more frequent updates on a property's status. Under prior law, if a proposed agreement for a surplus property was not (1) submitted to SPRB within three years of notifying the municipality and its state legislators or (2) approved by SPRB within five years of this notice, the municipality and its legislators had to be re-notified of its availability. The act shortens these periods to one year and two years, respectively.

### *Legislative Approval*

By law, the DAS commissioner must submit sales of surplus state property to the legislature's Finance and Government Administration and Elections committees. The committees have 30 days from receipt of an agreement to approve or disapprove it; the agreement is deemed approved if the committees do not act within this time. The act allows the committees to notify the DAS commissioner, in writing, that they waive their right to convene a meeting concerning the sale.

### *Surplus DOC Property*

The act modifies a separate process for disposing of surplus community correctional center properties. Under the separate process, if the community correctional center administrator declares that a community correctional center is surplus, the property must first be offered, for no cost, to either the municipality or its redevelopment agency. Under prior law, (1) the state treasurer had to (a) offer to transfer the property and (b) administer the transfer if the municipality or redevelopment agency accepted it and (2) if the transfer were declined, the property had to be auctioned to the highest bidder.

The act instead requires that (1) the DAS commissioner, rather than the treasurer, offer the property and administer the transfer if it is accepted and (2) the property be sold according to regular procedure if the transfer is declined, rather than auctioned to the highest bidder.

By law, state-owned residential dwelling units and the land on which they are situated that were used by the abandoned correctional center's administration personnel cannot be included in the transfer to the municipality or redevelopment agency. Under prior law, this residential property could be sold by the state to the highest bidder if the community correctional center administrator certified to the state treasurer that it was no longer needed. The act (1) requires that the certification instead be made to the DAS commissioner and (2) eliminates the requirement that the sale be to the highest bidder.

## § 6 — EMERGENCY LEASES

By law, most proposed leases by state agencies must be (1) included in the State Facilities Plan, which the OPM secretary develops, and (2) approved by SPRB. The act allows DAS to enter into leases of up to one year, without OPM or SPRB approval, if the governor declares that (1) an emergency exists because a state facility has been damaged, destroyed, or otherwise rendered unusable; (2) the emergency would adversely affect public safety or the proper conduct of essential state government operations; and (3) the state has an immediate need to acquire alternative space.

## § 7 — FOIA

Previously under FOIA, political subdivisions could meet in executive session to discuss the selection of a site or the lease, sale, or purchase of real estate if publicity surrounding the selection or transaction were likely to cause a price increase. The act instead specifies that an executive session is permitted when the publicity would adversely impact the price of the site, lease, sale, purchase, or construction (e.g., an increased price if the agency is the buyer or a decreased price if the agency is the seller). Additionally, it extends to state agencies the ability to meet in executive session for these reasons.

Under prior law and the act, the provision applies until all of the property has been acquired or all proceedings or transactions have been terminated or abandoned.

## BACKGROUND

### *Related Act*

PA 13-277 changes the way DOT disposes of property it no longer needs for highway purposes.

## PA 13-264—sHB 5601

*Government Administration and Elections Committee*

### **AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO THE GOVERNMENT ADMINISTRATION AND ELECTIONS STATUTES**

**SUMMARY:** This act makes technical changes to the government administration and elections statutes. It removes obsolete references to the State Ethics Commission, which was eliminated in 2005, and replaces them with references to its successor, the Office of State Ethics (OSE). Additionally, it corrects a statutory reference concerning OSE's authority to

discipline lobbyists for certain campaign finance law violations.

The act also deletes an obsolete reference to a Department of Administrative Services plan to eliminate the use of disposable and single-use products in state government. The requirement to develop this plan was removed in 2012 (PA 12-205).

**EFFECTIVE DATE:** Upon passage, except that two of the ethics provisions are effective October 1, 2013, and a technical elections change is effective July 1, 2013.

## PA 13-269—sHB 5903

*Government Administration and Elections Committee*

### **AN ACT CONCERNING THE RESOLUTION OF TIE VOTES IN PRIMARIES FOR STATE OR DISTRICT OFFICES AND FOR THE OFFICE OF STATE SENATOR OR STATE REPRESENTATIVE**

**SUMMARY:** This act limits who is eligible to receive votes in an adjourned primary held to resolve a tie vote in a primary for statewide, district, or legislative office. Under prior law, all candidates who ran in the first primary for the office in which there was a tie could receive votes. Under the act, only the candidates who tied and received the most votes in the first primary are eligible to receive votes in the adjourned primary.

The act does not affect who is eligible to receive votes in an adjourned primary held to resolve a tie between two or more candidates for municipal office (other than state senator or state representative) or town committee, or slates of candidates for justice of the peace.

By law, the adjourned primary is held three weeks after the first primary. If the adjourned primary results in a tie, the secretary of the state resolves it by drawing lots.

The act also makes technical changes.

**EFFECTIVE DATE:** July 1, 2013

## PA 13-274—sHB 6362

*Government Administration and Elections Committee  
Appropriations Committee*

### **AN ACT CONCERNING THE TRANSPARENCY AND ACCESSIBILITY OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES**

**SUMMARY:** PA 12-92 required that, on and after July 1, 2013, state agency regulations be available to the public on the secretary of the state's and regulating agency's Internet websites, rather than published in the *Connecticut Law Journal*. It established the same

requirement for notices of proposed regulations and their accompanying documents.

This act modifies several of the provisions in PA 12-92. It delays, from July 1, 2013 until a date no later than October 1, 2014, a requirement that online regulations posted by the secretary of the state be the “official version” of the regulations of state agencies for “all purposes, including all legal and administrative proceedings.” It requires the Commission on Official Legal Publications (COLP) to continue publishing regulations in the *Connecticut Law Journal* until this time.

The act names the electronic regulations compilation the “eRegulations System” and requires (1) agencies, and not the secretary, to post to the system notices of proposed regulations and regulation-related documents and (2) the secretary to post the final regulations. It eliminates requirements for agencies to post regulations and regulation-related documents (e.g., notice of a proposed action) on their own websites.

The act generally eliminates provisions that require a regulation to be submitted in hard copy at various stages of the regulation adoption process. However, it requires the secretary, by January 1, 2014, to develop and implement a plan to maintain at her office a paper copy of all regulations posted on the eRegulations System.

The act revises the requirements for selecting the Regulation Review Committee’s co-chairpersons to conform law to current practice. It also requires that several manuals published by the Department of Social Services (DSS) be posted on the eRegulations System. Lastly, it repeals requirements, which were due to take effect on July 1, 2013, that agencies (1) post all manuals and guidance documents online and (2) post on their websites policies that are implemented before being adopted in regulation form (§ 12, effective upon passage).

The act also makes numerous technical and conforming changes.

EFFECTIVE DATE: Various, see below

## §§ 1-4 & 8 — EREGULATIONS SYSTEM

### §§ 1-2 & 8 — *Official Version of State Agency Regulations*

PA 12-92 required the secretary of the state, beginning July 1, 2013, to post online a compilation of all effective state agency regulations, including emergency regulations, adopted on and after October 27, 1970. It (1) required that the compilation be easily accessible to, and searchable by, the public and (2) designated it as the “official version” of the regulations of state agencies for “all purposes, including all legal and administrative proceedings.”

The act delays the date on which the electronic regulations compilation (which the act names the “eRegulations System”) becomes the official version until the time that the secretary certifies, in writing, that the system is technologically sufficient for this purpose. Under the act, this certification must be (1) made by the secretary by October 1, 2014 and (2) published on the secretary’s website and in the *Connecticut Law Journal*.

The act retains PA 12-92’s requirement that, beginning July 1, 2013, the secretary post existing regulations online, but it specifies that these regulations are unofficial until she makes the above certification. However, it retains a requirement that regulations noticed on and after July 1, 2013 be posted online in order to be enforceable.

By law, certain regulations that are incorporated by reference into another regulation may be omitted from publication (1) in the *Connecticut Law Journal*, until July 1, 2013, and (2) on the eRegulations System on and after July 1, 2013. Under prior law, in both instances, a notice had to be published (in the journal or on the system, as appropriate) that identified an omitted regulation, its subject matter, and information on where one could learn more about the regulation. The act delays, from July 1, 2013 until October 1, 2014, the requirement that this notice be published on the eRegulations System, thus eliminating its publication for this 15-month period.

The act requires COLP, within available appropriations, to provide any assistance requested by the secretary in the creation of the eRegulations System. This assistance includes providing the secretary with all effective regulations for posting online.

EFFECTIVE DATE: July 1, 2013

### § 1 — *Publication in the Connecticut Law Journal*

Under prior law, COLP’s publication of regulations in the *Connecticut Law Journal* was scheduled to cease on July 1, 2013. The act requires that, until the secretary certifies that the eRegulations System is ready to be the official version, (1) the secretary forward an electronic copy of each certified regulation to COLP and (2) COLP continue publishing regulations in the journal. Additionally, the act designates the COLP-published regulations as the official version until this time.

Under provisions in prior law that were repealed, effective July 1, 2013, by PA 12-92, COLP had to follow several requirements when publishing regulations. For example, it had to publish (1) in the *Connecticut Law Journal*, a monthly update of approved regulations and (2) a semiannual compilation of all adopted state agency regulations. A regulation or notice of a regulation’s adoption also had to appear in the journal to be enforceable.



The act does not specify requirements for COLP's publication of regulations on and after July 1, 2013, and it eliminates COLP's ability to omit certain regulations from publication on and after this date (see above). Additionally, even though COLP must publish the official version of the regulations, they do not have to appear in the *Connecticut Law Journal* to be enforceable if they are noticed on and after July 1, 2013. Conversely, although under the act the eRegulations System is not the official version until certified by the secretary of the state, regulations noticed on and after July 1, 2013 must be posted on the eRegulations System in order to be enforceable (see above).  
EFFECTIVE DATE: July 1, 2013

### § 3 — Notices of Proposed Regulations

Under PA 12-92, agencies had to, beginning July 1, 2013, (1) post on their websites notices of proposed regulations and regulation-related documents and (2) submit these notices and documents to the secretary of the state for posting on the online compilation. The act eliminates these requirements and instead requires agencies to post these notices and, on and after October 1, 2014, the regulation-related documents, on the eRegulations System. It thus delays, from July 1, 2013 until October 1, 2014, the requirement that the regulation-related documents be posted online.

By law, an agency may propose, without prior notice, (1) technical amendments to regulations when necessary to conform to certain changes (e.g., a change to the agency's name) or (2) a repeal of a regulation if the authorizing statute is repealed. The act requires the agency to post any such proposed technical amendments or repeals on the eRegulations System, rather than its own website.

By law, any agency that fails to post notice of intent to adopt required regulations by the applicable deadline must explain its reasons in an electronic statement to the governor, legislative committee of cognizance, and Regulation Review Committee. The act requires that, on and after October 1, 2014, the agency also post this statement on the eRegulations System.

EFFECTIVE DATE: July 1, 2013 and applicable to regulations noticed on and after that date.

### § 4 — Official Regulation-Making Record

The law requires agencies to create an official regulation-making record that includes, among other things, (1) the notice of intent to adopt regulations, (2) written analyses upon which the regulation is based, (3) submissions and comments received by the agency, and (4) official documents related to the regulation.

The act requires agencies to post this record on the eRegulations System, rather than maintain it as prior

law required. It prohibits posting of audio recordings of hearings on the system unless the secretary of the state confirms that posting them would not violate any state or federal law regarding accessibility for people with disabilities. The act requires agencies to maintain audio recordings that are not posted on the eRegulations System and make them available to the public upon request.

EFFECTIVE DATE: October 1, 2014 and applicable to regulations noticed on and after that date.

### § 1 — Hyperlink on Agency Websites

The act requires each state agency and quasi-public agency with regulatory authority to post on its website a conspicuous link to the eRegulations System and, if practicable, a link to the specific regulatory provisions that concern the agency or quasi-public agency's particular programs.

EFFECTIVE DATE: July 1, 2013

### §§ 5-7 — REGULATION ADOPTION

By law, proposed regulations must be approved by the attorney general for legal sufficiency before being submitted to the Regulation Review Committee for approval. The act specifies that this requirement also applies to proposed regulations that are resubmitted to the committee. It also requires that (1) proposed regulations be submitted electronically to the attorney general and (2) the attorney general's approval be provided to the agency electronically and submitted by the agency electronically to the Regulation Review Committee. Under prior law, the attorney general's approval was indicated on the original of the proposed regulation, which was then submitted to the committee. The act retains existing law's requirement that the agency submit the original of the proposed regulation to the committee.

By law, once the committee approves a regulation, the agency must submit it to the secretary of the state. Effective July 1, 2013, the law requires agencies to submit one certified and one electronic copy of an approved regulation to the secretary along with a statement from the agency head certifying that the electronic version is a true and accurate copy of the approved regulation. The act instead requires that, for regulations noticed on and after October 1, 2014, (1) agencies submit only a certified electronic copy to the secretary and (2) the agency head's statement be filed electronically.

EFFECTIVE DATE: July 1, 2014 and applicable to regulations noticed on and after that date, except that the provision on filing with the secretary is effective October 1, 2014 and applicable to regulations noticed on and after that date.

### § 6 — Regulation Review Committee Co-Chairpersons

The act conforms law to current practice by revising the procedures for selecting the co-chairpersons of the Regulation Review Committee. It requires that (1) the committee's co-chairpersons be from different political parties; (2) the House chair and Senate chair alternate between political parties in successive terms; and (3) the co-chairpersons be appointed by either the Senate president pro tempore or minority leader, or the House speaker or minority leader, as appropriate. Prior law required the committee to elect its House and Senate co-chairpersons.

EFFECTIVE DATE: July 1, 2014

## §§ 9-11 — DSS MANUALS AND POLICIES

### §§ 9 & 10 — eRegulations Posting Requirements

The act eliminates, effective October 1, 2014, requirements that DSS (1) distribute its medical services and public assistance manuals to its regional and subregional offices, town halls, and legal assistance programs and (2) post the manuals and any updates to them on its website. It instead requires DSS to post these manuals and updates on the eRegulations System.

By law, DSS must adopt as regulations policies necessary to conform to certain federal or joint federal and state program requirements. The law allows the department to operate under such policies while in the process of adopting them in regulation form. Under existing law, DSS must publish a notice of intent to adopt the regulations in the *Connecticut Law Journal* and, effective July 1, 2013, post the policies on its website and electronically submit them to the secretary of the state for online posting. The act, effective October 1, 2014, eliminates these requirements and instead requires DSS, like other agencies, to post the policies on the eRegulations System. However, for other agencies, this change is effective July 1, 2013.

By law, DSS, instead of submitting these proposed regulations to the Regulation Review Committee, may submit a notice to the committee (1) explaining why it will not meet the submission deadline, and (2) stating when it will submit them. The act requires this notice to be electronic.

The act also eliminates DSS's community services policy manual and instead requires the newly-formed Department of Aging to adopt (and post to the eRegulations System) regulations to carry out the purposes of the federal Older Americans Act of 1965. This provision conforms to the transfer of DSS's Aging Services Division to the Department of Aging, as both the manual and the act address services for older adults. The act extends to the Department of Aging (1) DSS's authority to operate under a policy before adopting it in

regulation and (2) the requirements DSS must follow when doing this (see above).

EFFECTIVE DATE: October 1, 2014 and applicable to regulations noticed on and after that date.

### § 11 — DSS Uniform Policy Manual

The act requires DSS to make technical and structural changes to its Uniform Policy Manual so that it conforms to the numbering, organization, form, and style of state agency regulations. The act allows DSS to make these changes without following the law's requirements concerning regulation-making proceedings.

DSS must submit the changes to the Regulation Review Committee for review. The act (1) limits the committee's review to confirming that the changes are technical and structural and (2) deems the changes approved if the committee does not act within 45 days after the submission.

Upon the committee's approval, DSS must transfer a certified electronic copy of the changes to the secretary of the state for posting on the eRegulations System. The act deems the corresponding sections of the Uniform Policy Manual as superseded once she does this.

EFFECTIVE DATE: July 1, 2013

## BACKGROUND

### *Related Act*

PA 13-247 (§§ 26-36 & 388) makes identical changes concerning e-regulations.

## PA 13-290—sHB 6486

### *Government Administration and Elections Committee*

## AN ACT CONCERNING CHANGES OF ADDRESSES FOR ELECTORS

**SUMMARY:** This act requires electors who move within the same municipality and want to transfer their voter registration to their new address to submit to the registrars of voters a new voter registration application. Previously, they had to submit a signed request that included their new and old addresses and the date they moved.

The act also makes technical changes.

EFFECTIVE DATE: July 1, 2013

**PA 13-292—sHB 6492***Government Administration and Elections Committee***AN ACT CONCERNING THE  
CONFIDENTIALITY OF EMPLOYEES  
SUPPLYING INFORMATION TO THE  
AUDITORS OF PUBLIC ACCOUNTS**

**SUMMARY:** This act exempts from disclosure under the Freedom of Information Act (FOIA) the portion of (1) any audit or report prepared by the Auditors of Public Accounts that concerns the identity of an employee who provides information regarding (a) alleged fraud or (b) weaknesses in an agency's control structure that may lead to fraud and (2) any document that may reveal the identity of such an employee.

By law, the identity of an employee who files a formal whistleblower complaint with the auditors is exempt from FOIA, but, under prior law, the exemption did not extend to employees who provided information to them in other situations (e.g., answering questions during the course of a routine audit).

EFFECTIVE DATE: October 1, 2013

**PA 13-295—HB 6630***Government Administration and Elections Committee***AN ACT CONCERNING THE DELIVERY OF  
ABSENTEE BALLOTS BY THE TOWN CLERKS**

**SUMMARY:** Existing law requires town clerks to deliver absentee ballots to registrars of voters for checking at specified times (e.g., 12 p.m. and 6 p.m.) throughout the day of a primary, election, or referendum. This act authorizes clerks and registrars to mutually agree on a later time or times, as long as the ballots are delivered by the close of polls (i.e., 8:00 p.m.). If they do not agree on a later time, the clerks must deliver the ballots according to the schedule existing law sets.

EFFECTIVE DATE: July 1, 2013

**PA 13-296—sHB 6635***Government Administration and Elections Committee***AN ACT CONCERNING AMENDED ELECTION  
RETURNS**

**SUMMARY:** This act requires head moderators, registrars of voters, and town clerks in towns with more than one voting district to meet within seven days after a regular state election to identify any errors in the moderator's "election night returns" (i.e., returns showing total town votes for each candidate). It also

requires moderators to correct any error and file an amended return with the secretary of the state and registrars no later than 14 days after the election.

EFFECTIVE DATE: January 1, 2014

**BACKGROUND***Correcting Discrepancies between Election Night and  
District-by-District Returns*

By law, head moderators report election night returns between midnight on Election Day and 6:00 p.m. the following day, depending on the manner of filing. Town clerks in towns with multiple voting districts use the moderator's returns to compile district-by-district returns, which they must submit to the secretary of the state no later than 21 days after a regular state election. The clerks must certify that they have examined the district-by-district returns to determine whether they conflict with the election night returns, or in the case of a recount, the recount results. If they conflict, the clerk must also certify that he or she has contacted the head moderator and the discrepancy has been corrected.

**PA 13-299—sHB 6363***Government Administration and Elections Committee  
Planning and Development Committee***AN ACT STREAMLINING STATE  
GOVERNMENT AND INCREASING  
EFFECTIVENESS**

**SUMMARY:** This act eliminates 32 state boards and commissions and designates a successor agency for, or transfers the duties of, three of them. It establishes the Connecticut Commuter Rail Council to replace the Metro North New Haven Rail Commuter Council, which the act eliminates. The act also eliminates the Gaming Policy Board and transfers its functions and responsibilities to the Department of Consumer Protection (DCP).

Additionally, the act makes minor changes to several other entities (e.g., revising their membership or reporting requirements). Lastly, it makes technical changes and repeals obsolete language.

EFFECTIVE DATE: July 1, 2013

**REPEALED BOARDS AND COMMISSIONS**

Table 1 lists 27 of the 32 boards and commissions that the act repeals (note: R refers to the act's repealer sections, which are sections 95 and 96). The remaining five are described later in this analysis. Please note that the Connecticut Public Transportation Commission was reinstated by §§ 68-74 of PA 13-277.

Table 1: Repealed Boards and Commissions

| <i>§</i>         | <i>Title</i>                                                                                                      | <i>Description</i>                                                                                                                                                                                                                                                                                                                                                          |
|------------------|-------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1-2, 25, R*      | Lower Fairfield County Convention Center Authority                                                                | Established in 1990 to stimulate new spending in Connecticut and attract and service large conventions, tradeshow, exhibitions, and conferences (PA 90-320).                                                                                                                                                                                                                |
| 3, 4, R          | Committee on Career Entry and Mobility                                                                            | Established in 1977 to determine how career counseling can best be provided and training opportunities best be met and made available within allotted funds (PA 77-250).                                                                                                                                                                                                    |
| 5, R             | Connecticut Progress Council                                                                                      | Established in 1993 to develop a long-range vision for the state and define benchmarks to measure progress to achieve the vision (PA 93-262).                                                                                                                                                                                                                               |
| 7                | William Benton Museum Of Art Advisory Committee                                                                   | Established in 1987 to advise on state art museum policies (PA 87-188); the act allows the UConn Board of Trustees to establish a new committee for similar advisory purposes.                                                                                                                                                                                              |
| 9                | Computer-Assisted Mass Appraisal Systems Advisory Board                                                           | Established in 1988 to assist in adopting standards for certifying a computer system for municipalities to use for property tax revaluation. The standards had to be adopted by December 1, 1988 (PA 88-348).                                                                                                                                                               |
| 10-13, 15, 39, R | Connecticut Public Transportation Commission<br><br>Note: the commission was reinstated by §§ 68-74 of PA 13-277. | Established in 1983 as a successor to the Connecticut Public Transportation Authority to advise and assist the Department of Transportation (DOT) commissioner, governor, and Transportation Committee regarding planning, development, and maintenance of public transportation services (PA 83-487).                                                                      |
| 16-17, R         | Statewide Community Antenna Television Advisory Council                                                           | Established in 2007 to assist local cable TV advisory councils and disseminate information to them related to customers' interests (PA 07-253). The act also eliminates the \$200 annual fee that cable companies were required to pay the council.                                                                                                                         |
| 18, R            | HealthFirst Connecticut Authority                                                                                 | Established in 2007 to evaluate the state's sustainable health care policy and make recommendations for cost containment, improved health care quality, and financing and affordability and report by December 1, 2008 (PA 07-185).                                                                                                                                         |
| 20               | Small Business Air Pollution Compliance Advisory Panel                                                            | Established in 1993 to advise the Department of Energy and Environmental Protection on the effectiveness of the small business stationary source technical and environmental compliance program (PA 93-428). The program was created to help small businesses comply with the federal Clean Air Act, which requires states to establish this panel (42 USC 7661f).          |
| 22, R            | Adult Literacy Leadership Board                                                                                   | Established in 2008 to review and advise the Connecticut Employment and Training Commission on workforce investment and adult literacy programs and services. The board had to develop a strategic plan for an adult literacy system by July 1, 2009 and terminated as a standing committee of the commission on July 1, 2012 (PA 08-163).                                  |
| 23, R            | Quinebaug and Shetucket Rivers National Heritage Corridor Advisory Council                                        | Established in 1995 to submit the Cultural Heritage and Corridor Management Plan to the governor by January 1, 1996 (PA 95-250).                                                                                                                                                                                                                                            |
| 23, 30           | River Protection Advisory Committee                                                                               | Established in 1991 to assist the environmental protection commissioner in developing a river protection program (PA 91-394).                                                                                                                                                                                                                                               |
| 37, 38, R        | Child Day Care Council                                                                                            | Established in 1967 to make recommendations to the (1) Department of Public Health on the regulations for child day care centers, group day care homes, and family day care homes and (2) Department of Social Services (DSS) on grant management and planning and development of child day care services. It also provides advice on the state's child care plan (PA 696). |
| 43, 44, R        | Housing Advisory Committee                                                                                        | Established in 1987 to advise the legislature, governor, and agencies on housing matters; monitor housing-related activities of the regional planning agencies; and promote coordination of housing matters among state agencies (PAs 87-550 and 96-68).                                                                                                                    |
| R                | Commission On Innovation and Productivity                                                                         | Established in 1993 to recommend innovations for cost-effectiveness and efficiency in state government (PA 93-351).                                                                                                                                                                                                                                                         |
| R                | Student Financial Aid Information Council                                                                         | Established in 1994 to develop procedures to improve student financial aid policy, increase resources and public awareness, and coordinate delivery of financial aid (PA 94-180).                                                                                                                                                                                           |
| R                | Advisory Committee For The Center For Real Estate and Urban Economic Studies at UConn School Of                   | Established in 1965 to advise the center (PA 621).                                                                                                                                                                                                                                                                                                                          |

| § | Title                                                                                         | Description                                                                                                                                                                                                                                                        |
|---|-----------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   | Business Administration                                                                       |                                                                                                                                                                                                                                                                    |
| R | Southwest Corridor Action Council                                                             | Established in 1998 to advise DOT and report on the progress of implementing the transportation plan for the southwest corridor (PA 98-119).                                                                                                                       |
| R | Nurturing Families Network (NFN) Advisory Commission                                          | Established in 1997 to monitor the statewide implementation of the NFN, a voluntary program that generally provides information and assistance to first-time parents through home visits and connections among parents, volunteers, and the community (PA 97-288). |
| R | Waiver Application Development Council                                                        | Established in 1995 to assist DSS in its Medicaid waiver application (PA 95-257).                                                                                                                                                                                  |
| R | Residential Water-Saving Advisory Board                                                       | Established in 1989 to advise the public health commissioner on water conservation (PA 89-266).                                                                                                                                                                    |
| R | Bi-State Farmington River Commission                                                          | Established in 1990 to make recommendations for towns being considered for designation under the federal Wild and Scenic Rivers Act (PA 90-341).                                                                                                                   |
| R | Risk Assessment Board                                                                         | Established in 2006 to develop and use a scale using various factors to determine a sex offender's likelihood of reoffending, which was due October 1, 2007 (PA 06-187).                                                                                           |
| R | Connecticut War Veterans Memorial Register of Remembrance Commission                          | Established in 1991 to develop a plan to create the Memorial Register of Remembrance for Connecticut War Veterans (SA 91-22).                                                                                                                                      |
| R | Connecticut Equestrian Center Corporation                                                     | Established in 1996 to attract and service large equestrian events and related trade shows, exhibitions, and activities (SA 96-14).                                                                                                                                |
| R | Committee to Review and Assess Pathways to Baccalaureate Degrees in Early Childhood Education | Established in 2005 to assess pathways to baccalaureate degrees in early childhood education and child development to promote the professionalization of the early childhood education workforce. The committee's report was due January 1, 2006 (PA 05-245).      |
| R | Task Force to Develop Recommendations for Establishing an Administrative Hearings Division    | Established in 2009 to develop recommendations for establishing an administrative hearings division within the Commission on Human Rights and Opportunities. The task force report was due February 1, 2010 (PA 09-7, Sept. Special Session).                      |

\*R: Repealer, §§ 95 and 96 of the act

#### §§ 6, 8, & 21 — GEOSPATIAL INFORMATION SYSTEMS COUNCIL

The act eliminates the Geospatial Information Systems Council and makes the Office of Policy and Management (OPM) its successor agency for purposes of coordinating geospatial information system capacity for towns, regional planning agencies, and state agencies. The act eliminates requirements that this capacity be (1) coordinated within available appropriations and (2) uniform. It requires the OPM secretary to submit, by January 1, 2014, the annual report to the Planning and Development Committee that the council previously provided.

The act also modifies several of the system's requirements. Under the act, OPM must (1) establish policies for collecting, managing, and distributing geospatial information and (2) set standards for acquiring, managing, and reporting this information and for acquiring, creating, or using applications employing the information by any executive branch agency. The act eliminates prior law's requirements that the system include provisions for (1) promoting a forum in which geospatial information could be centralized and distributed and (2) creating, maintaining, and disseminating geographic information or imagery used to precisely identify, or create maps or information profiles in graphic or electronic form about, certain

locations or areas.

The act requires that the system be for the purpose of (1) facilitating communication and coordination regarding the use of geospatial information system technology, (2) eliminating duplicative use of the technology, and (3) expanding its use within the state. It eliminates prior law's requirement that the system be for the purpose of guiding or assisting state and municipal officials in land use planning; transportation; economic development; public service delivery; environmental, cultural, and natural resources management; and other areas, as necessary.

#### §§ 14 & 15 — COMMUTER RAIL COUNCILS

The act eliminates the Metro North New Haven Rail Commuter Council and replaces it with the Connecticut Commuter Rail Council. The act requires that appointments to the new council be made by, and members' terms begin on, August 1, 2013.

The councils are the same size and have the same appointing authorities, but the act adds specific criteria to some of the new council's appointees and modifies its duties and membership criteria. Table 2 compares the councils' characteristics, and Table 3 compares their membership requirements.

Table 2: Councils' Characteristics

| Provision           | Metro North New Haven Rail Commuter Council (Prior Law)                                                                                                                 | Connecticut Commuter Rail Council (The Act)                                                                                                                                                                                      |
|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Size                | 15 members                                                                                                                                                              | Same                                                                                                                                                                                                                             |
| Membership Criteria | Members must be commuters who use (1) the New Haven Line (including its branches) and (2) Shoreline East                                                                | Same, except that the act allows membership by commuters who are residents of municipalities where the transportation commissioner has proposed a new rail line or where one has commenced operating after July 1, 2013          |
| Chairperson         | Elected by council members                                                                                                                                              | Same                                                                                                                                                                                                                             |
| Duties              | Study and investigate all aspects of the New Haven Line's daily operation, monitor its performance, and recommend changes to improve its efficiency and service quality | Same, except that the council must (1) perform these functions for all commuter rail lines in the state, (2) work with DOT to advocate for customers of all commuter lines, and (3) make recommendations for improving the lines |
| Authority           | Can request and receive from public agencies such assistance and data as it needs to properly carry out its activities                                                  | Same                                                                                                                                                                                                                             |

Table 3: Councils' Membership

| Appointing Authority | Metro North New Haven Rail Commuter Council (Prior Law) | Connecticut Commuter Rail Council (The Act)                                                                                                    |
|----------------------|---------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| Governor             | Four appointments                                       | Same, except that one of the appointees must be the chief elected official of a municipality located on an operating or proposed new rail line |

| Appointing Authority                     | Metro North New Haven Rail Commuter Council (Prior Law) | Connecticut Commuter Rail Council (The Act)                                                                                                                                                                                                                            |
|------------------------------------------|---------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Senate president pro tempore             | Three appointments                                      | Same                                                                                                                                                                                                                                                                   |
| House speaker                            | Three appointments                                      | Same                                                                                                                                                                                                                                                                   |
| Senate minority leader                   | One appointment                                         | Same                                                                                                                                                                                                                                                                   |
| House minority leader                    | One appointment                                         | Same                                                                                                                                                                                                                                                                   |
| Transportation Committee co-chairpersons | One appointment each                                    | Same, except that (1) one appointee must be from a municipality with a Shoreline East station and (2) the other must be from a municipality where the transportation commissioner has proposed a new rail line or where one has commenced operating after July 1, 2013 |
| Transportation Committee ranking members | One joint appointment                                   | Same, except that the appointee must be from a municipality served by the Danbury or Waterbury branches of the New Haven Line                                                                                                                                          |

#### § 18 — STATE-WIDE PRIMARY CARE ACCESS AUTHORITY

The act requires (1) the public health commissioner to appoint two people to the State-wide Primary Care Access Authority and (2) the authority to elect two chairpersons from among its members. Under prior law, the chairpersons of the HealthFirst Connecticut Authority (repealed by the act) served as the chairpersons of the State-wide Primary Care Access Authority.

#### § 24 — CONNECTICUT INTERNATIONAL TRADE COUNCIL

The act eliminates the council and makes the Department of Economic and Community Development (DECD) its successor agency. The council was established in 1994 to advise the DECD commissioner and the legislature's Commerce Committee on the state's infrastructure and programs for promoting the growth of import and export businesses (PA 94-237).

## §§ 26 & 27 — SPECIAL CONTAMINATED PROPERTY REMEDIATION AND INSURANCE FUND ADVISORY BOARD

The act eliminates this seven-member advisory board, established in 1995 to annually advise and review the fund's progress. It transfers the board's duties to the 13-member Brownfields Working Group, which was established in 2010 to examine how (1) Connecticut brownfields are being cleaned up and developed and (2) permits and liability issues affect these activities. The act also makes the working group permanent by eliminating a final reporting deadline and instead requiring annual reports beginning January 15, 2014.

The act does not affect the fund, which is used for, among other things, removing and mitigating spills and making loans to municipalities, firms, and individuals for certain environmental assessments and investigations.

## §§ 28 & 29 — LONG ISLAND SOUND

### *Advisory Councils*

By law, each of the three Long Island Sound Advisory Councils (Eastern, Central, and Western) prepares reports on the use and preservation of the Sound within its respective boundaries. The act removes from each council five members whom the governor appointed, thereby reducing the number of appointed members from nine to four. The remaining council members are (1) four legislative appointees, one each by the Senate president pro tempore, the House speaker, and Senate and House minority leaders and (2) the chief executive officers (or designees) of each council's member municipalities.

### *Assembly*

The act reduces each advisory council's representation on the Long Island Sound Assembly, which reviews the councils' reports, from seven to four members, thus reducing the assembly's total membership from 21 to 12. Under the act, each council's chairperson must appoint to the assembly (1) two, rather than three, chief executive officers from the council and (2) two legislative appointees from the council, rather than four council members from among those appointed by the governor or legislators.

The act also eliminates the requirement that the assembly submit its annual report to individual legislators, and instead requires only an electronic submission that the Environment Committee must post on its website. Under prior law, the assembly had to, in addition to submitting the report to the Environment Committee and any legislator who requested it, submit a

summary or notification of the report to every legislator.

## §§ 35 & 36 — CITIZENS ADVISORY COUNCIL FOR HOUSING MATTERS

The act renames the Citizens Advisory Council for Housing Matters the Advisory Council to the Superior Court Housing Session. It reduces the council's size from 36 members to 12 by reducing, from nine to three, the number of members from each of the four groups that comprise the board's membership. These groups are residents of the judicial districts of (1) Hartford or New Britain; (2) New Haven, Waterbury, or Ansonia-Milford; (3) Fairfield or Stamford-Norwalk; or (4) Danbury, Litchfield, Middlesex, New London, Tolland, or Windham.

By law, the governor appoints board members to four-year terms, but the act specifies that (1) members' terms last for four years beginning July 1 in the year of their appointment and (2) the governor fills any vacant position for the unexpired portion of the term.

## § 40 — BOARD OF TRUSTEES OF THE DEPARTMENT OF VETERANS AFFAIRS

By law, veterans must comprise a majority of the Board of Trustees of the Department of Veterans Affairs. A veteran is a person honorably discharged or released under honorable conditions from active service in the armed forces. Under prior law, the board had to include veterans from World War II, the Korean War, and the Vietnam War. The act instead requires that the board include veterans of armed conflicts authorized by the president. It thus eliminates the requirement that veterans of the three conflicts listed above be represented.

## § 41 — GREATER HARTFORD FLOOD COMMISSION

The act replaces the governor with the mayor of Hartford as the appointing authority for the seven members of this commission, which was created by special act (No. 72) in November 1955.

## § 42 — MEDICAL INEFFICIENCY COMMITTEE

The act requires the committee to terminate on July 1, 2013 or when it submits its final report (due January 1, 2012), whichever is earlier. Under prior law, the committee had to terminate when it submitted its final report or on January 1, 2012, whichever was later. By law, the committee is charged with advising DSS on amending the definition of "medically necessary" services in connection with the administration of Medicaid (to reflect savings, reduce inefficiencies, and maintain the quality of care).

#### § 44 — MOBILE MANUFACTURED HOME ADVISORY COUNCIL

The act reduces the council's membership, from 15 to 14, to reflect the elimination of a representative from the Housing Advisory Committee, which the act repeals.

#### §§ 45-94 — GAMING POLICY BOARD

The act eliminates the Gaming Policy Board and transfers its functions and responsibilities to DCP. By law, DCP's gaming division (1) issues licenses and permits to all individuals and entities involved in legalized gaming and (2) monitors and ensures compliance with the gaming laws and tribal-state agreements.

Under the act, if any of DCP's and the board's orders or regulations conflict, the DCP commissioner can implement policies or procedures to resolve the conflict while adopting regulations, provided notice of intent to adopt regulations is printed in the *Connecticut Law Journal* within 20 days of implementation.

The act also makes numerous conforming changes to effectuate the transfer. Under prior law, DCP performed several gaming-related duties with the board's advice and consent. Under the act, DCP alone must perform these duties (e.g., adopting certain regulations). Similarly, the act requires gaming-related appeals (e.g., license revocation or suspension) to go directly to Superior Court. Prior law required aggrieved individuals to first appeal to the Gaming Policy Board.

The act allows former board members to be immediately employed by certain businesses. Prior law prohibited them from being employed within two years of leaving by (1) businesses that the board regulated and (2) businesses or government agencies associated with Indian gaming operations within the state.

It also makes other minor, technical, and conforming changes.

#### BACKGROUND

##### *Gaming Policy Board*

The Gaming Policy Board worked in cooperation with DCP to implement and administer the gaming statutes. The board had five voting members; the DCP commissioner served as an ex officio non-voting member. The governor appointed the board members, with the legislature's consent, for four-year terms. Board members (1) had to post a \$25,000 performance bond with the state and (2) were prohibited from certain gaming-related and political activities.

Under prior law, the board, among other things, approved, suspended, or revoked certain gaming licenses; approved certain contracts; set racing and jai

alai meeting dates; imposed certain fines; advised and approved certain gaming-related activities; and heard appeals for certain gaming permit suspensions and revocations.

#### *Related Act*

PA 13-240 also eliminates the Student Financial Aid Information Council.

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#### **PA 13-304—sSB 430**

*Government Administration and Elections Committee  
Environment Committee*

#### **AN ACT CONCERNING THE STATE FLEET AND MILEAGE, FUEL AND EMISSION STANDARDS, THE CERTIFICATION OF MINORITY BUSINESS ENTERPRISES AND PREFERENCE FOR A BOND GUARANTY PROGRAM**

**SUMMARY:** This act makes various changes to the state's small and minority business set-aside program (also called the supplier diversity program). It adds to the requirements that contractors must meet in order to participate in the program by requiring that (1) a business be "independent" in order to be certified as a small contractor (also called a small business enterprise (SBE)) and (2) a certified minority business enterprise's (MBE) owners possess managerial and technical competence and experience directly related to the enterprise's principal business activities.

The act increases certain performance targets that set-aside contractors must meet. Under prior law, state agencies had to require a contractor or subcontractor awarded a set-aside contract to perform at least 15% of the work with its own forces. They also had to require that at least 25% of the work under such a contract be performed by SBEs or MBEs. The act doubles both of these percentages (to 30% and 50%, respectively).

The act allows the Department of Administrative Services (DAS), which administers the set-aside program, to adopt regulations to implement its requirements. It also expands existing law's enforcement provisions by allowing DAS to levy a fine against prospective or certified SBEs and MBEs and revoke or deny their certifications for certain violations.

Lastly, the act requires (1) DAS to give each prequalified contractor and substantial subcontractor written notice of the Department of Economic and Community Development's (DECD) bond guaranty program and (2) DECD to give priority in the program to prequalified contractors and substantial subcontractors. The DECD guaranty program, which is administered by the Hartford Economic Development



Corporation, assists minority contractors with the bonding requirements of public works projects. A prequalified contractor or substantial subcontractor is one that has received a prequalification certificate from DAS; such a certificate is required in order to bid on most state public works contracts that cost more than \$500,000 (or, for substantial subcontractors, subcontracts that cost more than \$500,000).

EFFECTIVE DATE: July 1, 2013

#### ELIGIBILITY REQUIREMENTS

The set-aside program requires state contracting agencies and other state entities ("state agencies") and political subdivisions, other than municipalities, to annually set aside at least 25% of the value of their contracts for exclusive bidding by SBEs. They must also set aside 25% of that amount (6.25% of the total) for exclusive bidding by MBEs.

The act expands the criteria that SBEs and MBEs must meet. Under existing law, SBEs are those with a principal place of business in Connecticut and up to \$15 million in gross revenues in the most recent fiscal year before applying to participate. An SBE cannot receive certification if it is affiliated with another person and together their revenues exceed \$15 million. By law, "affiliated" means one person, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.

The act additionally requires that SBEs be independent. An SBE meets this criterion if its viability does not depend upon another person, as determined by an analysis of the contractor's relationship to another person regarding the provision of personnel, facilities, equipment, other resources, and financial support, including bonding.

Under existing law, MBEs are small businesses or nonprofits with at least 51% ownership held by one or more people, who must be women, members of minority groups, or people with disabilities, with authority over daily operations, management, and policies and who receive beneficial interests. (For nonprofits, the 51% requirement applies to people with authority over operations, management, and policies.) The act additionally requires that, for both businesses and nonprofits, these individuals possess managerial and technical competence and experience directly related to the enterprise's principal business activities. By law, nonprofits are eligible under the set-aside program only for certain housing project predevelopment contracts.

#### ENFORCEMENT PROVISIONS

The act adds to existing law's enforcement provisions for set-aside program violations (see BACKGROUND). It allows the DAS commissioner to revoke an SBE or MBE's certificate for cause, except that revocation is mandatory in cases where a contractor or subcontractor willfully included a materially false statement on an application (see below). The commissioner must provide the contractor with notice and an opportunity for a hearing in accordance with the Uniform Administrative Procedure Act (UAPA). A person aggrieved by a certificate revocation may appeal to Superior Court in accordance with the UAPA.

The act also allows the commissioner to impose a civil penalty of up to \$10,000 against a certified or prospective SBE or MBE that included a materially false statement in its certification and application. The commissioner must provide notice and hold a hearing in accordance with the UAPA (with an aggrieved party presumably allowed to appeal to Superior Court). The notice must include (1) a reference to the allegedly false statements; (2) the maximum civil penalty; and (3) the time and place of the hearing, which must be no more than 14 days from the date the notice is sent. The commissioner must also send a copy of the notice to the Commission on Human Rights and Opportunities (CHRO).

Under the act, if the commissioner, after a hearing, finds that the contractor or subcontractor willfully included a materially false statement, he must revoke or deny the certification and may impose a civil penalty of up to \$10,000. If the contractor or subcontractor does not appear at the hearing, the commissioner may take these actions as the facts require. The commissioner (1) must send the respondent contractor or subcontractor a copy of any such order and (2) may cause proceedings to be instituted by the attorney general to enforce any order imposing a civil penalty.

#### BACKGROUND

##### *Enforcement Provisions in Existing Law*

Under existing law, an awarding authority may hold a hearing and issue a civil penalty against contractors or subcontractors that it reasonably believes have violated the set-aside law. If, after a hearing, the awarding authority finds a willful violation, it (1) must suspend all set-aside payments to the contractor or subcontractor and (2) may order a civil penalty of up to \$10,000 per violation (CGS § 4a-60g(j)).

The law also allows CHRO to issue a complaint against a contractor or subcontractor for set-aside violations. It requires CHRO to assess a civil penalty of up to \$10,000 if, following a hearing, it determines that a contractor or supplier has (1) fraudulently qualified as an MBE or (2) performed services or supplied materials on behalf of another contractor or supplier, knowing it has fraudulently qualified as an MBE and that the supplies or materials will be used for a set-aside contract (CGS § 46a-56(d)).

#### *Related Act*

PA 13-247 (§ 24) requires the Metropolitan District Commission to participate in the set-aside program.

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#### **PA 13-311—sSB 1149**

##### *Government Administration and Elections Committee*

#### **AN ACT LIMITING THE DISCLOSURE OF CERTAIN RECORDS OF LAW ENFORCEMENT AGENCIES AND ESTABLISHING A TASK FORCE CONCERNING VICTIM PRIVACY UNDER THE FREEDOM OF INFORMATION ACT**

**SUMMARY:** This act exempts from disclosure under the Freedom of Information Act (FOIA) a photograph, film, video, digital, or other visual image depicting a homicide victim, to the extent that the record could reasonably be expected to constitute an unwarranted invasion of the victim's or surviving family members' personal privacy. The record must have been created by a law enforcement or other government agency.

The act also exempts from disclosure under FOIA (1) the portion of a recording or audio tape that describes a homicide victim's condition and (2) law enforcement records, compiled in detecting or investigating a crime, that would disclose the identity of minor witnesses. The audio recording exemption (1) applies only to law enforcement agencies, (2) does not extend to 9-1-1 or other calls for assistance made by a member of the public to a law enforcement agency, and (3) expires on May 7, 2014. The minor witness exemption applies only if disclosure would not be in the public interest. (Minors were previously covered by a similar provision in existing law, but that provision limits the withholding to witnesses not otherwise known and to disclosures that would endanger the witness's safety or subject him or her to threat or intimidation.)

Lastly, the act establishes a 17-member task force to make recommendations regarding the balance between victim privacy under FOIA and the public's right to know.

**EFFECTIVE DATE:** Upon passage and, for the FOIA exemptions, applicable to all requests pending or made on or after that date.

#### **TASK FORCE**

The act establishes a 17-member task force to consider and make recommendations regarding the balance between victim privacy under FOIA and the public's right to know. The members are:

1. the executive director of the Freedom of Information Commission, chief state's attorney, chief public defender, state victim advocate, and emergency services and public protection commissioner;
2. one appointee of the Connecticut Council on Freedom of Information;
3. two gubernatorial appointees, one representing a crime victim advocacy organization and one representing municipal law enforcement;
4. a constitutional law professor jointly recommended by the Yale, Quinnipiac, and UConn law school deans;
5. four appointees of the Connecticut Society of Professional Journalists, one each representing television, radio, print, and electronic media; and
6. the Senate president pro tempore, House speaker, and Senate and House minority leaders or their designees, who must be legislators. (The speaker's designee must be a member of the legislature's Black and Puerto Rican Caucus.)

The act requires the task force appointments to be made by July 1, 2013 and its two chairpersons to schedule the first meeting, which must be held by August 1, 2013. The House speaker and Senate president pro tempore must select the task force's two chairpersons from among its members.

The task force must meet at least monthly through December 2013 and report its findings and recommendations to the legislature's majority and minority leadership by January 1, 2014. The task force terminates on January 1, 2014 or when it submits its report, whichever is later.

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# HIGHER EDUCATION AND EMPLOYMENT ADVANCEMENT COMMITTEE

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**PA 13-1**—sSB 200

*Higher Education and Employment Advancement Committee*

## **AN ACT CONCERNING THE BUTLER SCHOOL AND THE SAWYER SCHOOL**

**SUMMARY:** This act allows the Office of Higher Education (OHE) to issue certificates of completion to students whom the office determines have successfully completed their course of study at the (1) Butler Business School in Bridgeport or (2) Sawyer School in Hamden and Hartford.

EFFECTIVE DATE: Upon passage

### **BACKGROUND**

#### *Private Occupational School Closures*

OHE oversees private occupational schools, which are privately controlled schools that offer instruction in trades or industrial, commercial, professional, or service occupations for remuneration. By law, a private occupational school must provide at least 60 days' notice to the OHE executive director before closing. The school must also, among other things, provide evidence that all current students' coursework is or will be completed.

Butler and Sawyer are private occupational schools that closed in December 2012. Neither school provided the required 60 days' notice to OHE, nor did they provide evidence that all students' coursework was or will be completed.

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**PA 13-4**—sHB 6648

*Higher Education and Employment Advancement Committee*

## **AN ACT CONCERNING THE BOARD OF REGENTS FOR HIGHER EDUCATION**

**SUMMARY:** This act requires that the president of the Board of Regents for Higher Education (BOR) be appointed by the board, eliminating (1) the governor's responsibility to appoint the president upon the board's recommendation and (2) legislative confirmation of the appointee.

Under prior law, the president served at the governor's pleasure, but no later than March 1 in the year following a gubernatorial election (unless reappointed). The act instead requires that the president serve at the board's pleasure, without a term limit. It requires BOR to establish the president's terms and conditions of employment, prescribe his or her duties, and fix his or her compensation.

The act requires the president to implement the board's rules, not just its policies and directives as prior law required. It eliminates a requirement that the president administer, coordinate, and supervise the board's activities.

Lastly, the act makes technical changes.

EFFECTIVE DATE: Upon passage

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**PA 13-62**—sSB 867

*Higher Education and Employment Advancement Committee*

## **AN ACT CONCERNING FACULTY REPRESENTATION ON THE BOARD OF REGENTS FOR HIGHER EDUCATION**

**SUMMARY:** This act requires the Board of Regents for Higher Education's (BOR) faculty advisory committee chairperson to serve as an ex-officio, nonvoting BOR member for a two-year term but excludes the chairperson from BOR executive sessions. By law, these are sessions from which the public is excluded while committee members discuss topics such as specific employees, pending legal claims or litigation, security strategy, real estate transactions, or public records exempt from the Freedom of Information Act.

BOR is the governing body for 17 Connecticut state colleges and universities. The board has 15 voting and four ex-officio, non-voting members besides the advisory committee chairperson.

EFFECTIVE DATE: October 1, 2013

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**PA 13-95**—sHB 5500

*Higher Education and Employment Advancement Committee  
Appropriations Committee*

## **AN ACT REQUIRING INSTITUTIONS OF HIGHER EDUCATION TO PROVIDE STUDENTS WITH UNIFORM FINANCIAL AID INFORMATION**

**SUMMARY:** This act requires public and private higher education institutions, including for-profit institutions licensed to operate in Connecticut, to provide uniform financial aid information to each admitted prospective student. The institutions must provide the information (1) before their enrollment deadline to allow students to make an informed enrollment decision and (2) using the financial aid shopping sheet developed by the federal Consumer Financial Protection Bureau and U.S. Department of Education under the Higher Education Opportunity Act.

EFFECTIVE DATE: July 1, 2014

## BACKGROUND

### *Financial Aid Shopping Sheet*

The Higher Education Opportunity Act (P.L. 110-315) required the development of a model financial aid offer form for higher education institutions. The form must include, among other things, the (1) student's cost of attendance, (2) amount of financial aid that does not need to be repaid, (3) types and amounts of federal loans for which the student is eligible, and (4) net price to attend the institution.

The Consumer Financial Protection Bureau and Department of Education released the model form in 2012. However, federal law does not require institutions to use it.

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### **PA 13-118—sSB 1139**

*Higher Education and Employment Advancement Committee*

### **AN ACT CONCERNING CHANGES TO PROGRAM APPROVAL FOR INSTITUTIONS OF HIGHER EDUCATION AND DATA SHARED BY INDEPENDENT INSTITUTIONS OF HIGHER EDUCATION**

**SUMMARY:** This act makes various changes to the academic program approval process for independent higher education institutions, which is administered by the Office of Higher Education (OHE). It generally deems applications for new and modified programs approved if OHE does not require any further action from the applicant within 45 days after receiving the application, but allows OHE to exceed this deadline to conduct a focused or on-site review of an application in specified situations. The act establishes nine-member academic review commissions to review and adjudicate appeals of licensure or accreditation denials.

Under prior law, the State Board of Education (SBE) gave final approval to OHE's approvals concerning licensure and accreditation of independent higher education institutions and programs. SBE also held hearings requested by certain parties aggrieved by an OHE decision. The act eliminates SBE's role, thus making OHE's approval the final step in the review process and requiring it to hold the hearings requested by aggrieved parties (§§ 1-3, 7-22).

The act eliminates a requirement that the Board of Regents for Higher Education (BOR) approve UConn's new and modified degree programs, thus making the UConn Board of Trustees the final approving authority for these programs. It appears that this change may make several state statutes inapplicable to UConn in the future. The act requires both UConn and BOR to notify OHE of their new and modified degree programs.

The act eliminates (1) a provision allowing OHE to establish a council on accreditation to advise it on existing or proposed regulations; (2) a requirement that an evaluation of a program or institution be completed by SBE-appointed competent educators before a new license or accreditation is granted; and (3) an obsolete provision that allowed an existing institution to be issued a temporary, annually renewable one-year license.

EFFECTIVE DATE: July 1, 2013

### **§ 1 — REVIEW PROCESS AND STANDARDS**

The act makes various changes to the academic program approval process for independent higher education institutions. By law, any independent higher education institution seeking to operate in Connecticut or offer a new degree program must receive approval from OHE (and, under prior law, final approval by SBE). A program can be licensed or simultaneously licensed and accredited. A license allows the program to begin operations and admit students, but not to grant degrees. In order to grant degrees, a licensed program must attain accreditation.

Under prior law, the institution had to follow a process outlined in OHE regulations that generally included (1) a planning assessment to evaluate the need for the program and the adequacy of resources; (2) a quality assessment, which is based on either a review of written material or a site visit, and which may be concurrent with the planning assessment; (3) review by the Advisory Committee on Accreditation; and (4) review and action by SBE (Conn. Agencies Reg., § 10a-34-4).

The act eliminates SBE's role in this process (thus making OHE the final approving authority) and creates new review standards for program modifications, nonsubstantive changes, licensure, and accreditation.

#### *OHE Review*

With certain exceptions noted below, the act deems approved all applications for program modifications, nonsubstantive changes, licensure, and accreditation if 45 days (beginning from when OHE receives the application) pass without the need for further action. It requires OHE to consider academic standards established in existing regulations (e.g., faculty and curriculum requirements) when reviewing these applications, but only the program modifications must meet these standards to be deemed approved. The act requires OHE to notify the institution of the approval within 45 days after receiving the application.

Under the act, a "program modification" is a change that does not clearly qualify as a new program or nonsubstantive change, such as (1) a new program

consisting primarily of coursework from a previously approved program, (2) an approved program to be offered off-campus, (3) a change in a degree title, or (4) a change in a program title.

A “nonsubstantive change” is a new (1) undergraduate certificate program, within an existing program of higher learning, of 30 or fewer semester hours that falls under an approved program; (2) baccalaureate minor of 18 or fewer semester credit hours; or (3) option or certificate program of (a) 15 or fewer semester credit hours at the undergraduate level or (b) 12 or fewer semester credit hours at the graduate level.

The act’s (1) requirements to deem approved nonsubstantive changes and program modifications and (2) definitions of these terms are generally similar to those contained in OHE’s previous regulations (see BACKGROUND).

*Focused and On-Site Reviews.* The act specifies exceptions to the requirement that applications be deemed approved within 45 days after receipt by OHE by mandating or allowing focused or onsite reviews in certain situations. It defines a “focused review” as one by an out-of-state curriculum expert and an “on-site review” as a full team evaluation by OHE at the higher education institution. It allows the applicant to state any objection regarding an individual chosen to review an application on behalf of the OHE executive director.

The act requires the OHE executive director or a designee to conduct a focused or on-site review of an application if the director or designee determines that it is needed due at least in part to the applicant offering instruction in a new degree program or a new degree level. The act also allows the OHE executive director or designee to require a focused or on-site review of any application in a health-related field where a license to practice in Connecticut is required. It is unclear if focused or on-site reviews can be conducted for other reasons (e.g., for a new certificate program that is not within an existing program).

Additionally, the act requires an on-site review of a new institution once OHE determines that its licensure application is complete. Each program must be reviewed at the institutional level, and OHE’s decisions can be appealed to an academic review commission (see below). OHE must complete the review process for a new institution within nine months after receiving the application.

#### *Accreditation by Another Entity*

Under prior law, institutions that are regionally or nationally accredited had to have that accreditation accepted as satisfying the state’s requirements unless SBE (changed by the act to OHE) found cause not to rely on it. The act specifies that the requirement to

accept national accreditation applies only to those institutions accredited before July 1, 2013. It also allows OHE to deem accredited any program for which evidence of programmatic accreditation is presented (e.g., accreditation by a professional association).

#### *Academic Review Commissions*

The act allows institutions to appeal any denial of a licensure or accreditation application to a nine-member academic review commission. They must do so within 10 days after the denial.

The OHE executive director or a designee must select a review commission for each individual appeal. Under the act, the commissions must be selected from a 25-member panel composed of five appointments each by the governor and the House and Senate majority and minority leaders. (PA 13-261 increases the panel’s size to 35 members by adding five appointments each by the House speaker and Senate president pro tempore.) Each appointing authority must select representatives from both higher education and business and industry, but no more than three from either category. The act does not establish a term length for the appointees but, under existing law, it appears that they would serve at the pleasure of the appointing authority, but no later than the appointing authority’s term of office (CGS § 4-1a).

Each commission must have (1) one representative from each appointing authority and (2) a total of five business and industry representatives and four higher education representatives. It has 30 days from the date of an appeal to review and adjudicate it.

#### §§ 4-6 — PUBLIC INSTITUTION PROGRAM APPROVAL

The act eliminates a requirement that BOR approve UConn’s new and modified degree programs, thus making the UConn Board of Trustees the final approving authority for these programs. It similarly eliminates BOR’s authority to assess UConn for violations of program approval and licensure and accreditation requirements. The act requires both UConn and BOR to notify OHE of their new and modified degree programs. Under existing law, BOR approves degree programs for the Connecticut State University System, regional community-technical colleges, and Charter Oak State College.

It appears that this change may make various provisions in state law inapplicable to UConn in the future. Under prior law, BOR licensed and accredited all public institutions in the state, including UConn. The act eliminates BOR’s licensure and accreditation of UConn, but there are several statutes that apply specifically to institutions accredited by BOR or SBE (changed by the act to OHE). Because, under the act, UConn appears to

fall into neither category, it is unclear if these statutes would apply to UConn once its current accreditation expires. (UConn was most recently accredited by the former Department of Higher Education (now OHE), and so it would remain covered by the statutes until this accreditation expires.)

These statutes include, among other things, (1) eligibility for a teacher incentive loan program (§ 18), (2) a provision that exempts training programs from the definition of services under the sales tax (§ 19), and (3) eligibility for university (a) beer and (b) wine and beer permits (but not a university liquor permit) (§ 22).

### § 23 — LIABILITY WAIVER

The act exempts from liability any independent higher education institution that provides to certain entities, upon request, student data or records containing information that is confidential under federal or state law. These entities are any local or regional board of education or any state agency or department, and the disclosure must have been made in accordance with federal or state law and pursuant to a written agreement.

The exemption applies to any breach of confidentiality, use, retention, or destruction of the student data or records resulting from an act or omission of the board, department, agency, or any person providing access to the data or records obtained by these entities. The act specifies that the data and records include personally identifiable information as defined in the 1974 federal Family Educational Rights and Privacy Act's implementing regulations.

### BACKGROUND

#### *Nonsubstantive Changes and Program Modifications*

The act's requirements to deem approved nonsubstantive changes and program modifications are generally similar to OHE's previous regulations. Under these regulations, nonsubstantive changes did not require prior approval; they were reported to OHE for informational purposes only. The regulations also required that program modifications be submitted to OHE and, within 45 days, either (1) deemed approved by OHE, (2) submitted to SBE for an approval decision, or (3) subjected to a full review by OHE (Conn. Agencies Reg., § 10a-34-3).

Additionally, the act's definitions of "nonsubstantive change" and "program modification" are nearly identical to definitions of these terms in OHE's regulations (Conn. Agencies Reg., § 10a-34-2).

### **PA 13-121—sHB 6562**

*Higher Education and Employment Advancement Committee  
Education Committee*

### **AN ACT CONCERNING ADULT EDUCATION AND TRANSITION TO COLLEGE**

**SUMMARY:** This act allows adult education programs to offer college preparatory classes for adults who (1) have either a high school diploma or its equivalent and (2) require post-high school developmental education, in order to help them directly enroll at a higher education institution after completing the program. The local or regional board of education offering these classes may charge participants a fee. Existing law requires each local or regional board of education to have its own program of adult education classes or enter a cooperative arrangement with another board of education or regional educational service center to provide such a program.

EFFECTIVE DATE: July 1, 2013

### **PA 13-126—HB 5425**

*Higher Education and Employment Advancement Committee*

### **AN ACT ALLOWING ADJUNCT FACULTY MEMBERS OF CHARTER OAK STATE COLLEGE TO WAIVE MEMBERSHIP IN A STATE RETIREMENT PLAN**

**SUMMARY:** This act allows adjunct faculty members of Charter Oak State College to irrevocably waive participation in a state employee retirement plan within 60 days after beginning employment. Adjunct faculty members of regional community-technical colleges may already do this under existing law.

The waiver remains irrevocable if the adjunct faculty member accepts subsequent part-time employment with any public higher education institution in Connecticut. This condition applies under existing law to adjunct regional community-technical college faculty who waive participation in a state employee retirement plan. (If the faculty member becomes a full-time employee, he or she can join a state retirement plan at that time.)

EFFECTIVE DATE: July 1, 2013

**PA 13-128—sHB 5617***Higher Education and Employment Advancement Committee***AN ACT CONCERNING STUDENT MEMBERSHIP ON THE BOARD OF TRUSTEES FOR THE UNIVERSITY OF CONNECTICUT**

**SUMMARY:** By law, UConn's 21-member Board of Trustees (BOT) must have two student members, one undergraduate and one graduate, elected by their respective student bodies. This act makes UConn students ineligible to fill either of the student representative seats on the university's BOT unless they are full-time when elected and remain enrolled full-time throughout their two-year terms. The change applies to students elected after July 1, 2013.

The remaining BOT membership consists of 12 gubernatorial appointees, two elected alumni representatives, and five ex-officio members (commissioners of agriculture, education, and economic and community development; UConn Health Center chairperson; and governor).

EFFECTIVE DATE: July 1, 2013

**PA 13-133—HB 6292***Higher Education and Employment Advancement Committee  
Appropriations Committee***AN ACT CONCERNING TEACHER EDUCATION PROGRAMS**

**SUMMARY:** This act adds a competency area to the teacher preparation training program, which candidates must complete to earn professional certification. Under existing law, the State Board of Education has established teaching standards competency areas that include: (1) development and characteristics of learners, (2) evidence- and standards-based instruction, (3) evidence-based classroom and behavior management, and (4) assessment and professional behaviors and responsibilities. The act requires candidates to complete training in a fifth competency area: children's social and emotional learning and development. This training must provide instruction about (1) a comprehensive, coordinated social and emotional assessment of, and early intervention for, children whose behavior indicates social or emotional problems; (2) the availability of treatment services for these children; and (3) referrals for assessment, intervention, or treatment services.

EFFECTIVE DATE: July 1, 2013

**PA 13-137—HB 6364***Higher Education and Employment Advancement Committee***AN ACT CONCERNING THE RECEIPT OF QUARTERLY REPORTS BY THE OFFICE OF HIGHER EDUCATION**

**SUMMARY:** Existing law requires (1) UConn, with respect to the UConn and UConn Health Center operating funds, and (2) the Board of Regents for Higher Education (BOR), with respect to the Regional Community Technical-Colleges and Connecticut State University System operating funds, to submit quarterly reports on the funds' actual expenditures. The reports must be submitted to the Appropriations Committee and the Office of Policy and Management.

This act requires that these reports also be submitted to the Office of Higher Education. Additionally, it requires BOR to prepare and submit, to the above recipients, a quarterly report on the actual expenditures of the Board for State Academic Awards Operating Fund (i.e., the operating fund for Charter Oak State College).

EFFECTIVE DATE: July 1, 2013

**PA 13-143—sHB 6491***Higher Education and Employment Advancement Committee***AN ACT REQUIRING A REPORT FROM THE BOARD OF REGENTS FOR HIGHER EDUCATION AND THE BOARD OF TRUSTEES FOR THE UNIVERSITY OF CONNECTICUT REGARDING ADMINISTRATORS**

**SUMMARY:** This act requires the Board of Regents for Higher Education (BOR) and the UConn Board of Trustees (BOT) to complete studies every two years, beginning January 1, 2014, that compare their administrators' salaries and staffing ratios to those of peer public institutions in other states. In preparing these studies, the boards must compare full-time employees holding a payroll position classified as a management occupation under the U.S. Department of Labor's occupational classification system. The studies must include any employee who meets such criteria on every other November 1, starting in 2013.

BOR must compare:

1. salaries of Connecticut State University System (CSUS) and regional community-technical college administrators to salaries of similar positions at public peer institutions in other states;



2. ratios of CSUS and community-technical college administrators to students, as well as administrators to faculty, to such ratios at the peer institutions; and
3. salaries of BOR central office administrators to those in similar positions within peer state university systems in other states.

BOT must compare:

1. salaries of UConn administrators to similar positions at peer public institutions in other states and
2. ratios of UConn administrators to students, as well as administrators to faculty, to such ratios at such peer institutions.

BOR and BOT must report the results of these comparisons to the Higher Education and Appropriations committees upon completion.

EFFECTIVE DATE: July 1, 2013

#### **PA 13-169—HB 6365**

*Higher Education and Employment Advancement Committee  
Appropriations Committee*

#### **AN ACT CONCERNING THE ISSUANCE OF INITIAL TEACHER CERTIFICATES TO GRADUATES OF THE CONNECTICUT ALTERNATE ROUTE TO CERTIFICATION PROGRAM**

**SUMMARY:** This act creates a third way for the State Board of Education (SBE) to issue initial educator certificates. Under existing law, SBE must issue them to otherwise qualified applicants who have graduated with a bachelor's degree from either (1) an SBE-approved teacher education program or (2) another program approved by SBE or a college or university (a) accredited by the Board of Regents for Higher Education (BOR) or SBE or (b) regionally accredited. The act requires SBE to also issue initial educator certificates to those who have graduated from the summer or weekend and evening Alternative Route to Certification (ARC) program, administered by the Office of Higher Education.

Applicants who have completed the ARC program must also satisfy two requirements in existing law: completion of (1) teaching training equivalents required by SBE and accredited by BOR and (2) a subject area major, unless waived by SBE. The law allows SBE to waive subject area major requirements so that certification applicants or certified employees may teach in a subject shortage area. Certified employees may substitute passage of an SBE-approved subject area test for the subject area requirements.

EFFECTIVE DATE: July 1, 2013

#### **PA 13-177—sSB 889**

*Higher Education and Employment Advancement Committee  
Government Administration and Elections Committee*

#### **AN ACT CONCERNING THE UNIVERSITY OF CONNECTICUT AND COMPETITIVE BIDDING FOR AGRICULTURAL PURCHASES BY THE CONSTITUENT UNITS OF HIGHER EDUCATION**

**SUMMARY:** This act allows UConn to administer construction projects using the design-build method, an approach where the owner (in this case, UConn) contracts with a single entity that both designs and builds the project. It establishes criteria the university must follow when using this approach.

The act exempts from competitive bidding requirements purchases of \$50,000 or less of certain agricultural products by public higher education institutions. It also requires these institutions to give preference to specified agricultural products grown or produced in Connecticut when they are comparable in cost to those produced out of state.

Under existing law, a construction manager at-risk (CMR) for a UConn project must advertise, in one or more newspapers having general circulation in the state, bidding opportunities for project elements (i.e., trade packages) of a CMR project. The act additionally requires that such opportunities be posted online (presumably on the State Contracting Portal). In a CMR project, the owner (in this case, UConn) generally contracts with a construction manager who works with the designer and provides labor, material, and project management during construction.

EFFECTIVE DATE: July 1, 2013

#### **DESIGN-BUILD CONTRACTS**

The act allows UConn to enter into a single contract with a design-builder, whom it may select from a selection panel's recommendations. UConn must advertise the project and its specifications on the Internet.

UConn must award the contract based on a predetermined "metric" (measurement) provided to design-build contractors before they develop technical proposals. This metric may be unique to a project, but must consist of a score combining the (1) proposer's qualifications and past performance, (2) proposal's technical merit, and (3) cost. UConn must establish a selection panel for each project to score the first two elements according to the applicable metric.

UConn must determine all criteria, requirements, and conditions for the proposals and award and is solely responsible for other aspects of the contract. The contract must:

1. include such project elements as site acquisition, permitting, engineering design, and construction;
2. be based on the competitive proposal submitted by the design-builder that is selected by the university; and
3. clearly state (a) the design-builder's responsibility to deliver a complete and acceptable project on a particular date; (b) the project's maximum cost; and (c) if applicable, the cost of acquiring the property as a separate item.

As with other UConn-administered construction projects, the design-builder must be prequalified by the Department of Administrative Services (DAS) if the project is estimated to cost more than \$500,000. UConn must also prequalify design-builders based on their (1) financial, technical, and managerial ability; (2) ability to post surety bonds; (3) integrity; (4) experience in similar projects; and (5) compliance record in the past five years with state wage and hour laws and those relating to state contracts.

Under existing law, UConn must award a contract to the responsible qualified contractor submitting the lowest bid or proposal in compliance with the bid or proposal requirements and may award contracts without public bidding in an emergency. The act extends these provisions to design-build contracts.

#### PURCHASES OF AGRICULTURAL PRODUCTS

By law, most goods and services purchases of more than \$10,000 by public higher education institutions must be made through competitive bidding. The act exempts purchases of \$50,000 or less of certain agricultural products from this requirement. The exemption applies to dairy products, poultry, farm-raised seafood, beef, pork, lamb, eggs, fruits, vegetables, or other farm products.

The act additionally requires public higher education institutions to give preference to dairy products, poultry, farm-raised seafood, beef, pork, lamb, eggs, fruits, vegetables, or other farm products grown or produced in Connecticut when they are comparable in cost to those grown or produced outside the state. The law already requires DAS to give a similar preference.

#### BACKGROUND

##### *Related Act*

PA 13-72 requires the DAS commissioner to give preference to beef, pork, lamb, and farm-raised fish produced or grown in Connecticut if they are comparable in cost to those produced or grown out of state. Existing law requires the commissioner to give preference to Connecticut-grown or -produced dairy

products, poultry, eggs, fruits, and vegetables.

#### **PA 13-195—HB 6394**

*Higher Education and Employment Advancement Committee  
Judiciary Committee*

### **AN ACT CONCERNING THE INDEMNIFICATION OF UNIVERSITY POLICE**

**SUMMARY:** This act modifies the indemnification protections for public university police officers by providing them the protections possessed by the state police, rather than those possessed by the general state employee population. The protections are similar, but there are certain differences concerning the conditions under which the (1) employee is saved harmless and indemnified and (2) state reimburses his or her legal expenses.

EFFECTIVE DATE: July 1, 2013

#### INDEMNIFICATION

Under prior law, public university police officers were covered by the general indemnification protections for state employees and officers (employees). The act instead affords them the protections possessed by the state police.

Under the act, the state must protect and save harmless public university police officers from financial loss and expense, including reasonable legal fees and costs, arising from any claim, demand, suit, or judgment for alleged deprivation of a person's civil rights. The deprivation must not have been wanton, reckless, or malicious, and the officer must have been acting (1) in the discharge of his or her duties, (2) within the scope of his or her employment, or (3) under the direction of a superior officer. The state must pay reasonable legal fees and costs in cases where the officer (1) is found not to have acted wantonly, recklessly, or maliciously or (2) is not assessed punitive damages.

#### *Protection Differences*

The act's protections replace the state's general indemnification protections for public university police officers. The protections are similar, but by law, general protections do not cover actions under the direction of a superior officer that are outside the scope of employment or discharge of duties. These actions are covered by the act. However, the general protections extend to alleged negligence or other acts or omissions causing damage or injury, which are not covered by the act.

Further, under the general protections, an employee cannot be reimbursed for private counsel unless the attorney general (AG) has first declined to provide representation. The state provides reimbursement only after the final disposition of the suit, claim, or demand in which the employee is found (1) to have acted in the discharge of his duties or within the scope of his employment and (2) not to have acted wantonly, recklessly, or maliciously. Reimbursement is provided only in amounts determined to be reasonable by the AG, who may consider whether it was appropriate for a group of officers, employees, or members to be represented by the same counsel.

The act removes these requirements for public university police officers. Instead, it requires the state to pay reasonable legal fees and costs in cases where the officer (1) is found not to have acted wantonly, recklessly, or maliciously or (2) is not assessed punitive damages. There are no requirements that the AG (1) first decline to represent the officer or (2) determine what constitutes a reasonable reimbursement amount. There is also no specific prohibition on reimbursing an officer before the final disposition.

## BACKGROUND

### *University Police Forces*

The law establishes special police forces for UConn, the UConn Health Center, and the four universities (Central, Eastern, Southern, and Western) of the Connecticut State University System. Officers in these departments generally have the same powers as municipal police officers (CGS § 10a-142).

## **PA 13-240—sSB 878**

*Higher Education and Employment Advancement Committee*

### **AN ACT MAKING CLARIFYING CHANGES TO THE HIGHER EDUCATION STATUTES IN ACCORDANCE WITH THE REORGANIZATION OF THE HIGHER EDUCATION SYSTEM**

**SUMMARY:** This act makes several unrelated changes to the higher education statutes, including (1) adding UConn's provost to the Higher Education Coordinating Council and allowing UConn to enter into student exchange agreements, (2) transferring certain duties from the Board of Regents for Higher Education (BOR) to the Office of Higher Education (OHE), (3) extending certain reporting deadlines for the Planning Commission for Higher Education, and (4) repealing obsolete statutory language. It also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2013

## §§ 1 & 3 — UCONN

The act adds UConn's chief academic officer (i.e., provost) to the Higher Education Coordinating Council. By law, the council must, for public higher education institutions, (1) identify, examine, and implement savings in administrative functions and (2) develop accountability measures. The act also allows UConn to enter into student exchange agreements with foreign countries or other states. BOR and OHE have this authority under existing law.

## § 2 — UNIQUE IDENTIFIER TRACKING

Under prior law, BOR had to require public and independent higher education institutions receiving state funding to track unique identifiers or state-assigned student identifiers for all in-state students enrolled at the institution until the student graduated or was no longer enrolled. The act eliminates BOR's responsibility and instead directly requires institutions to do this. By law, such identifiers are assigned to all students tracked by the Early Childhood Information System.

## § 5 — TEACHER CERTIFICATION

The act transfers to OHE a requirement to cooperate with the State Department of Education (SDE) in establishing, within available appropriations, (1) an accelerated cross endorsement process for subject shortage areas and (2) a program for formerly certified teachers to regain certification. Under prior law, SDE performed these functions in cooperation with BOR.

## § 11 — PLANNING COMMISSION FOR HIGHER EDUCATION

By law, the Planning Commission for Higher Education must develop and ensure the implementation of a strategic master plan for higher education. The act extends several of the commission's reporting deadlines. It requires the commission to submit (1) a preliminary report on the development of the strategic master plan by June 1, 2014 and (2) the plan by September 1, 2014 (rather than by January 1, 2012 and October 1, 2012, respectively). Under prior law, the plan had to include specific goals and benchmarks for the years ending 2015 and 2020. The act instead requires goals and benchmarks for the years ending 2020 and 2025.

The act also requires annual reports to the governor and legislature on the plan's implementation and progress toward achieving the goals (1) beginning January 1, 2016, to various legislative committees, and (2) beginning October 1, 2016, to the governor (rather than by January 1, 2014 and October 1, 2014, respectively).

## §§ 4 & 12 — REPEALED PROVISIONS

The act eliminates provisions that provide, for reasons of hardship, death, or disability, loan deferments and forgiveness to undergraduates who receive loans under the academic scholarship loan program. By law, the program supports students who intend to teach in the state's public schools.

The act also eliminates obsolete references to the auxiliary services funds of the constituent units of higher education. These funds were eliminated in 1991; the constituent units instead have single operating funds.

Additionally, the act repeals the high technology doctoral fellowship program, advisory committee on federal matters, and Student Financial Aid Information Council, all of which are defunct. It also repeals obsolete provisions concerning (1) paraprofessional certification programs and (2) the issuance of postsecondary education certificates by BOR. Lastly, it eliminates an obsolete requirement concerning the disclosure to the BOR president of certain gifts received from foreign entities.

## BACKGROUND

### *Related Acts*

PA 13-299 also eliminates the Student Financial Aid Information Council.

PA 13-247 eliminates the academic scholarship loan program.

## PA 13-261—sHB 5423

*Higher Education and Employment Advancement Committee*

## AN ACT CONCERNING REVISIONS TO THE HIGHER EDUCATION STATUTES

**SUMMARY:** This act makes several changes in the higher education and education statutes. Specifically, it:

1. replaces the higher education commissioner's position on the Connecticut Allied Health Workforce Policy Board with the Board of Regents for Higher Education (BOR) president and the Office of Higher Education (OHE) executive director, increasing total board membership from 17 to 18 (§ 1);
2. requires the Office of Educational Opportunity to assist OHE, rather than BOR, with enrollment, retention, and graduation of disadvantaged students (§ 4);

3. adds a fifth gubernatorial appointee to the Planning Commission for Higher Education's membership (§ 8);
4. grants civil immunity to any person donating tangible property to a regional community-technical college resulting in damage or injury because of the donor's act, error, or omission, unless it was caused by the donor's reckless, willful, or wanton misconduct (§ 9);
5. requires candidates in teaching preparation programs that lead to professional certification to (a) complete training in the awareness and identification of the unique learning style of gifted and talented children, and (b) receive instruction about the provision of services to gifted and talented children in relation to student individualized education programs (§ 10);
6. requires BOR to report to the Higher Education Consolidation Committee about the program approval process for all campuses of UConn, the Connecticut State University System, and the regional-technical community colleges (PA 13-247, § 186 also requires UConn to report on this process) (§ 11);
7. requires the Higher Education Consolidation Committee to continue meeting beyond the September 15, 2012 cut-off date established in prior law (§ 11); and
8. requires the House speaker and Senate president pro tempore to each appoint five members to OHE's academic review commission panel, which hears appeals about denials of licensure or accreditation applications by independent higher education institutions (OHE must establish the panel under PA 13-118) (§ 12).

The act also makes several technical and conforming changes.

**EFFECTIVE DATE:** July 1, 2013, except for the (a) provision granting immunity to regional-technical community college donors, which takes effect October 1, 2013 and (b) provisions affecting the Connecticut Allied Health Workforce Policy Board, the Office of Educational Opportunity, and certain technical changes, which take effect upon passage.



**PA 13-35**—sSB 114

*Housing Committee*

**AN ACT PROHIBITING RESIDENTIAL  
LANDLORDS FROM REQUIRING TENANTS TO  
PAY RENT BY ELECTRONIC FUNDS  
TRANSFER**

**SUMMARY:** For residential leases or rental agreements executed on or after October 1, 2013, this act prohibits landlords from requiring that rent or security deposits be paid by electronic funds transfer. The act defines “electronic funds transfer” as a funds transfer initiated through an electronic terminal, telephone, computer, or magnetic tape that orders, instructs, or authorizes a financial institution to debit or credit an account. It does not include any transfer originated by check, draft, or similar paper instrument.

The act does not specify a penalty for violations.

EFFECTIVE DATE: October 1, 2013

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chartered public corporation (e.g., Freddie Mac); (3) a Connecticut-licensed mortgage insurance company; or (4) CHFA.

CHFA is a quasi-public agency that provides financing for low- and moderate-income home buyers and developers of low- and moderate-income housing projects.

EFFECTIVE DATE: July 1, 2013

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**PA 13-36**—HB 5970

*Housing Committee*

**AN ACT CONCERNING THE POWER OF  
MUNICIPAL FAIR RENT COMMISSIONS**

**SUMMARY:** By law, municipal fair rent commissions have the authority to investigate and address complaints regarding rental charges for rental housing, including mobile homes and mobile home lots, but not housing that is rented on a seasonal basis. This act defines “rental charge” to include any fee or charge, in addition to rent, that a landlord imposes or seeks to impose on a tenant.

The act applies the definitions of “seasonal basis” and “rental charge” to all of the municipal fair rent commission statutes, not just those concerning the commissions’ creation and powers.

EFFECTIVE DATE: October 1, 2013

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**PA 13-65**—SB 845

*Housing Committee*

*Finance, Revenue and Bonding Committee*

**AN ACT INCREASING ACCESS TO  
AFFORDABLE HOUSING**

**SUMMARY:** This act increases, from \$1.5 billion to \$2.25 billion, the maximum amount of mortgage purchases and loans that the Connecticut Housing Finance Authority (CHFA) can make that are not insured or guaranteed by (1) a federal or state agency, department, or instrumentality; (2) a congressionally-



PA 13-7—sSB 853

*Human Services Committee*

**AN ACT CONCERNING TECHNICAL AND  
OTHER REVISIONS TO STATUTES  
CONCERNING THE DEPARTMENT OF  
REHABILITATION SERVICES**

**SUMMARY:** This act makes changes to the Department of Rehabilitation Services (DORS) reporting requirements. It also (1) eliminates a per person cap on the amount that DORS may spend to provide employment assistance to blind people; (2) increases for wheelchair and certain equipment the amount DORS may spend on purchases; (3) expands Assistive Technology Revolving Fund loan eligibility; (4) authorizes the DORS commissioner to adopt regulations to implement its provisions; and (5) makes several minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2013

**§§ 2, 5 & 7-10 — REPORTING REQUIREMENTS**

The act requires the DORS commissioner to annually submit a report in electronic form to the governor and the Human Services and Appropriations Committees on services the department provided to people who (1) are blind or visually impaired, (2) are deaf or hearing impaired, or (3) receive vocational rehabilitation services. The report must include the data the department provides to the federal government on evaluation standards and performance indicators for the vocational rehabilitation services program. The act eliminates a requirement that DORS annually report such data to the Human Services and Appropriations Committees.

It eliminates requirements that the DORS commissioner annually submit to the governor and General Assembly a report (1) recommending programs needed to assist deaf and hearing impaired people and (2) stating department activities related to services it provided to legally blind or visually impaired people in the state during the prior year.

**§ 1 — EMPLOYMENT ASSISTANCE FOR THE  
BLIND**

Prior law authorized the DORS commissioner to help needy capable blind or partially blind people secure employment in industrial and mercantile establishments and in other paid positions. The act instead conforms the law to practice by authorizing the DORS commissioner to help legally blind people secure employment. (Capable blind and partially blind are obsolete terms.)

The act also eliminates a per-person expense cap of \$960 per fiscal year.

**§ 6 — PLACEMENT AND ADAPTIVE EQUIPMENT  
AND WHEELCHAIRS**

The act increases the amount that DORS, within available appropriations, may spend to purchase (1) wheelchairs and placement equipment (from \$3,500 to \$20,000 per unit) and (2) adaptive equipment, including equipment to modify vehicles (from \$10,000 to \$120,000 per unit). The act removes DORS' authority to purchase modified vehicles costing up to \$25,000 for people with disabilities and instead allows the department to purchase the equipment to modify such vehicles for up to \$120,000 per unit. In practice, DORS only pays for necessary adaptations and modifications made to a vehicle; it does not purchase the actual vehicles.

**§ 3 — ASSISTIVE TECHNOLOGY REVOLVING  
FUND**

The act conforms law to practice by authorizing the DORS commissioner, rather than the Department of Social Services (DSS) commissioner, to (1) establish and administer the Assistive Technology Revolving Fund and (2) make loans to people with disabilities for certain equipment and services. The act:

1. expands loan eligibility to include senior citizens or the family members of seniors or people with disabilities,
2. allows the loans to be used for assistive technology and adaptive equipment and services instead of just assistive equipment,
3. extends from five to 10 years the maximum loan term and caps the interest at a fixed rate of up to 6%, and
4. removes language allowing the State Bond Commission to set the interest rate. (In practice, DORS sets the interest rate; the Bond Commission has not done so for years.)

The act also requires the DORS commissioner to adopt regulations to implement these changes.

**§ 4 — VOCATIONAL REHABILITATION  
COUNSELORS**

By law, DORS assists public school students with disabilities by offering vocational and training services to schools throughout Connecticut within available appropriations. Under prior law, it had to place vocational rehabilitation counselors in the Bloomfield, Hartford, Norwich, West Hartford, and Wethersfield school districts and in any other district the department selected. The act instead requires DORS to provide vocational rehabilitation counselors throughout the state.



**RELATED ACT**

PA 13-234 (§ 108) makes the same changes to the Assistive Technology Revolving Fund as section 3 of this act.

**BACKGROUND****DORS**

PA 11-44 created a new Bureau of Rehabilitative Services (BRS) and transferred to it functions of the Commission on the Deaf and Hearing Impaired, the Board of Education and Services to the Blind, DSS' Bureau of Rehabilitation Services, and some additional disability-related programs. PA 12-1, June Special Session, renamed BRS the Department of Rehabilitation Services.

By law, DCF must provide a similar notice to these individuals within 10 days of substantiating abuse of a child with a single custodial parent if it is in the child's best interest to do so. In practice, DCF also provides notice of substantiated neglect. The act codifies this practice.

The act also makes technical changes.

EFFECTIVE DATE: July 1, 2013

**PA 13-77—sSB 763**

*Human Services Committee*

**AN ACT CONCERNING NOTICE OF  
INVESTIGATIONS BY THE DEPARTMENT OF  
CHILDREN AND FAMILIES**

**SUMMARY:** This act requires the Department of Children and Families (DCF), when opening a child abuse or neglect investigation, to notify both the child's guardian and custodial and noncustodial parents, if such notification is in the child's best interest. DCF may not provide this notice if it has reasonable grounds to believe that doing so would interfere with a criminal investigation or endanger someone.

The notice must:

1. state the abuse or neglect allegation;
2. inform the recipient that DCF, if the law allows, may remove the child from the custodial parent's care;
3. be provided verbally as soon as practicable, and in writing within five business days, after DCF opens the investigation;
4. within all reasonably employed DCF efforts, be in English or the recipient's principal language, if known;
5. indicate the availability of DCF services, such as child care subsidies and emergency shelter; and
6. include Office of Victim Services programs and information on obtaining a restraining order.

If mailed, the notice must be delivered by certified mail, with return receipt requested. If DCF delivers the notice (written or verbal) in person, it must obtain the recipient's written acknowledgment.

PA 13-67—sHB 5072

*Insurance and Real Estate Committee***AN ACT CONCERNING AUTOMOTIVE GLASS WORK**

**SUMMARY:** This act requires initial communications between a glass claims representative or a third-party claims administrator of an insurance company doing business in Connecticut and the company's insured person about automotive glass work or products to inform the insured about his or her right to choose where to have the work done.

It extends a ban on steering by automobile physical damage appraisers. By law, they cannot require or prohibit automotive appraisals or repairs to be performed in or by a specified facility or repair shop. The act extends this prohibition to glass work performed by a glass shop.

The act bars insurance company representatives and third-party administrators from steering an insured to a licensed glass shop owned by the insurance company, claims administrator, or their parent company, unless they provide the insured with the name of at least one other shop in the area where the glass work is to be performed. Steering occurs when a claims representative or administrator gives the name of, or directs an insured to, a particular glass shop, or schedules an appointment with it for the insured.

The act also bars insurance companies or their representatives from (1) specifying who an insured uses for automotive glass work or (2) stating that glass work will either be delayed or not guaranteed unless performed by a glass shop participating in an insurance company-established glass work program. The law already bars similar activities with respect to glass replacement, repair services, or products. The bans apply to insurance companies and their third-party claims administrators, agents, and adjusters.

EFFECTIVE DATE: January 1, 2014

**AUTOMOTIVE GLASS WORK**

The act requires that a glass claims representative for an insurance company or its third-party claims administrator, in the initial contact with an insured about automotive glass repair services or glass products, tell the insured something substantially similar to: "You have the right to choose a licensed glass shop where the damage to your motor vehicle will be repaired. If you have a preference, please let us know." By law, appraisals and estimates for physical damage claims written on behalf of insurers must have a written notice telling the insured that he or she has the right to choose the shop where the damage will be repaired (CGS § 38a-354).

PA 13-84—SB 1029

*Insurance and Real Estate Committee***AN ACT CONCERNING HEALTH INSURANCE COVERAGE FOR AUTISM SPECTRUM DISORDERS**

**SUMMARY:** This act requires certain health insurance policies to at least maintain current levels of benefits for insureds who were diagnosed with autism spectrum disorder before the (fifth) edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) was released (i.e., May 2013).

By law, the affected individual and group policies must provide benefits to diagnose and treat "mental or nervous conditions." These conditions are mental disorders as defined by the most recent edition of the DSM. Prior law required these policies to provide specific services for insureds to treat autism spectrum disorder, as was described in the most recent edition of the DSM, to the extent such services were a covered benefit for other diseases and conditions under the policy. In addition, individual and group policies had to cover medically necessary early intervention services provided as part of an individualized service plan for children up to three years old who have or are at risk of having developmental delays (birth-to-three programs). The act instead requires, in each case, that the insurer at least maintain coverage at the level provided immediately before the fifth edition's release for insureds who were diagnosed with autism spectrum disorder before that date.

The act applies to individual and group health insurance policies delivered, issued, renewed, amended, or continued in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; and (4) hospital or medical services, including coverage under an HMO plan.

EFFECTIVE DATE: Upon passage

**BACKGROUND***DSM and Autism Spectrum Disorder*

The American Psychiatric Association publishes and periodically revises the DSM. The DSM lists psychiatric disorders and their corresponding diagnostic codes. Each disorder included in the manual is accompanied by a set of diagnostic criteria and text containing information about the disorder, such as associated features; prevalence; familial patterns; age-, culture- and gender-specific features; and differential diagnosis. Insurers, regulatory agencies, pharmaceutical companies, among others, routinely use the DSM.

Under the previous manual and state law governing group coverage, individuals who met the criteria for having autism were those diagnosed with autistic disorder, Asperger's Syndrome, Pervasive Developmental Disorder-Not Otherwise Specified, Childhood Disintegrative Disorder, or Rett's Disorder.

The Board of Trustees of the American Psychiatric Association approved the fifth edition of DSM in December 2012 and released it in May 2013.

**PA 13-134—sHB 6322**

*Insurance and Real Estate Committee*

**AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL AND MINOR CHANGES TO THE INSURANCE AND RELATED STATUTES**

**SUMMARY:** This act corrects statutory references in laws dealing with (1) the insurance commissioner's approval of mergers or changes in control of insurance companies and (2) continuation of health insurance coverage under group plans. It also makes technical changes to the insurance laws.

EFFECTIVE DATE: October 1, 2013

**PA 13-138—sHB 6380**

*Insurance and Real Estate Committee*

**AN ACT CONCERNING PROPERTY AND CASUALTY INSURANCE POLICIES AND PUBLIC ADJUSTER CONTRACTS**

**SUMMARY:** This act prohibits an insurer from declining, cancelling, or failing to renew a homeowners policy or increasing its cost in several circumstances.

It requires that insurance policies covering real property ensure that the surroundings of a damaged item that is replaced match the quality and kind of the replaced item.

By law, when an insured hires a public adjuster they must enter into an employment contract. For contracts signed on or after October 1, 2013, the act increases, from three to five calendar days, the time the insured has to rescind the contract. Under prior law, if the contract was signed on a Friday, Saturday, or Sunday, the insured had until midnight on the following Tuesday to cancel the contract; the act extends this to midnight on Thursday. By law, the contract must have a provision specifying the insured's right to cancel. The act requires that this provision be on the contract's first page in at least 12-point bold type.

EFFECTIVE DATE: October 1, 2013

**PROHIBITIONS REGARDING HOMEOWNERS POLICIES**

The act prohibits an insurer from declining, cancelling, or failing to renew a homeowners insurance policy solely due to a loss incurred as a result of a catastrophic event, as declared by a nationally recognized catastrophic loss index provider. However, it may offer coverage through an affiliated insurer. The act prohibits an insurer from declining or failing to renew a homeowners policy, adding a surcharge on a claim, or increasing the policy premium if this action is based on any claim filed on the covered property while anyone, other than the current applicant or insured, owned the property, unless the risk from which the claim originated has not been mitigated.

The act prohibits an insurer from (1) cancelling or failing to renew a homeowners policy or (2) increasing its premium, if this action is based solely on inquiries made on the policy or a claim filed under it that resulted in a payment by the insurer of less than \$500 or in no payment. The prohibition does not apply if the insured filed more than one claim resulting from a non-catastrophic event in the three immediately preceding policy years that resulted in a loss coverage payment by the insurer.

**MATCHING REPLACEMENT ITEMS**

Under the act, when a loss covered under a policy for real property requires replacing a damaged item that will not match the quality, color, or size of adjacent items, the insurer must replace these items with materials of like kind and quality to provide a reasonably uniform appearance. This requirement applies to both interior and exterior covered losses. These provisions do not (1) impose liability on an insurer as a warrantor of any of the work or (2) authorize or preclude enforcement of policy provisions relating to settlement disputes.

**PA 13-147—HB 6547**

*Insurance and Real Estate Committee*

**AN ACT CONCERNING ENTERPRISE RISK REPORTS**

**SUMMARY:** This act delays, from June 1, 2013 to June 1, 2014, the date by which insurers must file their first enterprise risk reports. By law, in certain cases, the person who ultimately controls an insurance company must file an annual enterprise risk report with the insurance commissioner. This risk includes any circumstances involving one or more affiliates of an insurer that may harm its financial condition or liquidity

or that of its holding company system.  
EFFECTIVE DATE: Upon passage

**PA 13-148**—sHB 6549

*Insurance and Real Estate Committee*

**AN ACT ESTABLISHING A MEDIATION PROGRAM FOR CERTAIN INSURANCE POLICY CLAIMS AND CONCERNING REQUIREMENTS FOR PERSONS PERFORMING REPAIRS, REMEDIATION OR MITIGATION PURSUANT TO A LOSS**

**SUMMARY:** This act allows the Insurance Department to establish a program to mediate disputes between insureds and insurance companies to settle certain claims that involve losses from catastrophic events for which the governor has declared a state of emergency. The program must address disputes where the difference between the parties' positions on the actual cash value or amount of the loss is \$5,000 or more, notwithstanding any applicable deductible. The parties may agree to mediate a dispute involving a smaller amount.

The act requires the commissioner to designate an entity to implement the program and specifies the conditions an entity must meet to be designated. The mediation must be conducted in accordance with procedures the entity establishes and the insurance commissioner approves.

Insurers licensed to provide insurance for the affected lines must participate in the program. The insurer must pay a mediation fee to the designated entity within ten business days after it receives an invoice for the mediation from the entity. The insurer is not responsible for any cost incurred by an insured, including costs for advisors, representatives, attorneys, or public adjusters.

The act allows the commissioner to adopt implementing regulations and specifies what they must contain.

An insured's right to request mediation does not affect any other right he or she may have to redress the dispute after completing the mediation, including any remedies specified in the insurance policy or any right provided by law. However, if the insured and the insurer settle the case and the insured does not rescind his or her agreement, this provision does not apply.

The act expands the scope of the law that requires that a person who performs repair, remediation, or mitigation services under certain insurance policies provide notice to the insured on the scope of the work and its estimated price.

The act also makes technical changes.

EFFECTIVE DATE: October 1, 2013

**MEDIATION PROGRAM**

*Affected Policies*

The mediation program applies to claims under a:

1. personal risk insurance policy, other than private passenger nonfleet automobile insurance;
2. condominium association master policy; or
3. condominium unit owners' association property insurance policy.

The program does not apply to claims:

1. for which coverage is in dispute or when coverage has been exhausted or
2. made under a flood policy issued by the National Flood Insurance Program.

*Administrative Entity*

Under the act, the commissioner must not designate an entity to administer the program unless it agrees to:

1. let the commissioner oversee its operational procedures regarding the administration of the program;
2. give the commissioner access to all of the systems, databases, and records related to the program; and
3. report to the commissioner in a form and manner he prescribes.

In order to be designated, the entity's procedures must require that:

1. the parties agree before mediation, in writing, that statements made in the mediation are confidential and will not be admitted into evidence in any civil action on the claim, except with respect to proceedings or investigations of insurance fraud;
2. a settlement reached in a mediation must be transcribed into a written agreement, on a form approved by the commissioner, that is signed by the insured and an authorized representative of the insurer;
3. a settlement prepared during a mediation must allow the insured to rescind it within five business days after it is reached, so long as he or she has not cashed or deposited any check or draft disbursed to him or her for the disputed matters as a result of the settlement;
4. the mediator may terminate a mediation session upon determining that the insured or the insurer's representative is not participating in good faith or if, even after good faith efforts, a settlement cannot be reached; and
5. the designated entity may (a) schedule additional sessions if it believes they will result in a settlement; (b) require the insurer to send a

different representative to a rescheduled mediation session if the first one did not participate in good faith, and pay any fee for the other representative; and (c) reschedule a mediation session if the mediator determines that the insured is not participating in good faith, but only if the insured pays the entity's fee for the mediation.

### *Regulations*

The implementing regulations must at least include:

1. the form and manner of notification by the insurer to an insured of the right to mediation,
2. the forms and procedures for an insured or insurer to request mediation, and
3. the requirements for an insurer's participation at the mediation hearing.

### NOTICES BY SERVICE PROVIDERS

By law, people who provide repair, remediation, or mitigation services for losses that are covered by a personal risk insurance or commercial risk policy must give the insured, before any work begins, written notice of the work to be completed and its estimated total price. The requirement does not apply to repairs (1) to an automobile covered by insurance or (2) covered by the laws governing home improvement contractors.

The act additionally requires that any contract or document in connection with these services authorizing an insurer to directly pay the service provider include a disclosure provision. The provision must (1) disclose to the signatory that the insured has the right to be named as a joint payee on the payment instrument and (2) be in at least 12-point type and immediately above the signature line.

The act prohibits the contract or document from including any provision that creates a power of attorney or waives the signatory's or insured's legal rights against the person performing the work.

By law, if the person performing the mitigation does not comply with the notice requirement, any contract for the service between that person and the insured is void. The act extends this provision to its disclosure requirements.

### **PA 13-149—HB 6550**

*Insurance and Real Estate Committee*

### **AN ACT CONCERNING LOSS RATIO GUARANTEES FOR INDIVIDUAL HEALTH INSURANCE POLICIES**

**SUMMARY:** This act requires insurers to obtain approval for all individual health insurance rates from the insurance commissioner before their use in Connecticut. By law, rates cannot be excessive, inadequate, or unfairly discriminatory.

The act eliminates the two exceptions in prior law to the insurance commissioner's authority to approve rates. The first exception allowed rates (except rates for Medicare Supplement plans) to be deemed approved if the commissioner did not act on a filing within 30 days. The second exception allowed an insurer to use rates when they were filed if the insurer also filed a loss ratio guarantee. A "loss ratio guarantee" is a promise that the actual loss ratio for the policy will meet or exceed the guaranteed loss ratio. A "loss ratio" is generally a ratio of incurred claims to earned premiums. Under prior law, (1) rates were deemed not excessive if the insurer filed a loss ratio guarantee and (2) if it did not meet the guarantee, the insurer had to pay insured persons a premium rebate.

The act also requires rate filings for individual health insurance policies to include an actuarial memorandum that contains pricing assumptions and claims experience, premium rates, and loss ratios from the policy's inception.

EFFECTIVE DATE: Upon passage

### **PA 13-167—sHB 5926**

*Insurance and Real Estate Committee*

### **AN ACT CONCERNING PERSONAL RISK INSURANCE RATE FILINGS**

**SUMMARY:** This act extends the sunset date for the "flex rating" law for personal risk insurance (e.g., home, auto, marine, or umbrella) from July 1, 2013 to July 1, 2015. It also adds a 15% territorial cap. This permits an insurer to "file and use" its flex rate filing to a maximum 6% statewide average change while ensuring that no individual rate territory increases by more than 15%.

EFFECTIVE DATE: Upon passage

## FLEX RATING LAW

The flex rating law permits property and casualty insurers, until the law sunsets, to file new personal risk insurance rates with the insurance commissioner and begin using them immediately without prior approval. The rate increase or decrease cannot exceed 6% statewide for all products included in the filing. The act prohibits increasing rates in any individual territory by more than 15%. The new rate cannot apply on an individual insured basis. The law does not apply to rates for the residual market.

By law, an insurer may submit more than one rate filing using the 6% flex rating band to the Insurance Department in any 12-month period if all rate filings submitted within this timeframe do not result in a statewide rate increase or decrease of more than 6% for all products included in the filing. The act similarly prohibits these filings from resulting in an aggregate increase of more than 15% in any one territory.

## BACKGROUND

Under the flex rating law, an insurer can apply for a rate increase within the flex rating band only on or after a policy renewal and after notifying the insured. (The notification must specify the effective date of the increase.) Rate filings seeking to increase or decrease rates by more than 6% statewide must receive department approval before insurers can use them.

The flex rating law deems any filings made under its provisions to be in compliance with the rating laws. If the commissioner determines rates are inadequate or unfairly discriminatory, he must order the insurer to stop using the flex rating rate change on a specified future date. The order must be in writing and explain the finding. If the commissioner issues the order more than 30 days after the insurer submitted the filing, the law requires the order to apply prospectively only and not affect any contract issued before its effective date.

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**PA 13-171—sHB 6379**

*Insurance and Real Estate Committee*

## AN ACT CONCERNING SURPLUS LINES INSURANCE BROKERS

**SUMMARY:** This act makes changes in the statutes pertaining to surplus lines insurance brokers (i.e., brokers who sell insurance lines that are unavailable from licensed insurers). By law, the insurance commissioner must maintain, publish, and make available to surplus lines brokers a list of such insurance lines. The act requires licensed surplus lines brokers and their clients that procure or renew insurance that is

not on the commissioner's list to file with the commissioner a signed statement showing they made diligent efforts to obtain the insurance from a licensed insurer. Prior law required an affidavit when procuring such insurance.

The act requires the broker to submit the signed statement to the commissioner electronically on the fifteenth day of February, May, August, and November annually. Under prior law, the affidavit was due to the commissioner within 45 days after a surplus lines broker procured insurance.

Previously, the affidavit had to show that the amount of insurance obtained from an unauthorized insurer was only the excess over the amount obtained from authorized insurers. The act requires the signed statement to show that information as well as the type of policy and, if the policy is for real property, the location of the real property.

By law, a broker who fails to file a signed statement or willfully files a false statement is subject to license revocation and a fine of up to \$4,000, imprisonment for up to six months, or both.

EFFECTIVE DATE: Upon passage

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**PA 13-229—SB 859**

*Insurance and Real Estate Committee*

*Judiciary Committee*

## AN ACT CONCERNING THE REGULATION OF PRIVATE TRANSFER FEES

**SUMMARY:** This act bans private transfer fees on and after June 24, 2013. A "private transfer fee" is, with some exceptions, a fee or charge payable (1) upon the conveyance and subsequent conveyance of an interest in real property located in Connecticut or (2) for the right to make or accept the conveyance. Under the act, anyone aggrieved by a private transfer fee imposed on or after June 24, 2013 may sue for damages in Superior Court.

For any private transfer fee obligation in existence as of June 24, 2013, the act requires the obligation to be (1) disclosed in any future sale contract and (2) recorded in the town's land records by December 31, 2013. The act also specifies how real property can become unencumbered by an existing obligation.

EFFECTIVE DATE: Upon passage

## PRIVATE TRANSFER FEES BANNED PROSPECTIVELY

The act makes it illegal for a person (which includes an entity) to impose a private transfer fee obligation on or after June 24, 2013. It specifies that any obligation imposed on or after that date and any

agreement that violates the act is void and unenforceable. Further, it allows anyone aggrieved by the imposition of such a private transfer fee to sue for damages in Superior Court.

## EXISTING PRIVATE TRANSFER FEES REGULATED

### *Disclosure Required*

The act requires a contract offered or entered into after June 24, 2013 for the sale of real property encumbered by a pre-existing private transfer fee obligation to include a (1) provision that discloses the obligation's existence, (2) description of the obligation, and (3) statement that the obligation is subject to the act's provisions.

It specifies that (1) a contract that fails to make such a disclosure is void and unenforceable and (2) the purchaser is not liable to the seller for damages under the contract. It also specifies that the purchaser is entitled to the return of all deposits he or she made in connection with the contract.

### *Recording Required*

For private transfer fee obligations imposed before June 24, 2013, the act requires the person paid the fee to record the obligation in the town's land records by December 31, 2013. The recording must be a separate document entitled, in at least 14-point bold type, "Notice of Private Transfer Fee Obligation" that includes:

1. the amount of the private transfer fee or method by which it is calculated;
2. if the involved property is residential, fee examples for a home priced at \$250,000, \$500,000, and \$750,000;
3. the date or circumstances under which the obligation expires;
4. what the collected fee will be used for;
5. the name of the person who collects the fee, specific contact information for where the fee is sent, and the person's acknowledged signature; and
6. the involved property's legal description.

The act allows a person who is paid the fee to file an amendment to the notice when contact information changes. Any such amendment must include the above recording information.

## REMOVING A FEE OBLIGATION

The act allows an existing private transfer fee obligation to be removed if the person who is paid the fee fails to:

1. record the "Notice of Private Transfer Fee Obligation" by December 31, 2013 or
2. provide a written statement showing the fee payable upon the property's conveyance within 30 days after a written request for such a statement from a grantor of the property.

If either of these situations occurs, the act requires a grantor of real property to record an affidavit specifying the facts of the matter in the town's land records. By law, such an affidavit must include a description of the land affected by the affidavit and the land owner's name (CGS § 47-12a).

Upon filing the affidavit, the grantor is relieved of the obligation. The grantor can thereafter convey the property without paying the private transfer fee and the property will thereafter be conveyed free and clear of the obligation.

When an affidavit is recorded as set forth in the act, it is admissible as prima facie evidence that the grantor submitted a written request for the fee statement and the person paid the fee failed to provide the statement within 30 days.

## DEFINITIONS

### *Private Transfer Fee*

Under the act, a "private transfer fee" is a fee or charge payable (1) upon the conveyance and subsequent conveyance of an interest in real property in Connecticut or (2) for the right to make or accept the conveyance. It does not include any:

1. consideration payable by a grantee to a grantor for the conveyance of an interest in real property (including mineral rights), including any subsequent consideration payable by the grantee for the property based on subsequent appreciation, development, or sale of the property, provided the subsequent consideration is payable once and the obligation to pay the consideration does not bind successors in title to the property;
2. commission payable to a real estate broker or salesperson for selling real property pursuant to a contract or agreement between the broker or salesperson and a grantee or grantor, including any subsequent commission payable by the grantee or grantor for the property based on subsequent appreciation, development, or sale of the property;
3. interest, fee, charge, or other amount payable by a borrower to a lender under a mortgage, including any fee payable to the lender for agreeing to assume the loan or conveyance of the property, an estoppel letter or certificate (e.g., a document that certifies a certain set of

facts and bars a party from later claiming a different set of facts), and any shared appreciation interest, profit participation, or other consideration payable to the lender in connection with the loan;

4. rent, reimbursement, fee, charge, or other amount payable by a lessee to a lessor, including any fee or charge payable to the lessor for agreeing to assign, sublease, or encumber a rental agreement or lease;
5. consideration payable to the holder of an option to purchase an interest in real property or the holder of a right of first refusal or first offer to purchase an interest in real property, for the holder to waive, release, or not exercise the option or right;
6. tax, assessment, fine, fee, charge, or other amount payable to or imposed by a governmental entity;
7. dues, assessment, fine, contribution, fee, charge, or other amount payable to an association or a unit owners' association organized under the Common Interest Ownership Act pursuant to any declaration, covenant, law, or association bylaw, rule, or regulation, including a fee or charge payable to the association for an estoppel letter or certificate;
8. dues, assessment, fine, contribution, fee, charge, or other amount imposed by a declaration or covenant encumbering a municipality, county, or any combination of the two, or a neighborhood or other area, irrespective of boundaries or political subdivision and payable solely to a tax-exempt organization for the purpose of supporting cultural, educational, charitable, recreational, environmental, conservation, or other similar activities that benefit the municipality, county, neighborhood, or other area; or
9. dues, assessment, contribution, fee, charge, or other amount payable for the purchase or transfer of a club membership related to real property.

#### *Private Transfer Fee Obligation*

The act defines "private transfer fee obligation" as an obligation arising under a declaration or a covenant recorded against the title to real property located in Connecticut or under any contractual agreement or promise, whether or not recorded, that requires the payment of a private transfer fee upon a conveyance or a subsequent conveyance of an interest in the real property.

#### **PA 13-280—SB 1027**

*Insurance and Real Estate Committee*

#### **AN ACT CONCERNING LONG-TERM CARE BENEFITS UNDER AN ANNUITY CONTRACT**

**SUMMARY:** This act allows insurers licensed for both life and health insurance in Connecticut to offer annuity contracts or certificates, or riders or endorsements to them, that provide long-term care (LTC) insurance benefits, thus allowing withdrawals from the annuity for LTC expenses. Such contracts and certificates must waive the surrender charges or accelerate a portion of the annuity contract. By law, life insurance policies may already provide LTC benefits.

The act also makes technical and conforming changes, including repealing a related provision that allowed insurers to combine certain life insurance or annuities with LTC benefits.

EFFECTIVE DATE: October 1, 2013

#### **PA 13-289—HB 6477**

*Insurance and Real Estate Committee*

*Judiciary Committee*

#### **AN ACT CONCERNING VARIOUS REVISIONS TO THE COMMON INTEREST OWNERSHIP ACT AND THE CONDOMINIUM ACT**

**SUMMARY:** This act makes several changes affecting condominiums and other common interest communities.

It subjects community association managers to disciplinary action for knowing and material violations of the Common Interest Ownership Act (CIOA) or Condominium Act (see BACKGROUND).

The act exempts board members or association officers under CIOA and the Condominium Act from criminal liability, under certain circumstances, for alleged violations of the state building or fire safety code or a municipal health, housing, or safety code. This immunity applies when the board proposes a special assessment to cover the cost of repairs needed to ensure compliance with the codes and the unit owners vote to reject the assessment. (It appears that for communities governed by CIOA, the immunity only applies if the special assessment is proposed according to the law's procedural requirements for such assessments.)

CIOA generally allows executive boards to provide board members and unit owners a schedule of board meetings instead of providing specific notice in advance of each meeting. Under the act, if the board provides unit owners with such a meeting schedule, the secretary or other officer specified in the bylaws must make an agenda available to board members and unit owners no later than 48 hours before the meeting.



CIOA sets certain conditions for proxy voting. The act specifically allows associations to provide proxy forms to unit owners seeking to vote pursuant to a directed or undirected proxy. (A directed proxy specifies how the vote is to be cast, while an undirected proxy allows the person who is given the proxy to decide how to vote.) The proxy forms must include a blank space for the insertion of the proxy holder's name. The act also allows the forms to include the name of a person the association designates as the default proxy holder. Such a person is authorized to exercise the proxy if the unit owner does not specify the name of the proxy holder subject to the limitations set forth for proxy voting under CIOA and the act.

Under CIOA, associations must keep detailed records of receipts and expenditures affecting their operation and administration and other appropriate accounting records. The act specifies that this includes records relating to any reserve accounts.

EFFECTIVE DATE: October 1, 2013

#### COMMUNITY ASSOCIATION MANAGERS

By law, community association managers must register with the Department of Consumer Protection (DCP). The act adds to the grounds upon which DCP's Real Estate Commission can take disciplinary actions against community association managers by allowing such actions due to knowing and material violations of any provision of CIOA or the Condominium Act. Such disciplinary actions include (1) revoking, suspending, or refusing to issue or renew the manager's registration certificate; (2) placing him or her on probation; or (3) issuing a letter of reprimand. By law, the commission can revoke or suspend a registration certificate only after notice and a hearing in accordance with the Uniform Administrative Procedure Act.

#### BACKGROUND

##### *Common Interest Ownership Act (CIOA) and Condominium Act*

CIOA governs the creation, alteration, management, termination, and sale of condominiums and other common interest communities formed in Connecticut on and after January 1, 1984 (CGS § 47-200 et seq.). Certain CIOA provisions, including those amended by this act, also apply to common interest communities created in Connecticut before January 1, 1984, but do not invalidate existing provisions of the communities' governing instruments. Common interest communities created before then can amend their governing instruments to conform to portions of CIOA that do not automatically apply (CGS §§ 47-214, 216, 218).

The Condominium Act (CGS §§ 47-68a to 47-90c) governs condominiums created from 1977 through 1983, except when CIOA applies.

#### *Related Act*

PA 13-182 changes requirements under CIOA for approval of annual budgets and special assessments for certain large common interest communities and master associations meeting specified criteria.

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#### **PA 13-307—sHB 6546**

*Insurance and Real Estate Committee  
Appropriations Committee*

#### **AN ACT CONCERNING COPAYMENTS FOR PHYSICAL THERAPY SERVICES**

**SUMMARY:** This act prohibits certain health insurance policies from imposing a copayment of more than \$30 per visit for in-network physical therapy services performed by a state-licensed physical therapist.

The act applies to individual and group policies delivered, issued, renewed, amended, or continued in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; or (4) hospital or medical services, including coverage under an HMO plan. Due to the federal Employee Retirement Income Security Act, state insurance benefit mandates do not apply to self-insured benefit plans.

EFFECTIVE DATE: January 1, 2015

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**PA 13-16**—SB 1061

*Judiciary Committee*

**AN ACT CONFIRMING AND ADOPTING  
VOLUMES 1 TO 13, INCLUSIVE, OF THE  
GENERAL STATUTES, REVISED TO 2013**

**SUMMARY:** This act formally adopts, ratifies, confirms, and enacts the General Statutes revised to January 1, 2013.

EFFECTIVE DATE: Upon passage

**PA 13-17**—sSB 235

*Judiciary Committee*

**AN ACT CONCERNING THE ADOPTION OF  
THE UNIFORM ELECTRONIC LEGAL  
MATERIAL ACT**

**SUMMARY:** This act establishes as state law a version of the Uniform Electronic Legal Material Act (UELMA), which the National Conference of Commissioners on Uniform State Laws adopted in 2011.

UELMA provides for the authentication and preservation of electronic records of legal material published by the state (e.g., the General Statutes or court cases). The act does not require the state to publish legal material electronically, but sets certain requirements if the state does so and designates the record as official.

Among other things, this act provides that properly authenticated electronic legal materials are presumed to be accurate copies of the official material.

EFFECTIVE DATE: October 1, 2014

UELMA

**§ 2-3 — Applicability and Definitions**

The act applies to all legal material in an electronic record that is designated as official under the act and first published electronically on or after October 1, 2014. Thus, in addition to new material, the act applies to older material being converted into an electronic format if that format is designated as the official version (see below).

The following definitions apply in the act.

“Legal material” means the following, whether or not they are in effect: the state constitution; the General Statutes; state agency regulations; and reported decisions of the state Supreme, Appellate, and Superior courts.

The “official publisher” of legal material varies depending on the material. The secretary of the state is the official publisher of the state constitution and state

agency regulations. The Joint Committee on Legislative Management is the official publisher of the General Statutes. The Commission on Official Legal Publications is the official publisher of reported court decisions.

A “state” means a U.S. state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or island possession subject to U.S. jurisdiction.

**§ 4 — Legal Material in Official Electronic Records**

Under the act, if an official publisher publishes legal material only in an electronic record, the publisher must (1) designate the electronic record as the official record and (2) comply with the act’s provisions on authentication (§ 5), preservation and security (§ 7), and permanent public access (§ 8).

If an official publisher publishes legal material in both electronic and non-electronic form, it can designate the electronic record as the official record if it complies with the provisions noted above.

**§ 5 — Authentication of Official Electronic Records**

The act requires the official publisher to authenticate an official electronic record. To do so, the publisher must provide a way for a user to determine that the record he or she receives from the official publisher is the same as the version that the publisher designated as the official version. (The act does not specify how a publisher might do this.)

**§ 6 — Effect of Authentication**

Under the act, authenticated legal material in an electronic record is presumed to be an accurate copy of the material. Someone contesting such an authentication has the burden of proving by a preponderance of the evidence that the record is not authentic.

The act specifies that legal material in electronic records maintained by another state is presumed to be an accurate copy if that state has (1) adopted a law substantially similar to the act and (2) designated the material as official and authenticated it.

**§ 7 — Preservation and Security**

The act requires an official publisher of legal material in an electronic record that is or was designated as official to provide for the record’s preservation and security, in electronic form or otherwise. Publishers that preserve such material electronically must (1) ensure the record’s integrity, (2) provide for its backup and recovery in case of disaster, and (3) ensure the material’s continuing usability.

### § 8 — Public Access

Official publishers of legal material in an electronic record that must be preserved under the act must ensure that the material is reasonably and permanently available for public use.

### § 9 — Standards

The act requires official publishers of legal material in electronic records, in implementing the act, to consider:

1. other jurisdictions' standards and practices;
2. the most recent authentication, preservation, security, and public access standards concerning legal material in electronic records and other unspecified electronic records, as promulgated by national standard-setting bodies, and standards or guidelines that the state librarian or public records administrator establishes under law;
3. the needs of the material's users;
4. the views of government officials, government entities, and other interested persons; and
5. to the extent practicable, methods and technologies for giving public access to and authenticating, preserving, and securing legal material that are compatible with those used by other official publishers in Connecticut and other states that have adopted a law substantially similar to UELMA.

### § 10 — Uniformity of Application and Construction

The act specifies that in applying and construing UELMA, consideration must be given to the need to promote uniformity of law with respect to its subject matter among states that enact it.

### § 11 — E-SIGN Act

The act provides that its provisions modify, limit, and supersede the federal Electronic Signatures in Global and National Commerce (E-SIGN) Act. But they do not (1) modify, limit, or supersede E-SIGN's provisions on consumer disclosures or (2) authorize electronic delivery of specified notices not subject to E-SIGN.

The federal E-SIGN Act (15 USC § 7001 et seq.) validates the use of electronic records and signatures in interstate commercial transactions, with some exceptions. Connecticut has also enacted the Connecticut Uniform Electronic Transactions Act (CUETA) (CGS §§ 1-266 to 1-286).

### PA 13-28—HB 6571

#### Judiciary Committee

### AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO SEXUAL ASSAULT IN THE FOURTH DEGREE AND KIDNAPPING IN THE FIRST DEGREE WITH A FIREARM

**SUMMARY:** This act increases the mandatory minimum sentence for 1<sup>st</sup> degree kidnapping with a firearm from one to 10 years. By doing so, it reinstates the 10-year mandatory minimum sentence for 1<sup>st</sup> degree kidnapping (see below).

It also makes a change to the crime of 4th degree sexual assault. One way a person commits this crime is to subject certain victims to sexual contact. The act no longer requires that this contact be intentional but leaves in place the requirement that the offender intend to (1) derive sexual gratification from the act or (2) degrade or humiliate the victim.

EFFECTIVE DATE: October 1, 2013

#### KIDNAPPING MANDATORY MINIMUM SENTENCES

By statute, 1<sup>st</sup> degree kidnapping is a class A felony and 10 years of a sentence for a class A felony cannot be suspended. However, in *State v. Jenkins*, the Connecticut Supreme Court ruled that it was unconstitutional to subject a person convicted of 1<sup>st</sup> degree kidnapping to a higher mandatory minimum sentence than a person convicted of kidnapping with a firearm, which was punishable as a class A felony with only a one-year mandatory minimum sentence (198 Conn. 671 (1986)). The Court ruled that the one-year mandatory minimum sentence would apply to both crimes.

By eliminating the one-year mandatory minimum for 1<sup>st</sup> degree kidnapping with a firearm, the act makes both 1<sup>st</sup> degree kidnapping and 1<sup>st</sup> degree kidnapping with a firearm class A felonies subject to a 10-year mandatory minimum sentence.

#### SEXUAL ASSAULT 4<sup>TH</sup> DEGREE

Under existing law, one way to commit 4<sup>th</sup> degree sexual assault is to subject to sexual contact a victim who is:

1. under age 13, when the offender is more than two years older;
2. age 13 or 14, when the offender is more than three years older;

3. mentally defective or incapacitated to the extent that he or she is unable to consent to sexual contact;
4. physically helpless;
5. under age 18, when the offender is his or her guardian or otherwise responsible for his or her welfare; or
6. in custody or detained in a hospital or other institution, when the offender has supervisory or disciplinary authority over him or her.

The act no longer requires that the sexual contact be intentional but retains the requirement that the offender intend to (1) derive sexual gratification from the act or (2) degrade or humiliate the victim. Other conduct constituting 4<sup>th</sup> degree sexual assault, such as sexual contact without the victim's consent or with a student enrolled in a school where the offender works, do not require that they be committed intentionally but require that they be done for the actor's sexual gratification or to degrade or humiliate the victim.

Fourth-degree sexual assault is a class A misdemeanor (see Table on Penalties). But it is a class D felony if the victim is under age 16.

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**PA 13-29**—sSB 829  
*Judiciary Committee*

## **AN ACT CONCERNING THE UNAUTHORIZED PRACTICE OF LAW**

**SUMMARY:** This act generally increases the penalty for the unauthorized practice of law from a class C misdemeanor to a class D felony (see Table on Penalties). It retains the existing penalty for people admitted as attorneys in other jurisdictions who practice in Connecticut without being authorized to do so and who are not otherwise exempt from the penalty.

The act expands the list of people covered by the unauthorized practice statute, as well as those exempt from it. It adds to the prohibition on unauthorized practice Connecticut attorneys who are disqualified from practicing for various reasons. But it exempts from prosecution someone suspended from practice solely for failure to pay the attorney occupational tax or client security fund fee and who practices law during that suspension.

It also explicitly exempts from the unauthorized practice statute someone who is not a Connecticut attorney but who is otherwise permitted to practice here by law or court rules.

The act provides that, in addition to the activities prohibited by the existing unauthorized practice statute, the prohibition also applies to otherwise engaging in the practice of law as defined by statute or Superior Court rules. It also provides that in any prosecution for

soliciting, requesting, commanding, importuning, or intentionally aiding in the unauthorized practice of law, or for conspiracy to engage in unauthorized practice, the state must prove beyond a reasonable doubt that the defendant knew that the person was not admitted to practice law in any jurisdiction when the violation occurred.

EFFECTIVE DATE: October 1, 2013

## **UNAUTHORIZED PRACTICE OF LAW**

### *Penalties and Exemptions*

The act generally increases the penalty for the unauthorized practice of law from a class C misdemeanor to a class D felony (see Table on Penalties). By law, someone who violates the unauthorized practice statute is also deemed to be in contempt of court, and the court has equitable jurisdiction to restrain violations (i.e., order the person to stop the violation).

*Others Authorized by Statute or Court Rule.* The act creates an explicit exemption to the prohibition on unauthorized practice for people authorized to provide legal services under a statute or Superior Court rule.

Court rules allow attorneys from other jurisdictions to provide legal services here under certain conditions without admission to the state bar. These include attorneys practicing “pro hac vice” (for this occasion only), authorized house counsel, and foreign legal consultants (Ct. Practice Book §§ 2-15A et seq.).

*Connecticut Attorneys Who Are Later Disqualified.* The act includes within the prohibition on unauthorized practice someone who was admitted to the Connecticut bar but is later disqualified from practicing due to resignation, disbarment, suspension, or being placed on inactive status. But someone suspended solely for failure to pay the attorney occupational tax or client security fund fee required by law, and who practices law during that suspension, is exempt from prosecution.

*Other Attorneys.* The act keeps the existing misdemeanor penalty for a defendant who is not authorized to practice here, as specified above, but who proves, by a preponderance of the evidence, that he or she committed the unlawful acts while an admitted member of good standing of the bar of (1) another state, (2) the District of Columbia, (3) Puerto Rico, (4) a U.S. territory, or (5) a U.S. district court.

By law, the misdemeanor penalty does not apply to attorneys who (1) are admitted members in good standing of the bar of any of the above specified jurisdictions and (2) within the scope of their employment, give legal advice to the employer or its corporate affiliate. But such people are still deemed in contempt of court and the court can stop them from violating the statute.

The act expands this exemption to include someone admitted in good standing to a foreign bar as permitted by Superior Court rules and who meets the other requirements set forth above. Also, such people from any of the above-specified jurisdictions would be exempt from all penalties under the statute if they were authorized house counsel or otherwise permitted by law or court rules to practice here.

## BACKGROUND

### *Related Act*

PA 13-127 extends the penalties for the unauthorized practice of law to notaries public who are not attorneys and who commit certain acts regarding immigration matters or advertising.

**PA 13-47**—sHB 6641  
*Judiciary Committee*

### **AN ACT CONCERNING THE SEXUAL ASSAULT OF A PERSON WHO IS PHYSICALLY HELPLESS OR WHOSE ABILITY TO CONSENT IS OTHERWISE IMPAIRED**

**SUMMARY:** This act adds to and updates certain factors for determining guilt in cases of 2<sup>nd</sup> and 4<sup>th</sup> degree sexual assault involving a person with a physical or mental disability.

Under existing law, it is 2<sup>nd</sup> degree sexual assault to have sexual intercourse, or 4<sup>th</sup> degree sexual assault to have sexual contact, with someone who is physically helpless. The act expands the definition of “physically helpless” for these purposes to include someone who is physically unable to resist an act of sexual intercourse or sexual contact.

Existing law also includes within the definition of “physically helpless” someone who is unconscious or otherwise physically unable to communicate unwillingness to engage in the act. As recently interpreted by the state Supreme Court, even total physical incapacity does not necessarily render someone physically helpless under that provision (see BACKGROUND).

Under prior law, it was also 2<sup>nd</sup> degree sexual assault to have sexual intercourse, or 4<sup>th</sup> degree sexual assault to have sexual contact, with someone who is “mentally defective” and consequently unable to consent. The act eliminates references to “mentally defective” in these statutes and instead refers to “impaired because of mental disability or disease.” It defines this term in a similar manner as the prior definition for “mentally defective,” except for updated terminology. Thus, under the act, a person is “impaired

because of mental disability or disease” if such a condition renders him or her incapable of appraising the nature of his or her conduct.

The act also makes a conforming change.

EFFECTIVE DATE: October 1, 2013

## BACKGROUND

### *Penalties and Affirmative Defense*

Table 1 describes the penalties for 2<sup>nd</sup> and 4<sup>th</sup> degree sexual assault.

Table 1: Penalties for 2nd and 4th Degree Sexual Assault

| <i>Crime</i>                          | <i>Penalty</i>                                                                                                                                                                                                              |
|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2 <sup>nd</sup> degree sexual assault | <p><u>Victim age 16 or older</u>: class C felony (see Table on Penalties)</p> <p><u>Victim younger than age 16</u>: class B felony</p> <p>In either case, the law requires a mandatory minimum of nine months in prison</p> |
| 4 <sup>th</sup> degree sexual assault | <p><u>Victim age 16 or older</u>: class A misdemeanor</p> <p><u>Victim younger than age 16</u>: class D felony</p>                                                                                                          |

For sexual assault prosecutions based on the victim’s mental or physical condition as described above, it is an affirmative defense that the defendant did not know of the victim’s condition at the time of the offense. A defendant has the burden of proving an affirmative defense by the preponderance of the evidence.

### *Related Case*

In a recent case, a woman with severe disabilities alleged that she had been sexually assaulted by her mother’s boyfriend. The woman was nonverbal but was able to communicate in limited ways. The man was found guilty at trial, but his conviction was overturned on appeal. A majority of the state Supreme Court agreed with the Appellate Court that there was insufficient evidence to show that the victim was “physically helpless” within the meaning of the prior definition of that term in the sexual assault statutes. The court noted that “even total physical incapacity does not, by itself, render an individual physically helpless.” Rather, under prior law, the term applied only to someone who, “at the time of the alleged act, was unconscious or for some other reason physically unable to communicate lack of consent to the act” (*State v. Fourtin*, 307 Conn. 186 (2012)).

*Related Act*

PA 13-28 makes a minor change to the intent requirement for 4<sup>th</sup> degree sexual assault.

**PA 13-69—sSB 238***Judiciary Committee***AN ACT CONCERNING INMATE DISCHARGE SAVINGS ACCOUNTS**

**SUMMARY:** This act makes a number of changes regarding compensation inmates earn performing jobs. Among other things, it:

1. requires the Department of Correction (DOC) commissioner to perform the duties associated with inmate compensation previously performed by individual facility administrators;
2. eliminates the requirement that each inmate have an individual bank account and instead requires the commissioner to direct inmates' compensation to a bank account or an account that the state treasurer administers;
3. limits the inmate discharge savings program to sentenced inmates incarcerated in Connecticut;
4. allows the DOC commissioner to collect, as part of an inmate's cost of incarceration, a fee for participating in any job training, skill development, or career opportunity or enhancement program; and
5. requires the DOC commissioner to make the inmate labor pilot program consistent with governing federal guidelines (see BACKGROUND) and makes changes to how program participants' compensation is handled.

EFFECTIVE DATE: July 1, 2013

**INMATE COMPENSATION**

Prior law required the head of each correctional facility to deposit in a separate individual inmate bank account compensation inmates earned for services performed on behalf of the state. The act instead makes the DOC commissioner responsible for depositing inmate compensation, eliminates the requirement for an individual inmate bank account, and requires depositing inmate compensation in a bank account or state treasurer-administered account.

The law requires payment of certain obligations from an inmate's account. Prior law set the following priorities for payments:

1. federal taxes;
2. court-ordered restitution or victim compensation, civil judgments in favor of a victim, or victim compensation through the

- criminal injuries account;
3. state taxes;
4. support of dependents;
5. necessary travel and incidental expenses for work;
6. incarceration costs; and
7. payments to the court clerk if the inmate is held only for not paying a fine.

Prior law also required transfers to a discharge savings account for each inmate but did not specify its priority. The act requires contributions to an inmate's discharge savings account after satisfying obligations 1 to 5 above, but before incarceration costs and payments to court clerks for inmates held only for not paying a fine.

**DISCHARGE SAVINGS ACCOUNT**

The law allows DOC to transfer up to 10% of any deposit to an inmate's individual account to his or her discharge savings account. Once the discharge savings account reaches \$1,000, DOC must deduct 10% from any deposits to reimburse the state for the inmate's incarceration costs, as necessary.

The act limits the requirement to accumulate discharge savings to only those inmates sentenced and confined in Connecticut. It also prohibits DOC from reducing an inmate's discharge savings to pay the obligations listed above, as was previously required.

**WORK-RELEASE COMPENSATION**

By law, the DOC commissioner can allow an inmate to continue in outside employment or attempt to obtain such employment for an inmate. Prior law required giving the commissioner any compensation the inmate earned. The act allows the commissioner's designee to receive the earnings and eliminates the requirement that the funds be held in trust for an inmate. It instead requires depositing the money in a bank account or an account that the state treasurer administers. The money must be credited to the inmate's individual account.

The law requires payment of certain obligations from this compensation. Prior law set the following priorities for payments:

1. federal taxes;
2. court-ordered restitution or victim compensation, civil judgments in favor of a victim, or victim compensation through the criminal injuries account;
3. state taxes;
4. support of dependents;
5. necessary travel and incidental expenses for work; and
6. incarceration costs.

The act specifies that inmates contribute to their discharge savings accounts after satisfying all of these disbursements other than incarceration costs.

The act permits work release program participants' compensation to be levied or attached.

#### PILOT INMATE LABOR PROGRAM

The law allows the DOC commissioner to establish a pilot program to use inmate labor in private industry and enter into any necessary contract, including rental or lease agreements. An inmate may only participate in this program voluntarily and after he or she has been informed of the employment conditions. Inmates must be paid at least the prevailing wage for similar work in private industry.

The act:

1. subjects compensation received by program participants to state claims for the cost of their incarceration,
2. eliminates a requirement for the DOC commissioner or his designee to collect and deposit participants' compensation in a trust account,
3. permits program participants' compensation to be levied or attached, and
4. requires the DOC commissioner or his designee to notify the social services commissioner and the welfare department in the town where a program participant's dependents live of any amount being paid to the dependents on the participant's behalf.

#### BACKGROUND

##### *Prison Industry Enhancement Certification Program Guidelines*

Federal guidelines govern such things as program eligibility, minimum wages, and allowable deductions from inmates' wages.

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**PA 13-73—SB 828**

*Judiciary Committee*

#### **AN ACT CONCERNING SEXUAL OFFENDER REGISTRATION REQUIREMENTS FOR CERTAIN PERSONS GRANTED TEMPORARY LEAVE BY THE PSYCHIATRIC SECURITY REVIEW BOARD**

**SUMMARY:** This act requires persons found not guilty of crimes due to mental disease or defect who are granted temporary leave by the Psychiatric Security Review Board to register as sex offenders if the crime

for which they were acquitted requires sex offender registration. These include crimes against minors, sexual offenses (violent or nonviolent), and felonies found by the sentencing court to have been committed for sexual purposes.

By law, the board may grant temporary leave to people who were (1) found not guilty by reason of mental disease or defect and (2) confined to a hospital for psychiatric disabilities or placed with the developmental services commissioner. The board may grant such leave when the hospital's superintendent or commissioner requests it.

EFFECTIVE DATE: July 1, 2013

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**PA 13-75—sSB 1143**

*Judiciary Committee*

#### **AN ACT CONCERNING TRAFFIC STOP INFORMATION**

**SUMMARY:** This act extends to more law enforcement officers and departments the requirements to (1) collect and report certain traffic stop information and (2) adopt and follow a profiling policy. These requirements already apply to the state police and municipal police departments.

The act also makes changes to the standardized method and forms that the Office of Policy and Management (OPM) must develop by July 1, 2013 and law enforcement officers must use to record and report traffic stop data and complaints. The act:

1. requires officers to record additional details about a traffic stop;
2. excuses officers from collecting data in certain circumstances; and
3. requires OPM to submit, by January 1, 2014, a second progress report on developing the standardized method and guidelines for recording and reporting data to the Judiciary and Public Safety and Security Committees, African-American Affairs Commission, Latino and Puerto Rican Affairs Commission, and Legislative Black and Puerto Rican Caucus.

Beginning October 1, 2013, the act requires departments to report the data in monthly reports, rather than an annual summary report. It requires departments to submit this data in an OPM-prescribed format and to do so electronically beginning January 1, 2015 or earlier if practicable.

The act extends, from January 1 to July 1, 2014, the deadline for OPM's first annual report reviewing traffic stop data and complaints.

EFFECTIVE DATE: October 1, 2013

## WHO MUST RECORD DATA AND ADOPT PROFILING POLICY

The law requires the Department of Emergency Services and Public Protection (DESPP), which includes the State Police, and municipal police departments to:

1. adopt written policies prohibiting stopping, detaining, or searching anyone solely motivated by consideration of race, color, ethnicity, age, gender, or sexual orientation and
2. record traffic stop data.

The act also imposes these requirements on any department that includes or oversees someone with the same statutory authority to make arrests or issue citations for violating motor vehicle statutes or regulations and enforce those statutes and regulations as a municipal police or state police officer in their jurisdiction. This includes:

1. special policemen appointed by the DESPP commissioner for state property;
2. special policemen or state policemen enforcing traffic regulations at Department of Mental Health and Addiction Services or Children and Families facilities;
3. policemen appointed by DESPP for a utility or transportation company;
4. the motor vehicles commissioner, deputy commissioners, and designated salaried inspectors (who are authorized, by law, to enforce motor vehicle statutes and regulations);
5. State Capitol Police officers;
6. UConn and Connecticut State University system police;
7. state police enforcing traffic regulations at the Veterans' Home; and
8. fire police (who, by law, have powers over traffic control and regulation).

The act extends to these officers and departments the same duties that apply to state and local police officers and departments. These include the requirement to (1) record, retain, and report traffic stop information; (2) use OPM's standardized method and form when they are available to record, retain, and report this data; (3) use OPM guidelines, when they are available, to train officers to use forms and evaluate data; and (4) provide copies of and disposition information about complaints received about traffic stops to OPM and the chief state's attorney. The act subjects these departments to the potential loss of state funds for noncompliance, as with the State Police and local police departments under existing law.

It also extends protections from civil liability for officers who record information in good faith unless their conduct is unreasonable or reckless.

## RECORDING TRAFFIC STOP DATA

The law requires OPM, in consultation with the Racial Profiling Prohibition Project Advisory Board and Criminal Justice Information System Governing Board, to develop and implement a standardized method, which can include forms, to record traffic stop data. OPM must do so by July 1, 2013 and law enforcement officers must use the new method when it is available.

The act makes a number of changes to the contents of OPM's new method and forms and the information that officers must record when using them.

1. Existing law requires officers to record the date, time, and location of the stop. The act specifies that they record the stop's specific geographic location.
2. The act requires officers to record the officer's unique identifying number or name and title if he or she does not have a number, rather than the officer's name and badge number.
3. Existing law requires recording the stop's disposition, including whether a warning, citation, or summons was issued and whether a search was conducted or an arrest made. The act additionally requires recording the (a) statute or citation for a warning, citation, or summons and (b) authority for a search and its results.

By law, the following information must also be recorded:

1. race, color, ethnicity, age, and gender of the motor vehicle operator based on the officer's observation and perception;
2. nature of the alleged traffic violation or other violation that caused the stop and the statutory citation for it; and
3. other appropriate information.

The act excuses an officer from using the form or providing the person stopped with notice or instructions about filing a complaint if the officer is required to leave the location to respond to an emergency or due to other exigent circumstances within the scope of the officer's duties.

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**PA 13-81—sSB 984**

*Judiciary Committee*

## AN ACT CONCERNING PROBATE COURT OPERATIONS

**SUMMARY:** This act makes various revisions in probate statutes, including several changes affecting conservatorships. For example, it (1) extends to people under voluntary conservatorship the law's protections for involuntary conservatorship regarding placement in



long-term care institutions and (2) provides that the rules of evidence apply in all conservatorship proceedings, rather than only hearings on applications for involuntary conservatorship.

The act substitutes a financial report as provided by the probate court rules of procedure for prior law's statement in lieu of an accounting. It expands the types of probate appeals that are on the record rather than a trial de novo and makes other changes concerning probate appeals. It increases the maximum value of a non-charitable trust that the probate court can terminate.

The act repeals several statutes, such as provisions allowing the Department of Children and Families (DCF) or a child-placing agency to consider the prospective adoptive or foster parent's sexual orientation before placing a child with the person. It makes changes affecting other matters, such as the probate court rules of procedure, probate orders passed under a revoked will, spousal elections, estate examiners, and disputed claims against estates.

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

EFFECTIVE DATE: October 1, 2013, except (1) the section on a financial report in lieu of accounting (§ 2) and the repealer section (§ 21) are effective July 1, 2013 and (2) certain technical and conforming changes are effective upon passage (§ 15) or July 1, 2013 (§§ 16-20).

## § 1 — PROBATE COURT RULES OF PROCEDURE

Existing law requires the probate court administrator to recommend to the Supreme Court, for adoption and promulgation, mandatory rules of procedure for probate courts. The act conforms to the most recent edition of the compiled rules by referring to it as the probate court rules of procedure, rather than the practice book. The act also allows, rather than requires, the administrator to pay for the publication of this book from the Probate Court Administration Fund.

On November 7, 2012, the Supreme Court justices adopted the most recent revision to the probate rules, to take effect July 1, 2013.

## § 2 — FINANCIAL REPORT IN LIEU OF ACCOUNTING

Prior law generally allowed a fiduciary of an estate who was also a beneficiary of the estate to file a statement instead of an accounting. The statement, filed under penalties of false statement, had to provide that all debts, funeral expenses, taxes, and expenses of administration had been paid, and all bequests and devises had been or would be distributed. The court could refuse to accept the statement and instead require a full accounting, upon the petition of an interested

party and a showing of cause.

The act repeals these provisions and instead refers to a financial report in lieu of an account under the probate court rules of procedure. As is the case if the court approved the statement in lieu of accounting under prior law, the act provides that if the probate court approves such a financial report, it can enter a decree releasing the fiduciary, and sureties on any bond, from any further liability. The act specifies that this release of liability would be with respect to all items shown in the report.

The new probate rules (§ 1.1) define a financial report as a simplified form of accounting, meeting specified requirements, by which a fiduciary provides summary information about the management of an estate. Rule 37 lists the specific requirements.

## § 3-4 — PROBATE COURT APPEALS

### *Appeals in Civil Commitment Proceedings*

The act repeals obsolete provisions on appeals of probate court orders, denials, or decrees under the involuntary commitment law and related statutes. These provisions (1) required the probate court to make all necessary orders of notice to the parties and to such other persons as it deemed advisable and (2) allowed the probate court to require the appellant to post a bond and pay all legal costs and expenses if unsuccessful.

Other provisions of existing law, unchanged by the act, (1) provide for notifying interested parties about probate appeals; (2) allow costs of a probate appeal to be taxed in favor of the prevailing party as such costs are allowed in Superior Court judgments; and (3) allow appellants to apply for a waiver of costs in probate appeals, including any required bond.

### *Appeals on the Record*

Under prior law, an appeal from involuntary conservator appointments was on the record (examining the prior decision), while other appeals related to conservatorship proceedings were upon a trial de novo (new trial). The act makes all conservatorship-related appeals, as well as appeals from the following matters, on the record rather than upon a trial de novo, if there is a record:

1. involuntary medication or surgery for psychiatric disabilities (including psychosurgery or shock therapy) and
2. involuntary administration of psychiatric medication to criminal defendants committed to the Department of Mental Health and Addiction Services for treatment.

### *General Provisions*

The act specifies that in probate appeals, the probate court and the judge that rendered the decision being appealed must not be made parties to the appeal or named as parties in the complaint. The act also clarifies that the appealing party is required only to mail a copy of the complaint to the probate court, not to serve the complaint on the court.

#### § 5 — ORDERS PASSED UNDER A REVOKED WILL

Existing law permits probate courts to revoke, annul, and set aside (1) orders or decrees proving or approving a will which has been revoked and (2) other orders or decrees made in settlement of the estate under the will. The act specifies that for this purpose, the applicable law regarding whether the will has been properly revoked is the law in effect when the will was executed. (The will revocation statute, CGS § 45a-257, was last amended in 1996, effective January 1, 1997.)

These provisions apply to wills executed on or after October 1, 1967. The act does not specify what version of the statute applies to wills executed before then.

#### § 6 — SPOUSAL ELECTION

The act changes the timeframe for a surviving spouse to elect to take a statutory share of property rather than accept the bequests under the deceased spouse's will. It requires the filing of intention to take the spousal election within 150 days after the mailing of the decree admitting the will to probate. Prior law required the filing within 150 days of the appointment of the first fiduciary.

By law, a surviving spouse may elect to take a life-estate of one-third of the value of property passing under the deceased spouse's will, after the estate's debts and charges are paid.

#### § 7 — TERMINATION OF SMALL TRUSTS

The act authorizes a probate court to completely or partially terminate a non-charitable trust valued at up to \$150,000, instead of up to \$100,000, if it determines that (1) continuation is uneconomic when operating costs, probable income, and other relevant factors are considered or continuation is not in the beneficiaries' best interest and (2) termination is equitable and practical. Existing law already authorizes probate courts to terminate charitable trusts valued at up to \$150,000 (CGS § 45a-520).

By law, a probate court can terminate a trust only after notice to all beneficiaries and a hearing. When it orders termination of a trust, it must direct the principal

and undistributed income to be distributed to the beneficiaries in an equitable manner. Trusts cannot be terminated under certain circumstances.

#### §§ 8-9, 11 — INVOLUNTARY CONSERVATORSHIP

The act allows a minor's parent or guardian who anticipates that the minor will need involuntary conservatorship after turning age 18 to file a conservatorship application up to 180 days before the minor's 18th birthday. A hearing on such an application must be held within 30 days before the minor turns 18. A probate court order approving such an application can take effect no earlier than the minor's 18th birthday.

The act also specifies that if a person subject to an involuntary conservatorship notifies the probate court that he or she wants to attend a conservatorship hearing but is unable to do so, the probate court must schedule the hearing at a place that would facilitate the person's attendance. Existing law already requires this in regards to people (1) for whom an application for involuntary conservatorship has been filed or (2) who have requested voluntary conservatorship.

#### § 10 — RULES OF EVIDENCE IN CONSERVATORSHIP PROCEEDINGS

The act provides that the rules of evidence apply in all conservatorship proceedings, and all testimony at a conservatorship hearing must be given under oath or affirmation. Prior law applied these provisions to hearings on applications for involuntary conservatorship but not to other conservatorship proceedings.

#### § 12 — SAFEGUARDS DURING VOLUNTARY CONSERVATORSHIP

The act extends to a person under a voluntary conservatorship the law's procedural safeguards that already apply to an involuntary conservatorship regarding the conservator's authority to change the person's residence or dispose of the person's property.

Among other things, these safeguards:

1. generally prohibit a conservator from ending the person's tenancy or lease, selling or disposing of the person's real property or household furnishings, or changing the person's residence unless a probate court holds a hearing and finds that (a) the termination, sale, disposal, or change is necessary or (b) the person agrees to it;
2. require the conservator to file a report, and the court to hold a hearing, before changing the person's residence (including placing him or her in a long-term care institution);

3. allow a person under conservatorship, who is placed in an institution for long-term care, to request a hearing at any time on that placement; and
4. require the court to order a different placement of such a person in an institution for long-term care if the court determines that the person's needs can be met in a less restrictive and more integrated setting within the person's resources.

### § 13 — ESTATE EXAMINER

Existing law allows anyone with an interest in a deceased person's estate, and who needs financial or medical information about the deceased person for purposes of a potential lawsuit or claim for benefits, to apply to the probate court to appoint an estate examiner.

The act also allows a person to apply if he or she has an interest in an estate and needs financial information about the deceased to determine whether the estate may be settled under the small estate statute. (CGS § 45a-273 provides a simplified procedure for settling estates if the total value of the estate is \$40,000 or less.)

### §§ 14, 21 — DISPUTED CLAIMS BY CREDITORS OF DECEDENTS' ESTATES

Under prior law, when an estate fiduciary rejected (in whole or in part) a claim against the estate, the rejected claimant could, among other options, apply to the probate court to appoint one or more disinterested persons (called commissioners) to hear and decide it. At least one commissioner had to be an attorney, and commissioners could not be probate court employees or associated in legal practice with the probate judge.

The act eliminates the option of applying to have commissioners appointed in such a matter, and repeals a related statute. Instead, it allows the person to apply to probate court to refer the claim to a probate magistrate or attorney probate referee.

As is the case under prior law regarding appointment of a commissioner, (1) a person with a rejected claim has 30 days to apply to probate court for referral to a probate magistrate or probate attorney referee; (2) the probate judge has discretion to grant the application for referral; and (3) if the application is denied, the person has 120 days to file suit.

Under the act, if the court refers a claim to a probate magistrate or referee, the proceedings are governed by existing law's provisions regarding such referrals in probate matters. By law, a probate magistrate or attorney probate referee to whom a probate matter is referred must hear the matter and file with the court a report containing factual findings and

conclusions drawn from those findings. The probate court must hold a hearing on the report and any amendments or objections to it. The court can accept, modify, or reject the report or any amendment to it.

Under existing law, unchanged by the act, a person whose claim against an estate is rejected can also (1) file suit in Superior Court or (2) apply to the probate court to hear and decide the claim.

### §§ 15-20 — TECHNICAL CHANGES

These sections make minor, technical, and conforming changes to probate statutes.

### § 21 — REPEALER

The act repeals statutes:

1. governing claims against estates of people who died before October 1, 1987 (CGS §§ 45a-390 to -419);
2. allowing the DCF commissioner or a child-placing agency to consider the sexual orientation of the prospective adoptive or foster parent or parents when placing a child for adoption or in foster care (CGS § 45a-726a); and
3. providing that the recruitment of minority families may not be a reason to delay placement of a child with an available family of a different race or ethnicity from that of the child (CGS § 45a-727b).

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### PA 13-87—SB 1157

*Judiciary Committee*

### AN ACT REQUIRING THE INCLUSION OF THE GRANTEE'S MAILING ADDRESS IN A DOCUMENT CONVEYING LAND

**SUMMARY:** This act requires that a document conveying land include the grantee's current mailing address. By law, conveyances of land must be (1) in writing, (2) signed and acknowledged by the grantor or his or her power of attorney, and (3) attested to by two witnesses. The grantee is the person to whom the land is being conveyed and the grantor is the person conveying the land.

Under the act, failure to include the grantee's current mailing address in a document that affects any interest in real property in the state is considered an insubstantial defect. By law, any such document is as valid as if the address had been included.

EFFECTIVE DATE: October 1, 2013

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**PA 13-112—HB 6447***Judiciary Committee***AN ACT CONCERNING THE OCCUPATIONAL TAX ON ATTORNEYS**

**SUMMARY:** This act increases, from \$450 to \$1,000, the maximum amount a Connecticut licensed attorney who does not practice law as his or her primary occupation can earn per year in legal fees or other compensation for legal services without being required to (1) file an annual return and (2) pay a \$565 occupational tax.

EFFECTIVE DATE: October 1, 2013

**PA 13-127—HB 5513***Judiciary Committee***AN ACT CONCERNING THE UNAUTHORIZED PRACTICE OF LAW BY NOTARIES PUBLIC**

**SUMMARY:** This act prohibits a notary public from offering or providing legal advice in immigration matters, or representing someone in immigration proceedings, unless he or she is (1) an attorney admitted to the Connecticut bar or (2) authorized by federal regulations to practice immigration law or represent people in immigration proceedings (see BACKGROUND). The law already generally prohibits the practice of law by people not admitted to the state bar.

The act also prohibits a notary public from assuming, using, or advertising the title of notario or notario publico (see BACKGROUND) unless he or she (1) is an attorney admitted to the Connecticut bar or (2) indicates in an advertisement or otherwise provides written notice that he or she is not a state-licensed attorney.

Under the act, any notary public who violates these provisions is deemed to have violated the prohibition on the unauthorized practice of law and is subject to the penalties that apply to unauthorized practice. Under existing law, the unauthorized practice of law is a class C misdemeanor (see Table on Penalties). But PA 13-29 generally increased the penalty to a class D felony. Certain violators are exempt from the criminal penalty.

EFFECTIVE DATE: October 1, 2013

**BACKGROUND***Related Federal Regulations*

Federal regulations allow nonprofit religious, charitable, social service, or similar organizations established in the United States and recognized as such

by the Board of Immigration Appeals to designate one or more representatives to represent people in immigration matters. The organization must establish to the board's satisfaction that it (1) makes only nominal charges and does not assess excessive membership dues for people it assists and (2) has adequate knowledge, information, and experience. Regulations specify how organizations may apply for such recognition, how the board may withdraw recognition, how recognized organizations may apply for accreditation of persons of good moral character as their representatives, and related matters (8 CFR § 292.2).

*Notario Publico*

In many Spanish-speaking countries, a “notario publico” is authorized to perform certain services that in the United States are reserved to lawyers (Office of the Connecticut Secretary of the State, Notary Public Manual, pg. 14).

*Related Act*

PA 13-29 generally increases the penalty for the unauthorized practice of law and makes other changes to the unauthorized practice statute.

**PA 13-144—HB 6508***Judiciary Committee***AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING FALSE STATEMENT**

**SUMMARY:** This act renames two false statement crimes. It renames 1<sup>st</sup> degree false statement as “false statement on a certified payroll” and 2<sup>nd</sup> degree false statement as simply “false statement.”

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

EFFECTIVE DATE: October 1, 2013

**PA 13-152—HB 6587***Judiciary Committee***AN ACT CONCERNING AMENDMENTS TO CONTRACTS BETWEEN THE STATE AND ANY MUNICIPALITY IN WHICH A CORRECTIONAL FACILITY IS LOCATED**

**SUMMARY:** This act allows a municipal legislative body to seek an amendment to a contract that (1) is currently in effect between the municipality and a state

agency and (2) relates to a correctional facility within the municipality that the state owns or leases and the Department of Correction (DOC) commissioner supervises.

EFFECTIVE DATE: Upon passage

## BACKGROUND

### *Agreements with Municipalities*

Municipalities hosting prisons often have contracts with DOC on a number of issues, such as using the town sewer system, noise control, and fencing.

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**PA 13-154**—sHB 6638

*Judiciary Committee*

## **AN ACT CONCERNING THE MAXIMUM PENALTY FOR VIOLATION OF A MUNICIPAL ORDINANCE REGULATING THE OPERATION OR USE OF A DIRT BIKE, ALL-TERRAIN VEHICLE OR SNOWMOBILE**

**SUMMARY:** This act increases the maximum penalties allowed for violations of municipal ordinances regulating certain dirt bike, all-terrain vehicle (ATV), and snowmobile use. It authorizes municipalities with ordinances on dirt bike operation and use on public property, including hours of use, to set the penalty for violating such ordinance at no more than:

1. \$1,000 for the first violation,
2. \$1,500 for the second violation, and
3. \$2,000 for subsequent violations.

The act allows municipalities to adopt the same penalty structure for ordinance violations related to the operation and use, including hours and zones of use, of ATVs or snowmobiles. By law, the fine for violating local ordinances and regulations is capped at \$250 unless a statute specifically provides for a different amount (CGS § 7-148).

The act defines a dirt bike as a two-wheeled motorized recreational vehicle designed to travel over unimproved terrain but not public highways (including public streets and roads). The definition excludes ATVs and motor-driven cycles.

EFFECTIVE DATE: October 1, 2013

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**PA 13-155**—sHB 6659

*Judiciary Committee*

*Public Safety and Security Committee*

## **AN ACT CONCERNING CIVIL IMMIGRATION DETAINERS**

**SUMMARY:** This act establishes the procedures state and local law enforcement officers must follow when they receive a civil immigration detainer regarding a person in their custody (see BACKGROUND).

Specifically, the act prohibits detaining the person unless the officer determines that specified public safety risk factors exist. It also requires law enforcement officers, upon determining whether to detain or release the person, to immediately notify U.S. Immigration and Customs Enforcement (ICE). If the person is to be detained, the officer must inform ICE that he or she will be held for up to 48 hours (excluding Saturdays, Sundays, and federal holidays). If ICE fails to take custody of the person within 48 hours, the officer must release the individual. The act prohibits holding a person for longer than 48 hours solely on the basis of a civil immigration detainer under any circumstances.

EFFECTIVE DATE: January 1, 2014

## CIVIL IMMIGRATION DETAINER

### *Public Safety Risk Factors*

The act requires law enforcement officers, in carrying out a civil immigration detainer regarding a person in their custody, to release the person unless they determine that he or she:

1. has been convicted of a felony;
2. is subject to pending criminal charges in Connecticut where bond has not been posted;
3. has an outstanding arrest warrant in Connecticut;
4. is identified by the Department of Correction (DOC) as a known gang member in the National Crime Information Center's database, or any similar database, or is designated as a Security Risk Group member or a Security Risk Group Safety Threat member;
5. is identified as a possible match in the federal Terrorist Screening Database or similar database;

6. is subject to a final order of deportation or removal issued by a federal immigration authority; or
7. presents an unacceptable risk to public safety.

#### DEFINITIONS

##### *Convicted of a Felony*

Under the act, “convicted of a felony” means that a person has been convicted of an offense for which he or she may be sentenced to a term of imprisonment of more than one year under a final judgment of guilt by a Connecticut or U.S. court after a plea of guilty or nolo contendere or a guilty finding by a jury or the court.

##### *Federal Immigration Authority*

Under the act, “federal immigration authority” means any officer, employee, or other person paid by or acting as an agent of ICE or any officer, employee, or other person otherwise paid by or acting as an agent of the U.S. Department of Homeland Security (DHS) who is charged with enforcing the civil provisions of the Immigration and Nationality Act.

##### *Law Enforcement Officer*

Under the act, “law enforcement officer” means (1) each officer, employee, or other person otherwise paid by or acting as an agent of DOC, a municipal police department, or the State Police and (2) each judicial and state marshal.

#### BACKGROUND

##### *Civil Immigration Detainer*

An immigration detainer is a notice that DHS issues to a law enforcement agency (1) informing the agency of its intent to assume custody of an alien in the agency’s custody and (2) requesting that the agency advise DHS, before releasing the alien, in order for DHS to arrange to assume custody, in situations when gaining immediate physical custody is either impracticable or impossible. Federal civil immigration detainer regulations limit detentions to 48 hours (8 CFR § 287.7).

#### **PA 13-156—sHB 6662**

##### *Judiciary Committee*

#### **AN ACT CONCERNING THE RECOUPMENT OF MONEYS OWED TO A UNIT OWNERS' ASSOCIATION DUE TO NONPAYMENT OF ASSESSMENTS**

**SUMMARY:** The Common Interest Ownership Act (CIOA) gives common interest community associations seeking to collect unpaid common charges a priority lien over previously recorded first or second security interests (e.g., mortgages). This act makes several changes affecting this priority lien. It:

1. extends the period covered by the lien from six to nine months;
2. specifies that the lien applies in all actions the mortgage holder brings to foreclose its mortgage on the unit as well as all actions the association brings to foreclose its lien for unpaid common charges (presumably, this allows the association to invoke the priority lien more than once, if assessments continue to go unpaid — i.e., it is an “evergreen” priority lien);
3. excludes from the lien any late fees, interest, or fines that the association assesses against the unit’s owner during the nine-month period;
4. specifies that the lien includes only reasonable attorneys’ fees;
5. requires an association, before bringing an action to foreclose its lien, to provide mortgage holders with (a) 60 days’ notice setting forth specified information and (b) a copy of the demand for payment it must already send to the unit owner (it must provide the copy to the mortgage holder at the same time as the unit owner); and
6. excludes costs or attorneys’ fees from the association’s priority lien if it fails to provide the required 60 days’ notice.

The act specifies that CIOA’s provisions concerning the priority of association liens (in regard to all other liens and encumbrances, not just mortgages) apply despite contrary provisions in the association’s declaration or bylaws.

It also specifies that association assessments under CIOA and related attorneys’ fees and costs owed by a mortgagor (i.e., the borrower) and paid by a mortgagee, are part of the debt the mortgagor owes to the mortgagee or lienor.

**EFFECTIVE DATE:** The priority lien provisions are effective upon passage and apply to actions pending on or filed on or after that date, except the notice requirements are effective October 1, 2013 and apply to actions filed on or after that date; the mortgage debt provision is effective October 1, 2013.

## 60 DAYS' NOTICE TO MORTGAGE HOLDERS

The act requires associations under CIOA, at least 60 days before bringing an action to foreclose a lien on a unit for unpaid assessments, to provide written notice to the holders of previously recorded mortgages on the unit. The notice is effective when the association sends it out, which must be by first class mail. It must set forth:

1. the amount of unpaid common expense assessments owed to the association as of the notice date;
2. the amount of attorneys' fees and costs the association incurred in enforcing its lien, as of the same date;
3. a statement of the association's intention to foreclose its lien if it is not paid these amounts within 60 days;
4. the association's contact information, including (a) the name of the individual acting on its behalf in the matter and (b) the association's mailing address, telephone number, and email address, if any; and
5. instructions for acceptable means of payment.

Under the act, if the mortgage holder has brought an action to foreclose its mortgage on the unit, the association must provide the required notice to the attorney appearing in that action on the mortgage holder's behalf. Otherwise, the association can rely on the last-recorded security interest of record to determine the mortgage holder's name and mailing address for purposes of complying with the notice requirement.

If the association fails to provide the notice within the required time frame, the association's costs and attorneys' fees are not included as part of the nine-month priority lien. Otherwise, the priority lien is not affected.

## BACKGROUND

### CIOA

CIOA governs the creation, alteration, management, termination, and sale of condominiums and other common interest communities formed in Connecticut after December 31, 1983. Some provisions of CIOA, including those concerning statutory liens for assessments, also apply to common interest communities formed before then.

## PA 13-158—sHB 6689 (VETOED)

*Judiciary Committee*

## AN ACT CONCERNING BAIL BONDS

**SUMMARY:** This act makes numerous changes relating to bail bonds, including:

1. allowing a surety to apply to the court to be released from a bond after a principal absconds;
2. allowing a court to extend, for good cause, the required six-month stay of execution on a bond forfeiture order when an accused fails to appear in court;
3. automatically terminating a bond and releasing a surety when an accused voluntarily returns between five business days and six months after a bond forfeiture order;
4. requiring the court to vacate a bond and release a professional bondsman or surety bail bond agent and insurer upon satisfactory proof that the accused is held by a federal agency or removed by U.S. Immigration and Customs Enforcement (ICE), if the prosecutor does not seek extradition;
5. creating a nine-member task force to examine ways to reduce the costs of extraditing someone to Connecticut for criminal proceedings and the feasibility of allowing courts to vacate bond forfeiture orders when a professional bondsman, surety bail bond agent, or insurer pays the extradition costs; and
6. specifying that a bond that is automatically terminated because a defendant is sentenced by a court is considered terminated when the sentence actually begins.

**EFFECTIVE DATE:** October 1, 2013, except the provision creating the task force is effective upon passage.

## ABSCONDING PRINCIPAL

The law requires a surety to apply to the Superior Court when he or she believes the principal on the bond will abscond, and the court must issue an order to take the person into custody. The principal's surrender discharges the bond. The act allows (1) the surety to apply to the court in writing to be released from a bond after a principal absconds and within six months of a bond forfeiture order and (2) a judge to release a surety for good cause.

## EXTENDING STAY OF FORFEITURE ORDER

When someone deposits cash or pledges real property equal to the amount of a bond or a person posts a surety bond of \$500 or more, the law requires the court to (1) order the bond forfeited if the accused does not appear in court and (2) issue a rearrest warrant. As under prior law, the court must stay execution of the forfeiture for six months and, if the person returns to custody during that period, automatically terminate the bond and release the surety or person who offered cash bail or pledged real property on behalf of the accused.

The act allows the court to extend the stay of execution for good cause and automatically terminates the bond if the person is returned during this extended period.

## VOLUNTARY RETURN BY THE ACCUSED

By law, if an accused person voluntarily returns to court within five days after an order forfeiting a surety bond of \$500 or more, the court can vacate the forfeiture order and reinstate the bond if the failure to appear was not willful.

If the person returns voluntarily more than five business days but less than six months after the forfeiture order, the act requires the court to (1) automatically terminate the bond, (2) release the surety, and (3) order the person's new conditions of release.

## ACCUSED HELD BY FEDERAL AGENCY OR REMOVED BY ICE

By law, the court must vacate a bond forfeiture order and release a professional bondsman or surety bail bond agent and insurer who posted a bond for the accused when the (1) accused is held in another state, territory, or country; (2) bondsman, agent, or insurer provides proof of the accused's detention; and (3) state's attorney prosecuting the case does not seek to extradite the accused. The act also requires the court to vacate a bond forfeiture order and release these individuals if the accused is held by a federal agency or is removed by ICE.

The act specifies that the court must find that the proof that one of these circumstances exists is satisfactory before vacating a bond and releasing a bondsman, agent, or insurer.

## TASK FORCE ON EXTRADITIONS

The act creates a task force to examine:

1. ways to reduce the costs of extraditing someone to Connecticut for criminal proceedings against the person and
2. the feasibility of allowing courts to vacate bond forfeiture orders when a professional

bondsman, surety bail bond agent, or insurer pays the extradition costs for the principal on the bond.

Under the act, the following are task force members:

1. a surety bail bond agent or professional bondsman in Connecticut, appointed by the House speaker;
2. a representative of an insurer qualified to conduct bail bond business in Connecticut, appointed by the Senate president pro tempore;
3. four members, who may be legislators, with the House and Senate majority and minority leaders each appointing one;
4. the emergency services and public protection commissioner or his designee;
5. a representative of the U.S. Marshals Service, appointed by the U.S. marshal for the District of Connecticut; and
6. the chief state's attorney.

The act requires appointing authorities to make their appointments within 30 days of the act's passage and fill any vacancies. The act designates the chief state's attorney as chairman and requires him to schedule and hold the first meeting within 60 days of the act's passage. The Judiciary Committee's administrative staff must serve as the task force's administrative staff.

The act requires the task force to report its findings and recommendations to the Judiciary Committee by January 15, 2014. The task force terminates on the later of that date or when it submits the report.

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**PA 13-159—sHB 6699**

*Judiciary Committee*

*Appropriations Committee*

## AN ACT CONCERNING PRETRIAL DIVERSIONARY PROGRAMS

**SUMMARY:** This act makes a number of changes to criminal court diversionary programs including:

1. renaming the pretrial drug education program the "pretrial drug education and community service program," expanding program eligibility, changing the treatment options that can be imposed, altering community service requirements, and increasing certain fees;
2. eliminating the pretrial diversion option of the community service labor program, which includes drug education, and altering eligibility for participation after a plea agreement; and
3. allowing a person charged with 2<sup>nd</sup> degree sexual assault to participate in accelerated rehabilitation (AR) when (a) there is good



cause and (b) the charge involves sexual intercourse with someone between ages 13 and 16 and the person charged is more than three but less than four years older.

EFFECTIVE DATE: October 1, 2013

#### PRETRIAL DRUG EDUCATION AND COMMUNITY SERVICE PROGRAM

The act renames the pretrial drug education program the “pretrial drug education and community service program.” As with the prior program, the court suspends prosecution of participants, participants waive their right to a speedy trial and agree to a tolling of the statute of limitations, and the court dismisses charges against a participant who successfully completes the program. A participant who fails to complete the program and is not reinstated is brought to trial.

##### *Eligibility*

As under prior law, defendants charged with drug possession or paraphernalia crimes punishable by imprisonment can participate in this program. The act also allows participation by someone charged with possession of less than 0.5 ounce of marijuana (which is punishable by only a fine). The law already requires referral of someone convicted of a third violation of this marijuana possession offense to participation in a drug education program at the person’s expense.

##### *Prior Participation*

Prior law prohibited someone from participating in the program if he or she previously used the program or the community service labor program. The act instead makes a person ineligible if he or she has twice participated in the new program or any combination of these programs. But it allows participation for one additional time for good cause.

The act eliminates a requirement that, in order to seal the court file, the person state under oath in open court or before a designated person under penalty of perjury that he or she has never used the program before.

##### *Evaluations*

When the court grants an application for the program, prior law required the court to refer the person to the Department of Mental Health and Addiction Services (DMHAS) for evaluation. The act instead requires referral to:

1. DMHAS on a person’s first or second application for evaluation and determination of an appropriate drug education or substance abuse treatment program and

2. a state-licensed substance abuse treatment program on a person’s third application for evaluation and determination of an appropriate substance abuse treatment program.

By law, the court can refer a veteran to the state or federal Department of Veterans Affairs (DVA) for evaluation instead.

##### *Treatment Programs*

Under prior law, participants were assigned to a 10- or 15-session drug intervention program or substance abuse treatment program of unspecified duration as recommended by the evaluation and ordered by the court. The act eliminates the 10-session intervention program and requires someone participating for the:

1. first time to participate in a 15-week drug education program,
2. second time to participate in either a 15-week drug education program or substance abuse treatment program consisting of at least 15 sessions as ordered by the court based on the evaluation and determination, and
3. third time to be referred to a state-licensed substance abuse program for evaluation and participation in a course of treatment as ordered by the court based on the evaluation and determination.

By law, the court can refer a veteran to the state or federal DVA for similar services.

##### *Community Service*

The act alters community service requirements for participants. Prior law tied community service requirements to the program the person was assigned to, requiring (1) at least five days’ participation in the community service program if assigned to the 10-session program or substance abuse treatment program and (2) at least 10 days if assigned to the 15-session program.

The act instead ties community service requirements to the number of times the person has used the pretrial program. It requires participation in the community service labor program for (1) five days for a first time participant, (2) 15 days for a second time participant, and (3) 30 days for those participating for a third or subsequent time.

##### *Program Fees*

The act increases the nonrefundable:

1. evaluation fee from \$100 to \$150,
2. program fee to \$600 from (a) \$350 for the 10-session program and (b) \$500 for the 15-session program, and

3. reinstatement fee (for someone who is not successful in a program but is granted reinstatement) to \$250 from \$175 for the 10-session program (it retains the \$250 reinstatement fee for the 15-session program).

It imposes an additional \$100 nonrefundable fee for the substance abuse treatment program.

By law, a person must also pay a \$100 application fee.

#### COMMUNITY SERVICE LABOR PROGRAM

Under prior law, someone could participate in the community service labor program (1) as a diversion program where the court suspended prosecution for a drug possession or paraphernalia crime and dismissed the charge upon successful completion of the program or (2) after a plea agreement for one of these crimes that included a prison term, where the court suspended the prison sentence and made the program a condition of probation or conditional discharge. The act eliminates the pretrial diversion option, which includes drug education, and alters eligibility for participation after a plea agreement.

Under prior law, a person could participate after a plea agreement that included prison time if he or she (1) was convicted of a drug possession or paraphernalia crime, (2) did not have a prior conviction of one of these crimes or a drug sale crime, and (3) had not twice previously used the program. Instead, someone is eligible under the act if he or she (1) is convicted of a first violation of a drug possession or paraphernalia crime and (2) has not previously been convicted of drug sale crimes. The act also eliminates the option to use the program a second time.

The act sets the length of the program at 30 days. Prior law required at least a 14-day program for a first violation and a 30-day program for a second violation.

#### ELIGIBILITY FOR ACCELERATED REHABILITATION

Prior law prohibited someone charged with 2<sup>nd</sup> degree sexual assault from participating in AR. The act makes someone charged with this crime eligible if he or she (1) is charged with the 2<sup>nd</sup> degree assault crime involving sexual intercourse with someone at least age 13 but under age 16 when the person charged is more than three years older than the victim, (2) is less than four years older than the victim, and (3) shows good cause.

A person must meet the other AR eligibility requirements in existing law.

#### BACKGROUND

##### AR

AR participants waive their right to a speedy trial and agree to a tolling of the statute of limitations. The court places them under the supervision of the Court Support Services Division for up to two years under whatever conditions it orders. If the defendant successfully completes the program, the court dismisses the charges and the record is erased. If the defendant violates a condition of the program, he or she is brought to trial on the original charges.

A person is eligible for AR if he or she does not have a prior conviction of a crime or certain motor vehicle violations and has not been in AR before. The court has discretion to determine whether to allow an eligible defendant to participate and may allow it only if it believes the defendant will probably not offend in the future.

A person is ineligible for AR if he or she is charged with any one of a number of crimes, including any class A felony, most class B felonies, and class C felonies unless good cause is shown.

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#### PA 13-164—HB 5514

*Judiciary Committee*

*Government Administration and Elections Committee*

#### **AN ACT CONCERNING THE ADMINISTRATOR OF THE INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION**

**SUMMARY:** This act eliminates the Department of Correction commissioner's duty to act as the state's administrator of the Interstate Compact for Adult Offender Supervision. The compact administrator is the person in each member state who is responsible for administering and managing the state's supervision and transfer of offenders under the compact (CGS § 54-133).

By law, each compact member state can determine the qualifications of the compact administrator, who is appointed by the state's Council for Interstate Adult Offender Supervision or the governor in consultation with the legislature and judiciary.

EFFECTIVE DATE: July 1, 2013

#### BACKGROUND

##### *Interstate Compact for Adult Offender Supervision*

Among member states, the compact governs (1) tracking adult offenders under supervision, (2) transferring supervision among compact states, and (3) returning offenders to their original jurisdictions when

necessary. The Interstate Commission for Adult Offender Supervision makes rules to cover these general areas and oversees the interstate movement of adult offenders between compact states. Each state has a council that oversees participation in the commission and develops policy on compact operations and procedures.

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**PA 13-165—HB 5515**

*Judiciary Committee*

**AN ACT CONCERNING RESIDENTIAL STAYS  
AT CORRECTIONAL FACILITIES**

**SUMMARY:** This act extends to additional inmates the opportunity to remain at a correctional institution beyond a maximum sentence term. It allows inmates to ask to remain in a correctional facility for up to 30 days after their discharge date (1) if the treatment program or health care institution to which they are to be discharged is unable to accept them on the discharge date or (2) for any compelling reason consistent with their rehabilitation or treatment. By law, inmates participating in a state program or a Department of Correction (DOC) drug or work or education release program may request an extended stay of up to 90 days.

As under existing law, inmates seeking an extended stay must make the request in writing at least one week before their scheduled release. By law, the DOC commissioner may charge inmates granted permission to stay a reasonable daily fee.

EFFECTIVE DATE: July 1, 2013

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**PA 13-166—HB 5666**

*Judiciary Committee*

**AN ACT CONCERNING SEXUAL  
EXPLOITATION AND TRAFFICKING IN  
PERSONS**

**SUMMARY:** This act:

1. adds funds and property related to prostitution, 3<sup>rd</sup> degree promoting prostitution, and commercial sexual exploitation of a minor to the types of property subject to forfeiture as tainted funds and property related to sexual exploitation and human trafficking;
2. requires proceeds from an auction of forfeited property that remain after paying liens and costs to be deposited in the Criminal Injuries Compensation Fund, rather than the General Fund;
3. expands the crime of trafficking in persons;

4. increases the penalty for patronizing a prostitute from a class A misdemeanor (see Table on Penalties) to a class C felony when the actor knew or reasonably should have known at the time of the offense that the prostitute was (a) under age 18 or (b) the victim of conduct amounting to a crime of trafficking in persons under state law or involuntary servitude, slavery, or trafficking under federal law (§ 4);
5. allows anyone convicted of prostitution to apply to Superior Court to vacate the conviction because he or she was a victim of conduct amounting to a crime of trafficking in persons under state law or involuntary servitude, slavery, or trafficking under federal law;
6. makes changes to defenses to a prostitution charge;
7. requires the Office of the Chief Court Administrator to develop a concise notice about services for human trafficking victims and requires truck stops and certain establishments serving alcohol to post it in a conspicuous location where sales occur;
8. requires the Office of Victim Services (OVS) to (a) analyze the compensation and restitution services (such as medical, psychiatric, psychological, social, and social rehabilitation services) provided to victims of sexual exploitation and human trafficking and recommend legislation to enhance compensation and services and (b) report its findings to the Judiciary Committee by January 15, 2014 (§ 8);
9. alters the Trafficking in Persons Council's membership and requires it to report on deficiencies in the statutes relating to trafficking and propose legislation to address them; and
10. eliminates a requirement that the notice developed by the chief court administrator regarding victims' rights and available services be bilingual.

EFFECTIVE DATE: October 1, 2013, except the provisions on the OVS report and Trafficking in Persons Council are effective upon passage.

**§ 1 — FORFEITURE OF PROPERTY RELATED TO  
SEXUAL EXPLOITATION AND HUMAN  
TRAFFICKING**

The act adds funds and property related to prostitution, 3<sup>rd</sup> degree promoting prostitution, and commercial sexual exploitation of a minor to the types of property subject to forfeiture as tainted funds and

property related to sexual exploitation and human trafficking. Under existing law, the crimes that trigger these procedures are:

1. the portion of the risk of injury to a minor statute involving sale of a child younger than age 16;
2. 1<sup>st</sup> or 2<sup>nd</sup> degree promoting prostitution;
3. enticing a minor using an interactive computer service;
4. voyeurism or disseminating voyeuristic material;
5. human trafficking;
6. employing or promoting a minor in an obscene performance; and
7. importing child pornography.

By law, funds and property related to these crimes are subject to forfeiture if they are:

1. money used or intended for use in one of these crimes;
2. property constituting the proceeds obtained, directly or indirectly, from one of these crimes;
3. property derived from the proceeds obtained, directly or indirectly, from any sale or exchange for pecuniary gain from these crimes; or
4. property used or intended for use to commit or facilitate commission of one of these crimes for pecuniary gain.

#### *Proceeds from Auction*

The law requires the Department of Administrative Services to sell property ordered forfeited by the court at a public auction. Sale proceeds pay (1) the balance due on any lien the court determines should be paid; (2) property storage, maintenance, security, and forfeiture costs; and (3) court costs. The act requires that any remaining proceeds be deposited in the Criminal Injuries Compensation Fund, rather than the General Fund. By law, this fund provides compensation and restitution to certain crime victims.

### § 2 — TRAFFICKING IN PERSONS

Under prior law, a person committed the crime of trafficking in persons when he or she coerced another person to compel or induce that person to engage in prostitution or provide labor or services.

The act expands this crime in a number of ways. Under the act, a person commits trafficking in persons when he or she:

1. compels or induces another person to (a) engage in more than one occurrence of sexual contact (contact with another person's intimate parts) with at least one third person or (b) provide labor or services the person has a legal

right to refrain from providing and

2. does so through coercion, fraud, or use or threatened use of force against the person or a third person.

By law, trafficking in persons is a class B felony (see Table on Penalties).

### §§ 3 & 5 — PROSTITUTION

#### *§ 5 — Vacating Conviction*

The act allows anyone convicted of prostitution to apply to Superior Court to vacate the conviction because he or she was a victim of conduct, at the time of the offense, that amounts to a crime of trafficking in persons under state law or involuntary servitude, slavery, or trafficking under federal law. The court must give the prosecutor a reasonable opportunity to investigate the claim and an opportunity to contest the application. If the defendant proves he or she was a victim of the conduct, the court must vacate the judgment and dismiss any charges related to the offense. The act provides that this cannot provide grounds for a compensation award based on wrongful arrest, prosecution, conviction, or incarceration under the statutes.

#### *§ 3 — Defenses*

The act (1) gives a person a defense to a prostitution charge if he or she was a victim of conduct that amounts to a federal crime of involuntary servitude, slavery, or trafficking in persons and (2) presumes that anyone under age 18 is a victim of this conduct. The law already provides a person with a defense if he or she was a victim of conduct that amounts to trafficking in persons under state law and someone under age 18 charged with prostitution is presumed to be a victim of this conduct.

The act also specifies that someone can assert the defense of duress to a charge of prostitution. By law, duress is a defense if (1) a person engaged in conduct because he or she was coerced by the use, or threatened imminent use, of physical force against that person or another and (2) a person of reasonable firmness in the situation would not be able to resist. The defense of duress is not available to people who intentionally or recklessly place themselves in a situation where it is probable that they will be subjected to duress.

### §§ 6-7 — NOTICE OF SERVICES

The act requires the Office of the Chief Court Administrator to develop a concise notice about services for human trafficking victims. The notice must state the toll-free state and federal anti-trafficking hotline

numbers that someone can use if he or she is forced to engage in an activity and cannot leave.

The act requires the office to make the notice available to truck stops and certain establishments serving alcohol, which must, when the notice is available to them, post it in plain view in a conspicuous location where sales occur. The act applies to truck stops defined as privately owned and operated facilities offering food, fuel, lawful overnight truck parking, and shower and laundry facilities. It also applies to anyone who holds an on-premises consumption permit for the retail sale of alcohol, except someone who only holds one or more of the following permits:

1. caterer, railroad, boat, airline, military, charitable organization, or special club permit;
2. temporary liquor or temporary beer permit;
3. restaurant permit, restaurant permit for beer, restaurant permit for wine and beer, or café permit; or
4. farm winery or beer manufacturer permit, beer and brew pub manufacturer permit, or other manufacturer permit.

## §§ 9-10 — TRAFFICKING IN PERSONS COUNCIL

### *Membership*

The act changes the membership of the Trafficking in Persons Council. As of June 24, 2013, it removes as members the (1) attorney general; (2) chairpersons of the commissions on Children, African-American Affairs, and Latino and Puerto Rican Affairs; and (3) two Judicial Branch representatives appointed by the chief court administrator, one of whom represented the Court Support Services Division. The act also changes the House minority leader's appointment from someone representing the Asian-American community to someone representing the Motor Transport Association of Connecticut, Inc.

As under prior law, the other council members are the following people:

1. the chief state's attorney;
2. the chief public defender;
3. the children and families, emergency services and public protection, labor, mental health and addiction services, public health, and social services commissioners;
4. the child advocate;
5. the victim advocate;
6. the Permanent Commission on the Status of Women chairperson;
7. a municipal police chief, appointed by the Connecticut Police Chiefs Association;
8. an OVS representative, appointed by the chief court administrator;

9. a representative of Connecticut Sexual Assault Crisis Services, Inc., appointed by the governor;
10. a representative of an organization providing civil legal services to low-income individuals, appointed by the Senate president pro tempore;
11. a representative of the Connecticut Coalition Against Domestic Violence, appointed by the House speaker;
12. a representative of an organization dealing with women's and children's behavioral health needs, appointed by the Senate majority leader;
13. a representative of an organization advocating on social justice and human rights issues, appointed by the House majority leader; and
14. a representative of the Connecticut Immigrant and Refugee Coalition, appointed by the Senate minority leader.

The act eliminates the ability of the OVS representative to designate someone to serve on his or her behalf. As under prior law, members other than those appointed by the governor and legislative leaders can designate someone to serve as their representatives. But the act no longer requires them to make the designation in writing.

### *Report on Statutory Deficiencies*

The act requires the council to meet by September 1, 2013 to study data relating to trafficking in persons offenses in Connecticut. The council must examine and identify deficiencies in the statutes and propose legislation to address any deficiencies. The act requires the council to report to the Judiciary Committee by January 1, 2014.

By law, the council must meet to (1) provide updates and progress reports; (2) identify criteria for providing services to adult trafficking victims; and (3) consult with government and non-government organizations to develop recommendations to strengthen state and local efforts to prevent trafficking, protect and assist victims, and prosecute traffickers. It may request data and information from state and local agencies to carry out its duties. It must meet at least three times per year and report annually by January 1 to the legislature.

## BACKGROUND

### *Prostitution*

A person age 16 or older commits this crime when he or she engages, or agrees or offers to engage in, sexual conduct with someone for a fee. Prostitution is a class A misdemeanor.

### *3<sup>rd</sup> Degree Promoting Prostitution*

A person commits this crime when he or she knowingly advances or profits from prostitution. This crime is a class D felony.

**PA 13-174**—sHB 6683

*Judiciary Committee*

*Planning and Development Committee*

## **AN ACT CONCERNING THE ABATEMENT OF A PUBLIC NUISANCE**

**SUMMARY:** The public nuisance abatement law allows the state to file civil suits seeking various forms of relief when there are three or more arrests, or three or more arrest warrants indicating a pattern of criminal activity, for certain offenses at a property within the last year. Among other things, the law allows courts to order the property closed until the nuisance is eliminated.

This act broadens the circumstances in which the nuisance law applies. It adds various firearm-related offenses and other crimes to the public nuisance abatement statutes. It also adds certain municipal ordinance violations to these statutes and makes a corresponding change by allowing the state to file nuisance abatement suits when three or more citations for such violations are issued at a property within a year.

The act makes other changes in the nuisance abatement statutes. It lowers the state's burden of proof in nuisance abatement evidentiary hearings, from clear and convincing evidence (meaning it is highly probable or reasonably certain that the alleged facts are true) to a preponderance of the evidence (meaning it is more likely than not that the alleged facts are true). By law, if the state meets its burden at these hearings, there is a rebuttable presumption in its favor. Defendants can offer an affirmative defense that they took reasonable steps to stop the nuisance but were unable to do so.

The act also makes changes concerning financial institutions with an interest of record in a property at which a public nuisance occurs, including lowering the state's burden to prove that the institution had criminal responsibility for the nuisance.

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

EFFECTIVE DATE: October 1, 2013, except certain technical changes are effective January 1, 2015.

## **PUBLIC NUISANCES**

### *Applicable Crimes and Violations*

The act expands the grounds under which courts

can close a property or take various other actions until a nuisance is abated (see BACKGROUND). It does this by adding the following crimes to the nuisance abatement statutes:

1. certain firearms-related crimes: carrying a handgun without a permit, firearms trafficking, unlawful discharge of firearms, possession of a sawed-off shotgun or silencer, stealing a firearm, criminal use or possession of a firearm or electronic defense weapon, and criminal possession of a handgun;
2. illegal manufacture, sale, possession, or dispensing of prescription drugs; and
3. third-degree assault. (The public nuisance law already includes various other degrees of assault.)

The act also adds to the nuisance abatement law the following municipal ordinance violations that result in citations:

1. excessive noise on nonresidential property that significantly impacts the surrounding area, as long as the ordinance is based on an objective standard;
2. owning or leasing a dwelling unit where an excessive number of unrelated people live, resulting in dangerous or unsanitary conditions that significantly impact the surrounding area's safety; and
3. impermissible operation of a business that allows unlicensed people to practice massage therapy, or a massage parlor (as defined in the ordinance), that significantly impacts the surrounding area's safety.

Existing law includes several other offenses in the public nuisance statutes, such as various prostitution-related offenses; selling, possessing with intent to sell, or producing illegal drugs; and running a motor vehicle chop shop.

## **FINANCIAL INSTITUTION DEFENDANTS**

By law, courts may not issue a public nuisance abatement order against a financial institution that (1) owns the property or claims an interest of record in it (under a mortgage, assignment of lease or rent, lien, or security interest) and (2) is not found to be a principal or accomplice to the conduct constituting the nuisance.

The act requires the state to prove by a preponderance of the evidence, rather than by the stricter clear and convincing evidence standard, that a financial institution claiming an interest of record in the property was a principal or accomplice to the alleged conduct. It specifies that these financial institutions can offer the same affirmative defenses as other defendants (i.e., that they have taken reasonable steps to abate the nuisance but were unable to do so).

## BACKGROUND

### *Sanctions for Public Nuisance*

The law authorizes various types of temporary and permanent relief to abate a public nuisance. For example, the state can apply for a temporary “ex parte” order when its sworn complaint and affidavit show that the nuisance poses a danger to the public health, welfare, or safety. Within specified time frames after issuing such an order, the court must hold a hearing to decide whether the order remains in place or whether other temporary orders should be entered.

Among other things, the court can:

1. appoint a receiver to manage and operate the property while a nuisance action is pending;
2. order the closing of the property or some part of it;
3. authorize the state to bring the property into compliance with state and local building, fire, health, housing, or similar codes, and order the defendant to pay the costs; and
4. impose civil fines or imprisonment for certain intentional violations.

The court maintains jurisdiction until it appears the nuisance no longer exists (CGS § 19a-343 et seq.).

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**PA 13-182**—sHB 6513

*Judiciary Committee*

## **AN ACT CONCERNING THE BUDGET AND SPECIAL ASSESSMENT APPROVAL PROCESS IN COMMON INTEREST COMMUNITIES**

**SUMMARY:** This act makes it easier for unit owners in certain large common interest communities (e.g., condominiums) to reject annual budgets and special assessments.

Under the existing Common Interest Ownership Act (CIOA), common interest community annual budgets and special assessments are approved unless a majority of all unit owners (not just a majority of those voting), or a larger number specified in the association’s declaration, votes to reject them.

The act creates an exception for (1) common interest communities that have more than 2,400 residential units and were established before 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 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.

Under existing law and the act:

1. the absence of a quorum in the vote does not affect the budget’s or assessment’s approval or rejection;
2. if unit owners reject a proposed budget, the last approved budget continues until they approve a subsequent one; and
3. unit owner approval is not required for special assessments that are (a) small relative to the association’s budget (unless the declaration or bylaws provide otherwise) or (b) needed in an emergency (see BACKGROUND).

The act also makes minor and technical changes.

EFFECTIVE DATE: October 1, 2013

## BACKGROUND

### *Common Interest Ownership Act*

CIOA governs the creation, alteration, management, termination, and sale of condominiums and other common interest communities (CGS § 47-200 et seq.).

Generally, CIOA applies to common interest communities created in Connecticut on or after January 1, 1984. However, certain provisions of CIOA, including the provisions on approving budgets and special assessments, apply to common interest communities created in Connecticut before January 1, 1984 but do not invalidate existing provisions of the communities’ governing instruments. Common interest communities created before then can amend their governing instruments to conform to portions of CIOA that do not automatically apply (CGS §§ 47-214, 216, 218).

### *Special Assessments Not Requiring Owner Approval*

Under CIOA, unless the association’s declaration or bylaws provide otherwise, if a special assessment, together with all other special and emergency assessments the board proposed in the same calendar year, does not exceed 15% of the association’s last adopted budget for that year, the assessment is effective without unit owner approval.

CIOA also allows a special assessment to take effect immediately if the executive board (1) determines by a two-thirds vote that it is necessary to respond to an emergency and (2) promptly provides notice of the emergency assessment to all unit owners. The board may spend emergency assessment receipts only for the purposes described in its vote.

**PA 13-194**—sHB 6387

*Judiciary Committee*

## **AN ACT CONCERNING COURT OPERATIONS**

**SUMMARY:** This act:

1. clarifies the courts' authority over civil unions performed in foreign jurisdictions (§§ 1 & 3);
2. extends the validity of an ex parte restraining order until the day a hearing is held if the court is closed on the date of a scheduled hearing on the order (§ 2);
3. creates a procedure for an emergency ex parte order of child custody in a dissolution of marriage case or later proceedings regarding custody (§ 4);
4. requires court clerks to send the original, rather than a certified copy, of certain paternity acknowledgements to the Department of Public Health (DPH) (§ 5);
5. requires a parent seeking to regain legal guardianship of a child in certain cases to do so by filing a motion instead of a petition (§ 6);
6. eliminates a voluntary alternative dispute resolution program for parties to civil actions involving ownership, maintenance, or use of a private car (§§ 7 & 15);
7. allows attorneys who hear small claims cases to sign documents by computer, fax, or other technology (§ 9);
8. specifies that court support enforcement officers and support services investigators can serve all process related to cases where the Department of Social Services is providing child support enforcement services (the law already allows them to serve motions for modification or contempt and wage withholdings in child support matters) (§ 12);
9. specifies how court clerks may record or copy certain documents and requires the person requesting the recording or copying to pay the associated fees regardless of the method the clerk uses (§§ 13-14);
10. establishes a \$350 fee payable to the court clerk for applications to dissolve certain liens and substitute a surety bond, but reduces the fee to \$300 on July 1, 2015 (§§ 13-14); and
11. makes technical changes.

**EFFECTIVE DATE:** October 1, 2013, except the provisions (1) on court clerks' methods of recording or copying and the \$350 fee for dissolution of lien applications are effective July 1, 2013 and (2) reducing the fee for dissolution of lien applications to \$300 are effective July 1, 2015.

## **§§ 1 & 3 — COURT ACTIONS REGARDING CIVIL UNIONS**

The act clarifies that the courts' authority over family relations matters includes the dissolution, legal separation, or annulment of civil unions performed in a foreign jurisdiction. It allows a single party to such a civil union to bring an action for dissolution, annulment, or legal separation in Connecticut, rather than requiring both parties to do so as under prior law.

The act applies to these proceedings regarding foreign civil unions:

1. statutory procedures and requirements for dissolution, annulment, or legal separation of a marriage (including pre- and post-judgment) and requirements for enforcing or modifying a foreign matrimonial judgment and
2. substantive statutes on dissolution, annulment, or legal separation of a marriage (including pre- and post-judgment).

## **§ 2 — EX PARTE RESTRAINING ORDERS AND COURT CLOSURES**

By law, someone subjected to continuous threats of present physical pain or injury, stalking, or a pattern of threatening by a family or household member can apply to the court for a restraining order. The court can grant an ex parte order (without a hearing and notice to the subject of the order) if there is immediate and present physical danger to the applicant. The law requires a hearing within 14 days of the order.

If a hearing on the application or an ex parte order is scheduled for a day that the court is closed, the act requires the hearing to take place on the next day the court is open and extends the validity of an ex parte restraining order until the hearing.

## **§ 4 — EMERGENCY EX PARTE CHILD CUSTODY ORDER**

The act allows a person seeking child custody in a dissolution, legal separation, or annulment of a marriage proceeding or a later proceeding regarding child custody to apply to the court for an emergency ex parte custody order when he or she believes there is an immediate and present risk of physical danger or psychological harm to the child. The application must include an affidavit under oath stating:

1. the conditions requiring the order;
2. that the order is in the child's best interests; and
3. how the applicant or others attempted to inform the respondent (the other parent) of the application, or why the court should consider the application if no such attempts were made.



The court must order a hearing on the application to take place within 14 days of issuing its order for a hearing. The court may issue an emergency ex parte order for the child's protection before or after the hearing if it finds an immediate and present risk of physical danger or psychological harm to the child. It may inform the Department of Children and Families of relevant information in the affidavit for investigation.

An emergency ex parte order may prohibit the respondent from:

1. removing the child from Connecticut,
2. interfering with the applicant's custody of the child,
3. interfering with the child's education, and
4. taking other specific actions if the court finds such a prohibition is in the child's best interests.

If a hearing is postponed at the request of either party, the court cannot issue or continue an ex parte order unless the (1) parties agree to it or (2) court orders it for good cause.

At least five days before the hearing, the applicant must serve the respondent with notice of the hearing, a copy of the application and affidavit, and any order issued.

#### § 5 — PATERNITY ACKNOWLEDGEMENT COPIES

The law allows a father and mother in a case involving a petition for a neglected, uncared for, or abused child or youth to sign a paternity acknowledgement. Previously, the court clerk sent a certified copy of the acknowledgment to DPH for the paternity registry (which collects paternity acknowledgments or adjudications for child support enforcement purposes). The act instead requires the clerk to send the original acknowledgment. It requires the court to keep a copy, rather than a certified copy as previously required.

#### § 6 — LEGAL GUARDIANSHIP MOTIONS

By law, the court can order a suitable and worthy person to be the legal guardian of a neglected, uncared for, or abused child. A parent or former legal guardian can request reinstatement of his or her legal guardianship of the child. The act requires the request to be in a motion before the court rather than a petition.

#### §§ 7 & 15 — ALTERNATIVE DISPUTE RESOLUTION FOR CERTAIN CASES

The act eliminates a voluntary alternative dispute resolution program for parties to a civil action based on ownership, maintenance, or use of a private car. The program set timeframes for the resolution process and the related court case, allowed parties to agree to refer

the case to binding arbitration, and allowed the court to confirm an arbitration award.

The act also eliminates provisions making these cases privileged for trial under certain circumstances and giving the courts authority to adopt rules for their expedited processing.

#### § 9 — SMALL CLAIMS CASES AND DOCUMENT SIGNING

The act allows attorneys approved by the chief court administrator to hear small claims cases to sign decisions, orders, and other documents by computer, fax, or other technology according to the chief court administrator's procedures. The law already allows judges, judge trial referees, family support magistrates, and small claims court magistrates to do so.

#### §§ 13-14 — METHOD OF RECORDING OR COPYING DOCUMENTS AND FEE FOR DISSOLUTION OF LIEN ON SUBSTITUTION OF BOND

##### *Method of Recording or Copying Certain Documents*

The act allows court clerks to record or copy certain documents by photograph, microfilm, computerized image, or another process that accurately reproduces or forms a durable medium for reproducing the original. It requires the person requesting the recording or copying to pay the associated fees regardless of the method the clerk uses. These provisions apply to the following documents with the following fees: (1) recording the commission and oath of a notary public, \$10; (2) making copies, \$1 per page; (3) copying a judgment file, \$15 or \$25 if certified; and (4) copying a foreclosure judgment certificate, \$25.

##### *Dissolution of Lien on Substitution of Bond*

The act establishes a fee payable to the court clerk for applications to dissolve one of the following types of liens and substitute a bond with surety: mechanic's lien on real property, vessel lien, bailee for hire's lien on personal property (for example, a repair shop that takes possession of property in order to repair it has a lien for the amount of the work performed), purchaser's lien on real property (for the amount of the deposit under a contract to purchase property), or aircraft lien.

Under the act, the fee is \$350 beginning July 1, 2013 but is reduced to \$300 on July 1, 2015.

By law, an owner or person with interest in property subject to one of these liens can apply to court to have the lien released and a bond with sufficient surety substituted for it.

**PA 13-198—HB 6445***Judiciary Committee***AN ACT CONCERNING SERVICES THAT MAY BE PROVIDED BY PROFESSIONAL CORPORATIONS**

**SUMMARY:** This act authorizes physicians and podiatrists to form a professional service corporation together to offer their services. All of the shareholders must be licensed or legally authorized to provide these services.

EFFECTIVE DATE: October 1, 2013

**PA 13-199—HB 6448***Judiciary Committee**Finance, Revenue and Bonding Committee***AN ACT CONCERNING PROBATE FEES**

**SUMMARY:** This act establishes a \$250 fee for motions to allow an attorney not licensed in the state to appear “pro hac vice” in a probate court matter. Probate court rules allow a state-licensed attorney to make a motion to allow an attorney licensed in another jurisdiction to appear in a probate matter in Connecticut on special and infrequent occasions, under certain conditions.

The act updates terminology for calculating fees for periodic accounts, by referring to “fiduciary acquisition value” rather than “book value.”

The act excludes certain fees (including the pro hac vice fee) from the \$12,500 cap on total fees for settling an estate.

It deletes obsolete provisions regarding estate settlement fees for proceedings begun before April 1, 1998.

The act also makes technical changes.

EFFECTIVE DATE: January 1, 2014

**PERIODIC ACCOUNTS**

Under prior law, the fees for probate proceedings concerning the allowance and settlement of periodic and other accounts, other than those dealing with a decedent’s estate, were based on the greater of the book value, market value, or receipts involved. The act substitutes “fiduciary acquisition value” for book value and provides that fiduciary acquisition value has the meaning set forth in the probate court rules of procedure.

**BACKGROUND***Fiduciary Acquisition Value*

Under § 36.14 of the probate rules of procedure, an asset’s fiduciary acquisition value is:

1. for a decedent’s estate, the asset’s fair market value on the date of death;
2. for a trust, the asset’s fair market value on the date of the testator’s or settlor’s death, or on any other basis for value that the court directs after considering the trust’s nature and the manner in which it was funded; and
3. for a conservatorship, guardianship, or other estate not specified in the rule, the asset’s fair market value on the date of appointment of the first fiduciary.

Under the rule, if a fiduciary purchases an asset during the course of administration, its fiduciary acquisition value is its purchase price plus expenses directly related to the purchase.

An asset’s fiduciary acquisition value does not change based on unrealized gain or loss owing to market value fluctuations. But the value must be adjusted to reflect transactions in which (1) additional investments, such as capital improvements, are made in an asset and (2) some of the original investment is returned to the fiduciary, such as the sale of a partial interest in an asset or the receipt of principal payments on a promissory note.

**PA 13-201—HB 6509 (VETOED)***Judiciary Committee***AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING THE MEMBERSHIP OF THE COMMISSION**

**SUMMARY:** This act expands, from 23 to 27, the membership of the Connecticut Sentencing Commission by adding the Judiciary Committee’s chairpersons and ranking members, or their designees. The designees must be chosen from among the committee’s members.

By law, the commission (1) reviews the state’s existing criminal sentencing structure and any proposed changes to it and (2) makes recommendations to the governor, the legislature, and criminal justice agencies.

EFFECTIVE DATE: July 1, 2013

**PA 13-211**—sHB 6677

*Judiciary Committee*

**AN ACT EXCLUDING SCHOOL  
ACCOMMODATIONS FROM SERVICES THAT  
ARE SUBJECT TO THE LARCENY STATUTES**

**SUMMARY:** By law, a person generally commits larceny when he or she wrongfully takes, obtains, or withholds, among other things, services from an owner. This act excludes from the definition of “services” school accommodations provided by a school district to (1) a child, (2) an emancipated minor, or (3) a student who is at least age 18 and homeless. Thus, anyone who wrongfully takes such services is not guilty of larceny. A person is homeless if he or she does not have overnight shelter or sufficient income or resources to secure such shelter. “School accommodations” means providing educational services, including reasonable transportation to school.

EFFECTIVE DATE: October 1, 2013

**PA 13-212**—sHB 6680

*Judiciary Committee*

**AN ACT CONCERNING ACCESS TO JOINTLY  
OWNED ASSETS THAT ARE LOCATED IN A  
SAFE DEPOSIT BOX**

**SUMMARY:** This act establishes a two-step process for an interested party to retrieve certain financial “instruments” kept in a deceased person’s safe deposit box. The act applies only to safe deposit boxes solely owned by a deceased person whose estate is not subject to probate proceedings. The instruments are jointly owned stocks, bonds, annuities, and certificates of deposit.

Under the act, an interested party applies to the relevant probate court to have the box opened and inventoried. The court may authorize the applicant to remove the instruments from the box if his or her rights to the instruments are unchallenged.

The act (1) specifies how banks open safe deposit boxes, inventory their contents, and manage the removal of their contents and (2) allows banks to charge the applicant a reasonable fee for performing these duties.

EFFECTIVE DATE: October 1, 2013

**APPLICATION AND ORDER TO OPEN AND  
INVENTORY A SAFE DEPOSIT BOX**

Under the act, any person who shows sufficient interest in instruments believed to be in the box can ask the probate court in the district in which the deceased owner resided to order the bank to open the box and

inventory any instruments in it. The court can (1) approve or deny the application, which it must do no later than 10 days after receiving it and (2) enter the order without giving notice to or hearing from a representative for the deceased.

Under the act, upon receiving the court order, the bank must assign a bank officer to (1) open the box and inventory its contents and (2) return the order stating the box’s inventory to the court no more than 10 days after receiving the order. When completing the inventory, the bank officer must, to the extent practicable, identify the instruments’ owners and beneficiaries.

**HEARING OR ORDER AUTHORIZING REMOVAL  
FROM A SAFE DEPOSIT BOX**

The act allows the court, after receiving the bank officer’s return, to issue a subsequent order authorizing the applicant to remove instruments from the box. The act requires the court to issue this order no later than 10 days after receiving the return unless it finds it necessary to give notice to and hold a hearing for the heirs and beneficiaries identified in a will, who may claim ownership of some or all of the box’s contents. Under the act, the court must hold such a hearing no later than 30 days after receiving the return.

Under the act, if the court authorizes the instruments’ removal from the box, the order must require a bank officer to be present at the box’s opening. The bank officer must return the order to the court no later than 10 days after the bank receives it, identifying the removed instruments and the person who removed them.

**PA 13-213**—sHB 6688

*Judiciary Committee*

**AN ACT CONCERNING REVISIONS TO  
STATUTES RELATING TO THE AWARD OF  
ALIMONY AND THE DISPOSITION OF  
PROPERTY**

**SUMMARY:** This act modifies several alimony and property division laws, in most cases conforming law to practice. The act:

1. requires courts assigning alimony amounts or dividing property to consider the parties’ earning capacity and education, in addition to existing factors;
2. requires courts to consider the feasibility of a custodial parent’s securing employment as a factor in alimony calculation;
3. broadens the evidence a court must consider before assigning property or awarding alimony;

4. directs courts to specify the basis for any order for indefinite or lifetime alimony;
5. requires the judge, when modifying an alimony order based on changed circumstances, to determine the extent to which the existing order must be modified using the same criteria established for determining alimony awards;
6. when an alimony order incorporates an agreement of the parties specifying circumstances of cohabitation under which alimony will be modified, suspended, or terminated, requires the court to enforce that provision of the agreement and enter orders accordingly; and
7. repeals the requirement that a court hear a motion to modify an order for support or alimony and a motion of contempt for noncompliance at the same time.

It requires the Connecticut Law Revision Commission to study the fairness and adequacy of state statutes relating to the award of alimony. The commission must present its recommendations to the Judiciary Committee and chief court administrator by February 1, 2014.

Consistent with existing practice, the act makes alimony and property division laws gender neutral.

EFFECTIVE DATE: October 1, 2013, except the provision on the Law Revision Commission study is effective upon passage.

## § 2 — ASSIGNMENT OF PROPERTY AND TRANSFER OF TITLE

By law, the court, in determining the nature and value of property to be assigned in divorce, annulment, or legal separation settlements, must consider the:

1. length of the marriage;
2. causes for the annulment, dissolution of the marriage, or legal separation;
3. age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each party;
4. opportunity of each party to acquire capital assets and income in the future; and
5. contribution of each party to the acquisition, preservation, or appreciation in value of their respective estates.

The act requires the court also to consider each party's earning capacity and education.

Prior law required the court to assign property after hearing the testimony of each party's witnesses. The act requires the court to consider all the evidence presented by each party before assigning property.

## §§ 3 & 4 — ALIMONY

### *Determining Alimony Award*

By law, the court, in determining whether to award alimony and the duration and amount of the award, must consider the:

1. length of the marriage;
2. causes for the annulment, dissolution of the marriage, or legal separation;
3. age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, and needs of each of the parties; and
4. the nature and value of any property awarded to each of the parties by the court.

The act requires the court also to consider each party's earning capacity and education.

By law, in the case of a parent to whom custody of minor children has been awarded, the court, in determining alimony awards, must consider the desirability of that parent securing employment. The act requires the court also to consider the feasibility of such parent securing employment.

Prior law required the court to determine alimony awards after hearing the testimony of each party's witnesses. The act requires the court to consider all the evidence presented by each party before determining such awards.

### *Indefinite or Lifetime Alimony Award*

Under the act, if the court orders alimony that terminates only upon the death of either party or the remarriage of the recipient, the court must articulate with specificity the basis for the alimony order.

### *Modification of Alimony*

By law, a court may continue, set aside, alter, or modify any final order for the periodic payment of permanent alimony or support or an order for alimony or support pendente lite (temporary support while a divorce order is pending) upon a showing of a substantial change in the circumstances of either party. The act requires the court to determine what modification of alimony, if any, is appropriate if, after a hearing, it finds that a substantial change in the circumstances of either party has occurred. In making the determination, the act requires the court to use the same criteria outlined above for determining alimony.

Under law, the court may modify, suspend, reduce, or terminate the payment of periodic alimony upon the showing that the recipient is living with another person and the living arrangements constitute a change of circumstances that alter the financial needs of that party.

The act specifies that if the court order incorporates the agreement of the parties, and that agreement specifies other circumstances of cohabitation under which alimony will be modified, suspended, or terminated, the court must enforce that provision of the agreement and enter orders accordingly.

#### § 6 — MOTION FOR MODIFICATION OF SUPPORT ORDER COMBINED WITH MOTION FOR CONTEMPT

The act repeals a requirement for courts to (1) accept a motion for modification of an order for support and alimony by a party against whom a motion for contempt for noncompliance with such orders is pending and (2) hear both motions at the same time.

#### § 5 — LAW REVISION COMMISSION ALIMONY STUDY

The act requires the Connecticut Law Revision Commission to study the fairness and adequacy of state statutes relating to the award of alimony in actions for divorce, legal separation, or annulment. It requires the commission to (1) collect empirical data on the award of alimony by courts in the state and (2) recommend revisions to state statutes it deems just and equitable.

The act specifies the things that the commission must consider in developing its recommendations, which include:

1. the nature of the proceedings in actions for divorce, legal separation, or annulment;
2. the comprehensiveness of the existing statutory criteria used to determine alimony awards;
3. statistical data reflecting the comparative financial circumstances of parties to the actions at defined intervals after the entry of judgment;
4. the statutory criteria other states use to make such determinations; and
5. other considerations the commission deems appropriate.

The act requires the commission to present its recommendations for proposed statutory revisions to the Judiciary Committee and the chief court administrator by February 1, 2014.

1. revises the protocol for surrendering a firearm by a person who is subject to a restraining or protective order or a foreign order of protection;
2. requires probation officers to provide notice of suspected probation violations to assigned victim advocates, if the officer has the advocate's contact information;
3. requires the chief court administrator to maintain a separate, secure room in certain courthouses for family violence victims and their advocates, if such room is available and its use practical;
4. permits a sexual assault victim to terminate a rental agreement without penalty under some circumstances;
5. requires the chief court administrator to (a) develop a plan to include temporary financial support as relief available to an applicant for a restraining order and (b) assess the effectiveness of family violence training programs for judges and Judicial Branch staff;
6. establishes a task force to study the feasibility of permitting a sexual assault victim who is not a perpetrator's family or household member to apply for a restraining order;
7. requires the Judicial Branch to make the family violence training program for judges, Judicial Branch personnel, and court clerks available to guardians ad litem; and
8. increases, from two to three, the number of Criminal Justice Policy Advisory Commission (CJPAC) members who represent community-based offender and victim services providers.

The act also updates statutory references to "battered women" and "batterers" to be consistent with current terminology (i.e., "domestic violence victims" and "persons who commit acts of family violence").

EFFECTIVE DATE: October 1, 2013, except the (1) provision on victims' waiting areas in courthouses is effective July 1, 2013 and (2) provisions on the temporary financial support plan, family violence training program assessment, and feasibility study are effective upon passage.

#### §§ 17 & 18 — PROTOCOL FOR TRANSFER OR SURRENDER OF FIREARMS

The law requires people who become ineligible to possess pistols, revolvers, or firearms due to the issuance of a restraining or protective order or a foreign order of protection for acts involving physical force to, within two business days, transfer them to a federally licensed firearms dealer or surrender them to the emergency services and public protection commissioner (see BACKGROUND).

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**PA 13-214—sHB 6702**

*Judiciary Committee*

*Appropriations Committee*

#### **AN ACT CONCERNING DOMESTIC VIOLENCE AND SEXUAL ASSAULT**

**SUMMARY:** This act makes a number of changes to the domestic violence and sexual assault laws. It:

By law, the commissioner, in conjunction with the chief state's attorney and the Connecticut Police Chiefs Association, must develop a protocol to ensure that people who become ineligible to possess pistols or revolvers transfer, deliver, or surrender them. The act extends the protocol to cover "other firearms," conforming to the existing firearm transfer and surrender laws. The act requires that the protocol include provisions to ensure that a person who becomes ineligible to possess one of these weapons, due to the issuance of one or more of the types of protective orders listed above, makes advance arrangements with the appropriate police department before he or she transfers, delivers, or surrenders his or her weapon or weapons to the local police department or the State Police.

#### §§ 1 & 2 — NOTIFYING VICTIM ADVOCATES ABOUT SUSPECTED PROBATION VIOLATION

The act requires a probation officer to notify the victim advocate assigned to assist a crime victim, in addition to the victim, when the officer has notified the police that there is probable cause to believe that the offender violated the terms of his or her probation. Under the act, the probation officer need only do this if he or she has the advocate's name and contact information.

#### § 16 — SEPARATE WAITING AREA FOR VICTIMS

The act requires the chief court administrator, for each court where family, family violence, or domestic violence matters are heard, to provide a secure room for family violence crime victims and their advocates, if such a room is available and its use practical. The room must be separate from (1) any area that accommodates respondents; defendants; or their families, friends, attorneys, or witnesses and (2) the prosecutor's office.

Family violence crimes are felonies and misdemeanors, other than delinquent acts, which, in addition to their other elements, are directed at a family or household member (see BACKGROUND).

#### § 4 — TERMINATION OF RENTAL AGREEMENT BECAUSE OF SEXUAL ASSAULT

The act extends to sexual assault victims the ability existing law gives to those victimized by family violence crimes to terminate a rental agreement without penalty. The act applies to victims of the following crimes:

1. 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, or 4<sup>th</sup> degree sexual assault;
2. 1<sup>st</sup> degree aggravated sexual assault;
3. 3<sup>rd</sup> degree sexual assault with a firearm;
4. sexual assault in a spousal or cohabiting relationship; and
5. aggravated sexual assault of a minor, when the victim is the custodial child of the tenant.

The act covers agreements entered into or renewed on or after January 1, 2014. Tenants who have been sexually assaulted or are custodial parents or guardians of a child who has been the victim of such crimes must also reasonably believe that it is necessary to move because of fear of imminent harm.

Under the act, tenants must comply with the same notice requirements that existing law applies to family violence victims. Among other things, victims must give landlords 30 days' advance notice.

#### § 19 — TEMPORARY FINANCIAL SUPPORT RELIEF PLAN

The act requires the chief court administrator to develop a plan to make temporary financial support part of the relief available to a person who applies for a restraining order. She must do so in consultation with state agencies, private organizations, and advocates who have experience filing for restraining orders or providing services to domestic violence victims. The plan must include:

1. an assessment of best practices in other states related to temporary financial support;
2. recommended procedures for determining the (a) assets available to an applicant and respondent, (b) respondent's ability to pay, and (c) amount necessary to maintain the applicant's safety and basic needs, if the respondent has a duty to support the applicant or the respondent's dependent children;
3. recommended procedures for collecting temporary financial support owed by a respondent;
4. strategies for establishing the court procedures needed to include temporary financial support in court orders;
5. a feasibility assessment of making temporary financial support available to people eligible to apply for restraining orders as family or household members, but for whom the respondent is not obligated to provide support; and
6. recommendations for legislation and implementation.

The chief court administrator must submit the plan to the House Speaker's Task Force on Domestic Violence and the Judiciary Committee by January 15, 2014.

## § 20 — ASSESSMENT OF TRAINING PROGRAMS FOR JUDGES AND JUDICIAL BRANCH STAFF

The act requires the chief court administrator to (1) assess the Judicial Branch's family violence training programs for judges and staff, including the training program on family violence response and intervention units; (2) compare Connecticut's programs with those in other northeastern states; and (3) report on the assessment to the Judiciary Committee by December 31, 2013.

## § 21 — RESTRAINING ORDER FEASIBILITY STUDY TASK FORCE

### *Feasibility Study*

The act establishes an 11-member task force to study the feasibility of amending the state's restraining order laws to permit victims who are not part of an offender's family or household, but who have been subjected to crimes such as sexual assault and stalking, to apply for a restraining order against the offender.

### *Task Force Members and Appointments*

Task force members include:

1. the Judiciary Committee's co-chairpersons and ranking members, or their designees, who must be chosen from among the committee members;
2. the chief court administrator, who must serve as the task force's chairperson;
3. the chief state's attorney, or his designee;
4. three members, appointed by the Connecticut Supreme Court chief justice, one each representing the court's civil, criminal, and family divisions; and
5. two representatives of Connecticut Sexual Assault Crisis Services, Inc., appointed by its executive director.

All appointments must be made by July 25, 2013. Appointing authorities must fill vacancies.

The chief court administrator must schedule the task force's first meeting by August 24, 2013. The Judiciary Committee's administrative staff must serve as the task force's administrative staff.

### *Reporting Requirement and Termination*

The task force must report its findings and recommendations to the Judiciary Committee by February 5, 2014. It terminates when it submits its report or on February 5, 2014, whichever is later.

## § 3 — GUARDIAN AD LITEM TRAINING

The act extends eligibility for participating in the Judicial Branch's family violence training program to guardians ad litem (i.e., persons appointed by the court to protect the interests of minors or incompetent individuals in a particular matter). By law, the branch is required to provide ongoing training on matters including family relations, family violence crimes, arraignment, family violence intervention units, the use of restraining and protective orders, and statistics on family violence cases to judges, Court Support Services Division personnel, and court clerks.

## § 15 — CRIMINAL JUSTICE POLICY ADVISORY COMMISSION (CJPAC)

The act adds an additional member to CJPAC. Under prior law, the commission had 21 members, two of whom represented community-based offender and victim services providers. The act adds a third representative of such providers. By law, CJPAC analyzes the criminal justice system; determines its long-term needs; recommends policy priorities; and advises and assists the governor and General Assembly in developing plans, policies, programs, and legislation to improve the system's effectiveness.

## BACKGROUND

### *Restraining or Protective Orders*

Connecticut courts can issue a variety of protective and restraining orders to protect crime victims who fear for their safety. These orders may, among other things, prohibit criminal defendants or respondents from restraining, threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the victim or entering the victim's home.

Restraining orders are issued by civil courts. The court can make appropriate orders to protect the applicant and dependent children or others, including issuing temporary child custody or visitation orders. The court can issue an immediate ex parte order (without notice to the respondent) as appropriate if the applicant alleges immediate and present physical danger.

A protective order is issued at the time of arraignment during a criminal proceeding. These orders are usually recommended by either the family relations office or the state's attorney and remain in effect from the date they are issued until the disposition of the criminal case. In some cases, a protective order can be removed prior to the resolution of the underlying case being settled.

Standing criminal restraining orders are orders that are issued at the end of a criminal case.

*Household Member*

By law, “family or household members” are any of the following people, regardless of their ages:

1. spouses or former spouses;
2. parents or their children;
3. people related by blood or marriage;
4. people other than those related by blood or marriage presently living together or who have lived together;
5. people who have a child in common, regardless of whether they are or have been married or have lived together; and
6. people in, or who have recently been in, a dating relationship (CGS § 46b-38a).

**PA 13-223—SB 921***Judiciary Committee***AN ACT CONCERNING LIABILITY FOR DAMAGE CAUSED BY A DOG**

**SUMMARY:** By law, a dog’s owner or keeper is liable when the dog hurts a person or damages property, unless the person was trespassing; committing a tort; or teasing, tormenting, or abusing the dog. This act specifies that domesticated dogs and cats (“companion animals”) are included in the definition of “property” for which an offending dog’s owner or keeper is liable for damages. When a companion animal is affected, the act specifies that allowable damages include veterinary care expenses, the animal’s fair market value, and burial expenses, when applicable.

The act also permits owners of certain animals (sheep, goats, horses, hogs, cattle, poultry, or domestic rabbits) to recover veterinary care and burial expenses when their properly confined or enclosed animals are injured or killed by dogs. They could already recover the animal’s value. By law, the chief municipal officer or agent and affected owner estimate the amount of damages. If they cannot agree, they must appoint a disinterested third party to help with the estimation.

The act also makes technical changes.

EFFECTIVE DATE: October 1, 2013

**PA 13-249—SB 1060***Judiciary Committee**Insurance and Real Estate Committee***AN ACT CONCERNING THE MAINTENANCE OF PROFESSIONAL LIABILITY INSURANCE BY NURSING HOMES, HOME HEALTH CARE AGENCIES AND HOMEMAKER-HOME HEALTH AIDE AGENCIES**

**SUMMARY:** This act requires anyone who individually or jointly establishes, conducts, operates, or maintains a nursing home, home health care agency, or homemaker-home health aide agency to maintain professional liability insurance or other indemnity against liability for professional malpractice. The insurance must cover malpractice claims for injury or death of at least \$1 million for one person, per occurrence, with an aggregate (i.e., the total for all claims within the coverage period) of at least \$3 million. The act explicitly exempts residential care homes from this requirement.

The act also makes technical and conforming changes.

EFFECTIVE DATE: January 1, 2014

**PA 13-258—sSB 983***Judiciary Committee**Finance, Revenue and Bonding Committee***AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING UNCLASSIFIED FELONIES**

**SUMMARY:** By law, felonies are punishable by more than one year imprisonment. They are classified according to severity as class A, B, C, or D. There are also unclassified felonies punishable by more than one year in prison.

This act creates a new felony classification, a class E felony, punishable by up to three years in prison, a fine of up to \$3,500, or both. For class D felonies, the act eliminates a minimum one-year prison term, which was not a mandatory minimum and could be suspended in all or part by a judge. Thus, the act makes class D felonies punishable by up to five years in prison, a fine of up to \$5,000, or both.



The act also adjusts the penalties of many previously unclassified felonies to fit them into classifications while deeming others to be classified.

Regarding class E felonies, the act:

1. classifies 11 unclassified felonies as class E felonies without changing their prison penalties but increasing their maximum fines;
2. classifies one unclassified felony as an E felony by changing its prison penalty and fine; and
3. deems (a) 11 unclassified felonies to be class E felonies without changing their prison penalties but increasing their maximum fines, (b) one unclassified felony to be a class E felony with a change in prison penalty and fine, and (c) any other unclassified felony with a maximum prison term of more than one but not more than three years to be a class E felony without any changes to the prison term or fine.

The act classifies as class D felonies:

1. 23 unclassified felonies without changing their maximum prison penalties and fines but eliminating a one-year minimum sentence that was not a mandatory minimum and could be suspended in all or part by a judge,
2. 38 unclassified felonies without changing their prison penalties but increasing their maximum fines,
3. one unclassified felony by changing its prison penalty and fine, and
4. 40 unclassified felonies without any change in prison penalties or fines.

The act classifies six unclassified felonies as class C felonies without changing their maximum prison penalties but adding a minimum one-year prison term, which is not a mandatory minimum and can be suspended fully by a judge (it also increases the fine for one of these crimes).

Finally, the act makes technical and conforming changes (§§ 5-7, 92).

EFFECTIVE DATE: October 1, 2013

#### §§ 1-3 — CLASSES OF FELONIES AND UNCLASSIFIED FELONIES DEEMED CLASSIFIED

By law, felonies are crimes that are punishable by more than one year in prison. The act creates a new class E felony punishable by up to three years in prison, a fine of up to \$3,500, or both. Under the act, an unclassified felony that specifies a maximum prison penalty that is more than one year but not more than three years is deemed a class E felony.

The act also eliminates the statutory one-year minimum sentence for a class D felony, which was not a mandatory minimum sentence and a judge could suspend all or a portion of it.

With the act's changes, Table 1 displays the felony classifications and their penalties. The act allows for fines, other than those listed in Table 1, if a statute so specifies.

Table 1: Felony Classifications and their Penalties

| <i>Felony</i>                                         | <i>Prison Term</i>                      | <i>Fine</i>    |
|-------------------------------------------------------|-----------------------------------------|----------------|
| Class A felony—murder with special circumstances      | Life without the possibility of release | Up to \$20,000 |
| Class A felony—murder                                 | 25 to 60 years                          | Up to \$20,000 |
| Class A felony—aggravated sexual assault of a minor   | 25 to 50 years                          | Up to \$20,000 |
| Class A felony                                        | 10 to 25 years                          | Up to \$20,000 |
| Class B felony—1st degree manslaughter with a firearm | Five to 40 years                        | Up to \$15,000 |
| Class B felony                                        | One to 20 years                         | Up to \$15,000 |
| Class C felony                                        | One to 10 years                         | Up to \$10,000 |
| Class D felony                                        | Up to 5 years                           | Up to \$5,000  |
| Class E felony                                        | Up to 3 years                           | Up to \$3,500  |

#### §§ 4 & 8 — PRETRIAL RELEASE OF INMATES

The act applies two rules about the pretrial release of inmates to the crimes it classifies as D and E felonies.

##### *Release from Prison*

By law, the Department of Correction (DOC) can release arrestees charged only with a misdemeanor or most class D felonies to a DOC-approved residence unless a court orders otherwise. The act extends DOC's authority to release pretrial inmates under this provision to anyone charged with a class E felony.

By law, DOC can impose conditions when it releases a person under this provision, including requiring participating in a substance abuse treatment program and using electronic monitoring or other monitoring technology or services. The person remains under DOC custody and is supervised by DOC employees. The person can be returned to prison for violating the conditions.

##### *Bail Modification*

The law requires a bail modification review every 30 days for someone (1) charged with a class D felony or misdemeanor and (2) incarcerated because he or she cannot make bail. This does not apply to someone held pending extradition to another state or for a parole violation. The act extends this review requirement to anyone charged with a class E felony.

## UNCLASSIFIED FELONIES CLASSIFIED OR DEEMED CLASSIFIED AS CLASS E FELONIES

### *Classified With No Change In Prison Penalty But Increased Maximum Fines*

The act classifies the 11 crimes in Table 2 as class E felonies. In doing so, the maximum prison sentence each carries remains the same, but the maximum fines increase to \$3,500. In one instance, the act eliminates a minimum fine (§ 26).

Table 2: Unclassified Felonies Classified as E Felonies With No Change in Prison Penalty But Increased Fines

| Act § | Statute §  | Description                                                                                                                        | Prior Penalty (prison term, fine, or both) |
|-------|------------|------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| 21    | 9-355      | Willful neglect of election duty                                                                                                   | Up to three years<br>Up to \$2,000         |
| 22    | 14-149(f)  | Altering a motor vehicle identification number or selling or possessing a vehicle with an altered number (1 <sup>st</sup> offense) | Up to three years<br>Up to \$2,500         |
| 23    | 22-126     | Illegally entering a horse in a race                                                                                               | Up to three years<br>Up to \$1,000         |
| 25    | 29-37(a)   | Violating pistol permit requirements or failing to display gun sales permit                                                        | Up to three years<br>Up to \$500           |
| 26    | 31-48a(a)  | Hiring professional strikebreakers                                                                                                 | Up to three years<br>\$100 to \$1,000      |
| 27    | 51-87(a)   | Illegally soliciting cases for an attorney                                                                                         | Up to three years<br>Up to \$1,000         |
| 27    | 51-87(b)   | Illegally receiving payment for an attorney referral                                                                               | Up to three years<br>Up to \$1,000         |
| 28    | 51-87b     | Illegal referral to a real estate broker or salesperson or mortgage broker or lender                                               | Up to three years<br>Up to \$1,000         |
| 29    | 53-202f(a) | Illegally transporting an assault weapon                                                                                           | Up to three years<br>Up to \$500           |
| 30    | 53-206(a)  | Carrying a dangerous weapon                                                                                                        | Up to three years<br>Up to \$500           |
| 31    | 53-368     | False certification regarding oath                                                                                                 | Up to three years<br>Up to \$1,000         |

### *Classified With Change in Prison Penalty and Fine*

The act classifies as a class E felony the crime of stealing, confining, concealing, killing, or injuring a companion animal or concealing the identity of its owner, when it is a subsequent offense or involves multiple animals (§ 24, CGS § 22-351). Accordingly, it eliminates a minimum one-year prison term, which was not a mandatory minimum term, and retains the

maximum three-year prison term. It also increases the maximum fine from \$2,000 to \$3,500.

### *Deemed Classified With Increased Maximum Fines*

The act deems the 11 crimes in Table 3 to be class E felonies without changing their prison penalties, but increasing their maximum fines to \$3,500, which is the default maximum fine set for a class E felony.

Table 3: Unclassified Felonies Deemed to be Class E Felonies With No Change in Prison Penalty But Increased Fines

| Act § | Statute §   | Description                                                                                                                                                                                                                                                                                                                  | Prior Penalty (prison term, fine, or both) |
|-------|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| 9     | 30-86(b)(2) | Delivering liquor to a minor                                                                                                                                                                                                                                                                                                 | Up to 18 months<br>Up to \$1,500           |
| 11    | 14-196(b)   | Willfully misusing a motor vehicle title certificate                                                                                                                                                                                                                                                                         | Up to two years<br>Up to \$1,000           |
| 12    | 21a-165     | Selling defective oil for wick lamps or stoves                                                                                                                                                                                                                                                                               | Up to two years<br>Up to \$300             |
| 13    | 21a-255(b)  | Certain controlled substance violations including failing to keep drug records with intent to violate the drug laws and various other specified controlled substance violations without other penalties such as making controlled substances without a license and violating labeling requirements (1 <sup>st</sup> offense) | Up to two years<br>Up to \$1,000           |
| 14    | 29-152      | Violating professional bondsmen requirements                                                                                                                                                                                                                                                                                 | Up to two years<br>Up to \$1,000           |
| 15    | 30-99       | Selling adulterated liquor                                                                                                                                                                                                                                                                                                   | Up to two years<br>Up to \$1,000           |
| 16    | 36b-28(b)   | Violating the uniform securities act                                                                                                                                                                                                                                                                                         | Up to two years<br>Up to \$2,000           |
| 17    | 36b-73(b)   | Violating the business opportunity investment act                                                                                                                                                                                                                                                                            | Up to two years<br>Up to \$2,000           |
| 18    | 38a-658     | Violating credit life insurance or credit accident and health insurance requirements                                                                                                                                                                                                                                         | Up to two years<br>Up to \$1,500           |
| 19    | 53-201      | Illegally aiding a prize fight                                                                                                                                                                                                                                                                                               | Up to two years<br>Up to \$500             |
| 20    | 53a-209     | Violating an injunction-obscene matters                                                                                                                                                                                                                                                                                      | Up to two years<br>Up to \$1,000           |

*Deemed Classified With Change in Prison Penalty and Fine*

The act deems the crime of fraudulent voting on a regional school district budget to be a class E felony. It leaves in place the maximum prison penalty of two years but increases the maximum fine from \$500 to \$3,500. It eliminates a minimum \$300 fine and a minimum one year prison sentence, which was not a mandatory minimum prison sentence (§ 10, CGS § 10-51).

**UNCLASSIFIED FELONIES CLASSIFIED AS CLASS D FELONIES**

*Classified with a Change in Minimum Prison Penalty But No Change In Maximum Prison Penalty or Fine*

Prior law punished the 22 unclassified crimes in Table 4 by one to five years in prison and a fine of up to \$5,000. The act classifies these crimes as class D felonies. In doing so, it (1) eliminates the minimum one year sentence, which was not a mandatory minimum sentence and (2) does not change the maximum fine.

Table 4: Unclassified Felonies Classified as D Felonies With Change in Minimum Prison Penalty But No Change in Maximum Prison Penalty or Fine

| Act § | Statute §   | Description                                                                                                                    |
|-------|-------------|--------------------------------------------------------------------------------------------------------------------------------|
| 33    | 4d-39(d)¶   | Violating nondisclosure requirements-Department of Information Technology contract                                             |
| 42    | 12-206(e)¶  | Insurance, hospital, or medical corporation tax fraud                                                                          |
| 43    | 12-231(b)¶  | Corporation business tax fraud                                                                                                 |
| 44    | 12-268e(b)¶ | Public service company tax fraud                                                                                               |
| 45    | 12-304(b)¶  | Avoiding tax on 20,000 or more cigarettes (this penalty also applies to cigarette use or storage tax fraud under CGS § 12-321) |
| 46    | 12-306b(b)¶ | Cigarette tax fraud                                                                                                            |
| 47    | 12-330f(c)¶ | Willfully avoiding tobacco taxes                                                                                               |
| 48    | 12-330j(b)¶ | Tobacco products tax fraud                                                                                                     |
| 49    | 12-405d(g)¶ | Estate income tax fraud                                                                                                        |
| 50    | 12-428(2)¶  | Sales/use tax fraud                                                                                                            |
| 51    | 12-452(b)¶  | Alcoholic beverage tax fraud                                                                                                   |
| 52    | 12-464(b)¶  | Motor vehicle fuels tax fraud                                                                                                  |
| 53    | 12-482(b)¶  | Motor carrier road tax fraud                                                                                                   |
| 54    | 12-519(b)¶  | Dividend, interest, and capital gains tax fraud                                                                                |
| 55    | 12-551(b)¶  | Admission or cabaret tax fraud                                                                                                 |
| 56    | 12-591(b)¶  | Petroleum products tax fraud                                                                                                   |
| 57    | 12-638g(b)¶ | Controlling interest transfer tax fraud                                                                                        |
| 58    | 12-737(b)¶  | State income tax fraud                                                                                                         |
| 84    | 20-329x¶    | Prohibited acts-real estate                                                                                                    |
| 109   | 45a-729¶    | Illegally placing a child for adoption                                                                                         |
| 110   | 49-8a(h)¶   | Recording a false affidavit on land records                                                                                    |
| 119   | 54-142c(b)¶ | False statement-obtaining criminal history                                                                                     |

Similarly, the act classifies the crime of sale or possession of zappers or phantom-ware (which falsify cash register receipts) as a class D felony. In doing so, the act eliminates the prior one year minimum prison penalty, which was not a mandatory minimum; retains the maximum five year prison term; and retains the maximum \$100,000 fine (§ 120, CGS § 12-428a(b)).

*Classified With No Change In Prison Penalty But Increase In Maximum Fine*

The act classifies the 38 crimes in Table 5 as class D felonies. By doing so, it retains their maximum prison penalties but increases their maximum fines. In two instances, the act eliminates a minimum fine (§§ 39 and 61). One crime, carrying a pistol without a permit, carries a mandatory minimum sentence which the act retains (§ 25).

Table 5: Unclassified Felonies Classified as D Felonies With No Change in Prison Penalty But Increased Fines

| Act § | Statute §   | Description                                                                    | Prior Penalty (prison term, fine, or both)                                                      |
|-------|-------------|--------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| 25    | 29-37(b)    | Carrying a pistol without a permit                                             | Up to five years<br>One-year mandatory minimum absent mitigating circumstances<br>Up to \$1,000 |
| 32    | 1-103¶      | Hindering legislation by threat                                                | Up to five years<br>Up to \$1,000                                                               |
| 34    | 7-64¶       | Violating requirements for disposal of a dead body                             | Up to five years<br>Up to \$500                                                                 |
| 35    | 7-66(d)¶    | Violating a sexton's burial duties                                             | Up to five years<br>Up to \$500                                                                 |
| 36    | 9-264¶      | Illegally assisting a disabled voter                                           | Up to five years<br>Up to \$1,000                                                               |
| 37    | 9-352¶      | Tampering by an election official                                              | Up to five years<br>Up to \$1,000                                                               |
| 38    | 9-353¶      | False return by an election officer                                            | Up to five years<br>Up to \$1,000                                                               |
| 39    | 9-354¶      | Improperly printing a ballot label                                             | Up to five years<br>\$100 to \$1,000                                                            |
| 61    | 15-69(a)¶   | Tampering with an airport or its equipment                                     | Up to five years<br>\$200 to \$1,000                                                            |
| 64    | 17a-83¶     | False statement-commit child to a hospital for mental illness                  | Up to five years<br>Up to \$1,000                                                               |
| 65    | 17a-274(m)¶ | False statement-involuntary commitment to Department of Developmental Services | Up to five years<br>Up to \$1,000                                                               |
| 66    | 17a-504¶    | False statement-mentally ill commitment                                        | Up to five years<br>Up to \$1,000                                                               |

| Act § | Statute §                        | Description                                                                                                                                                                          | Prior Penalty<br>(prison term, fine, or both) |
|-------|----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| 69    | 19a-324                          | Violating cremation requirements including certain false statements and illegally removing a body for cremation                                                                      | Up to five years<br>Up to \$500               |
| 70-79 | Various from 20-14 to 20-138a(b) | Practicing the following without a license: medicine, chiropractic, natureopathy, podiatry, physical therapy, occupational therapy, nursing, dentistry, dental hygiene, or optometry | Up to five years<br>Up to \$500               |
| 80    | 20-161                           | Violating optician requirements                                                                                                                                                      | Up to five years<br>Up to \$500               |
| 81    | 20-185(b)                        | Misrepresenting self as board certified behavior analyst                                                                                                                             | Up to five years<br>Up to \$500               |
| 82    | 20-193                           | Practicing psychology without a license                                                                                                                                              | Up to five years<br>Up to \$500               |
| 83    | 20-206p                          | Illegally using dietitian or nutritionist title                                                                                                                                      | Up to five years<br>Up to \$500               |
| 85    | 20-395h                          | Violating audiologist requirements                                                                                                                                                   | Up to five years<br>Up to \$500               |
| 86    | 20-417                           | Violating speech and language pathologist requirements                                                                                                                               | Up to five years<br>Up to \$500               |
| 88    | 21a-279(b)                       | Possessing hallucinogens or more than 4 oz. of marijuana (1 <sup>st</sup> offense)*                                                                                                  | Up to five years<br>Up to \$2,000             |
| 88    | 21a-279(c)                       | Possessing certain controlled substances or between .5 and 4 oz. of marijuana (2 <sup>nd</sup> and subsequent offenses)*                                                             | Up to five years<br>Up to \$3,000             |
| 93    | 28-22                            | Damaging civil preparedness equipment or impersonating civil preparedness official                                                                                                   | Up to five years<br>Up to \$1,000             |
| 94    | 29-38                            | Carrying in a car a weapon, pistol without a permit, or unregistered machine gun                                                                                                     | Up to five years<br>Up to \$1,000             |
| 112   | 53-23                            | Abandoning a child                                                                                                                                                                   | Up to five years<br>Up to \$500               |
| 113   | 53-200                           | Illegal prize fighting                                                                                                                                                               | Up to five years<br>Up to \$1,000             |
| 115   | 53-320                           | Distributing noxious seed or poisons                                                                                                                                                 | Up to five years<br>Up to \$1,000             |

| Act § | Statute § | Description                                                           | Prior Penalty<br>(prison term, fine, or both) |
|-------|-----------|-----------------------------------------------------------------------|-----------------------------------------------|
| 116   | 53-334    | Unlawful disinterment                                                 | Up to five years<br>Up to \$2,000             |
| 117   | 53-341    | Illegally using the title of physician, surgeon, doctor, or osteopath | Up to five years<br>Up to \$500               |

\*The law authorizes an alternative indeterminate sentence for this crime which is unchanged by the act.

The act specifies that the prohibition on advanced practice nursing without a license only applies if it is done for remuneration. The act makes this punishable as a class D felony, which increases the maximum fine for violations from \$500 to \$5,000 but does not change the prison penalty (§ 76).

#### *Classified With Change in Prison Penalty and Fine*

The act classifies the crime of motor vehicle title certificate fraud as a class D felony (§ 11, CGS § 14-196(a)). It eliminates a one-year minimum prison term, which was not a mandatory minimum. It also eliminates a minimum \$500 fine and increases the maximum fine from \$1,000 to \$5,000.

#### *Classified With No Change in Prison Penalty or Fine*

The act classifies the 40 unclassified crimes in Table 6 as class D felonies without changing their prison penalties or fines. For crimes with a maximum fine higher than \$5,000, the default maximum fine for a class D felony, the act retains the prior maximum fine. In three instances, the act also retains a minimum fine (§§ 96-98).

Table 6: Unclassified Felonies Classified as D Felonies Without Changing Prison Penalties or Fines

| Act § | Statute §  | Description                                                                                                                                        | Prior Penalty<br>(prison term, fine, or both)                        |
|-------|------------|----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|
| 22    | 14-149(f)  | Altering a motor vehicle identification number or selling or possessing a vehicle with an altered number (2 <sup>nd</sup> and subsequent offenses) | Up to five years<br>Up to \$5,000                                    |
| 40*   | 9-623      | Violating campaign financing requirements                                                                                                          | Up to five years<br>Up to \$5,000                                    |
| 41    | 10-390     | Illegal acts at archeological or sacred sites                                                                                                      | Up to five years<br>Up to \$5,000 or twice value of site or artifact |
| 59    | 14-149a(b) | Operating a chop shop (1 <sup>st</sup> offense)                                                                                                    | Up to five years<br>Up to \$5,000                                    |
| 59    | 14-149a(b) | Operating a chop shop (2 <sup>nd</sup> and subsequent offenses)                                                                                    | Up to five years<br>Up to \$10,000                                   |
| 60    | 14-299a(f) | Traffic signal preemption device violations causing an accident                                                                                    | Up to five years<br>Up to \$15,000                                   |
| 62    | 16-33      | False statement-report to public utility regulators                                                                                                | Up to five years<br>Up to \$5,000                                    |

| <i>Act §</i> | <i>Statute §</i> | <i>Description</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <i>Prior Penalty (prison term, fine, or both)</i>        |
|--------------|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| 63           | 16a-18(b)        | Creating a fuel shortage                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Up to five years<br>Up to \$250,000                      |
| 67           | 17b-30(d)Ⓜ       | Illegally releasing biometric identification                                                                                                                                                                                                                                                                                                                                                                                                                              | Up to five years<br>Up to \$5,000 plus prosecution costs |
| 68           | 19a-32d(c)Ⓜ      | Violating embryo, egg, or sperm disposal requirements                                                                                                                                                                                                                                                                                                                                                                                                                     | Up to five years<br>Up to \$50,000                       |
| 68           | 19a-32d(f)Ⓜ      | Violating embryonic stem cell research requirements                                                                                                                                                                                                                                                                                                                                                                                                                       | Up to five years<br>Up to \$50,000                       |
| 87           | 20-581Ⓜ          | Violating the Pharmacy Practice Act, including practicing pharmacy without a license                                                                                                                                                                                                                                                                                                                                                                                      | Up to five years<br>Up to \$5,000                        |
| 89           | 22a-131a(a)Ⓜ     | Violating hazardous waste records requirements (2 <sup>nd</sup> and subsequent offenses)                                                                                                                                                                                                                                                                                                                                                                                  | Up to five years<br>Up to \$50,000 per day               |
| 89           | 22a-131a(b)Ⓜ     | Violating hazardous waste permit or order requirements (1 <sup>st</sup> offense)                                                                                                                                                                                                                                                                                                                                                                                          | Up to five years<br>Up to \$50,000 per day               |
| 89           | 22a-131a(c)Ⓜ     | Violating used oil requirements (2 <sup>nd</sup> and subsequent offenses)                                                                                                                                                                                                                                                                                                                                                                                                 | Up to five years<br>Up to \$100,000 per day              |
| 90           | 22a-226a         | Illegally disposing of asbestos, violating waste facility requirements or permits, handling waste without a permit, illegal dumping, violating solid waste management regulations, violating resources recovery regulations, or violating a waste abatement order (2 <sup>nd</sup> and subsequent offenses)                                                                                                                                                               | Up to five years<br>Up to \$50,000 per day               |
| 91           | 22a-226b         | Committing the violations listed under § 90 and knowingly placing another person in imminent danger of death or serious injury (2 <sup>nd</sup> and subsequent offenses)                                                                                                                                                                                                                                                                                                  | Up to five years<br>Up to \$250,000                      |
| 95           | 29-353Ⓜ          | Illegally possessing unlabeled explosives                                                                                                                                                                                                                                                                                                                                                                                                                                 | Up to five years<br>Up to \$10,000                       |
| 96           | 31-15a           | Employer, parent, or guardian violations: illegal hours of labor for certain employees at manufacturing, mechanical, or mercantile work or employing minors at night<br>Employer: permitting illegal employment of minor; illegal hours of labor-other establishments; certain employers-failing to post hours of employment of minors, elderly, and people with handicaps; illegally employing a minor in certain work; or illegally employing a minor in hazardous work | Up to five years<br>\$2,000 to \$5,000                   |
| 97           | 31-69(b)         | Minimum wage violation-unpaid wages over \$2,000                                                                                                                                                                                                                                                                                                                                                                                                                          | Up to five years<br>\$4,000 to \$10,000                  |
| 98           | 31-71g           | Violating wage payment requirements over \$2,000                                                                                                                                                                                                                                                                                                                                                                                                                          | Up to five years<br>\$2,000 to \$5,000                   |
| 99           | 36b-51(a)Ⓜ       | Violating the Tender Offer Act                                                                                                                                                                                                                                                                                                                                                                                                                                            | Up to five years<br>Up to \$5,000                        |
| 100          | 38a-140(c)(2)Ⓜ   | False statement-holding company officer                                                                                                                                                                                                                                                                                                                                                                                                                                   | Up to five years<br>Up to \$50,000                       |
| 101          | 40-51Ⓜ           | Illegally issuing a warehouse receipt                                                                                                                                                                                                                                                                                                                                                                                                                                     | Up to five years<br>Up to \$5,000                        |
| 102          | 40-53Ⓜ           | Illegally duplicating a warehouse receipt                                                                                                                                                                                                                                                                                                                                                                                                                                 | Up to five years<br>Up to \$5,000                        |

| <i>Act §</i> | <i>Statute §</i> | <i>Description</i>                                                | <i>Prior Penalty (prison term, fine, or both)</i> |
|--------------|------------------|-------------------------------------------------------------------|---------------------------------------------------|
| 103          | 41-47Ⓜ           | Fraudulently issuing a bill of lading                             | Up to five years<br>Up to \$5,000                 |
| 104          | 41-49Ⓜ           | Illegally issuing a duplicate bill of lading                      | Up to five years<br>Up to \$5,000                 |
| 105          | 41-51Ⓜ           | Illegally transferring a bill of lading                           | Up to five years<br>Up to \$5,000                 |
| 106          | 41-52Ⓜ           | Illegally soliciting a bill of lading                             | Up to five years<br>Up to \$5,000                 |
| 107          | 41-53Ⓜ           | Issuing an improper nonnegotiable bill of lading                  | Up to five years<br>Up to \$5,000                 |
| 108          | 42-232(d)Ⓜ       | Intentionally or repeatedly violating a supply emergency order    | Up to five years<br>Up to \$5,000                 |
| 111          | 53-20(a)(1)Ⓜ     | Intentional cruelty to persons                                    | Up to five years<br>Up to \$5,000                 |
| 111          | 53-20(b)(1)Ⓜ     | Intentional cruelty to a child under age 19                       | Up to five years<br>Up to \$5,000                 |
| 114          | 53-247(a)        | Animal cruelty (2 <sup>nd</sup> and subsequent offenses)          | Up to five years<br>Up to \$5,000                 |
| 114          | 53-247(b)Ⓜ       | Maliciously wounding or killing an animal                         | Up to five years<br>Up to \$5,000                 |
| 114          | 53-247(c)Ⓜ       | Using an animal for fighting                                      | Up to five years<br>Up to \$5,000                 |
| 114          | 53-247(d)Ⓜ       | Injuring a peace officer animal or volunteer canine search animal | Up to five years<br>Up to \$5,000                 |
| 118          | 53-347a(a)Ⓜ      | Forging a stamp or label                                          | Up to five years<br>Up to \$250,000               |
| 118          | 53-347a(b)Ⓜ      | Affixing a fraudulent marking                                     | Up to five years<br>Up to \$250,000               |
| 118          | 53-347a(c)Ⓜ      | Using a counterfeit marking                                       | Up to five years<br>Up to \$250,000               |

\*PA 13-180, § 10, as of June 18, 2013, makes these violations punishable by only a fine of up to \$25,000 or a higher fine otherwise provided by law.

## CLASS C FELONIES

The act classifies the following six crimes as class C felonies. In doing so, it keeps the same maximum prison penalty for these crimes but adds a one year minimum sentence, which is not a mandatory minimum sentence. Regarding fines, the act does not change the fine for one of these crimes, which matches the default \$10,000 maximum fine for a class C felony; increases the fine for one crime to the \$10,000 maximum fine for a class C felony; and retains the higher fines previously set in law for four of these crimes. Table 7 displays these crimes.

Table 7: Unclassified Felonies Classified as C Felonies

| <i>Act §</i> | <i>Statute §</i> | <i>Description</i>                                                                                                                                                                                                                                                                                                                           | <i>Prior Penalty (prison term, fine, or both)</i> |
|--------------|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| 13           | 21a-255(b)       | Certain controlled substance violations including failing to keep drug records with intent to violate the drug laws and various other controlled substance violations without other specified penalties such as making controlled substances without a license and violating labeling requirements (2 <sup>nd</sup> and subsequent offenses) | Up to 10 years<br>Up to \$10,000                  |

| <i>Act §</i> | <i>Statute §</i> | <i>Description</i>                                                                                                                                          | <i>Prior Penalty (prison term, fine, or both)</i> |
|--------------|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| 88           | 21a-279(b)§      | Possessing a hallucinogen or more than 4 oz. of marijuana (2 <sup>nd</sup> and subsequent offenses)*                                                        | Up to 10 years<br>Up to \$5,000                   |
| 89           | 22a-131a(b)§     | Violating hazardous waste permit/regulations (2 <sup>nd</sup> and subsequent offenses)                                                                      | Up to 10 years<br>Up to \$100,000 per day         |
| 121          | 22a-438(c)§      | Knowingly violating water pollution control requirements and various other environmental statutes and regulations (2 <sup>nd</sup> and subsequent offenses) | Up to 10 years<br>Up to \$100,000 per day         |
| 121          | 22a-438(e)§      | Illegally discharging gasoline (2 <sup>nd</sup> and subsequent offenses)                                                                                    | Up to 10 years<br>Up to \$100,000 per day         |
| 122          | 22a-628(b)§      | Violating mercury requirements (2 <sup>nd</sup> and subsequent offenses)                                                                                    | Up to 10 years<br>Up to \$50,000 per day          |

\*The law authorizes an alternative indeterminate sentence for this crime which is unchanged by the act.

**PA 13-267—SB 1142**

*Judiciary Committee*

*Energy and Technology Committee*

**AN ACT PROMOTING THE USE OF RENEWABLE ENERGY AT CORRECTIONAL FACILITIES**

**SUMMARY:** This act allows the correction commissioner, within available resources, to conduct a pilot program to use renewable energy sources at one or more correctional facilities for space heating and cooling, domestic hot water, and other applications. Renewable energy sources include solar, wind, water, and biomass.

If the commissioner conducts the program, the act requires him to consider specified factors when choosing the appropriate facility for the pilot. These factors include the (1) nature of the inmate population at each correctional facility, (2) topography of the facility's area, and (3) impact on the municipality and local wildlife.

Under the act, any energy produced under the program must be allocated to the correctional facility. Excess energy must be allocated to benefit the municipality where the facility is located. The commissioner can apply for grants or other financial assistance from private sources or state or federal agencies.

If the commissioner conducts the program, he must report on it, within one year of it becoming operational, to the Appropriations, Energy, and Judiciary committees. The report must indicate the (1) amount of energy the program produced, (2) amount of energy cost savings, and (3) estimated energy benefit to the

municipality. It must also summarize the response the commissioner received to the program.

EFFECTIVE DATE: July 1, 2013

**PA 13-268—SB 1163**

*Judiciary Committee*

**AN ACT CONCERNING THE PREVENTION OF URBAN YOUTH DELINQUENCY AND VIOLENCE**

**SUMMARY:** This act requires the Court Support Services Division (CSSD) of the Judicial Branch, within available resources, to collaborate with at least one private community-based service provider in Hartford to (1) inventory Hartford programs designed to promote positive youth development and reduce youth contact with the juvenile justice system and (2) design a process to identify and refer at-risk youth to such programs. The chief court administrator must report to the Judiciary Committee on the inventory and process by February 1, 2014.

The act authorizes up to \$1.5 million in general obligation bonds for the Department of Economic and Community Development (DECD) to provide grants-in-aid, of up to \$500,000 each, to:

1. the Metropolitan Economic Development Commission to create elderly housing,
2. the John E. Rogers African American Cultural Center to convert the former Northwest-Jones School to a cultural center, and
3. Catholic Charities of Hartford to create affordable housing with supportive services.

The grants can be used for construction, improvements, repairs, renovations, and, except for Catholic Charities of Hartford, land acquisition.

The act also requires the DECD commissioner, within available appropriations, to establish a Connecticut Young Adult Conservation Corps program. The program generally requires recipients of the bond proceeds described above to set aside at least 10% of all positions for employable youth and young adults at each facility for five years. The commissioner (1) may audit and investigate these organizations and bring an action for failure to comply and (2) must annually report on the program.

EFFECTIVE DATE: Upon passage for the youth program inventory; July 1, 2013 for the bond authorization; and January 1, 2014 for the Connecticut Young Adult Conservation Corps.

**HARTFORD YOUTH PROGRAM**

The act specifies that the inventory of programs must indicate the types of services the programs

provide, including:

1. screening and assessment;
2. crisis intervention;
3. family mediation;
4. educational evaluations and advocacy;
5. mental health treatment and services, including gender specific trauma treatment and services;
6. resiliency skills building;
7. access to positive social activities;
8. short-term respite care; and
9. access to services for children in the juvenile justice system.

The provider or providers with which CSSD collaborates to inventory the programs may include a family support center or centers. Family support centers are community-based service centers for children and families against whom a family with service needs complaint has been filed.

## CONNECTICUT YOUNG ADULT CONSERVATION CORPS PROGRAM

### *Program*

The act requires the DECD commissioner, within available appropriations, to establish a Connecticut Young Adult Conservation Corps program, similar to the former federal Young Adult Conservation Corps program (see BACKGROUND). The program's purpose is to employ youth and young adults (i.e., age 16 to 25, except for emancipated 16 and 17-year-olds) at the organizations receiving bond proceeds under the act (e.g., Catholic Charities of Hartford).

Under the act, the heads of these organizations must set aside at least 10% of all their employment positions for employable youth and young adults. The set-aside must (1) begin in the fiscal year following the fiscal year in which the organization first receives bond proceeds and (2) continue for five consecutive fiscal years. However, the commissioner may extend the start date to comply with these requirements for good cause shown.

### *Audits and Investigations*

The act allows the DECD commissioner to (1) audit the financial, corporate, and business records of the organizations and (2) investigate them to determine program compliance.

### *Action for Noncompliance*

The act authorizes the commissioner, acting through the attorney general, to bring an action on behalf of the state against any organization that fails to set aside the required number of positions. The action may seek (1) compliance or (2) recovery of the

reasonable amount of wages that the organization would have paid to employable youths and young adults had it complied.

### *Reporting Requirement*

The act requires the DECD commissioner to submit to the General Assembly an annual report assessing and evaluating the program. The first report is due no later than December 1 after the fiscal year in which the organizations first receive bond proceeds. The commissioner must submit the report by the same date in each of the next four years.

## BACKGROUND

### *The Federal Young Adult Conservation Corps Program (YACC)*

The 1977 Youth Employment and Demonstration Projects Act (P.L. 95–93) established YACC to employ youths who would not otherwise be productively employed on a year-round basis to perform resource management work on public lands. The Department of Labor administered the program, which continued through the early 1980s. To be eligible for YACC, a person had to be (1) unemployed, (2) between ages 16 through 23, (3) a U.S. citizen or lawful permanent resident, and (4) physically capable of carrying out the work.

## PA 13-297—HB 6342

### *Judiciary Committee*

## AN ACT CONCERNING CRIMINAL PENALTIES FOR FAILURE TO REPORT CHILD ABUSE

**SUMMARY:** This act makes it a form of risk of injury to a child for a person to intentionally and unreasonably interfere with or prevent a person who is required to report suspected child abuse and neglect (a mandated reporter) from carrying out this obligation. The act makes this a class D felony (see Table on Penalties).

The act also makes it a crime for mandated reporters (e.g. school employees, police officers, certain medical professionals, and Department of Children and Families (DCF) employees) to fail to report suspected child abuse or neglect to DCF. Under prior law, this inaction subjected them to fines of between \$500 and \$2,500. The act makes it a class A misdemeanor (see Table on Penalties). By law, such reporters must also participate in an educational and training program.

By law, a person is required to report suspected child abuse or neglect within certain specified timeframes if such person (1) is a mandated reporter and (2) in the ordinary course of his or her employment or

profession, has reasonable cause to suspect a child under age 18 has:

1. been abused or neglected,
2. suffered a non-accidental physical injury or one that is inconsistent with the given history of such injury, or
3. been placed at imminent risk of serious harm.

EFFECTIVE DATE: October 1, 2013

## BACKGROUND

### *Related Acts*

PA 13-53 (1) prohibits employers from attempting to prevent employees from reporting child abuse or neglect or testifying in hearings related to child abuse or neglect and (2) subjects employers to the whistleblower penalties, in addition to the current civil penalties, if they take adverse actions against employees who report child abuse or neglect.

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**PA 13-300**—sHB 6674

*Judiciary Committee*

## **AN ACT CONCERNING THE PENALTY FOR INTERFERING WITH AN OFFICER**

**SUMMARY:** This act increases the penalty for interfering with an officer from a class A misdemeanor to a class D felony (see Table on Penalties) when the interference causes another person's death or serious physical injury. By law, a person commits this crime by obstructing, resisting, hindering, or endangering a peace officer, revenue services special police officer, motor vehicle inspector, or firefighter in the performance of his or her duties.

EFFECTIVE DATE: October 1, 2013

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**PA 13-301**—sHB 6694

*Judiciary Committee*

## **AN ACT CONCERNING THE INHERITANCE RIGHTS OF A CHILD WHO IS BORN AFTER THE DEATH OF A MARRIED PARENT**

**SUMMARY:** This act allows a posthumously conceived child (i.e., a child conceived and born after the death of one of his or her married parents) to receive the same rights the will or trust of his or her deceased parent provides to other children or descendants. It does this by including a posthumously conceived child in the meaning of certain terms such as "child," "descendant," and "heir" used in wills or trust instruments.

The act provides these rights regardless of whether the deceased parent had a will. If the deceased parent had a valid will that did not provide for a posthumously conceived child, the act gives such a child the same rights the law provides to a child born after a parent's will was executed. If the deceased parent did not have a will (i.e., died intestate), the act includes a posthumously conceived child among the children to whom the residue of an intestate estate must be distributed by law.

To qualify for these rights, the act requires a written document, signed and dated by both parents, specifically authorizing the surviving spouse to use the decedent spouse's sperm or egg to posthumously conceive a child, who must be in utero within one year of the parent's death. It establishes notification requirements regarding the authorization document for the surviving spouse and the fiduciary or person filing an affidavit in lieu of administration by the probate court.

The act:

1. establishes the circumstances in which a fiduciary may be personally charged for not distributing assets to a posthumously conceived child;
2. allows the representative of a posthumously conceived child to bring an action for an unsatisfied obligation against the other estate beneficiaries and requires that such claim be proven by clear and convincing evidence;
3. establishes a beneficiary's maximum liability in such a case; and
4. specifies the probate court that has jurisdiction over any dispute relating to a posthumously conceived child's inheritance rights, except for certain Superior Court actions.

Lastly, the act makes technical changes.

EFFECTIVE DATE: October 1, 2013

## ELIGIBILITY REQUIREMENTS

For property distribution purposes, the act deems a posthumously conceived child to have been born in the decedent's lifetime and after the execution of his or her will if the child or his or her representative proves by clear and convincing evidence that:

1. the decedent spouse executed a written document that: (a) specifically authorizes the use of his or her sperm or egg to posthumously conceive a child; (b) specifically authorizes his or her spouse to exercise custody, control, and use of the sperm or egg in the event of his or her death; and (c) was signed and dated by the decedent spouse and the surviving spouse and
2. the posthumously conceived child was in utero within one year of the decedent spouse's death.



## NOTIFICATION REQUIREMENTS

The act establishes notification requirements for the surviving spouse, fiduciary, and the person filing an affidavit in lieu of administration. Under the act, failure to comply with the notice requirements does not affect a child's inheritance rights.

### *Surviving Spouse*

The act requires the surviving spouse to provide a copy of the authorization document to (1) the fiduciary of the decedent spouse's estate, if the probate court admitted the will to probate or granted administration to the estate or (2) the person filing an affidavit or statement in lieu of administration, if the estate is being settled without probate.

The surviving spouse must provide this document within 30 days of the (1) decedent's death, (2) appointment of the first fiduciary, or (3) filing of an affidavit or statement in lieu of administration, whichever is latest.

### *Fiduciary or Person Filing an Affidavit in Lieu of Administration*

Under the act, the fiduciary or person filing the affidavit in lieu of administration must notify the court in writing of the authorization document's existence within 30 days of receiving it. The fiduciary or person filing the affidavit must also provide the court written notification if he or she does not have the document but actually knows that it was executed or that the decedent preserved sperm or egg in his or her lifetime.

## INHERITANCE RIGHTS

The act expands the definition of "child," "children," "issue," "descendants," "descendant," "heirs," "heir," "unlawful heirs," "grandchild," and "grandchildren" when used in wills or trust instruments, to include posthumously conceived children. This applies to wills and trust instruments executed before, on, or after October 1, 2013 unless a contrary intention is indicated in such documents.

### *Failure to Provide for Children Born or Adopted After the Execution of a Will*

If a parent fails to provide for a child born or adopted after the parent's will was executed, the law entitles the omitted child to a share in the parent's estate under certain circumstances. The act extends these inheritance rights in the same manner to posthumously conceived children who were not provided for in the deceased parent's will.

Thus, if there were no living children when the will was executed, the posthumously conceived child receives a share in the estate equal to what the child would have received had the parent died intestate, unless the will devised or bequeathed all or substantially all of the estate to the surviving spouse who is entitled to take under the will.

If there were one or more children living when the will was executed, and the will devised or bequeathed property or an interest in property to one or more of the then-living children, the posthumously conceived child receives the share of the estate that he or she would have received had the deceased parent (1) included all omitted after-born and after-adopted children with the children who were provided for under the will and (2) given an equal share of the estate to each child, subject to certain restrictions (see BACKGROUND).

### *Intestate Estate*

By law, when a person dies without a valid will (i.e., intestate), after the distribution of the estate has been made to the surviving spouse the residue of the real and personal estate must be distributed equally among the children, with certain exceptions. The act includes posthumously conceived children among the children to whom the residue of an intestate estate must be distributed.

## ACTION AGAINST A FIDUCIARY OR BENEFICIARIES

### *Probate Court Jurisdiction*

Except for certain actions against estate beneficiaries in Superior Court (see below), the act gives jurisdiction over any disputes related to a posthumously conceived child's property rights to the probate court (1) with jurisdiction over the deceased's estate or (2) for the district where the decedent lived when he or she died, if no probate proceedings have started.

### *Charging a Fiduciary*

Under the act, a fiduciary cannot be personally charged for any estate assets he or she distributed to a beneficiary or heir before a posthumously conceived child's entitlement to the estate's property was determined, unless the:

1. surviving spouse of the decedent provided the fiduciary with a copy of the authorization document executed by the decedent;
2. fiduciary had actual knowledge at the time of the distributions that the decedent, during his or her lifetime, preserved sperm or eggs or executed the document described above; or

3. child's representative, within 150 days after the first fiduciary's appointment, notified the fiduciary in writing that a child has been or may be posthumously conceived.

#### *Actions Against Beneficiaries*

By law, an estate's beneficiary is liable for unpaid expenses for administering the estate, funeral expenses of the decedent, all taxes for which the estate is liable, and claims that were not satisfied from the estate's assets. If a posthumously conceived child, or his or her representative, brings a Superior Court action claiming property rights to his or her deceased parent's estate after the estate's fiduciary has distributed all of the estate's known assets, the act limits a beneficiary's liability to the extent of the fair market value, on the date of distribution, of the assets the beneficiary received and to which the child is entitled. The act specifies that the date of the decedent's death must be considered the date of distribution of real estate specifically devised and real estate passing under the laws of descent and distribution.

The maximum liability to which a beneficiary may be subject is the beneficiary's ratable obligation in the same proportion of the assets received by the beneficiary relative to the value of all such assets distributed to all beneficiaries in the same order of liability under law (see BACKGROUND).

Under the act, no liability may be imposed on such a beneficiary unless the plaintiff shows that (1) the fiduciary has insufficient assets to meet the obligation, (2) persons prior to the beneficiary in order of liability are insolvent or cannot otherwise be sued, and (3) enforcement of encumbrances on property or life insurance proceeds of the decedent will not satisfy the obligation.

#### **BACKGROUND**

##### *Children Born or Adopted After Execution of a Parent's Will*

By law, an omitted child born or adopted after the execution of a parent's will, including any child born as a result of consented artificial insemination, is entitled to a share in the deceased parent's estate unless the omission was intentional or the omitted child was otherwise provided for. If the will devised or bequeathed property to one or more then-living children, the omitted child's share of the estate:

1. is limited to a share of the portion of the estate made to the then-living children under the will and
2. must be of the same character, whether equitable or legal, present or future, as that

devised or bequeathed to the then-living children under the will.

If there are not enough assets to satisfy the provisions of the will, in the abatement of the devises and legacies of the then-living children, the character of the will must be preserved.

If it appears from the will that the intention was to make a limited provision which specifically applied only to the living children at the time the will was executed, the after-born or after-adopted child succeeds to the portion of such testator's estate as would have passed to such child had the testator died intestate.

#### *Order of Liability*

Except for assets securing the decedent's debts and tax liability, beneficiaries are liable in the following order:

1. distributees,
2. residuary beneficiaries,
3. beneficiaries of general dispositions,
4. beneficiaries of specific dispositions of personal property,
5. beneficiaries of specific dispositions of real property, and
6. transfer on death beneficiaries.

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#### **PA 13-302—HB 6703**

*Judiciary Committee*

*Appropriations Committee*

#### **AN ACT CONCERNING YOUTH VIOLENCE AND GANG ACTIVITY**

**SUMMARY:** This act makes recruiting a minor to participate in a "criminal gang" a criminal offense, which it classifies as a class A misdemeanor (see Table on Penalties).

The act also requires the Judicial Branch's Court Support Services Division (CSSD), within available resources and in collaboration with certain government and community organizations, to conduct a pilot program in Bridgeport, Hartford, and New Haven. The program must be designed to reduce (1) the number of children and youths who come into contact with the juvenile justice system and (2) recidivism among those who are delinquents. The chief court administrator must submit a report to the Judiciary and Children's committees by February 1, 2014 describing the pilot program, its findings, and any recommendations for its expansion or continuation.

**EFFECTIVE DATE:** October 1, 2013, except the pilot program provision, which is effective July 1, 2013.

**RECRUITING A MEMBER OF A CRIMINAL GANG**

Under the act, a person is guilty of recruiting a member of a criminal gang when he or she knowingly causes, encourages, solicits, recruits, intimidates, or coerces someone under age 18 to join, participate in, or remain in a criminal gang. This must be done with (1) knowledge that membership or continued membership in the gang is conditioned on committing a criminal act or (2) intent to facilitate the gang's criminal acts.

The act defines "criminal gang" as a formal or informal organization, association, or group of three or more people that has:

1. as one of its primary activities, committing one or more criminal acts;
2. members who individually or collectively engage or have engaged in one or more criminal acts; and
3. an identifying name, sign, or symbol, or an identifiable leadership or hierarchy.

It defines "criminal act" as conduct constituting a felony or a misdemeanor (other than recruiting a criminal gang member).

**PILOT PROGRAM IN HARTFORD, BRIDGEPORT, AND NEW HAVEN**

The act requires CSSD probation officers to collaborate with local police departments, federal agencies, youth service bureaus, and community-based service centers that are willing to participate to (1) identify at-risk children and youth and those convicted as delinquents and (2) refer them to the pilot program. It applies to children and youth who could be subject to the juvenile court's jurisdiction, generally those ages seven through 17.

The act requires officers and agencies participating in the pilot program to (1) meet formally or informally with at-risk children and youths to inform them of the juvenile justice consequences of violent behavior and criminal possession of deadly weapons and (2) make unannounced visits, including in the evening, to the homes, schools, and workplaces of children and youths whom a probation officer supervises.

Under existing law and the act, a "community-based service center" is a family support center for children and families against whom a complaint has been filed with the Superior Court. The center provides multiple services or access to such services for the purpose of preventing the children and families from having further involvement with the court.

**PA 13-309—sHB 6658 (VETOED)**

*Judiciary Committee*

*Labor and Public Employees Committee*

**AN ACT CONCERNING EMPLOYER USE OF NONCOMPETE AGREEMENTS**

**SUMMARY:** This act voids noncompete agreements imposed on an employee as a condition of his or her continued employment for an employer who was acquired by, or merged with, another employer, unless before entering into the agreement, the employer provides the employee with a (1) written copy of the agreement and (2) reasonable amount of time of at least seven days to consider the agreement's merits. The act applies to noncompete agreements made, renewed, or extended on or after October 1, 2013. (Such an agreement prohibits an employee from engaging in certain employment or a line of business after termination of employment.)

The act allows an employee to waive his or her rights under the act by signing a separate document that describes these rights before entering into the agreement.

The act does not limit or deny an employee any rights they have under the law.

EFFECTIVE DATE: October 1, 2013

**PA 13-310—sHB 6692**

*Judiciary Committee*

**AN ACT CONCERNING THE COURT'S AUTHORITY TO DENY AN APPLICATION FOR THE WAIVER OF COURT FEES**

**SUMMARY:** By law, the court must waive the fees and cost of service of process in a civil or criminal matter if it finds that a party is indigent and unable to pay. This act allows a court to deny a party's application for waiver of the fees or cost if:

1. the applicant has repeatedly filed actions on the same or similar matters,
2. these filings establish an extended pattern of frivolous filings that have been without merit,
3. the application relates to an action before the court that is consistent with the applicant's previous pattern of frivolous filings, and
4. granting the waiver would constitute a flagrant misuse of Judicial Branch resources.

By law, the court must grant a hearing on a denied waiver application if the applicant requests one.

The act specifies that it does not affect the court's authority to manage its docket.

EFFECTIVE DATE: October 1, 2013

PA 13-8—SB 1032

*Labor and Public Employees Committee*

**AN ACT CONCERNING WITHHOLDING OF INCOME TAX**

**SUMMARY:** This act allows a Connecticut employer to withhold or divert a portion of an employee's wages as required by another state's income tax laws if the employee (1) works for the employer in the other state or (2) resides in the other state. Under prior law, Connecticut employers could withhold state income tax for another state only if the other state had a reciprocal agreement with Connecticut.

EFFECTIVE DATE: October 1, 2013

PA 13-63—SB 927

*Labor and Public Employees Committee*

**AN ACT CONCERNING THE DEFINITION OF NEW EMPLOYEE IN THE UNEMPLOYED ARMED FORCES MEMBER SUBSIDIZED TRAINING AND EMPLOYMENT PROGRAM**

**SUMMARY:** This act expands eligibility for the state's Unemployed Armed Forces Subsidized Training and Employment Program to include all unemployed, honorably discharged U.S. Armed Forces members (Army, Navy, Marines, Coast Guard, Air Force, reserves, and state National Guards performing federal duty) who served for at least 90 days. Eligibility under prior law required the 90 service days to have been in a combat zone in Afghanistan or Iraq. As under prior law, the act's 90-day requirement does not apply if the veteran was separated from service due to a service-related disability rated by the Veterans' Administration.

The Unemployed Armed Forces Subsidized Training and Employment Program offers wage subsidies and training grants to certain employers that hire eligible unemployed veterans. It is administered by the state Department of Labor.

EFFECTIVE DATE: Upon passage

PA 13-66—sSB 909

*Labor and Public Employees Committee  
Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING UNEMPLOYMENT CONFORMITY**

**SUMMARY:** This act changes the state's unemployment law by (1) imposing an additional financial penalty on unemployment claimants whose fraudulent acts resulted in benefit overpayments and (2)

prohibiting any relief from unemployment charges against an employer whose failure to adequately respond to a request for information led to a claimant's overpayment. It also opens the state's shared work program to all employers covered under the unemployment law. These changes help bring the state's unemployment law into conformance with new federal requirements.

The act also expands the ways the labor commissioner can recover unemployment benefit overpayments. If a claimant received overpayments through fraud, willful misrepresentation, or willful nondisclosure, existing law allows the commissioner to seek repayment through, among other things, withholding the claimant's state income tax refund. If the commissioner cannot recover such overpayments through the claimant's state income tax refund, the act allows her to seek repayment through withholding the claimant's federal tax refund, under applicable federal law. The act also allows the commissioner to seek a withholding of a state income tax refund for claimants who fail to repay accidental overpayments.

The act additionally makes changes to the quarterly statements the labor commissioner must provide to employers for combined wage claims (for claimants who worked in multiple states) paid under the unemployment law of another state. It requires the statement to show the benefits charged against the employer as quarterly, instead of weekly, totals. As under prior law, the statement must also show the claimant's name and Social Security number. The act eliminates provisions that deemed these statements notice to the employer that the benefits were properly payable and allowed the employer to file a written protest. Presumably, the employer will be able to protest under the employment law of the state under which the benefits are being paid.

EFFECTIVE DATE: October 1, 2013

**FEDERAL CONFORMITY**

*Fraudulent Overpayment Penalty*

The federal Trade Adjustment Assistance Extension Act of 2011 (TAAEA) requires states to penalize an unemployment claimant at least 15% of an erroneous payment if the claimant's fraudulent acts resulted in an unemployment overpayment.

Under prior state law, a claimant who knowingly made a false statement or representation, or knowingly failed to disclose a material fact to obtain or increase benefits (regardless of whether the claimant received benefits), had to repay any overpaid amount and was penalized by losing up to 39 weeks of eligibility for unemployment benefits. The act (1) limits the penalty to instances where an overpayment has been made and

(2) changes the penalty to 50% of the overpayment for a first offense and 100% of the overpayment for subsequent offenses, rounded to the nearest dollar. This is applicable to overpayments made on or after October 1, 2013. As under prior law, the claimant must also repay the overpaid amount and the penalty is not limited to the claimant's single benefit year.

The act allocates 35% of the penalty to the state's Unemployment Compensation Trust Fund and 65% to the state's Employment Security Administrative Fund.

#### *Employer Relief from Charges*

TAAEA also prohibits states from relieving an employer of any unemployment charges (see "BACKGROUND") if an unemployment overpayment was due to the employer's failure to timely or adequately respond to a state agency's request for information.

For overpayments made on or after October 1, 2013, the act requires an employer to be proportionally charged for each week of an overpayment if the labor commissioner determines that an employer's failure to timely or adequately respond to a request for information caused the overpayment.

Under prior law, an employer who failed to appear at a hearing or submit a timely written response could be charged for a claimant's benefits for up to six weeks after the week in which the employer filed an appeal, regardless of whether the case involved an overpayment. The act (1) limits this liability to overpayment determinations when an employer fails to appear for a hearing or submit a timely response and (2) requires that the employer be charged with its proportionate share of benefits paid to the claimant until a final decision is issued, instead of prior law's six week limit on charges.

#### *Shared Work Program*

The federal Middle Class Tax Relief and Job Creation Act of 2012 requires states to allow all employers to participate in their "shared work" programs. These programs allow (1) participating employers to reduce employees' hours, rather than laying them off, and (2) affected employees to collect partial unemployment compensation benefits to supplement their reduced wages.

Under prior law, the state's shared work program was available to contributing employers (those who pay unemployment taxes), but not to reimbursing employers (those who reimburse the unemployment system for benefits paid to former employees). The act opens the program to all employers subject to the unemployment law. It also specifies that applicable federal law prevails in any conflict with a provision of the state's shared

work program law or regulations.

## BACKGROUND

### *Unemployment Charges*

By law, employers are "charged" for the amount of unemployment benefits their former employees receive. The employer's charge is proportional to how much of the former employee's total wages the employer paid over the year before the employee claimed benefits (e.g., an employer who paid 20% of a former employee's total wages will be charged for 20% of the benefits the employee receives). These charges are then used to compute the employer's experience rate and quarterly tax contributions (for most private sector employers) or direct reimbursement due (for public sector employers).

### **PA 13-117—sSB 387**

*Labor and Public Employees Committee  
Appropriations Committee*

## **AN ACT INCREASING THE MINIMUM FAIR WAGE**

**SUMMARY:** This act increases the hourly minimum wage from \$8.25 to \$8.70 on January 1, 2014 and from \$8.70 to \$9.00 on January 1, 2015. It increases the "tip credit" in each of those years to keep the employer's share of (1) hotel and waitstaff's wages at \$5.69 and (2) bartenders' wages at \$7.34.

The law, unchanged by the act, allows learners, beginners, and people under age 18 to be paid 85% of the minimum wage for the first 200 hours of their employment. In effect, the act's minimum wage increases raise this wage from \$7.01 to \$7.39 in 2014 and \$7.65 in 2015.

EFFECTIVE DATE: July 1, 2013

### TIP CREDIT

The law allows the employers of hotel and restaurant staff and bartenders who customarily receive tips to count these employees' tips as a portion of their minimum wage requirement. This minimum wage "tip credit" lowers the employer's share of the minimum wage, as long as the employee's tips make up the difference. Current law allows tips to comprise 31% of the minimum wage for hotel and restaurant employees and 11% of the minimum wage for bartenders. As long as the employees' tips make up the difference, this allows hotel and restaurant staffs' employers to pay them 69% of the minimum wage (\$5.69), and bartenders' employers to pay them 89% of the minimum

wage (\$7.34).

The act increases the tip credit percentages in 2014 and 2015 so that the employer's share of these employees' wages remains at their current dollar amounts, despite the increase in the overall minimum wage. Tables 1 and 2 show the act's changes to the minimum wage and tip credit and their effect on the employer's share of the minimum wage for hotel and restaurant employees and bartenders.

Table 1: The Hotel and Restaurant Employee's Tip Credit

| Year                | Minimum Wage | Tip Credit                        | Employer's Share            |
|---------------------|--------------|-----------------------------------|-----------------------------|
| 2013<br>(prior law) | \$8.25       | 31%<br>(\$8.25 x .31 = \$2.56)    | \$5.69<br>(\$8.25 - \$2.56) |
| 2014<br>(the act)   | \$8.70       | 34.6%<br>(\$8.70 x .346 = \$3.01) | \$5.69<br>(\$8.70 - \$3.01) |
| 2015<br>(the act)   | \$9.00       | 36.8%<br>(\$9.00 x .368 = \$3.31) | \$5.69<br>(\$9.00 - \$3.31) |

Table 2: The Bartender's Tip Credit

| Year                | Minimum Wage | Tip Credit                        | Employer's Share            |
|---------------------|--------------|-----------------------------------|-----------------------------|
| 2013<br>(prior law) | \$8.25       | 11%<br>(\$8.25 x .11 = \$0.91)    | \$7.34<br>(\$8.25 - \$0.91) |
| 2014<br>(the act)   | \$8.70       | 15.6%<br>(\$8.70 x .156 = \$1.36) | \$7.34<br>(\$8.70 - \$1.36) |
| 2015<br>(the act)   | \$9.00       | 18.5%<br>(\$9.00 x .185 = \$1.66) | \$7.34<br>(\$9.00 - \$1.66) |

**PA 13-140**—sHB 6433

*Labor and Public Employees Committee*

## **AN ACT CONCERNING TECHNICAL AND OTHER CHANGES TO THE LABOR DEPARTMENT STATUTES**

**SUMMARY:** This act makes several changes to the Individual Development Account (IDA) program and the Incumbent Worker Training Program. It also repeals the tax credit for hiring people receiving benefits from the temporary family assistance program.

The act makes numerous minor and technical changes in the Labor Department statutes, including repealing several obsolete provisions.

**EFFECTIVE DATE:** Upon passage

## **§§ 1 & 2 — IDA PROGRAM**

The IDA program helps low-income people build assets. The Department of Labor (DOL) oversees the program, which is administered at the local level by participating community-based organizations.

The act allows IDA participants to use money saved in IDAs for a variety of specified purposes, instead of limiting it to one, as under prior law. The purposes include (1) obtaining education or job training, (2) purchasing a home, (3) starting a business or joining an existing one, (4) buying a car for work, (5) making a lease deposit, or (6) paying for a child's education or job training. By law, the state contributes a maximum of \$2 for every \$1 a participant contributes up to a limit of \$1,000 per calendar year with a \$3,000 maximum per participant. The act eliminates the \$1,000 annual limit.

The act requires that state matching IDA funds forfeited by an IDA account holder be kept in the local reserve fund for a new account holder to use, instead of being returned to DOL's IDA reserve fund by December 31 of each year. It also requires that state matching IDA funds be returned to the IDA reserve fund if they remain unused after five years for any reason, rather than just because the IDA participant stopped making contributions.

## **§ 16 — INCUMBENT WORKER TRAINING PROGRAM**

The act renames the former Twenty-First Century Skill Training program as the Incumbent Worker Training Program and requires that 50% of funds appropriated for the latter program be used for companies that have not received this funding in the previous three years.

By law, and unchanged by the act, the program's purposes are to (1) sustain high-growth occupation and economically vital industries and (2) assist workers in obtaining skills to start or move up their career ladders. By law, "incumbent workers" mean individuals who are employed in this state, but who need additional skills, training, or education to upgrade their employment.

The act requires the labor commissioner to (1) allocate funds for the program on a regional basis and (2) prescribe the program's application form. By law, DOL, in collaboration with the state's regional workforce development boards, administers the incumbent worker program. The act permits the labor commissioner to designate an entity to administer the program in each region (presumably the regional boards).

## OTHER CHANGES

The act also makes numerous other changes. It:

1. repeals the tax credit for hiring people receiving benefits from the temporary family assistance program (§ 22);
2. repeals the law creating the Advisory Council on Displaced Homemakers (§ 3);
3. adds the insurance and consumer protection commissioners to the Joint Enforcement Commission on Employee Misclassification and requires it to report every two years instead of annually (§ 8);
4. removes an obsolete provision on employers' requiring an employee to work on his or her Sabbath day (see BACKGROUND) (§ 17);
5. requires DOL to share unemployment information with (a) nonpublic entities that it contracts with to administer the unemployment system and (b) third parties, if the individual or employer to whom the information pertains provides written, informed consent (§ 18);
6. repeals the law prohibiting the state from awarding contracts to persons or firms that state DOL lists as having violated the National Labor Relations Act or been found in contempt of court over failure to remedy violations at least three times over a five year period (§ 22);
7. repeals (a) the Fair Wage Board statute, (b) the prohibition against retaliating against an employee for serving on a wage board, and (c) related references to the wage board (§§ 9, 13, 14, 15 & 22); and
8. removes several reporting requirements, including: (a) employer reporting on the impact of the Family Medical Leave Act; (b) a list of employers disqualified from bidding on state projects because of National Labor Relations Act violations or having been found in contempt of court over failure to remedy violations; and (c) federal Workforce Investment Act funding received for young adult programs for teenage parents and those at risk of dropping out of school (§§ 4 & 22).

## BACKGROUND

*Courts Invalidated Connecticut Sabbath Law*

In 1985, the U.S. Supreme Court affirmed a lower court's decision invalidating a state law that protected employees from being fired for refusing to work on the employee's chosen Sabbath day. The U.S. Supreme Court held, "The Connecticut statute, by providing Sabbath observers with the absolute and unqualified right not to work on their chosen Sabbath, violates the

Establishment Clause. To meet constitutional requirements under the clause, a statute must not only have secular purpose and not foster excessive entanglement of government with religion, its primary effect must not advance or inhibit religion" (*Estate of Thornton v. Caldor Inc.*, 472 U.S. 703 (1985)).

**PA 13-141—sHB 6452**

*Labor and Public Employees Committee*

**AN ACT CONCERNING THE REQUIREMENT FOR ELECTRONIC FILING OF QUARTERLY UNEMPLOYMENT TAX RETURNS**

**SUMMARY:** Beginning with the first calendar quarter of 2014, this act requires all employers subject to the state's unemployment law, or their reporting agents, to submit their quarterly wage reports to the Department of Labor (DOL) on magnetic tape, diskette, or other electronic means prescribed by the department. It also requires all employers, or their agents, that directly reimburse the unemployment system for benefits paid to former employees (e.g., state and local governments) to pay electronically. Under prior law, both requirements applied only to employers with 250 or more employees, although employers could be exempt from the electronic reporting requirement if they showed they were technologically incapable of meeting it.

The act allows employers, or their agents, to request a waiver from the electronic reporting and electronic reimbursement requirements. It requires them to submit a written request for a waiver on a DOL-prescribed form at least 30 days before the wage report or reimbursement payment is due. The labor commissioner must grant the request if, based on the information submitted by the employer or agent, she finds that the requirement would cause an undue hardship. The commissioner must promptly notify the employer or agent of her decision, which cannot be further reviewed or appealed. A waiver is good for one year.

EFFECTIVE DATE: January 1, 2014

**PA 13-163—sHB 5441**

*Labor and Public Employees Committee  
Insurance and Real Estate Committee*

**AN ACT AUTHORIZING CERTAIN EMERGENCY RESPONSE EMPLOYEES TO ENROLL IN THE MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM**

**SUMMARY:** This act expands eligibility for regional

emergency telecommunications centers' participation in the Municipal Employees' Retirement System (MERS). Prior law limited participation to centers that the Department of Emergency Services and Public Protection (DESPP) authorized as the only public safety answering point (PSAP) receiving and processing 9-1-1 calls for at least three municipalities. The act eliminates the requirement that a center be the municipalities' only PSAP and instead allows any center that DESPP authorizes as a PSAP for at least three municipalities to participate in MERS.

EFFECTIVE DATE: October 1, 2013.

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**PA 13-168**—sHB 6151

*Labor and Public Employees Committee  
Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING CERTAIN OPERATORS OF MOTOR VEHICLES AND ELIGIBILITY FOR UNEMPLOYMENT BENEFITS**

**SUMMARY:** This act exempts certain professional truck drivers from coverage under the state's unemployment law. As exempted workers, these drivers do not accrue unemployment benefits for their service, and businesses using them are not required to pay unemployment taxes or meet the unemployment law's requirements, other than its record keeping requirements, for their service. The exemption applies to drivers who transport property under a contract with another party if the driver:

1. drives a vehicle with a gross vehicle weight rating over 10,000 pounds;
2. owns the vehicle or holds it under a "commercially reasonable" bona fide lease that is not with the contracting party or a related entity;
3. is paid based on factors that can include mileage-based rates, a percentage of any rate schedules, time spent driving, or a flat fee;
4. can refuse to work without consequence and can accept work from many contractors without consequence; and
5. is not considered an employee under the unemployment law's "ABC test."

When determining if a driver meets the ABC test, the act prohibits the labor commissioner from considering a driver an employee solely because the driver chooses to perform services only for the contracting party (see BACKGROUND).

Under the act, commercially reasonable means the lease, loan, or loan guarantee for the driver's vehicle has terms equal to those typically available for a retail trucking equipment lease or purchase in the state.

The act also prohibits the exemption from affecting any state income tax requirements.

EFFECTIVE DATE: October 1, 2013

**BACKGROUND**

*ABC Test*

Unemployment law presumes a worker to be an employer's employee unless the worker meets the ABC test's three requirements. The worker must

1. be free from the employer's control and direction (part A);
2. perform a service outside the employer's usual course of business or outside of all the employer's places or businesses (part B); and
3. be customarily engaged in an independently established trade, occupation, profession, or business of the same nature as the service being performed for the employer (part C).

By law, a worker can fail part C of the test if he or she provides services for only one employer. Workers who satisfy all three provisions of the ABC test are generally considered independent contractors exempt from the unemployment law.

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**PA 13-176**—sSB 910

*Labor and Public Employees Committee*

**AN ACT CONCERNING EMPLOYEE ACCESS TO PERSONNEL FILES**

**SUMMARY:** This act specifies how quickly an employer (individuals, corporations, partnerships, or unincorporated associations) must provide a current or former employee with access to his or her personnel file. It allows an employer to mail the file to a former employee if they cannot agree on a location for the former employee to inspect the files.

The act also requires employers to (1) provide employees with copies of any documentation of a disciplinary action or termination and (2) notify employees that they can include in their personnel file a written statement disagreeing with any information in the disciplinary, termination, or evaluation documents.

The act allows the labor commissioner to determine penalty amounts, within certain limits, for individual violations of the Personnel Files Act and specifies factors that she must consider when making this determination.

EFFECTIVE DATE: October 1, 2013



## EMPLOYEE ACCESS TO PERSONNEL FILES

The law requires employers to let employees inspect their personnel files during regular business hours at a location at or reasonably near the employee's place of employment. Prior law required this inspection to occur within a reasonable time after the employer received a written request. The act requires employers to allow the inspection and, if requested, allow the files to be copied, within (1) seven business days for current employees and (2) 10 business days for former employees.

If an employer and former employee cannot agree on a location for the former employee to inspect the files, the act allows the employer to mail a copy of the file to the former employee within 10 days of receiving the written request for the file. Under the act, former employees must request their files within one year of their termination from the employer. By law, employers must keep a former employee's records for at least one year.

## DISCIPLINE, TERMINATION, AND EVALUATION DOCUMENTS

The act requires employers to provide an employee with a copy of any documentation for any disciplinary action imposed on that employee within one business day. It also requires employers to immediately provide an employee with a copy of any documented notice of the employee's termination from employment.

Under the act, whenever an employer documents an employee's disciplinary action, termination notice, or performance evaluation, the employer must include in the document a statement in clear and conspicuous language that the employee can submit a written statement disagreeing with anything in the disciplinary action, termination notice, or performance evaluation. The employer must keep the employee's statement in the personnel file and include it whenever the file is transmitted or disclosed to a third party.

## PENALTIES

Prior law required the labor commissioner to issue a \$500 civil penalty for the first violation of the Personnel Files Act against a particular employee and a \$1,000 penalty for any subsequent violations related to the same employee. The act instead allows the commissioner to issue penalties of up to \$500 for first violations and up to \$1,000 for subsequent violations related to an employee or former employee.

When determining a penalty's amount, the act requires the labor commissioner to consider (1) the penalty level needed to insure immediate and continued compliance with the Personnel Files Act, (2) the violation's character and degree of impact, (3) any prior

violations of the Personnel Files Act by the employer, and (4) any other factors she deems relevant.

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### PA 13-219—SB 704 (VETOED)

*Labor and Public Employees Committee  
Planning and Development Committee*

## AN ACT CONCERNING REEMPLOYMENT AND THE MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM

**SUMMARY:** By law, an employee collecting retirement benefits from the Municipal Employees' Retirement System (MERS) must stop collecting the benefits if he or she returns to work for his or her former municipal employer, or any other municipality that participates in MERS, for more than 20 hours per week or 90 days per year. This act allows such an employee to continue to collect MERS benefits as long as he or she does not participate in MERS during the reemployment.

Administered by the state retirement commission, MERS is a statewide pension system for municipal employees that municipalities can opt into by agreeing to meet specified financial requirements. Participating municipalities are not required to enroll all of their employees and can allow some of their employees or unions to participate while others do not. Certain municipal employees, such as teachers and part-time employees, cannot participate in MERS.

EFFECTIVE DATE: October 1, 2013

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### PA 13-252—SB 906

*Labor and Public Employees Committee  
Banks Committee*

## AN ACT CONCERNING PRIVATE AND PAROCHIAL SCHOOLS AND PAYMENT OF EMPLOYEE WAGES

**SUMMARY:** This act allows private and parochial schools to enter into a written agreement with their employees for a wage payment schedule that differs from the schedule otherwise required by law. If the school stops operating before it pays all of the wages due its employees the (1) agreement is null and void and (2) school is liable for paying all wages due the employees.

The law generally requires employers to pay employees on a regular pay day that cannot be more than eight days after the last day counted in the pay period. It allows boards of education, the American School for the Deaf, the Connecticut Institute for the

Blind, Inc. (Oak Hill), and the Newington Children's Hospital (renamed the Connecticut Children's Medical Center) to negotiate different payment schedules with their unionized employees (CGS § 31-71b). (Many boards of education negotiate under this provision to pay employees based on the calendar year rather than the school year.) The labor commissioner can also grant other pay schedule exceptions (CGS § 31-71i).

EFFECTIVE DATE: Upon passage

**PA 13-281**—SB 1033

*Labor and Public Employees Committee*

#### **AN ACT CONCERNING A RESIDENT STATE POLICEMAN PILOT PROGRAM**

**SUMMARY:** This act requires the emergency services and public protection (DESPP) commissioner to appoint a resident state policeman to serve in a pilot program for assignment in two towns that (1) do not have local organized police or constabulary and (2) are within the jurisdiction of the same state police troop, but are not necessarily contiguous. Under prior resident state trooper law, the participating towns had to be adjoining.

The act requires towns participating in the pilot to enter into a memorandum of agreement with DESPP for resident state trooper services.

As under existing law, towns participating in the pilot pay 70% of regular costs and other expenses of maintaining a resident state trooper and 100% of overtime costs and fringe benefits directly associated with overtime costs.

EFFECTIVE DATE: October 1, 2013

**PA 13-288**—sHB 6451

*Labor and Public Employees Committee*

#### **AN ACT IMPROVING THE TIMELINESS AND EFFICIENCY OF THE DEPARTMENT OF LABOR'S UNEMPLOYMENT INSURANCE TAX OPERATIONS**

**SUMMARY:** This act requires employers to electronically notify the labor commissioner within 30 days after becoming subject to the state's unemployment law. It also requires an employer to electronically notify the commissioner within 30 days after acquiring substantially all of the assets, organization, trade, or business, including employees, of another employer subject to the state's unemployment law. (By law, an employer becomes subject to the unemployment law immediately after acquiring substantially all of the assets, organization, trade, or business of another employer subject to this law.)

The act requires the commissioner to determine the manner in which both electronic notices will be provided. It establishes a \$50 civil penalty per violation for violating either notice requirement.

The act also establishes a \$25 fee for employers who fail to submit their required quarterly wage reports under a proper state unemployment compensation registration number. The fee must be deposited in the Employment Security Administration Fund. Existing law, unchanged by the act, imposes a \$25 fee on employers who fail to submit their quarterly wage reports in a timely manner.

EFFECTIVE DATE: October 1, 2013

#### **BACKGROUND**

##### *Related Act*

PA 13-141 requires all employers subject to the state's unemployment law to electronically file their quarterly wage reports unless they obtain an annual waiver from the state labor department.



**PA 13-9**—sHB 6481

*Planning and Development Committee*

**AN ACT CONCERNING ENFORCEMENT  
PROTECTION FOR NONCONFORMING  
STRUCTURES**

**SUMMARY:** This act allows structures built in violation of zoning regulations to be deemed nonconforming under the same circumstances as buildings. This means a structure that (1) violates setback requirements or (2) sits on a lot in violation of minimum lot area requirements is a nonconforming structure if the applicable zoning regulations are not enforced within the first three years of the violation. The act places the burden of proving that a structure, but not a building, is nonconforming on the property owner.

The act allows towns to define “structure” in their zoning regulations. If not defined locally, the act defines “structure” as any combination of materials, other than a building, that is affixed to land. The definition includes signs, fences, walls, pools, patios, tennis courts, and decks.

EFFECTIVE DATE: October 1, 2013

**PA 13-60**—sSB 815

*Planning and Development Committee  
Education Committee*

**AN ACT CONCERNING THE CONSOLIDATION  
OF NONEDUCATIONAL SERVICES**

**SUMMARY:** By law, a local board of education must annually submit an itemized estimate of maintenance expenses to the town’s appropriating authority at least two months before the authority’s annual budget meeting. This act defines “itemized estimate” to mean an estimate in which broad budgetary categories are divided into one or more line items, including salaries, fringe benefits, utilities, supplies, and grounds maintenance.

The act also requires a town’s appropriating authority to make spending recommendations and suggestions to the school board regarding consolidation of noneducational services and cost savings no later than 10 days after the school board submits its annual itemized estimate. The school board may accept or reject the suggestions, but must provide a written explanation of any rejections.

By law, a school board may adopt policies authorizing designated personnel to make limited appropriation transfers in an emergency, if a school board meeting to consider the transfer cannot be held in a timely fashion. The act requires the school board to provide a written explanation of the transfer to the

town’s legislative body or, if the legislative body is a town meeting, the board of selectmen, rather than only announcing it at the next regularly scheduled school board meeting.

EFFECTIVE DATE: October 1, 2013

**PA 13-71**—sSB 692

*Planning and Development Committee*

**AN ACT CONCERNING REQUIREMENTS FOR  
COMPETITIVE BIDDING FOR THE AWARD OF  
CONTRACTS OR PURCHASE OF PROPERTY  
BY MUNICIPALITIES**

**SUMMARY:** This act increases, from \$7,500 to \$25,000, the maximum value of contracts or purchases that a municipality may exempt, by ordinance, from its sealed bidding requirements.

EFFECTIVE DATE: October 1, 2013

**PA 13-103**—HB 6311

*Planning and Development Committee*

**AN ACT PROHIBITING MUNICIPALITIES  
FROM ADOPTING BREED-SPECIFIC DOG  
ORDINANCES**

**SUMMARY:** This act bars municipalities from adopting breed-specific dog ordinances.

Existing law authorizes municipalities to enact ordinances (1) regulating or prohibiting the movement of dogs and other animals in streets and public places and (2) preventing cruelty to animals and all inhuman sports.

EFFECTIVE DATE: October 1, 2013

**PA 13-105**—HB 6323

*Planning and Development Committee*

**AN ACT CONCERNING ADOPTION FEES FOR  
DOGS**

**SUMMARY:** This act allows a municipality to charge an individual who buys a dog as a pet from a municipal pound up to \$150 for the cost it incurred to have the dog spayed or neutered and vaccinated. By law, an animal control officer may have a licensed veterinarian spay or neuter unclaimed healthy dogs, cats, or other animals in his or her custody after seven days, before selling or placing them as pets.

By law, people acquiring an unspayed or unneutered dog or cat from a pound must pay the pound \$45 for a voucher to sterilize and vaccinate the animal

that they can redeem at a participating veterinarian's office. The law also allows pounds to redeem the voucher and have the animal sterilized and vaccinated before releasing it to the person adopting or buying it (CGS § 22-380f).

EFFECTIVE DATE: October 1, 2013

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**PA 13-129—HB 5725**

*Planning and Development Committee  
Environment Committee*

**AN ACT CONCERNING THE STATE-WIDE  
PHOSPHOROUS REDUCTION PLAN**

**SUMMARY:** The law requires the Department of Energy and Environmental Protection (DEEP) commissioner, or his designee, to work with specified municipalities to evaluate and recommend a statewide strategy to reduce phosphorus in inland nontidal waters. This act requires the commissioner to report to the legislature, by October 1, 2014, on these collaborative efforts.

EFFECTIVE DATE: Upon passage

**STATEWIDE PHOSPHORUS REDUCTION  
STRATEGY**

PA 12-155 required the DEEP commissioner, or his designee, and the chief elected officials, or their designees, of Cheshire, Danbury, Meriden, Southington, Wallingford, Waterbury, and any other impacted municipality to collaboratively evaluate and make recommendations on a statewide strategy to reduce phosphorus loading in inland nontidal waters to comply with U.S. Environmental Protection Agency (EPA) standards.

The current act requires the DEEP commissioner, by October 1, 2014, to report to the Environment and Planning and Development committees on the recommendations and detail the collaborative effort through which they were reached.

By law, the strategy must include:

1. a statewide response to address phosphorous nonpoint source pollution;
  2. approaches for municipalities to use to comply with EPA standards for phosphorous reduction, including guidance for treatment and potential plant upgrades; and
  3. the proper scientific methods for measuring current, and projecting future, phosphorous levels in inland nontidal waters.
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**PA 13-132—sHB 6235**

*Planning and Development Committee  
Judiciary Committee*

**AN ACT CREATING A STATE-WIDE TASK  
FORCE TO ADDRESS BLIGHT AND  
CONCERNING NOTICE OF FINES, PENALTIES,  
COSTS OR FEES FOR CITATIONS ISSUED  
UNDER MUNICIPAL ORDINANCES**

**SUMMARY:** This act limits a person's ability to claim a citation notice was not received when contesting a municipal default judgment. The act presumes a municipal citation notice was properly sent if it is sent to a person's last known address, as listed in the tax collector's records. By law, within 12 months of the uncontested fine payment period's expiration, a municipality must send notice to the alleged offender. The notice must state, among other things, the (1) allegations; (2) amount of the fines, penalties, costs, or fees due; and (3) person's right to a hearing. If a person does not respond to the notice within the 10-day period, a default judgment may be entered against him or her.

The act also establishes a 15-member task force to study procedural problems in addressing blight at the municipal level. The task force must draft model municipal blight ordinances and propose legislation to help municipalities address blight more effectively.

EFFECTIVE DATE: October 1, 2013, except the task force provision is effective upon passage.

**MUNICIPAL BLIGHT TASK FORCE**

The task force consists of the following 15 members:

1. the Planning and Development Committee chairpersons and ranking members or their designees;
2. two members appointed by the House speaker, one of whom must represent residential tenants;
3. two members appointed by the Senate president pro tempore, one of whom must represent residential landlords;
4. one member appointed by the House majority leader, who must represent the Connecticut Conference of Municipalities;
5. one member appointed by the Senate majority leader, who must represent the International Council of Shopping Centers;
6. one member appointed by the House minority leader, who must represent the Connecticut Business and Industry Association;
7. one member appointed by the Senate minority leader, who must represent the Connecticut Council of Small Towns;

8. one legislator appointed by the Planning and Development Committee chairpersons, who represents a municipality with a population of at least 100,000 (i.e., Bridgeport, Hartford, New Haven, Stamford, or Waterbury);
9. the chief state's attorney or his designee; and
10. the president and chief executive officer of Connecticut Main Street Center or his designee.

The appointing authorities must make their appointments by July 18, 2013 and fill any vacancies. The House speaker and Senate president pro tempore select the task force chairpersons from among the task force members. The chairpersons must schedule the first task force meeting by August 17, 2013. The Planning and Development Committee's administrative staff must serve as the task force's administrative staff.

The task force must submit a report on its findings and recommendations to the Planning and Development Committee by February 5, 2014. It terminates on that date or when it submits its report, whichever is later.

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**PA 13-181—sSB 960**

*Planning and Development Committee*

**AN ACT AUTHORIZING MUNICIPALITIES TO PROTECT HISTORIC PROPERTIES AND DISTRICTS**

**SUMMARY:** This act authorizes municipalities to adopt ordinances to protect the historic or architectural character of properties and districts that are listed on, or being considered for listing on, the state or national register of historic places.

EFFECTIVE DATE: October 1, 2013

**BACKGROUND**

*Historic Property and Historic District Commissions*

By law, municipalities have the option of establishing historic property and historic district commissions (CGS § 7-147a et seq.). These commissions designate properties and districts under their jurisdiction through a process overseen by the Department of Economic and Community Development. They have the authority to grant a certificate of appropriateness, which is required before an owner can demolish or alter exterior architectural features of a designated property or erect a structure in a historic district or on a historic property.

In addition, municipalities may regulate historic properties through zoning and village district regulations (CGS §§ 8-2 and 8-2j).

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**PA 13-186—sSB 814**

*Planning and Development Committee*

*Environment Committee*

*Judiciary Committee*

**AN ACT CONCERNING INTERVENTION IN PERMIT PROCEEDINGS PURSUANT TO THE ENVIRONMENTAL PROTECTION ACT OF 1971**

**SUMMARY:** This act codifies the Connecticut Supreme Court's 2002 decision in *Nizzardo v. State Traffic Commission* (see BACKGROUND) by setting conditions on verified pleadings by parties seeking to intervene in a proceeding on, or judicial review of, conduct that could harm the state's natural resources. Under the act, a verified pleading in a proceeding under the state environmental protection act (CGS § 22a-19) must:

1. contain specific factual allegations setting forth the nature of the alleged unreasonable pollution, impairment, or destruction and
2. allow the reviewing authority to determine whether the intervention affects an issue within its jurisdiction (see BACKGROUND).

For the purposes of this statute, the act defines "reviewing authority" as the board, commission, or other decision-making authority in an administrative, licensing, or other proceeding, or the court conducting a judicial review.

EFFECTIVE DATE: October 1, 2013

**BACKGROUND**

*Nizzardo v. State Traffic Commission*

The Connecticut Supreme Court has held that verified pleadings made under CGS § 22a-19 "must contain specific factual allegations setting forth the environmental issue that the intervenor intends to raise" (*Nizzardo v. State Traffic Commission*, 259 Conn. 131, 164-165 (2002)). In addition, it found that intervenors may only raise environmental concerns that are within the jurisdiction of the authority conducting the proceeding. It held "the facts contained [in a verified pleading] should be sufficient to allow the agency to determine from the face of the petition whether the intervention implicates an issue within the agency's jurisdiction."

**PA 13-222—sSB 461**

*Planning and Development Committee  
Judiciary Committee*

**AN ACT CONFERRING CORPORATE POWERS  
ON CERTAIN MUNICIPAL STORMWATER  
AUTHORITIES**

**SUMMARY:** This act designates a municipal stormwater authority that meets certain conditions as a municipal quasi-public authority and allows the municipality, by ordinance, to grant it specific powers to carry out its duties.

The act also subjects charges from any municipal stormwater authority that are more than 30 days overdue to interest at the same rate the municipality's tax collector charges for delinquent property taxes (1.5% per month or part of a month or 18% per year). Under the act, any unpaid stormwater authority charge is a lien on the property against which it is levied, running from the date it became delinquent. The lien may be continued, recorded, and released like a property tax lien.

EFFECTIVE DATE: October 1, 2013

**MUNICIPAL STORMWATER AUTHORITY  
POWERS**

PA 07-154 (1) required what is now the Department of Energy and Environmental Protection to create a municipal stormwater authority pilot program in up to four municipalities adjoining Long Island Sound and (2) authorized up to \$1 million in grants to the participating towns to reimburse a portion of the planning, engineering, and legal costs associated with creating a stormwater authority and developing a stormwater program. Three municipalities, New Haven, New London, and Norwalk, participated in the program, but, to date, none has created a stormwater authority.

The act designates a stormwater authority created under this pilot program and located in a distressed municipality with a population of 28,000 or less as a "body corporate and politic" (i.e., a quasi-public authority). New London is the only municipality that meets these conditions and thus the only one affected.

The act allows the ordinance establishing New London's stormwater authority to grant it the power to:

1. sue and be sued;
2. acquire, hold, and convey any real and personal property;
3. contract;
4. borrow money, including issuing bonds, with municipal legislative approval;
5. (a) recommend, to the legislative body, the imposition of a tax on real property within the authority's district and (b) use the tax revenue

- to carry out the authority's powers;
6. deposit and spend funds; and
7. enter property to make surveys, soundings, borings, and examinations to accomplish the authority's purposes.

**PA 13-246—sHB 5718**

*Planning and Development Committee  
Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING MUNICIPAL  
AUTHORITY TO PROVIDE TAX ABATEMENTS  
TO ENCOURAGE RESIDENTIAL  
DEVELOPMENT AND ESTABLISHING THE  
RENTSCHLER FIELD IMPROVEMENT  
DISTRICT IN THE TOWN OF EAST HARTFORD**

**SUMMARY:** This act expands a municipality's authority to fix or defer property tax assessments on certain development projects. The law allows municipalities to fix the tax assessment for a range of real estate development projects and bases the period for doing so on the value of the improvements. Under prior law, the fixed assessment was (1) 100% for up to seven years for projects over \$3 million; (2) 100% for up to two years for projects over \$500,000; and (3) up to 50% for up to three years for projects over \$25,000. The act decreases, from \$25,000 to \$10,000, the minimum cost of projects eligible for the three year fixed assessment.

The act also expands the uses for which municipalities may fix assessments to include mixed-use developments, which are developments that contain, in addition to at least one residential unit, commercial, public, institutional, retail, office, or industrial uses. By law, municipalities may also provide fixed assessments for the following uses: office; retail; permanent or transient residences; manufacturing; warehouse, storage, or distribution; recreational; transportation; information technology; and multilevel parking for mass transit systems.

Other statutes allow municipalities to defer an increased property tax assessment on property located in a designated rehabilitation area if the property is being rehabilitated or constructed for certain uses. Under prior law, the rehabilitation area could include all or part of a municipality that is deteriorated, deteriorating, substandard, or detrimental to the safety, health, welfare, or general economic well-being of the community. The act specifies that only one or more properties in a rehabilitation area need to meet these criteria to be considered a rehabilitation area.

The act also authorizes voters and nonresident property owners in East Hartford to establish a special taxing district in the area around Rentschler Field. The district's powers, organizational structure, and processes

are generally similar to special taxing districts operating under the statutes (statutory districts).

EFFECTIVE DATE: October 1, 2013, except the provisions authorizing the creation of the Rentschler Field Improvement District are effective July 1, 2013.

#### RENTSCHLER FIELD IMPROVEMENT DISTRICT

The act provides a procedure through which voters and nonresident property owners in a specified section of East Hartford may form a special taxing district ("Rentschler Field Improvement District") to provide services and finance infrastructure improvements there.

##### *District Purposes*

The act allows the district to provide services, such as fire protection; road, tree, and infrastructure maintenance; and community water systems. It also allows it to finance infrastructure improvements, such as utility improvements and connections; bulkhead repairs, dredging, construction, and environmental remediation; and flood or erosion control systems. The district can pay for the improvements directly or give grants to others to provide them.

##### *Establishing the District*

The act delineates the district's geographic boundaries (approximately 136 acres). The district comes into existence only if voters approve its formation. The process for doing so is largely the same as the one for establishing statutory districts. Once established, the district assumes all the powers of statutory districts, such as assessing and collecting property taxes and issuing bonds.

##### *Directors and Officers*

After being established, the district must hold an organizational meeting at which district voters must fix the annual meeting dates and elect four directors. The East Hartford mayor may appoint one additional director for the district. At least three directors must be Connecticut residents. Voters must also elect a president, vice-president, clerk, and treasurer from among the district's directors. These officers serve only until the first annual meeting, at which time the voters must elect new officers.

##### *Voters and Quorum*

Under the act, voters are people (1) living in the district; (2) liable to it for at least \$1,000 in property assessments (certain tax-exempt entities are also eligible); or (3) owning or having an interest in real property located in it, such as banks holding mortgages.

Fifteen district voters or a majority of those owning interests in real property in the district are a quorum for transacting general business, as long as the property owners present represent at least 50% of the total property assessments in the district.

##### *District Bonds*

The district must enter into an interlocal agreement with East Hartford before it can issue bonds. Once it has done so, the act allows it to issue up to \$100 million in bonds to finance improvements and to secure them by (1) the district's full faith and credit; (2) district fees, revenues, or benefit assessments; or (3) a combination of the two. While the bonds are outstanding, the district's powers may not be impaired in any way to adversely affect the bondholders' interests. Bonds are not considered debts of the state or of East Hartford and can be issued without their consent.

##### *Taxing Power*

The act gives the district the power to levy assessments and taxes on land and buildings benefiting from the district's improvements, but only after holding at least two public hearings in the town; giving notice to the East Hartford mayor and town council; and advertising in at least two newspapers circulating in town. The district has the same powers as statutory districts and East Hartford with respect to delinquent assessments and taxes. Delinquent charges bear interest at the same rate as delinquent property taxes (1.5% per month or part of a month or 18% per year) and constitute a lien on the property against which they were levied. Such liens take precedence over all other liens or encumbrances, except a lien for taxes owed to East Hartford, and may be continued, recorded, and released like property tax liens.

The act also specifies that when East Hartford makes improvements that benefit the district, whether they are in or outside the district, all district properties are deemed to benefit, and therefore may be assessed for the improvements' costs.

##### *Relationship to Town and the State*

The act exempts the district's revenues and real and personal property from state and municipal taxes. District bond principal and interest are exempt from state taxes other than the estate and gift, franchise, and excise taxes. But the state and East Hartford can still levy taxes on the incomes and properties of the people and businesses living or operating in the district. Additionally, the district and East Hartford may agree to share real and personal property tax revenue in the same manner as municipalities.



### *Tax Increment Financing (TIF)*

The law establishes a TIF program, administered by Connecticut Innovations, Inc., through which businesses and municipalities may obtain financing for large-scale development projects. The program uses incremental hotel, sales, admissions, and dues tax revenue to repay bonds issued for projects that create jobs or stimulate significant business activity.

By law, shopping center projects financed with TIF bonds can dedicate no more than 30% of incremental sales taxes directly associated with the project to paying the principal and interest on the bonds. The act exempts shopping center projects in the district from this restriction, thus allowing them to be treated as any other project. By law, the incremental tax revenue dedicated to a TIF project cannot exceed the incremental tax revenue the project is estimated to generate.

### *Limit on State Financial Assistance*

The law limits state financial assistance to \$10 million within a two-year period, per business project or applicant, unless the legislature specifically authorizes otherwise. The act exempts development projects in the district from this limitation if they are funded with the TIF bonds described above.

### *Termination*

The requirements for terminating the district are the same as those for statutory districts. If the voters agree to terminate the district, it cannot dissolve until it pays off its debt and East Hartford agrees to (1) accept its remaining assets or (2) assume that debt.

If East Hartford chooses, it may, by vote of its town council, merge the district into the town (1) if the district does not issue any bonds within four years after the act's passage or (2) after all bonds are paid off. In that case, district property must be distributed to the town.

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**PA 13-257—SB 963**

*Planning and Development Committee*

## **AN ACT CONCERNING THE EXPIRATION OF APPROVALS FOR ON-SITE SEWAGE DISPOSAL SYSTEMS WITH DESIGN FLOWS OF LESS THAN FIVE THOUSAND GALLONS PER DAY**

**SUMMARY:** This act extends the validity period for certain on-site sewage disposal system (i.e., septic system) permits and approvals. With certain exceptions, it applies to permits and approvals for on-site sewage

disposal systems with a daily capacity of less than 5,000 gallons that (1) were issued before July 1, 2011 and (2) had not expired by July 11, 2013.

The act makes eligible permits and approvals valid for nine years from the approval date, unless they were issued for certain projects requiring land use approvals that have received at least one extension. In such cases, the permit or approval is valid for the same period as the land use approval.

EFFECTIVE DATE: Upon passage

### **PERMITS AND APPROVALS FOR SMALL ON-SITE SEPTIC SYSTEMS**

The Public Health Code authorizes local health directors to issue and administer “permits to discharge” and “approvals to construct” for on-site septic systems with a daily capacity of less than 5,000 gallons. Under prior law, approvals to construct were valid for one year from the issue date and expired if construction did not start within that period. They could be extended for an additional year for reasonable cause. Permits to discharge expired five years after the issue date (Conn. Agencies Reg., § 19-13-B103e and *Technical Standards for Subsurface Sewage Disposal Systems*).

With certain exceptions, the act extends the validity period for these permits and approvals to nine years from the approval date, if they were issued before July 1, 2011 and have not expired by July 11, 2013. The extension does not apply if there have been any changes, since the permit or approval was issued, to the:

1. ownership of the property on which the septic system is to be installed;
2. approved site or building plan issued in conjunction with the permit or approval; or
3. property on which the septic system is to be installed, or any adjacent property, that the municipal health authority or district health department that issued the permit or approval deems will prevent the system's effective operation.

If the permit or approval was issued in conjunction with a project requiring site plan, subdivision, or inland wetlands approval, and the applicant has received at least one extension in connection with the land use approval, the act instead ties the septic system permit's or approval's validity period to the corresponding land use approval's expiration date.

Generally, these land use approvals expire between five and 10 years from the date they were approved, depending on the municipality and the nature of the project. But certain approvals that had not expired by May 9, 2011 and were approved before July 1, 2011 are valid for between nine and 14 years.

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**PA 13-276—sSB 965***Planning and Development Committee**Finance, Revenue and Bonding Committee***AN ACT CONCERNING CHANGES TO  
MUNICIPAL REVENUE COLLECTION  
STATUTES**

**SUMMARY:** This act makes numerous changes in the municipal tax collection statutes. Among other things, the act:

1. broadens how special taxing districts and their treasurers may enforce tax liens to include any method allowed under the property tax laws, not just foreclosure (§ 2);
2. allows municipal officers to inspect, for tax collection purposes, commercial and financial information included in personal property declarations (as under prior law, this information is not otherwise open for public inspection) (§ 3);
3. allows tax collectors to deny a property tax refund if a taxpayer is delinquent in other taxes or has other debt;
4. modifies the time limit for municipalities to give property tax refunds under certain circumstances;
5. eliminates a requirement that tax collectors include, as part of tax bills, a statement of the year and amount of any back taxes due (§ 11);
6. specifies that, for tax collection purposes, tax amounts include any interest, penalties, fees, and charges, including collection agency fees, attorney's fees, and tax collector fees (§ 18);
7. modifies the order in which tax collectors must apply property tax payments, giving priority to personal property taxes before real property taxes and, for each tax, applying payments to expenses incurred related to the tax and delinquency-related charges before the principal;
8. expands the circumstances under which municipalities and district health departments may withhold or revoke a license or permit if a business owes taxes that are at least one year delinquent;
9. explicitly bars tax collectors from (a) compromising or releasing any tax amount except as provided by law and (b) knowingly submitting a false report to the motor vehicles commissioner to remove a motor vehicle from the delinquent tax list (§§ 37-38);
10. eliminates various obsolete provisions (a) requiring tax collectors to use duplicate record-receipt books and maintain certain records and (b) allowing a deceased tax collector's estate

executor or administrator to assume the collector's duties (§§ 1, 14, 25-27, 35, & 43); and

11. makes other minor, technical, and conforming changes.

The act also modifies a requirement that municipalities include a notice of community-based resources for foreclosure mediation with certain statements they send to property owners. (PA 13-247, § 326, later repealed this requirement altogether.)

**EFFECTIVE DATE:** October 1, 2013, except that the provision concerning the foreclosure mediation notice is effective upon passage.

**§ 4 — ACQUISITION OF TAXABLE PROPERTY**

Under prior law, taxable property acquired by a town was tax exempt as of the date the town's chief executive officer (CEO) notified the town's tax collector of its receipt. The act instead makes it exempt as of the date of its receipt. It also specifies that the town's tax assessor, rather than its collector, must declare the property tax exempt.

The law requires the CEO to notify the town tax collector whenever the town acquires taxable property. The act requires him or her to also notify the town assessor.

**§ 5 — COURT APPEALS FROM ACTION OF THE  
BOARD OF ASSESSMENT APPEALS**

The law allows a taxpayer aggrieved by a board of assessment appeals' decision to appeal to the Superior Court. Under prior law, if the court reduced the taxpayer's assessment, the town had to reimburse the taxpayer or grant a tax credit for the overpayment, plus interest and costs. The act excludes from this reimbursement or tax credit recording fees assessed by the (1) tax collector for preparing the tax lien certificate and (2) town clerk for recording the liens on the land records.

**§§ 6 & 8 — APPROVAL FOR CERTAIN TAX  
ABATEMENTS OR WAIVERS**

The act requires municipalities to obtain approval from their standing abatement committees or, if they do not have such committees, the Office of Policy and Management secretary, before abating or waiving taxes or interest assessed on (1) people who are poor and cannot pay; (2) railroad companies in bankruptcy reorganization; and (3) private, nonprofit water suppliers.

## § 7 — DEFERRAL OF TAXES EXCEEDING 8% OF HOMEOWNER'S INCOME

The law allows municipal legislative bodies to vote to defer property taxes for any owner-occupied residence if the tax exceeds 8% of the owner's income for a given year. Deferred taxes are a lien on the property and must be paid, with interest, when the homeowner dies or the property is sold. Prior law prohibited these liens from taking precedence over any previously recorded mortgage on the property. The act instead gives them the same precedence as other tax liens, thus giving them precedence over other liens and encumbrances, including mortgages.

## §§ 9 & 10 — PROPERTY TAX REFUNDS

Under prior law, the time limit for municipalities to give property tax refunds was generally either (1) three years after the tax due date or (2) an extended deadline the municipality established by ordinance. The act instead makes the time limit the later of (1) these deadlines or (2) 90 days after the (a) deletion of a tax assessment by a final court order, (b) reduction of an assessment by a board of assessment appeals, or (c) removal of property from a taxpayer's personal property declaration discovered during an audit.

The act specifies that a taxpayer's refund application must be delivered or postmarked by the applicable deadline, rather than "made" by the deadline.

The act allows the tax collector to deny a refund application if the taxpayer is delinquent in other taxes or has other debt (presumably to the town). It specifies that any property tax refund for which no timely application is made or granted is the municipality's permanent property, including refunds of veterans' property taxes that are not claimed within the statutory timeframe (six years from the payment date).

## § 11 — PROPERTY TAX BILLS

The act eliminates a requirement that tax collectors include, as part of tax bills, a statement of the year and amount of any back taxes due.

By law, the failure to send out a tax bill or statement does not invalidate the tax. The act adds that the failure to receive any such bill or statement also does not invalidate the tax.

## § 13 — ASSIGNING NUMBERS TO TAX ACCOUNTS

The act conforms the law to practice by requiring the tax assessor or rate maker, rather than the town clerk or rate maker, to assign a number for each tax account.

## § 16 — REPORTING ASSESSMENT MISTAKES

By law, tax collectors must report to town clerks all taxable property that is not assessed or is assessed to the wrong parties as soon as they know it. The act requires them to also notify tax assessors of this information.

## § 17 — TAX COLLECTOR FEES

The act eliminates specific tax collector fees for tax levies and sales and instead requires delinquent taxpayers, or others required under the tax sale process, to pay any reasonable and necessary costs the town incurs for these activities. It eliminates the following fees:

1. for real or personal property, 20 cents;
2. for each notice posted, filed, published, or mailed as required by law, 25 cents;
3. for each mile of travel from the collector's residence to the farthest point where he or she is legally required to take a notice (and return once), 20 cents;
4. for sale of real or personal property, \$4; and
5. for each deed or bill of sale, \$2.

The act also makes delinquent taxpayers responsible for paying (1) recording fees and (2) fees paid to any federal, state, or local government entity or agency by the municipality.

## § 19 — CREDIT CARD FEES

The law authorizes municipalities to (1) allow taxpayers to pay tax bills by credit card and (2) charge a service fee for doing so. Under prior law, the service fee could not exceed the credit card issuer's charge, including any discount rate. The act specifies that the fee may not exceed either the credit card issuer's or service provider's charge, including any discount rate.

## §§ 20 & 43 — ORDER OF APPLYING PROPERTY TAX PAYMENTS

Prior law required tax collectors to apply (1) tax payments on any specific property to the oldest outstanding tax and any interest on it and (2) partial tax payments or installments on any assessment list containing both real and personal property to the personal property tax first, unless the person making the payment directed otherwise in writing.

The act eliminates these requirements and instead requires tax collectors to apply all tax payments first to outstanding unsecured taxes (i.e., personal property taxes) and then to outstanding secured taxes (i.e., real property taxes). For both types of taxes, the act applies payments as follows:

1. first to expenses, including attorney's fees, collection expenses, recording fees, collector's fees, and other expenses and charges related to a taxpayer's delinquency;
2. next to accrued interest; and
3. lastly, to principal, in chronological order.

The act also specifies that a municipality is not bound by any notation accompanying a tax payment that (1) purports to be payment in full, (2) proposes to waive any of the municipality's rights or powers, or (3) directs the application of the payment in any manner that contradicts applicable law.

#### § 21 — WAIVING TAXES UNDER \$25

The act allows a municipality's legislative body to waive property taxes that total less than \$25 regardless of their due date. Under prior law, a municipality's legislative body could only waive such taxes before they were due.

#### § 22 — POSTING NOTICE OF TAXES DUE

The act requires tax collectors to post notice of the time and place at which they will receive taxes on a signpost, bulletin board, or the municipality's website. Prior law required them to post the notice on a signpost located in the municipality, or, if there was no such signpost, (1) on a signpost located in the town within which the municipality is located or (2) at some other exterior place near the town clerk's office. By law, they must also publish the notice in a newspaper.

#### § 23 — DELINQUENT TAX PAYMENTS

The act conforms the law to practice by:

1. allowing tax collectors to accept a partial payment for a delinquent tax that is less than the total accrued interest on the principal;
2. eliminating provisions that specify how interest accrues on delinquent taxes for which taxpayers have made a partial payment, thus requiring all delinquent taxes to accrue interest from the first day of the month for each month or fraction of a month that elapses between the due date and payment date;
3. specifying that the minimum \$2 interest charge on delinquent tax payments applies to each installment of the tax; and
4. allowing a municipality's legislative body to require any delinquent taxes, rather than just those for motor vehicle taxes, to be paid in cash or by certified check or money order.

#### § 24 — WITHHOLDING OR REVOKING LICENSES OR PERMITS FOR DELINQUENT TAXES

The act allows municipalities and district health departments to withhold or revoke a license or permit if a business owes taxes on real property it owns or uses that is at least one year delinquent. Under existing law, they may do so for taxes due on personal property the business owns or uses.

#### § 29 — DEMAND FOR UNPAID TAXES AND WATER AND SEWER CHARGES

By law, if municipal taxes or water or sewer charges are not paid within 30 days after their due date, the tax collector or his or her appointed agent can make a personal or written demand for the tax or charges at the taxpayer's last-known residence. If that demand fails, the collector may take steps to collect the delinquent taxes and charges.

The act allows the tax collector to take such steps without making a demand for the payment if the assessor is unable to identify the owner or person responsible for the delinquent taxes or charges after making reasonable efforts to do so.

The act also allows tax collectors from more than one municipality to jointly conduct collection efforts for delinquent taxes.

#### §§ 30-34 — TAX SALES

##### *Notice of the Tax Sale*

The law requires a tax collector selling property through a tax sale to provide a series of notices of the sale. The act alters three of the notice's required contents by (1) specifying that it contain the property's street address only if it has one; (2) specifying that it contain the date, as well as time and place, of the sale; and (3) allowing it to include a citation to an instrument in the land records, assessor's map, or other public document identifying the property's boundaries, instead of the property's legal description.

Prior law required the tax collector to mail various notices to the owner, mortgagee, lienholder, and others with a recorded interest in the property that would be affected. The act (1) specifies that the other interested parties must have a choate interest in the property (i.e., generally one that is recorded in the land records rather than merely a potential interest) and (2) allows the collector to mail the notices to a person's estate or its fiduciary if the collector knows that the person is deceased. If the person is a corporation, limited partnership, or other legal entity, the act allows the collector to mail the notice to any address he or she believes will give notice of the levy or sale. As under prior law, the tax collector can also send the notice to

the person who would receive service of process for the entity.

Prior law also required the collector to (1) file a notice with the town clerk, who recorded it in the land records; (2) post it on a signpost, if any, in the town where the real estate is located or at some other exterior place near the town clerk's office; and (3) publish a notice at least once a week for three consecutive weeks in a newspaper published in the town, or, if one was not available, in a newspaper published in the state having general circulation in the town. The act (1) specifies that the recording serves as constructive notice equivalent to a *lis pendens* (a notice of an impending lawsuit affecting the property that is filed in the land records and binds future property owners to the suit's consequences) for all purposes; (2) requires the collector to post the notice on a bulletin board in or near his or her office, rather than on a signpost; and (3) allows the collector to publish the notice in either type of newspaper.

#### *Apportioning Tax Sale Costs*

By law, the tax collector (1) may sell the property at public auction and retain auctioneers, clerks, and others to assist in the sale and (2) must add the cost of conducting the sale to the taxes due from the delinquent taxpayer. Under prior law, if the sale involved more than one property, the costs had to be apportioned equally among the properties. The act specifies that only shared costs are apportioned.

#### *Redemption Procedures*

Within six months of the tax sale, the law allows the delinquent taxpayer, mortgagee, lienholder, or other entity holding a recorded interest in the property to redeem it. Under prior law, the person or entity had to pay the taxes, interest, and charges that were due at the time of the sale, plus 18% annual interest on the total purchase price. The act requires them to also pay any taxes, debts, and fees (see § 17) owed to the municipalities that were not recovered by the sale.

By law, the collector must give the paying party a certificate of satisfaction, and the paying party must record it on the land records in order to pursue any claim against the delinquent taxpayer. Under the act, the party's claim has the same precedence or priority over other encumbrances as the tax paid, but not over any tax that was not yet due and payable when the collector first published notice of the levy. As under existing law, the party's claim does not affect the interests of other parties.

#### *Disposition of Tax Sale Receipts*

By law, if the sale produces more than the back taxes, penalties, interest, fees, and costs due on the property, the remainder must be placed in an escrow account. If the property is redeemed, the excess is paid to the tax sale purchaser within 10 days. Under prior law, if the property was not redeemed, the town could use the excess to pay the delinquent taxes, interest, penalties, fees, and other costs due from the former owner for other property he or she owns in town. The act allows the excess sale proceeds to also be used to pay taxes, interest, penalties, fees, and costs on (1) the property sold and (2) property, including personal property, located in other towns.

By law, within specified timeframes after the tax sale, the tax collector must (1) pay the escrow account funds to the clerk of the court for the judicial district in which the property is located and (2) notify all interested parties of their right to apply to the court for the money. These parties may then apply for the money's return. The act prohibits the municipality from being added as a party to such action to recover the money without its consent.

#### *Enjoining Tax Sale Proceedings*

The act allows a person to seek to enjoin a tax sale under the same process that applies under existing law to a person contesting the validity of a sale.

#### *Tax Collector's Deed*

The act (1) eliminates the requirement that a collector's deed identify the mill rate for the taxes recovered by a tax sale and (2) shortens the statute of limitations on challenges to the validity of a tax collector's deed on grounds other than fraud. Under prior law, the time limit for challenging a deed was one year from the deed's recording or two years from the date of the tax sale, whichever was longer. The act makes the limit the longer of one year from either action.

#### **§ 35 — UNCOLLECTIBLE TAXES**

The law requires tax collectors to prepare a municipal suspense book that details unpaid property tax balances that they believe to be uncollectible, thus allowing the municipality to remove the delinquent properties from the tax roll and avoid treating them as assets. The act eliminates the requirement that the book include, for each rate bill, (1) unpaid property tax balances remaining after a lien sale and (2) the name of the tax collector who transferred the tax to the book.

### § 39 — TAXES DUE ON WEEKENDS AND HOLIDAYS

By law, when a tax payment deadline falls on a Saturday, Sunday, or legal holiday, taxpayers have until the following business day to make a payment without interest or penalty. The act specifies that this extension also applies to any installment of the tax.

### § 40 — ASSIGNMENT OF TAX LIENS

The law permits municipalities to assign their tax liens to third parties. The act allows the assignee to recover the expenses for preparing and recording the assignment. The law already allows the assignee to recover the collection fees and expenses. By law, the assignee has the same rights to enforce the lien as any private party holding a lien on real property. The act specifies that this includes the right to foreclose and sue on the debt.

### § 41 — PRIVACY OF INDIVIDUAL BILLING RECORDS HELD BY MUNICIPAL UTILITY COMPANIES

The law prohibits use of the Freedom of Information Act to force a municipal utility or municipality, district, or regional authority providing water or sewer service to disclose records that identify or could lead to identification of individual customers' utility usage or billing records. The act specifies that this prohibition does not bar these entities from disclosing information on account delinquencies and enforcement actions.

### § 42 — NOTICE OF COMMUNITY-BASED RESOURCES

PA 12-1, June 12 Special Session, required municipalities to include the Judicial Branch's form on community-based resources for people involved in foreclosure mediation with any statement sent to a homeowner about a public sewer, water service, or property tax arrearage. The act instead requires them to include the form with any complaint to judicially foreclose such arrearages. (PA 13-247, §326, later eliminated this notice requirement altogether, effective July 1, 2013.)

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PA 13-293—sHB 6514

*Program Review and Investigations Committee  
Human Services Committee*

**AN ACT IMPLEMENTING THE  
RECOMMENDATIONS OF THE PROGRAM  
REVIEW AND INVESTIGATIONS COMMITTEE  
CONCERNING MEDICAID PAYMENT  
INTEGRITY**

**SUMMARY:** Starting January 1, 2015, this act requires the Department of Social Services (DSS) commissioner, in coordination with the chief state's attorney and attorney general, to annually submit a report to the Human Services and Appropriations committees on the state's efforts in the previous fiscal year to (1) prevent and control fraud, abuse, and errors in the Medicaid payment system and (2) recover Medicaid overpayments. Each agency must also post the report on its website.

The act also requires DSS to (1) assess the feasibility of expanding its Medicaid audit program and (2) analyze its third party liability system and report its findings to the committees by January 1, 2014.

EFFECTIVE DATE: Upon passage

**MEDICAID FRAUD PREVENTION AND  
OVERPAYMENT RECOVERY REPORT**

The act requires the annual report to include a final reconciled and unduplicated accounting of identified, ordered, collected, and outstanding Medicaid recoveries from all sources. The report (1) cannot include any personally identifying information related to a Medicaid claim or payment and (2) does not have to include information that is protected from disclosure by state or federal law or court rule.

The act requires DSS, the chief state's attorney, and the attorney general to provide specified information and data, presumably in the report.

*DSS Information Requirements*

The act requires DSS to provide Medicaid audit and program integrity investigation data. The audit data must include the:

1. number of completed audits by provider type,
2. amount of overpayments identified and recovered due to the audits,
3. amount of avoided costs identified by the audits, and
4. number of audits that were referred to the chief state's attorney.

The Medicaid program integrity investigation data must include:

1. the number of complaints received by source type and reason;
2. the number of investigations opened and completed by source and provider type, including outcomes;
3. the amount of overpayments identified and collected due to investigations;
4. the number of investigations resulting in (a) a referral to the chief state's attorney, (b) suspension of Medicaid payments by provider type, and (c) enrollment suspensions by provider type;
5. for each closed investigation, the length of time between case opening and closing by time ranges, from between (a) less than one month to six months, (b) seven to 12 months, (c) 13 to 24 months, and (d) 25 or more months; and
6. for each investigation referred to another agency, the length of time between case opening and referral for the above time ranges.

The act also requires DSS to provide information on the amount of overpayments recovery contractors collect, by contractor type.

*Chief State's Attorney and Attorney General  
Information Requirements*

The act requires the chief state's attorney and attorney general to each provide Medicaid information including:

1. the number of investigations opened by source type;
2. the general nature of the allegations by provider type;
3. for each closed case, the length of time between case opening and closing by the aforementioned time ranges;
4. the final disposition category of closed cases by provider type;
5. the monetary recovery sought and collected by action, including (a) criminal charges (chief state's attorney) or civil monetary penalties (attorney general), (b) settlements, and (c) judgments; and
6. the number of referrals declined and the reasons why they were declined.

*Report Requirements*

Medicaid is generally the payer of last resort. Thus, DSS must exhaust other payment sources (e.g., private insurance) before paying for health care services provided to Medicaid recipients. The report must include third-party liability (TPL) recovery information for the previous three-year period by fiscal year, including:



1. the total number of claims selected for billing by commercial health insurance and Medicare;
2. the total amount billed for such claims;
3. the number of claims where recovery occurred and the amount collected;
4. an explanation of any claim denials by category;
5. the number of files updated with third-party insurance information; and
6. the estimated future cost avoidance related to updated files.

The report must also include:

1. detailed and unit-specific performance standards, benchmarks, and metrics;
2. projected cost savings for the following fiscal year; and
3. new initiatives taken to prevent and detect overpayments.

The act also requires OPM to report, by November 15, 2014 and annually thereafter, on its efforts to maximize alternative revenues to the Finance, Revenue and Bonding and Appropriations committees. OPM must also annually submit this report to the Program Review and Investigations Committee and post it on OPM's website.

EFFECTIVE DATE: July 1, 2013

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#### DSS MEDICAID AUDIT PROGRAM EXPANSION AND TPL ASSESSMENTS

The act requires DSS to assess the feasibility of expanding its Medicaid audit program, including the possible use of contingency-based contractors.

The act requires DSS to produce a written analysis of the recovery of Medicaid dollars through its TPL contractors to determine if recovery procedures maximize collection efforts.

By January 1, 2014, DSS must submit a report on its audit feasibility assessment and TPL analysis findings to the Human Services and Appropriations committees.

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#### **PA 13-294—sHB 6515**

*Program Review and Investigations Committee  
Government Administration and Elections Committee*

#### **AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE CONCERNING MAXIMIZING ALTERNATIVE REVENUE**

**SUMMARY:** This act requires the Office of Policy and Management (OPM), within available resources, to (1) develop a system for tracking the state's federal and alternative grant funding and (2) work with state agencies to maximize federal revenue. The OPM secretary must identify the agencies that should designate a federal and alternative funding liaison to OPM. These liaisons must ensure OPM has access to any grant application information needed to track grant funding.

**PA 13-14**—sSB 967

*Public Health Committee*

### **AN ACT CONCERNING EXPENSES RELATING TO THE SALE OF NONPROFIT HOSPITALS**

**SUMMARY:** By law, the attorney general can contract with experts or consultants when reviewing a proposal to approve the sale of a nonprofit hospital to a for-profit entity, including contracting with an outside entity to conduct the review. This act increases, from \$300,000 to \$500,000, the amount the purchaser can be billed for these services.

**EFFECTIVE DATE:** Upon passage, and applicable to applications to approve such transactions filed on or after January 1, 2013.

#### **BACKGROUND**

##### *Sale of Nonprofit Hospitals*

By law, the public health commissioner and the attorney general must review and approve a nonprofit hospital's agreement to (1) sell or otherwise transfer a material amount of its assets or operations or (2) change the control of its operations, to a for-profit entity. The law sets out procedures and standards for the commissioner's and attorney general's review of such transactions. Any such agreement without the required approval is void (CGS §§ 19a-486 to -486h).

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**PA 13-18**—SB 63

*Public Health Committee*

### **AN ACT CONCERNING GRANTS FROM THE BIOMEDICAL RESEARCH TRUST FUND FOR STROKE RESEARCH**

**SUMMARY:** This act expands the purposes for which the Department of Public Health (DPH) may make grants from the Biomedical Research Trust Fund to include biomedical research related to strokes. DPH may already award grants from the fund for biomedical research in heart disease, cancer, other tobacco-related diseases, Alzheimer's disease, and diabetes.

By law, DPH may award the grants to (1) nonprofit, tax-exempt colleges or universities or (2) hospitals that conduct biomedical research.

**EFFECTIVE DATE:** July 1, 2013

#### **BACKGROUND**

##### *Related Act*

PA 13-208 (§ 1) makes certain changes concerning the Biomedical Research Trust Fund, such as limiting grant eligibility to entities whose principal place of business is in Connecticut.

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**PA 13-20**—sSB 874

*Public Health Committee*

### **AN ACT CONCERNING VARIOUS REVISIONS TO THE DEPARTMENT OF DEVELOPMENTAL SERVICES' STATUTES**

**SUMMARY:** This act creates a 23-member Autism Spectrum Disorder Advisory Council, as a successor to an independent council established in connection with a previous pilot program, to advise the Department of Developmental Services (DDS) commissioner on autism issues.

The act limits appointed members of the State Interagency Birth-to-Three Coordinating Council to two consecutive terms, although they may continue to serve until a successor is appointed. It also increases the council's membership by one. It does so by adding the state coordinators of early childhood special education and education for homeless children and youth, in place of an unspecified State Department of Education representative with policy making authority chosen by the commissioner.

By law, child health care providers, schools, and specified others must refer parents of a child younger than age three who is suspected of or at risk of having a developmental delay to the Birth-to-Three program, unless the person or entity knows the child has already been referred. Prior law required such a referral within two working days of the person identifying the child in this manner. The act instead requires the referral as soon as possible but not later than seven calendar days after the identification. This change conforms to a change in federal regulations (34 CFR § 303.303).

The act also makes minor, technical, and clarifying changes to DDS statutes.

**EFFECTIVE DATE:** October 1, 2013, except the provisions creating the advisory council are effective July 1, 2013.

## §§ 1-2 — AUTISM SPECTRUM DISORDER ADVISORY COUNCIL

The act creates an Autism Spectrum Disorder Advisory Council, effective July 1, 2013. Effective October 1, 2013, it substitutes a reference to this new council for a reference to a previously established independent council charged with advising the DDS commissioner on all matters relating to autism.

The council created by the act consists of the following members:

1. the commissioners of DDS, children and families, education, mental health and addiction services, public health, rehabilitation services, and social services, or their designees;
2. the Office of Policy and Management secretary, or his designee;
3. the executive director of the Office of Protection and Advocacy for Persons with Disabilities, or his designee;
4. two people with autism spectrum disorder, one each appointed by the governor and House speaker;
5. two parents or guardians of children with autism spectrum disorder, one each appointed by the governor and Senate minority leader;
6. two parents or guardians of adults with autism spectrum disorder, one each appointed by the Senate president pro tempore and House majority leader;
7. two advocates for people with autism spectrum disorder, one each appointed by the governor and House speaker;
8. two licensed professionals working in the field of autism spectrum disorder, one each appointed by the governor and Senate majority leader;
9. two people who provide services for people with autism spectrum disorder, one each appointed by the governor and House minority leader; and
10. two representatives of a higher education institution in the state with experience in the field of autism spectrum disorder, one each appointed by the governor and Senate president pro tempore.

Under the act, the council's chairpersons are the DDS commissioner or his designee and one person elected by the council members. The council must make rules for conducting its affairs and meet at least four times per year and at such other times as the chairpersons request. Council members serve without compensation.

The council must advise the DDS commissioner on all matters relating to autism, including (1) policies and programs for people with autism spectrum disorder, (2)

services provided by DDS' Division of Autism Spectrum Disorder Services, and (3) implementing the recommendations of the autism feasibility study (a study required by PA 11-6 to consider the needs of people with autism spectrum disorder). The council may also recommend policy and program changes to the commissioner to improve support services for people with autism spectrum disorder.

The council will terminate on June 30, 2018.

## BACKGROUND

### *Related Act*

PA 13-84 requires certain health insurance policies to at least maintain current benefit levels for insured people diagnosed with autism spectrum disorder before the release of the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM). (The DSM-V was released on May 18, 2013.)

### **PA 13-26—sHB 6392**

#### *Public Health Committee*

## **AN ACT CONCERNING THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES' REPORTING REQUIREMENTS**

**SUMMARY:** This act changes Department of Mental Health and Addiction Services' (DMHAS) reporting requirements by (1) combining certain reports with its triennial state substance abuse plan and (2) eliminating the requirement that hospitals annually report to DMHAS on protocols they use to screen patients for alcohol and substance abuse.

The act also makes technical changes.

EFFECTIVE DATE: July 1, 2013

## STATE SUBSTANCE ABUSE PLAN

Existing law requires DMHAS to develop a state substance abuse plan for preventing, treating, and reducing alcohol and drug abuse that includes statewide, long-term planning goals and objectives. The first plan was developed in 2010 and must be updated every three years. The act deletes an obsolete provision requiring the DMHAS commissioner to submit the original plan's final draft to the Connecticut Alcohol and Drug Policy Council (CADPC) for review and comment.

The act also specifies that the plan must address an appropriate array of prevention services, in addition to treatment and recovery services and a sustained continuum of care as required by existing law.

*CADPC Statewide Plan*

The act eliminates the requirement that CADPC annually submit an evaluation of its statewide plan on substance abuse treatment and prevention programs and any proposed changes to the governor and legislature. It instead requires the DMHAS commissioner to evaluate the council's plan and recommendations and include this information in the state substance abuse plan.

*DMHAS' Data Repository of Substance Abuse Programs*

The act requires the state substance abuse plan to include a summary of DMHAS' data repository of substance abuse programs administered by state agencies (including the Judicial Branch) and state-funded community based programs. The summary must include:

1. the utilization of substance use, abuse and addiction related education, prevention, treatment, and criminal justice services;
2. client demographic information;
3. substance use, abuse, and addiction trends and risk factors; and
4. the effectiveness of services based on outcome measures.

The act eliminates the requirement under prior law that the DMHAS commissioner report this information every two years to the legislature, the Office of Policy and Management, and CADPC in a separate report.

**PA 13-37**—sHB 6243  
*Public Health Committee*

**AN ACT CONCERNING THE PRACTICE OF THAI YOGA**

**SUMMARY:** PA 12-64 added "Thai yoga" to the list of terms or titles that can appear in advertising for massage therapy services only if performed by a licensed massage therapist.

This act exempts Thai yoga performed by people with specified training from the definition of "massage therapy," thus allowing them to practice Thai yoga without a massage therapist license. The act also exempts such people from the advertising restriction noted above.

The exemptions apply to people who (1) are registered as yoga teachers with the Yoga Alliance Registry and (2) have completed 200 hours of training in Thai yoga.

EFFECTIVE DATE: October 1, 2013

**BACKGROUND***Massage Therapy Definition*

Existing law defines "massage therapy" as the systematic and scientific manipulation and treatment of the body's soft tissues using pressure, friction, stroking, percussion, kneading, vibration by manual or mechanical means, range of motion, and nonspecific stretching. It may include the use of oils, ice, steam, and similar amenities, but does not include diagnosis, prescribing medications, spinal or other joint manipulations, or any services and procedures for which the law requires a license to practice medicine, chiropractic, naturopathy, physical therapy, or podiatry (CGS § 20-206a).

**PA 13-55**—sSB 991  
*Public Health Committee*

**AN ACT CONCERNING AN ADVISORY COUNCIL ON PALLIATIVE CARE**

**SUMMARY:** This act establishes, within available appropriations, a 13-member Palliative Care Advisory Council within the Department of Public Health (DPH). The council must (1) analyze the current state of palliative care in Connecticut and (2) advise DPH on matters related to improving palliative care and the quality of life for people with serious or chronic illnesses.

The act requires the council, by January 1, 2015, to begin annually reporting its findings and recommendations to the DPH commissioner and Public Health Committee.

EFFECTIVE DATE: October 1, 2013

**PALLIATIVE CARE ADVISORY COUNCIL MEMBERSHIP**

Council members include:

1. (a) one physician certified by the American Board of Hospice and Palliative Medicine and (b) one registered nurse or advanced practice registered nurse certified by the National Board for Certification of Hospice and Palliative Nurses, both appointed by the governor;
2. seven licensed health care providers with experience or expertise in (a) inpatient palliative care in a hospital, nursing home, or psychiatric facility, (b) palliative care in a patient's home or community setting, (c) pediatric palliative care, or (d) palliative care for young adults, adults, or the elderly, all appointed by the DPH commissioner;

3. one licensed social worker experienced in working with people with serious or chronic illness and their families, appointed by the House speaker;
4. one licensed pharmacist experienced in working with people with serious or chronic illness, appointed by the Senate president pro tempore;
5. one spiritual counselor experienced in working with people with serious or chronic illness and their families, appointed by the House minority leader; and
6. one American Cancer Society representative or person experienced in advocating for people with serious or chronic illness and their families, appointed by the Senate minority leader.

The appointing authorities must make their appointments by December 31, 2013 and fill any vacancies. The members serve three-year terms without compensation, but are reimbursed for necessary expenses while performing their duties. The members must elect a chairperson.

The first meeting must be held by December 31, 2013. (It is unclear who must schedule this meeting.) The council must meet biannually and at the call of the chairperson or the request of either the DPH commissioner or a majority of the members. A majority of the members constitutes a quorum. Any council action taken requires a majority vote of those present.

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**PA 13-74—sSB 1129**

*Public Health Committee*

*Insurance and Real Estate Committee*

**AN ACT CONCERNING HEALTH PLAN DATA**

**SUMMARY:** This act requires the Connecticut Health Insurance Exchange Board of Directors to submit quarterly reports with specified information on health care services provided through the exchange. The board must report to the Human Services, Insurance and Real Estate, and Public Health committees. The first report is due March 31, 2014.

The information required to be reported focuses on health coverage for people with household incomes from 133% to 200% of the federal poverty level (FPL) (see BACKGROUND). The act also requires the board to submit other information it believes the legislative committees would need to evaluate the costs and benefits of a basic health plan.

The basic health program is an optional state health insurance program under the federal Patient Protection and Affordable Care Act (ACA) which would be generally available to state residents (1) ineligible for Medicaid, (2) under age 65, (3) with household incomes from 133% to 200% of the FPL, and (4) who are ineligible for “minimum essential coverage” (such as government- or employer-sponsored coverage), or cannot afford their employer’s coverage.

EFFECTIVE DATE: October 1, 2013

**HEALTH INSURANCE EXCHANGE BOARD  
REPORTS**

Under the act, the required reports must include:

1. the number of people in households with incomes from 133% up to 150% of the FPL, and from 150% up to and including 200% of the FPL, who were enrolled in a qualified health plan (see BACKGROUND) at any time on or after January 1, 2014;
2. the number of people in households with incomes from 133% up to and including 200% of the FPL who (a) have been continuously enrolled in a qualified health plan during the current calendar year; (b) were enrolled in a qualified health plan and then became Medicaid-eligible or whose household income increased to more than 200% of the FPL; or (c) experienced a gap in health care coverage, the state’s cost to provide health care services to them, and the cost to such people to access health care coverage through the exchange;
3. the cost of the second-lowest-priced silver premium plan in the exchange (silver plans cover 70% of the cost of essential health benefits); and
4. any other information that the board believes would be necessary to allow the legislative committees to evaluate the cost and benefits of a basic health plan.

The act also requires the board to include in each year’s first quarterly report the number of people in households with incomes from 133% up to and including 200% of the FPL who were enrolled in a qualified health plan at the end of the previous calendar year.

**BACKGROUND**

*Federal Poverty Level*

The federal poverty level for 2013 is \$11,490 for an individual and increases by household size (e.g., \$19,530 for a three-person household).

### *Qualified Health Plans Offered Through the Exchange*

The law defines a “qualified health plan” as a health benefit plan certified as meeting criteria outlined in the ACA and the exchange law (CGS § 38a-1080). Only qualified health plans can be made available through the exchange (CGS § 38a-1085).

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**PA 13-76**—sSB 366

*Public Health Committee*

### **AN ACT REQUIRING LICENSED SOCIAL WORKERS, COUNSELORS AND THERAPISTS TO COMPLETE CONTINUING EDUCATION COURSE WORK IN CULTURAL COMPETENCY**

**SUMMARY:** This act requires Department of Public Health (DPH)-licensed social workers, professional counselors, alcohol and drug counselors, and marital and family therapists to complete one contact hour (i.e., at least 50 minutes) of continuing education coursework in cultural competency during each license registration period. (A registration period is the 12-month period for which a license is renewed.)

By law and DPH regulation, each of these professionals must complete at least 15 contact hours of continuing education during each registration period, except for alcohol and drug counselors, who must complete at least 20 contact hours.

EFFECTIVE DATE: October 1, 2013 and applicable to license registration periods starting on and after October 1, 2014.

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**PA 13-79**—sSB 872

*Public Health Committee*

### **AN ACT CONCERNING THE USE OF INDOOR TANNING DEVICES BY PERSONS UNDER SEVENTEEN YEARS OF AGE**

**SUMMARY:** Prior law subjected tanning facility operators to a fine of up to \$100 if they allowed someone under age 16 to use a tanning device without the parent’s or guardian’s written consent.

This act raises this age threshold and eliminates the exception for parental or guardian consent. It prohibits tanning facility operators from allowing anyone under age 17 to use a tanning device. Violators are subject to the same fine of up to \$100. As under existing law, tanning facility operators are subject to the fine if they know the person’s age or should have known it under the circumstances.

By law, the fine is payable to the local health department or health district where the facility is located, and such departments or districts may enforce the age restriction within their available resources.

By law, a “tanning facility” is any place where a tanning device is used for a fee, membership dues, or other compensation. A “tanning device” is any equipment emitting radiation used for tanning, such as a sunlamp, tanning booth, or tanning bed emitting ultraviolet radiation. It includes any accompanying equipment, such as timers or handrails.

EFFECTIVE DATE: October 1, 2013

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**PA 13-130**—HB 5727

*Public Health Committee*

### **AN ACT CONCERNING THE TIME FOR PARENTAL NOTIFICATION WHEN A CHILD IS ADMITTED TO A HOSPITAL FOR DIAGNOSIS OR TREATMENT OF A MENTAL DISORDER**

**SUMMARY:** This act reduces, from five days to twenty-four hours, the time within which a hospital must notify a parent or guardian of a child (1) age 14 or older or (2) in the custody of the Department of Children and Families (DCF) that the child was admitted for the diagnosis or treatment of a mental disorder without their consent.

The law allows a hospital to admit a child age 14 or older without parental consent if the child agrees in writing. The DCF commissioner can admit any child under her custody to a hospital without going through probate court if (1) the child’s legal counsel consents in writing and (2) if age 14 or older, the child agrees.

EFFECTIVE DATE: October 1, 2013

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**PA 13-139**—sHB 6388

*Public Health Committee*

### **AN ACT CONCERNING INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES**

**SUMMARY:** This act updates terminology used in numerous statutes regarding the provision of developmental disability services. It substitutes the term “intellectual disability” for “mental retardation” and “intermediate care facility for individuals with intellectual disabilities” for “intermediate care facility for the mentally retarded” to reflect changes in federal law and within the developmental disabilities community.

The act makes other minor and technical changes.

EFFECTIVE DATE: October 1, 2013

## BACKGROUND

### *Updated Terminology*

A 2010 federal law, known as “Rosa’s Law” (P.L. 111-256), changed references in federal law from “mental retardation” to “intellectual disability” and from a “mentally retarded individual” to an “individual with an intellectual disability.” The federal Centers for Medicare and Medicaid Services also changed references in regulations from “intermediate care facilities for the mentally retarded” to “intermediate care facilities for individuals with intellectual disabilities” (42 CFR § 483.400 et seq.).

The new edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) by the American Psychiatric Association, which took effect in May 2013, changes the term “mental retardation” to “intellectual disability.”

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### **PA 13-142—HB 6482**

*Public Health Committee*

*Planning and Development Committee*

## **AN ACT CONCERNING BIRTH CERTIFICATES FOR HOMELESS YOUTH**

**SUMMARY:** This act allows certified homeless youth and emancipated minors to access or receive their birth certificates. It sets conditions for how youth are certified as homeless for this purpose.

Existing law does not allow minors to access or receive their birth certificates (but their parents, guardians, and certain other family members can obtain birth certificates for them).

EFFECTIVE DATE: October 1, 2013

### **CERTIFIED HOMELESS YOUTH**

Under the act, a certified homeless youth is a 15- to 17-year old person, not in the physical custody of a parent or legal guardian, who is a homeless child or youth as defined in specified federal law (see BACKGROUND), and certified as homeless by one of the following:

1. a school district homeless liaison;
2. the director of an emergency shelter program funded by the U.S. Department of Housing and Urban Development, or the director’s designee; or
3. the director of a runaway or homeless youth basic center or transitional living program funded by the U.S. Department of Health and Human Services, or the director’s designee.

Under the act, when a certified homeless youth requests his or her birth certificate, he or she must appear in person and be accompanied by the person certifying him or her as homeless. The youth must present a written request to:

1. the registrar’s office of the town where the youth was born;
2. the registrar’s office of the town where the youth’s mother resided at the time of birth;
3. if the birth certificate was filed electronically, any registrar of vital statistics in the state with access to the electronic vital records system, as authorized by the Department of Public Health (DPH); or
4. DPH’s Vital Records Office.

The act requires the certified homeless youth to present to DPH or the registrar sufficient identifying information as DPH regulations may require. The person certifying the youth as homeless must also present sufficient identifying information to indicate that he or she meets the certification requirements.

## BACKGROUND

### *Federal Definition of Homeless Youth*

In the federal public health and welfare statute, “homeless children and youths” are defined, for purposes of certain education programs, as individuals who lack a fixed, regular, and adequate nighttime residence and meet certain criteria, including:

1. children and youths who are (a) sharing other people’s housing due to loss of housing, economic hardship, or a similar reason; (b) living in motels, hotels, trailer parks, or camp grounds due to the lack of alternative adequate accommodations; (c) living in emergency or transitional shelters; (d) abandoned in hospitals; or (e) awaiting foster care placement;
  2. children and youths with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation;
  3. children and youths living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
  4. migratory children (such as children of certain migratory agriculture workers or fishers who are living in the circumstances described above) (42 USC § 11434a).
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**PA 13-157**—sSB 1069  
*Public Health Committee*  
*Judiciary Committee*

### **AN ACT CONCERNING THE JOINT PRACTICE OF PHYSICIANS AND PSYCHOLOGISTS**

**SUMMARY:** This act authorizes physicians and psychologists to join to form a professional service corporation to offer their services. All of the shareholders must be licensed or legally authorized to provide these services.

Existing law already authorizes psychiatrists and psychologists to join to form a professional service corporation.

EFFECTIVE DATE: October 1, 2013

**PA 13-187**—sSB 1070  
*Public Health Committee*  
*Education Committee*  
*Government Administration and Elections Committee*

### **AN ACT CONCERNING A SCHOOL NURSE ADVISORY COUNCIL AND AN ADVISORY COUNCIL ON PEDIATRIC AUTOIMMUNE NEUROPSYCHIATRIC DISORDER ASSOCIATED WITH STREPTOCOCCAL INFECTIONS**

**SUMMARY:** This act requires the State Department of Education (SDE) commissioner to create a school nurse advisory council. The council must advise the SDE and Department of Public Health (DPH) commissioners on matters affecting school nurses, including their professional development, staffing levels, and delivery of health care services. The act requires the council to annually report to the commissioners and the Public Health and Education committees, with the first report due February 1, 2014.

The act also establishes an advisory council on pediatric autoimmune neuropsychiatric disorder associated with streptococcal infections (PANDAS) and pediatric acute neuropsychiatric syndrome (PANS) (see BACKGROUND). This council must advise the DPH commissioner on research, diagnosis, treatment, and education relating to these conditions. Starting January 1, 2014, it must annually report to the Public Health Committee.

EFFECTIVE DATE: July 1, 2013 for the school nurse advisory council provisions; upon passage for the PANDAS/PANS advisory council provisions.

### **SCHOOL NURSE ADVISORY COUNCIL**

#### *Membership*

Under the act, the school nurse advisory council's voting members are as follows (it appears the members are appointed by the SDE commissioner):

1. one representative of each statewide bargaining representative organization that represents school nurses;
2. one representative of the Association of School Nurses of Connecticut, employed at a private or parochial school;
3. one representative of the Connecticut Nurses Association;
4. one representative of the Connecticut Association of Public School Superintendents;
5. one representative of the Connecticut Federation of School Administrators;
6. one representative of the Connecticut Association of Boards of Education;
7. two school district medical advisors, including one member of the American Academy of Pediatrics; and
8. one representative of the Connecticut Association for Healthcare at Home who is a school nurse.

The SDE and DPH commissioners, or their designees, are ex-officio, nonvoting members and must attend the council's meetings.

Council members must elect one of the nurses as chairperson of the council.

#### *Procedure*

The SDE commissioner must schedule the first council meeting, to be held by September 1, 2013. The council must meet upon the call of the chairperson or upon the request of a majority of the members. A majority of the members constitutes a quorum, and a majority vote of a quorum is needed for any official council action.

Council members are not paid for their service, except for reimbursement for necessary expenses incurred in performing their duties.

#### *Reporting Requirement*

Under the act, the council must report by February 1, 2014 and at least annually thereafter to the SDE and DPH commissioners and the Public Health and Education committees. The report must include recommendations on (1) school nurses' professional development, staffing levels, and delivery of health care services and (2) protocols for emergency medication administration and evaluating temporary medical



conditions that may be symptomatic of serious illnesses or injuries.

The act requires the SDE commissioner to notify local and regional school boards of the advisory council's recommendations no later than 30 days after he receives these reports.

## PANDAS/PANS ADVISORY COUNCIL

### *Membership*

The act requires the DPH commissioner, within 30 days after June 24, 2013, to appoint the following 14 voting members to the PANDAS/PANS advisory council:

1. an immunologist licensed and practicing in Connecticut with experience treating persons with PANDAS and PANS and the use of intravenous immunoglobulin;
2. a health care provider licensed and practicing in Connecticut with expertise in treating persons with PANDAS, PANS, and autism;
3. a representative of the Connecticut branch of the P.A.N.D.A.S. Resource Network;
4. an osteopathic physician licensed and practicing in Connecticut with experience treating persons with PANDAS and PANS;
5. a health care provider licensed and practicing in Connecticut with expertise in treating persons with Lyme disease and other tick-borne illnesses;
6. a medical researcher with experience conducting research on PANDAS, PANS, obsessive-compulsive disorder (OCD), tic disorder, and other neurological disorders;
7. a certified dietitian-nutritionist practicing in Connecticut who provides services to children with autism spectrum disorder, attention-deficit hyperactivity disorder, and other neuro-developmental conditions;
8. a representative of a professional organization in Connecticut for school psychologists;
9. a child psychiatrist with experience treating persons with PANDAS and PANS;
10. a representative of a professional organization in Connecticut for school nurses;
11. a pediatrician with experience treating persons with PANDAS and PANS;
12. a representative of an organization focused on autism;
13. a parent with a child who has been diagnosed with PANDAS or PANS and autism; and
14. a social worker licensed and practicing in Connecticut.

Under the act, there are three other voting members: (1) a representative of SDE's bureau of special education and (2) the Public Health Committee's chairpersons or their designees, who may be legislators. The DPH commissioner, or her designee, is an ex-officio, nonvoting member and must attend the council's meetings. (PA 13-208, § 71 makes technical changes to this act.)

The council must elect a chairperson from among its members.

### *Procedure*

Under the act, the DPH commissioner must schedule the first council meeting, to be held by September 1, 2013. The council must meet upon the call of the chairperson or upon the request of a majority of the members. A majority of the members constitutes a quorum, and a majority vote of a quorum is needed for any official council action.

Council members are not paid for their service, except for reimbursement for necessary expenses incurred in performing their duties.

### *Reporting Requirement*

Under the act, the PANDAS/PANS advisory council must annually report to the Public Health Committee, with the first report due January 1, 2014. The report must include recommendations on:

1. practice guidelines for the diagnosis and treatment of PANDAS and PANS;
2. mechanisms to increase clinical awareness and education regarding these conditions among pediatricians and other physicians, school-based health centers, and providers of mental health services;
3. outreach to educators and parents to increase awareness of these conditions; and
4. developing a network of volunteer experts on the diagnosis and treatment of these conditions to assist in education and outreach.

## BACKGROUND

### *PANDAS and PANS*

According to the National Institute of Mental Health, PANDAS includes cases of children and adolescents with OCD or tic disorders, whose symptoms worsen following streptococcal infections. PANS includes all cases of children and adolescents with abrupt onset OCD, not just those associated with such infections.

**PA 13-208**—sHB 6644

*Public Health Committee*

*Finance, Revenue and Bonding Committee*

## **AN ACT CONCERNING VARIOUS REVISIONS TO THE PUBLIC HEALTH STATUTES**

**SUMMARY:** This act makes numerous substantive and minor changes to Department of Public Health (DPH)-related statutes and programs. For example, the act requires licensed health care institutions to submit to DPH corrective action plans after the department finds the institution to be noncompliant with state laws or regulations.

The act limits required background checks for long-term care facility volunteers with direct patient access to only those volunteers reasonably expected to regularly perform duties substantially similar to those of employees with direct patient access. It eliminates the Connecticut Homeopathic Medical Examining Board, transferring responsibility for disciplining homeopathic physicians from the board to DPH.

The act makes changes affecting several health care professions and institutions, including master social workers, physician assistants, marital and family therapists, nuclear medicine technologists, optometrists, dental hygienists, certified water treatment plant professionals, hospice and nursing home facilities, residential care homes (RCHs), outpatient clinics, family day care homes, barber and hairdresser schools, and hospitals.

The act also makes changes affecting the Connecticut Tumor Registry, the Breast and Cervical Cancer Early Detection and Treatment Referral Program, the Biomedical Research Trust Fund, the Health Information Technology Exchange of Connecticut, permits for public water supply dam construction, disclosure of patient information by certain health care providers, statutory definitions related to addiction services, the registration of swine growers, the state's electronic prescription drug monitoring program, the Alzheimer's Disease and Dementia Task Force established by SA 13-11, and the PANDAS/PANS advisory council established by PA 13-187.

**EFFECTIVE DATE:** October 1, 2013, except that the provisions on the:

1. Connecticut Tumor Registry, Alzheimer's Disease and Dementia Task Force, PANDAS/PANS advisory council, coronary angioplasty hospital reports, registration of swine growers, and electronic prescription drug monitoring program take effect upon passage;
2. barber and hairdresser schools, nuclear medicine technologists, and the definition of RCHs take effect July 1, 2013;

3. Breast and Cervical Cancer Early Detection and Treatment Referral Program and outpatient clinics take effect January 1, 2014; and
4. optometrists' continuing education requirements apply to registration periods on and after October 1, 2014.

### **§ 1 — BIOMEDICAL RESEARCH TRUST FUND**

By law, DPH awards grants from the Biomedical Research Trust fund for biomedical research in heart disease, cancer, other tobacco-related diseases, Alzheimer's disease, and diabetes. DPH also uses a portion of the fund to cover the administrative cost of awarding the grants. The act codifies this practice by making up to 2% of the fund's total amount available to DPH for related administrative expenses.

Existing law limits the total amount of grants awarded during a fiscal year to 50% of the fund's total amount on the date the grants are approved. The act specifies that each fiscal year, the DPH commissioner must use all monies deposited in the fund to award the grants, provided the grants do not exceed this amount.

Existing law allows DPH to award the grants to (1) nonprofit, tax-exempt colleges or universities or (2) hospitals that conduct biomedical research. The act limits grant eligibility to such entities whose principal place of business is in Connecticut.

### **§ 2 — BREAST AND CERVICAL CANCER EARLY DETECTION AND TREATMENT REFERRAL PROGRAM**

The act increases the income limit, from 200% to 250% of the federal poverty level, for DPH's Breast and Cervical Cancer Early Detection and Treatment Referral Program. It retains the existing requirements that participants also (1) be 21 to 64 years old and (2) lack health insurance coverage for breast cancer screening mammography or cervical cancer screening services.

The act removes a requirement that the program's contracted providers report to DPH the names of the insurer of each such woman being tested to facilitate recoupment of clinical service expenses to the department.

By law, the program provides, within existing appropriations, participants with (1) clinical breast exams, (2) screening mammograms and pap tests, and (3) a pap test every six months for women who have tested HIV positive.

### **§ 3 — BACKGROUND CHECKS FOR LONG-TERM CARE FACILITY VOLUNTEERS**

Under prior law, a long-term care facility had to require any person offered a volunteer position

involving direct patient access to submit to a background search, which included (1) state and national criminal history record checks, (2) a review of DPH's nurse's aide registry, and (3) a review of any other registry that DPH specifies.

The act conforms to federal law (P.L. 111-148, § 6201(a)(6)) by limiting the background search requirement to only those volunteers the facility reasonably expects to regularly perform duties substantially similar to those of an employee with direct patient access.

The law, unchanged by the act, does not require the background search if the person provides the facility evidence that a background search carried out within three years of applying for the volunteer position revealed no disqualifying offense.

#### §§ 4 & 5 — INPATIENT HOSPICE FACILITIES

The act adds to the statutory definition of health care "institution" a "short-term hospital special hospice" and "hospice inpatient facility." The terms are not defined in statute but appear in the department's hospice regulations (see BACKGROUND). Thus, the act extends to these entities statutory requirements for health care institutions regarding, among other things, workplace safety committees, access to patient records, disclosure of HIV-related information, and smoking prohibitions.

The act also establishes biennial licensing and inspection fees for these entities, as follows:

1. for short-term hospitals special hospice, \$940 per site and \$7.50 per bed (DPH currently charges these facilities the same renewal fees as hospitals, which equal these amounts) and
2. for hospice inpatient facilities, \$440 per site and \$5 per bed.

#### § 6 — APPLICATION FEE FOR FAMILY DAY CARE HOME STAFF

The act makes a conforming change in the family day care home statutes, reducing the application fee, from \$20 to \$15, for assistant or substitute staff members. The law requires these individuals to apply for and obtain DPH approval before working in a family day care home.

#### § 7 — CORRECTIVE ACTION PLANS FOR LICENSED HEALTH CARE INSTITUTIONS

The act removes the one-year time limit within which DPH-licensed health care institutions must comply with any regulations the department adopts. It retains the existing requirement that they comply within a reasonable time (the act does not define this term).

The act allows DPH to inspect a licensed health care institution to determine whether it is in compliance with state statutes and regulations (the law already allows this). The department must notify an institution in writing if it finds it to be noncompliant. Within 10 days after receiving the notice, the act requires the institution to submit to DPH a written corrective action plan that includes the:

1. corrective measures or systemic changes the institution intends to implement to prevent a recurrence of each identified non-compliance issue;
2. effective date of each corrective measure or systemic change;
3. institution's plan to monitor its quality assessment and performance improvement functions to ensure that the corrective measure or systemic change is sustained; and
4. title of the institution's staff member responsible for ensuring its compliance with the plan.

Under the act, the corrective action plan is deemed the institution's representation of compliance with the statutes and regulations identified in the department's noncompliance notice. An institution failing to submit a corrective action plan that meets the above requirements may be subject to disciplinary action, such as license revocation or suspension, censure, letter of reprimand, or probation.

#### § 8 — NURSING HOME IV THERAPY PROGRAMS

The act allows a licensed physician assistant employed or contracted by a nursing home that operates an IV (intravenous) therapy program to administer a peripherally-inserted central catheter (PICC) as part of the home's IV therapy program. The law already allows an IV therapy nurse to do this. A PICC is a tube that is inserted into a peripheral vein, typically in the upper arm, and advanced until the catheter tip ends in a large vein in the chest near the heart to obtain intravenous access.

DPH must adopt regulations to implement this change.

#### § 9 — HEALTH INFORMATION TECHNOLOGY EXCHANGE OF CONNECTICUT (HITE-CT)

The act requires the governor to select the chairperson of HITE-CT's 20-member board of directors, rather than having the DPH commissioner or her designee serve as the chair.

HITE-CT is a quasi-public agency designated as the state's lead agency for health information exchange. It is responsible for, among other things, (1) developing a statewide health information exchange to share

electronic health information among health care facilities, health care professionals, public and private payors, and patients; (2) providing grants to advance health information technology and exchange in the state; and (3) implementing and periodically revising the state's health information technology plan.

#### § 10 — MASTER SOCIAL WORK LICENSURE WITHOUT EXAMINATION

The act extends, from October 1, 2012 to October 1, 2015, the date by which the DPH commissioner may issue a master social work license without examination. To receive such a license, an applicant must satisfactorily demonstrate that on or before October 1, 2013, instead of October 1, 2010 as under prior law, he or she (1) held a master's degree from a social work program accredited by the Council on Social Work Education or (2) if educated outside of the United States or its territories, completed a program the council deemed equivalent.

PA 10-38 established, within available appropriations, a new DPH licensure program for master level social workers, which the department has not yet implemented.

#### § 11 — ACTIVE DUTY PHYSICIAN ASSISTANTS

The act allows a physician assistant who is (1) licensed in another state and (2) an active member of the Connecticut Army or Air National Guard to provide patient services under the supervision, control, responsibility, and direction of a Connecticut-licensed physician while in the state.

#### §§ 12 & 13 — CONTINUING EDUCATION FOR OPTOMETRISTS

The act allows, rather than requires, DPH to adopt regulations regarding continuing education (CE) requirements for optometrists and establishes these requirements in statute. Prior law required DPH to adopt regulations requiring at least 20 hours of CE during each registration period (i.e., the 12-month period for which a license is renewed).

##### *CE Requirements*

Starting with registration periods on or after October 1, 2014, the act generally requires a licensee actively engaged in the practice of optometry to complete at least 20 hours of CE each registration period. It defines "actively engaged in the practice of optometry" as treating one or more patients during a registration period.

The act requires CE subject matter to reflect the licensee's professional needs in order to meet the public's health care needs. It must include at least six hours in (1) pathology, diabetes detection, or ocular treatment and (2) treatment related to the use of ocular agents-T (see BACKGROUND). It cannot include more than six hours in practice management.

Coursework must be provided through direct, live instruction physically attended by the licensee either (1) individually; (2) as part of a group of participants; or (3) through formal home study or a distance learning program, which the act limits to six hours.

##### *Qualifying CE Activities*

Under the act, qualifying CE activities include courses offered or approved by:

1. the Association of Regulatory Boards of Optometry's Council on Optometric Practitioner Education (COPE);
2. the American Optometric Association (AOA) or affiliated state or local optometry associations and societies;
3. a hospital or other health care institution;
4. an optometry school or college or other higher education institution accredited or recognized by COPE or AOA;
5. a state or local health department; or
6. a national, state, or local medical association.

##### *License Renewal*

The act requires that each licensee applying for renewal sign a statement attesting that he or she completed the CE requirements on a form DPH prescribes.

Each licensee must get an attendance record or certificate of completion from the CE provider for all hours successfully completed. He or she must retain this documentation for at least three years following the date the CE was completed or the license was renewed (the act does not specify whether it is the sooner or later date). The licensee must submit the documentation to DPH within 45 days of the department's request.

A licensee failing to comply with these requirements may be subject to DPH disciplinary action, including license revocation or suspension, censure, letter of reprimand, probation, or a civil penalty.

##### *CE Exemptions and Waivers*

A licensee applying for his or her first renewal is exempt from the CE requirements. A licensee not actively engaged in the practice of optometry is also exempt, provided he or she submits a notarized exemption application before the end of the registration

period on a form DPH prescribes. In this case, the licensee cannot resume practicing optometry until completing the CE requirements.

DPH may also grant a waiver from the requirements or an extension of time for a licensee who has a medical disability or illness. The licensee must apply for a waiver or time extension to DPH and submit (1) a licensed physician's certification of the disability or illness and (2) any documentation the department requires. The waiver or extension cannot exceed one registration period. DPH may grant additional waivers or extensions if the initial reason for the waiver or extension continues beyond the waiver or extension period and the licensee applies.

#### *Licensure Reinstatement*

A licensee who applies for licensure reinstatement after his or her license was voided must submit evidence that he or she completed 20 contact hours (the act does not define this term) of CE within one year immediately preceding the application. It applies to an optometrist whose license was voided for failing to pay the renewal fee and renew the license within 90 days after the renewal date.

#### §§ 14 & 15 — DENTAL HYGIENISTS CONTINUING EDUCATION AND LICENSE RENEWAL

The act removes the requirement that DPH adopt regulations on CE requirements for dental hygienists and instead establishes the requirements in statute.

#### *CE Requirements*

The act generally requires each licensee applying for renewal to complete at least 16 hours of CE within the preceding two years (the same requirement as under current DPH regulations). The CE subject matter must reflect the licensee's professional needs in order to meet the public's health care needs. CE activities must provide significant theoretical or practical content directly related to clinical or scientific aspects of dental hygiene.

A licensee may substitute eight hours of volunteer dental practice at a public health facility for one hour of CE, up to a maximum of five hours in one two-year period. Up to four hours of CE may be earned through an online or distance learning program.

#### *Qualifying CE Activities*

Under the act, qualifying CE activities include courses, including those online, that are offered or approved by:

1. dental schools and other higher education institutions accredited or recognized by the Council on Dental Accreditation;
2. a regional accrediting organization;
3. the American Dental Association or an affiliated state, district, or local dental association or society;
4. the National Dental Association;
5. the American Dental Hygienists Association or an affiliated state, district, or local dental hygiene association or society;
6. the Academy of General Dentistry or the Academy of Dental Hygiene;
7. the American Red Cross or American Heart Association, when sponsoring programs in cardiopulmonary resuscitation or cardiac life support;
8. the Veterans Administration and Armed Forces, when conducting programs at U.S. government facilities;
9. a hospital or other health care institution;
10. agencies or businesses whose programs are accredited or recognized by the Council on Dental Accreditation;
11. local, state, or national medical associations; or
12. a state or local health department.

Under the act, activities that do not qualify toward meeting CE requirements include (1) professional organizational business meetings; (2) speeches delivered at luncheons or banquets; and (3) reading books, articles, or professional journals.

#### *License Renewal; CE Exemptions and Waivers*

The act's CE documentation requirements, exemptions, and waivers for dental hygienists are the same as those for optometrists (see § 13 above).

#### *Licensure Reinstatement*

A licensee who applies for licensure reinstatement after his or her license was voided must submit evidence that he or she successfully completed: (1) for licenses voided for two years or less, 24 contact hours of CE within the two years immediately preceding the application or (2) for licenses voided for more than two years, the National Board of Dental Hygiene Examination or the Northeast Regional Board of Dental Examiners' Examination in Dental Hygiene during the year immediately preceding the application. It applies to a dental hygienist whose license was voided for failing to pay the renewal fee and renew the license within 90 days after the renewal date.

## §§ 16–21 &amp; 79 — HOMEOPATHIC PHYSICIANS

*Connecticut Homeopathic Medical Examining Board*

The act eliminates the five-member Connecticut Homeopathic Medical Examining Board, thus transferring responsibility for taking disciplinary action against homeopathic physicians from the board to DPH. It makes technical and conforming changes related to the board's elimination.

Under prior law, the board was responsible for (1) hearing and deciding matters concerning homeopathic physician licensure suspension or revocation, (2) adjudicating complaints against homeopathic physicians, and (3) imposing sanctions when appropriate.

*Homeopathic Physician Licensure Requirements*

By law, a homeopathic physician must be licensed as a physician and complete at least 120 hours of post-graduate medical training in homeopathy at an institution or under the direct supervision of a licensed homeopathic physician.

The act requires training completed at an institution to be approved only by the American Institute of Homeopathy (AIH), instead of by either AIH or the Connecticut Homeopathic Medical Examining Board. It requires training completed under a physician's supervision to be approved by DPH, instead of the board.

## § 17 — CERTIFIED WATER TREATMENT PLANT PROFESSIONALS

The act specifies that no regulatory board may exist for the following DPH-certified professionals, thus making DPH responsible for their regulation and discipline:

1. water treatment plant operators;
2. distribution and small water system operators;
3. backflow prevention device testers;
4. cross connection survey inspectors, including limited operators;
5. conditional operators; and
6. operators in training.

## § 22 — ADDICTION SERVICES STATUTORY DEFINITIONS

The act makes a technical change to the definitions of “alcohol-dependent person” and “drug-dependent person” in the Department of Mental Health and Addiction Services-related statutes to reflect updated terminology in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders

(DSM-5), which took effect in May 2013.

## § 23 — CONNECTICUT TUMOR REGISTRY

The act requires that reports to the Connecticut Tumor Registry include, along with other information required by existing law, available follow-up information on (1) pathology reports and (2) operative reports and hematology, medical oncology, and radiation therapy consults, or abstracts of these reports or consults.

By law, the Connecticut Tumor Registry includes reports of all tumors and conditions that are diagnosed or treated in the state for which DPH requires reports. Hospitals, various health care providers, and clinical laboratories must provide such reports to DPH for inclusion in the registry. The act requires the reports to be submitted to DPH within six months after the diagnosis or first treatment of a reportable tumor, instead of by each July 1 as under prior law.

## §§ 24-60 — DEFINITION OF RESIDENTIAL CARE HOMES

The act removes RCHs from the statutory definition of “nursing home facility” and establishes a separate definition for these homes. The act redefines an RCH as an establishment that (1) furnishes, in single or multiple facilities, food and shelter to two or more people unrelated to the proprietor and (2) provides services that meet a need beyond the basic provisions of food, shelter, and laundry.

Prior law defined a “nursing home facility” as (1) any nursing home, RCH, or rest home with nursing supervision (RHNS) that, in addition to personal care required in a RCH, provides nursing supervision under a medical director 24 hours per day or (2) any chronic and convalescent nursing home (CCNH) that provides skilled nursing care under medical supervision and direction to carry out nonsurgical treatment and dietary procedures for chronic diseases, convalescent stages, or injuries.

Although RCHs were included in this definition, they do not provide nursing care. In practice, DPH licenses nursing homes at two levels of care: CCNH, which provides skilled nursing care, and RHNS, which provides intermediate care.

The act applies statutory provisions to RCHs that currently apply to nursing home facilities, except for those provisions that appear to apply only to nursing homes. Table 1 lists the statutory provisions that reference the prior definition of nursing home facilities. Under the act these provisions no longer apply to RCHs because they reference the act's new definition of nursing home facility.

Table 1: Statutory Provisions That No Longer Apply To RCHs

| <i>Statute</i>       | <i>Description</i>                                                                                                                                                                                                                                                                   |
|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| § 12-170aa           | Circuit breaker property tax exemption for the elderly and totally disabled; relates to the income of the applicant's spouse                                                                                                                                                         |
| § 12-170d            | Rental rebate program for the elderly and totally disabled; relates to the income of the applicant's spouse                                                                                                                                                                          |
| § 12-170v            | Municipal option property tax exemption; relates to the income of the applicant's spouse                                                                                                                                                                                             |
| § 17b-262            | Authority for the Department of Social Services (DSS) commissioner to adopt Medicaid regulations, including those requiring DSS to monitor admissions and prohibit admission of people with a primary psychiatric diagnosis if such admission would jeopardize federal reimbursement |
| § 17b-347            | Termination of Medicaid provider agreements by nursing home facilities and the determination of these facilities' self-pay patient rates                                                                                                                                             |
| § 17b-372            | Small house nursing home pilot program                                                                                                                                                                                                                                               |
| § 19a-522(a)         | DPH regulations regarding the health, safety, and welfare of nursing home facility residents, including medical staff and personnel qualifications; nursing and dietary services; classification of violations; patients' immunizations; and general operational conditions          |
| § 19a-536            | Requires nursing home administrators to allow patients and their relatives and legal representatives to access facility inspection reports                                                                                                                                           |
| § 19a-539            | Disclosures of additional costs to patients and enforcement of surety contracts related to Medicaid long-term care applicants                                                                                                                                                        |
| §§ 19a-551 & 19a-552 | Management of nursing home facility patient funds and associated penalties for non-compliance                                                                                                                                                                                        |
| § 19a-553            | Requires nursing home administrators to notify law enforcement of any crimes committed by patients and establishes penalties for failure to do so                                                                                                                                    |

The act applies to RCHs the following statutory provisions that currently apply only to nursing homes:

1. requiring nursing home licensees to immediately notify the DPH commissioner of any criminal convictions or disciplinary actions involving owners and specified employees (CGS § 19a-491b) and
2. excluding nursing homes from the definition of "plenary guardian" in the statutes regarding the appointment and authority of guardians for individuals with intellectual disabilities (CGS § 45a-669).

The act also adds to the nursing home patients' bill of rights, the right of each RCH resident to be transferred or discharged from the home in accordance with state law. The law already provides this right to nursing home and chronic disease hospital patients.

## § 61 — NURSING HOME FACILITY AND RCH CITATIONS

The act requires the DPH commissioner to issue a citation against any nursing home facility or RCH that violates the state's long-term care criminal history and patient abuse background search program. The law already requires the commissioner to do this for facilities and homes that violate a statute or regulation relating to their licensure, operation, and maintenance.

By law, there are two types of citations, which are based on the nature of the violation. Class A violations are those that present an immediate danger of death or serious harm to a nursing home facility or RCH resident, and carry a penalty of up to \$5,000. Class B violations present a probability of death or serious harm to a resident in the reasonably foreseeable future, and carry a penalty of up to \$3,000.

## § 62 — APPLICATIONS TO CONSTRUCT PUBLIC WATER SUPPLY DAMS

The act requires a person who applies to the Department of Energy and Environmental Protection commissioner for a permit to construct a dam for a public drinking water supply to notify the DPH commissioner of the application.

## § 63 — DISCLOSURE OF PATIENT INFORMATION BY PHYSICIANS AND SURGEONS

The act (1) adds a reference to DPH-licensed health care providers erroneously deleted in 1996 from the statute pertaining to the disclosure of patient information by DPH-licensed physicians and surgeons and (2) makes related technical changes.

By law, physicians and surgeons cannot disclose any patient information or communications without the consent of the patient or his or her authorized representative except:

1. according to statute, regulation, or court rule;
2. to a physician's or surgeon's attorney or liability insurer for use in the provider's defense of an actual or reasonably likely malpractice claim;
3. to DPH as part of an investigation or complaint, if the records are related; or
4. if the physician or surgeon knows, or has a good faith suspicion, that a child, senior, or person with a disability is being abused.

The act specifies that these disclosure requirements apply to all DPH-licensed health care providers except for psychologists, psychiatrists, professional counselors, social workers, marital and family therapists, DMHAS-contracted providers, and researchers, each of which has its own statutory disclosure requirements.

## § 64 — HAIRDRESSER AND BARBER SCHOOLS

The act requires any program, school, or entity (i.e., entity) that offers instruction in barbering or hairdressing for remuneration to obtain a certificate of authorization from the Office of Higher Education's (OHE) executive director.

Under the act, each entity approved on or before July 1, 2013 by the Connecticut Examining Board for Barbers, Hairdressers, and Cosmeticians that applies to OHE for initial authorization must pay a \$500 application fee, which must be made payable to the General Fund's private occupational school student protection account.

OHE's executive director must develop a process for prioritizing the authorization of these entities. They must comply with the act's provisions by the earlier of (1) July 1, 2015 or (2) when required by the executive director's authorization process.

Presumably, these entities would be subject to OHE's existing initial and renewal fees for private occupational school authorization certificates (\$2,000 for initial application if not previously authorized by the board, \$200 for a renewal, and \$200 for each initial and renewal branch authorization). Authorizations are renewable annually for the first three years, after which they are renewable for up to five years (CGS §§ 10a-22b(c) and 10a-22d).

The act prohibits an individual or entity from establishing a new barber or hairdressing entity on or after July 1, 2013 without first obtaining a certificate of authorization from OHE's executive director.

Existing law requires an individual or business to apply to OHE for authorization to operate a private occupational school, revise its authorization, and establish branches. Private occupational schools are defined as those that provide instruction in trade, industrial, commercial, service, and other occupations. Although barber and hairdressing schools appear to fall within this statutory definition, in practice they are regulated by DPH, in consultation with the Connecticut Examining Board for Barbers, Hairdressers, and Cosmeticians.

## § 65 — TASK FORCE ON ALZHEIMER'S DISEASE AND DEMENTIA

The act increases, from 23 to 24, the membership of the Task Force on Alzheimer's Disease and Dementia established under SA 13-11 by adding the Department of Developmental Services commissioner or his designee.

Task force members include, among others, the commissioners of social services, public health, emergency services and public protection, aging, labor, and banking.

## §§ 66-68 — NUCLEAR MEDICINE TECHNOLOGISTS

The act (1) establishes a statutory definition of "nuclear medicine technologist," (2) defines the practice of nuclear medicine technology, and (3) makes related technical changes. Under the act, as under existing law, DPH does not license or certify these health care professionals.

### *Definition of Nuclear Medicine Technologist*

The act defines a "nuclear medicine technologist" as a person who holds and maintains current certification in good standing with the (1) Nuclear Medicine Technology Certification Board (NMTCB) or (2) American Registry of Radiologic Technologists (ARRT).

### *Scope of Practice*

Under the act, the practice of nuclear medicine technology includes the use of sealed and unsealed radioactive materials, as well as pharmaceuticals, adjunctive medications, and imaging modalities with or without contrast as part of diagnostic evaluation and therapy. The technologist's responsibilities include patient care, quality control, diagnostic procedures and testing, administration of radiopharmaceutical and adjunctive medications, in vitro diagnostic testing, radionuclide therapy, and radiation therapy.

The act allows a nuclear medicine technologist to perform nuclear medicine procedures under the supervision and direction of a DPH-licensed physician if (1) the physician is satisfied with the technologist's ability and competency; (2) such delegation is consistent with the patient's health and welfare and in keeping with sound medical practice; and (3) such procedures are performed under the physician's oversight, control, and direction.

The act's provisions do not apply to the activities and services of a person enrolled in a nuclear medicine technology educational program if the (1) program is acceptable to the NMTCB or ARRT and (2) activities or services are incidental to the student's course of study.

### *Prohibited Activities*

The act prohibits a nuclear medicine technologist from (1) operating a stand-alone computed tomography imaging system (CT scan), except as provided below or (2) independently performing a nuclear cardiology stress test, except that the technologist can perform the imaging portion of the test and administer adjunct medications and radio pharmaceuticals.



### *Computed Tomography Imaging Systems*

Prior law specified that a radiographer license was not required for a nuclear medicine technologist certified by the International Society for Clinical Densitometry or the ARRT if the technologist was operating a bone densitometry system under a licensed physician's supervision, control, and responsibility.

The act instead specifies that the radiographer licensure statutes do not prohibit a nuclear medicine technologist from fully operating a CT or magnetic resonance imaging (MRI) portion of a hybrid-fusion imaging system, including diagnostic imaging, in conjunction with a (1) positron emission tomography or (2) single-photon emission CT imaging system. The nuclear medicine technologist must (1) have successfully completed the individual certification exam for CT or MRI administered by the ARRT and (2) hold and maintain in good standing CT or MRI certification by the ARRT.

### § 69 — HOSPITAL CORONARY ANGIOPLASTY REPORTS

The act establishes a new reporting requirement for hospitals that obtained a certificate of need from DPH's Office of Health Care Access to provide emergency, but not elective, coronary angioplasty services. From October 1, 2013 to September 30, 2014, these hospitals must report monthly to DPH on the number of people who received an emergency coronary angioplasty and were then discharged to another hospital to receive (1) an elective coronary angioplasty or (2) open-heart surgery.

The DPH commissioner must report, by January 15, 2015 to the Public Health Committee on information received in the hospitals' monthly reports.

### § 70 — MARITAL AND FAMILY THERAPIST LICENSURE

By law, applicants for a marital and family therapist license must, among other things, complete a graduate degree program and a supervised practicum or internship with an accredited (1) college or university or (2) post-graduate clinical training program. Previously, the post-graduate clinical training program had to be approved by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) and recognized by the U.S. Department of Education. This act instead requires that the training program be (1) accredited by COAMFTE and (2) offered by a regionally accredited institution of higher education.

### § 71 — PANDAS/PANS ADVISORY COUNCIL

The act makes a technical change to PA 13-187, which establishes a DPH advisory council on pediatric autoimmune neuropsychiatric disorder associated with streptococcal infections (PANDAS) and pediatric acute neuropsychiatric syndrome (PANS). It substitutes the words "advisory council" for "task force" for consistency and accuracy.

### § 72 — ELECTRONIC PRESCRIPTION DRUG MONITORING PROGRAM

The act amends a provision in PA 13-172 which, among other things, expands the reporting requirements under the Department of Consumer Protection's electronic prescription drug monitoring program. The act exempts from the program's reporting requirements:

1. hospitals, when dispensing controlled substances to inpatients, and
2. institutional pharmacies or pharmacist's drug rooms operated by a DPH-licensed health care institution, when dispensing or administering opioid antagonists directly to a patient to treat a substance use disorder.

PA 13-172 already exempts physicians from having to report dispensing samples of controlled substances to patients.

### § 73 — REGISTRATION OF SWINE GROWERS

The act reenacts a section of law that was repealed in 2012 relating to the registration of swine growers with the Department of Agriculture (DoAg) and the control of swine diseases. It:

1. requires anyone growing swine in one location for use or disposal at a different location to register with the DoAg commissioner;
2. authorizes the commissioner to issue orders and regulations for protecting swine from contagious and infectious diseases;
3. requires the commissioner to immediately investigate swine diseases and issue instructions for quarantines and disinfection of diseased premises;
4. requires most imported swine to be disease-free, as certified by a health official and accompanied by a DoAg permit; and
5. requires swine brought into the state for immediate slaughter to be killed in an approved slaughterhouse under veterinarian inspection.

By law, the penalty for diseased animal violations is a class D misdemeanor, subject to a fine of up to \$500, up to three months' imprisonment, or both (CGS § 22-321).

#### *Importing and Testing Swine*

Under the act, as under the repealed law, swine cannot be imported into Connecticut unless they come from a validated brucellosis-free and pseudorabies-negative herd. Imported swine must come with a permit from the DoAg commissioner and an official health certificate that certifies the swine are free of infectious or contagious disease. Swine that are imported for immediate slaughter on federally inspected premises do not need a health certificate, but the owner of the premises must report to the commissioner weekly the number of such swine imported.

Swine imported for other than immediate slaughter that are over three months old, other than a barrow (i.e., castrated swine), must pass a brucellosis and pseudorabies blood test within 30 days of being imported. The state veterinarian may waive the 30-day blood test for swine imports from (1) a state validated to be brucellosis- and stage V pseudorabies-free, if the swine spent at least 30 days there before importation, or (2) a herd he determines is pathogen free.

#### §§ 74-76 — TECHNICAL CORRECTIONS

The act makes technical corrections in the following public health-related statutes:

1. the rehabilitation services commissioner's authorization to aid in securing certain employment for capable blind or partially blind individuals (CGS § 10-297),
2. minimum temperature standards for residential and commercial buildings (CGS § 19-109), and
3. continuing medical education requirements for DPH-licensed physicians and surgeons (CGS § 20-10b).

#### §§ 77 & 78 — OUTPATIENT CLINICS

The act establishes a statutory definition for "outpatient clinics" (these clinics are defined in DPH regulations) and adds them to the statutory list of health care institutions. In doing so, it extends to these clinics statutory requirements for health care institutions regarding, among other things, workplace safety committees, access to patient records, disclosure of HIV-related information, and smoking prohibitions.

The act defines an "outpatient clinic" as an organization operated by a municipality or corporation, other than a hospital, that provides:

1. ambulatory medical care, including preventive and health promotion services;
2. dental care; or
3. mental health services in conjunction with medical or dental care for the purpose of diagnosing or treating a health condition that does not require the patient's overnight care.

The act requires DPH to license outpatient clinics (it already does this). The commissioner may adopt related regulations and waive any provision of these regulations for outpatient clinics. The act allows the commissioner to implement policies and procedures while in the process of adopting them in regulation, provided she prints notice of intent to adopt the regulations in the *Connecticut Law Journal* within 20 days of implementation. The policies and procedures are valid until final regulations take effect.

#### BACKGROUND

##### *DPH Hospice Regulations (§§ 4 & 5)*

DPH regulates hospices that are considered free-standing or established as a distinct unit within a health care facility (e.g., inpatient hospice facilities). DPH regulations define "hospice" under the broader category of "short-term hospital special hospice." Inpatient hospice facilities must meet a variety of requirements concerning their physical plants, administration, staffing, records, and infection control.

In 2012, DPH amended its hospice regulations, creating a second licensure category called "inpatient hospice facilities." The regulations keep the existing "short-term hospital special hospice" licensure category so that facilities that want to continue to provide hospice services at a hospital level of care may do so. The new "hospice facility" licensure category allows entities to create new facilities under regulations based on Medicare's minimum regulatory requirements for inpatient hospital facilities (42 CFR § 418.110). These requirements are less stringent than DPH's short-term hospital special hospice regulations (Conn. Agencies Reg., §§ 19a-495-5a to 19a-495-6m).

##### *Ocular Agents-T (§§ 12 & 13)*

"Ocular agents-T" are (1) topically administered ophthalmic agents and orally administered antibiotics, antihistamines, and antiviral agents used for treating or alleviating the effects of eye disease or abnormal conditions of the eye or eyelid, excluding the lacrimal drainage system and glands (tears) and structures behind the iris, but including the treatment of iritis and (2) orally administered analgesic agents for alleviating pain caused by these diseases or conditions.

*Related Acts*

PA 13-18 allows DPH to award Biomedical Research Trust Fund grants for biomedical research related to strokes.

**PA 13-217—sSB 466**

*Public Health Committee*

**AN ACT CONCERNING CONTINUING  
EDUCATION COURSES FOR PHYSICIANS**

**SUMMARY:** This act reduces the frequency with which physicians must take mandatory topics for continuing medical education (CME). It also adds behavioral health to the list of mandatory topics, which already includes infectious diseases, risk management, sexual assault, domestic violence, and cultural competency.

Under prior law, physicians had to take at least one contact hour (50 minutes) of CME in each mandatory topic every two years. The act instead requires one contact hour in each such topic during the first renewal period for which CME is required (the second license renewal), and once every six years after that.

The act makes a corresponding change by requiring physicians to retain CME attendance records or certificates of completion for at least six years, rather than three years.

By law, physicians applying for license renewal must have completed at least 50 contact hours of CME during the previous 24 months. Physicians are exempt from CME requirements during their first license renewal.

EFFECTIVE DATE: July 1, 2013

**PA 13-236—sHB 6591**

*Public Health Committee  
Judiciary Committee*

**AN ACT REQUIRING THE EUTHANIZATION  
OF ANY CAT OR DOG TO BE PERFORMED BY  
A LICENSED VETERINARIAN IN CERTAIN  
CIRCUMSTANCES**

**SUMMARY:** With certain exceptions, this act requires that the euthanization of dogs or cats be performed only by licensed veterinarians in a humane manner. The act subjects violators to up to a year in prison, up to a \$1,000 fine, or both.

The act does not prohibit the killing of a cat or dog that is attacking a person or another animal if, under the circumstances, a reasonable person would consider the attack to threaten the life of, or likely cause serious

injury to, the person or animal.

The act also does not apply to the euthanization of:

1. farm animals or livestock;
2. cats or dogs by law enforcement officers in the course of their duties;
3. dogs by hospitals, educational institutions, or laboratories licensed to use living dogs in medical or biological teaching, research, or study, in accordance with the law's requirements for such activities; and
4. animals in facilities subject to regulation by the U.S. Department of Health and Human Services National Institutes of Health Office of Laboratory Animal Welfare.

Presumably, the act also does not apply to the euthanization of dogs or cats by the Connecticut Humane Society. As one of its exceptions, the act refers to an existing provision which, among other things, provides that the euthanization of animals by the Connecticut Humane Society, in accordance with applicable state and federal drug laws, is not deemed to be the practice of veterinary medicine. (Other provisions of existing law allow Connecticut Humane Society agents or officers, even if they are not licensed veterinarians, to humanely destroy animals under certain conditions.)

Under the act, it is a defense to prosecution if a person euthanized a dog or cat to prevent the animal's further suffering from a life-threatening injury or condition.

EFFECTIVE DATE: Upon passage

**PA 13-242—SB 465**

*Public Health Committee  
Appropriations Committee  
Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING NEWBORN  
SCREENING FOR  
ADRENOLEUKODYSTROPHY**

**SUMMARY:** This act requires, once certain conditions are met, all health care institutions caring for newborn infants to test them for adrenoleukodystrophy (ALD), unless, as allowed by law, their parents object on religious grounds. Like existing law that requires these institutions to test infants for cystic fibrosis, severe combined immunodeficiency disease, and critical congenital heart disease, the test for ALD is in addition to the Department of Public Health's (DPH) newborn screening program for genetic and metabolic disorders.

Under the act, health care institutions must begin testing infants for ALD after both of the following occur:

1. (a) a reliable ALD screening method is developed and validated that uses dried blood spots and quality assurance testing methods or (b) the federal Food and Drug Administration approves an ALD test that uses dried blood spots and
2. any reagents necessary for the screening test are available.

EFFECTIVE DATE: October 1, 2013

## BACKGROUND

### *Adrenoleukodystrophy (ALD)*

ALD is a genetic disorder that causes the accumulation of very-long-chain fatty acids in the nervous system, adrenal gland, and testes, which causes a range of neurological, physical, and behavioral symptoms. While females are genetic carriers for the disease, it primarily affects males.

Generally, the disorder appears between ages four and eight, although milder forms can occur in adulthood. Childhood onset results in a long-term coma approximately two years after the development of neurological symptoms. The child can live in this coma for as long as 10 years.

3. receive emergency medical care;
4. register to vote and vote;
5. have their personal information protected and a reasonable expectation of privacy in their personal property; and
6. receive equal treatment by state and municipal agencies.

The act allows each municipality to (1) create a notice entitled “HOMELESS PERSON’S BILL OF RIGHTS” that includes the above rights and (2) post the notice in the usual location for municipal notices.

EFFECTIVE DATE: October 1, 2013

## BACKGROUND

### *Federal Definition of Homelessness*

Under federal law, a homeless person or family (1) has no fixed, regular, adequate nighttime residence; (2) has a primary residence that is not designed for regular accommodation (e.g., a car, abandoned building, or park); (3) resides in a temporary shelter or other facility; or (4) is in danger of immediately losing their housing. The definition also addresses situations involving domestic violence or other life-threatening conditions (42 USC § 11302).

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**PA 13-251—sSB 896**

*Public Health Committee*

*Planning and Development Committee*

*Judiciary Committee*

*Human Services Committee*

## **AN ACT CONCERNING A HOMELESS PERSON’S BILL OF RIGHTS**

**SUMMARY:** This act establishes a bill of rights for the state’s homeless individuals, as defined under federal law (see BACKGROUND). It specifies that these rights are available only to the extent that they are implemented in accordance with state law, rules, and regulations; federal law; and the state and U.S. constitutions.

Under the bill of rights, each homeless person has the right to:

1. move freely in public spaces (e.g., parks, buildings, sidewalks, and public transportation) in the same manner as other people and without harassment or intimidation by law enforcement officers;
2. have equal employment opportunities;

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**PA 13-278—sSB 992 (VETOED)**

*Public Health Committee*

*Judiciary Committee*

## **AN ACT CONCERNING MEMBERS OF A MEDICAL FOUNDATION**

**SUMMARY:** This act expands the list of entities that may be members of a medical foundation to include certain for-profit entities that are parties to a letter of intent, entered into on or before August 1, 2013, with (1) Greater Waterbury Health Network, Inc., (2) Bristol Hospital and Health Care Group, Inc., or (3) another hospital or health system. The act applies despite the existing medical foundations law, which restricts membership in medical foundations to (1) hospitals or health systems organized as nonstock (nonprofit) corporations and (2) medical schools meeting certain criteria (see BACKGROUND).

The act applies to entities that have the following organizational form:

1. stock corporations organized under the state business corporation law or any predecessor statute or

2. foreign stock or nonstock corporations, foreign limited partnerships, or foreign limited liability companies authorized to transact business or conduct affairs under the state business corporation law, nonstock corporation law, uniform limited partnership act, limited liability company law, or any predecessor statutes.

EFFECTIVE DATE: Upon passage

## BACKGROUND

### *Medical Foundations*

Existing law authorizes a hospital, health system, or medical school to organize and become a member of a medical foundation to practice medicine and provide health care services as a medical foundation through employees or agents who are licensed physicians or certain other providers. Medical foundations must be nonprofit entities (CGS § 33-182bb).

Under the medical foundations law, a hospital is a nonstock corporation organized under the current nonstock corporation law or any predecessor statute, or by special act, and licensed as a hospital under state law. A health system is a nonstock corporation organized under the current nonstock corporation law or any predecessor statute, consisting of a parent corporation of one or more hospitals licensed under state law, and affiliated through governance, membership, or some other means. A medical school is a school of allopathic (conventional) medicine leading to the M.D. degree that is (1) accredited by the Liaison Committee on Medical Education and (2) affiliated through governance with or part of a university that is incorporated in Connecticut or established under state law and accredited by the New England Association of Schools and Colleges Commission on Institutions of Higher Education (CGS § 33-182aa).

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### **PA 13-283—SB 1065**

*Public Health Committee*

## **AN ACT CONCERNING LICENSED ALCOHOL AND DRUG COUNSELORS**

**SUMMARY:** This act reinstates a requirement that alcohol and drug counselor licensure applicants complete 360 hours of education approved by the Department of Public Health (DPH) commissioner, including at least 240 hours relating to the knowledge and skill base associated with the practice of such counseling. PA 12-197 had eliminated the requirement.

The act also specifies that the required master's degree for such licensure applicants must be in social work, marriage and family therapy, counseling, psychology, or a related field the commissioner approves that includes at least 18 graduate semester hours in counseling or counseling-related subjects. Under prior law, applicants had to have a master's degree in an unspecified field, and the 18 graduate hours in counseling or related subjects did not have to be part of the master's degree program. (P A 12-197 had removed the requirement that the 18 graduate hours be completed as part of the master's program.)

The act specifies that on and after passage, applicants for an initial license to engage in alcohol and drug counseling must meet the requirements under law and the act. But this does not apply to people licensed under the requirements of PA 12-197 (i.e., those licensed on and after June 15, 2012 (the date the governor signed PA 12-197) and before this act's passage).

By law, to become a licensed alcohol and drug counselor, an applicant must also:

1. complete 300 hours of supervised practical training in such counseling that the commissioner deems acceptable,
2. complete three years of supervised paid work or an unpaid internship that the commissioner deems acceptable that involves working directly with alcohol and drug clients (a master's degree can be substituted for one year of such experience), and
3. pass a DPH-prescribed examination.

EFFECTIVE DATE: Upon passage

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### **PA 13-284—sSB 1067 (VETOED)**

*Public Health Committee*

*Judiciary Committee*

*General Law Committee*

## **AN ACT CONCERNING MEDICAL SPA FACILITIES**

**SUMMARY:** This act sets various requirements for medical spa facilities (i.e., facilities where cosmetic medical procedures are performed). The act requires such facilities to employ or contract with a physician meeting certain criteria as the establishment's medical director. It requires the medical director, or another physician meeting the same criteria and employed by the facility, to perform an initial physical assessment of a person before he or she can undergo a cosmetic medical procedure at the facility.

Under the act, cosmetic medical procedures at a medical spa facility must be performed by a state-licensed physician, physician assistant (PA), advanced practice registered nurse (APRN), or registered nurse (RN), in accordance with applicable statutory authority. The act provides that if a PA, APRN, or RN is performing such a procedure, he or she must be acting under a physician's supervision and control.

Finally, the act requires such facilities to post notice of the medical director's name and specialty, if any, in a conspicuous place accessible to facility customers. This same information must be included in any facility advertisements.

It appears that the act's requirements apply to all facilities where cosmetic medical procedures are performed, including those where other types of procedures are performed (e.g., hospitals).

The act uses the sales tax law's definition of "cosmetic medical procedures" (see BACKGROUND). It also specifies that such procedures include liposuction, laser procedures, intense pulsed light, and injecting cosmetic filling agents and neurotoxins.

EFFECTIVE DATE: October 1, 2013

#### MEDICAL DIRECTOR QUALIFICATIONS

Under the act, a medical spa facility's medical director must:

1. be a Connecticut-licensed physician actively practicing in the state and
2. maintain staff privileges with a hospital or have education or training from a higher education institution or professional organization to perform cosmetic medical procedures and have experience performing such procedures.

Any other physician employed by the facility who performs initial physical assessments of facility patients must also have these qualifications.

#### BACKGROUND

##### *Cosmetic Medical Procedure*

Under the sales tax law, "cosmetic medical procedures" are medical procedures aimed at improving appearance that do not meaningfully promote proper body functions or prevent or treat illness or disease. The statute specifically includes cosmetic surgery, hair transplants, cosmetic injections, cosmetic soft tissue fillers, dermabrasion and chemical peel, laser hair removal, laser skin resurfacing, laser treatment of leg veins, and sclerotherapy.

Reconstructive surgery is exempt from this definition. "Reconstructive surgery" includes surgery performed on abnormal structures caused by or related to congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including

procedures to improve function or give a more normal appearance (CGS § 12-407).

#### **PA 13-287—sSB 1137**

*Public Health Committee*

*Education Committee*

#### **AN ACT CONCERNING THE SCHOOL-BASED HEALTH CENTER ADVISORY COMMITTEE AND A STUDY ON THE PROVISION OF BEHAVIORAL HEALTH SERVICES AT SCHOOL-BASED HEALTH CENTERS**

**SUMMARY:** This act expands, from seven to 17, the membership of the school-based health center (SBHC) advisory committee and adds to its responsibilities. It requires the committee to advise the Department of Public Health (DPH) commissioner on matters relating to (1) minimum standards for providing services in SBHCs to ensure that high quality health care services are provided and (2) statutory and regulatory changes to improve health care through access to SBHCs. Prior law instead required the committee to assist the commissioner in developing recommendations for the latter.

The act also requires the DPH commissioner to study and report to the Public Health Committee by February 1, 2014 on the provision of behavioral health services by SBHCs in the state. She must do this (1) in consultation with the SBHC advisory committee and Department of Children and Families commissioner and (2) only if DPH receives private or federal funds to conduct the study.

EFFECTIVE DATE: October 1, 2013, except that the study provisions take effect upon passage

#### **SBHC ADVISORY COMMITTEE MEMBERSHIP**

As Table 1 shows, the act adds 10 members to the seven-member SBHC advisory committee.

Table 1: New Members Appointed to the SBHC Advisory Committee

| <i>Appointing Authority</i>  | <i>Member</i>                                                            |
|------------------------------|--------------------------------------------------------------------------|
| House speaker                | one family advocate or parent whose child uses SBHC services             |
| Senate president pro tempore | one school nurse                                                         |
| House majority leader        | one representative of an SBHC sponsored by a community health center     |
| Senate majority leader       | one representative of an SBHC sponsored by a nonprofit healthcare agency |
| House minority leader        | one representative of an SBHC sponsored by a school or school system     |
| Senate minority leader       | one representative of an SBHC that does not receive state funds          |

| <i>Appointing Authority</i> | <i>Member</i>                                                                                                            |
|-----------------------------|--------------------------------------------------------------------------------------------------------------------------|
| Governor                    | one representative each of (a) the American Academy of Pediatrics' Connecticut Chapter and (b) a hospital-sponsored SBHC |
| DPH commissioner            | one representative of an SBHC sponsored by a local health department                                                     |
| None                        | the Commission on Children's executive director, or her designee                                                         |

The act retains as members the commissioners, or their designees, of DPH, social services (DSS), mental health and addiction services, and education. It also retains as members three school-based health center providers. But, it (1) requires the Connecticut Association of School-Based Health Centers (CASBHC) board of directors to appoint only two, instead of three, of these members and (2) requires the third member to be the CASBHC executive director. (Neither existing law nor the act specifies how long members serve, when appointments must be made, and who fills any vacancies.)

The act extends, from January 1, 2012 to January 1, 2014, the date by which the committee must begin annually reporting to the Public Health and Education committees on its activities.

It also authorizes DPH, instead of CASBHC, to provide administrative support for the advisory committee.

#### DPH STUDY OF SBHC BEHAVIORAL HEALTH SERVICE PROVISION

By February 1, 2014, the act requires the DPH commissioner to report to the Public Health Committee on its joint study of the provision of behavioral health services at SBHCs. The commissioner must do this only if she receives private or federal funds to conduct the study. The report must include:

1. recommendations for standards concerning the provision of behavioral health services at SBHCs and oversight of such service provision;
2. the estimated cost for all SBHCs in the state to provide the recommended behavioral health services;
3. a description of the behavioral health services currently provided at SBHCs; and
4. recommendations for maximizing reimbursement for such services by private insurance and social service programs, including DSS-administered medical assistance programs.

For the purposes of the study, the act defines an SBHC as a DPH-licensed health clinic that provides health care services to students at school.

#### PA 13-305—HB 6389

##### *Public Health Committee*

### **AN ACT CONCERNING A TASK FORCE ON THE PROVISION OF BEVERAGES AND FOOD IN FUNERAL HOMES, COLON HYDROTHERAPISTS, THE PRACTICE OF PODIATRY AND COUNTERFEIT CONTROLLED SUBSTANCES**

#### **SUMMARY:** This act:

1. allows licensed naturopaths to delegate the provision of colon hydrotherapy services to a colon hydrotherapist, under certain conditions;
2. allows certain licensed podiatrists who are board qualified, rather than board certified, in reconstructive rearfoot ankle surgery to independently perform tibial and fibular osteotomies and advanced ankle surgeries;
3. prohibits anyone from knowingly possessing, buying, selling, trading, or otherwise transferring a counterfeit controlled substance; and
4. creates a task force to study the provision of beverages and prepackaged food at arrangement services in funeral homes.

**EFFECTIVE DATE:** October 1, 2013, except the (1) funeral service task force provisions take effect upon passage and (2) counterfeit controlled substance provisions take effect January 1, 2014.

#### §§ 2-3 — COLON HYDROTHERAPISTS AND NATUROPATHS

The act allows a licensed naturopath to delegate the provision of colon hydrotherapy services to a colon hydrotherapist, under the following conditions:

1. the colon hydrotherapist holds and maintains certification in good standing from the International Association for Colon Hydrotherapy, the National Board for Colon Hydrotherapy, or the Global Professional Association for Colon Therapy, and the naturopathic physician determines that the colon hydrotherapist meets this requirement;
2. the naturopathic physician has evaluated the patient and determined that colon hydrotherapy services are appropriate;
3. the naturopathic physician is satisfied as to the colon hydrotherapist's ability to provide such services to the patient;
4. the delegation is consistent with the patient's health and welfare and in keeping with sound medical practice; and

5. the colon hydrotherapist provides the services under the naturopathic physician's supervision and control.

Under the act, a naturopathic physician who delegates the provision of services to a colon hydrotherapist in this manner must maintain documentation of the hydrotherapist's certification and make the documentation available to the Department of Public Health (DPH) upon request.

Anyone who violates these provisions is subject to a fine of up to \$500, up to five years in prison, or both. Each instance of patient contact or consultation in violation of the act constitutes a separate offense.

The act also provides that DPH can take its full range of disciplinary actions against a licensed naturopath who fails to comply with these requirements.

#### § 4 — PODIATRISTS

Prior law allowed DPH to issue a permit to certain licensed podiatrists to independently perform standard ankle surgery procedures with one exception. If the podiatrist was board qualified, but not board certified, in reconstructive rearfoot ankle surgery, he or she could not perform tibial and fibular osteotomies (surgeries on certain bones in the lower leg) unless certified by the American Board of Podiatric Medicine. The act removes this exception, thus allowing board qualified podiatrists to perform tibial and fibular osteotomies.

The act also allows DPH to issue a permit to a licensed podiatrist to independently perform advanced ankle surgeries if the podiatrist is board qualified, instead of board certified as under prior law, in reconstructive rearfoot ankle surgery by the American Board of Podiatric Surgery.

The act applies to licensed podiatrists who (1) graduated on or after June 1, 2006 from a three-year podiatric residency program accredited by the Council on Podiatric Medical Education at the time of graduation and (2) provide DPH documentation of acceptable training and experience in midfoot, rearfoot, and ankle procedures. Existing law, unchanged by the act, requires podiatrists who graduated before then to be board certified to obtain a permit to perform these procedures.

The act also requires DPH to update its regulations on podiatrist qualifications by July 1, 2015. By law, these regulations must include the number and types of procedures required for an applicant's training or experience to be deemed acceptable for purposes of DPH issuing permits for podiatrists to independently engage in standard or advanced ankle surgery.

#### § 5 — COUNTERFEIT CONTROLLED SUBSTANCES

The act prohibits anyone from knowingly possessing, purchasing, trading, selling, or transferring a controlled substance which, or the container or labeling of which, without authorization, has the trademark, trade name, or other identifying mark, imprint, number, or device of a manufacturer, distributor, or dispenser other than the person who manufactured, distributed or dispensed the substance (i.e., "counterfeit substance"). Under the act, controlled substances are drugs, substances, or immediate precursors in schedules I to V of the Connecticut controlled substance scheduling regulations. The term does not include alcohol, nicotine, or caffeine.

Existing law already prohibits several actions related to counterfeit or misbranded drugs (see BACKGROUND).

#### § 1 — FUNERAL SERVICE TASK FORCE

The act creates a 10-member task force to study the provision of beverages and prepackaged food at arrangement services in funeral homes. The task force must (1) review other states' policies and procedures for serving nonalcoholic beverages and food in funeral homes and (2) analyze and make recommendations on the provision of beverages and catered food at Connecticut funeral homes. Existing DPH regulations prohibit serving food or beverages at funeral homes (Conn. Agencies Reg. § 20-211-28).

The task force members include:

1. five representatives appointed from nominees of the Connecticut Funeral Directors Association, one each appointed by the Senate president pro tempore, House speaker, Senate minority leader, House minority leader, and the governor;
2. two people appointed from nominees of Service Corporation International, Inc. who are Connecticut-licensed funeral directors, one each appointed by the Senate majority leader and House majority leader;
3. the chairperson of the Connecticut Board of Embalmers and Funeral Directors and a board member whom the chairperson designates; and
4. the DPH commissioner or her designee.

Under the act, task force appointments must be made by August 11, 2013. Task force members serve without compensation. The first task force meeting must be held by September 15, 2013. The task force must elect a chairperson from among its members.



By January 1, 2014, the task force must report on its findings and recommendations to the Public Health Committee. The task force terminates on the date that it submits its report or January 1, 2014, whichever is later.

## BACKGROUND

### *Prohibitions Concerning Counterfeit or Misbranded Drugs*

Among other things, the state Uniform Food, Drug, and Cosmetic Act prohibits:

1. selling misbranded drugs in intrastate commerce;
2. forging or counterfeiting any mark, label, or other identification required by state or federal regulations to be on a drug;
3. placing any trademark, trade name, identifying mark, or any likeness thereof, upon another drug or its container, with intent to defraud;
4. selling, dispensing, disposing of, or concealing or keeping any drug with intent to sell, dispense, or dispose, with knowledge that a trademark, trade name, other identifying mark, or any likeness thereof, has been placed on the drug in a prohibited manner; or
5. making, selling, disposing of, or keeping or concealing any printing technology or tool designed to print a trademark, trade name, other identifying mark, or any likeness thereof, upon any drug, with intent to defraud (CGS § 21a-93).

A violation of any of these prohibitions is generally punishable by up to six months in prison, a fine of up to \$500, or both. A subsequent violation or a violation committed with intent to defraud or mislead is punishable by up to one year in prison, a fine of up to \$1,000, or both (CGS § 21a-95).

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**PA 13-306**—sHB 6518  
*Public Health Committee*

### **AN ACT CONCERNING THE STANDARDS OF PROFESSIONAL CONDUCT FOR EMERGENCY MEDICAL SERVICE PERSONNEL AND ESTABLISHING AN EMERGENCY MEDICAL SERVICES PRIMARY AREA TASK FORCE**

**SUMMARY:** This act expands the grounds upon which the Department of Public Health (DPH) commissioner may take disciplinary action against emergency medical technicians (EMTs), advanced EMTs, emergency medical responders, and emergency medical services (EMS) instructors. It generally allows her to take action against them for the same conduct for

which she may already discipline paramedics, such as felony convictions, alcohol or drug abuse, and negligence in professional activities. By law, EMTs, advanced EMTs, emergency medical responders, and EMS instructors must be certified by DPH.

The act creates, within available appropriations, a 15-member Connecticut EMS primary service area task force within DPH. Among other things, the task force must review the process (1) for designating and changing primary service areas and (2) by which municipalities can petition to change or remove a primary service area responder. The act requires the task force to report its recommendations to the Public Health Committee by February 15, 2014. (By law, a “primary service area” is a specific geographic area to which DPH assigns a designated EMS provider for each category of emergency medical response services.)

The act also makes a technical change to reflect that DPH now refers to “emergency medical responders” instead of “medical response technicians.” (Emergency medical responders have less training than EMTs.)

EFFECTIVE DATE: October 1, 2013, except the task force provisions are effective upon passage.

### **DPH DISCIPLINE OF CERTAIN EMS PROFESSIONALS**

The act expands the allowable grounds for DPH to discipline EMTs, advanced EMTs, emergency medical responders, and EMS instructors to include:

1. failure to conform to accepted professional standards;
2. felony conviction;
3. fraud or deceit in obtaining or seeking to reinstate a certificate to practice;
4. fraud or deceit in providing EMS services or education;
5. negligent, incompetent, or wrongful professional conduct;
6. a physical, mental, or emotional illness or disorder resulting in an inability to conform to accepted professional standards;
7. alcohol or substance abuse; and
8. willful falsification of entries in medical records.

The act specifies that disciplinary actions against such professionals, as well as paramedics, for felony convictions must be in accordance with the law on denial of a state credential based on prior conviction. This generally prohibits the state (except for law enforcement agencies) from denying felons permission to engage in state-regulated professions without examining the (1) relationship between the crime and the job or license that the person is being considered for, (2) person’s degree of rehabilitation, and (3) time since conviction or release (CGS § 46a-80).

Existing law allows the DPH commissioner to discipline EMS professionals (including EMTs, advanced EMTs, emergency medical responders, and EMS instructors) who fail to maintain standards or violate applicable EMS regulations (CGS § 19a-180(b)). Existing DPH regulations allow the commissioner to take specified disciplinary actions against EMS providers she determines substantially failed to comply with the EMS law or regulations or failed to maintain professional standards (Conn. Agency Regs. § 19a-179-15(a)).

By law, DPH can take the following disciplinary actions:

1. suspending or revoking the person's certification,
2. issuing a letter of reprimand to or censuring the person,
3. placing him or her on probation,
4. assessing a civil penalty of up to \$ 25,000, or
5. taking summary action against the certification if the person has been found guilty of a state or federal felony or is subject to disciplinary action in another jurisdiction (CGS § 19a-17).

The act extends DPH's (1) authority to petition the Hartford Superior Court to enforce disciplinary orders or actions to those brought against EMTs, advanced EMTs, emergency medical responders, and EMS instructors and (2) obligation to give the person notice and an opportunity for a hearing.

The act allows the commissioner to order a certificate holder to undergo a reasonable physical or mental examination if his or her physical or mental capacity to practice safely is under investigation.

#### CONNECTICUT EMS PRIMARY SERVICE AREA TASK FORCE

The act creates, within available appropriations, a task force within DPH to review:

1. the current process for designating and changing primary service areas;
2. local primary service area contract and applicable subcontract language and EMS plans, as they vary among municipalities and pertain to performance and oversight measures;
3. methods to designate EMS providers used by other states with similar populations, geography, and EMS systems as Connecticut; and
4. the process for municipalities to petition to change or remove a primary service area responder.

The task force consists of 15 members: the DPH commissioner or her designee, and 14 others who must be appointed within 30 days after July 12, 2013. The appointments are as follows in Table 1.

Table 1: Appointed Task Force Members

| <i>Appointing Authority</i>                 | <i>Member(s)</i>                                                                                                                                                                                                                                                                                     |
|---------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DPH commissioner                            | Five appointments, including representatives of: <ol style="list-style-type: none"> <li>1. a municipal EMS provider</li> <li>2. a for-profit ambulance service</li> <li>3. the Connecticut Hospital Association</li> <li>4. a nonprofit EMS provider</li> <li>5. DPH's EMS advisory board</li> </ol> |
| House speaker                               | Two appointments, including: <ol style="list-style-type: none"> <li>1. a municipal chief elected official or administrator</li> <li>2. a representative of a municipal public safety board, public safety agency, or municipal legislative body</li> </ol>                                           |
| Senate president pro tempore                | Two appointments, including: <ol style="list-style-type: none"> <li>1. a municipal chief elected official or administrator</li> <li>2. a representative of an EMS provider that primarily provides fire services</li> </ol>                                                                          |
| House majority leader                       | A fire chief or representative of a fire department that provides emergency medical services                                                                                                                                                                                                         |
| Senate majority leader                      | A fire chief or representative of a fire department that provides emergency medical services                                                                                                                                                                                                         |
| House minority leader                       | A representative of a nonprofit EMS provider                                                                                                                                                                                                                                                         |
| Senate minority leader                      | A municipal chief elected official or administrator                                                                                                                                                                                                                                                  |
| House and Senate minority leaders (jointly) | A representative of the Association of Connecticut Ambulance Providers                                                                                                                                                                                                                               |

The act requires appointing authorities to ensure that each appointed member associated with a municipality or municipal entity represents a different municipality.

The task force has two co-chairs: (1) the DPH commissioner or her designee and (2) one the task force elects from among its members. The DPH commissioner or her designee must schedule the first task force meeting. A majority of the members constitutes a quorum, and a majority vote of a quorum is needed for any official task force action.

The act provides that council members are not paid for their service, except for reimbursement for necessary expenses incurred in performing their duties.

DPH's administrative staff must serve as the task force's administrative staff.

Under the act, the task force must submit its report by February 15, 2014 to the Public Health Committee. (Another provision specifies that it must submit the report on that date.) The task force terminates on the date it submits its report. The report must include information on the task force's activities and its recommendations on:

1. the process for designating and changing a primary service area;
  2. improvements to local primary service area contract and applicable subcontract language and EMS plans, including provisions relating to performance measures and municipal oversight of primary service area responders;
  3. a process for expanding or enhancing EMS offered in local primary service areas;
  4. a mechanism for reporting adverse events to DPH and for the department to respond; and
  5. an outreach plan to educate municipalities on their rights and duties as holders of contracts and subcontracts for primary service area responders.
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PA 13-22—HB 5117

*Public Safety and Security Committee  
Judiciary Committee***AN ACT CONCERNING INCREASED  
PENALTIES FOR FAILING TO STOP FOR  
SCHOOL CROSSING GUARDS**

**SUMMARY:** This act sets the fine for a motor vehicle operator's first-time failure to stop for a school crossing guard at \$450, instead of \$100 to \$500. In doing so, it increases the minimum and decreases the maximum fines for this violation. By law, unchanged by the act, the penalty for a subsequent violation is a fine of \$500 to \$1,000, imprisonment for up to 30 days, or both.

Under the act, if an on-duty school crossing guard observes a motorist violating the law and files a written report with police, the officer may issue a written warning or summons to the vehicle owner. The report must specify the (1) vehicle color, type, and license plate number and (2) date, approximate time, and location of the violation.

By law, when an on-duty school crossing guard on a highway or private road directs a motor vehicle operator to stop, the operator must stop at least 10 feet from the guard and wait for the guard's direction to continue.

EFFECTIVE DATE: October 1, 2013

PA 13-24—HB 6007

*Public Safety and Security Committee***AN ACT CONCERNING "BLUE ALERTS"**

**SUMMARY:** This act requires the Department of Emergency Services and Public Protection (DESPP) to establish an emergency alert system to help law enforcement agencies (1) apprehend anyone suspected of killing or seriously injuring a peace officer or (2) locate a missing peace officer. (The system is commonly known as "Blue Alert"—see BACKGROUND.)

DESPP must develop and implement policies and procedures for operating and administering the system. These include procedures governing requests by law enforcement agencies to activate the system and guidelines to ensure that the dissemination of information does not (1) compromise the investigation of the offense or disappearance or (2) violate the privacy of the peace officer who is the subject of the alert or the officer's next-of-kin.

The act also specifies when DESPP may activate the system.

EFFECTIVE DATE: October 1, 2013

**BLUE ALERT ACTIVATION**

DESPP may activate the Blue Alert system only if it determines, after consulting with the law enforcement agency requesting activation, that:

1. a peace officer (a) was assaulted and killed or seriously injured, or was assaulted with a deadly weapon, by a suspect who has not been apprehended and poses an imminent threat to the public or other peace officers or (b) is missing while performing his or her duties under circumstances warranting concern for his or her safety;
2. sufficient descriptive information is available to disseminate to the public about the (a) suspect or his or her vehicle or other means of escape or (b) circumstances of the peace officer's disappearance; and
3. disseminating the information could help apprehend the suspect, locate the missing officer, or avoid injury to another person.

**BACKGROUND***Peace Officers*

By law "peace officers" are state or local police officers, Division of Criminal Justice inspectors, state marshals exercising statutory authority, judicial marshals performing their duties, conservation officers or special conservation officers, constables who perform criminal law enforcement duties, appointed special policemen, adult probation officers, Department of Correction officials authorized to make arrests in a correctional institution or facility, investigators in the State Treasurer's Office, and federal narcotics agents (CGS § 53a-3).

*Deadly Weapon*

A "deadly weapon" is a weapon, whether loaded or unloaded, from which a shot may be discharged, or a switchblade knife, gravity knife, billy, blackjack, bludgeon, or metal knuckles (CGS § 53a-3).

*Blue Alerts*

Blue Alerts are similar to AMBER Alerts, but have a different purpose. Instead of being used to alert the public about missing or endangered children, Blue Alerts are issued when a law enforcement officer has been killed, seriously injured, or missing and a suspect, considered an imminent threat, is at large. Blue Alerts notify the public of the possible danger to the officer and solicit its assistance in locating him or her and apprehending the suspect.

**PA 13-32**—sSB 1073

*Public Safety and Security Committee*

**AN ACT CONCERNING MINOR AND  
TECHNICAL CHANGES TO PUBLIC SAFETY  
STATUTES**

**SUMMARY:** This act makes technical changes in various public safety-related statutes, including statutes pertaining to explosives, criminal history record search fees, the Enhanced 9-1-1 program, and the criminal history and patient abuse background search program. It also deletes an obsolete reference to the Bureau of State Fire Marshal and Safety Services.

EFFECTIVE DATE: July 1, 2013

**PA 13-43**—HB 6453

*Public Safety and Security Committee  
Environment Committee*

**AN ACT CONCERNING FOAMED-IN-PLACE  
INSULATING MATERIAL**

**SUMMARY:** The law bans the installation of urea-formaldehyde foamed-in-place insulation (UFFI), except for urethane foam insulation and styrene foam insulation, in any building or structure.

This act narrows the definition of UFFI and extends the ban on its installation to sales as well.

The act also bans the sale and installation of all other foamed-in-place insulating material, unless the manufacturer or supplier certifies to the state building inspector that the material complies with the act's specifications. The act retains the exemption for urethane and styrene foam insulation.

The act extends the penalty for the unlawful installation of UFFI to its sale and the sale and installation of other foamed-in-place insulation. A first violation is punishable by a fine of up to \$500 and a subsequent violation by a fine of up to \$1,000.

EFFECTIVE DATE: Upon passage

**UFFI**

Prior law defined "UFFI" (also referred to as formaldehyde-based insulation) as cellular plastic thermal material, irrespective of how generated, containing chemical formaldehyde, formaldehyde polymers or derivatives, or other chemicals that can release formaldehyde.

The act narrows the definition of UFFI by excluding references to formaldehyde polymers and derivatives and formaldehyde releasing chemicals. It also defines the material by the method used to generate it. Under the act, "UFFI insulation material" means a

cellular plastic insulation material generated in a continuous stream by mixing a urea-formaldehyde-based resin, air, and a foaming agent.

As under prior law, the act's definition does not include urethane foam insulation or styrene foam insulation.

**OTHER FOAMED-IN-PLACE INSULATION**

The act bans the sale or installation of any foamed-in-place insulating material, except urethane or styrene foam insulation, unless the manufacturer or supplier certifies to the state building inspector that the material complies with the act's specifications.

The certification must contain:

1. the manufacturer's name;
2. a description of the type of insulating material being certified in sufficient detail to permit its identification, such as information sheets, brochures, a sample product label, or similar information;
3. a statement that the insulating material is not a UFFI material; and
4. verification that the insulating material either (a) has undergone small-scale formaldehyde emissions testing and evaluation in accordance with, and meets the requirements of, the most current version of the Standard Method or (b) meets the requirements of one of several specified methods, provided all samples are prepared, sprayed, packaged, and shipped in accordance with the most current version of ASTM standard D7859.

If the Standard Method certification is used, the manufacturer or supplier must verify that:

1. all samples are prepared, sprayed, packaged, and shipped to an analytical laboratory in accordance with the most current version of ASTM standard D7859;
2. the laboratory has ISO/IEC standard 17025 accreditation and can perform the testing and evaluation; and
3. the formaldehyde emissions testing and evaluation include indoor air quality modeling for thermal insulation used in ceilings and walls in a standard school classroom as specified in Table 4.3 of the most current version of the Standard Method.

Under the act, the "Standard Method" means the "Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions from Indoor Sources Using Environmental Chambers Version 1.1," issued in 2010 by the California Department of Public Health.

If the ASTM verification is used, the insulating material must meet one of the following standards:

1. Scientific Certification Systems Indoor Advantage + Formaldehyde Free Certification Requirements,
2. GREENGUARD Environmental Institute's Formaldehyde-free Verification Requirements,
3. CAN/ULC-S774-09 Standard Laboratory Guide for the Determination of Volatile Organic Compound Emissions from Polyurethane Foam, or
4. any other test or documentation acceptable to the state building inspector that documents the emission or release of formaldehyde within cured insulating material.

Under the act, "ASTM standard D7859" means "ASTM D7859, Standard Practice for Spraying, Sampling, Packaging and Test Specimen Preparation of Spray Polyurethane Foam (SPF) for Testing of Emissions Using Environmental Chambers," published by ASTM International.

The certification must also contain a description of the quality assurance program used by the manufacturer or supplier, including the manufacturer's or supplier's training program for installers of the insulating material.

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**PA 13-80—SB 898**

*Public Safety and Security Committee  
Human Services Committee*

**AN ACT CONCERNING CHANGES TO CERTAIN STATUTES AFFECTING THE DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION**

**SUMMARY:** This act:

1. shortens the deadline by which the Department of Children and Families (DCF) must ask the State Police to conduct fingerprint-based state and national criminal history record checks on anyone living in a home in which DCF places a child on an emergency basis;
2. establishes a two-year deadline by which a person must apply for a security guard license after completing the required eight-hour licensure training; and
3. starting January 1, 2014, requires local police departments to submit certain fingerprints electronically to the State Police Bureau of Identification (SPBI) if they have the technology to take fingerprints electronically.

**EFFECTIVE DATE:** October 1, 2013, except that the requirement to submit fingerprints electronically is effective July 1, 2013.

**EMERGENCY PLACEMENTS**

By law, DCF may ask a criminal justice agency to perform an instant federal name-based criminal history record check on residents of any home in which it places a child as a result of the sudden unavailability of the child's primary caretaker. This includes residents of private homes of the child's neighbors, friends, or relatives.

Under prior law, within 15 calendar days after the date the name-based search was performed, DCF had to ask the SPBI to perform fingerprint-based state and national criminal history record checks on the residents. The act shortens the deadline to five calendar days.

**SECURITY GUARD LICENSE**

By law, people seeking a security guard license must complete at least eight hours of training approved by the Department of Emergency Services and Public Protection in basic first aid, search and seizure laws and regulations, use of force, and basic criminal justice and public safety issues. The act allows someone to submit a license application only within two years of successfully completing this training.

**FINGERPRINTING**

Starting January 1, 2014, the act requires local police departments to submit fingerprints of arrested persons electronically to the SPBI if they can take fingerprints electronically. The act applies to fingerprints of people (1) age 16 or older arrested for crimes involving moral turpitude or (2) requesting a criminal history records check required by any provision of the statutes.

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**PA 13-93—HB 5278**

*Public Safety and Security Committee  
Transportation Committee*

**AN ACT AUTHORIZING FIREFIGHTERS TO CONDUCT CHARITABLE FUNDRAISING BOOT DRIVES ON STATE HIGHWAYS**

**SUMMARY:** This act requires the Office of the State Traffic Administration (formerly the State Traffic Commission), when asked by a municipality's traffic authority, to issue special event permits allowing the municipality's fire department members to collect donations for charity on a state highway, other than a limited access highway. The permits for these charitable fundraisers (also known as boot drives) are valid for one day only.

The act limits the (1) location of boot drives to intersections controlled by a traffic control signal or stop sign where the posted speed limit is 30 miles per hour or less and (2) number of permits issued to an authority to two per year for any fire company. It specifies that the permit is an agreement by the municipality to indemnify and hold harmless the state against any financial loss and expense arising out of any claim, demand, suit, or judgment resulting from or related to the issuance of the permit or collection of donations.

EFFECTIVE DATE: October 1, 2013

## BACKGROUND

### *Office of the State Traffic Administration*

This office has jurisdiction over state highways, including authority to adopt regulations governing their use (CGS § 14-298).

## PA 13-94—SB 825

*Public Safety and Security Committee*

## AN ACT CONCERNING PROFESSIONAL BONDSMEN, SURETY BAIL BOND AGENTS AND BAIL ENFORCEMENT AGENTS

**SUMMARY:** This act makes changes in the laws governing professional bondsmen, bail enforcement agents, and surety bail bond agents. It:

1. requires professional bondsmen and bail enforcement agents to be at least age 21 and have a high school diploma or equivalent education;
2. allows the Department of Emergency Services and Public Protection (DESPP) commissioner to suspend or revoke the license of a bail enforcement agent or professional bondsman under a restraining or protective order for using or attempting or threatening to use force against someone;
3. requires annual firearms refresher training for professional bondsmen, bail bond agents, and bail enforcement agents issued a DESPP special firearms permit to carry firearms on the job; and
4. requires (a) DESPP to approve bail enforcement agent badges and (b) an agent to surrender the badge if his or her license is revoked, suspended, or not renewed.

The act also requires DESPP approval to teach a criminal justice course for bail enforcement agents or firearms safety course for professional bondsmen, bail enforcement agents, or surety bail bond agents. The

approval costs \$50 and is valid for two years. Teaching without approval is a violation subject to a \$75 fine per day.

Finally, the act makes technical changes.

EFFECTIVE DATE: October 1, 2013

## PROFESSIONAL BONDSMEN AND BAIL ENFORCEMENT AGENTS

### *Qualifications for Licensure*

By law, professional bondsmen and bail enforcement agents must be licensed by DESPP. A professional bondsman is someone in the business of providing bail in five or more criminal cases in a year, whether for compensation or free (CGS § 29-144). He or she puts up personal assets as bond security. A bail enforcement agent is someone engaged in the business of taking or attempting to take into custody people on bond who fail to appear in court and for whom a rearrest warrant or a *capias* has been issued (CGS § 29-152e).

The act adds age and education to the licensure qualifications for professional bondsmen and bail enforcement agents. It requires applicants for a license to (1) be at least age 21 and have a high school diploma or equivalent education and (2) submit proof of such when they apply for a license.

Under existing law, a person cannot be licensed as a professional bondsman or bail enforcement agent if he or she has been convicted of a felony or is engaged in law enforcement or vested with police powers. Also ineligible for licensure as a bail enforcement agent is anyone who has been convicted of any of the following misdemeanors:

1. criminally negligent homicide;
2. 3<sup>rd</sup> degree assault;
3. 3<sup>rd</sup> degree assault of a blind, elderly, disabled, pregnant, or intellectually disabled person;
4. 2<sup>nd</sup> degree threatening;
5. 1<sup>st</sup> degree reckless endangerment;
6. 2<sup>nd</sup> degree unlawful restraint;
7. 2<sup>nd</sup> degree failure to appear;
8. 1<sup>st</sup> or 2<sup>nd</sup> degree riot;
9. inciting to riot;
10. 2<sup>nd</sup> degree stalking; or
11. a first offense involving possession of certain controlled substances or one-half ounce or more but less than four ounces of marijuana.

### *Grounds for License Suspension and Revocation*

The act expands the grounds on which the commissioner may suspend or revoke a professional bondsman's license or suspend, revoke, or refuse to renew a bail enforcement agent's license. It allows suspension or revocation if a licensee is subject to a

restraining or protective order for using or attempting or threatening to use physical force against someone.

By law, the commissioner may already revoke or suspend the license of a professional bondsman (1) who was convicted of a felony, (2) who engaged in any unlawful activity affecting his or her fitness to stay in business, or (3) whose financial responsibility has been substantially impaired.

Also, he may already revoke, suspend, or refuse to renew the license of a bail enforcement agent who he finds unsuitable or who:

1. violated the laws or regulations governing bail enforcement agents;
2. practiced fraud, deceit, or misrepresentation;
3. made a material misstatement in a license or renewal application;
4. demonstrated incompetence or untrustworthiness in conducting business; or
5. has been convicted of a felony, any of the misdemeanors specified above, or another crime affecting his or her honesty, integrity, or moral fitness.

By law, the suspension, revocation, or refusal to renew a bail enforcement agent's license constitutes grounds for the revocation of the person's special permit to carry firearms on, or going to or from, his or her job.

#### ANNUAL FIREARM REFRESHER TRAINING REQUIRED

By law, professional bondsmen, surety bail bond agents, and bail enforcement agents must obtain a special DESPP permit if they wish to carry firearms on, or while travelling to or from, their jobs. This is in addition to the gun permit required to carry handguns in the state. The act conforms the law to practice by stipulating that DESPP cannot issue the special permit before it has issued the standard gun permit.

By law, the special permit (as is the standard gun permit) is valid for five years. The act requires the licensee to complete an annual firearms safety refresher course approved by the commissioner as a condition of renewing the special permit.

A surety bail bond agent is anyone approved by the insurance commissioner and appointed by an insurer by power of attorney to execute or countersign bail bonds for the insurer in connection with judicial proceedings (CGS § 38a-660).

#### BAIL ENFORCEMENT AGENT BADGE APPROVAL AND DISPLAY

The act prohibits a bail enforcement agent from wearing, carrying, or displaying a badge indicating that he or she is a bail enforcement agent or performs the duties of such an agent, unless DESPP approves the

badge. If the commissioner suspends, revokes, or refuses to renew the individual's license, the agent must surrender the badge when surrendering the license. A violation is an infraction.

#### CRIMINAL JUSTICE INSTRUCTOR APPROVAL

##### *Application for Approval as Instructor*

By law, (1) bail enforcement agents must successfully complete a criminal justice course of at least 20 hours in the five years before they apply for a license and (2) bail bondsmen, bail enforcement agents, and surety bail bond agents carrying firearms on the job must complete training in firearm safety and get the special DESPP gun permit (CGS §§ 29-152f & 152m). Both courses must be approved by the DESPP commissioner.

Beginning October 1, 2013, the act requires the commissioner to approve course instructors as well. For a course approved by the commissioner on or before October 1, 2013, the act sets April 1, 2014 as the deadline for applying for approval.

The penalty for teaching without the commissioner's approval is a \$75 fine. Each violation is a separate offense, and in the case of a continuing violation, each day is deemed a separate offense.

Anyone seeking approval as an instructor must complete, under oath, a DESPP application. The application must include:

1. the applicant's name, address, birth date, and birth place; employment during the five years preceding the application; and education or training in criminal justice or firearms safety and use, as applicable;
2. information on any convictions; and
3. any other information the commissioner may require by regulation to properly investigate the applicant's character, competence, and integrity.

The commissioner may approve applicants he deems suitable and who meet the act's requirements. He may not approve anyone who has (1) had a license as a professional bondsman, surety bail bond agent, or bail enforcement agent denied, revoked, or suspended or (2) ever been convicted of a felony or any of the specified misdemeanors that bar a person from being licensed as a bail enforcement agent.

The approval is valid for up to two years and costs \$50.

##### *Suspension of Course Instructor Approval*

Under the act, the commissioner may suspend, revoke, or refuse to renew an instructor's approval, after notice and hearing opportunity, if the person:



1. violated the act's provisions or regulations governing instructors;
2. practiced fraud, deceit, or misrepresentation;
3. made a material misstatement in the application for or renewal of approval;
4. was an incompetent or untrustworthy teacher;
5. has been convicted of any (a) felony, (b) misdemeanor crime that would have made him or her ineligible for approval, or (c) other crime affecting his or her honesty, integrity, or moral fitness; or
6. is otherwise unsuitable.

Aggrieved parties may appeal the commissioner's order to Hartford Superior Court.

#### *Renewal of Approvals*

The act requires an instructor seeking to renew approval to complete a DESPP form and include any information DESPP requires to determine his or her suitability to continue as an instructor. The renewal fee is \$50.

#### *Address Changes*

The act requires an instructor who changes his or her address to inform DESPP of both the new and former addresses within two business days after the change.

#### *Implementing Regulations*

The act allows the commissioner to adopt regulations implementing the provisions governing criminal justice instructors and annual firearm refresher training for professional bondsmen, surety bail bond agents, and bail enforcement agents.

By law, he must already adopt regulations for the approval of schools, institutions, and organizations, including course content, number of hours, and requirements for instructors for firearm safety and use training courses.

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#### **PA 13-145—HB 6523**

*Public Safety and Security Committee*

#### **AN ACT CONCERNING THE AUTHORITY OF FIRE CHIEFS AT CERTAIN STATE FACILITIES**

**SUMMARY:** This act gives the UConn and Southbury Training School fire chiefs, or anyone serving as fire officer-in-charge for these entities, the same authority as their municipal counterparts when responding to a fire, service call, or other emergency in their jurisdiction. The UConn fire chief oversees both the UConn Storrs

campus and UConn Health Center.

In doing so, the act requires these state facility fire officials to:

1. control and direct emergency activities at the scene;
2. order people to leave any building or place near such fire, service call, or emergency to protect them from injury;
3. temporarily block any public highway, street, or private right-of way while at the scene;
4. enter any building where a fire is in progress or nearby, or where there is reasonable cause to believe a fire is in progress, to extinguish the fire or prevent it from spreading;
5. generally inspect all buildings (except inside a private dwelling), structures, or other places within their jurisdictions, to prevent fires;
6. order disengagement or decoupling of certain vehicles (e.g., trains) to extinguish a fire or prevent its spread; and
7. take command of any industrial fire brigade or fire chief when such firefighters have been called to a fire scene (CGS § 7-313e).

The act also makes a technical change.

EFFECTIVE DATE: October 1, 2013

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#### **PA 13-146—sHB 6524**

*Public Safety and Security Committee*

#### **AN ACT CONCERNING THE MEMBERSHIP OF THE CODES AND STANDARDS COMMITTEE**

**SUMMARY:** This act expands the Codes and Standards Committee membership, from 18 to 21, by adding three contractors licensed in the following areas or a member of each contractor's statewide trades labor organization:

1. electrical work;
2. plumbing and piping work; and
3. heating, piping, and cooling work.

EFFECTIVE DATE: October 1, 2013

#### **BACKGROUND**

*Codes and Standards Committee*

The committee is within the Department of Construction Services (DCS), and its members are appointed by the DCS commissioner. (PA 13-247 eliminates DCS and transfers its functions to the Department of Administrative Services, effective July 1, 2013.) The committee works with the state building inspector and state fire marshal to enforce the state building and fire safety and fire prevention codes (CGS § 29-251). Each committee member, other than the

public members, must have at least 10 years practical experience in his or her profession or business. The members include architects, professional engineers, construction superintendents, building officials, and local fire marshals.

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**PA 13-153—HB 6596**

*Public Safety and Security Committee  
Planning and Development Committee*

**AN ACT CONCERNING POLICE OFFICERS  
AND FIREFIGHTERS**

**SUMMARY:** Prior law prohibited municipal police and firefighters covered under state (Connecticut Municipal Employees' Retirement System) or local retirement systems from participating in the Social Security system. This act removes the prohibition for police and fire service performed on or after August 16, 1994.

It allows these employees and their municipal employers to begin a process, which includes a federally required referendum, leading to their participation in Social Security. Under the act, a municipality can request a referendum for police and firefighters with service on or after August 16, 1994 to begin the statutory steps for joining the Social Security system (see BACKGROUND).

EFFECTIVE DATE: Upon passage

**BACKGROUND**

*Social Security Act (SSA) and Insurance Coverage for  
State and Municipal Employees*

The SSA (§ 18) provides for voluntary agreements between the social security commissioner and the state to extend Social Security insurance coverage to services performed by state and municipal employees. State law implements the procedures for such agreements (CGS §§ 7-452 to 459). The SSA (§ 418(d)(5)(A)) initially prohibited the extension of the Social Security insurance system "to service in any policeman's or fireman's position." It was amended in 1994 to allow extensions for service performed by employees in policeman's or fireman's position covered by a retirement system in effect on or after August 1, 1956, but only upon compliance with referendum requirements (§ 418l).

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**PA 13-160—sSB 1003**

*Public Safety and Security Committee  
General Law Committee*

**AN ACT CONCERNING SECONDHAND  
DEALERS**

**SUMMARY:** This act exempts dealers of used (1) clothing, (2) children's products, and (3) sporting equipment from secondhand dealer requirements. It applies to those primarily in the business of buying and selling clothing, children's products, or sporting equipment, from, or to, someone other than a wholesaler. The act does not apply to children's products regulated by the federal Food and Drug Administration.

By law, secondhand dealers are required to, among other things:

1. be licensed by law enforcement;
2. identify sellers before making purchases;
3. maintain a recordkeeping system, including photographing certain items;
4. accept only certain types of payment;
5. sell only to adults, unless a minor buyer is accompanied by a parent or guardian; and
6. submit weekly reports to the licensing authority.

EFFECTIVE DATE: October 1, 2013

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**PA 13-161—sHB 5113**

*Public Safety and Security Committee  
Appropriations Committee*

**AN ACT CONCERNING POOL SAFETY AT  
PUBLIC SCHOOLS**

**SUMMARY:** This act establishes and phases in, beginning with the July 1, 2013 school year, statewide safety standards for public school swimming pools being used for physical education classes, interscholastic athletics, or extracurricular activities (i.e., student aquatic activities). The act applies to any pool a school board approves for these activities.

When any of the above aquatic activities are taking place at a school pool, the act requires a qualified person to be present to monitor the pool for distressed swimmers and help them when necessary. This person must be in addition to the one conducting the activity, except for extracurricular activities being conducted in any school year starting July 1, 2014.

By July 1, 2014, the act requires all school boards offering student aquatic activities at a school pool to adopt a pool safety plan ensuring compliance with the act.

EFFECTIVE DATE: July 1, 2013

### POOL SAFETY STANDARDS FOR SCHOOL YEAR STARTING JULY 1, 2013

For the school year starting July 1, 2013, the act requires that, in addition to the person responsible for conducting any student aquatic activity at a school pool, at least one qualified educator, swimming coach, or lifeguard must be present who is solely responsible for monitoring the pool for distressed swimmers and helping them, when necessary. The act sets qualifications for these individuals (see below).

#### SWIMMING POOL SAFETY PLAN

The act requires local and regional school boards that offer student aquatic activities to (1) adopt, by July 1, 2014, a pool safety plan that ensures compliance with the act and (2) review and update the plan as necessary before the start of each school year. The plan must also include any other provisions deemed necessary and appropriate for ensuring the safety of students using school pools for aquatic activities.

### POOL SAFETY STANDARDS FOR SCHOOL YEAR STARTING JULY 1, 2014

Starting with the July 1, 2014 school year, the act prohibits local or regional school boards from allowing students to participate in any interscholastic athletic activity, or offering any extracurricular activity or physical education course, at a school pool unless certain qualified individuals are present while the activities are taking place. It sets separate requirements for the different activities.

In the case of an interscholastic activity, there must be at least one qualified swimming coach who coaches the participating students and is responsible for implementing the school swimming pool safety plan. Additionally, at least one qualified educator, swimming coach, or lifeguard must be present whose primary responsibility is to monitor the pool for students in distress and provide help when necessary.

In the case of a physical education course, there must be at least (1) one qualified educator who serves as the course instructor and is responsible for implementing the pool safety plan and (2) one other educator, swimming coach, or lifeguard whose primary responsibility is to monitor the pool for distressed swimmers and provide assistance when necessary.

In the case of an extracurricular activity, at least one qualified lifeguard must monitor the pool for distressed swimmers and provide assistance to them when necessary. He or she must be responsible for implementing the pool safety plan.

### QUALIFICATION OF POOL ATTENDANTS

The act requires coaches, educators, and lifeguards participating in school aquatic activities as described above to have specific qualifications.

Under the act, a “qualified swimming coach” is someone who holds a valid coaching permit issued by the State Board of Education (SBE). A “qualified educator” is someone who (1) holds a valid SBE certificate, with an endorsement in physical education; (2) is certified in cardiopulmonary resuscitation (CPR) under state regulations; and (3) has completed a first aid course offered by the American Red Cross, the American Heart Association, the Department of Public Health (DPH), or any health director.

Both the coach and educator must also:

1. be certified as lifeguards by the American Red Cross or another nationally recognized organization that conducts aquatic training programs,
2. complete a safety training course for swim coaches and instructors offered by the American Red Cross or an SBE-approved organization, or
3. be certified as lifeguards for at least five of the previous 10 years and have at least five years’ experience as a swimming coach or an instructor of a physical education course that makes use of a school swimming pool.

#### *Qualified Lifeguard*

The act defines a “qualified lifeguard” as anyone who (1) is age 16 or older; (2) is certified as a lifeguard by the American Red Cross or another nationally recognized organization that conducts aquatic training programs; (3) is certified in CPR under state regulations; and (4) has completed a first aid course offered by the American Red Cross, American Heart Association, DPH, or any health director.

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#### **PA 13-170—HB 6373**

*Public Safety and Security Committee*

*Government Administration and Elections Committee*

### **AN ACT CONCERNING THE POLICING OF INDIAN TRIBAL LAND**

**SUMMARY:** This act authorizes the Department of Emergency Services and Public Protection (DESPP) commissioner, upon the chief state’s attorney’s approval, to enter into separate memoranda of agreement with the Mohegans and Mashantucket Pequot to establish the authority of each tribe’s police department and police officers to exercise law

enforcement powers. It authorizes both officials to jointly revoke an agreement. The officials, in either case, may take the actions notwithstanding a law requiring the legislature to execute and approve compacts between the tribes and state.

The act requires the commissioner, upon entering into an agreement, to submit a copy of it to the top six legislative leaders and Government Administration and Elections and Public Safety and Security committees.

The act subjects a tribal department under such an agreement to the Police Officer Standards and Training (POST) Council's jurisdiction and gives department officers the authority and duties of peace officers. But the departments must be created and governed by such an agreement for these provisions to apply.

EFFECTIVE DATE: Upon passage

## LAW ENFORCEMENT UNIT

The act expands the definition of law enforcement units subject to the POST Council's jurisdiction. Under prior law, a "law enforcement unit" meant any state or municipal agency, organ, or department whose primary functions included enforcing criminal or traffic laws; preserving public order; protecting lives and property; or preventing, detecting, or investigating crime. The act adds any Mashantucket or Mohegan tribal agency, organ, or department created and governed under the act's state-tribal memorandum whose primary functions are as described above.

## PEACE OFFICERS

The act expands the definition of a "peace officer" to include a member of a law enforcement unit created and governed under a state-tribal memorandum (described above) who is certified by the POST Council.

The law designates the following as peace officers: state and local police officers, Division of Criminal Justice inspectors, state marshals exercising statutory powers, judicial marshals performing their duties, conservation or special conservation officers, constables who perform criminal law enforcement duties, appointed special policemen, adult probation officers, Department of Correction officials authorized to make arrests in a correctional institution, investigators in the State Treasurer's Office, and federal narcotics agents.

## BACKGROUND

### *Compact Approval*

The law requires the legislature to approve any compact or compact amendment executed between Connecticut and another state or an Indian tribe before it

can be implemented. Approval must be by a majority vote of each house within specified deadlines; either house can reject (CGS § 3-6c).

### *POST Council*

The council (1) trains, certifies, and establishes minimum qualifications for municipal police officers and others and (2) enforces professional standards for certifying and decertifying them. Among other things, it is authorized to (1) develop accreditation standards for, and accredit, law enforcement units and (2) inspect law enforcement units for compliance with council requirements.

### *Peace Officers*

*Use of Physical Force.* Peace officers are justified in using physical force, when and to the extent they reasonably believe it necessary, to (1) make an arrest or prevent a custodial escape, unless they know that the arrest or custody is unauthorized, or (2) defend themselves or someone else from the use or imminent use of physical force while making or attempting to make an arrest or while preventing or attempting to prevent an escape (CGS § 53a-22(b)).

*Use of Deadly Physical Force.* Peace officers are justified in using deadly physical force when they reasonably believe it is necessary to (1) defend themselves or another person from the use or imminent use of deadly physical force and (2) arrest or prevent the escape from custody of someone they reasonably believe committed or attempted to commit a felony involving the infliction or threatened infliction of serious physical injury, and if, where feasible, they warned of the intent to use deadly physical force (CGS § 53a-22(c)).

*Duty to Retreat.* The law exempts peace officers from the general duty to retreat rather than use reasonable deadly physical force (CGS § 53a-19(b)).

*Resisting Arrest.* The law prohibits the use of physical force to resist an arrest by a reasonably identifiable peace officer, whether the arrest is legal or illegal (CGS § 53a-23).

*Arrest Powers.* Peace officers, when in their town, can arrest, without a warrant, a person (1) apprehended while committing an offense or (2) on the speedy information of others. Outside of their town, they can arrest someone (1) for a felony, without a warrant, at any time or (2) when in immediate pursuit from their town if they could legally arrest the person under their authority (CGS § 54-1f).

**PA 13-190—HB 6009***Public Safety and Security Committee***AN ACT CONCERNING LOCAL TRAINING OF MUNICIPAL POLICE OFFICERS**

**SUMMARY:** This act allows the Police Officer Standards Training Council to (1) develop an interactive electronic computer platform capable of administering training courses and (2) authorize police officers to complete certified review training at a local police department facility by means of the platform. By law, police officers under the council's jurisdiction must complete at least 40 hours of certified review training every three years in order to maintain certification, unless the council grants a one-year extension.

EFFECTIVE DATE: October 1, 2013

**PA 13-192—HB 6375***Public Safety and Security Committee  
Planning and Development Committee  
Judiciary Committee***AN ACT CONCERNING UNIFORM CRIME REPORTS**

**SUMMARY:** This act authorizes the Office of Policy and Management (OPM) to deny eligibility for state and federal law enforcement grants to any municipality whose police department does not comply with the state's uniform crime reporting (UCR) system's reporting requirements (see BACKGROUND).

The law requires the emergency services and public protection (DESPP) commissioner to establish a state UCR program. Under the state program, police departments must submit to the commissioner, at such times as he prescribes, reports on the number and nature of crimes committed within their jurisdictions and other such information as he requires. DESPP sends the data to the Federal Bureau of Investigation (FBI), which compiles and publishes states' data annually in its *Crime in the United States* series.

Under the act, if a department does not submit the required report or submits a report with missing, incomplete, or incorrect information, the commissioner must notify OPM's Criminal Justice Policy and Planning Division and the municipality's chief elected official, and OPM may deny the town eligibility for state or federal law enforcement grants. The notice to the elected official must include a statement of the consequences of noncompliance.

Information is considered missing, incomplete, or incorrect under the act if (1) so designated by the FBI or (2) not submitted within 60 days of the end of the month in which it must be reported.

EFFECTIVE DATE: October 1, 2013

**BACKGROUND***UCR Program*

Under the UCR program, law enforcement agencies nationwide voluntarily provide data on crime within their jurisdictions to the FBI, either through a state UCR program, as is the case in Connecticut, or directly to the FBI's UCR program if the state has no UCR program. Under Connecticut's UCR program, police departments submit crime data to DESPP, which must publish annual reports on the extent, fluctuation, and nature of crime in Connecticut. Nationally, the states' UCR data is used in law enforcement administration, operation, and management, and to indicate fluctuations in crime levels in the United States.

**PA 13-200—HB 6454***Public Safety and Security Committee  
Transportation Committee  
Appropriations Committee***AN ACT CONCERNING FIRE STATION WORK ZONES**

**SUMMARY:** This act allows a municipality to designate fire station work zones and doubles the basic fines for speeding or committing certain other traffic violations in any such conspicuously designated zone where a uniformed firefighter is directing traffic. The municipality may designate a fire station work zone by posting a sign at the (1) beginning of the zone that reads: "FIRE STATION WORK AHEAD FINES DOUBLED" and (2) end of the zone that reads: "END FIRE STATION WORK."

As is currently the case for other similarly designated zones, neither the state nor a municipality or their agents or employees are civilly liable for any personal injury or property damage that results from a municipality's failure to post the sign.

EFFECTIVE DATE: October 1, 2013

**BACKGROUND***Enhanced Fines in Designated Zones*

By law, when certain traffic violations occur in a traffic incident management zone or a conspicuously designated highway or municipal road construction or utility work zone, the court must impose an additional fee equal to 100% of the fine established for the violation. (By law, there are charges for these violations in addition to the basic fines.) For the enhanced penalty to apply in the highway or municipal road construction

zone, the Department of Transportation or municipality, as applicable, must post a sign at the beginning of the zone that states “ROAD WORK AHEAD FINES DOUBLED” and a sign at the end of the zone stating “END ROAD WORK.” For it to apply in the public utility work zone, the utility must post a sign at the beginning of the zone that states “UTILITY WORK AHEAD FINES DOUBLED” and a sign at the end of the zone stating “END UTILITY WORK.”

Table 1 shows examples of violations subject to enhanced fines.

Table 1: Examples of Motor Vehicle Violations Subject to Enhanced Fines

| <i>Law Violation</i>                        | <i>Statute (CGS §)</i> |
|---------------------------------------------|------------------------|
| Travelling too fast for conditions          | 14-218a                |
| Speeding                                    | 14-219                 |
| Improper passing, safe distance, cutting in | 14-232(a)(1)           |
| Increasing speed while being passed         | 14-232(a)(2)           |
| Disobeying officer's signal                 | 14-223                 |
| Failure to drive in proper lane             | 14-236                 |

#### *Related Acts*

##### PA 13-92:

1. doubles the basic fine for drivers who violate the cell phone ban in a highway work zone and requires that half of the additional fee be deposited in a new Special Transportation Fund account for highway work zone safety;
2. adds certain violations of the highway work zone to those violations that require drivers to attend the driver retraining program;
3. requires that the test given to a driver's license applicant include a question on highway work zone safety; and
4. requires the motor vehicles commissioner to assess up to two points against the license of a driver who violates the highway work zone law.

PA 13-277 (§§ 65-67) changes the way the highway work zone safety account, created by PA 13-92, is funded.

##### PA 13-220—SB 1094

*Public Safety and Security Committee*

#### **AN ACT CONCERNING REVISIONS TO THE GUN VIOLENCE PREVENTION AND CHILDREN'S SAFETY ACT**

**SUMMARY:** This act makes numerous revisions in PA 13-3, which made extensive changes in the state's gun (firearm) laws.

PA 13-3 expanded the assault weapons ban and, with some exceptions, also banned the sale of large capacity magazines (LCMs). This act, until October 1, 2013, allows individuals to possess and register certain assault weapons or LCMs they purchased from or placed with a gun dealer, pawnbroker, or consignment shop operator before or on April 4, 2013, the day PA 13-3 took effect, but did not receive until after that date (§§ 1 & 9(e)).

The act expands and modifies the list of enforcement officials and agencies that may legally possess and purchase banned assault weapons and LCMs. With regard to the enforcement officials, the act adds, among others, Department of Motor Vehicles (DMV) inspectors, Department of Energy and Environmental Protection (DEEP) conservation officers, and Division of Criminal Justice (DCJ) inspectors (§§ 1, 5, & 6). These individuals do not have to register an assault weapon or declare an LCM used in the discharge of their official duties, and they may keep the weapon or LCM after their service ends by registering or declaring it, as applicable (§§ 2 & 7). On the other hand, the act subjects civilian employees of the armed forces and non-sworn employees of the Department of Emergency Services and Public Protection (DESPP), Department of Correction (DOC), and police departments to the LCM and assault weapons ban and related laws.

The act, until December 31, 2013, also allows anyone who lawfully possessed a weapon that became a banned assault weapon after the passage of PA 13-3 on April 4, 2013 to transfer the weapon, without registering it, to a gun dealer, in Connecticut or out of state, for sale out of state (§ 9(d)).

The act excludes certain weapons designated as Olympic target pistols by the DESPP commissioner from the assault weapons ban under specified circumstances (§§ 5 & 6).

The act requires a state, rather than national, criminal history records check on anyone applying for a DESPP ammunition certificate (§ 13). It eliminates an option, under PA 13-3, for gun dealers to conduct a national instant criminal history records check (NICS check) with regard to private long gun sales, requiring instead that DESPP conduct the checks (§ 12).

Among other changes, the act also:

1. defines what constitutes evidence of a lawful purchase for purposes of determining constructive possession of an LCM or certain assault weapons (§§ 1 and 4);
2. upon the owner's death, allows lawfully possessed LCMs and assault weapons to be transferred to someone through a trust (§§ 1(f), 5(b)(3), & 7(b)(2));
3. restores a prohibition, seemingly eliminated by PA 13-3, on certain assault weapons defined by features (§ 3);
4. stipulates that a disqualifying misdemeanor conviction had to occur on or after October 1, 1994 for it to make someone ineligible to possess a firearm or get a gun permit or long gun eligibility certificate (§§ 14-16);
5. bars the probate court from granting relief from certain firearm disabilities if it finds that the petitioner is barred from possessing a firearm under state law (§ 20); and
6. makes other technical, conforming, and miscellaneous changes.

**EFFECTIVE DATE:** Upon passage, unless noted otherwise.

#### § 1 — LAWFUL PURCHASE AND CONSTRUCTIVE POSSESSION OF LCM

The act defines what constitutes evidence of a lawful purchase for the purpose of determining constructive possession of an LCM.

Effective April 4, 2013, PA 13-3, with exceptions, banned the sale and other transfer of any LCM that can hold more than 10 bullets. But it allowed anyone who had (1) actual and lawful possession of an LCM or (2) constructive possession of one under a lawful purchase of a firearm containing an LCM transacted before April 4, 2013 to keep it by applying to declare it to DESPP by January 1, 2014.

For purposes of determining constructive possession, the act extends the purchase transaction date by one day, to April 4, 2013. It thus legalizes and allows anyone who lawfully purchased a firearm containing an LCM on April 4, 2013 to declare it to DESPP and lawfully keep it.

The act stipulates that evidence of a "lawful purchase," for purposes of constructive possession, is a document indicating that, on or before April 4, 2013, the

(1) parties entered into a contract for the sale and purchase of a firearm containing an LCM or (2) buyer paid all or part of the purchase price. The act also allows as evidence of actual or constructive possession a written statement made under penalty of false statement to the DESPP commissioner on a form he prescribes (§ 1(a)(2)). By law, making a false statement under oath is a class A misdemeanor (see Table on Penalties).

The act also changes the effective date of the ban on LCM sales and other transfers from April 4, 2013 to April 5, 2013. It thus allows anyone who lawfully purchased or possessed an LCM on April 4, 2013 to declare it to DESPP and lawfully keep it (§ 1(a)(3)).

The act makes technical and conforming changes to reflect the date changes.

#### § 1 — EXEMPTIONS TO THE LCM POSSESSION, PURCHASE, AND IMPORT BAN

The act increases and modifies exemptions to the LCM ban in several ways, including expanding the list of exempt enforcement officials and exempting specific enforcement agencies as well.

PA 13-3 allowed LCMs to be possessed, purchased, or imported by:

1. members and employees of the following entities for use in the discharge of their official duties or when off duty: DESPP, DOC, police departments, and the state or U.S. Armed Forces and
2. employees of a Nuclear Regulatory Commission (NRC) licensee operating a nuclear power plant in Connecticut, for providing security services at the nuclear power plant, or any person, firm, corporation, contractor, or subcontractor providing such services there.

#### *Enforcement Officials*

The act eliminates the broad agency member and employee exemption and instead limits the exemption to the following specific enforcement officials when using the LCM in the discharge of their official duties or when off duty:

1. sworn and certified police (local or state) and correction officers,
2. DCJ inspectors or chief inspectors,
3. DMV salaried inspectors the DMV commissioner designates,
4. DEEP conservation or special conservation officers, and
5. locally appointed constables certified by the Police Officer Standards and Training (POST) Council who perform criminal law enforcement duties.

### *Agency Exemption*

The act exempts the following agencies and entities from the ban as well: DESPP, DEEP, DOC, DMV, DCJ, local police departments, and the state or U.S. Armed Forces.

### *Armed Forces Exemption*

The act retains the exemption from the LCM ban for members of the armed forces, but it eliminates the exemption for employees. In doing so, it appears to ban civilian employees from possessing, purchasing, or importing LCMs (§ 1(d)(3)).

### *Nuclear Power Plants*

The act modifies the NRC license exemption, exempting the nuclear facility, instead of the NRC licensee's security employees. It retains the exemption for the licensee's security contractors or subcontractors and makes a related technical change (§ 1(d)(4)).

### *Special Police for Armored Vehicles*

The act also allows anyone the DESPP commissioner appoints to act as a special police officer for armored cars to possess, purchase, or import an LCM for use in the discharge of his or her official duties (§ 1(d)(5)).

### *Manufacturers*

PA 13-3 exempts LCM manufacturers in Connecticut that manufacture or transport LCMs for sale (1) to the above-mentioned exempt entities or (2) out of state.

This act additionally exempts such LCM manufacturers who purchase or test LCMs for such sale. It also exempts gun manufacturers under the same circumstances as LCM manufacturers (§1(d)(6)). The act also allows these manufacturers to service or repair lawfully possessed LCMs (§ 1(e)(3)).

### *Other Exceptions*

*Dealer, Pawnbroker, Consignment Shop Exception.* Before October 1, 2013, the act allows a gun dealer, consignment shop operator, or licensed pawnbroker to transfer an LCM to anyone who:

1. possessed the LCM on or before April 4, 2013;
2. placed a legally possessed firearm, with the LCM included or attached, in the possession of the dealer, operator, or pawnbroker on or before April 4, 2013 under an agreement for its sale to a third person; and

3. is eligible to possess the firearm on the transfer date (§ 1(f)(4)).

*Declared LCMs—Estate Trustee Exemption.* As is the case under PA 13-3 for an executor or administrator of an estate that includes an LCM that has been declared, this act allows the trustee of a trust that includes a declared LCM to possess it and dispose of it as authorized by the Probate Court if such disposition is otherwise permitted by law (§ 1(e)(5)).

It also allows the transfer of a declared LCM, upon the death of a testator or settlor (1) to a trust or (2) from a trust to a beneficiary. PA 13-3 already allows transfers by bequest or intestate succession.

### §§ 1 & 2 — DECLARING AND CARRYING AN LCM

#### *When LCM Declaration Not Required*

*Enforcement Entities and Officials.* The act explicitly exempts from PA 13-3's requirement to declare an LCM the enforcement agencies and officials, military members, NRC facilities, NRC security contractors, and special sworn police officers for armored vehicles that are described above as exempt from the ban on possessing LCMs (§ 2(a)(2)). The exemption applies to LCMs used for official duties, except that any of the exempt individuals may keep his or her LCM after retirement or separation from employment by declaring it to DESPP within 90 days of separation or retirement. The exemption does not apply to armed forces members.

*Manufacturers.* The act exempts from the LCM declaration requirement gun manufacturers that manufacture, purchase, test, or transport firearms for sale (1) to exempt parties in Connecticut or (2) out of state (§ 1(d)(6)). It also exempts LCM manufacturers that purchase or test, not just manufacture and transport, LCMs for such sale.

#### *Carrying LCMs*

PA 13-3 allows a person with a handgun permit to carry a lawfully possessed LCM in a handgun if the LCM (1) is within a handgun lawfully possessed by the person before April 4, 2013, (2) does not extend beyond the bottom of the pistol grip, and (3) does not contain more than 10 bullets. This act stipulates that the LCM cannot extend more than one inch below the bottom of the pistol grip and extends the date for the purpose of determining lawful possession of the handgun, by one day, from April 4, 2013 to April 5, 2013 (§ 2(f)(7)).



### § 3 — BAN ON SEMIAUTOMATIC RIMFIRE FIREARMS RESTORED

The act reinstates a prohibition, seemingly eliminated by PA 13-3, on certain assault weapons defined by features.

The law, prior to the passage of PA 13-3, banned any semiautomatic firearms (whether centerfire or rimfire) that had at least two of certain features specified in the law, or parts designed or intended to convert a firearm into any such assault weapon. PA 13-3 limited the ban just to centerfire semiautomatic firearms and replaced the two-feature test with a one-feature test. In doing so, it eliminated the ban on semiautomatic rimfire weapons that met the two-feature test under prior law. This act restores the ban.

### § 4 — LAWFUL PURCHASE AND CONSTRUCTIVE POSSESSION OF ASSAULT WEAPONS

The act defines what constitutes evidence of “lawful purchase” for the purpose of determining constructive possession of certain assault weapons.

Effective April 4, 2013, PA 13-3 expanded the assault weapons ban. But it allowed anyone who had (1) actual and lawful possession of any of the affected weapons or (2) constructive possession under a lawful purchase transacted before April 4, 2013 to keep the weapon, irrespective of when delivered, by applying for a DESPP certificate of possession for it by January 1, 2014 (in effect, registering the weapon).

As is the case with LCMs, the act extends the date, for purposes of determining actual or constructive possession of an assault weapon, by one day to April 4, 2013. It thus allows anyone who lawfully purchased or possessed any of the affected assault weapons on April 4, 2013 to register it with DESPP and lawfully keep it.

The act stipulates that evidence of a lawful purchase for purposes of constructive possession of one of the affected assault weapons is documentation indicating that the (1) parties entered into a contract for the sale and purchase of the weapon on or before April 4, 2013 or (2) buyer paid all or part of the purchase price on or before April 4, 2013. The act also allows as evidence of actual or constructive possession a written statement made under penalty of false statement to the DESPP commissioner on a form he prescribes.

### § 5 — SALE AND TRANSFER OF ASSAULT WEAPONS

The law, with limited exceptions, prohibits the sale or other transfer of assault weapons. It allows sales to (1) certain law enforcement agencies and the state or U.S. Armed Forces and (2) employees or contractors of a nuclear power plant licensee providing security at a

Connecticut facility.

#### *Agency Exemption*

The act adds DCJ, DEEP, and DMV to the list of enforcement agencies and entities that may already buy assault weapons—namely, DESPP, DOC, police departments, and the state or U.S. Armed Forces. These are the same agencies exempt from the possession ban under the act (see § 6).

#### *Enforcement Officials*

The act exempts from the assault weapon sales ban sales of such weapons to the same enforcement officials exempt from the possession ban and the LCM ban (see § 1). An exempt individual must provide (presumably to the seller at the time of purchase) a letter on the letterhead of his or her department, division, commissioner, or local chief executive authority authorizing the purchase stating that (1) the individual will use the weapon in the discharge of his or her official duties and (2) a record check shows that he or she has not been convicted of a family violence crime.

#### *Armed Forces Exemption*

The act explicitly allows the sale of assault weapons to members of the state or U.S. Armed Forces.

#### *Nuclear Power Plant Security Employee and Contractor Exemption*

As is the case with LCMs (§ 1), the act exempts from the assault weapons sales ban, sales to the nuclear facility, instead of the NRC licensee’s security employees. It retains the exemption for security contractors and makes a related technical change.

#### *Authorized Transfer of Assault Weapons*

*Transfer of Assault Weapon to and From a Trust.* The act expands the circumstances under which a registered assault weapon may be transferred by allowing its transfer, upon a testator’s or settlor’s death, (1) to a trust or (2) from a trust to a beneficiary eligible to possess the weapon (§ 5(b)(3)). The law already allows transfers of registered assault weapons by bequest or intestate succession.

*Sale of Assault Weapon for Use in the Olympics.* The act allows the sale of certain semiautomatic pistols (i.e., newly banned weapons and others subject to PA 13-3), designated by the DESPP commissioner as designed expressly for use in target shooting events at Olympic Games sponsored by the International Olympic Committee (IOC). The buyer of any such weapon must sign a form, prescribed by the commissioner and

provided by the seller, indicating that he or she will use the pistol primarily for target shooting practice and events.

The act requires the commissioner to adopt regulations designating semiautomatic pistols defined as assault weapons that may be sold for this purpose, provided their use is sanctioned by the IOC and USA Shooting, or any subsequent corresponding governing board for international shooting competition in the United States (§ 5(b)(4)).

## § 6 — ASSAULT WEAPONS POSSESSION

The law, with some exceptions, prohibits the possession of assault weapons. The act allows anyone who, on April 4, 2013, lawfully possessed any of the newly banned weapons or other weapon subject to PA 13-3 to register and keep the weapon. Under PA 13-3, the deadline was April 3, 2013.

The act expands some of the exemptions to the assault weapons ban and modifies others (see § 5 for parallel changes pertaining to sales).

### *Agency and Agency Employee Exemption*

Under prior law, members or employees of DESPP, DOC, police departments, and the state or U.S. Armed Forces were exempt from the ban, but not the agencies themselves. The act instead exempts (1) specific law enforcement officers who possess the weapon for use in the discharge of their official duties or when off duty and (2) the following agencies and entities: DCJ, DEEP, DESPP, DMV, DOC, police departments, and the state or U.S. military. These are the same entities and officers exempt from the ban on assault weapon sales and LCM ban (§§ 1 & 5).

### *Military Exemption*

The act retains the exemption from the assault weapons possession ban for armed forces members, but it eliminates the exemption for military employees (civilians).

### *Nuclear Power Plant Security Employee and Contractor Exemption*

The act modifies the nuclear power plant security employee and contractor exemption from the assault weapon possession ban in the same way it does for sales (see § 5).

### *Estate Trustee Exemption*

The act allows the trustee of a trust that includes a registered assault weapon to possess the weapon, subject to the law's restrictions, or as authorized by the

probate court, just like the executor or administrator of an estate that includes a registered assault weapon can already do.

### *Olympic Pistol Exemption*

The act allows the possession of a semiautomatic pistol newly banned or subject to PA 13-3 if it is designated by the DESPP commissioner, in regulations, as a weapon designed expressly for use in target shooting events at the IOC-sponsored Olympic Games. The weapon must be (1) possessed or transported in accordance with existing law for possessing and transporting registered weapons (see § 8) or (2) possessed at or transported to or from a collegiate, Olympic, or target pistol shooting competition in Connecticut sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state-recognized entity that fosters proficiency in, or promotes education about, firearms. The weapon must be transported in compliance with the law (see § 9).

## § 7 — ASSAULT WEAPONS REGISTRATION

### *Law Enforcement Entities and Officials*

Under the act, exempt law enforcement entities, the state and U.S. Armed Forces, sworn and duly certified enforcement officers, or nuclear power plants operating in Connecticut and security contractors for such plants do not have to register a lawfully possessed assault weapon used for official duties in order to keep it. But servicemembers must register their weapons.

Any of the sworn and duly certified officers who buys an assault weapon for use in the discharge of his or her official duties who retires or is otherwise separated from service must apply to register the weapon within 90 days of such retirement or separation. The provision applies to any assault weapon, regardless of when banned (§§ 7(a)(1)(B) & 7(a)(2)(B)).

### *Other Possessors*

The act allows anyone who, on April 4, 2013, was in lawful possession of an assault weapon subject to PA 13-3 to apply to register it. It does this by extending the date for determining lawful possession from April 3, 2013 to April 4, 2013. Also, anyone who (1) regains possession of such an assault weapon from a gun dealer, consignment shop operator, or licensed pawnbroker placed with them on or before April 4, 2013, but no later than October 1, 2013, or (2) lawfully purchased certain specified firearms on or after April 4, 2013, but before June 18, 2013, must apply by January 1, 2014 to register it unless the person is a servicemember or was

on official duty out of state (§ 7(a)(2), see § 11). The weapons in the latter category are ones banned under the two-feature test in effect before the passage of PA 13-3. Servicemembers have 90 days after returning to Connecticut to apply to register the firearms. The act makes other technical and conforming changes to reflect the changes in the deadlines.

#### *Estate Trustee Exemption*

The act extends by one day, from April 4, 2013 to April 5, 2013, the deadline after which a registered assault weapon subject to PA 13-3 may be (1) transferred or sold only to a licensed gun dealer or by bequest or intestate succession or (2) relinquished by prior arrangement to DESPP or a local police department (§ 7(b)(2)).

#### *Trust Exemption*

The act additionally allows the transfer or sale of any registered assault weapon, upon the death of the testator or settlor, (1) to a trust or (2) from a trust to a beneficiary eligible to possess the weapon (§ 7(b)(2)).

#### *Olympic Assault Pistol Registration Provision*

The act requires anyone who lawfully purchases a semiautomatic pistol subject to PA 13-3 that is designated by DESPP as being designed expressly for target shooting at the IOC-sponsored Olympic Games, to apply within 90 days of such purchase to register the weapon (§ 7(2)(A)).

### § 8 — ASSAULT WEAPONS – NONRESIDENTS AND OLYMPIC PISTOL EXCEPTION

Under existing law and PA 13-3, anyone who possesses a registered assault weapon may possess it only at specified locations, such as:

1. his or her home or business place;
2. a licensed shooting club; or
3. while attending an exhibition, display, or educational project about firearms sponsored or approved by, or conducted under the auspices of, a law enforcement agency or a nationally or state-recognized entity that fosters proficiency in firearms use or promotes firearms education.

The act allows a nonresident who has a certificate of possession to transport certain assault weapons into and through Connecticut to (1) attend any exhibition, display, or educational project described above or (2) participate in a collegiate, Olympic, or target pistol shooting competition in Connecticut sponsored or approved by, or conducted under the auspices of, a law enforcement agency or a nationally or state-recognized

entity that fosters proficiency in, or promotes education about, firearms.

These exceptions apply only if the:

1. pistol is a semiautomatic pistol newly banned by or subject to PA 13-3 that is designated by the DESPP commissioner in regulations as being designed expressly for use in target shooting events at the Olympics;
2. pistol is being transported into or through Connecticut no more than 48 hours before or after the exhibition, display, project, or competition;
3. pistol is unloaded and carried in a locked carrying case, and the ammunition is carried in a separate locked container;
4. nonresident has not been convicted of a felony in Connecticut or of an offense in another state that would constitute a felony if committed here; and
5. nonresident has in his or her possession a pistol permit or firearms registration card, if such a credential is required to possess the pistol under the laws of his or her home state.

### § 9 — ASSAULT WEAPON TRANSPORTATION AND CERTAIN TRANSFERS

Existing law prohibits (1) carrying a loaded assault weapon concealed from public view or (2) knowingly having an assault weapon in a motor vehicle unless it is unloaded and kept in the trunk or a container inaccessible to the driver or passenger (CGS § 53-202f). The act exempts from these restrictions the enforcement officials exempt from the assault weapons ban, when they possess the weapon for use in discharging their duties or when off duty (§ 9(a), see §§ 5 & 6).

#### *Service or Repair*

The act allows a gun manufacturer, just like a gun dealer, to take possession of a registered assault weapon to service or repair it. Unlike gun dealers, under existing law, the act does not allow these manufacturers to transfer the weapon to a gunsmith (§ 9(c)).

#### *Registration Not Required for Weapons Banned by PA 13-3 in Some Cases*

Until December 31, 2013, the act allows anyone who lawfully possessed a weapon that became a banned assault weapon after the passage of PA 13-3 on April 4, 2013 to transfer it to a licensed gun dealer in or out of state for sale out of state. The act allows such a person to transport the assault weapon to the dealer without registering it (§ 9(d)).

### *Dealer, Consignment Shops, and Pawn Shops*

Until October 1, 2013, the act also allows a gun dealer, consignment shop operator, or licensed pawnbroker to transfer possession of any assault weapon to a person who:

1. legally possessed it on or before April 4, 2013;
2. placed the weapon in the possession of the dealer, pawnbroker, or operator on or before April 4, 2013 under an agreement to sell the weapon to a third person; and
3. is eligible to possess it on the date it is transferred back to the person (§ 9(e)).

### § 10 — ASSAULT WEAPONS THIRD-PARTY EXCEPTION

The act allows manufacturers of assault weapons to transport and temporarily transfer assault weapons to and from a third party solely to permit the third party to perform a function in the manufacturing production process.

### § 11 — PRE-1994 SEMIAUTOMATIC RIFLES

The act specifically retains an exemption from the assault weapons ban for certain pre-1994 rifles, thereby eliminating an ambiguity in PA 13-3.

The law, prior to the passage of PA 13-3, exempted from the assault weapon transfer and registration requirements certain semiautomatic rifles not listed by name but defined by features and parts or combination of parts designed or intended to convert or that could be rapidly assembled to convert a firearm into one of these weapons, if the weapons were legally manufactured before September 13, 1994. The status of these pre-1994 weapons under PA 13-3 was unclear. This act specifically retains the exemption for these rifles.

### § 12 — SALE OF LONG GUNS

PA 13-3 added several requirements regarding the sale of long guns. This act modifies some of these and provisions in prior law. Several changes pertain to private (nondealer) sales and transfers.

#### *Long Gun Sales by Nondealers*

PA 13-3 prohibits nondealers from selling or transferring long guns to other nondealers, unless DESPP authorizes the transaction or specified background check requirements are met. Specifically, PA 13-3 requires:

1. the prospective transferor and transferee to comply with the documentation and authorization requirements that apply to retail

sales (i.e., gun dealer sales) of long guns (e.g., the (a) seller must document the transaction with DESPP, maintain copies of the record, and obtain an authorization number from DESPP and (b) buyer must undergo a NICS check) or

2. a gun dealer, upon the request of the prospective transferor or transferee, to consent to initiate a NICS check in accordance with specified procedures, and the check must show that the transferee is eligible to receive the gun. (It appears that this option is available only on and after January 1, 2014.)

Instead of the dealer-initiated NICS check, this act provides for a dealer-initiated DESPP check. Specifically, it provides for the prospective transferor or transferee to ask the gun dealer to contact DESPP on his or her behalf and obtain a DESPP authorization number for the transaction.

The act also specifically provides that DESPP must make every effort, including performing the NICS check, to determine if the prospective transferee is eligible to receive the firearm. DESPP must immediately notify the dealer of its determination and the dealer must immediately notify the prospective transferor or transferee. If DESPP determines that the prospective transferee is ineligible to receive the firearm, the act prohibits the sale or transfer of the firearm. If DESPP determines that the person is eligible and provides an authorization number, the prospective transferor may transfer the firearm. The act makes conforming and corresponding changes.

PA 13-3 allowed a dealer to charge up to \$20 for initiating a background check. The act removes the cap, thereby allowing a dealer to charge an unspecified fee for contacting DESPP on a prospective transferor's or transferee's behalf.

#### *Exemptions*

**Law Enforcement.** On and after April 1, 2014, PA 13-3 required anyone, except a federal marshal, parole officer, or peace officer, buying or receiving a long gun to have a long gun eligibility certificate, gun permit, gun dealer permit, or handgun eligibility certificate. The act eliminates the general exemption for these officers (§ 12(c)). It instead (1) limits the exemption to specific officials and (2) extends the exemptions to certain agencies and entities. It also, with one exception, exempts the specified officials from all of the long gun sale-related requirements, instead of just the credential requirement (§ 12(h)).

Specifically, the act exempts the same enforcement agencies and entities exempt from the assault weapons and LCM ban. It also exempts the same specified sworn and duly certified law enforcement officials and other

enforcement officials and inspectors who are exempt from the assault weapons and LCM ban, when they possess the weapon for use in the discharge of their official duties or when off duty. To be exempt, the official must provide a letter on the letterhead of the pertinent entity or agency authorizing the purchase. The letter must state that (1) the individual will use the weapon in the discharge of his or her official duties and (2) a records check shows that he or she has not been convicted of a family violence crime. The act also exempts members of the military from the provisions, but does not require them to provide a letter authorizing purchase (§ 12(h)).

*Nuclear Power Plant Licensee and Military Exemption.* The act also exempts (1) nuclear power plants, when the weapons are for providing security at the facility, or any contractor or subcontractor providing such security and (2) armed forces members. The act does not require purchasers to provide a letter at the time of purchase, as is required for the other exempt parties above.

*Curios, Relics, and Antiques.* The act adds exemptions for curios or relics transferred to or between federally licensed firearm collectors. It exempts antique firearms, as defined in existing law, from all of the provisions pertaining to long gun sales and transfers, instead of just the waiting period. (The waiting period no longer applies to anyone after April 1, 2014.)

*Federal Licensees.* PA 13-3 exempted from the long gun sale requirements sales between certain federal firearm licensees (FFLs), namely (1) manufacturers and dealers, (2) importers and dealers, or (3) dealers. The act exempts sales to these FFLs from anyone as well, instead of just between them.

The act subjects the above entities and people to PA 13-3's provisions regarding gun dealer sales of long guns to minors. PA 13-3 prohibits gun dealers from selling (1) long guns to anyone under age 18 and (2) semiautomatic centerfire rifles that have or accept a magazine with a capacity of more than five rounds to anyone under age 21, except members or employees of police departments, DESPP, or DOC, or members of the military, for use in the discharge of their duties.

### § 13 — STATE BACKGROUND CHECKS

The act requires DESPP to conduct a state, rather than national, criminal history record check on anyone who applies for an ammunition certificate, created by PA 13-3, which requires that the check be conducted using only the person's name and date of birth.  
EFFECTIVE DATE: July 1, 2013

### §§ 14-16 — PROHIBITIONS BASED ON MISDEMEANOR CONVICTIONS

#### § 14 — State Permit to Carry Handgun

The law prohibits a person from receiving a gun permit if he or she has been convicted of certain misdemeanors specified in law. The act applies the prohibition only to misdemeanor convictions on or after October 1, 1994 (i.e., the date the prohibition based on these misdemeanor convictions was added to the permitting statute).

The misdemeanor convictions are:

1. a first offense of possessing (a) between .5 and four ounces of marijuana or (b) a controlled substance other than an narcotic or other hallucinogen (a subsequent offense is a felony);
2. the following class A misdemeanors: criminally negligent homicide; 3<sup>rd</sup> degree assault; 3<sup>rd</sup> degree assault of an elderly, blind, disabled, pregnant, or intellectually disabled person; 2<sup>nd</sup> degree threatening; 1<sup>st</sup> degree reckless endangerment; 2<sup>nd</sup> degree unlawful restraint; 1<sup>st</sup> degree riot; inciting to riot; and 2<sup>nd</sup> degree stalking; and
3. the class B misdemeanor of 2<sup>nd</sup> degree riot.

EFFECTIVE DATE: October 1, 2013

#### § 15 — Long Gun Eligibility Certificate

PA 13-3 prohibits someone from receiving a long gun eligibility certificate if he or she has certain prior misdemeanor convictions (the same ones listed above). Under this act, the prohibition applies to misdemeanor convictions on or after October 1, 1994.

EFFECTIVE DATE: July 1, 2013

#### § 16 — Criminal Possession of a Handgun (Pistol or Revolver)

PA 13-3 expands the crime of criminal possession of a handgun, effective October 1, 2013. Under existing law, one way to commit this crime is to possess a handgun after having been convicted of one of the misdemeanors listed above (§ 14). (These are the same misdemeanors that prohibit a person from getting a handgun permit.) Under the act, a person commits this crime only if he or she was convicted of one of these misdemeanors committed on or after October 1, 1994.

EFFECTIVE DATE: October 1, 2013

## § 17 — ARMOR-PIERCING AMMUNITION

### *Police Officer Exemption*

Existing law allows the sale of armor-piercing bullets and incendiary .50 caliber bullets to DESPP, DOC, police departments, and the state or U.S. Armed Forces for use in the discharge of their official duties. The act additionally allows sworn and certified police to transport or carry a firearm loaded with this type of ammunition.

*Allowed Transfers.* The act allows transfers of this type of ammunition upon the death of a testator or settlor (1) to a trust or (2) from a trust to a beneficiary who can lawfully possess it. The law already allows transfer by bequest or intestate succession.

EFFECTIVE DATE: October 1, 2013

## § 18 — APPEALS TO THE FIREARM BOARD

The act allows someone refused an ammunition certificate to appeal to the Board of Firearms Permit Examiners under existing procedures that apply to other gun credentials.

EFFECTIVE DATE: July 1, 2013

## § 19 — AMMUNITION AND AMMUNITION MAGAZINE SALES

PA 13-3 prohibits the sale of ammunition or ammunition magazines to anyone, except designated FFLs, unless the buyer holds a state gun credential (permit or certificate). The act extends the exemption to the sale of ammunition and ammunition magazines to law enforcement entities and enforcement officers for use in the discharge of their official duties or when off duty. These are the same entities and officials exempt from the ban on assault weapons and LCMs. It also exempts (1) members of the state or U.S. Armed Forces and (2) nuclear power plants in Connecticut, for providing security at the facility or any contractor or subcontractor providing such security.

The act modifies the FFL exemption, applying it to sales made by anyone to these FFLs, not just sales between FFLs. It also (1) extends the exemption to federally licensed collectors and (2) subjects FFLs, and all the other exempt individuals, to the age restrictions. The FFLs were exempt under PA 13-3. (PA 13-3 prohibits the sale of ammunition or ammunition magazines to anyone under age 18.)

## § 20 — RELIEF FROM FIREARM DISABILITIES

The act bars the probate court from granting relief from certain firearm disabilities if it finds that the petitioner is barred from possessing a firearm under specified state law.

Federal law prohibits anyone who has been “adjudicated as a mental defective” or “committed to a mental institution” from shipping, transporting, receiving, or possessing firearms or ammunition, unless the person’s firearm privileges are restored under a federally approved program. It contains a court procedure for restoring firearm privileges lost as a result of federal adjudications or commitments. State law contains a similar procedure for restoring such privileges lost because of a state adjudication or commitment. The court must grant relief if it finds, by clear and convincing evidence, that (1) the petitioner is not likely to act in a manner dangerous to public safety and (2) granting relief is not contrary to the public interest.

EFFECTIVE DATE: October 1, 2013

## BACKGROUND

### *Related Acts*

PA 13-3 makes extensive changes in the gun laws.

PA 13-258, § 29, increases the penalty for (1) carrying a concealed, loaded assault weapon or (2) knowingly having an assault weapon in a vehicle unless the weapon is unloaded and kept in the trunk or in a case that is inaccessible to the operator of, or any passenger in, the vehicle.

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## PA 13-221—sSB 299

*Public Safety and Security Committee*

## **AN ACT CONCERNING COMMUNICATION AMONG THE STATE POLICE AND LOCAL POLICE DEPARTMENTS DURING ACTIVE SHOOTING INCIDENTS AND CERTAIN OTHER INCIDENTS**

**SUMMARY:** Beginning October 1, 2013, this act establishes a framework for disseminating information on incidents involving numerous victims or casualties to police statewide. The act allows the police chief or superintendent of the department in the municipality where any such incident occurs or, where there is no local police department, the State Police troop commander having jurisdiction over the municipality, to notify the emergency services and public protection (DESPP) commissioner of the incident. The commissioner must then, using any means he deems appropriate, notify the state’s local police departments and State Police troops of the incident, where and when it occurred, and any other information he deems appropriate to disseminate.

By October 1, 2013, the act requires DESPP, in conjunction with the Police Officer Standards and Training Council, to adopt a written policy about the type of information that must be disseminated and method of disseminating it. (The council (1) trains, certifies, and establishes minimum qualifications for municipal police officers and others and (2) enforces professional standards for certifying and decertifying them.)

EFFECTIVE DATE: Upon passage

**PA 13-226**—sSB 709

*Public Safety and Security Committee*

**AN ACT CONCERNING THE SILVER ALERT SYSTEM AND MAINTAINING THE PRIVACY OF A MISSING PERSON'S MEDICAL INFORMATION**

**SUMMARY:** This act requires the state's Missing Children Information Clearinghouse to establish procedures to maintain the confidentiality of any medical information that it collects, discovers, or otherwise obtains on missing persons. The procedures must provide that no such medical information is disseminated to the public about (1) a missing child without the consent of the child's parent, guardian, or legal custodian or (2) any other missing person without the consent of the person's spouse, parent, sibling, child, or next of kin.

By law, the clearinghouse is the state's central repository of information on missing persons, including children, adults with mental impairments, and seniors age 65 or older. It is within the Department of Emergency Services and Public Protection.

EFFECTIVE DATE: October 1, 2013

**PA 13-235**—sHB 6488

*Public Safety and Security Committee*

**AN ACT CONCERNING THE EVACUATION AND TEMPORARY SHELTERING OF CERTAIN ANIMALS DURING EMERGENCIES**

**SUMMARY:** This act requires municipalities to consider whether to include in their emergency plans of operation provisions for the (1) nonmilitary evacuation of pets and service animals, instead of just livestock and horses, and (2) temporary sheltering of pets, service animals, and animals trained to help first responders. Existing law, which the act does not change, already requires such plans, when appropriate, to include strategies that address nonmilitary evacuation of pets and service animals in order to be approved by the

Department of Emergency Services and Public Protection (DESPP) commissioner.

The act also requires local civil preparedness advisory councils to include representatives of local and state animal humane organizations. By law, the councils must also include representatives of (1) municipal civil preparedness agencies and (2) interest groups, including business, labor, agriculture, veterans, and women's groups that are important to the particular community's civil preparedness program. The councils advise local civil preparedness organizations on civil preparedness issues.

EFFECTIVE DATE: October 1, 2013

**BACKGROUND**

*Emergency Response Plan of Operations*

In order to be eligible for certain state and federal Homeland Security and civil preparedness funds, a town must have a current emergency response plan of operations approved by the DESPP commissioner. The plan must include, among other things, activities and measures designed or undertaken to:

1. minimize or control and deal with the effects of a major attack, disaster, or emergency upon civilians and
2. carry out repairs to any vital utilities and facilities destroyed.

**PA 13-255**—sSB 928

*Public Safety and Security Committee*

*General Law Committee*

*Government Administration and Elections Committee*

**AN ACT CONCERNING PRECIOUS METALS OR STONES DEALERS**

**SUMMARY:** This act expands licensed precious metals or stones dealers' (dealers) recordkeeping requirements by requiring such dealers to record and maintain additional information when acquiring property. It also:

1. requires dealers to hold property, other than bullion and coins, for at least five days after a transaction;
2. allows police officers examining records on-site to require employees to provide identification;
3. requires evidence of certain business permits before license issuance; and
4. requires dealers to maintain a place of business with a street address in Connecticut.

Prior law required only that they maintain a place of business in the state. The act generally conforms dealer requirements with pawnbroker and secondhand dealer requirements.

Those violating the new requirements are subject to fines of up to \$1,000 and existing licensing penalties (i.e., license revocation).

The act also makes technical and conforming changes.

By law, precious metals or stones dealers are (1) people primarily engaged in the business of purchasing gold or gold-plated ware, silver or silver-plated ware, platinum ware, watches, jewelry, precious stones, bullion, or coins. They must be licensed by the police chief in the town where they conduct business or, for any city or town that does not have an organized local police department, the emergency services and public protection commissioner. The license requirement does not apply to purchases from a wholesaler.

EFFECTIVE DATE: October 1, 2013

## RECORDKEEPING

The act expands a dealer's recordkeeping requirements, when purchasing property. Some of the new requirements apply only to the purchase of precious metals and stones. Under existing law, dealers must record, at the time of each purchase, (1) a description of the purchased property, (2) the seller's name and address, (3) the proof of the seller's identity, and (4) the date and time the property was purchased.

The act expands what constitutes proof of identity. It eliminates a requirement that the record include the price paid and instead requires the dealer to maintain an electronic copy of the check or money order purchase for the property (see below). The act also requires dealers to keep the record in English, number the entries consecutively, and include the seller's general description. It specifies that the address dealers record must be the seller's home address and requires them to keep the records for at least two years.

### *Precious Metals and Stones*

For gold or gold-plated ware, silver or silver-plated ware, platinum ware, watch, jewelry, and precious stone sales, the act requires the records to also contain a digital photograph of any item without identifiable numbers or markings. The number assigned to the property's entry in the recordkeeping system must be visible in the photograph and remain attached to the property until its disposition or sale.

Under the act, the record's property description must include:

1. all distinguishing marks, engravings, and etchings;
2. names of any kind, including brand and model;
3. model and serial numbers;
4. affiliation with any institution or organization;
5. dates;
6. initials;
7. color;
8. vintage; and
9. image represented.

### *Recordkeeping Exemptions*

The act allows the licensing authority to (1) exempt dealers from any recordkeeping requirement or (2) establish additional or different description requirements depending on the nature of the property, transaction, or business, including articles sold in bulk lots or of minimal value.

### *Payment Records*

By law, dealers may pay for acquired property only by check or money order. The act requires dealers who pay by check to retain its electronic copy or other record issued by the financial institution that processes it. The copy is subject to inspection as part of the dealer's recordkeeping system. Dealers must indicate the number or numbers associated with the property in the recordkeeping system on the checks or money orders.

*Customer Receipts.* By law, at the time of purchase, a dealer must provide the seller with a receipt containing the required recordkeeping information, amount paid for any property sold, and the dealer's name and address. The act requires the receipt to include the new information dealers must enter into their own records.

## SALE OF PROPERTY

The act prohibits (1) dealers from selling or disposing of property, other than bullion or coins, acquired in any transaction within five days after such transaction and (2) licensing authorities from requiring dealers to hold such property for a longer period. It also allows a licensing authority to grant exemptions for good cause.



## WEEKLY REPORT

Under prior law, at the licensing authority's request, dealers were required to submit weekly sworn statements with the sellers' names and addresses and a description of the property purchased. Under the act, the dealer may submit these reports more often and must also include a description of each seller and the nature and terms of each transaction. The act also specifies that reports must include each seller's home address.

The act requires the statement to be submitted in an electronic format prescribed by the licensing authority, unless the authority grants an exemption for good cause. As under prior law, the sworn statements are not public records for Freedom of Information Act purposes.

## SELLER IDENTIFICATION

Under prior law, a dealer was required to demand "positive identification" from anyone selling property to him or her. The act instead requires the identification to include (1) a photograph; (2) an address, if available on the identification; and (3) an identifying number, including date of birth. It specifies that dealers are exempt from complying with this requirement if the seller is a wholesaler.

## EVIDENCE OF BUSINESS PERMITS

The act requires the licensing authority to refuse to issue a license if the applicant does not provide evidence that he or she (1) holds a sales and use tax permit, (2) has a Connecticut tax registration number, and (3) is registered with the secretary of the state to do business in Connecticut.

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**PA 13-256**—sSB 929

*Public Safety and Security Committee*

*Government Administration and Elections Committee*

*Judiciary Committee*

**AN ACT TRANSFERRING CERTAIN  
FUNCTIONS AND OPERATIONS OF THE  
DEPARTMENT OF CONSTRUCTION SERVICES,  
REGULATING SPECIAL EFFECTS DISPLAYS  
AND REVISING ROOF PITCH REQUIREMENTS  
FOR SCHOOLS**

**SUMMARY:** This act makes changes affecting (1) the functions and operations of the departments of Emergency Services and Public Protection (DESPP) and Construction Services (DCS), (2) regulation of special effects displays, and (3) roof pitch on school buildings.

The act returns statutory responsibility for

regulating rocketry, explosives and blasting agents, and fireworks and special effects to DESPP from DCS. DESPP regulated these areas before the 2011 agency consolidations and continues to do so under a memorandum of understanding with DCS.

The act makes conforming changes, replacing the (1) authority of the state fire marshal, whose office is within DCS, with the DESPP commissioner's authority with regard to regulating fireworks and special effects and (2) DCS commissioner's authority with the DESPP commissioner's authority in the other areas of regulation. In another conforming change, the act takes the regulations pertaining to rocketry out of the state fire prevention code, which is enforced by the state fire marshal, to reflect DESPP's restored authority to regulate rocketry. It returns to DESPP jurisdiction statutes on model rocketry that were to expire on January 1, 2015. Overall, the changes affect procurement, manufacture, transportation, storage, sales, and use of the products.

The act creates a mechanism for regulating all supervised uses or displays of special effects produced by pyrotechnics or flame-producing devices, which includes DESPP permitting and competency certification, local site inspection, fees, and criminal penalties. It thereby extends regulation to (1) outdoor use and (2) flame-producing devices.

With regard to roof pitch, the act changes the minimum roof pitch required for school roofs to be eligible for a state reimbursement from ½ inch per foot to the standard in the State Building Code, which is currently ¼ inch per foot. Prior law authorized the ¼ inch pitch in some circumstances.

The act also makes technical and conforming changes.

**EFFECTIVE DATE:** October 1, 2013, except the (1) roof pitch provision and a technical change related to the reinstatement of the model rocketry provisions are effective upon passage and (2) provisions reinstating the model rocketry provisions are effective January 1, 2015.

**REGULATION OF PYROTECHNICS AND SPECIAL  
EFFECTS**

Existing law requires operators to have a state permit to use pyrotechnics, sparklers, and fountains indoors for special effects. This act also requires them to have a permit for supervised displays, whether indoors or outdoors. It also extends the permit requirement to flame-producing devices used to produce special effects.

As is the case with the existing permit for indoor use, the act applies to municipalities, fair associations, amusement parks, other organizations or groups of individuals, and groups of individuals or artisans pursuing their trade.

### *Permit Application*

An applicant for a permit to display special effects must submit a written DESPP application at least 15 days before the display date, or upon such notice as the DESPP commissioner prescribes in regulation. DESPP cannot issue the permit until the:

1. fire marshal for the municipality where the display is to be held inspects the display site and determines that it complies with regulations and
2. police and fire chiefs or, where there are none, the municipality's chief executive officer, approves the site. The display must be of a character and so located, discharged, or fired as, in the officials' opinion, after proper inspection, not to be hazardous to property or endanger anyone.

The permit is valid only for the event and cannot be transferred. The commissioner may suspend or revoke it for violation of any law, regulation, or ordinance dealing with special effects.

The permit fee is \$100, payable to the state treasurer.

### *Regulations, Exemptions, and Variations*

The act requires the DESPP commissioner to adopt regulations for issuing permits for supervised display of special effects, except the use of minimal amounts of pyrotechnics or flame-producing devices in ceremonial activities. The regulations must include provisions for determining the competence of anyone intending to discharge or fire such special effects.

The commissioner may grant, in writing, variations or exemptions from, or approve equivalent or alternative compliance with, particular provisions of the regulations if strict compliance would entail practical difficulty or unnecessary hardship or is otherwise considered unwarranted. Any variation, exemption, or equivalent or alternative compliance must, in his opinion, secure the public safety.

The act's provisions are substantially similar to those governing indoor use and display of special effects under existing law. For example, the act requires anyone handling, discharging, or firing pyrotechnic or flame-producing devices for special effects use or display to be supervised by someone who has a DESPP competency certificate attesting to his or her competence to supervise the handling, discharge, or firing of special effects. But the act does not appear to extend to the outdoor use and display of special effects the liability insurance required for the use of pyrotechnics for indoor special effects (CGS § 29-359).

The certificate costs \$200 and is renewable every three years for \$190. The fees are payable to the state

treasurer. The certificate is not transferable and the DESPP commissioner may suspend or revoke it for cause.

### *Violations and Penalties*

A violation of the act's new permit or certificate requirements is a class A misdemeanor (see Table on Penalties). But if death or injury results from the violation, it is a class C felony.

Non-resident firms, corporations, or persons applying for a permit must appoint, in writing, the secretary of the state to be the attorney on whom process must be served in any action against them.

### **ROOF PITCH**

Under prior law, a school roof pitch had to be at least  $\frac{1}{2}$  inch per foot to be eligible for state reimbursement. But the DCS commissioner could allow  $\frac{1}{4}$  inch per foot for a total roof replacement if the:

1. reduction would not impede drainage or cause pooling of water that may leak into the building to a greater degree than that of a roof with a minimum  $\frac{1}{2}$  inch per foot,
2. cost of the  $\frac{1}{2}$  inch pitch would be substantially greater,
3.  $\frac{1}{2}$  inch pitch would take substantially longer to replace, and
4. building would have to be substantially rebuilt to support a  $\frac{1}{2}$  inch pitch.

The act changes the minimum roof pitch to the standard used in the State Building Code, which is  $\frac{1}{4}$  inch per foot.

### **BACKGROUND**

#### *Related Act*

PA 13-277 eliminates DCS and transfers its functions to the Department of Administrative Services, effective July 1, 2013.

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### **PA 13-259—sHB 5277**

*Public Safety and Security Committee*

*Finance, Revenue and Bonding Committee*

### **AN ACT CONCERNING MIXED MARTIAL ARTS**

**SUMMARY:** This act legalizes amateur and professional mixed martial arts (MMA), exempting MMA, like boxing, from the ban on prize fights (§§ 16 & 17). It generally subjects MMA matches to the laws governing professional boxing, including those

pertaining to regulation by the Department of Emergency Services and Public Protection (DESPP), licensing, taxes, match rules, ticket prices, minimum age limits, and violations.

Among other things, the act:

1. requires MMA match promoters, referees, sponsors, and participants to be licensed by DESPP (§§ 1(g), 2, & 8);
2. bars the DESPP commissioner from issuing a license to conduct MMA matches where prohibited by local ordinance (§ 15);
3. prohibits anyone from competing in an MMA match unless certified as physically fit by a doctor approved by the commissioner (§ 10);
4. prohibits betting on MMA matches (§ 13);
5. allows the commissioner to investigate MMA match venues for safety (§ 1(c));
6. requires DESPP-licensed and -selected referees to be present at, and direct, MMA matches, except amateur matches exempt from DESPP jurisdiction (§ 8);
7. prohibits MMA matches on Christmas Day, Good Friday, Memorial Day, and Veterans' Day (§ 9); and
8. requires the commissioner to adopt regulations to (a) govern MMA match safety, conduct, and supervision, including the licensing of match sponsors and participants, and (b) set reasonable license fees (§ 1(g)).

The act prohibits anyone under age 18 from engaging in a professional MMA match and, with exceptions, prohibits anyone under age 16 from engaging in an amateur MMA match (§ 12). It allows minors of any age to attend professional MMA and boxing matches as long as the minor is accompanied by his or her parent or guardian (§ 14).

The act eliminates the provisions on wrestling exhibitions, which, under current practice, the state does not regulate. This includes provisions (1) banning betting on these exhibitions and prohibiting minors under age 18 from participating in them, (2) banning wrestling exhibitions on certain days, and (3) requiring reports of ticket sales and gross receipts.

EFFECTIVE DATE: October 1, 2013

## § 1 — JURISDICTION OVER MMA MATCHES

### *Definition*

The act defines “mixed martial arts” as unarmed combat involving techniques from different martial arts disciplines, including grappling, kicking, jujitsu, and striking.

### *MMA Regulation*

With minor exceptions, the act gives the DESPP commissioner sole jurisdiction over amateur and professional MMA matches in Connecticut (§ 1(b)). It generally exempts from his jurisdiction amateur MMA matches held under the (1) supervision of an educational institution having an academic course of study or athletic associations connected to such institutions or (2) auspices of an athletic association the commissioner determines to be capable of ensuring the participants' health and safety. But the commissioner may assume jurisdiction if he determines that the participants' health and safety are not being sufficiently safeguarded.

As is currently the case for professional boxing, the commissioner may (1) appoint inspectors to represent him at MMA matches and (2) contract with people to serve as inspectors.

### *Enforcement*

The act authorizes the commissioner or his representative to investigate MMA matches, just like professional boxing matches. This includes investigating match locations, paraphernalia, equipment, and other matters to determine if the matches will be reasonably safe for participants and attendees (§ 1(c)).

### *Injury Reports*

The act requires the owner of a venue where a serious physical injury or death from an MMA match occurs to report it, within four hours after it occurs, to the commissioner or his designee, who must investigate the incident within four hours after receiving the report (§ 1(d)). A “serious physical injury” is one that creates a substantial risk of death or causes serious (1) disfigurement, (2) health impairment, or (3) loss or impairment of the function of any body organ (see *Related Act*).

## § 2 — LICENSING AND BONDING

The act allows the commissioner to grant or deny, or revoke for cause, a license to hold or conduct MMA matches. License applicants must file a bond as a condition of licensure. The bond must be conditioned for the payment of the tax on gross MMA match receipts from admissions (see §§ 3 & 4 below).

## §§ 3 & 4 — TAX PAYMENTS

As is the case with boxing, the act imposes a 5% tax on MMA match promoters and sponsors, which is payable to the State Treasury. The tax is on the gross receipts from admissions after federal taxes have been deducted.

The act requires sponsors and promoters, within 24 hours after a match ends, to give the commissioner a written, verified report on the number of tickets sold for the match, gross receipts, and any other information the commissioner prescribes.

The commissioner may (1) examine the books or records of a violator who did not file the report by the deadline or failed to include sufficient information and (2) subpoena and examine the violator under oath to determine the amount of the gross receipts and tax due. He may then fix the amount of tax due. Licensees who fail to pay the tax owed, plus expenses the commissioner incurred in conducting the examination within 20 days after being notified, forfeit their license and cannot be relicensed. They must also pay a \$500 fine.

#### § 5 — OVERSELLING TICKET VIOLATIONS

The act makes it illegal to sell more MMA match tickets than there are seats at the match venue. A first violation is punishable by a fine of up to \$200. For any subsequent violation, the club, corporation, association or person must forfeit its license and pay a \$500 fine. Additionally, the officers must be fined up to \$200.

#### § 6 — PUBLICIZING TICKET PRICES

The act requires MMA match seat and admission prices, like those in boxing, to be published in a newspaper published and circulated in the host town, city, or borough or, if no newspaper is published in the area, in a newspaper having a substantial circulation in the area. The publication must be made in at least three separate editions of the paper and must be no less than two inches by three inches wide.

#### §§ 7, 8, & 10 — MMA MATCH RULES

##### *Referees and Limits on Rounds*

The act prohibits the conduct of an MMA match unless a referee approved by the commissioner is in attendance and controls the match (§ 7). It imposes a five-round limit on matches and a minimum one-minute rest period between rounds.

##### *Referee License*

With exemptions for matches exempt from the commissioner's jurisdiction, as specified above, the act requires the commissioner to select and license MMA match referees, as well as boxing referees (§ 8).

##### *Physical Condition of Fighters*

The act requires a Connecticut-licensed doctor approved by the commissioner to (1) examine and certify that MMA match competitors, like boxers, are physically fit and (2) attend the entire match for which the examination is made (§ 10). The person, club, organization, or corporation conducting the match must pay the doctor's fee for this examination. The commissioner may assess the cost of any other physical examination required by the law on the person, club, corporation, or association conducting the next MMA match in which the competitor is scheduled to compete.

#### § 11 — FINES

The act subjects to a fine of up to \$200 any principal, manager, second, promoter, or matchmaker who receives or takes money or other payment from any MMA match competitor for any special privilege or type of discrimination relating to a match.

#### § 12 — AGE LIMITS FOR PARTICIPANTS

As is currently the case for boxing matches, the act prohibits anyone under age (1) 18 from participating in a professional MMA match or (2) 16 from participating in an amateur MMA match, except matches held under the:

1. supervision of (a) a school, college, or university having an academic course of study or (b) the recognized athletic association connected with the institution or
2. auspices of an amateur athletic association the commissioner determines is capable of ensuring the participants' health and safety.

#### § 14 — AGE LIMITS FOR ADMITTANCE TO MATCHES

Under prior law, anyone under age 18 was barred from attending a professional boxing match, except that a person age 14 to 18 could attend if accompanied by a parent or guardian.

The act prohibits anyone under age 18 from attending an MMA or professional boxing match unless accompanied by a parent or guardian.

#### BACKGROUND

##### *Related Act*

PA 13- 247 (§ 67) makes anyone who contracts with a person to compete in an MMA match liable for any health care costs the competitor incurs for injury or illness resulting from participating.

**PA 13-272**—sHB 6160

*Public Safety and Security Committee  
Insurance and Real Estate Committee*

**AN ACT REQUIRING WORKING SMOKE AND CARBON MONOXIDE DETECTORS IN CERTAIN RESIDENTIAL BUILDINGS AT THE TIME TITLE IS TRANSFERRED**

**SUMMARY:** This act, with exceptions, requires a seller, before transferring title to a one- or two-family dwelling for which a new occupancy building permit was issued before October 1, 2005, to give the buyer an affidavit certifying that the (1) permit was issued on or after October 1, 1985 or (2) dwelling is equipped with smoke detection and warning equipment (smoke detectors) complying with the act. The affidavit must also certify that the building (1) is equipped with carbon monoxide (CO) detection and warning equipment (CO detector) complying with the act or (2) does not pose a risk of CO poisoning because it does not have a fuel-burning appliance, fireplace, or attached garage (see BACKGROUND). A transferor who fails to provide the affidavit must credit the transferee with \$250 at the closing.

The act specifies the standards that the CO and smoke detectors must meet.

EFFECTIVE DATE: January 1, 2014

**SMOKE AND CO DETECTOR EQUIPMENT STANDARDS**

The CO detectors required by the act must be able to show the amount of CO present as a reading in parts per million. The smoke detectors must be able to sense visible or invisible smoke particles and be installed in the immediate vicinity of each bedroom. Both may be battery-operated and must:

1. be installed in accordance with the manufacturer's instructions;
2. not exceed the standards under which they were tested and approved; and
3. be capable of providing an alarm suitable to warn occupants, when activated.

**EXEMPTIONS FROM AFFIDAVIT REQUIREMENT**

The act exempts from the affidavit requirement transfers:

1. from one co-owner to another;
2. to the transferor's spouse, parent, sibling, child, grandparent, or grandchild where no consideration is paid;
3. under a court order;
4. by the federal government or any of its political subdivisions;

5. by deed in lieu of foreclosure;
6. involving refinancing of an existing mortgage debt;
7. by mortgage deed or other instrument to secure a debt where the transferor's title to the property is subject to a preexisting mortgage debt; or
8. by executors, administrators, trustees, or conservators.

**BACKGROUND**

*Disclosures on Residential Condition Report*

Under existing law, sellers must indicate on the residential condition report they provide to prospective purchasers whether a one- to four-unit building contains smoke and CO detectors, the number of such detectors, and the nature of any problems with them (CGS § 20-327b).

*CO and Smoke Detector Requirements With Regard to October 1, 1985 and October 1, 2005*

Existing law requires smoke detectors capable of operating on alternating current and batteries to be in one- and two- family dwellings issued a building permit for new occupancy on or after October 1, 1985. It generally requires CO detectors in new one- and two-family dwellings issued a building permit for new occupancy on or after October 1, 2005 (CGS § 29-292).

**PA 13-275**—sHB 6374

*Public Safety and Security Committee  
Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING COORDINATED LONG-TERM DISASTER RELIEF AND RECOVERY**

**SUMMARY:** This act establishes the Connecticut Coordinated Assistance and Recovery Endowment (CT CARE) as a federal tax-exempt foundation to support coordinated emergency recovery in cases where state services are affected by natural disasters, acts of domestic terrorism, catastrophic events, or other unforeseen emergencies. It establishes the Coordinated Emergency Recovery Fund (CERF), under the state treasurer's custody, to receive and disburse private funds to CT CARE to provide (1) victims' relief and (2) assistance to individuals, towns, and nonprofit organizations affected by such emergencies. Starting by January 1, 2014, it requires the treasurer to submit monthly reports to the governor and attorney general on CERF's financial condition.

The act generally subjects CT CARE to the standards governing other existing state foundations (such as the University of Connecticut Foundation). Among other things, CT CARE must ensure that its books and records are audited in accordance with generally accepted accounting principles (GAAP) either by state auditors or an independent certified public accountant.

The act designates the Department of Emergency Services and Public Protection (DESPP) as the state agency for which CT CARE is established. It requires CT CARE to have a written agreement with DESPP covering its use of DESPP's facilities and resources.

The act requires CT CARE to have a governing board and specifies its composition. For each eligible incident, the board must establish a distribution committee to help it determine eligibility requirements for recipients of CT CARE disbursements. An "eligible incident" is an emergency declared by a political subdivision of the state; the governor; or two-thirds vote of the board, following a request by the governor.

EFFECTIVE DATE: Upon passage

#### CT CARE FOUNDATION

The act establishes CT CARE as a federal tax-exempt foundation to support coordinated emergency recovery. It defines "coordinated emergency recovery" as the support and improvement of state services affected by a natural disaster, an act of domestic terrorism, catastrophic event, or other unforeseen emergency, including services provided by DESPP or the Office of Victim Services (OVS), which is within the Judicial Department.

The act authorizes the foundation to accept disbursements from CERF and private gifts, grants, or donations to carry out its purposes.

#### *Executive Authority*

The act designates (1) DESPP as the state agency for which CT CARE is established and (2) the DESPP's deputy commissioner of the Division of Emergency Management and Homeland Security as the agency's executive authority for purposes of coordinated emergency recovery. The foundation itself is not a state or public agency. It is responsible for paying the salaries, benefits, and expenses of officers and employees.

*Agreements.* The executive authority must ensure that there is an agreement between DESPP and the foundation covering the foundation's use of DESPP's facilities and resources, including any used to maintain the foundation's books and records. Foundation books and records kept by DESPP are not disclosable under the Freedom of Information Act (FOIA).

The agreement must also:

1. provide that the state is not liable for the foundation's acts, omissions, or obligations;
2. require the foundation to reimburse the agency for any expenses incurred solely as a result of foundation operations;
3. provide that, if the foundation ceases to exist, or to be a foundation, it may not use DESPP's name, and its records, or copies of them, will be available to, and may be stored by, the agency, but exempt from FOIA; and
4. provide for disposition of the foundation's financial and other assets.

*Audits.* The executive authority must ensure that the foundation's books and accounts are fully audited by an independent certified public accountant or, if requested by the state agency with the foundation's consent, the state auditors.

An audit of the foundation's books must be conducted for any fiscal year in which the foundation (1) has funds in excess of \$100,000 in the aggregate or (2) responds to an eligible incident. If the foundation receives and earns less than \$100,000 in any of three consecutive years, it must have an audit of the third year, unless it had an audit completed on its behalf in any year in the three-year period.

Audits must be conducted in accordance with GAAP. The audit report must (1) contain financial statements, a management letter, and an audit opinion addressing how the foundation's operating procedures conform with the law and act and (2) recommend any necessary corrective steps. The financial statement must show the foundation's total receipts and earnings from its investments for the fiscal year covered. It must also show the amount and purpose of funds the agency received from the foundation. The foundation may adopt any 12-month period as its fiscal year.

The act requires the foundation to provide copies of its audit reports to the executive authority and the attorney general. It also requires existing foundations to provide copies of their reports to the attorney general, not just to the executive authority, as they did under prior law.

#### CT CARE GOVERNING BOARD

The act gives the executive authority responsibility for ensuring that the foundation is administered by a governing board. It specifies the board's composition, duties, and legal obligations.

Board employees are not state employees.

#### *Membership*

The board consists of voting and nonvoting members.

*Voting Members.* The voting members are:

1. seven gubernatorial appointees, who serve at the governor's pleasure, with experience in finance or accounting or running a nonprofit or other corporation;
2. the Office of Policy and Management (OPM) secretary or a designee;
3. the DESPP deputy commissioner of the Division of Emergency Management and Homeland Security or a designee;
4. an OVS employee, appointed by the chief court administrator;
5. the chairperson of each regional emergency planning team established by the Division of Emergency Management and Homeland Security; and
6. two members, appointed by the Connecticut Council for Philanthropy, whose terms are coterminous with that of the governor, except the terms must extend through the duration of an eligible incident, and after the expiration of such member's terms, until new appointments are made.

*Nonvoting Members.* The following members or their designees serve as nonvoting members in an advisory capacity, in a manner determined by the executive committee (described below):

1. the state emergency management director;
2. the social services and insurance commissioners;
3. the executive directors of the Connecticut Conference of Municipalities (CCM) and Connecticut Council of Small Towns; and
4. other people the executive committee chooses.

The CCM and Council of Small Towns members' terms are coterminous with the governor's term, provided the members' terms must extend through the duration of an eligible incident.

*Deadlines.* All appointments to the governing board must be made by August 10, 2013. Vacancies must be filled by the appointing authority. The governor must select the chairperson, who must call the first board meeting, which must be held by September 9, 2013.

#### *Board Duties*

The governing board must:

1. adopt policies, bylaws, and governing documents, and undertake other measures to (a) ensure that the foundation receives and maintains its federal tax-exempt status and (b) receive and distribute funds donated in response to an eligible incident;
2. register CT CARE with applicable state or federal agencies;

3. establish best practices for operating and administering CT CARE to provide coordinated emergency recovery;
4. in anticipation of eligible incidents, create objective guidelines, protocols, or scenarios tailored to respond to foreseeable eligible incidents;
5. take actions necessary to ensure financial independence and sustainability, which may include soliciting private donations to fund its operations with restricted or endowment funds;
6. for each eligible incident, certify to the governor and the state treasurer that the foundation is ready, willing, and able to receive private donations and carry out coordinated emergency recovery;
7. establish a distribution committee, receive recommendations from the committee, and formally adopt any proposed formula to distribute victims' relief funds; and
8. fund its operations and pay its expenses from funding sources designated for the purpose.

#### *Board Authority*

The board may:

1. sue and be sued;
2. employ fiscal agents, accountants, legal counsel, or other professionals to carry out the foundation's purposes, such as an executive director or other staff the board deems necessary;
3. negotiate for services with state agencies or qualified nonprofit entities;
4. with exceptions, delegate decision making authority on the distribution of funds; and
5. consider and promote the concepts and best practices associated with coordinated emergency recovery.

#### *Distribution Committee*

For each eligible incident, the board must establish a distribution committee to help it determine eligibility requirements for recipients of disbursements from any fund the foundation establishes. But any distribution must be made by action of the board.

The distribution committee consists of the (1) regional coordinator for the Division of Emergency Management and Homeland Security of any region affected; (2) chairperson of each regional emergency planning team established by the division; and (3) chief executive officer for each affected municipality, in all three cases as determined by the board or as otherwise provided for in a declaration of emergency causing an incident to become eligible. The board chairperson must

also appoint up to two residents of an affected municipality or municipalities to the board.

#### *Executive Committee*

The board must establish an executive committee and determine its membership. The committee must inform nonvoting board members of their roles as advisors and attend to any other duties the board prescribes for the committee.

#### *CERF*

Under the act, the state treasurer (1) is the custodian of CERF and (2) may accept private gifts, grants, or donations for the fund. CERF funds must be accounted for separately and apart from all other state money, and the full faith and credit of the state is pledged for their safekeeping. The act stipulates that private funds donated or contributed for coordinated emergency recovery must not be put in the General Fund and cannot be considered General Fund appropriation.

The state treasurer or her designee must disburse CERF funds to CT CARE upon (1) the declaration of an eligible incident and (2) receipt of the certification that the foundation is ready, willing, and able to accept funds and carry out coordinated emergency recovery.

Monthly, beginning by January 1, 2014, the state treasurer must submit a report to the governor and attorney general on CERF's financial condition. The report must include (1) an estimate of the fund's value on the report date, (2) the effect of disbursements and scheduled disbursements on its value, and (3) an estimate of the monthly administrative costs necessary to operate the fund.

#### *Victims' Relief and Assistance*

The act requires CT CARE to provide (1) victims' relief and (2) assistance to individuals, municipalities, nonprofit organizations, and other eligible recipients affected by an eligible incident. It defines "victims' relief" as direct financial payments to individuals the board determines are most affected by an eligible incident. It defines "assistance" as money payable by CT CARE, other than victims' relief, to help affected individuals, municipalities, and nonprofit organizations.

#### *Procedural Issues*

Upon the declaration of each eligible incident, the board must establish the following three funds to provide victims' relief and assistance:

1. a victim's relief fund to provide victims' relief in accordance with the formula adopted by the board under the act;

2. an individual assistance fund to provide needs-based assistance to affected individuals; and
3. a public assistance fund to provide local emergency funding to affected municipalities, nonprofit organizations, and other eligible recipients.

The funds must contain money disbursed to the foundation by the state treasurer. The board may also establish other funds it deems necessary or desirable to provide coordinated emergency recovery.

If the money in any of the funds, other than the victims' relief fund, is insufficient to provide full assistance, the board may, at its discretion, provide assistance on a pro rata basis. Any victims' relief or assistance provided under the act is deemed unavailable for repaying assistance provided by the Federal Emergency Management Agency.

#### *Permanent Endowment Funds*

The act allows the board to establish permanent endowment funds, including a permanently unrestricted fund to pay for the foundation's operating expenses. The board must administer and hold any such endowment funds in a trust fund with a bank or trust company separate and apart from all other foundation funds and accounts. Any endowment fund eligible gift must be deposited in the endowment fund, as must any interest or other income earned on the fund's investments, pending application or transfer or use of earnings on the principal for the fund's purposes.

The act defines an "endowment fund eligible gift" as a private gift made for the foundation's benefit, which (1) the donor has specifically designated for deposit in an endowment fund or (2) by the terms of the gift, the foundation may and does deposit or permit to be deposited in an endowment fund.





PA 13-89—sHB 6495

Transportation Committee

Finance, Revenue and Bonding Committee

## AN ACT CONCERNING THE ISSUANCE OF MOTOR VEHICLE OPERATORS' LICENSES

**SUMMARY:** This act requires the motor vehicles (DMV) commissioner to issue driver's licenses "for driving purposes only" to individuals who cannot provide DMV with proof of legal U.S. residence or a Social Security Number (SSN). The license only allows the holder to drive; it cannot be used for federal identification purposes (e.g., boarding a plane) or as proof of identity to vote.

The act specifies the types of proof of (1) identity and (2) residence needed to obtain this license and the restrictions on its use. It prohibits the commissioner from issuing such a license to a person convicted of a felony in Connecticut, allows her to adopt regulations to implement the act's provisions, and makes a conforming change.

The act also creates a working group to examine methods to verify the validity of foreign documents submitted to DMV.

EFFECTIVE DATE: January 1, 2015, except the provision on the working group is effective on passage.

### LICENSES FOR DRIVING PURPOSES ONLY

#### *Proving Identity and Residence*

The act makes people who cannot establish legal presence in the United States or do not have an SSN eligible for restricted driver's licenses if they (1) provide the commissioner with two types of proof of their identity (primary and secondary) and proof of Connecticut residence and (2) satisfy DMV's knowledge, road test, and other license requirements. It specifies the types of documents that may be used as such proof (see below).

Prior law and regulations required all driver's license applicants to provide DMV with proof of their identity (CGS § 14-36 (e)), and, if not U.S. citizens, proof of their legal presence in the United States and residence in Connecticut (Conn. Agencies Reg. § 14-137-64a). DMV generally requires all license applicants to provide their SSN, except where the applicant can provide DMV with a letter from the Social Security Administration stating that he or she is ineligible for one (Conn. Agencies Reg. § 14-137-79a).

Regardless of any other law or regulation, the commissioner must issue a license to an applicant who meets the act's requirements. But the commissioner cannot issue such a license to an applicant convicted of a felony in Connecticut.

#### *Restricted License Requirements*

Under the act, applicants for the new restricted licenses must:

1. provide proof of residency in Connecticut;
2. provide either (a) two forms of primary proof of identity or (b) one form of primary proof of identity and one form of secondary proof; and
3. file an affidavit with the commissioner attesting that the applicant has applied to legalize his or her immigration status, or will apply as soon as he or she is eligible to do so.

Any form of documentation in a language other than English must be accompanied by a certified English translation prepared by a translator the commissioner approves.

#### *License Restrictions*

The commissioner must place restrictions on each license issued under the act, indicating that it can be used "for driving purposes only" and that it is not valid for federal identification purposes (see BACKGROUND). Under the act, such a license cannot be used as identification for voting.

#### *Term and Renewal*

The license is valid for between three and six years from the date it is issued, and may be renewed every three years. The commissioner cannot renew such a license unless the license holder appears in person and shows proof of residency at the time of renewal. The act does not require the license holder to demonstrate that he or she has legalized his or her immigration status.

#### *Felony Convictions, Knowledge Test, and Records Check*

The act requires the commissioner to administer the driver's license knowledge test to an applicant who submits the required proofs of residency and identity. No later than 30 days after the applicant has passed the knowledge test, the commissioner must search the Judicial Department's website for felony convictions matching the applicant's name and birthdate. If the applicant has not been convicted of a felony in Connecticut, the commissioner must mail him or her an instruction permit (see BACKGROUND). The commissioner cannot refund the application fee of an applicant who failed the knowledge test or was convicted of a felony.

## PROOF OF IDENTITY AND RESIDENCY

### *Primary Proof of Identity*

Under the act, primary proof of identity is a:

1. valid foreign passport issued by the applicant's country of citizenship that (a) is unexpired or (b) expired less than three years before the application;
2. valid, unexpired consular identification document issued by an applicant's country of citizenship; or
3. consular report of an applicant's birth in a foreign country.

### *Secondary Proof of Identity*

Under the act, secondary proof of identity is a:

1. valid, unexpired driver's license with security features, issued by another state or country;
2. valid foreign voter registration card;
3. certified copy of a marriage certificate issued by any state or U.S. territory or any county, city, or town in a state or territory;
4. certified school transcript; or
5. baptismal certificate or similar document.

### *Proof of Residency*

Proof of residency under the act means mail or email that (1) includes an applicant's name and address; (2) indicates that the applicant resides in Connecticut; and (3) is dated, unless otherwise indicated below, no earlier than 90 days before the application is submitted, from any two of the following:

1. a bill from a bank or mortgage company, utility company, credit card company, doctor, or hospital;
2. a bank statement or transaction receipt showing the bank's name and mailing address;
3. a preprinted pay stub;
4. a property or excise tax bill dated no earlier than 12 months before the application;
5. an annual benefits summary statement from the Social Security Administration or other pension or retirement plan dated no earlier than 12 months before the application;
6. a Medicaid or Medicare benefit statement;
7. a current homeowner's or renter's insurance policy or motor vehicle insurance card or policy dated no earlier than 12 months before the application;
8. a home mortgage or similar loan contract, lease, or rental contract signed by all parties needed to execute the agreement, dated no earlier than 12 months before the application;

9. any postmarked mail;
10. a change of address confirmation from the U.S. Postal Service indicating an applicant's current and prior address;
11. a survey of an applicant's real property issued by a licensed surveyor; or
12. any official school record showing enrollment.

## WORKING GROUP

The act creates a working group to examine methods to verify foreign documents submitted to DMV by applicants for these restricted licenses. The working group must (1) review methods used by other states and the federal government to verify foreign documents and (2) analyze issues concerning DMV's implementation of a foreign document verification process.

The working group consists of seven members, including the DMV commissioner or her designee and one member each appointed by the six House and Senate leaders. At least two of the appointees must have expertise in evaluating and verifying foreign identification documents.

All appointments to the working group must be made no later than July 6, 2013. The appointing authority fills any vacancy. The House speaker and Senate president pro tempore must select the chairpersons from among the working group members. (The act does not specify the number of chairpersons.) The chairpersons must schedule the group's first meeting, which must be held no later than August 5, 2013.

The working group must prepare a report on its findings and recommendations by February 1, 2014. It terminates on the date it prepares the report or February 1, 2014, whichever is later. The act does not state whether or to whom the working group delivers the report.

## BACKGROUND

### *Connecticut Drivers Licenses and REAL ID*

Federal law (Real ID Act, P.L. 109-13, (2005)) requires states to meet certain standards when issuing driver's licenses and non-driver photo identification cards for those credentials to be accepted for such federal purposes as boarding airplanes and accessing federal buildings. The law allows states to issue two types of licenses: one that is acceptable for federal purposes, and one that is not. To obtain a federally compliant license, a non-citizen applicant must provide proof of lawful immigration status. License applicants unable to provide such proof are eligible only for licenses that are not acceptable for federal purposes.

### *Instruction Permits*

Before learning to drive on public roads, applicants for driver's licenses age 18 or older must obtain a DMV adult instruction permit; 16- and 17-year-old applicants must obtain a DMV youth instruction permit (CGS § 14-36).

### **PA 13-92—HB 5250**

*Transportation Committee*

*Finance, Revenue and Bonding Committee*

*Appropriations Committee*

### **AN ACT CONCERNING THE SAFETY OF WORKERS IN ROADWAY WORK ZONES**

**SUMMARY:** This act stiffens the penalties for drivers who violate certain laws in highway work zones, and makes other changes related to work zone safety. Among other things, it:

1. doubles the basic fines for drivers who illegally use hand-held cell phones or mobile electronic devices in a highway work zone;
2. requires certain motorists who speed in a work zone to attend a driver retraining program, and allows the motor vehicles (DMV) commissioner to require drivers who otherwise violate the highway work zone safety law to attend the program;
3. creates a work zone safety account to fund highway traffic enforcement;
4. requires driver's license knowledge tests to include a question, and driver education courses to include instruction, on highway work zone safety; and
5. requires the transportation commissioner to study implementing a pilot program using variously colored lights to improve work zone safety.

**EFFECTIVE DATE:** October 1, 2013, except that the pilot program provision is effective upon passage.

### **NEW PENALTIES**

#### *Cell Phone Violations in Work Zones*

By law, Superior Court judges must double the basic fine imposed on people convicted of violating certain motor vehicle laws while work is taking place in (1) a conspicuously designated (a) Department of Transportation (DOT) highway, (b) municipal road construction, or (c) utility company work zone, or (2) an active traffic incident management zone. The act requires judges to double the basic fines of people convicted of illegally using hand-held cell phones or

mobile electronic devices in these work zones (see BACKGROUND). (By law, there are charges for these offenses in addition to the basic fines.)

It requires that half of this additional fee collected for all motor vehicle violations in these work zones be deposited in a work zone safety account the act creates as a separate, non-lapsing account in the Special Transportation Fund. It requires DOT to use this account, which must contain any money the law requires, for highway traffic enforcement, including expanding the "Operation Big Orange" program to protect the safety of highway workers in these zones. (PA 13-277 amends this act by establishing a different funding method (see BACKGROUND)).

#### *Work Zone Violations and the Driver Retraining Program*

Under the act, the DMV commissioner must require anyone convicted of driving in a highway work zone at more than (1) 75 mph, or (2) 65 mph if the driver is driving a commercial motor vehicle (e.g., large truck) to attend a driver retraining program.

It allows the commissioner to require other drivers who violate the highway work zone safety law (CGS § 14-212d) to attend the retraining program (see BACKGROUND).

#### *Points against Driver's License*

The act requires the DMV commissioner to assess up to two points against the driver's license of a driver convicted of violating the state highway work zone safety law (see BACKGROUND).

### **KNOWLEDGE TESTS AND DRIVER INSTRUCTION**

The act requires the DMV commissioner to include a question on highway work zone safety and driver responsibility on each knowledge test given to a driver's license applicant. It (1) requires her to adopt regulations requiring high school driver's education programs to include classroom instruction on highway work zone safety and driver responsibility and (2) authorizes her to adopt similar regulations for commercial driving school instruction. State regulations already require instruction on reducing speed in highway work zones (see BACKGROUND).

### **PILOT STUDY OF VARIOUSLY COLORED LIGHTS IN HIGHWAY WORK ZONES**

The act requires the DOT commissioner to study implementing a pilot program on the use of variously colored lights in highway work zones. The study must

analyze (1) other states' use of these lights, (2) the success of such use, (3) safety concerns about the lights, and (4) federal or state laws or regulations concerning the use of such lights.

The commissioner must report to the Transportation Committee by February 1, 2014 on his findings and any recommendations to implement the program.

## BACKGROUND

### *Fines for Illegal Use of Cell Phones and Mobile Electronic Devices*

Through September 30, 2013, the fines for illegally using cell phones and mobile electronic devices are \$125 for a first offense, \$250 for a second offense, and \$400 for subsequent offenses. Beginning October 1, 2013, these fines increase to \$150, \$300, and \$500, respectively (PA 13-271, § 37).

### *Driver Retraining Program*

By law, the DMV commissioner may require participation in this program by drivers who commit a certain number of moving or suspension violations. The retraining program (1) reviews principles of motor vehicle operation, (2) develops alternatives for attitudes contributing to aggressive driving behavior, and (3) emphasizes the need to practice safe driving behavior (CGS § 14-111g).

### *Regulations Concerning Instruction on Highway Work Zone Safety*

State regulations require instruction in high schools and commercial driving schools on slowing down for work zones (Conn. Agencies Reg. §§ 14-36f-4 and 4a and §§ 14-78-33 and 33a, respectively).

### *Point System*

DMV regulations assign between one and five points for various motor vehicle violations, ranging from one point for operating at an unreasonable speed to five points for negligent homicide with a motor vehicle (Conn. Agencies Reg. § 14-137a-5 et seq.). The commissioner must suspend the license of a driver who accumulates 11 or more points on his or her driving record. Points remain on a driver's record for two years.

### *Related Acts*

PA 13-277 eliminates this act's requirement that half the additional fee be placed in the work zone safety account. It instead requires the state treasurer to deposit \$9,000 monthly in the work zone safety account from

all money collected from certain DOT licenses, permits, and fees, and from the existing 50% surcharge assessed against people paying certain motor vehicle fines and penalties (CGS § 13b-70).

PA 13-200 doubles the basic fines for speeding or committing certain other traffic violations in a conspicuously designated fire station work zone in which a uniformed firefighter is directing traffic.

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### **PA 13-102—sHB 6253**

*Transportation Committee*

## **AN ACT CONCERNING THE PENALTY FOR FAILURE TO REMOVE ICE OR SNOW FROM A MOTOR VEHICLE**

**SUMMARY:** This act makes failing to remove snow or ice from a motor vehicle an infraction, thus making the fine payable by mail. The fine remains \$75.

The act applies to drivers of both non-commercial motor vehicles (e.g., passenger vehicles) and, starting December 31, 2013, commercial vehicles (e.g., buses and large trucks). By law, drivers must remove accumulated snow or ice from their vehicles (including the hood, trunk, and roof) so that it does not endanger people or property while they are driving. The law does not apply to drivers of vehicles (1) on which snow or ice collects while being driven or (2) that are parked.

The act does not change the payment procedure for violations of this law that cause personal injury or property damage, and thus still requires a court appearance for these offenses. By law, each such violation is punishable by (1) a \$200 to \$1,000 fine, if committed by the driver of a non-commercial motor vehicle and (2) starting December 31, 2013, a \$500 to \$1,250 fine if committed by the driver of a commercial motor vehicle.

EFFECTIVE DATE: October 1, 2013

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### **PA 13-237—SB 190 (VETOED)**

*Transportation Committee*

*Planning and Development Committee*

*Judiciary Committee*

## **AN ACT CONCERNING ALL-TERRAIN VEHICLES AND THE CERTIFICATION OF HOUSEHOLD GOODS CARRIERS**

**SUMMARY:** The law requires anyone operating a motor vehicle to transport household goods for hire as a "household goods carrier" (e.g., a moving van company) to obtain a certificate of public convenience and necessity from the transportation commissioner.

This act allows the commissioner, when deciding whether to issue the certificate, to consider the (1) applicant's financial stability and past criminal history and (2) effects on state highways, such as public safety. It prohibits him from considering the effects that issuing the certificate would have on the applicant's competitors in Connecticut. Already by law, the commissioner may not deny a certificate solely because there is an existing rail or household goods carrier service. But by law, he must consider such things as:

1. effect on existing motor transportation facilities,
2. public need for the applicant's proposed service,
3. applicant suitability and financial responsibility,
4. condition of and effect on the highways involved, and
5. public safety on such highways (CGS § 13b-392).

The act also requires the Department of Energy and Environmental Protection (DEEP) to implement, by July 1, 2014, the all-terrain vehicle (ATV) proposals provided in its November 2002 publication entitled "All-Terrain Vehicle Policy and Procedures." The publication provides a procedure for DEEP and ATV organizations to designate state land for ATV use. It allows the organizations to submit to DEEP proposals identifying land appropriate for such use. DEEP must review proposals and decide whether to approve of the use. An organization with an approved proposal must then enter into a concession agreement with DEEP for the land's development, operation, and maintenance.

EFFECTIVE DATE: Upon passage for the ATV provision, and July 1, 2013 for the household goods carrier provision.

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**PA 13-271—HB 6033**

*Transportation Committee*

*Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING DISTRACTED DRIVING  
AND REVISIONS TO THE MOTOR VEHICLE  
STATUTES**

**SUMMARY:** This act makes numerous changes in the motor vehicle laws. Among other things, it:

1. increases the fines for using a hand-held cell phone or other electronic device while driving, creates a task force to study prevention of distracted driving, and makes other changes in the cell phone law (§§ 2, 37, & 60);
2. increases driver's license renewal fees and changes other motor vehicle fees (§§ 15-17, 20-21);

3. requires certain Department of Motor Vehicles (DMV) employees to undergo background checks (§ 6);
4. allows certain people convicted of driving under the influence (DUI) to drive to probation appointments in the first year of driving only cars equipped with ignition interlock devices (§§ 51-53);
5. bars the DMV commissioner from registering all-terrain vehicles (ATVs) and vessels of delinquent taxpayers (§§ 9-10);
6. criminalizes some offenses committed by motor vehicle repair shops and makes other offenses an infraction (§§ 45-49);
7. waives the motorcycle endorsement written test for certain servicemembers (§ 14);
8. modifies what is considered a motor-driven cycle and requires operators of certain of these vehicles to wear eye protection (§§ 3, 34, & 36);
9. modifies laws exempting certain tow truck companies (e.g., those towing interstate for hire) from state licensing, registration, and equipment laws (§ 26);
10. makes a driving instructor's license valid for use at any licensed driving school, rather than just at the school where the instructor works (§ 28);
11. expands the types of vehicles that must stop at state weigh stations (§ 32);
12. prohibits the DMV commissioner, with certain exceptions, from issuing a driver's license to anyone who has held an adult instruction permit for less than 90 days (§ 50);
13. allows sworn motor vehicle inspectors to administer oaths and serve search warrants (§§ 1, 42);
14. prohibits commercial driver's license (CDL) holders from taking part in certain pre-trial programs (§§ 43-44);
15. changes other laws affecting CDL holders, including specifying who can issue "out-of-service" orders to bus and truck drivers, and applies certain penalties to all CDL holders, regardless of the type of vehicle they were driving when they committed a violation (§§ 4-5, 37); and
16. modifies laws concerning driver's license photos and special operator permits (§§ 12-13).

It also makes other changes affecting CDL holders, garages, and wreckers.

EFFECTIVE DATE: Various, see below.

## §§ 1 & 42 — POWERS OF MOTOR VEHICLE INSPECTORS

The act allows sworn DMV motor vehicle inspectors to administer oaths and serve search warrants when discharging their duties according to law.

EFFECTIVE DATE: July 1, 2013

## §§ 2, 37, & 60 —USE OF CELL PHONES WHILE DRIVING

The act increases the fines for violating the ban on driving while operating a cell phone, texting, or engaging in any activity that interferes with a vehicle's safe operation, as shown in Table 1.

Table 1: Fines for Violating the Law

| Offense              | Fine Under Prior Law | Fine Under the Act |
|----------------------|----------------------|--------------------|
| First                | \$125                | \$150              |
| Second               | \$250                | \$300              |
| Third and Subsequent | \$400                | \$500              |

The act requires that the record of such a violation appear in the violator's driving history or motor vehicle record and be made available to motor vehicle insurers.

It also requires the DMV commissioner to assess at least one point on a violator's motor vehicle record.

### *Distracted Driving Task Force*

The act creates a task force to:

1. evaluate the effectiveness of existing distracted driving laws;
2. examine enforcement of those laws;
3. consider distracted driving measures taken by the federal government and other states; and
4. make recommendations, including legislation, to prevent distracted driving in the state.

The task force must report to the Transportation Committee by January 1, 2014 and terminates on that date or when it submits its report, whichever is later.

The task force has 12 members, including the DMV and transportation commissioners, or their designees, and the chairpersons and ranking members of the Transportation Committee. The six legislative leaders each appoint one member, who may be a legislator.

Appointments must be made by August 10, 2013. Any vacancy must be filled by the appointing authority.

The House speaker and Senate president pro tempore must select the task force chairpersons from the task force membership. (The act does not specify the number of chairpersons.) The chairpersons must hold the task force's first meeting by September 9, 2013. The

task force is staffed by the Transportation Committee's administrative staff.

EFFECTIVE DATE: October 1, 2013, except the task force provision is effective upon passage.

## §§ 3, 34, & 36 — MOTOR-DRIVEN CYCLES

The act classifies a "motor-driven cycle" as any of the following with a piston displacement of less than 50 cubic centimeters: a (1) motorcycle, (2) motor scooter, or (3) bicycle with an attached motor. Under prior law, motor-driven cycles were any of these vehicles whose motors produced five or less brake horsepower. As under existing law, a motor-driven cycle must have a seat at least 26 inches high. Motor-driven cycles are subject to laws restricting their operation on highways, among other restrictions.

By law, the DMV commissioner must issue regulations, according to nationally accepted standards, on specifications for goggles, glasses, face shields, windshields, and wind screens for use by motorcycle operators. The act requires her to do the same for operators of motor-driven cycles. Motor-driven cycle operators who fail to wear goggles, glasses, or face shields that meet the minimum specifications commit an infraction. The provisions do not apply to operators of motor-driven cycles equipped with wind screens or windshields that comply with the regulations.

EFFECTIVE DATE: July 1, 2013

## § 4 — OUT-OF-SERVICE ORDERS

The act requires a person with DMV inspection authority to issue an "out-of-service" order (i.e., a temporary prohibition against driving a vehicle subject to Federal Motor Carrier Safety Administration (FMCSA) regulations). By regulation, people with inspection authority include motor vehicle inspectors and state and municipal police officers who have satisfactorily completed 40 hours of on-the-job training and a course in FMCSA regulations, safety inspection procedures, and out-of-service criteria (Conn. Agencies Reg. § 14 -163c-9). Prior law authorized police and motor vehicle inspectors to inspect commercial motor vehicles but did not require that they have specific training or education. By law, authorized FMCSA officials can also issue out-of-service orders.

The act increases the types of motor vehicles subject to out-of-service orders to include those:

1. weighing 18,001 or more pounds in intrastate commerce;
2. weighing 10,001 or more pounds in interstate commerce;
3. carrying more than eight passengers, including the driver, for compensation;

4. carrying more than 15 passengers, including the driver, without compensation; or
5. used to transport certain hazardous waste.

Prior law authorized police and motor vehicle inspectors to issue out-of-service orders to prevent commercial motor vehicles from operating on highways. By law, commercial motor vehicles are vehicles:

1. with a gross vehicle or combination weight rating of at least 26,001 pounds, including a towed unit or units with a gross vehicle weight rating of at least 10,000 pounds;
2. designed to transport at least 16 passengers, including the driver;
3. designed to transport more than 10 passengers, including the driver, and bring students under age 21 to and from school; or
4. that transport certain hazardous materials.

The act therefore adds to the vehicles subject to out-of-service orders those vehicles (1) weighing between 18,001 and 26,000 pounds in intrastate commerce, (2) weighing between 10,001 and 26,000 pounds in interstate commerce, or (3) carrying between eight and 15 passengers for compensation. It appears to preclude placing out-of-service a vehicle carrying more than 10 but fewer than 15 students under age 21 to and from school.

EFFECTIVE DATE: July 1, 2013

#### §§ 5 & 37 — SERIOUS TRAFFIC VIOLATIONS

By law, certain offenses are considered “serious traffic violations.” A CDL holder convicted of more than one of these offenses is disqualified from operating a commercial motor vehicle (e.g., large truck) for specified periods of time (CGS § 14-44k (f)).

Under prior law, a driver committed a serious traffic violation if he or she violated a highway traffic law and caused the death of another person while driving a commercial motor vehicle. The act broadens the category of people for whom this is a serious traffic violation to include CDL or commercial driver’s instruction permit holders, regardless of whether they were driving a commercial motor vehicle when the violation occurred.

The act (1) prohibits people from using a hand-held cell phone or other electronic device for any purpose while driving a commercial motor vehicle, except in an emergency, and (2) adds this violation to those offenses considered a serious traffic violation. Under existing law, typing, reading, or sending a text message from a cell phone or electronic device while driving a commercial motor vehicle is prohibited, except in an emergency, and is a serious traffic violation.

EFFECTIVE DATE: July 1, 2013, except for the provision barring drivers from using a hand-held cell

phone or other electronic device while driving a commercial motor vehicle, which is effective October 1, 2013.

#### § 6 — BACKGROUND CHECKS OF CERTAIN DMV EMPLOYEES

The act complies with federal regulations (49 CFR 384.228) by requiring anyone who is to be employed to administer a DMV knowledge or skills test to CDL applicants to undergo a national criminal background check before DMV certifies him or her to give such tests. The checks must include name- and fingerprint-based criminal history checks of federal and state records. DMV must keep a record of the checks. (The act does not specify for how long DMV must retain the records). DMV must not certify any examiner convicted of a felony in the previous 10 years or of any crime involving fraud.

EFFECTIVE DATE: October 1, 2013

#### §§ 7 & 39-40 — INSURANCE INFORMATION

The act requires insurers offering passenger car insurance to include on annual and temporary insurance identification cards the National Association of Insurance Commissioners code number assigned to the insurer. As under existing law, the cards must be issued in duplicate. The act bars the DMV commissioner from issuing a motor vehicle registration for a passenger vehicle or vehicle with a commercial registration unless the registration application includes a current insurance identification card containing this code number.

EFFECTIVE DATE: October 1, 2013

#### § 8 — LEASE OR RENTAL COMPANY PROOF OF MOTOR VEHICLE INSURANCE

The act requires that people, firms, and corporations that lease or rent motor vehicles furnish to DMV proof that their insurance covers all the vehicles they own, regardless of the length of the lease or rental term. Under prior law, the licensee could furnish proof of insurance separately for each vehicle or each group of vehicles leased to a single lessee.

EFFECTIVE DATE: July 1, 2013

#### §§ 9-10 — REGISTERING VEHICLES OF DELINQUENT TAXPAYERS

By law, municipal tax collectors must notify DMV when the property tax on a registered motor vehicle or snowmobile is unpaid. DMV cannot register the motor vehicle or snowmobile, or any other motor vehicle or snowmobile belonging to the delinquent taxpayer, until the tax obligation is met. By law, in certain cases (e.g., paying delinquent taxes on a motor vehicle or



snowmobile with a check that bounced), the commissioner also may suspend all motor vehicle or snowmobile registrations in the delinquent taxpayer's name.

The act additionally bars the commissioner from registering any ATV or vessel belonging to the delinquent taxpayer. It allows the commissioner to cancel, as well as suspend, all motor vehicle and snowmobile registrations in the delinquent taxpayer's name in certain cases and similarly allows her to suspend or cancel any ATV or vessel registrations in the taxpayer's name in those cases.

#### *Notification Procedures*

The act modifies procedures tax collectors use to notify DMV of payment of a delinquent tax. Under prior law, the tax collector had to send the commissioner a receipt showing the tax has been paid, or other such evidence. The act eliminates the requirement that a tax collector furnish evidence the tax has been paid, requiring only that the tax collector notify the commissioner that the tax obligation has been legally discharged.

The act also requires tax collectors to notify the commissioner according to guidelines and procedures, rather than listings and schedules of dates, the commissioner establishes. It eliminates a requirement that the notification of delinquency be on forms the commissioner prescribes and furnishes, specifying certain information. It also eliminates a requirement that, when notifying the commissioner that a taxpayer is no longer delinquent, the tax collector include the name, address, and registration number to be removed from the motor vehicle delinquent tax list, instead requiring the tax collector to notify the commissioner according to the commissioner's guidelines and procedures.

#### *Leasing or Rental Firms*

Prior law allowed the commissioner to continue to register vehicles, other than one on which a licensed leasing or rental firm had not paid property taxes, if she was satisfied that the firm had arranged to pay the taxes it owed. The act allows her to continue to register other vehicles for such a firm regardless of whether such an arrangement has been made.

EFFECTIVE DATE: October 1, 2013

#### § 11 — "Q" ENDORSEMENT TO DRIVE FIRE APPARATUS

By law, a "Q" designation on a driver's license indicates that the license holder may operate a fire apparatus. DMV regulations require that anyone seeking such a designation, as authorized by the chief of the fire department, demonstrate to the commissioner or her

designee that he or she has the skills necessary to drive a fire apparatus, including vehicles weighing more than 26,001 pounds (Conn. Agencies Reg. § 14-36a-1).

The act requires the holder of a Q endorsement to be trained to operate a fire apparatus according to Commission on Fire Prevention and Control standards. DMV cannot issue a Q endorsement until the applicant demonstrates personally to the commissioner or her designee, including (1) the Connecticut Fire Academy; (2) a regional fire school; or (3) the chief local fire official of any municipality, that he or she possesses the necessary skills. As under the regulations, the applicant must be tested in a representative vehicle.

By law, a person who operates a motor vehicle in violation of his or her license classification commits an infraction and faces a \$50 fine. Subsequent violations are class D misdemeanors (see Table on Penalties). An employer who knowingly allows an employee to operate a vehicle in violation of the employee's license classification faces a fine of up to \$1,000 for a first violation and up to \$2,500 for subsequent violations.

EFFECTIVE DATE: July 1, 2013

#### § 12 — COLOR OF LICENSE PHOTOS

The act eliminates a requirement that the photograph or digital image on driver's licenses and non-driver identification (ID) cards be in color.

EFFECTIVE DATE: July 1, 2013

#### § 13 — SPECIAL PERMIT TO DRIVE TO HIGHER EDUCATION INSTITUTIONS

By law, certain people whose driver's licenses have been suspended may apply for a special permit that allows them to drive to and from an accredited higher education institution in which they are enrolled. The act allows holders of such a permit to also drive to a private occupational school, as defined by law, or to any higher education institution, regardless of whether it is accredited. It prohibits the commissioner from issuing such a special permit to students attending a (1) high school under the jurisdiction of a local or regional school board or regional educational service center, (2) charter school, (3) regional agricultural science and technology education center, or (4) technical high school.

EFFECTIVE DATE: July 1, 2013

#### § 14 — WAIVER OF MOTORCYCLE TEST FOR SERVICEMEMBERS

Under existing law, an applicant for a driver's license motorcycle endorsement who does not have a motorcycle instruction permit must take an exam showing that he or she is a proper person to operate a motorcycle, knows enough to operate it safely, and has

a satisfactory knowledge of the rules of the road. The act allows the DMV commissioner to waive this requirement for applicants who can produce documents showing that they (1) are on active military duty with the U.S. Armed Forces; (2) are stationed out of state; and (3) no earlier than two years before applying, have completed a novice motorcycle training course conducted by a firm using the Motorcycle Safety Foundation curriculum.

EFFECTIVE DATE: July 1, 2013

**§ 15 — CONVENIENCE FEE INCREASE AND ELIMINATION OF THE PARTIAL YEAR LICENSE FEE**

The act increases, from \$2 to \$3, the convenience fee that automobile clubs or associations (e.g., AAA) may charge a customer who renews or gets a copy of a driver's license or non-driver's ID card or conducts a registration transaction. It eliminates a \$12 driver's license fee for one year, or part of one. (An original driver's license is valid for six years following the date of the driver's next birthday. DMV charges the \$12 fee to applicants whose licenses do not expire until more than six years after they obtain the license (e.g., someone who gets a license in January, but whose birthday is in September)).

EFFECTIVE DATE: October 1, 2013

**§ 16 — TWO-YEAR DRIVER'S LICENSE FEE**

The act increases, from \$22 to \$24, the fee for renewing a two-year driver's license for people age 65 or older. By law, people age 65 or older may renew a license for either two or six years.

EFFECTIVE DATE: October 1, 2013

**§ 17 — CDL RENEWAL FEE**

The act increases the renewal fee for a CDL from \$60 to \$70. A CDL is valid for four years.

EFFECTIVE DATE: October 1, 2013

**§ 18 — COMMERCIAL DRIVER'S INSTRUCTION PERMIT DISQUALIFICATION**

By law, the commissioner may disqualify for life CDL holders who commit two or more of certain offenses, such as driving under the influence. Disqualified drivers cannot drive a commercial motor vehicle. The law allows certain disqualified drivers to apply for reinstatement of their CDL under certain conditions, including successfully completing an appropriate rehabilitation program.

The act similarly allows certain disqualified drivers holding commercial driver's instruction permits to apply for reinstatement, and applies to these permit holders

the same conditions that apply to CDL holders. For example, it provides that certain convictions and offenses remain on the driving history of the permit holder for 55 years, as the law already provides for CDL holders.

EFFECTIVE DATE: October 1, 2013

**§ 19 — COMMERCIAL DRIVER'S INSTRUCTION PERMIT NOTIFICATIONS**

By law, the commissioner, after disqualifying a CDL holder or suspending, revoking, or cancelling a CDL, must note the action in her records within 10 days. If she takes such actions against a commercial driver licensed in another state, she must notify the licensing state of her action within 10 days. The act requires her to also update her own records when taking these actions against someone holding a commercial driver's instruction permit. It also requires her to notify a licensing state within 10 days when taking these actions against (1) a commercial motor vehicle operator licensed in another state or (2) someone who holds a commercial driver instruction permit from another state. As under existing law, the notification must identify the violation that caused the disqualification, suspension, cancellation, or revocation.

EFFECTIVE DATE: July 1, 2013

**§ 20 — ELECTRIC MOTOR VEHICLE REGISTRATION**

The act reduces, from annually to biennially, the registration frequency of electric motor vehicles, and correspondingly changes the registration fee from \$19 annually to \$38 every two years.

EFFECTIVE DATE: October 1, 2013

**§ 21 — LICENSE RENEWAL FEE INCREASE**

The act increases, from \$65 to \$72, the renewal fee for a driver's license to conform to the fee for an initial license. It retains the \$12 fee for a year or partial year for renewals, but eliminates these fees for initial licenses (see § 15).

EFFECTIVE DATE: October 1, 2013

**§ 22 — LOAN OF DEALER OR REPAIRER VEHICLES**

Under existing law, a motor vehicle dealer or repairer may loan a vehicle with a dealer or repairer plate or the plate itself to someone only (1) for a test drive; (2) when the person's vehicle is being repaired; or (3) for up to 30 days, when the person has bought a vehicle and its registration is pending. The act specifies that the loan must be made, respectively, by the (1) dealer owning and demonstrating, (2) dealer or repairer

repairing, or (3) dealer selling, the vehicle.

The act specifies that a dealer or repairer or its full-time employee may drive a vehicle with dealer or repairer plates in connection with the dealer's or repairer's business and to pick up or deliver parts only if the vehicle is owned by the dealer or repairer and is used to pick up and deliver parts only for that business. As under existing law, the dealer or repairer may permit a full-time employee to use such a vehicle for the employee's personal use.

By law, a part-time employee may drive such a vehicle only in connection with the dealer or repairer's business. Under the act, a part-time employee is someone who (1) works for a dealer or repairer for less than 35 hours a week and (2) appears on the employer's records as an employee for whom Social Security, withholding tax, and all deductions required by law have been made.

EFFECTIVE DATE: July 1, 2013

#### § 23 — MOTOR VEHICLE SALES VIOLATIONS AND "AS IS" SALES

The law prohibits a licensed dealer from selling a used motor vehicle without giving the buyer, at the time of sale, a valid certificate of title, the assignment and warranty of title by the dealer, or other evidence of title disclosing any lien, security interest in, or other encumbrance on, the vehicle. Under the act, a dealer who violates this law is guilty of a class B misdemeanor (see Table on Penalties).

The act also makes it a class B misdemeanor for a licensed dealer to deliver, or permit a retail buyer to take possession or delivery of, any used motor vehicle until (1) the buyer has paid in full or (2) financing offered by the dealer has been approved by the entity through which the financing agreement has been made.

##### *"As Is" Sales*

By law, motor vehicle dealers must conduct a comprehensive safety inspection and make needed repairs, without charge to the buyer, before offering any used motor vehicle for retail sale and must provide the buyer with certain documentation. If the inspection finds defects that the dealer does not repair, the dealer may sell the vehicle "as is" provided (1) he or she notes all the defects on the form and (2) the vehicle is not subject to a warranty according to law (i.e., it costs less than \$3,000 or is more than seven years old). The act retains the requirement that the dealer note all the vehicle's defects on a form, and corrects a statutory reference.

By law, the dealer must get the buyer to acknowledge the vehicle's condition by obtaining the buyer's signature on the retail purchase order, invoice,

and safety inspection forms. The act requires that the dealer provide the buyer with copies of these documents when they are signed.

Under the act, a dealer who fails to conduct the required safety inspection commits a class B misdemeanor (see Table on Penalties).

By law, the commissioner may (1) suspend or revoke the license of any licensee who she finds has violated any law or regulation pertaining to its business and (2) impose a civil penalty of up to \$1,000 for each violation (CGS § 14-64).

EFFECTIVE DATE: October 1, 2013

#### § 24 — MEDIATION BY DMV COMMISSIONER

The act allows, rather than requires, the DMV commissioner to attempt to mediate a voluntary resolution of a complaint against a licensed motor vehicle dealer or repairer if she determines the alleged facts indicate there is at least one violation of laws related to the licensee's business. Prior law required the commissioner to try to mediate, whether or not the allegations indicated a potential violation.

EFFECTIVE DATE: July 1, 2013

#### § 25 — PROHIBITING ODOMETER TAMPERING

The act prohibits anyone who sells a motor vehicle at auction from selling a vehicle whose odometer was turned back or changed during the time it was owned immediately prior to the auction. It subjects the auctioneer to the same penalties imposed on those who turn back or change odometer readings.

People who tamper with odometers commit a class A misdemeanor (see Table on Penalties). They are also subject to triple damages or \$1,500, whichever is greater; court costs, and reasonable attorney's fees; and a civil penalty of up to \$1,000 per violation (CGS § 14-106b). A violation is also an unfair trade practice (see BACKGROUND).

EFFECTIVE DATE: July 1, 2013

#### § 26 — EXEMPTIONS FROM CERTAIN WRECKER REQUIREMENTS

By law, certain people, firms, and corporations that operate tow trucks or wreckers are exempt from licensing, registration, and equipment requirements. The act adds associations that operate tow trucks or wreckers to these exempt entities and expands the types of people, firms, corporations, and associations that are exempt.

At the same time, it subjects to the licensing, registration, and equipment requirements those people, firms, corporations, and associations that (1) offer direct towing or transporting services to the public or (2) engage in nonconsensual towing or transporting (towing

or transporting by order of police or a traffic authority).

Existing law exempts licensed motor vehicle dealers who tow or transport motor vehicles for salvage purposes and do not offer direct towing or wrecker service to the public. The act expands this exemption to include any licensed motor vehicle dealer that tows or transports motor vehicles as long as it does not (1) offer direct towing or transporting services to the public or (2) engage in nonconsensual towing or transporting.

The act applies the same restrictions (not offering towing services to the public or engaging in nonconsensual towing) to certain other already exempt and newly exempt entities. Specifically, it exempts people, firms, corporations, and associations that contract with motor vehicle recyclers, as long as the recycler or its contractor does not engage in such activities. It requires that, to continue to remain exempt, people, firms, corporations, or associations that repossess motor vehicles for banks not engage in such activities. And, as long as they do not engage in such activities, it exempts people, firms, corporations, or associations that (1) tow or transport motor vehicles interstate for hire, provided they have the appropriate federal operating authority or (2) tow motor vehicles to or from an auction conducted by a licensed dealer according to law.

The act imposes penalties on people, firms, corporations, or associations that violate laws pertaining to wrecker licensing, registration, equipment, or other matters. A first offense is an infraction; subsequent offenses are class D misdemeanors (see Table on Penalties).

EFFECTIVE DATE: October 1, 2013

#### § 27 — DRIVING SCHOOL FEES

By law, a licensed driving school must pay DMV \$176 for each of its business locations in addition to its main place of business. The act requires the commissioner to charge \$88 for each such additional location if the licensee opens it with one year or less remaining on his or her two-year license. The \$88 fee applies to both initial and renewed licenses.

EFFECTIVE DATE: July 1, 2013

#### § 28 — DRIVING INSTRUCTOR LICENSES

The act makes a driving instructor's license valid at any state-licensed driver's school and allows someone seeking such a license to apply to retake the licensing examination five days after failing one. Under prior law, an instructor's license was valid only for the school or schools listed on the license, and an applicant had to wait one month to apply to retake the test.

EFFECTIVE DATE: July 1, 2013

#### § 29 — NOTIFICATION OF POLICE BY WRECKERS

The law requires a licensed wrecker to notify the local police department within two hours of towing a motor vehicle from private property. The act requires the (1) notification to be in writing or sent by fax or email and (2) wrecker to retain the notification record as required by law. The law requires wreckers to keep records for two years and make them available during business hours for inspection by police or DMV inspectors (CGS § 14-66b).

EFFECTIVE DATE: July 1, 2013

#### § 30 — CHANGES CONCERNING FMCSA STANDARDS

By law, the commissioner may adopt regulations to apply certain FMCSA standards to certain motor vehicles or motor carriers. These include health and safety, insurance, inspection and maintenance, hours of service, and drug and alcohol use testing standards. The act authorizes her to apply these regulations to student transportation vehicles (STVs, which are vehicles, not including school buses, used to transport students to or from school, school programs, or school-sponsored events). Prior law exempted these vehicles from the federal standards. (See §§ 32, 57, and 59 for other changes affecting STVs.)

The act also (1) authorizes police officers and motor vehicle inspectors to inspect vehicles subject to FMCSA standards to determine if they comply with federal regulations on the transport of hazardous material and oil and pipeline safety and (2) eliminates statutory references to federal out-of-service order regulations. Out-of-service orders are defined in state law.

EFFECTIVE DATE: July 1, 2013

#### § 31 — DISSOLUTION OF SECURITY INTERESTS

The act deems dissolved, 10 years after its perfection, any security interest in a motor vehicle originally perfected by a bank or other financial institution when (1) the institution no longer exists, (2) the institution did not release the security interest according to law, and (3) its successor institution cannot find the debtor's records.

EFFECTIVE DATE: July 1, 2013

#### § 32 — WEIGH STATIONS

The act requires drivers of certain motor vehicles, (which, under § 30 of the act, include STVs) to stop at a weigh station, following the directions of a police officer, DMV inspector, or designated DMV employee, whenever highway signs indicate a weigh station is

operating. Under prior law, these drivers were required to follow the direction of police, DMV inspectors, and designated Department of Emergency Service and Public Protection and Department of Transportation employees. The act conforms the law to PA 11-51, which made the DMV commissioner primarily responsible for staffing weigh stations and coordinating their operation.

Prior law required commercial vehicles, which the law does not define, to stop at weigh stations. The act instead requires vehicles meeting the following criteria to stop at open weigh stations:

1. weighing 18,001 or more pounds in intrastate commerce;
2. weighing 10,001 or more pounds in interstate commerce;
3. carrying more than eight passengers, including the driver, for compensation;
4. carrying more than 15 passengers, including the driver, without compensation; or
5. used to transport certain hazardous waste.

EFFECTIVE DATE: July 1, 2013

#### § 33 — AUXILIARY POWER AND IDLE REDUCTION DEVICES

The act increases, from 400 to 550 pounds, the maximum weight of an auxiliary power or idle reduction technology device that does not count against state commercial motor vehicle weight limits.

EFFECTIVE DATE: July 1, 2013

#### § 35 — ILLEGAL TOWING OF SKIERS, MOTOR-DRIVEN CYCLES, AND OTHERS

The law prohibits anyone from attaching himself or herself or a bicycle, roller skates, sled, skateboard, coaster, or toy vehicle on which he or she is riding to a vehicle moving or about to move on a public road, and bars the vehicle operator from knowingly permitting such use. The act adds to these prohibitions attaching for a tow, or knowingly towing, motor-driven cycles, skis, or any other vehicle not intended or designed to be towed. By law, a violation is an infraction.

EFFECTIVE DATE: July 1, 2013

#### § 38 — CHANGE IN SNOWMOBILE AND ATV RENEWAL DATES

The act requires registration certificates for snowmobiles and ATVs to expire two years from the date they are issued, rather than biennially each March 31.

EFFECTIVE DATE: October 1, 2013

#### § 41 — ACCIDENT PREVENTION COURSE FOR SENIOR DRIVERS

By law, drivers age 60 or older who successfully complete a DMV-approved accident prevention course pay reduced insurance premiums. Prior law required the course to last four hours. The act instead requires the course to last at least four hours.

EFFECTIVE DATE: July 1, 2013

#### §§ 43-44 — ELIGIBILITY FOR ACCELERATED REHABILITATION AND PRE-TRIAL ALCOHOL EDUCATION PROGRAMS

The act makes ineligible for the accelerated rehabilitation program anyone charged with a motor vehicle violation (1) while operating a commercial motor vehicle as defined in the act or (2) who held a CDL or commercial driver's instruction permit at the time the violation occurred, regardless of the type of vehicle he or she was driving at the time. Accelerated rehabilitation is a pretrial diversion program for people accused of crimes and motor vehicle violations that are (1) punishable by a prison term and (2) not of a serious nature.

The act also makes ineligible for the pre-trial alcohol education program anyone charged with DUI who held a commercial driver's license or commercial driver's instruction permit when the violation occurred, regardless of whether he or she was driving a commercial motor vehicle at the time. Drivers charged with DUI while operating a commercial motor vehicle were already ineligible for the program. Affected commercial motor vehicle drivers include those driving vehicles added in §§ 4 and 30 of the act.

EFFECTIVE DATE: January 1, 2014

#### §§ 45-49 — REPAIR SHOP VIOLATIONS AND PENALTIES

The law establishes a number of requirements for motor vehicle repair shops. Among other things, they must:

1. obtain written authorization to perform repairs of more than \$50 that includes a written estimate of the maximum cost to the customer, and meet certain requirements if the customer waives his or her right to a written estimate (CGS §§ 14-65f and 14-65g);
2. record all work done on an itemized invoice and provide the customer, upon request, with all replaced parts (CGS § 14-65h); and
3. display a sign informing the customer of his or her rights (CGS § 14-65i).

The act makes a violation of these and related laws an infraction (see BACKGROUND).

The act makes it a class B misdemeanor (see Table on Penalties) for a repair shop to knowingly make a false or misleading statement to a customer or to charge a customer for repairs it has not made.

Under prior law, a violation of the above provisions was punishable by a fine of up to \$100 (CGS § 14-164).

By law, the DMV commissioner may investigate possible violations of these laws and ask the attorney general to seek a temporary or permanent order prohibiting a repair shop from violating them (CGS § 14-65k). She may also, after notice and a hearing, (1) suspend or revoke the license of any licensee who she finds has violated any law or regulation pertaining to its business or (2) impose a civil penalty of up to \$1,000 for each violation, or both (CGS § 14-64).

EFFECTIVE DATE: October 1, 2013

#### § 50 — MINIMUM TIME TO HOLD AN ADULT INSTRUCTION PERMIT

The act prohibits the DMV commissioner from issuing a driver's license to a person age 18 or older who has held an adult instruction permit for less than 90 days. The act exempts from this prohibition applicants who (1) are members of the armed forces on active duty out of state or (2) have previously held a Connecticut driver's license.

By law, people age 18 or older who have had a driver's license suspended or revoked are ineligible for adult instruction permits. The act adds to those ineligible for such a permit anyone who has had his or her privilege to operate suspended or revoked. Privilege to operate generally refers to the right of people holding licenses from other states to drive in Connecticut.

EFFECTIVE DATE: Upon passage

#### §§ 51-53 — PROBATION APPOINTMENTS ALLOWED FOR CERTAIN DUI OFFENDERS

By law, for three years after the end of a person's 45-day license suspension for a second DUI conviction, he or she may operate a motor vehicle only if it is equipped with an ignition interlock device. Prior law additionally limited the driver, during the first year of this three-year period, to drive such vehicles only to or from (1) work, (2) school, (3) an alcohol or drug abuse treatment program, or (4) an ignition interlock service center. The act allows these offenders to also drive to an appointment with a probation officer during the first year. The commissioner must note this restriction on the driver's electronic record, as she does for other ignition interlock restrictions. As under existing law, she must ensure that law enforcement officers have access to the record.

EFFECTIVE DATE: July 1, 2013

#### § 54 — DISOBEYING FIRE POLICE PERFORMING THEIR DUTIES

The act makes it an infraction (see BACKGROUND) to disobey the signals of a fire police officer directing traffic while performing his or her duties. By law, fire police officers may direct traffic at the scene of a fire, at a fire drill, or any other time fire police are serving with a fire department. Fire police have the powers and perform the duties designated and authorized by fire chiefs, who may appoint fire police officers they deem necessary, within available appropriations.

EFFECTIVE DATE: October 1, 2013

#### § 55 — VEHICLE IDENTIFICATION NUMBERS (VIN)

The law requires a motor vehicle dealer, when verifying a manufacturer's VIN, to provide the commissioner with a signed affidavit stating that, for (1) new cars, the VIN corresponds to the manufacturer's or importer's certificate of origin and (2) other vehicles, it corresponds to the current title certificate. The act retains the certificate of origin requirement for new vehicles. It allows the dealer to also submit a signed affidavit stating that the VIN of any vehicle corresponds to its current (1) title certificate or (2) registration document. As under existing law, the affidavit also must state that the VIN has not been mutilated, altered, or removed.

EFFECTIVE DATE: July 1, 2013

#### § 56 — DRIVING COURSE FEE FOR 16- AND 17-YEAR-OLDS

The act sets a maximum \$150 fee for the safe driving practices course that 16- and 17-year-old driver's license applicants must take. Prior law generally set a maximum \$125 fee, but allowed a \$150 fee if the course included the testing on comprehensive knowledge and rules of the road required for a license.

EFFECTIVE DATE: October 1, 2013

#### § 57 — INFORMATION DISPLAYED ON STVS

By law, a school bus must display the name of the bus company, the company's telephone number, and the bus number painted conspicuously in black lettering on its sides and rear. The act requires similar information to be painted on the sides and rear of STVs (i.e., the name and telephone number of the owner or operator, and the vehicle's fleet number). It requires that this information be displayed on all buses and STVs used regularly by a town, school district, private school, or contracting entity to bring children to and from school or school activities. By law, a first violation of this requirement is

an infraction, and subsequent violations are punishable by a fine of between \$100 and \$500.  
EFFECTIVE DATE: July 1, 2013

#### § 58 — MOTOR HOMES AND RECREATIONAL VEHICLES ABANDONED AT CAMPGROUNDS

The act allows the motor vehicles commissioner to adopt regulations (1) specifying the circumstances in which a campground owner may dispose of a motor home or recreational vehicle abandoned on his or her property and (2) establishing procedures governing the disposal.

EFFECTIVE DATE: July 1, 2013

#### § 59 — TRUCKING CONTRACTS WITH THE STATE

Under the act, regardless of any other law or regulation, any motor carrier (trucking company) or person driving a commercial motor vehicle (e.g., bus or large truck) cannot be ineligible to contract with the state or a municipality based on the results of safety inspections, unless at least 10 such inspections of the vehicle or company have been conducted during the 24 months before the contract's starting date. It does not specify whether or how many such tests the vehicle or company must pass or fail to remain eligible.

EFFECTIVE DATE: July 1, 2013

#### BACKGROUND

##### *Infraction*

An infraction is not a crime and the fine can be paid by mail without making a court appearance.

##### *Unfair Trade Practice*

The Connecticut Unfair Trade Practices Act (CUTPA) prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violating a restraining order.

##### *Point System*

State regulations allow the motor vehicles commissioner to suspend the license of a driver who accumulates 11 or more points on his or her driving record. DMV regulations assign between one and five points to various motor vehicle violations, ranging from one point for operating at an unreasonable speed to five points for negligent homicide with a motor vehicle (Conn. Agencies Reg. § 14-137a-5 et seq.). Points remain on a driver's record for two years from the date they are assessed.

##### *Related Acts*

PA 13-277 specifies that the ban on using hand-held cell phones while driving applies when a vehicle is temporarily stopped because of traffic, road conditions, or traffic control signs or signals.

PA 13-92 doubles the penalty for drivers who violate the cell phone ban in highway work zones.

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#### **PA 13-277—sSB 975**

*Transportation Committee*

*Judiciary Committee*

*Insurance and Real Estate Committee*

*Appropriations Committee*

#### **AN ACT CONCERNING REVISIONS TO THE TRANSPORTATION STATUTES AND THE DESIGNATION OF ROADS AND BRIDGES IN HONOR OR IN MEMORY OF PERSONS AND ORGANIZATIONS**

**SUMMARY:** This act changes the way the Department of Transportation (DOT) disposes of excess property (§ 1) and makes a number of other changes in transportation laws, including:

1. expanding the ban on drivers' use of hand-held cell phones to include use when a vehicle is temporarily stopped because of traffic, road conditions, or traffic control signs or signals (§ 10);
2. tightening laws affecting the taxicab industry (§§ 77-79);
3. expanding the DOT commissioner's ability to designate certain projects for alternative bidding procedures (§ 14);
4. limiting the vehicles that can travel on the Hartford-New Britain Busway (§ 8);
5. requiring DOT to study railroad improvements, including electrifying all New Haven Line branch lines and increasing parking at commuter train stations (§ 23);

6. requiring the Connecticut Airport Authority (CAA), instead of the Bradley International Airport Enterprise Fund, to pay specified amounts annually to the four towns in which Bradley International Airport is located; and applying to the CAA the same rules that govern state agencies when constructing or altering buildings (§§ 15, 58-61);
7. authorizing DOT to issue permits allowing filming on property it owns or controls (§ 4);
8. potentially allowing heavier trucks carrying agricultural products to use state roads (§ 62);
9. requiring vessels carrying marine pilots to obtain a certificate of insurance from their insurers, rather than a DOT certificate of compliance, and setting fines for noncompliance (§ 7);
10. barring, with certain exceptions, billboards on state-owned or -controlled land, and increasing billboard permit fees, (§ 11);
11. eliminating the requirement that DOT prepare, publish, and regularly update a master transportation plan (§§ 16-20, 25-28, & 81);
12. changing how the highway work zone safety account is funded (§§ 65-67);
13. limiting the use of the Special Transportation Fund (STF) to transportation purposes (§ 76);
14. reinstating the Connecticut Public Transportation Commission (§§ 68-74); and
15. prohibiting transit districts and parking authorities from banning political advertising (§ 12).

It also names bridges and roads, and requires certain signs to be erected notifying motorists of ferry services, the Stewart B. McKinney Wildlife Refuge, and vehicle height restrictions on the Merritt Parkway.  
EFFECTIVE DATES: Various, see below.

#### § 1 — DISPOSITION OF EXCESS LAND

The act modifies the way DOT disposes of land it no longer needs for highway purposes.

By law, the DOT commissioner, with the advice and consent of the Office of Policy and Management (OPM) secretary and the State Properties Review Board, may sell, lease, convey, or otherwise dispose of excess land. The law generally requires DOT to transfer excess property to state agencies or through public bid or auction.

Prior law required DOT, for 25 years after acquiring residential land on which there is a single-family house, to first offer the owner of the property at the time it was acquired the opportunity to buy the home at its appraised value. If the former homeowner did not accept the offer, DOT had to offer (1) parcels that meet local zoning requirements for residential or commercial

use to other state agencies and (2) other parcels to abutting landowners.

The act retains the requirement that DOT offer property with a single-family home to its prior owner for 25 years, but otherwise changes the property disposal rules.

It requires DOT to hold a public bid or auction for properly recorded lots. But it allows the department, if it does not receive any bids at the initial bid or auction, to (1) keep marketing the property and accept offers for it or (2) hold another bid or auction.

But before putting properly recorded properties up for bid, DOT must offer them to other state agencies and the towns in which they are located, regardless of how they are zoned. The department must offer parcels that are not properly recorded to abutting landowners, according to regulations.

#### *Appraisals*

By law, unless excess property is going to be transferred to another state agency or a municipality, DOT must get it appraised before selling it. Prior law required DOT to get a second appraisal if such property was (1) valued at more than \$100,000 and (2) not going to be sold through public bid or auction. The act instead requires the department to get a second appraisal if the property is (1) valued at more than \$250,000 and (2) to be sold to an abutting landowner or the former owner of a single-family home on the property. As under existing law, property DOT transfers to other state agencies is exempt from the appraisal requirement.

EFFECTIVE DATE: October 1, 2013

#### § 2 — NEW HAVEN-HARTFORD-SPRINGFIELD RAIL LINE

The act authorizes the DOT commissioner, in consultation with the OPM secretary and with the governor's approval, to enter into agreements with Vermont, or an entity acting on that state's behalf, necessary for Connecticut's participation in the New Haven-Hartford-Springfield passenger rail line. The commissioner already has this authority with respect to Massachusetts.

EFFECTIVE DATE: Upon passage

#### § 3 — DELEGATION OF DOT COMMISSIONER'S AUTHORITY

The act allows the commissioner to delegate to DOT bureau heads or other appropriate agency staff the authority to sign any document the commissioner may sign, and deems any such signature binding and valid. It authorizes bureau heads of operating bureaus to attest that certified copies of any documents relating to DOT



operation or the commissioner's records are true copies, and deems these records competent evidence, in any court, of the facts they contain. The commissioner can already delegate this authority to DOT deputy commissioners and DOT's chief engineer.

EFFECTIVE DATE: Upon passage

#### § 4 — FILMING PERMIT

The act authorizes the commissioner to issue a filming permit, on a form he requires, to anyone seeking to film on (1) a state highway right-of-way or (2) property in DOT's custody or control. Under the act, filming includes creating photographs, moving images, and footage and sound recordings for commercial, entertainment, or advertising purposes. The DOT commissioner must develop the permit in consultation with the economic and community development commissioner.

The permit must specify the insurance coverage required of the permittee, as determined by the DOT commissioner in consultation with the state's insurance and risk management director, with the state named as an additional insured. Under the act, the state, its agencies, and employees are not liable for injuries or damages to any person or property resulting from the permittees filming on state property or a highway right-of-way.

EFFECTIVE DATE: October 1, 2013

#### § 5 — EASEMENTS OF STATE LAND FOR UTILITY PURPOSES

The act allows the DOT commissioner to grant easements on state land to a public service company (e.g., electric, gas, telephone, or cable TV company) for bringing utility service to a DOT facility or office. The State Properties Review Board must approve these easements.

EFFECTIVE DATE: October 1, 2013

#### § 6 — EXEMPTION FOR MINIMUM HEIGHT REQUIREMENTS FOR FAIRFIELD BRIDGE

The act exempts a bridge for the structure carrying the Metro Center Access Road over the Metro-North Railroad in Fairfield from a law requiring the minimum overhead clearance for structures crossing railroads with overhead electrical wires to be 22 feet, six inches. The Fairfield bridge has a minimum overhead clearance of 22 feet, two inches.

EFFECTIVE DATE: Upon passage

#### § 7 — INSURANCE CERTIFICATES FOR CERTAIN MARINE VESSELS

The act requires the owner or operator of a vessel that carries a licensed marine pilot to or from another vessel in open and unprotected waters to obtain a certificate of insurance from an insurance carrier. (These are waters located east of the area depicted on National Oceanic and Atmospheric Administration charts of the eastern portion of Long Island Sound as "the Race.") The insurance certificate must be based on a survey conducted and documented by a qualified marine surveyor guided by applicable U.S. Coast Guard regulations, if any, and vessel insurability standards set by insurance companies. The act eliminates (1) a requirement that these owners or operators obtain a certificate from the commissioner certifying that the owner or operator complies with applicable DOT regulations and (2) certain provisions stating what these regulations must cover. The act instead requires the commissioner to adopt regulations specifying the procedures for embarking and disembarking pilots, and, as under existing law, operating and equipping each vessel. As under existing law, these regulations may establish standard rates for the use of each vessel carrying pilots.

Under the act, the fine is between \$500 and \$1,000 for violating the insurance requirement. Fines under prior law ranged from \$60 to \$250 for each violation of the DOT certificate requirement and regulations.

EFFECTIVE DATE: October 1, 2013

#### §§ 8-9 — HARTFORD-NEW BRITAIN BUSWAY

The act defines roadways dedicated for bus rapid transit service (e.g., the Hartford-New Britain busway) as a "highway" under state law, thereby applying all laws affecting highways to the busway.

It prohibits anyone from entering or traveling on roadways dedicated for bus rapid transit service unless he or she is a driver of, or passenger in:

1. a state-authorized motor vehicle providing public transit service,
2. an authorized emergency vehicle responding to an emergency,
3. a vehicle operated by DOT or a DOT contractor authorized to maintain the roadway, or
4. a motor vehicle the commissioner specifically allows in writing to enter or travel on the busway.

A violation is an infraction (see BACKGROUND).

EFFECTIVE DATE: Upon passage

## § 10 — CHANGES TO CELL PHONE LAW

Prior law prohibited drivers from using a hand-held cell phone or mobile electronic device while their vehicle was moving. The act expands this prohibition to include using these devices when a vehicle is temporarily stopped because of traffic, road conditions, or a traffic control sign or signal. But it allows use of a cell phone or electronic device if the operator is parked safely on the side or shoulder of a highway. It applies this prohibition to the use of any cell phone or mobile electronic device, including those that are hands-free, by a (1) school bus driver operating a school bus carrying passengers or (2) driver age 17 or younger operating any motor vehicle. As under existing law, these restrictions do not apply in an emergency.

Prior law allowed anyone with a Federal Communications Commission amateur radio station license to use a hand-held radio while driving. The act prohibits these drivers from doing so except in an emergency.

It also makes conforming changes.  
EFFECTIVE DATE: October 1, 2013

## § 11 — BILLBOARD FEES

The act doubles fees related to billboards. It increases, from \$50 to \$100, the application fee for a permit to erect signs containing less than 300 square feet of advertising space, and from \$100 to \$200 the application fee for signs with at least 300 square feet of advertising space.

It doubles the annual permit fee for signs as indicated in Table 1.

Table 1: Billboard Permit Fees

| Size                            | Prior Annual Permit Fee | Annual Permit Fee Under the Act |
|---------------------------------|-------------------------|---------------------------------|
| Up to 300 square feet           | \$20                    | \$40                            |
| Between 301 and 600 square feet | \$40                    | \$80                            |
| Between 601 and 900 square feet | \$60                    | \$120                           |

It also imposes a \$100 permit transfer fee, to be paid by the transferee.

EFFECTIVE DATE: October 1, 2013

## § 12 — POLITICAL ADVERTISING

The act prohibits transit districts and parking authorities that allow advertising on their premises, including on or in any vehicle or bus shelter, from refusing to allow political advertising at those facilities. The prohibition applies regardless of whether the

advertising is placed directly by the district, authority, a third-party, or independent contractor, or whether the facility is operated by the district, authority, third-party, or independent contractor.

Under the act, political advertising is advertising that seeks to influence public opinion on any legislative, administrative, or electoral decision, or on any controversial issue of public importance.

EFFECTIVE DATE: January 1, 2014

## § 13 — ELECTRONIC BILLBOARD DISPLAY

The act requires that the static display on electronic billboards last at least eight, rather than six, seconds.

EFFECTIVE DATE: October 1, 2013

## § 14 — ALTERNATIVE CONTRACTING

By law, the DOT commissioner may designate specific highway construction and maintenance projects to be completed using either a (1) construction-manager-at-risk contract (CMAR) with a guaranteed maximum price or (2) design-build contract, rather than being put out to bid in the traditional design-bid-build manner. The act allows him to use such alternative contracts for any project, not just those involving highway construction or maintenance.

Design-bid-build, CMAR, and design-build methods chiefly differ in how they assign responsibility for design and construction services.

In design-bid-build, the most traditional method, the owner (e.g., DOT) has separate contracts with the designer and the builder, and the project design is completed before bids are solicited for a construction contract.

In CMAR, the owner generally contracts with a construction manager who works with the designer and provides labor, material, and project management during construction. Under this approach, the CMAR typically guarantees the maximum cost of the work.

In the design-build approach, the owner contracts with a single entity that both designs and builds the project.

EFFECTIVE DATE: July 1, 2013

## § 15 — CAA AND STATE BUILDING CODE

The act applies to the CAA the law concerning construction of state buildings and the state building and fire safety codes. This law requires, among other things, the state building inspector to issue a building permit and certificate of occupancy for new construction and additions to most state buildings over statutorily set “threshold” limits (see BACKGROUND). Neither a building permit nor certificate of occupancy is needed for a newly built or altered state building below these

thresholds.

Under the law, state agencies must apply to the state building inspector before beginning work on buildings over the threshold limit and comply with the state building and fire safety codes. The state building inspector (1) must review agency plans and specifications for the building, structure, or addition to verify compliance with the State Building Code and (2) may inspect the buildings and order a state agency to comply with the code. He may ask the state fire marshal to review agency plans to verify compliance with the fire safety code.

EFFECTIVE DATE: Upon passage

#### §§ 16-20, 25-28, & 81 — ELIMINATION OF THE MASTER TRANSPORTATION PLAN

The act eliminates the requirement that DOT develop a master transportation plan and revise it every two years. Prior law required the plan to include, among other things, DOT's (1) recommendations for planning, engineering, rights-of-way acquisition, construction, reconstruction, rehabilitation and modernization of transportation facilities and (2) priorities for a five-year period.

The act eliminates, among other things, a requirement that any alterations in the state highway system or plans to establish or expand an airport be consistent with the master transportation plan (§§ 26 & 27). The act makes conforming changes to several other laws that require conformance with or consideration of the master plan.

EFFECTIVE DATE: July 1, 2013

#### §§ 21 & 81 — DISPOSAL OF EXCESS PROPERTY ACQUIRED FOR ROUTE 6

The act repeals a law allowing the commissioner, with the advice and consent of OPM and the State Properties Review Board, to dispose of land the state no longer needs for the Route 6 Expressway. Among other things, this law required two appraisals for a parcel valued at more than \$100,000, if the property was not to be sold through public bid. The sale price of such a parcel was the average of the two appraisals. Existing law, modified in § 1 of this act, allows DOT to sell land no longer needed for highway purposes.

EFFECTIVE DATE: July 1, 2013

#### § 22 — DISTRACTED DRIVING QUESTIONS ON KNOWLEDGE TEST

The act requires the driver's license knowledge test to include at least one question on distracted driving, the use of cell phones and electronic devices while driving, or the responsibilities of drivers under the law banning

the use of these phones and devices while driving.

EFFECTIVE DATE: October 1, 2013

#### § 23 — DOT RAIL STUDY

The act requires DOT to develop a railroad modernization initiative to improve the state's commuter rail service and infrastructure. The initiative must include a plan to electrify all New Haven Line branch lines (i.e., the Danbury, New Canaan, and Waterbury branches) by January 1, 2023 and expand commuter parking at train stations.

The commissioner must submit details of the initiative to the Transportation Committee by February 1, 2015.

EFFECTIVE DATE: July 1, 2013

#### § 24 — ELIMINATING CERTAIN TRANSIT DISTRICT EXECUTIVE SESSIONS

The act eliminates a requirement that transit district boards of directors enter executive sessions twice annually to consider budgetary matters.

By law, the board of directors of each transit district must hold a public hearing at which itemized estimates of the district's expenditures are presented for the coming fiscal year. Prior law required the board, after the public hearing, to enter executive session to prepare and publish a report including itemized statements of receipts and expenditures in the previous fiscal year and anticipated revenue and expenditures in the coming year, among other things. The board had to meet again in executive session, two to four weeks after publishing this statement, to make specific appropriations. Under the act, the boards must still publish this report and make appropriations, but not in executive sessions.

EFFECTIVE DATE: Upon passage

#### §§ 29-32, 34-49, 53, & 75 — BRIDGE AND ROAD NAMING

The act designates:

§ 29. Bridge number 04324 on Route 175 in Newington, the "Sergeant Burton E. Callahan Memorial Bridge";

§ 30. Bridge number 06246 on Route 73 in Watertown over Steele Brook, the "Pearl Harbor Memorial Bridge";

§ 31. Bridge number 01500 on Route 185 in Simsbury over the Farmington River, the "Bataan Corregidor Memorial Bridge";

§ 32. Bridge number 03603 on Greenwoods Road in Torrington over Route 8, the "Jerry Dale Cox III Memorial Bridge";

§ 34. the portion of Route 3 in Cromwell from the Cromwell-Rocky Hill town line south to Evergreen Road, the “Paul Roger Harrington Memorial Highway”;

§ 35. the portion of Route 118 in Harwinton from the Route 8 underpass east to the intersection of Route 4, the “Robert and George Oneglia Memorial Highway”;

§ 36. the portion of State Road 639 in New London from the intersection of Jefferson Avenue south to the intersection of Bank Street, “Dr. Martin Luther King, Jr. Memorial Boulevard”;

§ 37. the rest area east of exit 28 on I-84 east in Southington, the “Auxiliary Trooper Edward W. Truelove Memorial Rest Area”;

§ 38. Bridge number 00323 on Route 10 in Cheshire over I-691, the “Lieutenant Myron Verner Memorial Bridge”;

§ 39. the portion of Route 137 in Stamford from Route 1 to Broad Street, the “U.S. Navy SEAL Brian R. Bill Memorial Highway”;

§ 40. Bridge number 03612 on State Road 745 in West Haven carrying Kimberly Avenue over the West River, the “Officer Robert Vincent Fumiatti Memorial Bridge”;

§ 41. Bridge number 05768 on Beckley Road in Berlin over Route 9, the “Berlin Lions Club Memorial Bridge”;

§ 42. the portion of Route 68 in Wallingford east of bridge number 01867, over Route 5, east to Bridge number 03132, over I-91, the “Christopher Columbus Memorial Highway”;

§ 43. the portion of Route 151 in East Haddam from the East Haddam-Haddam town line east to Route 149, the “Private First Class Peter P. Golec Memorial Highway”;

§ 44. Bridge number 00648 on I-84 east in Southington over Route 10, the “John A. Dolan Memorial Bridge”;

§ 45. the portion of Route 5 in Enfield from Connecticut Avenue south to Manning Road, the “Tanguay-Magill American Legion Post 80 Memorial Highway”;

§ 46. Bridge number 00036 on Blachley Road in Stamford over I-95, the “Leslie A. Padilla Memorial Bridge”;

§ 47. Bridge number 00153 on Quarry Road in Milford over I-95, the “John D’Amato Memorial Bridge”;

§ 48. the portion of Route 160 in Rocky Hill from the Rocky Hill-Berlin town line east to the intersection of Route 3, the “Rocky Hill Fire Department Memorial Highway”;

§ 49. the portion of Route 175 in Wethersfield from the Wethersfield-Newington town line east to the intersection of Route 99, the “Wethersfield Fire Department Memorial Highway”;

§ 53. the portion of Route 3 in Wethersfield from the Wethersfield-Rocky Hill town line north to the Route 99 intersection, the “Daniel R. DiNardi Memorial Highway”; and

§ 75. the portion of Route 137 in Stamford from West Broad Street north to High Ridge Road, the “Master Sergeant Homer Lee Wise WW II Medal of Honor Recipient Memorial Highway.”

EFFECTIVE DATE: Upon passage

### § 33 — MYSTIC SIGNAGE

The act requires DOT to (1) replace existing signs on I-95, Route 27, and Route 1 indicating “downtown Mystic” with signs indicating Mystic’s “historic downtown and drawbridge,” and (2) indicate the location of Mystic’s “historic downtown and drawbridge” on existing signs on I-95, Route 27, and Route 1 indicating the location of other tourist destinations in Mystic.

EFFECTIVE DATE: Upon passage

### § 50 — MCKINNEY WILDLIFE REFUGE SIGNS

The act requires DOT to place signs near the Stewart B. McKinney National Wildlife Refuge according to the department’s Destination Guide Sign Program.

EFFECTIVE DATE: Upon passage

### § 51 — FERRY SERVICE SIGNS

The act requires DOT to increase signage on I-95, I-395, and Route 32 indicating the location of ferry service to Long Island.

EFFECTIVE DATE: Upon passage

### § 52 — MERRITT PARKWAY SIGNS

The act requires DOT to investigate and identify ways to improve notification of height restrictions on the Merritt Parkway.

EFFECTIVE DATE: July 1, 2013

### § 54 — NOAH WEBSTER HOUSE MUSEUM SIGNS

The act requires DOT to place signs on the exit 41 off-ramp of I-84 east and west in West Hartford indicating the location of the Noah Webster House Museum.

EFFECTIVE DATE: Upon passage

### § 55 — PUBLIC CONSTRUCTION CONTRACT RECORDS

The law requires employers on large public works and highway construction contracts to keep records of

wages and hours worked by mechanics, laborers, and workers to ensure they are properly paid. Prior law required employers to submit a complete copy of its certified payroll each month to the contracting agency (e.g., DOT) by first class mail, accompanied by a statement signed by the employer providing certain information. The act (1) allows the employer to submit its payroll by any method the contracting agency accepts, including any class of mail and (2) requires that the accompanying signed statement be an original.  
EFFECTIVE DATE: July 1, 2013

#### §§ 56 & 57 — OUTDOOR ADVERTISING ON STATE PROPERTY

The law generally prohibits the erection of billboards and advertising signs within 660 feet of the edge of the interstate and other limited access highways (e.g., I-95, Route 2). However, the commissioner may allow certain types of signs, such as directional and other official signs. The act adds to these exceptions advertising signs, displays, or devices:

1. located on, built on, or abutting, property in areas owned, managed, or leased by a public authority for (a) railway or rail infrastructure facilities, including associated structures in areas zoned solely or mostly for development of rail facilities; (b) bus rapid transit corridors, including the Hartford-New Britain busway and associated shelters, structures, or facilities; (c) airport development zones designated by law; or (d) any other transit or freight purpose; and
2. on or in buildings, structures, or other venues in the state's custody or control and designed, operated, or intended to be operated for athletic, artistic, musical, or other entertainment events.

As under existing law, these billboards and signs cannot be built where state law, local ordinance, or zoning regulations prohibit them.

The act prohibits, except for the exceptions the act creates above, the construction of advertising signs, displays, or devices on land the state owns or controls. But it allows the commissioner to (1) issue permits to maintain existing signs, displays, or devices; (2) renew existing permits; or (3) issue new permits to replace existing signs, displays, or devices, on state-owned or -controlled property. The act specifically allows erecting or maintaining advertisements, displays, or devices on or in personal property, including motor vehicles, the state owns or controls.

EFFECTIVE DATE: October 1, 2013

#### §§ 58-61 — PAYMENTS TO VARIOUS TOWNS BY THE CAA

The act designates CAA's activities as "essential governmental functions," exempting it from paying state, municipal, or special district taxes. But it requires CAA to pay specific "amounts representing property tax" to four towns in which CAA property (i.e., Bradley International Airport) is located.

Under the act, except as noted below, for assessment years starting on October 1, 2012, the CAA must pay to:

1. Windsor Locks: \$3,319,685.85,
2. Suffield: \$693,909.43,
3. East Granby: \$657,991.08, and
4. Windsor: \$6,925.43.

Any improvements made to real property on or after October 1, 2012 are considered included in the above annual payments, regardless of any law or special act.

But the act, notwithstanding the above provision, requires that each of the four towns receive a payment for FY 14 equal to the amount it received in FY 13.

The act eliminates a prior law that required the DOT commissioner to pay, from the Bradley International Airport Enterprise Fund to the state comptroller, a percentage of the property taxes that would have been paid to the above four towns as reimbursement for loss of taxes on state property.

The law exempts from taxation land, buildings, and easements belonging to, or held in trust for, the state at Bradley and other state-owned airports (i.e., Brainard, Danielson, Groton-New London, Waterbury-Oxford, and Windham airports). The act similarly exempts airports belonging to or held in trust for CAA, including those airports noted above, and any other airport CAA owns, manages, or operates in the future.

EFFECTIVE DATE: July 1, 2013, and applicable to assessment years beginning on and after October 1, 2012.

#### § 62 — VEHICLES HAULING AGRICULTURAL COMMODITIES

The act potentially increases the maximum allowable weight of certain commercial vehicles traveling in Connecticut, provided Congress allows Connecticut to do so.

Prior law allowed bulk milk tankers weighing up to 99,000 pounds to operate on state roads, provided federal law permits it. The act allows (1) bulk milk tankers and (2) trucks hauling agricultural commodities, to have a gross vehicle weight of up to 100,000 pounds. But, as under existing law, Connecticut needs Congressional approval to exceed the federal 80,000 pound weight restriction (see BACKGROUND).

Under the act, agricultural commodities include feed, seed and fertilizer, and agricultural products as defined by law. By law, agriculture includes dairying; forestry and lumber; the raising and management of livestock, including horses, poultry, and bees; and the raising and harvesting of shellfish.

EFFECTIVE DATE: October 1, 2013

#### § 63 — PRIVATE AT-GRADE RAIL CROSSINGS

Regardless of any law or previous administrative proceeding decision, the act allows, under certain conditions, any private at-grade rail crossing that, for at least 20 years, has provided highway access to at least two single-family homes without direct highway access, to provide access for up to three additional single-family homes without such access. The affected property owners must (1) maintain and repair any rail crossing surface and (2) remove any obstruction preventing a view of the portion of tracks that cross at-grade. These responsibilities include removing or trimming trees and shrubs and maintaining and repairing existing passive rail traffic control measures, such as warning signs.

EFFECTIVE DATE: Upon passage

#### § 64 — WALNUT HILL COMMUNITY CHURCH SIGNS

The act requires DOT to place brown signs on Route 6 east and west in Bethel near Old Hawleyville Road indicating the location of the Walnut Hill Community Church.

EFFECTIVE DATE: Upon passage

#### §§ 65-67 — HIGHWAY WORK ZONE SAFETY ACCOUNT

The act changes the way the new highway work zone safety account is funded.

By law, Superior Court judges must double the basic fine imposed on people convicted of violating certain motor vehicle laws in highway work zones.

PA 13-92 required half of this additional fee to be deposited in a work zone safety account that the act created as a separate, nonlapsing account in the STF. It requires DOT to use this fund, which must contain any money the law requires, for highway traffic enforcement, including expanding the “Operation Big Orange” program, to protect the safety of workers in highway work zones.

This act eliminates the requirement that half the additional fee be placed in the work zone safety account. It instead requires the state treasurer to deposit \$9,000 monthly in the work zone safety account from all money collected from certain DOT licenses, permits, and fees, and from the existing 50% surcharge assessed

against people paying certain motor vehicle fines and penalties (CGS § 13b-70). It also makes a conforming change.

EFFECTIVE DATE: October 1, 2013

#### §§ 68-74 — REINSTATEMENT OF THE CONNECTICUT PUBLIC TRANSPORTATION COMMISSION

The act restores the Connecticut Public Transportation Commission, which PA 13-299 eliminated.

EFFECTIVE DATE: July 1, 2013

#### § 76 —STF

The act requires that money in the STF be used only for transportation purposes.

By law, this fund is used to repay special tax obligation bonds issued to finance transportation projects. The remaining funds must be spent for the payment of general obligation bonds issued for transportation purposes, and budget appropriations for the departments of (1) transportation, (2) motor vehicles, and (3) emergency services and public protection (for State Police motor vehicle patrols). The STF is supported by a number of revenue streams, most notably the motor fuels tax.

EFFECTIVE DATE: July 1, 2015

#### §§ 77-79 — TAXICAB INDUSTRY

The act makes several changes to the laws governing the taxicab industry.

By law, people, associations, limited liability companies, and corporations seeking to operate a new taxi company must obtain a DOT certificate that public convenience and necessity require the operation of taxis in a specific territory. The act requires that the hearing on an application for the certificate be held no sooner than three months after DOT receives the application. As under existing law, DOT must give written notice of the pending application and the time and place of the hearing.

Existing law allows any taxi company to solicit, receive, and discharge passengers at Bradley International Airport, subject to a formal agreement with the transportation commissioner, as long as the agreement does not take precedence over the company’s obligation to serve its territory. The act additionally requires that, before serving Bradley, a company prove to DOT that its service has been (1) active and (2) adequate in its territory and in compliance with all laws and regulations for at least two years since getting its certificate.

It requires that each registered taxi (1) have a permanently attached electric rooftop light and (2) indicate, in three-inch type permanently fastened on the cab's exterior, the phone number of the company operating the taxi.

Finally, it makes it a class A misdemeanor (see Table on Penalties) to advertise taxi services without holding a certificate or getting authority to operate a taxi from a certificate holder. By law, anyone who operates a taxi without a certificate or proper authority, or allows an unauthorized person to operate one under his control, is guilty of such a crime.

EFFECTIVE DATE: July 1, 2013

## § 80 — BRIDGE NAME REPEAL

The act repeals a 2009 law naming Bridge number 00043 on I-95 north and south passing over Route 1 in Darien as the "Speaker R.E. Van Norstrand Memorial Bridge."

EFFECTIVE DATE: Upon passage

## BACKGROUND

### *Infractions*

An infraction is not a crime. Violators do not have criminal records and can pay the fine by mail without making a court appearance.

### *Threshold Limits for New Construction of and Additions to State Buildings*

By law, the threshold limits are (1) four stories, (2) 60 feet high, (3) a clear span of 150 feet wide, (4) 150,000 square feet of floor space, or (5) occupancy by 1,000 or more people (CGS § 29-276b).

### *Federal Truck Weight Limits*

Federal law sets a maximum gross vehicle weight limit of 80,000 pounds, but allows higher maximum weights in states that permitted higher gross vehicle weights prior to passage of the federal law ("grandfather rights"). Connecticut does not have such grandfather rights for gross vehicle weight, and, according to the DOT, needs Congressional approval to exceed the 80,000 pound limit.

In 2010, Congress created a pilot program allowing Maine and Vermont to allow trucks with a gross vehicle weight above 80,000 pounds to operate on those states' interstate highways (P. L. 111-117, § 194).

## *Related Acts*

PA 13-92 requires driver license knowledge tests to include a question on highway work zone safety.

PA 13-271 increases the fines for using a hand-held cell phone or other electronic device while driving, creates a task force to study prevention of distracted driving, and makes other changes to the cell phone law.

## **PA 13-282—sSB 1040**

*Transportation Committee*

*Judiciary Committee*

## **AN ACT CONCERNING COUNTERFEIT AND NONFUNCTIONAL AIRBAGS AND UNLAWFUL PARKING IN SPACES RESERVED FOR PERSONS WITH DISABILITIES**

**SUMMARY:** This act (1) makes changes in the law on selling and installing unsafe airbags and (2) requires a municipal police officer to issue a written warning or summons when the officer sees a vehicle illegally parked in a handicapped spot.

With regard to airbags, the act:

1. increases the penalty for selling motor vehicle air bags that do not meet federal safety standards;
2. makes it a new crime, and applies the increased penalty, to manufacture, import, install, or reinstall such devices or counterfeit or nonfunctional airbags;
3. makes these offenses unfair trade practices;
4. expands the crime of airbag fraud; and
5. defines terms used in the act.

EFFECTIVE DATE: October 1, 2013

## COUNTERFEIT OR NONFUNCTIONAL AIR BAGS

### *Criminal Violations*

By law, it is a crime for anyone to sell or offer for sale a device intended to replace a motor vehicle air bag if the seller knows or reasonably should know that it does not meet federal safety standards. Under prior law, a violation was a class A misdemeanor (see Table on Penalties).

The act makes (1) such a violation a class D felony, and (2) it a crime to manufacture, import, install, or reinstall such a device and applies the increased penalties to such violations. It also makes it a crime, punishable by the increased penalty, to knowingly sell, offer for sale, manufacture, import, install, or reinstall a counterfeit or nonfunctional air bag, as defined in the act.

The act also makes it a crime, subject to the same increased penalty, to sell, install, or reinstall a device that causes a vehicle's diagnostic system to inaccurately indicate it is equipped with a functional air bag when (1) a counterfeit or nonfunctional air bag is installed or (2) there is no air bag.

#### *Unfair Trade Practice*

By law, selling or offering for sale a replacement device that the seller knows or reasonably should know does not meet federal airbag safety standards is an unfair or deceptive trade practice (see BACKGROUND). Each sale, or offer for sale, is a separate and distinct violation. The act also makes (1) the above violations unfair or deceptive trade practices and (2) each manufacture, importation, installation, or reinstallation a separate and distinct violation.

#### *Air Bag Fraud*

By law, air bag fraud occurs when someone, with intent to defraud another person, knowingly installs or reinstalls an object other than a properly designed air bag. The act expands air bag fraud to include the sale of such objects and specifies that these include counterfeit and nonfunctional air bags. Air bag fraud is considered larceny. The penalty imposed for a violation depends on the amount charged the victim of the fraud.

#### *Definitions*

*Air Bag.* Under the act, an "air bag" is a motor vehicle inflatable occupant restraint system, including all component parts, such as the cover, sensors, controllers, inflators, and wiring, that (1) operates in a crash and (2) is designed according to federal motor vehicle safety standards for the specific make, model, and year of the motor vehicle in which it is or will be installed.

*Counterfeit Air Bag.* A "counterfeit air bag" is an airbag that displays a mark identical or similar to the genuine mark of a motor vehicle manufacturer without that manufacturer's authorization.

*Nonfunctional Air Bag.* A "nonfunctional air bag" is a replacement air bag system that (1) was previously deployed or damaged; (2) has an electric fault detected by a vehicle's air bag diagnostic system after installation; or (3) includes any part or object, including a counterfeit or repaired air bag cover, installed in a motor vehicle to mislead its owner or operator into believing a functional air bag has been installed.

#### ILLEGAL PARKING IN A HANDICAPPED SPACE

The act requires a municipal police officer to issue a written warning or a summons when he or she observes a vehicle illegally parked in a handicapped parking space.

By law, only a motor vehicle displaying a handicapped number plate or placard may park in a space reserved for people who are blind or have a disability. Violators are subject to a \$150 fine for a first violation and a \$250 fine for each subsequent violation. Motor vehicles parked in violation of this law for a third or subsequent time may be towed.

#### BACKGROUND

##### *Unfair or Deceptive Trade Practice*

The law prohibits businesses from engaging in unfair and deceptive acts or practices. It allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys' fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violating a restraining order.

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PA 13-25—sHB 6348

*Veterans' Affairs Committee*

*Labor and Public Employees Committee*

## AN ACT CONCERNING STATE MILITARY SERVICE

**SUMMARY:** This act updates and changes several laws pertaining to the state's armed forces personnel and Military Department. It:

1. permits unpaid state military duty for members and retirees of the state's armed forces, with the consent of the governor and servicemember or retiree, and credits such unpaid duty toward retirement and other benefits;
2. makes changes concerning paid duty, including the elimination of additional state remuneration beyond salary for certain servicemembers and reimbursement expenses for other members;
3. (a) gives members of the state's armed forces, and retirees performing state military duty, the same workers' compensation, liability, and immunity protections as state employees and (b) compensates members injured or killed according to the greater of their respective civilian salary or the state's average production wage, without prorating this compensation due to the member's other employment;
4. repeals two death benefit statutes;
5. changes how certain military service is defined for state employees' benefits;
6. removes the Military Department from the Department of Emergency Services and Public Protection, where it was located for administrative purposes only; and
7. expands the possible locations where veterans' memorials can be placed.

The act also makes technical and conforming changes.

**EFFECTIVE DATE:** October 1, 2013, except the veterans' memorial provision, which is effective upon passage.

### STATE'S ARMED FORCES

The law defines the "state's armed forces" as the (1) National Guard; (2) organized militia (i.e., the governor's guards, the State Guard, and other military forces the governor as commander-in-chief may designate); and (3) naval militia and marine corps branch of the naval militia, whenever organized (CGS § 27-2). For the purposes of pay and allowances, the act expands this definition to include retired members of the state's armed forces who are detailed to duty under state military orders.

### *Unpaid State Service*

The act creates a two-track system of paid and unpaid service. It allows a member or retiree of the state's armed forces to be ordered to state military duty, including training, with or without pay, if both the member or retiree and the governor consent.

The act specifies that, before being ordered to perform unpaid service, the member or retiree must be notified of the right to refuse to serve without pay. Unpaid service still counts for purposes of receiving credit toward retirement and any other benefits, as applicable.

### *Paid State Service*

The act specifies that members of the state's armed forces, including retirees, when ordered to duty by the governor, are paid at the same rate as if they were ordered to duty by federal authority (except when federal pay has been authorized). This includes longevity pay and allowances for members of the National Guard and organized militia. The act eliminates additional state payments of \$10 for most enlisted members and \$5 for chief petty officers, warrant officers, and junior commissioned officers.

It also specifies that the adjutant general determines the corresponding grades (pay according to rank) for the state's armed forces, including federally recognized National Guard units, to conform pay with federal rates, which is the current practice.

Under prior law, National Guard members had to be paid for travel and expenses when attending schools, conferences, or staff or ceremonial exercises ordered by the governor. Commissioned officers serving on boards or military commissions or attending conferences called by higher headquarters received pay and allowances according to their grade (rank), plus actual expenses. The act eliminates these requirements.

### *Workers' Compensation and Personal Liability Immunity*

The act eliminates a step in prior law's state armed forces workers' compensation process that required an inquiry and report by the injured or killed member's commanding officer.

The act also makes members of the state's armed forces, and retirees detailed to duty, including unpaid members and retirees, state employees for purposes of (1) the existing civilian workers' compensation process and compensation rates and (2) immunity from personal liability. By law, state employees and officers are not personally liable for damage or injury caused when they are acting within the scope of their employment or discharging their duties as long as their actions are not

wanton, reckless, or malicious (CGS § 4-165).

These protections apply to members and detailed retirees (1) performing under the governor's orders or (2) called to help contain a riot or civil commotion, by the governor or another civil authority when the governor cannot be reached. They do not cover paid federal duty.

The act eliminates an obsolete provision that provided disability compensation to a member of the state's armed forces who (1) was temporarily or permanently disabled incident to state service before June 6, 1977, (2) applied for disability compensation and has a claim pending before the adjutant general, and (3) has not signed a written release of his or her claim for such disability. No such servicemember exists.

*Compensation Rate.* Under the act, any state armed forces member or detailed retiree performing state military duty may collect workers' compensation benefits based on his or her civilian salary or the average production wage in the state as determined by the labor commissioner, whichever is greater, if the member or retiree is injured while performing military duties. This applies only if the member or retiree is unable to perform his or her regular employment duties.

The act prohibits prorating any compensation provided to members of the state's armed forces injured, disabled, or killed while performing state military duties due to that member's other employment.

#### *Certain Death Benefits*

The act eliminates a \$20,000 death benefit payment to the beneficiary or next of kin of a state armed forces member killed in the line of duty while in state active service.

It also eliminates an obsolete death benefit intended for certain surviving dependents of Connecticut-domiciled armed forces members, including National Guard members and reservists, who were killed in action or died from an illness or accident suffered while deployed and performing active-duty service in Southwest Asia in support of Operation Enduring Freedom (Afghanistan) or Operation Iraqi Freedom (Iraq) between September 11, 2001 and July 1, 2006. Prior law required that this benefit be reduced by the amount of any federal death benefit. Because federal death benefits exceed state benefits, this provision is obsolete. Federal death benefits include coverage under a U.S. Department of Veterans' Affairs term life insurance plan that automatically provides up to \$400,000 of coverage.

#### *State Employees Serving in the National Guard or Reserves*

The act extends certain benefits to state employees called to federal active-duty service as reservists or National Guard members for any military operation, war, or national emergency that were available only for service in support of certain enumerated operations and missions under prior law. These employees receive up to 30 days' paid leave. After 30 days, they receive payment of the difference between their state pay (including longevity) and their military pay. They are also entitled to other fringe benefits, including continued state health insurance coverage for themselves and any dependents for the duration of active-duty service, as long as they continue to make the same insurance payments required before activation.

Under prior law, state employees who were reservists or National Guard members received these benefits if they were called to federal active-duty service in support of:

1. Operation Enduring Freedom,
2. military action against Iraq,
3. Operation Noble Eagle (anti-terrorism actions within the United States),
4. a related emergency operation or a military operation whose mission was substantially changed as a result of the attacks of September 11, 2001,
5. federal or state action in support of Operation Liberty Shield or other anti-terrorism efforts in the United States, and
6. Operation Jump Start (duty at the U.S. and Mexican border).

#### MEMORIALS

Under prior law, cities, towns, or boroughs could place memorials to veteran soldiers, sailors, and marines in state armories and on the ground around the armories, subject to the adjutant general's approval and without cost to the state. The act allows any adjutant general-approved memorial to veterans of the U.S. Armed Forces to be placed in state military facilities or on state-owned or -controlled military property, so long as there is no cost to the state.

**PA 13-34**—sHB 5388

*Veterans' Affairs Committee  
Planning and Development Committee*

**AN ACT REQUIRING CITIES AND TOWNS TO  
DESIGNATE A VETERANS' SERVICE  
CONTACT PERSON**

**SUMMARY:** This act requires any municipality that does not (1) have a local veterans' advisory committee or (2) fund a veterans' service officer to designate an employee to be its veterans' service contact person. It specifies the contact person's duties.

The act requires the Department of Veterans' Affairs' Veterans' Advocacy and Assistance Unit to conduct an annual training course for such contact persons and allows, but does not require, the contact persons to complete that course.

The act also makes conforming changes.

EFFECTIVE DATE: October 1, 2013

**VETERANS' SERVICE CONTACT PERSON'S  
DUTIES**

Under the act, the contact person must perform the same duties that the law requires veterans' advisory committees to perform, including:

1. coordinating all matters concerning veterans and their dependents;
2. coordinating public and private facilities concerned with veterans' reemployment, education, rehabilitation, and adjustment to peacetime living;
3. cooperating with all national, state, and local government and private agencies in securing services and benefits to which a veteran or his or her dependents may be entitled;
4. encouraging and coordinating veterans' vocational training services; and
5. working with veterans organizations as much as possible to carry out these activities.

**PA 13-44**—HB 6457

*Veterans' Affairs Committee*

**AN ACT CONCERNING THE DISPLAY OF THE  
STATE OR NATIONAL FLAG AT HALF-STAFF  
AND THE PLACEMENT OF FLAGS ON  
CEMETERY GRAVES PRIOR TO MEMORIAL  
DAY**

**SUMMARY:** This act makes changes affecting the display of U.S. and state flags at (1) half-staff following the death of certain government officials, citizens, or armed forces members and (2) veterans' graves before

Memorial Day.

EFFECTIVE DATE: Upon passage, except the provision concerning U.S. flags displayed at veterans' graves is effective October 1, 2013.

**DISPLAY OF FLAGS AT HALF-STAFF**

The act conforms state law to federal law by authorizing the governor to issue a proclamation ordering the national flag to be flown at half-staff following the death of (1) a present or former principal figure of state government or (2) an armed forces member from Connecticut who dies in the line of duty. When the governor issues such a proclamation, the state flag must also be flown at half-staff.

The act also authorizes the governor to issue a proclamation ordering that the state flag alone be flown at half-staff following the death of a state official or prominent citizen.

After the governor issues either type of proclamation, the act requires all state government buildings and offices, public schools, and military bases to fly the national and state flags in accordance with the order.

Prior law required the governor to order that the national flag be flown at half-staff after he or she ordered that the state flag be flown at half-staff following the death of an armed forces member who dies in the line of duty.

The act defines "armed forces" as the U.S. Army, Navy, Marine Corps, Coast Guard, Air Force, or any reserve component thereof, including the Connecticut National Guard performing certain federal duty (e.g., Homeland Security missions).

**PLACEMENT OF FLAGS ON VETERANS'  
GRAVES**

Prior law prohibited towns, cemetery associations, and ecclesiastical societies that care for cemeteries from enacting bylaws that restrict U.S. flags' display at veterans' graves from the Saturday before Memorial Day until the Monday following the 4<sup>th</sup> of July. The act lengthens this period by one day, beginning it on the Friday before Memorial Day.

**BACKGROUND**

*Federal Flag Code*

The federal Flag Code codifies rules and customs for the display and care of the U.S. flag. Among other things, the code authorizes state governors to issue proclamations ordering that the national flag be flown at half-staff following the death of a (1) present or former state government official or (2) state armed forces

member who dies in the line of duty. After a governor issues such a proclamation, each federal installation or facility should fly its national flag at half-staff. When the national flag is flown at half-staff, state and local flags must also be flown at half-staff (4 USC § 7).

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**PA 13-48—sSB 70**

*Veterans' Affairs Committee  
Appropriations Committee*

**AN ACT RESTORING BENEFITS TO VETERANS  
DISCHARGED UNDER "DON'T ASK, DON'T  
TELL"**

**SUMMARY:** This act makes veterans eligible for state benefits if:

1. they were denied or would be denied such benefits because they were ineligible for federal benefits,
2. they were denied federal benefits based solely on their orientation under a federal policy prohibiting homosexuals from serving in the armed forces, and
3. their eligibility for federal benefits has been reinstated.

The act requires, to the extent practicable, the Department of Veterans' Affairs to inform veterans of legal services organizations that can help them get military discharge upgrades and reinstated federal benefits. The department must (1) post information on its website, with links to the organizations' websites, and (2) distribute the organizations' pamphlets at department offices and facilities and to local veterans' advisory committees. These committees are established by municipalities to coordinate local, state, and federal programs for veterans. These include programs pertaining to reemployment, education, vocational training, rehabilitation services, and the provision of veterans' benefits.

EFFECTIVE DATE: October 1, 2013

**DEFINITION OF VETERAN**

The act defines a "veteran" as anyone released or discharged, regardless of the discharge classification, from active duty in the U.S. Army, Navy, Marine Corps, Coast Guard, Air Force, or any reserve component thereof, including the Connecticut National Guard performing duty under U.S. Code Title 32 (e.g., on certain Homeland Security missions).

**BACKGROUND**

*Don't Ask, Don't Tell Policy*

From December 21, 1993 until September 20, 2011, the United States prohibited openly homosexual persons from serving in the U.S. Armed Forces, under a policy called "Don't Ask, Don't Tell." It discharged those who violated the policy less than honorably.

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**PA 13-49—SB 835**

*Veterans' Affairs Committee  
Labor and Public Employees Committee*

**AN ACT CONCERNING MILITARY LEAVE  
FROM EMPLOYMENT**

**SUMMARY:** This act (1) extends employment protections currently afforded to employees who are U.S. Armed Forces reservists or National Guard members to all members of the state's armed forces who take time off from their employment to perform ordered military duty and (2) expands the type of protected duty from meetings and drills to all ordered military duty. Workplace protections include (1) being permitted a leave of absence when the member is ordered to military duty, including meetings and drills, during regular working hours, and (2) protection from loss of vacation or holiday privileges, or prejudice in promotions, continuances, or reappointments due to absences. In general, federal law similarly protects U.S. military members performing federal duty (see BACKGROUND).

The act's protections cover employees serving in (1) Connecticut's organized militia, National Guard, naval militia, or Marine Corps branch of the naval militia or (2) any reserve component of the U.S. Army, Navy, Marine Corps, Coast Guard, or Air Force, including the Connecticut National Guard performing duty under U.S. Code Title 32 (e.g., certain Homeland Security missions). Under prior law, these protections covered only U.S. Armed Forces reservists and National Guard members.

EFFECTIVE DATE: October 1, 2013

**BACKGROUND**

*Uniform Services Employment and Reemployment  
Rights Act (USERRA)*

The federal USERRA bars employers from discriminating against employees who serve in the U.S. Armed Forces. Generally, it protects these employees' jobs and prevents absences from prejudicing an employee's workplace advancement.

**PA 13-57—SB 386**

*Veterans' Affairs Committee  
Education Committee*

**AN ACT CONCERNING HONORARY  
DIPLOMAS FOR VIETNAM VETERANS**

**SUMMARY:** This act allows local and regional school boards to award high school diplomas to Vietnam Era veterans who left high school for military service before graduating, as they can already do for World War II and Korean War veterans. The act covers honorably or generally discharged veterans who served actively from February 28, 1961 to July 1, 1975 in the U.S. Army, Navy, Marine Corps, Coast Guard, or Air Force or any of their reserve components, including the Connecticut National Guard performing duty under U.S. Code Title 32 (e.g., certain Homeland Security missions).  
EFFECTIVE DATE: Upon passage

**PA 13-107—sHB 6349**

*Veterans' Affairs Committee*

**AN ACT CONCERNING THE STATE MILITARY  
RELIEF FUND**

**SUMMARY:** Under existing law, the Military Family Relief Fund provides grants to help the immediate family members of Connecticut-domiciled armed forces members pay for essential household goods or services, if paying for them would be a hardship for the family because of the member's service. This act (1) expands the group of eligible grant recipients to also include armed forces members and (2) caps the amount of any grant at \$5,000. It changes the name of the fund to the Military Relief Fund.

The act requires, rather than allows, the Military Department to adopt regulations governing the fund. It also requires the department to report on the status of the fund to the Veterans' Affairs Committee annually, on or before February 15, instead of quarterly.

The act also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2013

**DEFINITION OF ELIGIBLE MEMBER OF THE  
ARMED FORCES**

Under the law and act, eligible members of the armed forces are members of the U.S. Army, Navy, Marine Corps, Coast Guard, Air Force, any reserve component thereof, and the Connecticut National Guard performing active or full-time National Guard duty, who are domiciled in Connecticut.

**BACKGROUND**

*Military Family Relief Fund*

This fund is a separate, nonlapsing General Fund account administered by the state treasurer. The Military Department uses it to make grants to eligible servicemembers' immediate family members to pay for essential personal or household goods or services in Connecticut, if paying for them is a hardship because of a member's service. "Immediate family members" are an eligible member's spouse, child, or parent domiciled in Connecticut or other relatives living in his or her household. "Essential personal household goods or services" include repairs, uninsured medical services, transportation, babysitting, clothing, school supplies, and other goods or services essential to the relatives' well being.

**PA 13-113—HB 6458**

*Veterans' Affairs Committee  
Appropriations Committee*

**AN ACT CONCERNING THE NEW ENGLAND  
DISASTER TRAINING CENTER ACTIVITY  
ACCOUNT**

**SUMMARY:** This act establishes the New England Disaster Training Center activity account as a separate, nonlapsing General Fund account and authorizes the adjutant general to use the money in the account to operate the New England Disaster Training Center. The account must contain any money (1) the law requires to be deposited in it or (2) obtained from the proceeds of the center's operational activities. The act also authorizes the adjutant general to apply for and accept public or private gifts, grants, and donations to fund the account.

EFFECTIVE DATE: July 1, 2013

**BACKGROUND**

*New England Disaster Training Center*

The New England Disaster Training Center, located at Camp Hartell in Windsor Locks, Connecticut, provides facilities and training to civilian and military emergency responders to build, practice, and integrate clinical, logistical, and leadership skills in disaster response.

**PA 13-185—sSB 647***Veterans' Affairs Committee**Government Administration and Elections Committee***AN ACT CONCERNING VOTING BY MEMBERS OF THE MILITARY SERVING OVERSEAS**

**SUMMARY:** By October 1, 2013, this act requires the secretary of the state, in consultation with the Military Department, to select a method for members of the armed forces stationed abroad and their family members living with them to return their voted overseas absentee ballots for any election or primary held after September 1, 2014. The method must (1) give due consideration to ballot security and privacy and (2) ensure that the municipality receives the ballot before the polls close, when the voter properly uses the method.

The secretary must submit a report to the Veterans' Affairs and Government Administration and Elections committees by January 1, 2014 describing the method and legislative changes necessary for its implementation.

The act applies to two types of write-in, overseas absentee ballots: (1) one for elections that is available 90 days before Election Day and (2) one for primaries and elections that is available when the list of candidates and questions to be voted on is set. It covers armed forces members and their family members, not other individuals living or traveling abroad who may vote using the second of these ballots. By law, "members of the armed forces" are active service members of the U.S. Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, Merchant Marines, or Coast and Geodetic Survey (CGS § 9-134).  
EFFECTIVE DATE: Upon passage

up to \$18,000, if single, or \$21,000, if married, are eligible for an additional exemption of two times the base amount of one of these tax exemptions. (If such veterans have more income than the statutory limits, they are eligible for an additional exemption of only one and a half times the base exemption.)

Under the act, municipalities may provide an exemption of three times the base exemption to veterans whose federally taxable total adjusted gross household income and other income, excluding veterans' disability payments, fall below the limit of \$18,000, if single, or \$21,000, if married. A municipality's legislative body or board of selectmen, as appropriate, must approve the exemption.

By law and under the act, the state reimburses municipalities for the revenue loss from additional exemptions either fully, or prorated to the amount appropriated for reimbursements associated with these exemptions. The state does not reimburse municipal revenue lost due to the additional exemption available to veterans with income over the statutory limits.

The act requires the Office of Policy and Management (OPM) to adopt regulations that establish the procedures by which (1) municipalities determine a veteran's eligibility for the new exemption, (2) municipalities apply for reimbursement from the state for revenue lost due to the exemption, and (3) OPM audits and adjusts municipalities' reimbursement applications. Existing law requires OPM to adopt similar regulations governing existing exemptions.

The act also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2013 and applicable to assessment years starting on or after October 1, 2013.

**BACKGROUND***Eligible Veterans*

Any Connecticut resident who served or serves in the U.S. Army, Navy, Marine Corps, Coast Guard, or Air Force and has a U.S. Department of Veterans' Affairs (VA) disability rating of 100% is eligible for certain property tax exemptions. The VA considers a number of factors when determining a veteran's disability rating, including the nature and severity of injuries or disabilities and the cumulative impact of multiple injuries or disabilities.

**PA 13-224—sSB 383***Veterans' Affairs Committee**Planning and Development Committee**Finance, Revenue and Bonding Committee***AN ACT ESTABLISHING A MUNICIPAL OPTION TO PROVIDE AN ADDITIONAL PROPERTY TAX EXEMPTION FOR ONE HUNDRED PER CENT DISABLED VETERANS**

**SUMMARY:** This act allows municipalities to increase the additional property tax exemption for "100% disabled" veterans with limited income from two to three times the veteran's base exemption.

By law, 100% disabled veterans are eligible for various tax exemptions, such as \$3,000 worth of their property, plus an additional amount reflecting higher municipal property revaluation. Those 100% disabled veterans whose total adjusted gross household income is

**ARTS**

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**CHILDREN AND MINORS**

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*See Medical Care*

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| Film industry tax credits, insurance premium<br>tax liability<br>12-1 December SS ..... | 5 |
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**MEDICAID**

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**MUNICIPAL OFFICERS AND EMPLOYEES**

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