SUMMARY OF 2020 PUBLIC ACTS

Connecticut General Assembly

OFFICE OF LEGISLATIVE RESEARCH
LEGISLATIVE OFFICE BUILDING
ROOM 5300
HARTFORD, CT 06106

E-mail: olr@cga.ct.gov
Telephone: (860) 240-8400
Website: http://www.cga.ct.gov/olr/

OFFICE OF LEGISLATIVE RESEARCH

Stephanie D'Ambrose, Director
Kelly Callahan, Project Coordinator
Karolina Laflamme, Project Coordinator

Research Staff

Terrance Adams
Julia Singer Bansal
Jessica Callahan
Duke Chen
Nicole Dube
Mary Fitzpatrick
Lee Hansen
Janet Kaminski Leduc
Michelle Kirby
Shaun McGann
George Miles
Kristen Miller
John Moran
James Orlando
Rute Pinho
Heather Poole
Jennifer Proto
Alex Reger
Jessica Schaeffer-Helmecki
Kristin Sullivan
Marybeth Sullivan

Library Staff

Jennifer Bernier
Carrie Lisitano
Christine McCluskey

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NOTICE TO USERS

Please note, due to the COVID-19 pandemic the regular 2020 legislative session was effectively suspended on March 12 until it was adjourned sine die on May 6.

This publication, Summary of 2020 Public Acts, summarizes all public acts passed during the Connecticut General Assembly's 2020 regular and special sessions. Special acts are not summarized. This publication is word searchable and contains hyperlinks for ease of navigation.

TABLE ON PENALTIES

Crimes

The law authorizes courts to impose fines, imprisonment, or both when sentencing a convicted criminal. For most crimes, the court may also impose a probation term. For eligible offenders, the court may order participation in various programs, such as accelerated rehabilitation or the pretrial alcohol education program, and dismiss the charges upon the offender's successful completion of the program.

When sentencing an offender to prison, the judge must specify a period of incarceration. The prison terms in Table 1 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 established limits listed below. Repeated or persistent offenses may result in a higher maximum than specified here.

Table 1: Crime Classification and Penalties

Classification of Crime	***Prison Term***	***Fine (up to)***
Class A felony (murder with special circumstances)	Life, without release	$20,000
Class A felony (murder)	25 to 60 years	20,000
Class A felony (aggravated sexual assault of a minor)	25 to 50 years	20,000
Class A felony	10 to 25 years	20,000
Class B felony (1st degree manslaughter with a firearm)	5 to 40 years	15,000
Class B felony	1 to 20 years	15,000
Class C felony	1 to 10 years	10,000
Class D felony	up to 5 years	5,000
Class E felony	up to 3 years	3,500
Class A misdemeanor	up to 1 year	2,000
Class B misdemeanor	up to 6 months	1,000
Class C misdemeanor	up to 3 months	500
Class D misdemeanor	up to 30 days	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.

An infraction is not a crime, and violators can pay the fine by mail without making a court appearance.

PA 20-1—HB 5518
Emergency Certification

AN ACT AUTHORIZING AND ADJUSTING BONDS OF THE STATE FOR CAPITAL IMPROVEMENTS, TRANSPORTATION AND OTHER PURPOSES, AND CONCERNING MUNICIPAL REPORTS ON CERTAIN PROPERTY TAX EXEMPTIONS, VALIDATION OF A REFERENDUM AND HIGHWAY PROJECTS.

SUMMARY: This act authorizes up to $1.55 billion for FY 20 and $1.52 billion for FY 21 in state general obligation (GO) bonds for state capital projects and grant programs, including school construction, housing development and rehabilitation programs, and municipal aid. It also cancels or reduces approximately $3.4 million in GO bond authorizations.

The act authorizes up to $777.6 million for FY 20 and $782.4 million for FY 21 in special tax obligation (STO) bonds for transportation projects. It makes various other changes, including:

1. adjusting the annual bond caps under the Connecticut State Colleges and Universities (CSCU) 2020 and UConn 2000 infrastructure programs and extending the CSCU 2020 program by one year to FY 21;
2. modifying the projects authorized under the five-year transportation capital improvement program, commonly known as Let's Go CT; and
3. establishing a competitive grant program to reimburse eligible nonprofit organizations for security infrastructure improvements.

The act also makes technical corrections (§§ 79 & 80).

EFFECTIVE DATE: Upon passage for FY 20 bond authorizations; July 1, 2020, for FY 21 authorizations. Other sections are effective upon passage unless otherwise noted.

§§ 1-38, 57 & 82 — NEW BOND AUTHORIZATIONS FOR STATE AGENCY PROJECTS AND GRANTS

The act authorizes new GO bonds for FY 20 and FY 21 for the state projects and grant programs listed in the table below. The bonds are subject to standard issuance procedures and have a maximum term of 20 years.

The act includes a standard provision requiring, as a condition of bond authorizations for grants to private entities, each granting agency to 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 grantee receiving it. (The act exempts the Office of Policy and Management (OPM) from this requirement.) The required repayment is reduced by 10% for each full year that the facility is used for the grant purpose.

GO Bond Authorizations for State Projects and Grant Programs

§	Agency	For	FY 20	FY 21
		STATE CAPITAL PROJECTS		
2(a)	Office of Legislative Management	State Capitol Complex: replace, repair, and repave roads and sidewalks	$1,800,000	$0
		State Capitol: alterations, renovations, and restoration, including interior and exterior restoration and Americans with Disabilities Act (ADA) compliance	15,000,000	0
		Old State House: exterior masonry repairs and window replacement	1,700,000	0
2(b), 21(a)	OPM	Information technology capital investment program	70,000,000	70,000,000
2(c), 21(b)	Department of Administrative Services (DAS)	Remove or encapsulate asbestos and hazardous materials in state-owned buildings	10,000,000	10,000,000
		Alterations, renovations, and improvements in compliance with the ADA	0	1,000,000
2(d)	Department of Emergency Services and Public Protection (DESPP)	Design and implement the Criminal Justice Information Sharing System	8,900,000	0
2(e), 21(c)	Military Department	State matching funds for anticipated federal reimbursable	1,000,000	1,000,000

§	Agency	For	FY 20	FY 21
		projects		
2(f), 21(d)	Department of Energy and Environmental Protection (DEEP)	Recreation and Natural Heritage Trust Program: recreation, open space, and resource protection and management	1,000,000	0
		Dam repairs, including state-owned dams	0	5,500,000
		State buildings: (1) energy services projects that result in increased efficiency measures or (2) renewable energy or combined heat and power projects	0	20,000,000
2(g), 21(e)	Capital Region Development Authority (CRDA)	XL Center: alterations, renovations, and improvements, including acquisition of abutting real estate and rights of way	27,500,000	37,500,000
2(h), 21(f)	Department of Mental Health and Addiction Services	Fire, safety, and environmental improvements, including (1) improvements in compliance with current codes, (2) site improvements, (3) roof repair and replacement, and (4) other building renovations and demolition	3,000,000	0
		Design and install sprinkler systems in direct care patient buildings	0	5,500,000
2(i), 21(g)	Department of Transportation (DOT)	Construction, repair, or maintenance of highways, roads, bridges, or bus and rail facilities and equipment	200,000,000	200,000,000
21(h)	State Department of Education (SDE)	Technical Education and Career System: alterations and improvements to buildings and grounds, including new and replacement equipment, tools, and supplies necessary to update curricula, vehicles, and technology at all regional vocational-technical schools	0	5,000,000
2(j), 21(i)	CSCU	All colleges and universities: new and replacement instruction, research, or laboratory equipment	6,000,000	6,000,000
		All colleges and universities: system telecommunications infrastructure upgrades, improvements, and expansions	2,000,000	2,000,000
		All colleges and universities: advanced manufacturing and emerging technology programs	3,000,000	3,000,000
		All community colleges: deferred maintenance, code compliance, and infrastructure improvements	14,000,000	14,000,000
		All universities: deferred maintenance, code compliance, and infrastructure improvements	7,000,000	7,000,000
		Naugatuck Valley Community College: design for Kinney Hall renovation	6,000,000	0
2(k), 21(j)	Judicial Department	Alterations, renovations, and improvements to buildings and grounds at state-owned and maintained facilities	11,000,000	10,000,000
		Technology Strategic Plan Project implementation	2,000,000	2,000,000
		Mechanical system improvements at the Superior Court courthouse in Stamford	2,250,000	0
		Alterations and improvements in compliance with the ADA	2,000,000	5,000,000
		Security improvements at various state-owned and maintained facilities	2,000,000	2,000,000
		Upgrades to and installation of sound amplification equipment in court and hearing rooms	1,300,000	0
82	Connecticut	Capitalization	0	45,000,000

§	Agency	For	FY 20	FY 21
	Municipal Redevelopment Authority			
		HOUSING PROJECTS		
9, 28	Department of Housing (DOH)	Housing development and rehabilitation, including improvements to various kinds of state-assisted affordable housing and housing-related financial assistance programs; requires DOH to (1) prioritize areas of the state with low homeownership rates; (2) use up to $30 million in each FY to revitalize moderate rental housing units in the Connecticut Housing Finance Authority's (CHFA) state housing portfolio; and (3) use up to $170,000 in FY 20 to conduct planning and data analysis on state housing needs, subsidized housing inventory, and tenant-based subsidy usage for various DOH statutory reporting requirements	100,000,000	75,000,000
		GRANTS		
13(a), 32(a), 57	OPM	Grants to private, nonprofit, tax-exempt health and human service organizations that receive state funds to provide direct services to state agency clients: 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; (4) vehicle purchases; and (5) property acquisition	25,000,000	25,000,000
		Grants for capital purposes to municipalities eligible for the distressed municipalities property tax reimbursement program (§ 32-9s)	7,000,000	7,000,000
		Grants to state agencies and political subdivisions for equipment, facilities, and supplies to respond to emerging public health concerns	5,000,000	0
		Community engagement training to law enforcement units in towns with a population greater than 100,000 and adjacent towns (see § 90 below)	0	3,000,000
		Grants to municipalities for the Town Aid Road program (specifies the grant amounts for each municipality)	76,000,000	76,000,000
13(b), 32(b)	DAS	Grants to priority school districts for projects (including expenditure reimbursements) that are ineligible for school building project grants	30,000,000	25,000,000
		Grants to alliance districts to help pay for general school building improvements	0	6,000,000
13(c), 32(c)	Department of Labor	Workforce Training Authority Fund	20,000,000	20,000,000
13(d)	DEEP	(1) Performing testing for perfluoroalkyl and polyfluoroalkyl substances (PFAS) pollution, (2) providing potable water to people affected by PFAS pollution, and (3) buying back aqueous film-forming firefighting foam with PFAS	2,000,000	0

§	Agency	For	FY 20	FY 21
13(e), 32(d)	Department of Economic and Community Development (DECD)	Brownfield Remediation and Revitalization program: for FY 20 requires DECD to provide a grant of up to $7 million to Preston for remediation regardless of the law on remedial action and redevelopment municipal grants that caps (1) administrative expenses at 5% of any grant award and (2) total grant amounts at $4 million	30,000,000	17,000,000
		Small Business Express program	5,000,000	0
		Grants to nonprofits for operating cultural and historic sites	0	5,000,000
13(f), 32(e)	DOH	Grant to CHFA to capitalize the Down Payment Assistance Program, including providing financial assistance to those with incomes up to 120% of the area median income; DOH must use up to $500,000 in each FY for the Mortgage Assistance Program for certain teachers	4,500,000	4,500,000
13(g), 32(f)	CRDA	Grant to East Hartford for general economic development activities, including (1) redevelopment, (2) riverfront improvements and infrastructure, (3) housing unit creation through rehabilitation and new construction, and (4) vacant building demolition or redevelopment	10,000,000	10,000,000
		Grant for projects outside the authority's boundaries, to encourage economic development according to CRDA's statutory purposes	0	10,000,000
13(h), 32(g)	Department of Public Health	Grants to public water systems for drinking water projects	4,000,000	20,000,000
		Grants to remediate lead in school drinking water systems	5,000,000	0
13(i), 32(h)	DOT	Grants to municipalities for the Town Aid Road program	30,000,000	30,000,000
32(i)	State Library	Grants to public libraries for construction, renovations, expansions, energy conservation, and handicapped access	0	2,500,000
13(j), 32(j)	Connecticut Port Authority	Grants for deep water port improvements, including dredging	65,000,000	25,000,000
13(k), 32(k)	Paid Family and Medical Leave Insurance Authority	Grants to capitalize the Family and Medical Leave Insurance Trust Fund	25,000,000	25,000,000

§§ 39-50 — TRANSPORTATION BONDS

The act authorizes new STO bonds for DOT projects in amounts up to $777.6 million in FY 20 and $782.4 million in FY 21, as shown in the table below.

STO Bond Authorizations for DOT Projects

Authorized Program Areas	FY 20	FY 21
Bureau of Engineering and Highway Operations		
Interstate highway program	$13,000,000	$13,000,000
Urban systems projects	16,750,000	16,750,000
Intrastate highway program	44,000,000	44,000,000

Authorized Program Areas	*FY 20*	*FY 21*
Environmental compliance, soil and groundwater remediation, hazardous material abatement, demolition, salt shed construction and renovation, storage tank replacement, and environmental emergency response at or near state-owned properties or related to DOT operations	9,925,000	9,925,000
State bridge improvement, rehabilitation, and replacement	33,000,000	33,000,000
Capital resurfacing and related reconstruction	106,500,000	106,500,000
Fix-it-First bridge repair program	110,000,000	110,000,000
Fix-it-First road repair program	75,000,000	75,000,000
Local Transportation Capital Program	67,000,000	67,000,000
Grants to municipalities for the Town Aid Road Program	30,000,000	30,000,000
Local bridge program	10,000,000	10,000,000
Highway and bridge renewal equipment	16,000,000	16,000,000
Purchase of signs that flash a warning when they detect a vehicle wrongly entering a road (i.e., wrong-way signs) and installation on accident-prone interstate highway ramps (see § 89 below)	1,000,000	0
Bureau of Public Transportation		
Bus and rail facilities and equipment, including rights-of-way, other property acquisition, and related projects	236,000,000	236,000,000
Bureau of Administration		
Department facilities	9,440,000	15,200,000

§§ 51-53, 56, 58, 60, 66-69 & 74 — BOND AUTHORIZATIONS FOR STATUTORY PROGRAMS AND GRANTS

The act increases bond authorizations for various statutory grants and purposes and authorizes new bonding for these purposes for FYs 20 and 21, as shown in the table below.

Statutory Bond Authorizations for FYs 20 and 21

§	*Agency*	*Purpose/Fund*	*FY 20*	*FY 21*
51	OPM	Urban Action (economic and community development project grants)	$100,000,000	$100,000,000
52	OPM	Small Town Economic Assistance Program (STEAP)	0	30,000,000
53	OPM	Capital Equipment Purchase Fund	0	27,000,000
56	OPM	Local Capital Improvement Program (LoCIP)	30,000,000	30,000,000
58	DOH	Housing Trust Fund	30,000,000	0
60	DAS	School construction projects (see § 60 below)	437,000,000	419,000,000
66	DOT	Commercial rail freight lines	10,000,000	0
67	DEEP	Clean Water Fund grants	75,000,000	75,000,000
68	DEEP	Clean Water Fund loans (revenue bonds)	0	84,000,000
69	DEEP	Connecticut bikeway, pedestrian walkway, recreational trail, and greenway grant program	3,000,000	0
74	DESPP	School security infrastructure competitive grant program; requires DESPP to use at least $5 million for school security projects involving multimedia interoperable communications systems (see § 60 below)	15,000,000	0

§§ 54 & 77 — BODY-WORN RECORDING EQUIPMENT GRANT PROGRAM

The act extends the body-worn recording equipment grant program by two years, through FY 21. By law, the program reimburses municipalities up to 50% of the cost of, among other things, purchasing body cameras for use by sworn members of municipal police departments.

The act also modifies an existing $12 million bond authorization for body-worn equipment grants by (1) increasing the amount earmarked for the state police, from $2 million to $5 million, and (2) decreasing the amount earmarked for local law enforcement officers, from $10 million to $7 million.

§ 55 — LOCIP

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 hazardous tree removal or trimming for nonutility-related hazardous branches, limbs, and trees on municipal property or in a municipal right-of-way.

§ 59 — SCHOOL BUILDING IMPROVEMENT GRANTS FOR ALLIANCE DISTRICTS

The act specifies that the types of equipment upgrades eligible for alliance district school building improvement grants include cabinets, computers, laptops, and related equipment and accessories purchased on or after November 1, 2017.

By law, these bond-funded grants are for general school building improvements that are not normally reimbursable by state school construction grants. The program is open to alliance districts (i.e., the 30 lowest-performing districts in the state).

§ 60 — SCHOOL SECURITY PROJECTS INVOLVING MULTIMEDIA INTEROPERABLE COMMUNICATION SYSTEMS

The act eliminates a provision earmarking, for certain school security projects, up to $5 million of the existing authorization for school construction grants. The projects are those administered by the School Safety Infrastructure Council that involve multimedia interoperable communication systems.

§§ 61, 71-72 & 75-76 — BOND CANCELLATIONS AND REDUCTIONS

The act cancels or reduces, by a total of $3.376 million, all or part of prior bond authorizations for the projects and grants shown in the table below.

Cancellations and Reductions

Act §	*Agency and Purpose*	*Prior Authorization*	*Amount Cancelled*
61	SDE: school construction interest subsidy grants	$371,900,000	$2,100,000
72	DESPP: design and construct a firearms training facility and vehicle operations training center, including land acquisition	3,576,000	876,000
76	DAS: development of a supplier diversity data management system	400,000	400,000

§ 62 — SMART START COMPETITIVE GRANT PROGRAM EXPANSION

Prior law authorized bonds (including $10 million per year for FYs 20 through 24) for the smart start competitive grant program, which provides capital to local and regional boards of education establishing or expanding preschool programs. (The program also provides operating grants from an appropriated account in the General Fund.)

The act expands the purposes for which this existing authorization may be used to include the following:

1. school readiness programs (i.e., non-religious, state-funded education programs that provide a developmentally appropriate learning experience of at least 450 hours and 180 days for children ages three to five who are too young to enroll in kindergarten);
2. state-funded day care centers;
3. the Even Start program (i.e., grants to establish or expand local family literacy programs that provide literacy

services for children and their parents or guardians);
4. programs administered by local and regional boards of education; and
5. expansion of child care services to infants and toddlers where a demonstrated need exists, as determined by the Office of Early Childhood (OEC).

Under the act, these grants must be used for facility improvements and minor capital repairs. Eligible applicants may apply to OEC for capital grants of up to $75,000 per classroom for renovation-related costs.

§§ 63-65 — CSCU 2020 AND UCONN 2000

Annual Bond Limits

The act adjusts the annual bond caps under the CSCU 2020 and UConn 2000 infrastructure programs as shown in the table below. It also extends the CSCU 2020 program by one year to FY 21.

Annual Bond Limits for CSCU 2020 and UConn 2000

Bond Program	*FY*	*Prior Limit*	*Change*	*New Limit*
CSCU 2020	20	$126,000,000	($46,000,000)	$80,000,000
	21	0	46,000,000	46,000,000
UConn 2000	20	291,600,000	(94,400,000)	197,200,000
	21	186,200,000	73,800,000	260,000,000
	22	101,400,000	89,100,000	190,500,000
	23	98,000,000	27,100,000	125,100,000
	24	85,000,000	(300,000)	84,700,000
	25	70,100,000	(14,100,000)	56,000,000
	26	63,600,000	(49,600,000)	14,000,000
	27	40,600,000	(31,600,000)	9,000,000

Addendum to CSCU 2020

By law, the Board of Regents for Higher Education (BOR) must submit annually by March 1 to the governor, state treasurer, and OPM secretary the amount of bonds required for the program for the ensuing fiscal year. The governor has 30 days to approve or disapprove the amount in whole or in part; if he does not act within 30 days after the submission, the whole amount is deemed approved. Under the act, if the legislature authorizes new bonds after March 1 for the fiscal year beginning on July 1 of that year, BOR may submit an addendum for the amount of the increased authorization. Existing law allows BOR to do so if the legislature increases a bond limit that the governor already approved.

Under the act, BOR must submit the addendum by April 11, 2020. The governor has 30 days from BOR's submission to approve or disapprove it in the manner described above.

§ 70 — GRANT TO HAMDEN AND HAMDEN ECONOMIC DEVELOPMENT CORPORATION FOR STRUCTURALLY DAMAGED HOMES

The act earmarks up to $4 million of an existing bond authorization for a grant to Hamden for structurally damaged homes. The existing authorization provides $17.5 million for DEEP grants to contain, remove, or mitigate identified hazardous waste disposal sites. Under the act, up to $4 million of this amount must be provided to DECD for a grant to Hamden and the Hamden Economic Development Corporation to fund the reasonable costs related to the purchase, rehabilitation, structural repair, and demolition of homes in the town’s Newhall Street neighborhood that suffered severe structural damage due to historic fill.

§ 73 — SCHOOL SECURITY INFRASTRUCTURE COMPETITIVE GRANT PROGRAM

By law, DESPP may award competitive grants to reimburse certain school security infrastructure expenses incurred by towns, regional educational service centers, state charter schools, the state technical high school system, state-approved endowed high schools or academies functioning as a town's public high school, and private schools, including licensed child care centers or preschools that have received threats. The act excludes family child care providers from grant eligibility.

Prior law earmarked 10% of the program's available funds for grants to private schools. The act specifies that licensed childcare centers and private preschools are included in this earmark and are eligible for a grant equal to 50% of the eligible project costs. It limits the grant amount for private schools, including licensed childcare centers and private preschools, to $50,000 each.

For FYs 20 and 21, the act requires that grants for public and private schools be prioritized based on greatest need for security infrastructure if there are not sufficient funds to provide grants for all applicants.

§ 78 — LET'S GO CT CAPITAL IMPROVEMENT PROGRAM

The act modifies the projects for which DOT may use the existing bonds authorized under the five-year capital improvement program commonly known as Let's Go CT, as shown in the table below.

Let's Go CT Project Changes

Prior Authorization	*New Authorization*
For the Bureau of Engineering and Highway Operations	
Design and engineering for I-84 widening between exits 3 and 8	I-84 widening between exits 3 and 8
Design and engineering for I-84 viaduct replacement in Hartford	I-84 safety and operational improvements in Hartford
Design and engineering for I-84 and Route 8 interchange improvements in Waterbury	I-84 and Route 8 interchange improvements in Waterbury
Design and engineering for I-91, I-691, and Route 15 interchange improvements	I-91, I-691, and Route 15 interchange improvements
Design and engineering for I-95 widening between Bridgeport and Stamford	I-95 improvements to reduce congestion between New Haven and New York state line
Design and engineering, including rights-of-way for I-95 widening between the Baldwin Bridge and the Gold Star Bridge	I-95 improvements to reduce congestion between New Haven and the Rhode Island state line
Design and engineering for Route 9 improvements in Middletown	Route 9 improvements in Middletown
For the Bureau of Public Transportation	
Bus rolling stock for service expansions	Bus rolling stock
Design, engineering, and construction of a new dock yard on the Danbury branch line	Replace the WALK Moveable Bridge, including a New Universal Interlocking at CP243 and improve the Danbury branch line dock yard
Design and construction of the Orange, Barnum, and Merritt 7 stations on the New Haven Line and Danbury branch line	Station improvements on the New Haven Line and Danbury branch line
Design and construction of a parking deck and pedestrian bridge in New Haven on the New Haven Line	Parking structure and pedestrian bridge in New Haven on the New Haven Line
Design and construct a pedestrian bridge in Stamford on the New Haven Line	Parking structure and pedestrian bridge in Stamford on the New Haven Line
Improvements on New Canaan branch line to increase frequency and enhance service to and	Improvements on the New Canaan branch line

Prior Authorization	New Authorization
from the main line, including siding, platform, and improvements to the Springdale Station	

§ 81 — CONNECTICUT INNOVATIONS, INC. GRANT TO WOMEN'S BUSINESS DEVELOPMENT COUNCIL IN STAMFORD

For each year of FYs 20 to 22, the act requires Connecticut Innovations, Inc. to provide a $350,000 grant to the Women's Business Development Council in Stamford.

§§ 83 & 84 — NONPROFIT ORGANIZATION SECURITY INFRASTRUCTURE COMPETITIVE GRANT PROGRAM

The act requires DESPP to administer a competitive grant program to reimburse eligible nonprofit organizations for security infrastructure improvements and authorizes up to $5 million in GO bonds for the program.

Under the act, an "eligible nonprofit organization" is a 501(c)(3) organization that the DESPP commissioner determines is at heightened risk of being the target of a terrorist attack, hate crime, or violent act. The grants are for certain expenses these organizations incurred on or after July 1, 2019, for (1) developing or improving security infrastructure; (2) training personnel to operate and maintain the infrastructure; and (3) buying portable entrance security devices, such as metal detectors.

Eligibility Criteria

The act requires the DESPP commissioner, by May 1, 2020, to develop eligibility criteria for awarding the grants. The criteria must conform to industry standards for building security infrastructure and, at a minimum, address the following areas:

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

By May 1, 2020, the commissioner must also develop a checklist for applicants to use in assessing their buildings' safety and security for grant eligibility purposes. The checklist must include measures to assess (1) eligible buildings, (2) communications systems, (3) building access control and surveillance, (4) utility systems, (5) mechanical systems, and (6) emergency power.

Eligible Expenses

Under the act, the grants are for expenses the eligible nonprofit organization incurred on or after July 1, 2019, for the following purposes:

1. developing or improving the security infrastructure of eligible nonprofit buildings, based on the security assessments described above;
2. training personnel to operate and maintain the security infrastructure; and
3. buying portable entrance security devices, including metal detector wands, screening machines, and related training.

Eligible infrastructure expenses include installing 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, real time interoperable communications and multimedia sharing infrastructure, or other systems.

Application Process

Eligible nonprofit organizations that own buildings in the state may apply to DESPP for grant funds from May 1, 2020, to July 31, 2020.

The DESPP commissioner prescribes the application process. As part of this process, he must require applicants to

submit information demonstrating that they are at a heightened risk of being the target of a terrorist attack, hate crime, or violent act. The commissioner must (1) evaluate this information based on neutral criteria applied equally to all eligible applicants, (2) determine which expenses are eligible under the program, and (3) approve or deny an application based on the eligibility criteria and his determination that the applicant is at heightened risk.

Grant Amounts

The grants are capped at $50,000 for each eligible organization. The organization receives half of its grant amount when it presents to the commissioner a contract for eligible security infrastructure improvements and the other half when it demonstrates to the commissioner that it has incurred all of the eligible expenses pursuant to the contract.

To receive a grant, an organization must show that it has conducted a uniform assessment of its buildings, including any security infrastructure, using the checklist developed by the DESPP commissioner. The assessment may be carried out under the supervision of the local law enforcement agency.

Second Round of Grant Applications

If the aggregate amount of grants the commissioner approves is less than $5 million, eligible applicants may apply for a grant for eligible expenses incurred on or after February 1, 2021. The same application process requirements described above apply to this second round of grant applications.

§ 85 — REQUIREMENT TO PROVIDE SPECIFIED PROPERTY TAX EXEMPTION DATA TO OPM

The act requires municipal assessors to annually certify to the OPM secretary the amount of the following property tax exemptions they approved for the most recently completed assessment year:

1. five-year, 80% exemption for qualifying machinery and equipment in a distressed municipality, targeted investment community, enterprise zone, or airport development zone (with certain narrow exceptions) (CGS § 12-81(60));
2. five-year, 50% exemption for qualifying machinery and equipment in a distressed municipality, targeted investment community, or enterprise zone acquired as part of a technological upgrading of a manufacturing process (CGS § 12-81(70));
3. five-year, 100% exemption for qualifying new and newly acquired machinery and equipment used in manufacturing, biotechnology, or recycling (effective for the 2002 through 2010 assessment years) (CGS § 12-81(72)); and
4. 100% exemption for qualifying machinery and equipment used in manufacturing or biotechnology (applies as of the 2011 assessment year) (CGS § 12-81(76)).

Assessors must provide the certification annually by May 1 on OPM-prescribed forms. The certification must also include (1) the number of taxpayers with approved claims under each exemption, (2) copies of applications filed by the taxpayers, and (3) any other supporting information the OPM secretary requires.

§ 86 — REGIONAL SCHOOL DISTRICT NO. 19 REFERENDUM VALIDATION

The act validates a Regional School District No. 19 referendum held on December 10, 2019, that was otherwise valid but for the failure to properly publish notice of the referendum in Mansfield. It also validates, as of the date taken, all otherwise valid acts, votes, and proceedings of Regional School District No. 19 officers and officials pertaining to or relying on the referendum.

In the referendum, voters (1) approved an appropriation to install a photovoltaic system at E.O. Smith High School and for related equipment and work and (2) authorized bonds and the acceptance of grants to finance the appropriation.

§ 87 — APPRENTICESHIP CONNECTICUT INITIATIVE

Existing law earmarks $50 million in Manufacturing Assistance Act bonds for the Apprenticeship Connecticut initiative that develops workforce pipeline programs for training qualified entry-level workers for jobs with manufacturers and other employers in workforce shortage areas. The act requires that $10 million of these earmarked bonds be used for the initiative as follows:

1. $5 million for the workforce development board in Bridgeport serving the southwest region (i.e., the Workplace, Inc.), which must distribute the money in proportion to population and need and

2. $5 million for the workforce development board in Hartford serving the north central region (i.e., Capital Workforce Partners).

§ 88 — SEWER AND UTILITY SERVICE GRATES

The act requires that certain state and municipal road repair contracts include a provision requiring that sewer and utility service grates be made reasonably flush with the road. Under the act, the DOT commissioner and municipal chief executive officers must require the following:

1. that bids for projects to pave, repave, or repair roads that are financed in whole or part by state funds include a provision that all of the road's sewer and utility service grates be made reasonably flush with the road's surface when the project is complete and
2. that each contract entered into as a result of these bid requests also include this provision.

Under the act, these requirements apply regardless of any statutes, public or special act, charter, or ordinance.

EFFECTIVE DATE: October 1, 2020

§ 89 — DOT REPORT ON SEWER AND UTILITY SERVICE GRATES AND WRONG-WAY SIGN INSTALLATION

The act requires the DOT commissioner, annually beginning by January 1, 2021, to report to the legislature on (1) compliance with the sewer and utility service grate requirements described above (§ 88) and (2) the installation of wrong-way signs on accident-prone interstate highway ramps (§ 40 authorizes $1 million in STO bonds for the signs in FY 20). The report must include the number of signs purchased, where they were installed, and any data on their effectiveness in reducing motor vehicle accidents. The commissioner must submit the report to the Transportation and Finance, Revenue and Bonding committees and the Finance Committee's transportation bonding subcommittee.

§ 90 — REPORT ON LAW ENFORCEMENT COMMUNITY ENGAGEMENT TRAINING

The act requires the OPM secretary, annually beginning by January 1, 2021, to report to the legislature on the content of law enforcement community engagement training in towns with a population exceeding 100,000 and adjacent towns (§ 32 authorizes $3 million in GO bonds for this training in FY 21). She must also provide data on the number of trainings provided and number of police officers trained and submit her findings to the Public Safety and Security and Finance, Revenue and Bonding committees and the Finance Committee's general bonding subcommittee.

§ 91 — REMEDIAL ACTION AND REDEVELOPMENT MUNICIPAL GRANT PROGRAM

The act increases the frequency with which DECD must award brownfield remedial action and redevelopment grants from once a year to at least twice a year. As under existing law, the DECD commissioner may increase the frequency of application requests and awards depending on the number of applications and available funding.

The act also explicitly allows municipalities to submit more than one application in response to an application request and prohibits the DECD commissioner from rejecting an application solely for this reason.

By law, DECD makes these grants to municipalities, municipal and nonprofit economic development agencies, and state-certified brownfield land banks for remediating brownfields they own or control. It also makes grants to these entities and regional councils of government for preparing comprehensive brownfield remediation and development plans.

PA 20-1, July 2020 Special Session—HB-6004
Emergency Certification

AN ACT CONCERNING POLICE ACCOUNTABILITY.

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§§ 1-4 & 15 — POLICE OFFICER CERTIFICATION AND DECERTIFICATION

(1) Requires State Police officers to be POST-certified; (2) deems current State Police officers to be POST-certified; (3) authorizes POST to require police officers to pass a drug test as a condition of renewing their certification; (4) expands the reasons for which POST may cancel or revoke a police officer's certification to include conduct undermining public confidence in law enforcement or excessive or unjustified force; (5) allows POST to suspend a certification in certain circumstances; and (6) allows POST to develop guidance for law enforcement units on grounds for certification suspension, cancellation, or revocation

POST Certification for State Police

Prior law exempted the State Police and any State Police training school or program from the requirement that police officers serving for more than one year be certified by the Police Officer Standards and Training Council (POST). The act eliminates this exemption, thus requiring State Police officers to be POST-certified (§ 3(f)).

The act automatically deems as certified any sworn, full-time State Police officers as of the act's passage (July 31, 2020), except for probationary candidates (§ 3(d)). It requires these deemed certified officers to apply for recertification within a POST-established time frame unless they retire before then (§ 4(a)).

The act requires sworn members of the State Police appointed on or after July 31, 2020, to become POST-certified within one year of their appointment (§§ 1 & 2). By law, the Department of Emergency Services and Public Protection (DESPP) commissioner appoints State Police officers.

The act makes various conforming changes to POST's authority to include the State Police. For example, the act:

1. authorizes POST to develop and revise comprehensive training plans for state and municipal police, not just a plan for municipal police as under prior law (§ 3(a)(1));
2. requires POST to consult with DESPP when establishing uniform minimum educational and training standards for police (§ 3(a)(11));
3. specifies that POST's authority over police training schools includes schools for both state and municipal police (§ 3(a)(2) & (a)(3)); and

4. provides that DESPP's regulations implementing POST-related laws are binding on the State Police (§ 4(c)).

The act also makes related minor and technical changes.

Drug Tests

By law, police officers must renew their POST certification every three years. The act authorizes POST to require police officers, as a condition of renewing their certification, to pass a urinalysis drug test that screens for controlled substances, including anabolic steroids (§ 3(a)(10)). (The presence of any substances prescribed for the officer would not constitute a failed test.) Existing regulations already require a drug screening for probationary candidates (i.e., police officers who have met entry level requirements but have not yet completed the basic training program) (Conn. Agencies Reg., § 7-294e-16(k)).

By law, if a police officer is not employed for over two years and not on a leave of absence, his or her POST certification lapses. The act requires these officers to pass a drug test as described above as a condition of recertification (§ 3(b)).

These provisions, as well as the provisions below on "Revocation or Suspension of Certification," apply to all police officers under POST's jurisdiction. Under existing law this includes sworn members of organized local police departments, appointed constables who perform criminal law enforcement duties, special police officers appointed for certain purposes, other members of law enforcement units who perform police duties, and other people who perform police functions. Under the act, it also includes the State Police (§§ 3(e) & 15(9)).

Revocation or Suspension of Certification (§ 3(c))

Existing law sets various grounds upon which POST may cancel or revoke a police officer's certification, such as if the officer falsified a document to obtain or renew the certificate or was convicted of a felony.

The act expands these grounds to include conduct undermining public confidence in law enforcement or excessive or unjustified force, as explained below. In both cases, a law enforcement unit, under its procedures, must have found that the officer engaged in this conduct. In cases of undermining public confidence, the unit must have considered any POST guidance (see below).

Under the act, POST may cancel or revoke an officer's certification for conduct undermining public confidence in law enforcement, including (1) discriminatory conduct, (2) falsifying reports, or (3) racial profiling in violation of state law. In its evaluation, POST must consider conduct the officer undertook in a law enforcement capacity or when representing himself or herself as a police officer to be more serious than conduct in other circumstances.

The act also allows POST to cancel or revoke an officer's certification if a law enforcement unit found the officer's (1) use of physical force was excessive or (2) use of physical force resulting in a person's death or use of deadly force was determined to be unjustified after an investigation by the Office of the Inspector General (see below). Existing law already allows POST to cancel or revoke an officer's certification if he or she used a firearm in an improper manner that resulted in someone else's death or serious injury.

As under existing law, before cancelling or revoking an officer's certification, POST must (1) give the officer notice and an adequate opportunity for a hearing and (2) make a finding of the improper conduct by clear and convincing evidence.

The act additionally permits POST to suspend an officer's certification for up to 45 days and censure the officer upon any of the grounds that could lead to cancellation or revocation. POST may do so if, after giving notice and an adequate opportunity for a hearing, it finds clear and convincing evidence of improper conduct but that the severity of the act does not warrant cancellation or revocation.

The act specifically provides that any hearing to suspend, cancel, or revoke a certification must be conducted in accordance with the Uniform Administrative Procedure Act (UAPA), and any certificate holder aggrieved by a POST decision may appeal to court under the UAPA. (DESPP's POST-related regulations provide that all adjudicative hearings in contested cases must be conducted in accordance with the UAPA (Conn. Agencies Reg., § 7-294e-21).)

POST Guidance (§ 3(g))

The act allows POST to develop and issue written guidance to law enforcement units on grounds for certification suspension, cancellation, or revocation. The guidance may include, among other things, (1) reporting procedures that chief law enforcement officers must follow concerning these actions; (2) examples of discriminatory conduct and conduct that undermines public confidence in law enforcement; and (3) examples of misconduct that may be serious enough for disciplinary action even though the certificate holder may not have been acting in a law enforcement capacity or representing himself or herself to be a police officer. POST must make the guidance available on its website.

EFFECTIVE DATE: Upon passage

§§ 3 & 15-16 — BEHAVIORAL HEALTH ASSESSMENTS FOR POLICE OFFICERS

Requires police officers to receive behavioral health assessments at least every five years, authorizes POST to develop written policies regarding these assessments, and exempts the assessments' results and records from disclosure under FOIA

Under the act, starting January 1, 2021, the administrative heads of law enforcement units must require each police officer employed by the unit to submit to a behavioral health assessment at least every five years as a condition of continued employment. It authorizes POST, in consultation with DESPP, to develop policies related to this requirement.

An "administrative head of a law enforcement unit" includes the DESPP commissioner, board of police commissioners, police chief or superintendent, or other authority in charge of a law enforcement unit.

The assessment must be conducted by a board-certified psychiatrist or state-licensed psychologist with experience diagnosing and treating post-traumatic stress disorder. The person conducting the assessment must give a written copy of the results to the officer and to the administrative head of the unit employing the officer.

The act exempts from disclosure under the Freedom of Information Act (FOIA) (1) the assessments' results and (2) any records or notes a psychiatrist or psychologist maintains in connection with the assessments.

EFFECTIVE DATE: Upon passage

Schedule; Waiver for Retiring Officers (§ 16(b))

The act allows law enforcement administrative heads to stagger the scheduling of the assessments so that approximately 20% of the unit's officers receive assessments each year over a five-year period.

If an officer submits written notification of his or her intent to retire, the administrative head may waive the assessment requirement for the officer, as long as the retirement will occur within six months after the assessment was scheduled to occur.

Additional Assessments (§ 16(c))

In addition to the required assessments, the act authorizes law enforcement administrative heads to require officers to submit to additional behavioral health assessments for good cause shown. The administrative head must give the officer a written statement of the good faith basis for requiring the additional assessment. After receiving that statement, the officer has 30 days to submit to the assessment.

Officers Previously Employed (§ 16(d))

Under the act, if a law enforcement unit hires a police officer from another law enforcement unit (in Connecticut or elsewhere), the hiring unit may require the officer to submit to a behavioral health assessment within six months of hire. When deciding whether to require this, the hiring unit must consider how recently the officer submitted to a behavioral health assessment.

POST Policies (§ 3(a)(24))

The act authorizes POST, by January 1, 2021, and in consultation with the DESPP commissioner, to develop and implement written policies on the requirement that all police officers undergo periodic behavioral health assessments. At a minimum, these policies must address:

1. the confidentiality of these assessments, including compliance with the federal Health Insurance Portability and Accountability Act (HIPAA);
2. the good faith reasons that law enforcement administrative heads may rely upon when requesting that an officer undergo an additional assessment beyond those that are required;
3. the availability of behavioral health treatment services for any police officer required to undergo a behavioral health assessment;
4. the ability of officers to review and contest their assessments' results;
5. permissible personnel actions, if any, that law enforcement units may take based on the assessments' results, while considering the officers' due process rights;
6. how to select psychiatrists and psychologists to conduct the assessments; and

7. financial considerations that law enforcement units or police officers may incur due to the assessments.

§§ 5 & 6 — CROWD MANAGEMENT POLICY

Requires POST, in consultation with specified entities, to adopt a uniform statewide crowd management policy for police officers

Development and Adoption (§ 5)

The act requires POST, in consultation with the DESPP commissioner, chief state's attorney, Connecticut Police Chiefs Association, and Connecticut Coalition of Police and Correctional Officers, to adopt a uniform statewide crowd management policy for police officers. The policy must define "crowd" and reflect factors that affect police officers' crowd management, including a crowd's size, location, purpose for gathering, and the time of day at which it gathers.

The policy must also do the following:

1. protect individual rights and preserve the peace during demonstrations and civil disturbances,
2. address permissible and impermissible uses of force by police officers and the type and amount of crowd management training that police officers must undergo, and
3. set forth documentation requirements that apply after any physical confrontation between a police officer and a civilian during a crowd management incident.

The act requires that the policy be adopted as a state agency regulation in accordance with the UAPA. It requires POST, in consultation with the above-listed parties, to (1) post on the eRegulations System by December 1, 2020, a notice of intent to adopt regulations containing the policy and (2) amend the regulations at least once every five years thereafter to update the policy.

Implementation (§ 5)

On and after the date the crowd management policy is adopted as a regulation, the act requires the DESPP commissioner and chiefs of police to (1) inform each officer in his or her respective department and each officer responsible for law enforcement in a municipality with no organized police department of the policy's existence and (2) take necessary measures to ensure each officer understands it. It also requires, on and after the date the policy is adopted, that basic and review training programs conducted or administered by the State Police, POST, or a municipal police department include training on the policy.

Riot Suppression Privileges and Immunities (§ 6)

Under prior law, State Police members participating in suppressing a riot or similar disorder were entitled to the same privileges and immunities as the organized militia (e.g., they were generally privileged from arrest and imprisonment (CGS § 27-60)). Under the act, once the crowd management policy is adopted as a regulation, these privileges and immunities apply only to State Police members who substantially comply with the policy.

EFFECTIVE DATE: Upon passage

§ 7 — IMPLICIT BIAS TRAINING FOR POLICE OFFICERS

Adds implicit bias training to the required police training components

The act adds implicit bias training to the cultural competency, sensitivity, and bias-free policing training that police officers must receive under existing law. Under the act, implicit bias training teaches how to recognize and mitigate unconscious biases against particular people that might influence judgments and decisions when interacting with them.

By law, police basic and review training programs conducted or administered by the State Police, POST, and municipal police departments must include training on, among other things, (1) using physical force; (2) using body cameras and retaining the records they create; and (3) cultural competency, sensitivity, and bias-free policing.

EFFECTIVE DATE: Upon passage

§§ 8 & 9 — COLLECTIVE BARGAINING AND DISCLOSURE OF DISCIPLINARY MATTERS OR ALLEGED MISCONDUCT

Specifies that the Freedom of Information Act prevails over certain contrary provisions in state employee collective bargaining agreements and arbitration awards; explicitly prohibits agreements and awards involving State Police bargaining units from barring the disclosure of certain disciplinary actions

Under prior law, the provisions of collective bargaining agreements and arbitration awards between the state and a state employee bargaining unit generally superseded any conflicting state statutes, special acts, or regulations as long as the superseding provisions were appropriate to collective bargaining.

The act creates an exception for certain conflicts with FOIA. Under the act, if the provisions of an agreement or award (1) pertain to disclosing disciplinary matters or alleged misconduct and (2) would prevent document disclosures required by FOIA, then FOIA's provisions prevail. This exception applies to agreements and awards entered into before, on, or after the act's effective date. The act specifies that it should not be construed as diminishing a bargaining agent's access to information under state law.

Separately, the act also explicitly prohibits any collective bargaining agreement or arbitration award between the state and any State Police bargaining unit from barring the disclosure of any disciplinary action based on a violation of the code of ethics contained in a sworn member's personnel file. The act's prohibition applies to agreements and awards entered into before, on, or after the act's effective date.

It is unclear whether applying the act's provisions to existing agreements and awards would conflict with the U.S. Constitution's contract clause (see BACKGROUND).

EFFECTIVE DATE: Upon passage

Background ─ Contract Clause

The U.S. Constitution's contract clause (art. I, § 10) prohibits states from passing laws that impair the obligation of contracts. In a 2017 opinion (2017-06), Connecticut's attorney general noted that when a litigant raises a contract clause challenge against a legislative act, courts ask three questions to determine whether the act violates the clause: (1) is the impairment substantial; (2) if so, does the law serve a legitimate public purpose; and (3) if so, are the means of accomplishing this purpose reasonable and necessary (*Buffalo Teachers Fed'n v. Tobe*, 464 F.3d 362 (2d Cir. 2006)).

§§ 10 & 11 — REPORTS ON RECRUITING MINORITY POLICE OFFICERS

Establishes a new reporting requirement and expands an existing one to include information on efforts to recruit, retain, and promote minority police officers

The act establishes a new reporting requirement and expands an existing one to include information on efforts to recruit, retain, and promote minority police officers. By law, "minority" is an individual whose race is other than white, or whose ethnicity is defined as Hispanic or Latino by the federal government for use by the U.S. Census Bureau.

Existing law requires law enforcement units serving communities with a relatively high concentration of minority residents to try to recruit, retain, and promote minority officers so that the unit's racial and ethnic diversity represents the community. By January 1, 2021, and annually thereafter, the act requires the board of police commissioners, the police chief or superintendent, or other authority over a law enforcement unit serving such a community to report to POST on the community's efforts to recruit, retain, and promote minority police officers.

By January 1, 2021, and annually thereafter, the act requires the annual report POST already provides the governor and the General Assembly to (1) include pertinent data on recruiting, retaining, and promoting minority police officers and (2) be provided specifically to the Judiciary and Public Safety and Security committees. Existing law requires POST to report pertinent data on the comprehensive municipal police training plan and an accounting of all grants, contributions, gifts, donations, or other financial assistance.

EFFECTIVE DATE: Upon passage

§ 12 — POLICE TRANSPARENCY AND ACCOUNTABILITY TASK FORCE

Extends the reporting deadlines and expands the scope of the task force to study police transparency and accountability by requiring it to examine, among other things, the feasibility of requiring police to have professional liability insurance and how police execute no-knock warrants

The act expands the scope of the task force that PA 19-90, § 6, established to study police transparency and accountability. It also extends the task force's reporting deadlines by a year, requiring it to submit a preliminary report by January 1, 2021, and a final report by December 31, 2021. The 13-member task force terminates when it submits the final

report or on December 31, 2021, whichever is later. As under PA 19-90, it must submit the reports to the Judiciary and Public Safety and Security committees.

PA 19-90 required the task force to examine several issues, including the feasibility of having police officers who conduct traffic stops issue a receipt to each stopped individual that includes the reason for the stop and records the individual's demographic information. The act requires the task force to also look at this proposal's merits.

Under the act, the task force must also examine:

1. strategies communities can use to increase minority police officer recruitment, retention, and promotion;
2. strategies communities can use to increase female police officer recruitment, retention, and promotion;
3. the merits and feasibility of requiring (a) police officers to procure and maintain professional liability insurance as an employment condition or (b) a municipality to maintain the insurance on its officers' behalf;
4. establishing laws for primary and secondary traffic violations;
5. establishing a law that requires police traffic stops to be based on enforcing a primary traffic violation;
6. how a police officer executes a warrant to enter a residence without giving audible notice of the officer's presence, authority, and purpose before entering in Connecticut and other states, including address verification procedures and any documentation an officer should leave for the residents where the warrant was executed;
7. how a professional bondsman, surety bail bond agent, or a bail enforcement agent takes into custody the principal on a bond who failed to appear in court and for whom a re-arrest warrant or a capias was issued in Connecticut and other states, including the address verification process and whether any documentation is left with a resident where the warrant was executed; and
8. whether any of the grounds for revoking or cancelling a police officer's certification should result in a mandatory, rather than discretionary, POST revocation or cancellation.

EFFECTIVE DATE: Upon passage

§ 13 — POST MEMBERSHIP CHANGES

Revamps POST's membership by, among other things, (1) adding a member to the council; (2) reducing the number of gubernatorial appointments from 17 to 11 and adding six legislative appointments in their place; and (3) requiring representation from additional stakeholders

The act revamps POST's membership beginning January 1, 2021. Under prior law, the council consisted of 20 members: 17 appointed by the governor and three serving ex-officio (the DESPP commissioner and FBI special agent-in-charge for Connecticut, or their designees, and the chief state's attorney).

The act increases the council's size to 21 members by adding the Connecticut State Police Academy's commanding officer. (It also retains the three ex-officio members listed above.) Additionally, it makes numerous changes concerning the appointed members. Principally, it (1) reduces the number of gubernatorial appointments from 17 to 11 and adds six legislative appointments in their place and (2) requires representation from additional stakeholders.

The table below compares POST's appointed membership under prior law with its appointed membership under the act.

POST Appointment Criteria

Type of Appointee	*Prior Law (All appointments by governor)*	*The Act (Beginning January 1, 2021)*	
		Criteria	*Appointed by*
Municipal officials	One chief administrative officer of a town or city	Two municipal chief elected officials or chief executive officers: • one from a town or city with a population exceeding 50,000 • one from a town or city with a population not exceeding 50,000	Governor
	One chief elected official or chief executive officer from a town or city with no organized police department and a population of fewer than 12,000		

Type of Appointee	*Prior Law (All appointments by governor)*	*The Act (Beginning January 1, 2021)*	
		Criteria	*Appointed by*
Higher education faculty member	One UConn faculty member	One Connecticut higher education faculty member who has a background in criminal justice studies	Governor
Police chiefs	Eight members of the Connecticut Police Chiefs Association who are chiefs of police or the highest-ranking professional police officers of an organized municipal police department	One member of the Connecticut Police Chiefs Association who is the chief of police, deputy chief of police, or a senior ranking professional police officer of an organized municipal police department of a municipality with a population exceeding 100,000	Governor
		Two members of the Connecticut Police Chiefs Association who are chiefs of police or the highest-ranking professional police officers of an organized municipal police department: • one from a municipality with a population exceeding 60,000 but not exceeding 100,000 • one from a municipality with a population exceeding 35,000 but not exceeding 60,000	Governor
		Two members who are (1) Connecticut Police Chiefs Association members or (2) chiefs of police or the highest-ranking professional police officers of an organized police department	One each by the House speaker and Senate president pro tempore
		One member of the Connecticut Police Chiefs Association who is the chief of police or highest-ranking professional police officer of an organized police department from a municipality with a population not exceeding 35,000	Senate minority leader
Sworn personnel	One sworn municipal police officer whose rank is sergeant or lower	Two sworn municipal police officers: • one from a municipality with a population exceeding 50,000 • one from a municipality with a population not exceeding 50,000	Governor
Public members	Five public members	One public member who has a physical disability or who advocates on behalf of such individuals	Governor

Type of Appointee	*Prior Law (All appointments by governor)*	*The Act (Beginning January 1, 2021)*	
		Criteria	*Appointed by*
		A crime victim or the immediate family member of a deceased crime victim	Governor
		One medical professional	Governor
		Two public members who are justice-impacted people	One each by the House and Senate majority leaders
		One public member who has a mental disability or who advocates on behalf of such individuals	House minority leader

As under existing law, appointed members serve at the pleasure of their appointing authority for a term coterminous with their appointing authority (CGS § 4-1a). The act additionally deems a member to have resigned from POST if he or she misses three consecutive meetings or 50% of the meetings held during any calendar year.

The act retains provisions in existing law that, among other things, require the governor to appoint the chairperson and specify that a nonpublic member ceases to be on the council if he or she ceases holding the office or employment that qualified him or her for appointment.

EFFECTIVE DATE: Upon passage

§ 14 — POLICE BADGE AND NAME TAG IDENTIFICATION

Starting January 1, 2021, generally requires police officers to prominently display their badge and name tag on the outermost layer of their uniform

Starting January 1, 2021, the act generally requires police officers to affix and prominently display their employer-issued badge and name tag on the outer-most layer of their uniform. The requirement applies to officers who are (1) authorized to make arrests or (2) required to interact with the public daily.

By December 31, 2020, the act requires the DESPP commissioner and POST to jointly develop and promulgate a model policy to implement the identification requirement. The policy must include the time, place, and manner for ensuring compliance with the requirement. It may also include specified circumstances when compliance is not required due to public safety-related or other practical considerations, such as the sensitive nature of a police investigation or an officer's involvement in an undercover assignment.

EFFECTIVE DATE: Upon passage

§ 17 — CIVILIAN POLICE REVIEW BOARDS

Allows towns to establish civilian police review boards by ordinance

The act allows each town's legislative body to establish a civilian police review board by ordinance. At a minimum, the ordinance must prescribe the (1) board's scope of authority; (2) number of members and their terms of office; (3) process for selecting members, whether elected or appointed; and (4) procedure for filling vacancies.

The act allows a review board established by ordinance to (1) issue subpoenas to compel witness attendance before the board and (2) require the production of books and papers the board deems relevant to any matter under investigation or in question. It specifies that it does not affect or limit any civilian police review board existing before July 31, 2020 (e.g., those previously established by charter).

Under the act, if a civilian police review board receives a written request from the Office of the Inspector General (OIG, see §§ 33-34 below), it must stay and take no further action on any proceeding that is the subject of an OIG investigation or criminal prosecution (e.g., police use-of-force investigations). Stays may last for up to six months from the

day the board receives OIG's request, but OIG may terminate a stay sooner by written notice to the board.
EFFECTIVE DATE: Upon passage

§ 18 — FEASIBILITY AND IMPACT OF SOCIAL WORKERS RESPONDING TO CERTAIN POLICE CALLS

Requires DESPP and local police departments to evaluate the feasibility and potential impact of using social workers to respond to calls for assistance or accompany a police officer on certain calls for assistance

The act requires DESPP and each municipal police department to evaluate the feasibility and potential impact of social workers responding to calls for assistance (either remotely or in person) or joining a police officer on calls where a social worker's experience and training could provide help. DESPP and each municipal department must complete their evaluations by January 31, 2021, and submit them to POST as soon as they are complete.

The evaluation must consider whether social workers could entirely manage responses to, or assist with, certain calls and community interactions. For municipal police departments, the evaluation must also consider whether the municipality would benefit from employing, contracting with, or otherwise engaging social workers to help the department. Municipal police departments may consider using mobile crisis teams or implementing a regional approach with other municipalities as part of any process to engage, or further engage, social workers to help the departments.
EFFECTIVE DATE: Upon passage

§§ 19, 20 & 45 — BODY CAMERAS, DASHBOARD CAMERAS, AND RELATED GRANTS

Principally, (1) expands the requirement to use body cameras to police officers in all state, municipal, and tribal law enforcement units; (2) requires these officers to use dashboard cameras in police patrol vehicles; and (3) authorizes $4 million in GO bonds for a new grant program to fund related equipment and service purchases by municipalities

Required Use of Body and Dashboard Cameras as of July 1, 2022

Current law generally requires police officers to use body-worn recording equipment (i.e., body cameras) while interacting with the public in their law enforcement capacity if they are sworn members of (1) the State Police, (2) a municipal police department that has received reimbursement for body camera purchases under the state's grant program, or (3) a public university or college special police force. Current law allows sworn members of all other municipal police departments to use body cameras as directed by their departments and in accordance with state law.

Beginning July 1, 2022, the act expands the body camera requirement to all sworn members of law enforcement units and members of those units who perform police duties. By law and under the act, "law enforcement unit" means any state or municipal agency or department (or tribal agency or department created and governed under a memorandum of agreement) whose primary functions include enforcing criminal or traffic laws; preserving public order; protecting life and property; or preventing, detecting, or investigating crime.

Beginning July 1, 2022, the act also requires each law enforcement unit to require the use of dashboard cameras with a remote recorder (i.e., dashboard cameras, see BACKGROUND) in each police patrol vehicle used by any of the officers it employs. The officers must use the dashboard cameras according to their unit's adopted policy and based on the DESPP-POST guidelines described below. Under the act, a "police patrol vehicle" includes (1) any state or local police vehicle, besides administrative vehicles, with a body camera-wearing occupant; (2) bicycles; (3) motor scooters; (4) all-terrain vehicles; (5) electric personal assistive mobility devices; and (6) animal control vehicles.

The act requires the DESPP commissioner and POST to jointly evaluate and approve minimal technical specifications for dashboard cameras as well as guidelines on their use and retaining and storing their data. Existing law requires the commissioner and council to do so for body cameras and digital storage devices and services.

Applying Existing Body Camera Laws to Dashboard Cameras

Beginning July 1, 2022, the act applies the following provisions in existing law about body cameras to dashboard cameras:

1. prohibiting the editing, erasing, copying, sharing, altering, or distributing of camera recordings or the recordings' data except as required by state or federal law;
2. permitting police officers to review recordings from their cameras to assist in preparing a report or performing their duties;
3. generally exempting specific recordings (e.g., ones involving minors) from disclosure under Connecticut's

Freedom of Information Act and making them confidential; and
4. requiring law enforcement units to follow DESPP-POST guidelines on using cameras, retaining their data, and storing the data safely and securely.

DESPP-POST Camera Use Guidelines and Recording Prohibition

The act requires the DESPP commissioner and POST to add guidance about the types of detective work that should not be recorded to their guidelines on body and dashboard camera use.

Current law prohibits police officers from using body cameras to intentionally record in specific situations or settings (e.g., encounters with undercover officers or informants) unless permitted under an agreement between an officer's unit and the federal government. Beginning July 1, 2022, the act applies this same prohibition to dashboard cameras and adds encounters with officers performing detective work described in the DESPP-POST guidelines to the list of situations covered by the prohibition.

DESPP-POST Data Retention Guidelines

The act prohibits the DESPP-POST guidelines on retaining body and dashboard camera data from requiring law enforcement units to store that data for longer than a year except in cases where units know the data is pertinent to any ongoing civil, criminal, or administrative matter.

Ensuring Functioning Equipment

Current law requires (1) officers to inform their supervisors as soon as practicable after learning that body cameras are lost, damaged, or malfunctioning and (2) their supervisors to ensure that the reported cameras are inspected and repaired or replaced. The act extends these requirements to dashboard cameras and specifies that officers must provide the notice in writing.

Additional OPM Grant Program for Municipalities

By law, the Office of Policy and Management (OPM) administers a grant program that reimburses municipalities for costs incurred in purchasing body cameras, eligible dashboard cameras, and related equipment and services. (The reimbursement is generally up to 50% for eligible purchases made from FYs 19-21 and up to 100% for purchases made in FYs 13-18.)

The act authorizes up to $4 million in general obligation (GO) bonds to fund an additional grant program to aid municipalities. OPM must administer the program within available resources and distribute grants in FYs 21 and 22. Under the act, OPM may approve grants to municipalities for costs associated with purchasing the following:

1. body cameras for use by the sworn members of the municipality's police department or constables, police officers, or others who perform criminal law enforcement duties under the supervision of a resident state trooper serving the municipality;
2. digital data storage devices or services;
3. dashboard cameras for the first time; and
4. dashboard cameras that replace ones purchased before December 31, 2010.

The body cameras, digital data storage devices and services, and dashboard cameras must conform to DESPP-POST's minimal technical specifications (see above) in order to be eligible for the grants. The OPM secretary must establish the grant application process and may prescribe additional technical or procurement requirements as a condition of receiving the grants.

OPM may award grant amounts of up to (1) 50% of the associated costs for distressed municipalities (see BACKGROUND) and (2) 30% for all other municipalities. In both cases, funding for digital data storage services is limited to the cost for up to one year.

EFFECTIVE DATE: Upon passage, except body camera and dashboard camera requirements are effective July 1, 2022.

Background – Dashboard Cameras with a Remote Recorder

By law, a "dashboard camera with a remote recorder" is a camera that (1) attaches to a dashboard or windshield of a police vehicle, (2) electronically records video of the view through the vehicle's windshield, and (3) has an electronic audio recorder that may be operated remotely (CGS § 7-277b(c)).

Background – Distressed Municipalities

The Department of Economic and Community Development (DECD) annually ranks municipalities based on their relative economic and fiscal distress and designates the top 25 as "distressed municipalities" (CGS § 32-9p(b)). Most recently, in 2020, DECD designated the following municipalities as distressed: Ansonia, Bridgeport, Bristol, Chaplin, Derby, East Hartford, East Haven, Griswold, Hartford, Meriden, Montville, New Britain, New Haven, New London, Norwich, Preston, Putnam, Sprague, Stratford, Torrington, Voluntown, Waterbury, West Haven, Winchester, and Windham.

§§ 21 & 22 — LIMITS ON CONSENT SEARCHES

Limits the circumstances under which law enforcement officials may conduct consent searches on (1) an individual's body and (2) motor vehicles stopped solely for motor vehicle violations

The act limits the circumstances under which law enforcement officials may conduct consent searches on (1) an individual and (2) motor vehicles stopped solely for motor vehicle violations. A consent search is a search conducted after a person with authority to do so voluntarily waives his or her Fourth Amendment rights (*Black's Law Dictionary*, 11th ed.).

Under the act, an individual's consent to conduct a search of his or her body is not justification for a law enforcement official to conduct the search, unless there is probable cause.

For vehicles stopped solely for motor vehicle violations, the act prohibits a law enforcement official from asking for a driver's consent to conduct a search of the vehicle or its contents. Any search of the vehicle or its contents must be (1) based on probable cause or (2) after receiving the driver's unsolicited consent either in writing or recorded by body-worn recording equipment or a dashboard camera.

EFFECTIVE DATE: October 1, 2020

§ 21 — PROHIBITION ON ASKING FOR NON-DRIVING IDENTIFICATION OR DOCUMENTATION

Generally prohibits law enforcement from asking for non-driving identification or documentation for stops solely for motor vehicle violations

The act generally prohibits law enforcement officials, during stops solely for motor vehicle violations, from asking drivers for any documentation or identification other than a driver's license, motor vehicle registration, insurance identity card, or other documentation or identification directly related to the stop. This prohibition does not apply if (1) there is probable cause that a felony or misdemeanor offense has been committed or (2) the driver fails to produce a valid driver's license.

EFFECTIVE DATE: October 1, 2020

§ 23 — PRE-DOCKETING PROSECUTORIAL REVIEW OF CRIMINAL CHARGES

Requires the chief state's attorney, in consultation with the chief court administrator, to prepare a plan to have prosecutors review criminal charges before cases are docketed

The act requires the chief state's attorney, in consultation with the chief court administrator, to prepare a plan to have a prosecutorial official review each charge in any criminal case before the case is docketed. By January 1, 2021, the chief state's attorney must submit the plan to OPM and the Judiciary Committee.

EFFECTIVE DATE: Upon passage

§§ 24-28 — PENALTIES FOR FALSE REPORTING OR MISUSING THE EMERGENCY 9-1-1 SYSTEM BASED ON BIGOTRY OR BIAS

Raises the penalties for false reporting crimes or misusing the emergency 9-1-1 system when committed with the specific intent to do so based on certain characteristics of the reported person or group (e.g., race, sex, or sexual orientation)

Under specified circumstances, there are criminal penalties for (1) falsely reporting certain incidents, such as a crime

or fire, or (2) misusing the emergency 9-1-1 system (E-9-1-1; see BACKGROUND). The act raises the penalties for these crimes if committed with the specific intent to falsely report someone or a group of people or misuse the emergency system because of the person's or group's actual or perceived race, religion, ethnicity, disability, sex, sexual orientation, or gender identity or expression.

The following table shows the existing penalties and the act's increased penalties under the circumstances noted above.

Penalties for False Reporting Crimes and Misusing the E-9-1-1 System With Specific Intent Based on Certain Characteristics

Crime	*Existing Penalty*	*Act's Increased Penalty*
Falsely Reporting an Incident, 1st Degree*	Class D felony (see Table on Penalties)	Class C felony
Falsely Reporting an Incident Resulting in Serious Physical Injury or Death	Class C felony	Class B felony
Falsely Reporting an Incident Concerning Serious Physical Injury or Death	Class D felony	Class C felony
Falsely Reporting an Incident, 2nd Degree	Class A misdemeanor	Class E felony
Misusing the E-9-1-1 System	Class B misdemeanor	Class A misdemeanor

* Under existing law and the act, in certain cases the court may order individuals convicted of this crime to make financial restitution to the state and local departments and agencies that provided the emergency response.

EFFECTIVE DATE: October 1, 2020

Background – False Reporting and Misusing the E-9-1-1 System

Under existing law, a person is guilty of falsely reporting an incident in the 1st degree when, knowing the information is false or baseless, he or she:

1. initiates or circulates a false report or warning of an alleged or impending fire, explosion, catastrophe, or emergency when it is likely to alarm or inconvenience the public;
2. reports an alleged or impending fire, explosion, or other catastrophe or emergency that did not occur or does not exist to an official or quasi-official agency or organization that handles emergencies involving danger to life or property; or
3. commits any of the above actions with the intent to cause a large-scale emergency response.

A person is guilty of falsely reporting an incident in the 2nd degree if, knowing the information is false or baseless, he or she gratuitously reports to a law enforcement officer or agency:

1. an alleged offense or incident which did not in fact occur,
2. an allegedly impending offense or incident which in fact is not about to occur, or
3. false information relating to an actual offense or incident or to the alleged involvement of someone in the offense or incident.

There are separate crimes, with higher penalties, for committing (1) either the 1st or 2nd degree crime when it results in serious physical injury or death to another person or (2) the 2nd degree crime by falsely reporting someone else's alleged or impending serious physical injury or death.

By law, a person is guilty of misusing the E-9-1-1 system when he or she (1) dials E-9-1-1 or causes it to be dialed to make a false alarm or complaint or (2) purposely reports false information that could result in the dispatch of emergency services.

§ 29 — JUSTIFIED USE OF DEADLY PHYSICAL FORCE AND CHOKEHOLDS

Limits the circumstances under which a law enforcement officer's use of deadly physical force is justified and establishes factors to consider when evaluating whether the officer's action was reasonable; limits an officer's use of a chokehold or similar restraints

Deadly Physical Force

Beginning April 1, 2021, the act narrows the circumstances under which a law enforcement officer (see BACKGROUND) is justified in using deadly physical force and establishes specific conditions that must be met in those circumstances.

Under prior law, officers were justified in using deadly physical force when they reasonably believed it was necessary to:

1. defend themselves or a third person from the use or imminent use of deadly physical force or
2. (a) arrest a person they reasonably believe had committed or attempted to commit a felony that involved the infliction or threatened infliction of serious physical injury or (b) prevent the escape from custody of a person they reasonably believe has committed a felony that involved the infliction or threatened infliction of serious physical injury.

The act narrows the circumstances under which deadly physical force may be used by eliminating the justifications that are based on the threatened infliction of serious physical injury.

For the remaining situations in which deadly physical force may be justified, the act requires that the officer's actions be objectively reasonable given the circumstances (see below). In situations where an officer is making an arrest or preventing an escape, the act additionally requires that the officer (1) exhaust the reasonable alternatives to the use of deadly physical force and (2) reasonably believe that the force employed creates no substantial risk of injury to a third party.

The act also maintains existing law's requirement that the officer reasonably believe the use of the force is necessary to arrest or prevent the escape of the specified individual.

Determining Whether Deadly Force Use Was Reasonable

The act establishes factors to consider when evaluating whether a law enforcement officer's use of deadly physical force was objectively reasonable, including whether the:

1. person upon whom deadly physical force was used possessed or appeared to possess a deadly weapon,
2. officer engaged in reasonable de-escalation measures before using deadly physical force, and
3. officer's conduct led to an increased risk of the situation that preceded the use of such force.

Limits on Chokeholds or Similar Restraints

By law, law enforcement officers are justified in using physical force to the extent they reasonably believe it is necessary to:

1. arrest or prevent the escape from custody of someone they reasonably believe has committed an offense (unless the officers know that the arrest or custody is unauthorized) or
2. defend themselves or a third person from the use or imminent use of physical force while arresting or attempting to arrest someone or preventing or attempting to prevent an escape.

The act limits when an officer may use a chokehold or similar methods of restraint (i.e., those that are applied to the neck area, impede the ability to breathe, or restrict blood circulation to the brain). It does so by allowing these methods only when the officer reasonably believes they are necessary to defend himself or herself from the use or imminent use of deadly physical force.

EFFECTIVE DATE: April 1, 2021

Background – Law Enforcement Officers

A law enforcement officer includes peace officers (see below), special police officers for the Department of Revenue Services, and authorized officials of the Department of Correction (DOC) or the Board of Pardons and Paroles.

By law, the following individuals are designated peace officers: state and local police, Division of Criminal Justice (DCJ) 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, DOC officials authorized to make arrests in a correctional institution or facility, investigators in the Office of the State Treasurer, POST-certified motor vehicle inspectors, U.S. marshals and deputy marshals, U.S. special

agents authorized to enforce federal food and drug laws, and certified police officers of a law enforcement unit created and governed under a state-tribal memorandum (CGS § 53a-3(9)).

§§ 30 & 43 — OFFICERS' DUTY TO INTERVENE AND REPORT USE OF UNREASONABLE, EXCESSIVE, OR ILLEGAL FORCE

Requires police and correction officers to intervene when fellow officers use unreasonable, excessive, or illegal force and to report on those incidents; prohibits law enforcement units and DOC from retaliating against intervening and reporting officers

Duty to Intervene

The act requires any police officer, while in his or her law enforcement capacity, to intervene and attempt to stop another police officer from using force that the witnessing officer objectively knows is unreasonable, excessive, or illegal unless the witnessing officer is operating in an undercover capacity at the time. The act also requires correction officers to intervene and attempt to stop another correction officer from using this force.

Under the act, any police or correction officer who fails to intervene in those instances may be held criminally liable and prosecuted and punished for the same acts as the officer who used unreasonable, excessive, or illegal force (CGS § 53a-8).

Duty to Report

The act also requires any police officer who witnesses, or is otherwise aware of, another police officer using this unreasonable, excessive, or illegal force to report the incident to the law enforcement unit that employs the officer who used the force. Likewise, a correction officer who witnesses, or is aware of, another correction officer using this force must report the incident to his or her immediate supervisor. The act requires that both reports be made as soon as practicable. Additionally, witnessing correction officers' supervisors must immediately report on incidents they receive to the immediate supervisors of the correction officers who reportedly used the force.

Under the act, any police or correction officer who is required to report an incident but who fails to do so may be prosecuted and punished for 1st, 2nd, or 3rd degree hindering prosecution. (By law, hindering prosecution applies to a person who renders criminal assistance to another person who has committed a felony.) Hindering prosecution in the 1st or 2nd degree is a class C felony (but a 1st degree violation carries a mandatory minimum five-year prison sentence), while 3rd degree hindering prosecution is a class D felony (see Table on Penalties).

Retaliation Prohibited

The act prohibits law enforcement units and DOC from taking retaliatory personnel action or discriminating against a police or correction officer for intervening or reporting another officer's use of unreasonable, excessive, or illegal force. It explicitly applies state law's whistleblower protections to intervening or reporting officers. Among other things, this means law enforcement units and DOC cannot discharge, discipline, or penalize intervening or reporting officers (see BACKGROUND).

EFFECTIVE DATE: October 1, 2020

Background – Whistleblower Laws

The state has two primary whistleblower laws. With respect to state government, the law allows anyone to report misconduct in a state agency and prohibits state agencies from taking or threatening to take retaliatory personnel actions. Whistleblowers who believe they have been retaliated against may, among other actions, file a complaint with the chief human rights referee at the Commission on Human Rights and Opportunities (CGS § 4-61dd). This law covers the State Police and other state law enforcement units (e.g., the UConn police) and DOC employees, among others.

A separate law covers municipal law enforcement officers (among others) and prohibits retaliation against private or public sector employees who report illegal conduct, or suspected illegal conduct, to the proper authorities or who participate in investigations of the conduct. An employee who is discharged, disciplined, or penalized in violation of this law may, after exhausting all administrative remedies, bring a civil action within 90 days after the violation or final administrative decision (CGS § 31-51m). This law covers all state and municipal employees.

§ 30 — USE OF FORCE RECORDKEEPING AND REPORTING

Expands law enforcement units' recordkeeping and reporting requirements to include reports on police use of excessive force incidents and requires OPM to review and report on those incidents

The act expands law enforcement units' recordkeeping and reporting requirements to include reports on police use of excessive force incidents. It also requires OPM, within available appropriations, to review the reported use-of-force incidents and submit its review results and any recommendations to the governor and Judiciary and Public Safety and Security committees' leadership.

EFFECTIVE DATE: October 1, 2020

Law Enforcement Units' Recordkeeping

Existing law requires each law enforcement unit to create and maintain a record detailing any incident where a police officer (1) discharges a firearm, except during training exercises or when dispatching an animal; (2) uses physical force that is likely to cause serious physical injury to or the death of another person; or (3) engages in vehicle pursuit. The act specifically requires this recordkeeping to include excessive force incidents (1) reported by a police officer who witnesses or is aware of such an incident (see above) or (2) otherwise made known to the law enforcement unit.

The act also specifies that physical force likely to cause serious physical injury or death to include (1) striking another person with an elbow or knee, (2) using a projectile on another person that is less lethal than an electronic defense weapon or pepper spray, (3) using a method of restraint that impedes the ability to breathe or restricts blood circulation to the brain, or (4) using any other form of physical force POST designates. By law, physical force likely to cause serious physical injury or death already includes, among other things, striking another person with the hand or certain other objects; using pepper spray; and using a chokehold or other restraints to the neck area.

Law Enforcement Units' Annual Reporting to OPM

Under existing law, each law enforcement unit must annually submit a report by February 1 about use-of-force incidents to OPM's Criminal Justice Policy and Planning Division. The act (1) expands the report's contents to conform to the act's expanded recordkeeping requirements (see above) and (2) eliminates the requirement that units provide summarized data. Additionally, starting with the February 1, 2021, report, the act requires law enforcement units to submit the records electronically in a standardized method and form that allows the compilation of statistics on each use-of-force incident. The division and POST (1) must jointly disseminate the standardized method and form and (2) may revise the method and form and disseminate the revisions to law enforcement units.

By law, the report's statistics on each use-of-force incident must include:

1. the race and gender of the person the force was used upon, based on the police officer's observation and perception;
2. the number of times force was used on the person; and
3. any injury the person suffered.

OPM's Review of Use-of-Force Incidents

The act requires OPM, within available appropriations, to (1) review the reported use-of-force incidents and (2) starting by December 1, 2021, annually report the results and any recommendations to the governor and the Judiciary and Public Safety and Security committees' chairpersons and ranking members.

§§ 31 & 32 — SECURITY SERVICE AND SECURITY OFFICER QUALIFICATIONS

Prohibits decertified police officers from acquiring a security service license or performing security officer work

The act adds decertification as a police officer, including POST's cancelation, revocation, or refusal to renew a certification, to the list of criteria that make a person ineligible for (1) a security service license; (2) a security officer license; and (3) employment with a security service to perform security officer duties while his or her security officer license application is pending.

Under existing law, unchanged by the act, a person is ineligible for a security service license if, among other things, he or she has been (1) convicted of a felony; (2) convicted in the past seven years of any of 11 specified misdemeanors; (3) convicted of any offense involving moral turpitude; or (4) discharged from military service under conditions that

demonstrate questionable moral character.

Existing law also prohibits the DESPP commissioner from issuing a security officer license, and a security service from employing a license applicant to perform security officer work, to anyone (1) convicted of a felony, any sexual offense, or any crime involving moral turpitude; (2) denied a security service or security officer license for any reason except minimum experience; (3) whose security service or security officer license has been revoked or is suspended; or (4) who does not otherwise satisfy the requirements for licensure or employment.

EFFECTIVE DATE: October 1, 2020

§§ 33 & 46 — OFFICE OF THE INSPECTOR GENERAL

Establishes the Office of the Inspector General

The act establishes OIG as an independent office within DCJ. The act requires OIG to do the following:

1. investigate peace officers' (i.e., law enforcement officers') use of force (see § 34 below);
2. prosecute any case in which (a) the inspector general determines that the use of force was not justified or (b) a police officer or correctional officer fails to intervene in or report such an incident; and
3. make recommendations to POST concerning censure and suspension, renewal, cancellation, or revocation of a peace officer's certification.

EFFECTIVE DATE: Upon passage

Appointment and Term

Under the act, the inspector general serves a four-year term and must be a deputy chief state's attorney from within DCJ whom the Criminal Justice Commission nominates (see BACKGROUND). Under prior law, DCJ included two deputy chief state's attorneys. The act requires the commission to appoint a third deputy chief state's attorney, whom it must nominate to serve as inspector general (§ 46).

The act requires the commission to (1) nominate the initial inspector general by October 1, 2020, and (2) make a new nomination on or before the term's expiration date or upon a vacancy. The act allows the commission to re-nominate an individual who has previously served as inspector general. Under the act, a person nominated to be inspector general serves in an interim capacity pending confirmation by the legislature.

The act allows the inspector general to be removed or otherwise disciplined only in accordance with existing law's procedures for removing or disciplining prosecutors (i.e., he or she may be removed only by the Criminal Justice Commission after notice and a hearing).

Legislative Confirmation

The act subjects a nominee for inspector general to legislative confirmation procedures and requirements that are similar to those for judicial nominations. Among other things, it requires (1) referral of the nomination to the Judiciary Committee and action by the committee within 30 legislative days after receiving the referral (but no later than seven legislative days before the legislature adjourns) and (2) a roll call vote by both the House and Senate in order to confirm the nominee. If a nomination fails, the Criminal Justice Commission must make a new nomination within five days after receiving notice of the failure.

If the legislature is not in session, the act allows the commission to fill an inspector general vacancy by submitting the proposed appointee's name to the Judiciary Committee. The committee may, upon either chairperson's call, hold a meeting within 45 days to approve or disapprove the proposed vacancy appointment by majority vote. The act deems the appointment approved if the committee does not act within this timeframe.

Under the act, an appointment made when the legislature is not in session is effective until the sixth Wednesday of the next regular legislative session and until a successor is approved.

Powers

The act allows the inspector general to issue subpoenas to municipalities, law enforcement units, and DOC, or any of their current or former employees. The subpoenas may (1) require the production of reports, records, or other documents concerning an investigation by the inspector general (see §§ 34 & 35 below) and (2) compel the attendance and testimony of any person having knowledge pertinent to the investigation.

The act allows a municipal chief of police and the DESPP and DOC commissioners to refer any use of force incident under OIG's jurisdiction to the inspector general for investigation (see §§ 34 & 35 below). The inspector general must accept these referrals.

Office Location and Staff

The act requires that OIG be at a location separate from the Office of the Chief State's Attorney or any of the state's attorneys for the judicial districts. It allows the inspector general to employ necessary staff whom he or she selects from DCJ's staff. Under the act, the staff must include an assistant state's attorney or deputy assistant state's attorney, an inspector, and administrative staff, and, as needed and upon the inspector general's request, additional personnel with these job titles. The Office of the Chief State's Attorney must ensure this additional assistance.

Under the act, the inspector general and any OIG staff not in a state employee bargaining unit must be transferred back to DCJ upon completing employment with OIG. They must be (1) transferred into a position equivalent or comparable to the one they held in DCJ before being employed by OIG and (2) compensated at the same level as they were immediately before returning to DCJ.

Background ─ Criminal Justice Commission

The state constitution (art. IV, § 27) establishes the Criminal Justice Commission and charges it with appointing a state's attorney for each judicial district and other attorneys as prescribed by law. It consists of seven members: the chief state's attorney and six members appointed by the governor and confirmed by the General Assembly. Two of the appointed members must be Superior Court judges.

§§ 34 & 35 — OIG INVESTIGATIONS

Requires the inspector general, rather than the Division of Criminal Justice, to investigate use-of-force cases and prosecute cases where the inspector general determines that the use of force was not justified

Use of Force Investigations

Under prior law, DCJ had to investigate whenever a peace officer, while performing his or her duties, used physical force that caused someone's death or used deadly force on another person. DCJ had to determine whether the officer's use of force was appropriate under the law and submit a report of its findings and conclusions to the chief state's attorney.

The act instead requires the inspector general to (1) conduct the investigation and (2) determine whether the use of force was justifiable, rather than appropriate as under prior law. (The act amends the circumstances under which the use force is justifiable; see § 29 above.) It also makes conforming changes that include requiring the inspector general, rather than DCJ, to (1) complete a preliminary status report and submit it to the Judiciary and Public Safety and Security committees within five business days after the cause of death is available and (2) submit the completed investigation report to the chief state's attorney.

The act requires OIG to prosecute any (1) case in which the inspector general determines that a peace officer's use of force was not justifiable and (2) failure by a peace officer or correctional officer to intervene in or report such an incident to the applicable law enforcement unit or DOC, respectively (see §§ 30 & 43 above). It specifies that the deputy chief state's attorney acting as inspector general and any state's attorney, assistant state's attorney, or deputy assistant state's attorney operating under OIG's direction is qualified to act in any jurisdiction in the state and in connection with any matter regardless of the district where the offense occurred (see BACKGROUND).

Other Investigations

The act also requires the inspector general to investigate whenever a person dies in a peace officer's or law enforcement agency's custody. The inspector general must determine whether a peace officer used physical force on the deceased person and, if so, whether it was justifiable. Under the act, if the inspector general determines that the person died as a result of possible criminal action not involving a peace officer's use of force, then he or she must refer the case to DCJ for potential prosecution.

The act additionally requires the inspector general to investigate whenever a person dies in DOC's custody to determine whether the person died as a result of possible criminal action. If the inspector general finds this to be the case, he or she must refer the matter to DCJ for potential prosecution.

In both instances, if the inspector general finds that physical force was used, then he or she must follow the procedures for use-of-force investigations (see above).
EFFECTIVE DATE: October 1, 2020

Background ─ Division of Criminal Justice

The state constitution (art. IV, § 27) establishes DCJ within the executive branch and charges it with investigating and prosecuting all criminal matters. It vests the state's prosecutorial power in the chief state's attorney and the state's attorney for each judicial district.

§§ 36 & 37 — CHIEF MEDICAL EXAMINER INVESTIGATION OF DEATHS IN POLICE CUSTODY

Generally requires the chief medical examiner to investigate deaths of people in police or Department of Correction custody and makes related changes

Existing law requires the chief medical examiner to investigate all deaths in certain categories, such as violent deaths (whether apparently homicidal, suicidal, or accidental) and deaths under suspicious circumstances. The act additionally requires him to investigate any other death, not clearly the result of natural causes, that occurred while the person was in the custody of a peace officer, a law enforcement agency, or DOC.

In doing so, the act extends to the chief medical examiner the authority under existing law to take certain actions for these investigations. Examples of these actions include requiring autopsies when deemed necessary and appropriate, issuing subpoenas, and accessing any objects in law enforcement custody that he believes may help establish the cause or manner of death.

Under existing law, certain parties (e.g., law enforcement officers, prosecutors, and physicians) must (1) notify the Office of the Chief Medical Examiner (OCME) when they learn of a death requiring his investigation, (2) assist in making the body and related evidence available, and (3) cooperate fully with OCME. The act specifically extends these requirements to DOC employees.

In cases of apparent homicide or suicide, or accidental deaths with obscure causes, existing law requires that the scene not be disturbed until authorized by the chief medical examiner or his authorized representative. The act extends this requirement to any other death, not clearly due to natural causes, that occurred while the person was in the custody of a peace officer, a law enforcement agency, or DOC.

Under existing law, in any case where there is a suspicion that a death resulted from a criminal act, a state's attorney or assistant state's attorney can require that an autopsy be performed by a certified pathologist. The act specifies that this includes (1) any deputy chief state's attorney and (2) any of these prosecutorial officials from OIG (see § 33).
EFFECTIVE DATE: October 1, 2020

§§ 38 & 39 — PROHIBITIONS ON PEDESTRIAN CITATION QUOTAS

Prohibits municipal police departments and DESPP from imposing pedestrian citation quotas on their police officers

The act prohibits municipal police departments and DESPP from imposing pedestrian citation quotas on their police officers. However, it allows them to use data on the issuance of pedestrian citations to evaluate a police officer's performance so long as it is not the only performance measurement.

Existing law prohibits municipal police departments and DESPP from imposing quotas on the issuance of summonses for motor vehicle violations and exclusively evaluating officers based on how many summonses they issue.
EFFECTIVE DATE: October 1, 2020

§ 40 — POLICE USING MILITARY EQUIPMENT

Prohibits law enforcement agencies from acquiring certain "1033 program" military equipment; allows the governor's office and DESPP commissioner to require the agencies to sell, transfer, or dispose of equipment they find unnecessary for public protection; and requires the agencies to submit an inventory report to the legislature

Prohibition on Newly Acquired Controlled Equipment

The act prohibits law enforcement agencies (i.e., State Police and municipal police departments) from acquiring certain military equipment (i.e., "controlled equipment") beginning on or after the act's passage (July 31, 2020). The act defines "controlled equipment" as military designed equipment classified by the U.S. Department of Defense as part of the federal "1033 Program" (see BACKGROUND) that is:

1. a controlled firearm, ammunition, bayonet, grenade launcher, grenade (including stun and flash-bang), or an explosive;
2. a controlled vehicle, highly mobile multi-wheeled vehicle, mine-resistant ambush-protected vehicle, truck, truck dump, truck utility, or truck carryall;
3. an armored or weaponized drone;
4. a controlled aircraft that is combat configured or combat coded or has no established commercial flight application;
5. a silencer;
6. a long-range acoustic device; or
7. an item in the federal supply class of banned items.

Order to Sell, Transfer, or Dispose of Certain Controlled Equipment

Under the act, the governor's office and the DESPP commissioner may order a law enforcement agency to lawfully sell, transfer, or otherwise dispose of controlled equipment if they jointly find it is unnecessary for public protection. A municipal police department may request that the governor's office and commissioner reconsider the order. They may jointly amend or rescind the order if the police department (1) had a public hearing in the municipality it serves on the request for reconsideration and (2) demonstrates in its request that the use or proposed use is (a) necessary for the department's operation or safety or (b) for disaster relief or rescue efforts or other public safety purposes.

The governor's office and DESPP commissioner must notify the Judiciary and Public Safety and Security committees about controlled equipment that is ordered sold, transferred, or otherwise disposed of under the act's requirement.

The act also prohibits law enforcement agencies that are allowed to keep controlled equipment from using it for crowd management or intimidation tactics.

Inventory Report

By December 31, 2020, the act requires each law enforcement agency to report to the Judiciary and Public Safety and Security committees on its inventory of controlled equipment possessed on July 31, 2020. Each agency must also report the equipment's use or proposed use and whether the use or proposed use is necessary for the purposes stated above.
EFFECTIVE DATE: Upon passage

Background ─ 1033 Program

Under federal law, known as the 1033 Program, the defense secretary may transfer to law enforcement agencies certain excess military property he determines is suitable for use in law enforcement activities (e.g., small arms and ammunition) (10 U.S.C. § 2576a). Law enforcement agencies must submit requests for the property to a state coordinator (e.g., the Adjutant General in Connecticut) and the federal Defense Logistics Agency for approval.

§ 41 — CIVIL CAUSE OF ACTION AGAINST POLICE OFFICERS WHO DEPRIVE INDIVIDUALS OF CERTAIN RIGHTS

Establishes a civil cause of action against police officers who deprive an individual or class of individuals of the equal protection or privileges and immunities of state law; eliminates governmental immunity as a defense in certain suits under certain circumstances

The act establishes a civil cause of action against a police officer who deprives an individual or class of individuals of state law's equal protection or privileges and immunities. In creating a cause of action against police officers in statute, the act, in certain circumstances, eliminates the possibility of claiming governmental immunity (i.e., common law protection from civil suit, see BACKGROUND) as a defense to such suits. (Federal law has a similar but separate provision that allows civil actions against government officials, including police officers, who deprive someone of federal statutory or constitutional rights under the color of state law (42 U.S.C. § 1983)).

As under existing state law, the act generally requires employers to indemnify police officers in such suits. Existing law, unchanged by the act, generally requires state and municipalities to indemnify or protect their employees from financial

loss arising out of legal proceedings in certain circumstances when the employee acted in the discharge of his or her duties, unless the act is malicious, wanton, willful, or reckless (CGS §§ 4-165, 7-101a, 7-465 & 29-8a). The courts have interpreted wanton acts as those done recklessly or with callous disregard, and willful and malicious acts as those inflected intentionally without just cause or excuse (*West Haven v. Hartford Ins. Co.*, 221 Conn. 149 (1992), & *Todd v. Administrator of Unemployment*, 5 Conn. App. 309 (1985)).

Under existing municipal employee law, unchanged by the act, an employee must reimburse the municipality for the expenses incurred in providing a legal defense if the employee has a judgement entered against him or her for a malicious, wanton, or willful act (CGS § 7-101a). The act establishes this reimbursement provision specifically for police officers and applies it to state and municipal police.

EFFECTIVE DATE: July 1, 2021, and applicable to any cause of action arising from an incident committed on or after July 1, 2021.

Civil Action

Bringing an Action. The act prohibits a police officer, acting alone or in conspiracy with another, from depriving an individual or class of individuals of state law's equal protection or privileges and immunities, including those guaranteed by Article First of the Connecticut Constitution.

Under the act, those who have been aggrieved by a police officer's actions may bring a civil action for equitable relief (i.e., nonmonetary relief, such as an injunction) or damages (i.e., monetary relief) in Superior Court. A civil action must be (1) commenced within one year after the cause of action accrues and (2) triable by a jury if brought for damages. Statutory notice of claim provisions do not apply to an action brought under this provision (e.g., requirements that notice of one's intention to file suit against a municipality for damages be filed with the town clerk in CGS §§ 7-101a(d) and 7-465(a)).

Liability. Under the act, governmental immunity is not a defense for actions solely seeking equitable relief. It is also not a defense for actions seeking damages unless, at the time at the time of the alleged misconduct, the officer had an objectively good faith belief that his or her conduct did not violate the law. The act prohibits interlocutory appeals of a trial court's denial of a governmental immunity defense.

Similar to existing law, the act requires a municipality or law enforcement unit to generally protect and save harmless the defendant police officer in these actions from financial loss and expense. This includes any legal fees and costs arising out of any claim, demand, or suit against the officer for any action the officer took while discharging his or her duties.

Under existing law for municipal employees, if a court judgment is entered against a municipal employee for a malicious, wanton, or willful act, the (1) employee must reimburse the municipality for incurred defense expenses and (2) municipality must not be held liable to the employee for any financial loss or expense resulting from the employee's act. The act extends this requirement to state police and specifically applies them to municipal police.

The act allows the court to award costs and reasonable attorney's fees if it finds the violation was deliberate, willful, or committed with reckless indifference.

Background ─ Governmental Immunity

Under the common law sovereign immunity doctrine, the state cannot be sued without its consent. Additionally, both state statutes and common law limit state and municipal liability for their officials' and employees' acts.

State law gives state officials and employees immunity from liability when discharging their duties and acting within the scope of their employment (CGS § 4-165). But they are not immune from liability for wanton, reckless, or malicious acts. Unlike the state, municipalities have no sovereign immunity from suit, but there are several limitations and exceptions to municipal liability (e.g., wanton, willful, or malicious acts) (CGS § 52-557n).

§ 42 — TASK FORCE RECOMMENDATIONS ON POLICE CIVIL CAUSE OF ACTION IMPLEMENTATION

Requires the police transparency and accountability task force to make recommendations on implementing the act's new civil action provisions and their impact on obtaining liability insurance

The act requires the police transparency and accountability task force, established in PA 19-90 (§ 12), to also make recommendations to the Judiciary Committee about implementing the police civil action provisions (§ 41 of this act) and their anticipated impact on a police officer's or municipality's ability to obtain liability insurance. The task force must submit these recommendations by January 1, 2021.

EFFECTIVE DATE: Upon passage

§ 44 — LAW ENFORCEMENT UNIT ACCREDITATION

Starting in 2025, requires law enforcement units to obtain accreditation from the Commission on Accreditation for Law Enforcement Agencies, Inc.

Current law requires POST and DESPP to jointly develop, adopt, and revise, as necessary, minimum standards and practices for administering and managing law enforcement units, based in part on standards from the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA). Law enforcement units must adopt and maintain (1) POST-DESPP's minimum standards and practices or (2) a higher level of accreditation standards developed by POST or CALEA.

The act sunsets these provisions after 2024. Starting in 2025, it instead requires law enforcement units to obtain and maintain CALEA accreditation. If a unit fails to meet this requirement, POST must work with them to do so.

As under existing law for the current standards, the act prohibits lawsuits against a law enforcement unit for damages arising from its failure to obtain and maintain the required CALEA accreditation.

The act also (1) removes a prior condition that POST and DESPP only work on their standards and practices within available appropriations and (2) makes conforming changes to the law on POST's authority (see § 3(a)(22)).

EFFECTIVE DATE: Upon passage

PA 20-2, July 2020 Special Session—HB 6001
Emergency Certification

AN ACT CONCERNING TELEHEALTH

SUMMARY: This act modifies requirements for the delivery of telehealth services and insurance coverage of these services until March 15, 2021. Among other things, it:

1. expands the types of health providers authorized to provide telehealth services;
2. allows certain telehealth providers to provide telehealth services using audio-only telephone, which existing law prohibits;
3. allows certain telehealth providers to use additional information and communication technologies in accordance with federal requirements (e.g., certain third-party video communication applications);
4. authorizes the Department of Public Health (DPH) commissioner to temporarily modify, waive, or suspend certain regulatory requirements as she deems necessary to reduce the spread of COVID-19 and protect the public health;
5. establishes requirements for telehealth providers seeking payment from uninsured or underinsured patients;
6. requires insurance coverage for telehealth services and prohibits providers reimbursed for services from seeking payment from an insured patient beyond cost sharing; and
7. prohibits (a) insurance policies from excluding coverage for a telehealth platform selected by an in-network provider and (b) carriers from reducing reimbursement to a provider because services are provided through telehealth instead of in-person.

Additionally, the act modifies requirements for pharmacies transferring unfilled prescriptions for controlled substances that were electronically transmitted. It generally allows pharmacists to make these transfers electronically or by telephone if they meet certain requirements, such as recording specified information and taking measures to prevent the prescription from being filled at any pharmacy other than the one intended.

EFFECTIVE DATE: Upon passage

§§ 1, 2 & 6 — TELEHEALTH

The act modifies requirements for health care providers who provide health services by using telehealth. These changes are effective from July 31, 2020 (the act's passage), through March 15, 2021.

Telehealth Providers (§ 1)

The act applies only to telehealth providers who are (1) in-network providers for fully insured health plans or (2) Connecticut Medical Assistance Program ("CMAP," i.e., Medicaid and HUSKY B) providers providing care or services to established CMAP patients, including:

1. telehealth providers authorized under existing law (see BACKGROUND);

2. certified, licensed, or registered art therapists, athletic trainers, behavior analysts, dentists, genetic counselors, music therapists, nurse mid-wives, and occupational or physical therapist assistants; and
3. any of the above listed providers who (a) are appropriately licensed, certified, or registered in another U.S. state or territory, or the District of Columbia; (b) are authorized to practice telehealth under any relevant order issued by the DPH commissioner; and (c) maintain professional liability insurance or other indemnity against professional malpractice liability in an amount equal to or greater than that required for Connecticut health providers.

Until March 15, 2021, the act also requires any Connecticut entity, institution, or provider who contracts with an out-of-state telehealth provider to:

1. verify the provider's credentials to ensure the provider is certified, licensed, or registered in good standing in his or her home jurisdiction and
2. confirm that the telehealth provider maintains professional liability insurance or other indemnity against professional malpractice liability in an amount equal to or greater than that required for Connecticut health providers.

Audio-Only Telephone (§ 1)

Unlike existing law, the act allows in-network and CMAP telehealth providers to provide telehealth services via audio-only telephone.

Under the act and existing law, "telehealth" excludes fax, texting, and email. It includes:

1. interaction between a patient at an originating site and the telehealth provider at a distant site and
2. synchronous (real-time) interactions, asynchronous store and forward transfers (transmitting medical information from the patient to the telehealth provider for review at a later time), or remote patient monitoring.

Expanded CMAP Coverage (§ 6)

The act authorizes the Department of Social Services commissioner, to the extent allowed under federal law, to enable CMAP to cover applicable services provided through audio-only telehealth services.

Service Delivery (§§ 1 & 2)

Under existing law, a telehealth provider can provide telehealth services to a patient only when the provider has met certain requirements, such as (1) having access to, or knowledge of, the patient's medical history and health record and (2) conforming to his or her professional standard of care expected for in-person care appropriate for the patient's age and presenting condition.

The act requires that the provider also determine whether the (1) patient has health coverage that is fully insured, not fully insured, or provided through CMAP and (2) coverage includes telehealth services.

Additionally, the act allows telehealth providers to provide telehealth services from any location.

The act also makes technical and conforming changes to a statute on the prescription of controlled substances by telehealth providers.

Initial Telehealth Interactions (§ 1)

Under existing law, at the first telehealth interaction with a patient, a telehealth provider must document in the patient's medical record that the provider obtained the patient's consent after informing him or her about telehealth methods and limitations. Under the act, this must include information on the limited duration of the act's provisions.

Use of Additional Communication Technologies (§ 1)

The act modifies the requirement that telehealth services and health records comply with the Health Insurance Portability and Accountability Act (HIPAA) by allowing telehealth providers to use additional information and communication technologies in accordance with HIPAA requirements for remote communication as directed by the federal Department of Health and Human Services' Office of Civil Rights (e.g., certain third-party video communication applications, such as Apple FaceTime, Skype, or Facebook Messenger).

Payment for Uninsured and Underinsured Patients (§ 1)

The act requires a telehealth provider to accept the following as payment in full for telehealth services:

1. for patients who do not have health insurance coverage for telehealth services, an amount equal to the Medicare reimbursement rate for telehealth services or
2. for patients with health insurance coverage, the amount the carrier reimburses for telehealth services and any cost sharing (e.g., copay, coinsurance, deductible) or other out-of-pocket expense imposed by the health plan.

Under the act, a telehealth provider who determines that a patient cannot pay for telehealth services must offer the patient financial assistance to the extent required under federal or state law.

DPH Regulatory Requirements (§ 1)

Notwithstanding existing law, the act authorizes the DPH commissioner to waive, modify, or suspend regulatory requirements adopted by DPH or state licensing boards and commissions regarding health care professions, health care facilities, emergency medical services, and other specified topics. Until March 15, 2021, she may take such action as she deems necessary to reduce the spread of COVID-19 and protect the public health.

§ 2 — PHARMACY TRANSFERS OF CONTROLLED SUBSTANCES PRESCRIPTIONS

The act authorizes pharmacies to transfer unfilled prescriptions for Schedule II-V controlled substances that were electronically transmitted in accordance with federal requirements. Pharmacists may make these transfers electronically or by telephone if the:

1. transfer is consistent with the federal Controlled Substances Act and related regulations and policies established by the federal Drug Enforcement Administration;
2. pharmacy that first received the prescription (a) takes measures to prevent the prescription from being filled at any pharmacy other than the intended (i.e., "receiving") pharmacy and (b) records the receiving pharmacy's contact information and the name and license number of the pharmacist who receives the transfer; and
3. receiving pharmacy records (a) all information required by state law, (b) that the transfer occurred, (c) the name of the initial pharmacy that received the prescription, (d) the dates the prescription was issued and transferred, and (e) any refills issued for Schedule III-V controlled substances.

Under the act, the pharmacy that first receives the electronically submitted prescription may fax the above information to the transferring pharmacy if making the transfer by telephone.

§§ 3-5 — INSURANCE COVERAGE FOR TELEHEALTH SERVICES

Coverage Required

Existing law generally establishes requirements and restrictions for health insurance coverage of services provided through telehealth. From July 31, 2020, to March 15, 2021, the act temporarily replaces these requirements with similar but more expansive requirements for telehealth coverage.

As with existing law, the act requires certain commercial health insurance policies to cover medical advice, diagnosis, care, or treatment provided through telehealth to the extent that they cover those services when provided in person. It generally subjects telehealth coverage to the same terms and conditions that apply to other benefits under the policy.

Under the act and existing law, insurers, HMOs, and related entities may conduct utilization review for telehealth services in the same manner they conduct it for in-person services, including using the same clinical review criteria.

Prohibitions

Under the act and existing law, health insurance policies cannot exclude coverage solely because a service is provided through telehealth, as long as telehealth is appropriate.

The act further prohibits policies from excluding coverage for a telehealth platform that a telehealth provider selects.

The act also prohibits a telehealth provider who receives reimbursement for providing a telehealth service from seeking any payment from the insured patient except for cost sharing (e.g., copay, coinsurance, deductible). The provider must accept the amount as payment in full.

Lastly, the act prohibits health carriers (e.g., insurers and HMOs), until March 15, 2021, from reducing the amount of reimbursement they pay to telehealth providers for covered services appropriately provided through telehealth instead of in person.

Applicability

The act applies to individual and group health insurance policies in effect any time from July 31, 2020, until March 15, 2021, that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; or (4) hospital or medical services, including those provided under an HMO plan. (Because of the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.)

BACKGROUND

Authorized Telehealth Providers

Existing law allows the following licensed health care providers to provide health care services using telehealth: advanced practice registered nurses, alcohol and drug counselors, audiologists, certified dietician-nutritionists, chiropractors, clinical and master social workers, marital and family therapists, naturopaths, occupational or physical therapists, optometrists, paramedics, pharmacists, physicians, physician assistants, podiatrists, professional counselors, psychologists, registered nurses, respiratory care practitioners, and speech and language pathologists.

By law, authorized telehealth providers must provide telehealth services within their profession's scope of practice and standard of care.

PA 20-3, July 2020 Special Session—HB 6002
Emergency Certification

AN ACT CONCERNING ABSENTEE VOTING AND REPORTING OF RESULTS AT THE 2020 STATE ELECTION, EXPANDING ELECTION DAY REGISTRATION AND RATIFYING CERTAIN PROVISIONS OF AN EXECUTIVE ORDER THAT RELATE TO THE AUGUST 11, 2020, PRIMARY

SUMMARY: This act makes various changes affecting absentee voting, canvassing and reporting election returns, and Election Day Registration (EDR). The changes concerning absentee voting and election returns apply only to the state election to be held on November 3, 2020. By law, a state election is a regular election and includes candidates running for federal office.

With respect to absentee voting and election returns in the 2020 state election, the act generally does the following:

1. allows eligible electors to vote by absentee ballot due to the COVID-19 sickness;
2. authorizes the secretary of the state to change absentee voting forms and materials to conform to the expanded eligibility;
3. authorizes town clerks to mail absentee voting sets using a third-party vendor that the secretary of the state approves and selects;
4. requires town clerks to designate, and authorizes absentee voters to return absentee ballots to, drop boxes;
5. authorizes the secretary of the state, subject to certain conditions, to waive mandatory supervised absentee voting requirements; and
6. extends certain deadlines and timeframes associated with processing absentee ballots and canvassing and reporting election returns.

With respect to EDR, the act generally does the following:

1. requires registrars of voters to certify at least one EDR location to the secretary of the state no later than 31 days before the election;
2. authorizes registrars to apply, no later than 60 days before the election, to designate additional EDR locations, which must also be certified; and
3. authorizes individuals who are admitted electors under EDR but whose registrations are not processed until after 8:00 p.m., to vote as long as they were in line by 8:00 p.m.

The act also ratifies Executive Order (EO) 7QQ, §§ 1-5, which the governor issued on May 20, 2020, in response to the COVID-19 sickness after declaring public health and civil preparedness emergencies (§ 16). Generally, the order allows eligible electors to vote by absentee ballot in the 2020 primary if they are unable to appear at their polling place due to the COVID-19 sickness (see BACKGROUND).

Finally, the act makes various technical and conforming changes.

EFFECTIVE DATE: Upon passage

§§ 1-8 & 11-15 — THE 2020 STATE ELECTION

Expanded Absentee Voting Authorization and Updated Forms (§§ 1-3)

For the 2020 state election, the act expands the reasons for which electors may vote by absentee ballot to include the COVID-19 sickness (see BACKGROUND). Under the act, "COVID-19" means the respiratory disease designated as "coronavirus 2019" by the World Health Organization (WHO) on February 11, 2020, and any related mutation of it that the WHO recognizes as a communicable respiratory disease.

The act requires that absentee ballots be updated for the 2020 state election by inserting on the inner envelope's statement, "the sickness of COVID-19" as a reason for which electors may vote absentee. As with other types of absentee voters, those who vote by absentee ballot due to the COVID-19 sickness must sign the ballot under penalties of false statement in absentee balloting. By law, false statement in absentee balloting is a class D felony, punishable by up to five years in prison, up to a $5,000 fine, or both (CGS § 9-359a).

The act also gives the secretary of the state broad authority to make changes to absentee voting forms and materials for the 2020 election when, in her opinion, they are necessary to conform to law. The authorization applies to prescribed absentee voting forms and printed, recorded, or electronic materials.

Absentee Ballot Delivery and Return (§§ 4 & 5)

By law, town clerks begin issuing absentee voting sets 31 days before the election, or if that day falls on a weekend or holiday, the next preceding business day (i.e., October 2, 2020). Once this period starts, they must mail a set within 24 hours after receiving an absentee ballot application unless an applicant requests a set in-person.

For the 2020 state election, the act authorizes town clerks to mail absentee voting sets using a third-party vendor that the secretary of the state approves and selects. It also requires that (1) town clerks mail absentee voting sets within 48 hours, rather than within 24 hours, after receiving an application and (2) any contract between the secretary and a third-party vendor require the vendor to mail each set within 72 hours after receiving it from the clerk.

By law, voters may return completed absentee ballots via mail (e.g., the U.S. Postal Service) or in-person at the town clerk's office. Under the act, for the 2020 state election, they may also deposit them in secure drop boxes designated by their town clerk for that purpose. Town clerks must designate the drop boxes following instructions that the secretary of the state prescribes.

Beginning 29 days before the 2020 election (i.e., October 5, 2020), and each weekday thereafter until the polls close, town clerks must retrieve absentee ballots from the secure drop boxes. A police officer must escort the town clerk in retrieving absentee ballots from any drop box located outside of a building other than the clerk's office building.

Mandatory Supervised Absentee Voting (§ 8)

The act authorizes the secretary of the state to waive any requirements under the mandatory supervised absentee voting law for the 2020 state election. To waive a requirement, she must do so in recognition of the governor's March 10, 2020, declaration of public health and civil preparedness emergencies. Before any waiver, the secretary must do the following:

1. consult with the public health commissioner, or the commissioner's designee;
2. give written notice to the town clerk and registrars of voters in each affected municipality; and
3. submit a report to the Government Administration and Elections Committee, advising of the waiver and specifying alternative actions that will be taken to provide any affected electors with absentee voting opportunities.

Under the mandatory supervised absentee voting law, registrars of voters or their designees must supervise absentee voting at "institutions" (e.g., nursing homes and other residential care and mental health facilities) in which at least 20 patients are registered voters (including patients who are registered in a municipality other than the one where the institution is located). During these voting sessions, registrars or their designees deliver absentee ballots to the institution and jointly supervise voters while they fill out the ballots. Voters have the right to complete their ballots in secret, but registrars observe the process and are available to assist upon request.

Extension of Certain Deadlines and Timeframes (§§ 6-7 & 11-15)

The act extends, generally by 48 hours, numerous deadlines and timeframes associated with processing absentee ballots and canvassing and reporting election returns for the 2020 state election. Additionally, it gives town clerks more time to

sort and check absentee ballots by allowing them to begin the process 14 days before the 2020 election day, rather than seven days before as the law provides for other elections.

The act also moves up the deadlines by which (1) an elector who returns a completed absentee ballot may withdraw it in order to vote in-person and (2) town clerks must deliver to registrars of voters absentee ballots that were received by 11:00 a.m. the day before the election.

The table below lists, in chronological order, the deadlines and timeframes for the 2020 state election under the act and prior law.

Changes to the 2020 Election Calendar

Act §	*Requirement*	*Deadline or Timeframe Under Prior Law*	*Deadline or Timeframe Under the Act*
§ 6	Town clerks may begin sorting and checking absentee ballots (i.e., sorting ballots into voting districts and, without opening the outer envelopes, checking the names of applicants returning ballots on the official registry list with "A" or "Absentee")	Beginning seven days before the election for absentee ballots received by 11:00 a.m. on that day	Beginning 14 days before the election for absentee ballots received by 11:00 a.m. on that day
§ 7	Elector who has returned a completed absentee ballot but finds he or she is able to vote in person, must go to the town clerk's office to request that the absentee ballot be withdrawn	Before 10:00 a.m. on election day	Before 5:00 p.m. the day before the election
§ 6	Town clerks deliver to registrars of voters absentee ballots that were received by 11:00 a.m. the day before the election	From 10:00 a.m. to 12:00 p.m. on election day, unless a later time is mutually agreed upon with the registrars	At 6:00 a.m. on election day, unless a later time is mutually agreed upon with the registrars
§ 12	After submitting the preliminary list, moderator completes the canvass, which includes announcing (1) each candidate's name and absentee vote count and (2) the results for any ballot questions	48 hours after the polls close	96 hours after the polls close
§ 14	Moderator submits to the secretary of the state the duplicate list of election returns (1) by electronic means and (2) in sealed, hard copy	• 48 hours after the polls close for the electronic submission • Three days after the election for the sealed, hard copy	• 96 hours after the polls close for the electronic submission • Five days after the election for the sealed, hard copy
§ 11	Moderator deposits certificate (from the official checkers) with town clerk indicating the total number of names on the official checklist and the number checked as having voted	48 hours after the polls close	96 hours after the polls close
§ 11	Registrars deposit signed registry list with town clerk	48 hours after the polls close	96 hours after the polls close
§ 15	Registrars provide town clerk with results of votes cast	48 hours after the polls close	96 hours after the polls close
§ 15	For municipalities divided into voting districts, the (1) head moderators, town clerk, and registrars meet to identify any	• 9:00 a.m. on the third day after the election	• 9:00 a.m. on the fifth day after the election

Act §	Requirement	Deadline or Timeframe Under Prior Law	Deadline or Timeframe Under the Act
	errors in the election night returns and (2) moderators correct any errors and file an amended return with the secretary of the state, town clerk, and registrars	for the meeting • 1:00 p.m. on the third day after the election for any amended return	for the meeting • 1:00 p.m. on the fifth day after the election for any amended return
§ 13	If there appears to be a discrepancy in any voting district's returns, the head moderator calls for a recanvass	Three days after the election	Five days after the election
§ 13	When a recanvass is required due to a discrepancy, close vote, or tie vote, the recanvass officials meet to recanvass the returns (CGS §§ 9-311a & -311b)	Five business days after the election	Seven business days after the election
§ 13	If a discrepancy, close vote, or tie vote recanvass results in a correction to the original returns, the moderator files one copy of the corrected recanvass return with the secretary of the state and another with the town clerk	10 days after the election	12 days after the election

§§ 9-10 — EDR

Connecticut conducts EDR during regular state and municipal elections. Under EDR, a person may register to vote and cast a ballot on election day if he or she meets the eligibility requirements for voting in Connecticut and is (1) not already an elector or (2) registered in one municipality but wants to change his or her registration because he or she currently resides in another municipality.

Locations

Required Location. Existing law requires registrars of voters to designate one location in the municipality to complete and process EDR applications. The location must be one where registrars can access the statewide centralized voter registration system (CVRS) to determine if applicants are already registered.

The act requires registrars of voters to certify, in writing, at least one EDR location to the secretary of the state no later than 31 days before election day (i.e., the day of a regular state or municipal election). The certification must:

1. include the name, street address, and relevant contact information for the location;
2. list the name and address of any election official appointed to serve there;
3. describe the location's design; and
4. provide a plan to effectively complete and process EDR applications.

The act requires the secretary to approve or disapprove the certification no later than 15 days before election day. She may require the registrars to appoint additional election officials or alter the design or plan.

Optional Additional Locations. The act authorizes registrars of voters to apply to the secretary of the state, in a form and manner she prescribes, to designate additional EDR locations. If doing so, registrars must apply at least 60 days before election day, and the secretary must approve or disapprove the application no later than 45 days before the election. Any additional EDR location must (1) have CVRS access and (2) comply with the above certification requirements.

EDR Hours

The act allows individuals who are admitted as electors under EDR but whose registrations are not processed until after 8:00 p.m. to vote as long as they were in line by 8:00 p.m. Previously, EDR applicants were not permitted to vote if they were not admitted as electors by the 8:00 p.m. deadline. By law, individuals admitted as electors before the day of an election may vote if they are in the line at their polling place by 8:00 p.m.

The act requires moderators to designate a municipal police officer or election official to mark the end of the EDR line, starting at 8:00 p.m., to stop individuals from entering the line after that time. Existing law establishes the same requirement for non-EDR lines at polling places.

BACKGROUND

EO 7QQ

For the August 11, 2020, primary, EO 7QQ, §§ 1-5, does the following:

1. allows eligible electors to (a) vote by absentee ballot if they are unable to appear at their polling place due to the COVID-19 sickness and (b) lawfully state that they are unable to appear because of COVID-19 if, when applying for or casting an absentee ballot, a federally approved vaccine is not widely available;
2. requires that the inner envelope for returning absentee ballots have a notice indicating that eligible voters may vote by absentee ballot in the primary, as described above, due to COVID19 sickness;
3. authorizes the secretary of the state to modify any required notice, statement, or description of absentee voting eligibility requirements on any printed, recorded, or electronic material in order to provide accurate information to voters about the modifications related to COVID-19 sickness;
4. authorizes town clerks to use a third-party vendor that the secretary of the state approves and selects to mail absentee voting sets; and
5. permits absentee ballots to be returned by depositing them in a secure drop box designated by the town clerk and in accordance with instructions that the secretary of the state provides.

Permitted Reasons for Voting by Absentee Ballot

The state constitution authorizes the General Assembly to pass a law allowing eligible voters to cast their votes by absentee ballot if they are unable to appear at a polling place on election day because of (1) absence from their city or town, (2) sickness or physical disability, or (3) the tenets of their religion prohibit secular activity (Art. VI, § 7). The General Assembly exercised this authority and passed laws codified at CGS § 9-135.

CGS § 9-135 permits eligible voters to vote by absentee ballot if:

1. they are absent from the municipality in which they reside during all hours of voting;
2. they are ill or have a physical disability;
3. the tenets of their religion forbid secular activity on the day of the primary, election, or referendum;
4. they are in active service in the U.S. Armed Forces; or
5. their duties as a primary, election, or referendum official outside of their voting district will keep them away during all hours of voting.

PA 20-4, July 2020 Special Session—HB 6003
Emergency Certification

AN ACT CONCERNING DIABETES AND HIGH DEDUCTIBLE HEALTH PLANS

SUMMARY: This act (1) requires pharmacists, in certain emergency situations, to prescribe and dispense to a patient up to a 30-day supply of certain diabetes-related drugs and devices once in a 12-month period; (2) limits how much pharmacists can charge for the emergency drugs and supplies in these situations; and (3) expands the state's prescription drug monitoring program to include them (§§ 3 & 5). The act requires the Department of Consumer Protection (DCP) commissioner to notify each retail pharmacy about these emergency drugs and devices requirements by October 1, 2020 (§ 4).

Under the act, certain health insurance policies must do the following:

1. expand coverage for diabetes screening, drugs, and devices;
2. limit out-of-pocket costs (e.g., coinsurance, copayments, and deductibles) for covered diabetes-related drugs and devices; and
3. cover emergency diabetes-related drugs and devices prescribed and dispensed by a pharmacist under the act's provisions (§§ 13-14).

The act requires the Department of Social Services (DSS) commissioner to establish, by November 1, 2020, an 11-member working group to determine if she should establish a program to refer people diagnosed with diabetes, regardless

of health insurance coverage status, to federally-qualified health centers (FQHCs) and other covered entities for treatment. If the working group recommends doing so, it must also develop the applicable referral criteria. The act requires the DSS commissioner to establish the referral program by January 1, 2022, using the working groups' criteria, except under specified circumstances (§ 1).

PA 20-2, § 1, July Special Session, allows the Department of Public Health (DPH) commissioner to temporarily modify, waive, or suspend certain regulatory requirements as she deems necessary to reduce the spread of COVID-19 and protect the public health. The act limits this authority by only allowing the commissioner to take these actions for the purpose of providing Connecticut residents with telehealth services from out-of-state practitioners (§ 37).

Finally, the act makes technical and conforming changes, including several that conform insurance statutes referencing health savings accounts (HSAs) to federal law by adding references to medical savings accounts (MSAs) and Archer MSAs (§§ 2, 6-12, and 15-36).

EFFECTIVE DATE: January 1, 2021, except the DSS working group, DCP pharmacy notice, and telehealth services provisions are effective upon passage; the technical and conforming changes related to HSAs are effective October 1, 2020; and the expanded health insurance coverage and out-of-pocket limit provisions are effective January 1, 2022.

§§ 3 & 5 — PHARMACISTS AND EMERGENCY PRESCRIPTIONS

In certain emergency situations, the act requires pharmacists to prescribe and dispense no more than one 30-day emergency supply of certain diabetes-related drugs and devices to a patient in a 12-month period. For individuals without health insurance coverage or who cannot pay, the act allows but does not require pharmacists to prescribe and dispense these drugs or devices.

The act also establishes a price cap for these prescriptions and expands the prescription drug monitoring program to include them.

The act's requirements apply to the following prescription or nonprescription drugs and devices:

1. insulin drugs, which are drugs with insulin (including insulin pens) prescribed for self-administration on an outpatient basis and approved by the federal Food and Drug Administration (FDA) to treat diabetes;
2. glucagon drugs, which are drugs with glucagon prescribed for self-administration on an outpatient basis and FDA-approved to treat low blood sugar;
3. diabetes devices, which are used to cure, diagnose, mitigate, prevent, or treat diabetes or low blood sugar, including such things as blood glucose test strips, glucometers, continuous glucometers, lancets, lancing devices, and insulin syringes; and
4. diabetic ketoacidosis devices, which are used to screen for or prevent diabetic ketoacidosis.

Requirement to Prescribe and Dispense

The act requires pharmacists, when certain criteria are met, to immediately prescribe and dispense up to a 30-day supply of a diabetic ketoacidosis device, insulin drug or glucagon drug, and any diabetes devices necessary to administer the drugs, unless the patient is uninsured and cannot pay for them out-of-pocket. The act authorizes these prescriptions when:

1. the patient informs the pharmacist that he or she has less than a week's supply of these diabetes-related drugs or devices;
2. the pharmacist determines, using professional judgment, that the patient will likely suffer significant physical harm within a week if the patient does not get more diabetes-related drugs or devices;
3. the pharmacist reviews the state's electronic prescription drug monitoring program and determines that no pharmacist prescribed and dispensed an emergency supply of diabetes-related drugs or devices in the last 12 months, unless the monitoring program is unavailable or the pharmacist otherwise makes the determination by (a) contacting the pharmacy that filled the patient's most recent prescription, (b) examining another prescription database, or (c) reviewing the patient's most recent prescription for diabetes-related drugs or devices or a prescription label with information on the most recent prescription; and
4. within 72 hours of dispensing the emergency supply, the pharmacist or his or her representative notifies the practitioner who most recently prescribed the diabetes-related drug or device.

The act correspondingly expands the prescription drug monitoring program to require each pharmacy, nonresident pharmacy (i.e., out of state pharmacy that ships drugs or devices into the state based on a prescription), outpatient pharmacy in a hospital or institution, and dispenser to report information to the DCP commissioner for all diabetes-related drugs and devices prescribed and dispensed. The act requires these entities to report the information at least daily in a way that is consistent with how controlled substance prescriptions are reported under existing law. Reports must be electronic or, for pharmacies that do not maintain electronic records, in a format the DCP commissioner approves.

Price Cap

The act limits how much a pharmacist can charge a patient for emergency diabetes-related drugs or devices in these situations to:

1. the coinsurance, copayment, deductible, or other out-of-pocket expense required by the patient's health insurance (which in certain instances the act limits, see §§ 13 & 14 below) or
2. for patients without insurance, the usual customary charge to the public for these items (i.e., a charge for a particular prescription not covered by Medicaid, excluding charges made to third-party payors and special discounts offered to individuals.)

Patient Document and Payment Requirements

The act allows a pharmacist to require a patient to submit any of the following before prescribing or dispensing diabetes-related drugs or devices:

1. proof of health insurance coverage;
2. personal identification;
3. contact information for a health care provider treating the patient;
4. information on previous prescriptions for diabetes-related drugs or devices;
5. the patient's sworn statement that he or she cannot timely obtain the diabetes-related drugs or devices without suffering significant physical harm; and
6. payment, subject to the price cap described above.

Referral Requirement

If a patient who requests diabetes-related drugs or devices does not have insurance coverage or is concerned that his or her net cost for the drugs or devices is unaffordable, the pharmacists must refer him or her to a FQHC.

§§ 13 & 14 — DIABETES HEALTH INSURANCE COVERAGE AND OUT-OF-POCKET LIMITS

Required Coverage

Prior law required certain health insurance policies (see "Applicability," below) to cover (1) laboratory and diagnostic tests for all types of diabetes and (2) medically necessary treatment (including equipment, drugs, and supplies) for insureds diagnosed with insulin-dependent diabetes, insulin-using diabetes, gestational diabetes, or non-insulin-using diabetes. The act expands this coverage by requiring the applicable health insurance plans to cover the treatment of all types of diabetes, including medically necessary:

1. laboratory and diagnostic testing and screening such as hemoglobin A1c testing and retinopathy screening;
2. prescribed insulin and "non-insulin drugs" (i.e., FDA-approved drugs to treat diabetes without insulin such as glucagon drugs and glucose tablets and gels);
3. emergency insulin and glucagon drugs prescribed and dispensed by a pharmacist, up to once per policy year (see § 3 above);
4. diabetes devices in accordance with the insured's treatment plan, including emergency devices prescribed and dispensed by a pharmacist, up to once per policy year (see § 3 above); and
5. diabetic ketoacidosis devices in accordance with the insured's treatment plan, including emergency devices prescribed and dispensed by a pharmacist, up to once per policy year (see § 3 above).

Out-of-Pocket Limits

For the health insurance policies described below, the act limits an insured's out-of-pocket expenses to:

1. $25 for each 30-day supply of medically necessary covered insulin or non-insulin drug prescribed to the insured, and
2. $100 for each 30-day supply of medically necessary diabetes devices and diabetic ketoacidosis devices in accordance with an insured person's treatment plan.

Additionally, it limits out-of-pocket expenses to $25 for emergency insulin and glucagon drugs, and to $100 for emergency diabetes devices and diabetic ketoacidosis devices, prescribed and dispensed by a pharmacist. The limits apply to each 30-day supply, once per policy year (see § 3 above).

Applicability

The act's coverage provisions apply 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; or (4) hospital or medical services, including those provided under an HMO plan. Because of the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

The act's out-of-pocket cost provisions also apply to these policies, but with respect to high deductible health plans (HDHPs), they apply only to the maximum extent permitted by federal law that does not disqualify insureds from certain federal tax benefits. (Under federal law, individuals with eligible HDHPs may make pre-tax contributions to health savings accounts or Archer MSAs and use the accounts for qualified medical expenses. To maintain the accounts' tax advantaged status, the associated HDHPs cannot limit deductibles except for certain preventive care items, which may include certain insulin and diabetes supplies.)

By law, these same policies, as well as those covering accidents only and group policies covering limited benefits, must cover hypodermic needles and syringes. The act's expanded coverage and out-of-pocket cost provisions apply regardless of this existing requirement.

§ 1 — DIABETES REFERRAL PROGRAM WORKING GROUP

The act requires the DSS commissioner to establish a working group by November 1, 2020, to determine whether she should establish a program to refer people diagnosed with diabetes, regardless of their health coverage status, to FQHCs and other covered entities for treatment (see BACKGROUND).

If the working group determines that the commissioner should establish the program, it must develop the criteria that DSS must apply when recommending an FQHC or other covered entity to someone, based on:

1. his or her residential address and diabetic condition,
2. the medically necessary care for that condition, and
3. any other relevant factors.

The act authorizes the commissioner to adopt regulations to establish the working group and the referral program.

Working Group Membership

Under the act, the working group consists of 11 members with expertise in specified areas, as described in the table below. Appointments must be made by November 1, 2020, and the appointing authority fills any vacancy.

Working Group Membership

Appointing Authority	*Appointee(s)*
Senate chairperson of the Insurance and Real Estate Committee	Insulin coverage or public health advocate
House chairperson of the Insurance and Real Estate Committee	Advocate for hospitals' interests
Senate ranking member of the Insurance and Real Estate Committee	Experience with health care equity or is an advocate for hospitals' interests
House ranking member of the Insurance and Real Estate Committee	Insulin coverage or public health advocate
DSS Commissioner	Self or designee
DPH Commissioner	Self or designee
Office of Policy and Management secretary	Self or designee
CEO of Community Health Center, Inc., or its legal successor	Two members

Appointing Authority	*Appointee(s)*
CEO of Community Health Center Association of Connecticut, Inc., or its legal successor	Two members

Chairperson, Meetings, and Voting

The act requires the DSS commissioner to choose the chairperson from the group's members, who must then hold the group's first meeting by January 11, 2021. A majority of the group's members constitute a quorum for transacting business, and a majority vote of members present is required for action.

Working Group Recommendations and Duration

Under the act, the group must submit its recommendation for program development, along with criteria, if any, to the DSS commissioner and the Insurance and Real Estate Committee by May 1, 2021. The group terminates when it submits the information or May 1, 2021, whichever is earlier.

Working Group Reestablishment

After the original working group terminates as required, the act allows the DSS commissioner to reestablish the group so that it can develop new criteria for recommending an FQHC or other covered entity to someone. In reestablishing the group, the commissioner must notify each appointing authority of the reestablishment date. Within 60 days after that date, the appointing authorities must appoint all members of the reestablished group. The commissioner must schedule the first meeting of the group, to be held within 90 days after its reestablishment.

Within 240 days after the group's reestablishment, the group must submit its new criteria to the commissioner and the Insurance and Real Estate Committee. The new group terminates on the criteria submission date or 240 days after the reestablishment date, whichever is later.

§ 1 — REFERRAL PROGRAM ESTABLISHMENT

The act requires the DSS commissioner to establish the referral program using the criteria developed above by January 1, 2022, unless the:

1. working group recommends not establishing it;
2. commissioner finds the program goals could be better accomplished by applying for a Medicaid research and demonstration waiver under federal law, in which case she must apply to the Centers for Medicare and Medicaid Services for one and, upon approval, establish the referral program in accordance with the waiver requirements and applicable law; or
3. DSS general counsel finds federal law barriers to successfully establishing and implementing the program.

In the second and third instances above, the commissioner must submit these findings to the Insurance and Real Estate Committee by October 1, 2021.

Program Website

If the commissioner establishes the referral program, she must also create and maintain a website to collect information from, and provide information to, people diagnosed with diabetes who are referred to an FQHC or other covered entity for treatment, regardless of their health coverage status.

The website must enable diabetics to disclose to DSS the following information:

1. name, age, and home address;
2. contact information, including email address or phone number;
3. income and race;
4. diabetes diagnosis; and
5. prescribed outpatient diabetes drugs.

Additionally, the website must enable DSS to determine whether each disclosed outpatient prescription drug is covered and available at a reduced cost to the diagnosed individual through an FQHC or any other covered entity. It also must provide the following information to the individual:

1. name, business address, and phone number of any FQHC or other covered entity that DSS recommends to the individual and
2. general health care information provided by the recommended FQHC or other covered entity, including any information that would help to obtain primary care through the recommended entity.

Finally, the website must be able to disclose to the recommended FQHC or other covered entity the individual's name, contact information, and a statement that DSS recommended the entity to the individual.

Provider Entity Responsibilities

Under the act, each FQHC or other covered entity must make a good faith effort to schedule an appointment for a person within 30 days after receiving his or her name, contact information, and recommendation from DSS.

BACKGROUND

Covered Entities

As defined in the federal Public Health Service Act, a "covered entity" includes the following entities, among others, many of which are federally funded: an FQHC, a family planning project, an entity receiving grants for outpatient early intervention services for HIV, a state-operated AIDS drug purchasing assistance program, a comprehensive hemophilia diagnostic treatment center, an urban Indian organization, and certain hospitals and rural referral centers. These entities must also meet several requirements relating to drug discounts, rebates, and resale (42 U.S.C. § 256b(a)(4)-(5)).

PA 20-1, September 2020 Special Session—HB 7002
Emergency Certification

AN ACT CONCERNING CERTAIN FEES AND EXPENSES OF STATE MARSHALS WHEN SERVING PROCESS

SUMMARY: This act entitles state marshals and others authorized to serve process to recover fees they actually paid for the disclosure or search of Department of Motor Vehicles (DMV) records in connection with the service. It also entitles them to recover actual expenses for postage or international mailing costs they incur pursuant to a court order.

Under existing law, if process is served for the judicial branch or Division of Criminal Justice, the fees differ in some respects from those for service in other circumstances. Under the act, the recovery of fees for DMV records also applies to service for the branch or division.

By law, process can be served by a state marshal, constable, or other proper officer authorized by statute. Borough bailiffs can serve process in their boroughs. An "indifferent person" can serve process in certain circumstances (CGS § 52-50).

EFFECTIVE DATE: Upon passage

PA 20-2, September 2020 Special Session—HB 7003
Emergency Certification

AN ACT REVISING THE STATE HEMP PROGRAM IN ACCORDANCE WITH FEDERAL REQUIREMENTS

SUMMARY: This act revises the state's hemp program to comply with U.S. Department of Agriculture (USDA) regulations for hemp production. By law, the state Department of Agriculture (DoAg) commissioner must prepare a state hemp production plan and submit it to the USDA for approval. The act requires the commissioner to operate the state plan, which must include specific federal regulatory requirements (e.g., hemp sampling and testing, recordkeeping and reporting, and enforcement provisions).

Prior law required DoAg to license and regulate hemp growers and processors separately. The act combines these two licenses into one producer license. Existing law requires the Department of Consumer Protection (DCP) to license and regulate those who manufacture certain products from hemp ("manufacturers").

The act extends the licensing period for producers and manufacturers from two to three years and increases the license fees. Prior law imposed a $250 fine for someone who produced or manufactured hemp without the applicable license. The act removes the set fine amount for an unlicensed individual producer, instead making it an infraction. It keeps the set fine for an individual manufacturer acting without a license.

The act also expands the types of information generally exempt from disclosure under the Freedom of Information Act (FOIA) to include a producer's hemp location information and hemp testing results. A producer's security plans and criminal history check results are already exempt from disclosure. Under the act, all of this information remains available for law enforcement purposes.

The act authorizes, instead of requires, the DoAg commissioner to adopt producer regulations. Existing law authorizes the DCP commissioner to also adopt manufacturer regulations. The act revises the minimum provisions that may be included in the regulations.

By law, the DoAg commissioner operates a hemp production pilot program until the date USDA approves the state plan for hemp. Prior law allowed him to enter into an agreement with a state or federally recognized Indian tribe to help it develop a pilot program or participate in the state's program. The act removes this authorization.

Under state and federal law, "hemp" is the plant Cannabis sativa L. and any part of it, including seeds and derivatives, extracts, cannabinoids, isomers, acids, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis. By law, hemp is not a controlled substance. The act also specifies that certain compounds derived from it (e.g., cannabidiol) are not controlled substances.

Lastly, the act makes numerous technical and conforming changes.

EFFECTIVE DATE: October 31, 2020, except the provisions specifying that certain hemp-derived compounds are not controlled substances (§§ 3 & 4) are effective upon passage.

HEMP PRODUCTION STATE PLAN

Preparation and Approval

Prior law required the DoAg commissioner to prepare a hemp production state plan in accordance with federal law and in consultation with the Office of the Chief State's Attorney, for approval by the governor and attorney general. The act instead requires him to prepare it according to federal law and regulation, in consultation with the attorney general and the Office of Chief State's attorney, for the governor's approval. Once approved, the law requires the commissioner to submit the plan to the USDA for approval.

Minimum Requirements

Under the act, the DoAg commissioner must operate the state plan, which must include at least the following provisions:

1. hemp sampling and testing requirements in accordance with federal regulations (e.g., law enforcement or another designated person must collect the samples within 15 days before the anticipated harvest date and have them tested for THC level), with sampling to be performed by the DoAg commissioner, his designated agents, or an authorized sampling agent;
2. control and disposal requirements for noncompliant plants (e.g., plants with excessive THC levels) in accordance with federal regulations;
3. DoAg recordkeeping and reporting requirements in accordance with federal law and regulations;
4. DoAg enforcement procedures in accordance with federal regulations;
5. annual DoAg inspections of a random sample of hemp producers to (a) verify their compliance with state and federal law and the state plan and (b) enforce violations; and
6. producer reporting to (a) USDA's Farm Service Agency of their license, lot, and hemp crop acreage information and (b) the DoAg commissioner of their total acreage of hemp planted, harvested, and disposed of, as well as other information he requires.

Sampling and Testing

Under the act, all hemp sampling and testing must be done using protocols that are at least as statistically valid as the USDA's published protocols. The protocols must be posted on DoAg's website.

The act requires a producer or an authorized representative to be present during a scheduled sample collection. It prohibits (1) the producer from harvesting the crop before samples are taken and (2) combining samples from one lot (i.e., contiguous area in a field, greenhouse, or indoor growing structure with the same hemp variety or strain throughout) with samples from other lots.

Under the act, lots that do not comply with the applicable THC level for hemp must be handled and disposed of in accordance with federal and state law and the state plan.

DoAg Reporting to USDA

The act requires the DoAg commissioner to report to USDA at least monthly the following: (1) each hemp producer's license status, (2) contact information for each licensed hemp producer, (3) legal descriptions and locations of lots, (4) hemp test results, and (5) disposal information for noncompliant plants. The act specifies that he may not give the USDA state and federal fingerprint-based records.

PRODUCER REQUIREMENTS

License Required

Under the act, anyone who cultivates hemp or creates a producer hemp product must obtain a license from DoAg and comply with federal and state law, the state plan, and any related regulations the DoAg commissioner adopts. "Producer hemp products" include raw hemp, fiber-based hemp, or animal hemp food products made in the state.

The act eliminates the requirement under prior state law that hemp growers only acquire certified seeds. (Federal law does not include a certified seed requirement.)

As under existing law, hemp product sellers do not need a license if they only engage in the (1) retail or wholesale sale of hemp or hemp products that they do not further produce or manufacture and that they receive from authorized sellers,

(2) acquisition of products only for resale, or (3) retail sale of hemp products otherwise authorized under federal or state law.

License Application

An applicant for a producer license, whether an individual or entity, must submit a license application to DoAg with specific information. An "entity" includes a corporation, joint stock company, association, limited partnership, limited liability partnership or company, irrevocable trust, estate, charitable organization, or other similar organization. It also includes an organization participating in hemp production as a partner in a general partnership or a participant in a joint venture or similar organization.

The license application must include the following information:

1. the applicant's name, telephone number, email address, and business address;
2. if an individual applicant, the individual's address;
3. if an entity applicant, the entity's full name and principle business location, as well as the full name, title, and email address for each key participant (i.e., sole proprietor, partner in a partnership, or people with executive managerial control, including chief executive, operating, and financial officers);
4. the name and address of each lot or producing location;
5. each lot's geospatial location by global positioning system (GPS) coordinates, legal description, and acreage size;
6. written consent for the commissioner to conduct scheduled and random inspections of the premises where the applicant will cultivate, harvest, store, and produce hemp; and
7. any other information the commissioner requires.

An individual or entity that materially falsifies information in an application is ineligible to obtain a license.

Licensee Requirements and Qualifications

Prior law required the applicant, on-site manager, and signing authority for a grower license to submit to state and national fingerprint-based criminal history record checks at their own expense. Under the act, an individual applicant and each key participant of an entity applicant must submit to these record checks for a producer license or renewal.

Prior law required the applicant to provide the record checks results to the DoAg commissioner for review. Under the act, applicants and key participants must provide record checks results to the commissioner through December 31, 2021. (According to DoAg, beginning January 1, 2022, the Department of Emergency Service and Public Protection will provide results to DoAg.)

Under prior law, anyone convicted of a felony relating to a controlled substance was ineligible for a grower license. Under the act, an individual, including an entity's key participant, who is convicted of a felony relating to a controlled substance is ineligible for a producer license, unless the individual, before December 20, 2018, lawfully grew hemp under a state hemp pilot program authorized by the federal 2014 Agricultural Act (i.e., the 2014 farm bill).

Sampling, Testing, and Disposal Expenses

Prior law required each grower or processor licensee to pay for testing and resampling hemp samples at a laboratory to determine THC levels. The act instead requires each producer licensee to pay for sampling, resampling, testing, and retesting samples at a laboratory (described below) to determine the THC level of cannabis under their control or in their possession. It also requires each licensee to pay the costs of disposing of noncompliant plants.

The act tightens the criteria required for a laboratory to qualify to sample and test for THC levels. Previously, one type of qualified laboratory was a facility that is a testing laboratory that meets International Organization for Standardization (ISO) standard 17025, as accredited by a third-party accrediting body such as the American Association for Laboratory Accreditation or the Assured Calibration and Laboratory Accreditation Select Services. The act requires a qualified laboratory to (1) be this type of facility and (2) meet specified federal regulatory requirements. It eliminates the following as qualified laboratories, unless they meet the ISO standard and federal requirements: a laboratory located in Connecticut and licensed by DCP to analyze controlled substances, the University of Connecticut, the Connecticut Agricultural Experiment Station, the state Department of Public Health, the U.S. Food and Drug Administration, and the USDA.

License Approval

The act authorizes the DoAg commissioner to grant a producer license to an applicant if he finds that the applicant meets the applicable requirements. As under prior law, while the state's hemp production pilot program is in effect, the

commissioner may grant a conditional license pending receipt of the required criminal history records check. The act requires him to assign each producer a license or authorization identifier consistent with federal regulations.

Additionally, the act requires a licensee to notify the commissioner of any changes to their application information within 15 days after a change occurs.

License Duration and Fees

Under the act, a producer license, which is not transferable, expires on the third December 31 after its issuance and is renewable during the preceding October. Previously, grower and processor licenses expired after two years.

As under prior law, the act sets various nonrefundable fees, which are shown in the table below. The act, as under prior law, waives application and license fees for a constituent unit of higher education or state agency or department if production is for research.

Fees Under Prior Law and the Act

Fee	*Prior Law*	*The Act*
Application fee	$50	$50
Grower license fee	$50 per acre of planned hemp plantings	N/A
Processor license fee	$250	N/A
Producer license fee	N/A	$450 for the first acre of planned hemp production and $30 for each additional acre, rounded to the nearest acre, but no more than $3,000
Inspection fee (if DoAg must resample due to a test result showing a violation)	$50	$50

Penalties

Similar to prior law, the act subjects a licensee who violates the act's provisions or any related regulation to an administrative penalty of up to $2,500 per violation. It also allows the DoAg commissioner to suspend, revoke, or place conditions on a license. He may only impose penalties or take these actions after a hearing held in accordance with the Uniform Administrative Procedures Act (UAPA).

Under prior law, an individual licensee who cultivated or processed hemp without a license, or when a license was suspended or revoked, could be charged a $250 fine, payable by mail. The act eliminates the specific fine and instead makes it an infraction to produce hemp without a license or when a license is suspended or revoked. (Infractions are punishable by fines, usually set by Superior Court judges, of between $35 and $90, plus a surcharge and an additional fee based on the fine's amount. They are not crimes, and violators can pay the fines by mail without making a court appearance.)

Under prior law, the commissioner, after holding a UAPA hearing, had to impose a fine of up to $2,500 per violation on a business entity that cultivated or processed hemp without a license, or when its license was suspended or revoked. The act instead makes such a fine optional if an entity produces hemp without a license, when its license is suspended or revoked, or in violation of the act's provisions. The commissioner must still conduct a UAPA hearing before imposing a fine.

Negligent Violations

Under existing law, a negligent violation of state law or the state plan is subject to enforcement in accordance with federal law. The act also subjects it to enforcement under the state plan. Under federal law, a negligent violation includes negligently failing to provide a legal description of the land used to produce hemp, failing to obtain a license, or producing noncompliant plants.

The act codifies certain federal law requirements, including the need for a corrective action plan when a negligent violation occurs. Specifically, it requires a producer to develop a corrective action plan that the DoAg commissioner approves. The plan must include a reasonable deadline to correct the violation, periodic reporting to the commissioner for at least two years, and compliance with the state plan. The act requires the commissioner to do an inspection to ensure that the plan is carried out properly.

The act prohibits a producer that negligently violates the state plan three times in a five-year period from producing hemp for five years from the date of the third violation. But it also prohibits the commissioner from referring a producer who commits a negligent violation for criminal enforcement action.

Notice of Violations

By law, whenever the DoAg commissioner finds a violation of the state law or regulations, he must notify the violator in writing of any corrective action to be taken and the deadline for doing so. The act extends this to violations of the state plan.

The act also requires the commissioner to provide this notice by (1) certified mail, return receipt requested, to the violator's last known address; (2) in-hand service by him or his designated agent; (3) email, with the violator's consent; or (4) procedures set in state law for civil process and service.

The act requires the commissioner to report producer violations made with a culpable mental state greater than negligence (i.e., acting intentionally, knowingly, willfully, or recklessly) to the U.S. attorney general and state's attorney for the judicial district in which the violation occurred.

The act also requires the commissioner to notify the Department of Emergency Service and Public Protection and the state police when he believes or has reasonable cause to believe that a licensee or a licensee's employee is violating federal law, the state plan, or any state marijuana law. Previously, he only had to notify them of a violation of a state marijuana law.

Enforcement Orders

By law, the DoAg commissioner may issue cease and desist orders, emergency orders in response to public health hazards, or other orders needed to carry out the law's purposes. The orders may require embargo, destruction, or release of hemp or hemp products. Under the act, he may also order partial destruction.

The act requires that these orders be served by (1) certified mail, return receipt requested, to the recipient's last known address; (2) in-hand service by the commissioner or his designated agent; or (3) procedures set in state law for civil process and service.

As under existing law, cease and desist and emergency orders are effective upon service and anyone aggrieved by an order may appeal to the commissioner in accordance with the UAPA. An appeal must be made in writing and received within 15 days after the order's date. If no appeal is made the order is final.

Record Disclosure and Retention

Under the act, all documents and records submitted or kept in accordance with it must be disclosed to a law enforcement agency upon the agency's request. Under existing law, "law enforcement agency" includes the Connecticut state police; U.S. Drug Enforcement Administration; DCP Drug Control Division; or other federal, state, or local law enforcement agency or drug suppression unit. The act adds DoAg to this list.

As under prior law, all licensees must keep records as required by federal or state law or regulations and make them available to DoAg upon request and electronically, if available. But the act also requires licensees to keep records as required in the state plan.

Agency Regulations

The act authorizes, instead of requires, the DoAg commissioner to adopt implementing regulations, which may include labeling requirements for producer hemp products. The act eliminates the requirement that regulations have sampling, testing, and noncompliant plant disposal procedures.

MANUFACTURER REQUIREMENTS

License Required

State law prohibits manufacturing hemp or hemp products in the state without a license from DCP.

The act revises the definition of "manufacture." Prior law defined it as converting hemp to create a consumable product. The act instead defines it as converting hemp into by-products by adding heat, using solvents, or extraction to convert the plant into manufacturer hemp products for commercial or research purposes. "Manufacturer hemp products" include

products intended for human consumption, including by ingestion, inhalation, or absorption, that contain a THC concentration of no more than 0.3 percent on a dry weight basis or per volume or weight.

Under the act, manufacturer hemp product sellers do not need a license if they only engage in the (1) retail or wholesale sale of the products that are not further manufactured and that are received from an authorized manufacturer, (2) acquisition of the products only for resale, or (3) retail sale of the products otherwise authorized under federal or state law.

License Duration and Fees

Under the act, a manufacturer license, which is not transferable (and is, presumably, renewable), expires on the third June 30 after its issuance. Manufacturer licenses previously expired after two years.

The act proportionately increases the fees to apply for and obtain a manufacturer license. Under the act, the fees, which are nonrefundable, are $75 for filing an application, up from $50, and $375 for a license, up from $250.

Disposal Protocols

By law, if any hemp or hemp product has a THC level exceeding the allowed amount or a manufacturer wants to dispose of obsolete, misbranded, excess, or undesired products, the manufacturer must follow specific disposal protocols.

Under the act and similar to prior law, the manufacturer must destroy and dispose of the adulterated or unwanted hemp or product by (1) surrendering it to the DCP commissioner, who must destroy and dispose of it, or (2) disposing of it in a way the commissioner prescribes. The act eliminates the requirement that, if the manufacturer does the disposal, it must occur in the presence of the commissioner's authorized representative.

Prior law required the person disposing of the hemp or products to maintain and make available to the DCP commissioner certain records (e.g., date, time, location, and manner of disposal or destruction and the batch and quantity disposed of or destroyed). The act instead requires the manufacturer or its authorized designee to do this.

Independent Testing of Hemp to be Manufactured

Prior law required any hemp intended to be manufactured as a consumable product to be tested by an (1) independent testing laboratory or (2) other ISO-accredited testing laboratory. The act instead requires hemp intended to be manufactured into a manufacturer hemp product to be tested only by an "independent testing laboratory." This, by law, is generally an accredited laboratory in which no person with a financial or managerial interest also has an interest in a hemp, hemp product, or marijuana facility that cultivates, processes, produces, manufactures, distributes, dispenses, or sells these items.

By law, an independent testing laboratory must immediately return or dispose of any hemp or products after completing testing. If disposing, the laboratory must do so using the manufacturer disposal protocols above.

Agency Regulations

By law, the DCP commissioner may adopt implementing regulations. Prior law allowed the regulations to set sampling and testing procedures to ensure compliance with federal law, disposal procedures for noncompliant plants, and advertising and labeling requirements for consumable products.

The act instead allows the regulations to establish sampling and testing procedures to ensure compliance with the act's provisions; storage and disposal procedures for hemp, marijuana, and manufacturer hemp products that fail DCP's prescribed independent testing standards; and advertising and labeling requirements for manufacturer hemp products.

Manufacturer Hemp Products are not Controlled Substances

The act specifies that, regardless of any state law, (1) marijuana does not include manufacturer hemp products; (2) cannabidiol (CBD, i.e., the non-psychotropic compound) in manufacturer hemp products is not a controlled substance or legend drug (an FDA-approved prescription drug); and (3) hemp-derived cannabinoids in manufacturer hemp products are not controlled substances or adulterants.

PA 20-3, September 2020 Special Session—HB 7004
Emergency Certification

AN ACT CONCERNING ELIGIBILITY FOR THE SUPPLEMENTAL COLLAPSING FOUNDATION LOAN PROGRAM

SUMMARY: This act expands eligibility for the Supplemental Collapsing Foundation Loan Program to include:

1. condominium and common interest ownership associations ("associations") with a participation agreement from the Connecticut Foundation Solutions Indemnity Company (CFSIC) and
2. residential association unit owners and occupants without a CFSIC participation agreement, if the association that the unit is a part of has one covering it.

By law, the Connecticut Housing Finance Authority administers the supplemental loan program to guarantee loans made to owners and occupants of eligible buildings with pyrrhotite-damaged ("crumbling") concrete foundations. CFSIC is the captive insurer established to assist homeowners with crumbling foundations. A participation agreement provides that CFSIC will pay part of a foundation's repair or replacement cost.

EFFECTIVE DATE: Upon passage

SUPPLEMENTAL LOAN REQUIREMENTS

Under the act, loans to associations must be secured with any of, or a combination of, the following: (1) a real property mortgage deed; (2) an encumbrance on the association's common elements; (3) a security interest in the association's income, including receivables or unit owner assessments; or (4) a security interest in equipment purchased or financed with loan proceeds.

The act limits the total amount of loans made to a single association to the product of $75,000 multiplied by the total number of buildings with affected units, as specified in the participation agreement. (The same per-building limit applies to other eligible buildings under existing law.)

The act generally subjects supplemental loans made to associations and to association unit owners or occupants to the same requirements applicable under existing law for eligible borrowers. Thus, these loans:

1. apply toward the program's aggregate maximum loan amount ($20 million);
2. must be repaid within 20 years and made in accordance with the lending institution's underwriting policy and standards; and
3. have maximum closing costs of $800 and interest rates no greater than that of loans with similar terms and an amortization schedule offered by the Federal Home Loan Bank of Boston for Amortizing Advances through the New England Fund program.

By law and unchanged by the act, loan proceeds may be used for "eligible repair expenses" that are (1) necessary to complete a foundation repair or replacement or (2) otherwise necessary to restore the property's functionality and appearance, to the extent they were damaged by the foundation's deterioration or the demolition and construction process. The law's non-exhaustive list of eligible expenses includes repairing or replacing wall framing, drywall, paint and other wall finishes, porches, decks, gutters, landscaping, outbuildings, sheds, and swimming pools.

PA 20-4, September 2020 Special Session—HB 7005
Emergency Certification

AN ACT CONCERNING A MUNICIPAL ELECTION MONITOR AT THE 2020 STATE ELECTION AND PROCESSING OF ABSENTEE BALLOTS FOR THE 2020 STATE ELECTION

SUMMARY: This act makes several changes in election law impacting the November 3, 2020, state election. (By law, a state election is a regular election and includes candidates running for federal office.)

The act requires the secretary of the state to contract with an individual to serve as an election monitor in any municipality with a population of at least 140,000 (i.e., Bridgeport) for the 2020 state election. The monitor must conduct inspections, inquiries, and investigations of any duty or responsibility required by state election law and carried out by a municipal official or his or her appointee.

The act authorizes municipalities to conduct certain absentee ballot pre-counting procedures beginning at 5:00 p.m. on the fourth day before the 2020 state election (i.e., Friday, October 30). Generally, these procedures include opening the ballot's outer envelope and verifying that the elector signed the inner envelope, which contains the marked ballot. However, municipalities may not open the inner envelope or count the ballot until election day. Municipalities using these pre-counting procedures must comply with certain requirements, such as notifying the secretary of the state in advance and

obtaining her approval.

The act makes several additional changes for the 2020 state election, including (1) delaying the period in which municipalities must publish the election warning (i.e., announcement) and (2) establishing 5:00 p.m. on the fourth day before the election as the deadline for an elector who has submitted an absentee ballot to withdraw the ballot in order to vote in person. Additionally, the act conforms to PA 20-3, July Special Session (JSS), by extending the timeframe for opening absentee ballot depository envelopes in the event of a recanvass (PA 20-3, JSS, extended certain recanvass deadlines; see BACKGROUND). Lastly, the act makes additional technical and conforming changes.

EFFECTIVE DATE: Upon passage

§ 1 — ELECTION MONITOR FOR 2020 STATE ELECTION

For the 2020 state election, the act requires the secretary of the state to contract with an individual to serve as an election monitor in any municipality with a population of at least 140,000, according to the most recent State Register and Manual (i.e., Bridgeport). The election monitor's purpose is to detect and prevent irregularity and impropriety within the municipality in managing election administration procedures and conducting the election.

Specifically, the monitor must (1) conduct inspections, inquiries, and investigations of any duty or responsibility required by state election law and carried out by a municipal official or his or her appointee and (2) immediately report to the secretary of the state any irregularity or impropriety discovered. Toward that end, the act requires that the election monitor have access to all records, data, and material maintained by, or available to, any such municipal official or appointee.

The act (1) specifies that the election monitor is not a state employee and (2) requires the secretary of the state to contract with an individual to serve in this capacity until December 31, 2020, unless the secretary terminates the contract for any reason before that date. The election monitor must be compensated in accordance with the contract and reimbursed for necessary expenses. Costs related to the election monitor’s service must be paid from federal COVID-19 elections funds allocated to the secretary of the state. The municipality must provide the monitor with office space, supplies, equipment, and services necessary to properly carry out his or her duties.

The act specifies that the election monitor provisions do not prohibit the State Elections Enforcement Commission (SEEC) from exercising its authority. By law, SEEC, among other things, investigates alleged election law violations, inspects campaign finance records and reports, refers evidence of violations to the chief state's attorney or the attorney general, and levies civil penalties for elections violations.

§ 2 — DELIVERING ABSENTEE BALLOTS TO REGISTRARS

By law, the town clerk must sort any absentee ballots received by the day before the election into voting districts. (For the 2020 state election, the clerk may begin doing so 14 days before election day.) For ballots received by 11:00 a.m. on the day before the election, the registrars of voters must check the names of applicants returning ballots on the official registry list with “A” or “Absentee.” This sorting and checking must be completed by the day before the election, and the clerk must deliver the sorted and checked ballots to the registrars on election day. (For the 2020 state election, the clerk must deliver these ballots at 6:00 a.m. unless a later time is mutually agreed upon.)

For the 2020 state election only, the act allows town clerks to deliver sorted and checked ballots to the registrars before election day for the purpose of beginning certain pre-counting procedures (see below). Specifically, it allows any ballots received, sorted, and checked by 5:00 p.m. on the fourth day before the election (i.e., Friday, October 30) to be delivered to the registrars at that time. It similarly allows ballots received, sorted, and checked by 5:00 p.m. on the third and second days before the election (i.e., Saturday, October 31 and Sunday, November 1, respectively) to be delivered to the registrars at those times.

In each case, the act allows the clerk to deliver the ballots at a later time that he or she mutually agrees upon with the registrars. The act also requires the (1) clerk to include with the ballots an up-to-date copy of the duplicate checklist and (2) clerk and registrars to execute an affidavit of delivery and receipt stating the number of ballots delivered. Existing law applies these requirements to ballots delivered on election day.

§§ 3 & 4 — REQUIREMENTS FOR OPTING IN TO PRE-COUNTING

Location Designation and Notice to the Secretary of the State

Under the act, any municipality opting to conduct pre-counting procedures for the 2020 state election must do so at a central location. The registrars of voters must designate the location in writing to their respective town clerks at least 10

days before the election (i.e., Saturday, October 24), and the location must be published in the election warning (see below).

Under the act, if a municipality opts to use pre-counting procedures, the registrars of voters and town clerk must jointly certify this decision to the secretary of the state, in writing, at least 10 days before the election (i.e., Saturday, October 24). The certification must include the (1) name, street address, and relevant contact information for the designated central location and (2) name and address of each absentee ballot counter.

The secretary must approve or disapprove the certification within two days after receiving it. The act also allows her to require the municipality to appoint one or more additional absentee ballot counters.

Election Warning

The law requires the town clerk or assistant town clerk to warn the municipality's electors of a state election by publishing the warning in a newspaper. By law, the warning must be published from five to 15 days before the election. For the 2020 state election, the act instead requires that the warning be published from four to seven days before the election (i.e., Tuesday, October 27 to Friday, October 30).

Absentee Ballot Counting Locations

By law, municipalities must count absentee ballots at a central location unless the registrars of voters agree to count them in each polling place. The act specifies that any ballots delivered to the registrars on election day (i.e., those not delivered for pre-counting procedures) may still be counted in the polling places.

§ 5 — AUTHORIZED PRE-COUNTING PROCEDURES

By law, absentee ballot sets consist of an outer envelope, which contains information about the elector (e.g., name and address), and an inner envelope, which contains the elector's marked ballot and a statement signed by the elector under penalty of false statement in absentee balloting. (By law, false statement in absentee balloting is a class D felony (see Table on Penalties)).

The law sets out numerous absentee ballot counting steps, which are generally completed by absentee ballot counters or moderators. It requires that each of these steps be completed beginning on election day.

For municipalities that opt to use pre-counting procedures for the 2020 state election (see above), the act authorizes them to complete the following steps before election day (beginning at 5:00 p.m. on Friday, October 30):

1. remove the inner envelopes from the outer envelopes;
2. report to the moderator separately the total number of absentee ballots received and the total number of presidential and overseas ballots received; and
3. reject ballots for which the inner envelope statement is improperly executed.

Under the act, once the above steps are completed, the absentee ballots must be counted beginning on election day in accordance with existing law.

Securing the Absentee Ballots Until Election Day

The act requires that absentee ballots be secured throughout any pre-counting process. Specifically, the ballots must be secured according to (1) instructions from the secretary of the state and (2) existing statutory requirements on securing absentee ballots and related materials. Under the act, the secretary must issue these instructions at least 10 days before the election (i.e., Saturday, October 24).

§ 6 — ABSENTEE BALLOT DEPOSITORY ENVELOPES

Existing law requires the town clerk after the election to seal in depository envelopes (1) opened absentee ballot envelopes, (2) rejected ballots, and (3) counted ballots. The law prohibits these depository envelopes from being opened except if ordered by a court or SEEC or in the event of a recanvass.

Prior law allowed these envelopes to be opened within five days of the election if there is a recanvass. The act instead allows them to be opened within five business days after the election. It thus conforms to deadlines in existing law, which require recanvass officials to meet by the fifth business day after the election to recanvass the returns (CGS §§ 9-311 to -311b).

The act makes a similar change for the 2020 state election by allowing depository envelopes to be opened within seven business days after the election if there is a recanvass. This provision conforms to PA 20-3, JSS (§ 13), which requires

recanvass officials to meet by the seventh (rather than the fifth) business day after the 2020 state election.

§ 7 — DEADLINE FOR WITHDRAWING A SUBMITTED ABSENTEE BALLOT

Existing law requires electors who submit an absentee ballot to go to the town clerk's office and request to withdraw the absentee ballot if they later find they are able to vote in person. For the 2020 state election, PA 20-3, JSS (§ 7), moves up this deadline from 10:00 a.m. on election day to 5:00 p.m. the day before the election.

The act moves this deadline up further for the 2020 state election to 5:00 p.m. on the fourth day before the election (i.e., Friday, October 30), the same time municipalities may begin pre-counting procedures under the act (see above).

BACKGROUND

PA 20-3, JSS

Among other things, PA 20-3, JSS, makes numerous changes that apply only to the November 3, 2020, state election, including (1) allowing eligible electors to vote by absentee ballot due to the COVID-19 pandemic, (2) allowing the return of completed absentee ballots in secure designated drop boxes, and (3) changing various deadlines and timeframes associated with processing absentee ballots and canvassing and reporting election returns.

PA 20-5, September 2020 Special Session—HB 7006
Emergency Certification

AN ACT CONCERNING EMERGENCY RESPONSE BY ELECTRIC DISTRIBUTION COMPANIES, THE REGULATION OF OTHER PUBLIC UTILITIES AND NEXUS PROVISIONS FOR CERTAIN DISASTER-RELATED OR EMERGENCY-RELATED WORK PERFORMED IN THE STATE

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§ 8 — HEARING COST RECOVERY

Prohibits EDCs from recovering costs related to PURA rate-making hearings

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§§ 1-3 — PERFORMANCE-BASED REGULATION (PBR)

Requires the Public Utilities Regulatory Authority (PURA) to initiate a proceeding by June 1, 2021, to adopt a PBR framework; requires PURA to consider implementing financial performance-based incentives and penalties and performance-based metrics for periodic reviews and general rate hearings

PURA Proceeding to Adopt a PBR Framework (§ 1)

The act requires the Public Utilities Regulatory Authority (PURA) to initiate a proceeding by June 1, 2021, to investigate, develop, and adopt a framework for implementing performance-based regulation of each electric distribution company (EDC) (i.e., Eversource and United Illuminating). It also allows PURA to initiate a proceeding to investigate, develop, and adopt a framework to implement PBR for gas and water companies that is consistent with the provisions described below.

The act requires the framework to contain standards and metrics to measure how EDCs perform in meeting objectives in the ratepayers' interest or the public's benefit. These objectives may address the following, including:

1. safety, reliability, and emergency response;

2. cost efficiency, affordability, and equity;
3. customer satisfaction and municipal engagement;
4. resilience; and
5. advancement of state environmental and policy goals (e.g., the state's greenhouse gas reduction goals or goals included in the state's Integrated Resource Plan (IRP) or Comprehensive Energy Strategy (CES)).

Under the act, "resilience" is the ability to prepare for and adapt to changing conditions and withstand and recover rapidly from deliberate attacks, accidents, or naturally occurring threats or incidents, such as those associated with climate change.

The act requires the framework to identify how and when PURA will use PBR standards and metrics to (1) apply rate-making principles established in existing law to regulate utilities and (2) determine the relative adequacy of a company's service and the reasonableness and adequacy of proposed rates during a periodic rate review.

Under the act, the framework must also identify specific mechanisms to align utility performance with its standards and metrics for EDCs, as well as those PURA must consider implementing for other regulated utilities (see § 3). These mechanisms must include a review of the effectiveness of an EDC's revenue decoupling mechanism (i.e., a billing charge that allows a company to make up any distribution revenue lost due to a lower than expected sales volume).

PBR for Rate Hearings (§ 2)

By law, when a regulated utility proposes to amend its rates, PURA must investigate whether the proposed rates conform to rate-making principles established in law. The act allows PURA, as part of that investigation, to evaluate the reasonableness and adequacy of the company's service and performance using metrics or standards developed under the PBR framework. Under the act, PURA may also determine whether the company's allowed rate of return is reasonable based on PURA's evaluation of its performance on these metrics.

Financial Performance-Based Incentives and Penalties (§ 3)

By law, at least every four years PURA must conduct a periodic review and investigation of gas companies and EDCs or conduct a general rate hearing. Prior law (1) authorized PURA to approve performance-based incentives as part of a periodic review and (2) required PURA to include in its approval a framework to monitor performance on certain criteria, including the company's return on equity, reliability, and quality of service. The act instead requires PURA to consider implementing financial performance-based incentives and penalties and performance-based metrics for periodic reviews and general rate hearings.

Under prior law, if PURA approved performance-based incentives for a company, PURA's periodic monitoring and review of the company's performance replaced its periodic rate review. The act eliminates this provision and instead requires PURA, if it approves performance-based incentives or penalties, to include in its approval a framework to be used to monitor and review the company's performance using metrics PURA develops.

EFFECTIVE DATE: Upon passage, except that provisions on performance-based incentives and penalties are effective November 1, 2020.

§ 2 — PURA DECISION DEADLINES IN RATE CASES

Effectively extends PURA's deadlines for decisions in rate cases by (1) 200 days for EDCs and gas companies and (2) 50 days for all other regulated utilities

The act changes the deadline for PURA to issue final decisions on rate cases, extending it by 200 days for EDCs and gas company filings and by 50 days for all other regulated utility filings. Prior law required PURA to issue a final decision for utility rate cases within 150 days after the new rate's proposed effective date. Under the act, PURA must issue a final decision on (1) EDC and gas company rate cases within 350 days after the new rate's proposed effective date and (2) all other regulated utility rate cases within 200 days after the proposed effective date. The act also eliminates a provision from prior law that gave PURA a 30-day deadline extension under certain circumstances.

As under existing law, if PURA does not issue its rate case decision by the applicable deadline, then the proposed rate may become effective pending PURA's decision if the company meets certain requirements.

EFFECTIVE DATE: Upon passage

§ 4 — EDC EXECUTIVE COMPENSATION

Requires PURA to consider whether to make a utility company's rate recovery for certain executive and employee compensation dependent on the company meeting performance targets

The act requires PURA to consider whether to make rate recovery for certain compensation paid to utility company executives, officers, and employees dependent on the company achieving the performance targets established by the authority (see § 1). PURA must do this when deciding whether to allow rate recovery for any portion of an EDC's, PURA-regulated gas company's, or PURA-regulated water company's compensation packages for executives or officers, or incentive compensation for employees.
EFFECTIVE DATE: Upon passage

§ 5 — PURA RATE PROCEEDING

Allows PURA, by November 1, 2020, to initiate a proceeding to consider implementing an interim rate decrease, low-income rates, and economic development rates for EDC customers

The act allows PURA, by November 1, 2020, to initiate a proceeding to consider implementing the following rate changes for EDC customers, authorized under existing law in certain circumstances: (1) an interim rate decrease, (2) low-income rates, and (3) economic development rates.

By law, PURA must hold a hearing on the need for an interim rate decrease in certain circumstances, including when PURA finds a regulated utility may be collecting rates that are more than just, reasonable, and adequate (CGS § 16-19(g)).

Existing law also authorizes PURA to approve rate amendments for regulated utilities in order to promote the state's economic development or other policies (CGS § 16-19oo).
EFFECTIVE DATE: Upon passage

§ 6 — PURA DEADLINES FOR APPROVING UTILITY COMPANY DEBT

Extends, from 30 to 60 days, the deadline for PURA to approve or disapprove certain types of utility company debt

The act extends, from 30 to 60 days, the deadline for PURA to approve or disapprove a regulated utility company (1) issuing notes, bonds, or securities; (2) lending or borrowing funds for more than one year (unless it is for certain purposes); or (3) amending the provisions of an indenture or similar financial instrument that would affect the issuance or terms of its notes, bonds, or securities.

By law, if PURA does not disapprove the action by the deadline (or within additional time agreed to by the applicant), the action is deemed approved.
EFFECTIVE DATE: November 1, 2020

§ 7 — PURA APPROVAL OF UTILITY COMPANY MERGERS AND CHANGES OF CONTROL

Requires proportional representation for Connecticut on the boards of directors of prospective holding companies for PURA-regulated utilities; extends hearing and approval deadlines for PURA in proceedings to approve mergers or other changes in control of PURA-regulated utilities

Starting in 2021, the act generally prohibits entities from becoming a holding company of a PURA-regulated utility company unless the percentage of Connecticut-based members on the holding company's board of directors equals the percentage of the holding company's total service area that is in Connecticut (e.g., if 30% of the company's service area is in Connecticut, then 30% of its directors must be Connecticut-based). More specifically, for any application to create such a holding company filed on or after January 1, 2021, PURA can only approve the holding company if it changes the composition of its board members to reflect these proportional percentages.

The act also extends two deadlines related to PURA's approval for changes in control of a PURA-regulated utility company (e.g., through a merger, by creating a holding company, or by changing control of an existing holding company). It extends the deadline for PURA to hold a hearing on the change in control from 30 to 60 days after the application was filed. And it extends the deadline for PURA to approve or disapprove the action from 120 to 200 days after the application was filed. It also allows PURA to extend the approval deadline by an additional 30 days after notifying all parties and intervenors in the proceeding. Existing law also allows the applicant to agree to a deadline extension.
EFFECTIVE DATE: January 1, 2021

§ 8 — HEARING COST RECOVERY

Prohibits EDCs from recovering costs related to PURA rate-making hearings

The act prohibits EDCs from recovering their costs associated with attending or participating in PURA's rate-making hearings.
EFFECTIVE DATE: November 1, 2020

§ 9 — CIVIL PENALTIES FOR EMERGENCY RESPONSE

Raises the limit on civil penalties for EDCs and gas companies that fail to comply with any standard related to emergency preparation or service restoration

The act raises the limit on civil penalties PURA may impose on EDCs and gas companies that fail to comply with any standard of acceptable performance in emergency preparation or service restoration in an emergency. Existing law, unchanged by the act, requires PURA to assess penalties as ratepayer credits and, generally, sets them at $10,000 per violation. The act raises the limit on penalties from 2.5% to 4% of a company's annual distribution revenue.
EFFECTIVE DATE: Upon passage

§§ 10 & 11 — EDC CREDITS FOR OUTAGES AND COMPENSATION FOR LOST FOOD AND MEDICINE

Requires EDCs to give residential customers (1) a $25 account credit for each day that a service outage occurs for more than 96 consecutive hours after an emergency and (2) $250 compensation for food and medication lost due to a service outage that lasts for more than 96 consecutive hours; allows EDCs to request a waiver from the requirements; prohibits EDCs from recovering their costs for the credits and compensation

Starting July 1, 2021, the act requires an EDC to:

1. give its residential customers a $25 account credit for each day that a distribution system service outage occurs for the customers for more than 96 consecutive hours after an emergency (§ 10) and
2. compensate each of its residential customers with $250, in total, for any food and medication that expires or spoils due to a service outage that lasts for more than 96 consecutive hours after an emergency (§ 11).

For these purposes, an "emergency" is any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, or fire explosion.

The act prohibits the EDCs from recovering their costs for providing the credits (presumably, through their rates).

The act allows the EDCs, within 14 days after an emergency occurs, to petition PURA for a waiver from the requirements to provide account credits and compensation for lost food and medicine. The petition must include the severity of the emergency, employee safety issues, and conditions on the ground. PURA must conduct the proceeding over the petition as a contested case and the petitioning EDC must prove that the waiver is reasonable and warranted. In deciding whether to grant the waiver, PURA must consider whether the EDC received approval and reasonable funding allowances, as determined by PURA, to meet infrastructure resiliency efforts to improve the company's performance.

The act requires PURA, by January 1, 2021, to open proceedings to consider implementing the credit and compensation provisions (and their respective waivers) and establish the circumstances, standards, and methodologies needed to implement the provisions for each EDC, including any modifications to the 96-hour threshold that triggers the requirements. PURA must issue its final decisions in the proceedings by July 1, 2021.
EFFECTIVE DATE: Upon passage

§ 12 — EDC STORM RESPONSE AND MINIMUM STAFFING

Requires the EDCs to submit a report that analyzes their storm preparation and response, and requires PURA to establish minimum staffing level standards for EDC outage planning and restoration personnel
EDC Report

The act requires each EDC, by January 1, 2021, to provide PURA and the Energy and Technology Committee with a report about how it prepares and responds to storms. The report must include a cost-benefit analysis that identifies the resources spent responding to the last five storm events classified as level three, four, or five. This analysis must include a review of the number of line crew workers that distinguishes between those workers (1) directly employed by the EDC and

working full-time in the state, (2) directly employed by the EDC, but working primarily in another state, and (3) hired as contractors or subcontractors.

The report must also include, for the last five storm events classified as level three, four, or five, an analysis of the company's (1) pre-storm estimates of potential damage and service outages; (2) post-storm assessments of damage and service outages; and (3) restoration management, including access to alternate restoration resources via regional and reciprocal aid contracts.

In addition, the report must include the EDC's analysis of its infrastructure, facilities, and equipment. This must examine (1) their age and condition, and whether they were in good repair and capable of meeting operational standards; (2) whether the company is following standard industry practices for operating and maintaining them; (3) whether their maintenance has been delayed; and (4) whether the company had access to adequate replacement equipment during the last five storm events classified as level three, four, or five.

The report must also contain an analysis of the EDC's (1) planning for at-risk and vulnerable customers; (2) communication policies with state and local officials and customers, including individual customer restoration estimates and their accuracy; and (3) compliance with any emergency response standards adopted by PURA.

PURA Docket

The act requires PURA, by January 1, 2021, to either initiate a docket to review the EDCs' reports or incorporate a review of them into an existing docket. PURA must submit its final decision on the docket to the Energy and Technology Committee.

EDC Minimum Staffing Levels

The act requires PURA, after it issues its final decision on the reports, to establish minimum staffing level standards for EDC outage planning and restoration personnel, including linemen; technicians and system engineers; tree trimming crews; and personnel responsible for directing operations and communicating with state, municipal, and regional officials. The standards may reflect different staffing levels based on an emergency's severity.

The act also allows PURA to establish other EDC performance standards to ensure the reliability of the company's services in an emergency and to prevent, minimize, and restore any long-term service outages or disruptions caused by an emergency.

If PURA finds that an EDC failed to comply with these standards or any PURA order, the act requires PURA to make orders to enforce the standards. It also specifies that PURA may levy civil penalties as allowed under existing law, which cannot be included as operating expenses for ratemaking purposes (and so, are not recoverable through rates).

The law, unchanged by the act, requires PURA to establish similar minimum staffing level standards and performance standards for regulated utility companies in an emergency in which more than ten percent of their customers are without service for more than 48 consecutive hours (CGS § 16-32h(d)&(e)).

EFFECTIVE DATE: Upon passage

§ 13 — CUSTOMER RESTITUTION

Allows PURA to order certain entities to pay customers restitution for failure to comply with laws, orders, or regulations

The act expands the types of penalties that PURA must impose on certain entities that fail to obey or comply with the applicable energy statutes or PURA's orders or regulations. Prior law required PURA to impose a fine for these violations, but the act allows PURA to also order restitution or both a fine and restitution. Under the act, the fine, restitution, or combined fine and restitution cannot exceed existing limits on the amount of the fine (generally, $10,000 per offense unless otherwise specified).

The act also allows PURA to direct a portion of any fine it levies to be paid to a nonprofit agency engaged in energy assistance programs. PURA must name the nonprofit in its decision or violation notice.

EFFECTIVE DATE: Upon passage

§ 14 — ISO-NE STUDY

Requires DEEP to evaluate the state's reliance on wholesale energy markets administered by ISO-NE and recommend alternatives

The act requires the Department of Energy and Environmental Protection (DEEP) commissioner, by January 15, 2021, to submit to the Energy and Technology Committee a report that:

1. evaluates whether the state's reliance on the wholesale energy markets administered by the regional independent system operator (i.e., ISO-New England) benefits the state's ratepayers and
2. recommends alternative approaches to better meet the state's need for clean, reliable, and affordable electricity in a way that leverages competition, reduces ratepayer risk, and achieves the state's public policy goals, including its greenhouse gas reduction goals.

EFFECTIVE DATE: Upon passage

§ 15 — MICROGRID GRANT AND LOAN PROGRAM EXPANSION

Expands DEEP's microgrid grant and loan program to cover resilience projects and requires DEEP to prioritize funding proposals that benefit vulnerable communities

The act expands the DEEP-administered microgrid grant and loan program to also support resilience projects. Under the act, resilience projects provide an ability to prepare for and adapt to changing conditions and withstand and recover rapidly from deliberate attacks, accidents, or naturally occurring threats or incidents such as those associated with climate change.

The act expands the allowed uses for funding from the program to include:

1. community planning that includes microgrid or resilience project feasibility, including cost-benefit analyses;
2. assistance for the cost of design, engineering services, and interconnection infrastructure for resilience projects;
3. resilience projects connected to storage systems or certain distributed energy systems; and
4. non-federal cost sharing for grant or loan applications for projects or programs that include microgrids or resilience.

When granting funding under the program, the act requires DEEP to prioritize proposals that benefit vulnerable communities. Under the act, these communities are populations that may be disproportionately impacted by the effects of climate change, including:

1. low- and moderate-income communities;
2. environmental justice communities (i.e., distressed municipalities and census block groups for which at least 30% of the population consists of low-income people who are not institutionalized and have an income below 200% of the federal poverty level);
3. communities eligible for the federal Community Reinvestment Act program;
4. populations with increased risk and limited means to adapt to the effects of climate change; or
5. any others as further defined by DEEP in consultation with community representatives.

The act allows DEEP to hire a technical consultant to help implement the program using any bond funds authorized for microgrids or resilience. It also specifies that the program can accept proposals from nonprofit and academic entities seeking to develop eligible projects and eliminates an obsolete reporting requirement.

EFFECTIVE DATE: Upon passage

§ 16 — NEXUS RULES FOR CERTAIN DISASTER- OR EMERGENCY-RELATED WORK

Establishes tax nexus rules and registration and licensure exemptions for certain out-of-state businesses and employees who perform certain disaster-related work on critical infrastructure

The act establishes tax nexus rules for out-of-state businesses or employees who come to Connecticut to perform disaster- or emergency-related work on critical infrastructure during a disaster response period. Tax nexus refers to the amount and type of activity that must be present before a person or business is subject to a state's taxing authority. State law establishes rules for determining nexus, subject to federal constitutional restrictions.

Under the act, regardless of existing tax laws, operating or being present in the state to perform this work is not enough to require out-of-state businesses or certain out-of-state employees to:

1. pay (a) property tax, (b) tax on income derived from disaster-related work during a disaster response period, or (c) use tax on tangible personal property that is temporarily in the state during the disaster response period to help the employees in their work or
2. submit any tax filing to the state.

The act's tax nexus rules for out-of-state employees apply only to employees residing in states with similar rules or no personal income tax. (Out-of-state businesses and employees performing work during a disaster response period are subject

to all other applicable state taxes and fees during this period (e.g., sales tax).) Out-of-state businesses must disregard activities covered under the act when filing returns for income or gross receipts taxes, including a combined unitary return.

Additionally, under the act, out-of-state businesses and all out-of-state employees who are present in Connecticut to perform disaster- or emergency- related work during a disaster response period are exempt from (1) registering with the state or any of its political subdivisions and (2) state licensure requirements, as long as the business or employee is properly licensed to perform disaster- or emergency-related work under another state's laws. But upon the secretary of the state's (SOTS) request, out-of-state businesses and registered businesses affiliated with them must submit certain information in a written statement.

Under the act, out-of-state businesses and employees who remain in the state after the disaster response period are subject to all laws that set standards to establish presence in the state and must follow any applicable laws.

EFFECTIVE DATE: Upon passage

Applicability

The act applies to out-of-state businesses and out-of-state employees who perform disaster-related or emergency-related work during a disaster response period.

Out-of-State Businesses. Under the act, an "out-of-state business" is a business entity that, in the income or tax year immediately before the income or tax year in which the state disaster or emergency occurred, (1) was not registered with the state or any of its political subdivisions, (2) did not submit any tax filings to the state, and (3) did not derive income from sources in the state. The term includes business entities that satisfy the above requirements except that they (1) were present or conducted operations in the state to perform disaster- or emergency-related work or (2) are affiliated with a business registered in the state only by common ownership. The act applies only to businesses that would be subject to the following taxes if they conducted business or derived income from in-state sources: corporation business, community antenna and satellite television companies, utility companies, electric generation, or pass-through entity taxes.

Out-of-State Employees. An "out-of-state employee" is an employee of an out-of-state business who does not work in the state, except for performing disaster- or emergency-related work for the business during a disaster response period. The tax nexus provisions apply only to those employees who reside in states that either (1) have substantially similar laws regarding tax nexus for disaster- or emergency-related work or (2) do not impose a personal income tax.

Disaster-Related or Emergency-Related Work. Under the act, "disaster-related or emergency-related work" means repairing, renovating, installing, constructing, or rendering services to critical infrastructure in the state that has been damaged, impaired, or destroyed by a disaster or emergency declared by the governor or the president (i.e., a "state disaster or emergency"). "Critical infrastructure" refers to real property and tangible personal property that is owned or used by a public service company or telecommunications company to generate, transmit, or distribute the company's product or service in the state. It includes buildings, conduits, lines, fiber optic cables, poles, pipes, structures, and equipment.

The act applies only to work performed during a "disaster response period," meaning the period beginning 10 days before the disaster's or emergency's proclamation or declaration and ending 60 days after its declared end.

Written Statements to SOTS

The act requires any out-of-state business that is present or operates in the state to perform disaster- or emergency-related work during a disaster response period to provide a written statement to SOTS upon request, stating that the business is in the state to respond to the disaster or emergency. The statement may be submitted electronically and must include the business's name, domicile state, principal business address, telephone number, e-mail address, federal tax identification number, and date of entry into the state.

SOTS may also request a registered business that is affiliated with such an out-of-state business to provide a written statement that includes (1) the information listed above and (2) the registered business's name, principal address, telephone number, and e-mail address. A "registered business" is a business that is registered with SOTS to do business in Connecticut before the disaster or emergency.

Under the act, an out-of-state business that has received a request from SOTS for a written statement or is an affiliate of a registered business that has received such a request, may not be prevented from beginning disaster- or emergency-related work in the state before providing the written statement.

PA 20-6, September 2020 Special Session—HB 7008
Emergency Certification

AN ACT CONCERNING ENHANCEMENTS TO THE STATE'S ENVIRONMENTAL JUSTICE LAW

SUMMARY: This act changes the state's environmental justice law, which generally requires applicants seeking to construct or site certain facilities ("affecting facilities") in environmental justice communities to engage in a public participation process, by:

1. requiring, instead of allowing, applicants to post certain notices and notify elected officials for purposes of informing the public about the informal public meeting on a proposed facility;
2. deeming an application insufficient if certain notice and information disclosure requirements are not met;
3. requiring a community environmental benefit agreement in municipalities already hosting at least five affecting facilities (see BACKGROUND);
4. requiring the municipal chief elected official or town manager to participate in community environmental benefit agreement negotiations and, if the municipality's legislative body approves it, implement, administer, and enforce the agreement;
5. expanding the lists of (a) impacts reasonably related to the facility that may be mitigated through a community environmental benefit agreement and (b) mitigation activities that may be funded through an agreement; and
6. specifying that the terms of a community environmental benefit agreement approved on or after November 1, 2020, are not a separate and distinct basis for someone to intervene in an administrative, licensing, or other proceeding on the grounds that the proceeding involves conduct that has or may cause environmental harm.

Under the state's environmental justice law, applicants seeking a permit, certificate, or approval from the Department of Energy and Environmental Protection (DEEP) or Connecticut Siting Council for locating or expanding an affecting facility in an environmental justice community must, before filing the request, take certain steps to (1) inform local officials and the public about the proposed facility and (2) consult with officials on providing financial resources to mitigate a facility's impact.

Environmental justice communities are (1) distressed municipalities, which the Department of Economic and Community Development designates, or (2) U.S. census block groups for which at least 30% of the population consists of low-income people who are not institutionalized and have an income of less than 200% of the federal poverty level (CGS § 22a-20a).

EFFECTIVE DATE: November 1, 2020

PUBLIC NOTICE AND INVOLVEMENT

Public Participation Plan

State law requires applicants seeking a new or expanded permit or siting approval from DEEP or the Siting Council for an affecting facility in an environmental justice community to, among other things, file a "meaningful public participation plan" with the respective agency and obtain its approval of the plan before applying for the permit, certificate, or siting approval.

The law requires the plan to include the applicant's certification that he or she will undertake the plan's measures for public participation, including holding an informal public meeting that is convenient for affected residents. The applicant must provide (1) certain newspaper notice of the meeting at least 10 days, but no more than 30 days, before it occurs and (2) if applicable, a similar notice on the applicant's website.

In addition to the newspaper and online notice, prior law provided the following non-exhaustive list of ways an applicant could publicize the meeting:

1. post according to local requirements a reasonably visible sign, printed in English, on the proposed or existing facility property;
2. post according to local requirements a reasonably visible sign, printed in all languages spoken by at least 20% of the population that lives within a one-half mile radius of the proposed or existing facility property;
3. notify neighborhood and environmental groups, in writing, in languages appropriate for the target audience; and
4. notify local and state elected officials in writing.

The act requires, rather than allows, an applicant to post the signs and notify the elected officials. Notifying neighborhood and environmental groups remains discretionary.

The act also decreases the population threshold, from 20% to 15%, that triggers the requirement for posting notices in languages other than English. The percentage of individuals speaking a language must be determined according to the most recent U.S. census.

The act deems an application filed on or after November 1, 2020, insufficient if the applicant fails to meet any of the

notice requirements, except for the one concerning an English sign on the facility property. It also does this for existing law's newspaper and online notice requirements.

Informal Public Meeting

By law, at the informal public meeting the applicant must make a reasonable and good faith effort to give clear, accurate, and complete information about the proposed new or expanded facility and any potential associated environmental and health impacts. For applications filed on or after November 1, 2020, the act deems a permit, certificate, or approval application insufficient if the applicant fails to do so.

Community Environmental Benefit Agreement

By law, a municipality, facility owner, or developer can enter into a "community environmental benefit agreement," which is a written agreement in which the owner or developer agrees to develop the real property that is to be used for the new or expanded facility and provide financial resources to mitigate impacts reasonably related to the facility. But the applicant must consult with the chief elected official or officials in any municipality where the facility is to be located or expanded to evaluate the need for a community environmental benefit agreement.

The act further requires the municipality's chief elected official or town manager, as applicable, to (1) participate in the negotiations for a community benefit agreement's negotiation; (2) be the person entering into the agreement for the municipality; and (3) implement, administer, and enforce the agreement on the municipality's behalf. Agreements negotiated on or after November 1, 2020, must be approved by the municipality's legislative body before they can be implemented, administered, or enforced.

The act also makes an agreement mandatory if, at the time the application is filed on or after November 1, 2020, the municipality in which a new or expanded facility is proposed already has at least five affecting facilities. Before negotiating an agreement, the law requires the municipality to provide a public opportunity for potentially affected residents to speak on the agreement.

The act expands the non-exhaustive list of impacts that may be mitigated as part of a community environmental benefit agreement to include quality of life, asthma rates, and for environmental impacts, air quality and watercourses. The law already explicitly considers the environment, traffic, parking, and noise.

The act also expands the non-exhaustive list of projects that may be funded by mitigation efforts. Existing law lists funding for environmental education, diesel pollution reduction, biking and walking trails, park staffing, urban forestry, community gardens, and any other negotiated benefit to the environment. The act adds (1) constructing electric vehicle charging infrastructure, biking facilities, and multi-use trails; (2) providing ongoing asthma screening, air monitoring by a credentialed environmental professional, traffic study, and watercourse monitoring; and (3) establishing a wellness clinic.

BACKGROUND

Affecting Facilities

The state's environmental justice law applies to applicants seeking permits, certificates, or approval from DEEP or the Siting Council for the following types of new or expanded facilities:

1. electric generating facilities with a capacity of more than 10 megawatts;
2. sludge and solid waste incinerators or combustors;
3. sewage treatment plants with a capacity of more than 50 million gallons per day;
4. intermediate processing centers, volume reduction facilities, or multi-town recycling facilities with a combined monthly volume of more than 25 tons;
5. landfills, including those with ash, construction and demolition debris, or solid waste;
6. medical waste incinerators; and
7. major air pollution sources under the federal Clean Air Act (e.g., large factories).

The law exempts (1) parts of electric generating facilities that use fuel cells or non-emitting and non-polluting renewable resources such as wind, solar, and hydropower; (2) facilities that obtained a Siting Council certificate by January 1, 2000; and (3) facilities under the state higher education system's control with a satisfactory environmental impact evaluation (CGS § 22a-20a).

PA 20-7, September 2020 Special Session—HB 7009
Emergency Certification

AN ACT CONCERNING THE DEADLINES FOR CERTAIN PROPERTY TAX EXEMPTIONS AND MUNICIPAL MATTERS

SUMMARY: This act:

1. extends certain property tax exemption filing deadlines for taxpayers in 11 municipalities (§§ 1-14);
2. requires the State Board of Education (SBE) to pay a special education excess cost grant to Milford regardless of the statutory grant application filing deadlines (§ 15);
3. extends by five years the deadline for Bridgeport's Steel Point Infrastructure Improvement District to issue bonds to finance infrastructure improvements in the district (§ 16);
4. requires the Office of Policy and Management (OPM) to pay a $500,000 grant to Branford from the Small Town Economic Assistance Program (STEAP) for certain project costs regardless of contract provisions between the town and the Department of Economic and Community Development (DECD) (§ 17); and
5. extends indefinitely a site plan approval the Ridgefield Planning and Zoning Commission granted on May 15, 2007, if the developer takes certain actions by the approval's expiration date (§ 18).

EFFECTIVE DATE: Upon passage

§§ 1-14 — PROPERTY TAX FILING EXTENSIONS

The act allows taxpayers in 11 municipalities to claim certain property tax exemptions. Taxpayers are eligible even if they missed the filing deadline to claim the exemption or failed to provide required evidence of their federal tax-exempt status, as applicable. The following table lists the municipalities and the respective property tax exemption and grand lists.

Exemption Deadline Waivers

§	*Municipality*	*Grand List*	*Exemption*
1	Berlin	2017	Machinery and equipment used for manufacturing, biotechnology, and recycling (§ 12-81(76))
2	Berlin	2019	
3	East Haven	2017	Property held for cemetery use (§ 12-81(11))
4	Groton	2017 and 2018	Property owned, or held in trust for, any corporation organized exclusively for scientific, educational, literary, historical, or charitable purposes and used exclusively for such purposes or preserving open space land (§ 12-81(7))
5	Meriden	2018	
6	Meriden	2018	Houses of religious worship, including certain land, furniture, and equipment (§ 12-81(13))
7	Middletown	2017	Property owned, or held in trust for, any corporation organized exclusively for scientific, educational, literary, historical, or charitable purposes and used exclusively for such purposes or preserving open space land (§ 12-81(7))
8	Middletown	2018	Machinery and equipment used for manufacturing, biotechnology, and recycling (§ 12-81(76))
9	New Haven	2017	
10	Oxford	2018	
11	Plainville	2018	
12	Seymour	2017	
13	West Hartford	2019	
14	Windsor Locks	2019	Manufacturing facilities in distressed municipalities, targeted investment communities, enterprise zones, airport development zones, or other specified areas and qualifying machinery and equipment in these facilities (§ 12-81(59) & (60))

The act waives the deadline if the taxpayer files the required documents by November 1, 2020, and pays any applicable late filing fee. In each case, the tax assessor must confirm that he or she received the fee, verify the property's eligibility for the exemption, and subsequently approve the exemption. The municipality must refund any taxes, interest, and penalties paid on the property as if the claim were filed in a timely manner.

§ 15 — SPECIAL EDUCATION EXCESS COST GRANT EXTENSION

The act requires SBE to pay a special education excess cost grant for FY 21 to Milford for excess costs incurred in FY 20. These costs were for students omitted from the town's March 2020 filing regardless of the statutory grant application filing deadlines.

By law, a local or regional school district must file an excess cost grant application with the State Department of Education, in a manner prescribed by the commissioner, annually by December 1 and may submit claims for additional children or costs not included in the December filing by March 1 (CGS § 10-76g(b)).

§ 16 — STEEL POINT SPECIAL TAXING DISTRICT

The act gives Bridgeport's Steel Point Infrastructure Improvement Taxing District five additional years to issue bonds for making public improvements before Bridgeport's city council may vote to merge the district with the city. Prior law allowed the council to do so if the district failed to issue bonds by July 1, 2020. The act extends the deadline for the district to issue bonds to July 1, 2025.

§ 17 — STEAP GRANT TO BRANFORD

The act requires the OPM secretary to pay a $500,000 STEAP grant to Branford for the costs of demolishing and reconstructing the Indian Neck Firehouse. OPM must do so regardless of any period of performance date related to the contract between the town and DECD.

§ 18 — RIDGEFIELD PLANNING AND ZONING COMMISSION SITE PLAN APPROVAL EXTENSION

The act extends indefinitely a site plan approval the Ridgefield Planning and Zoning Commission granted on May 15, 2007, and subsequently extended for the construction of residential multifamily structures. Under the act, the approval, including any modifications to the site plan, does not expire as long as the applicant has obtained all of the necessary building permits and started construction by the approval's expiration date.

The act's extension applies regardless of the law that makes certain land use approvals valid for between nine and 14 years (CGS § 8-3(m)).

PA 20-8, September 2020 Special Session—HB 7010
Emergency Certification

AN ACT CONCERNING THE AUTHORIZATION OF STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS, THE RECOGNITION OF GOODWIN UNIVERSITY AS A LOCAL EDUCATION AGENCY FOR PURPOSES OF FEDERAL LAW, CERTAIN EXCLUSIONS TO THE CALCULATION OF A SCHOOL DISTRICT'S MINIMUM BUDGET REQUIREMENT, AND DELAYING CERTAIN REVISIONS TO THE LAW REGARDING THE PROVISION OF CONSTRUCTION MANAGEMENT SERVICES

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Authorizes 12 school construction grants totaling $209.2 million to reimburse towns and local school districts for a percentage of eligible school construction costs

§§ 2-7 — PROJECT EXEMPTIONS, WAIVERS, AND MODIFICATIONS

Exempts six school construction projects from statutory and regulatory requirements to allow them to, among other things, qualify for state reimbursement grants or higher reimbursement percentages for these grants

§ 8 — NONPROFIT, INDEPENDENT MAGNET SCHOOL OPERATORS

Applies state laws and regulations related to public school operations, including those on state aid and grant eligibility, to certain interdistrict magnet school operators

§ 9 — MINIMUM BUDGET REQUIREMENT AND COVID-19 EXPENDITURES

Allows school districts to exclude certain local or federal supplemental funds received for COVID-19-related expenditures from their MBR calculations in the fiscal years after FYs 20 and 21

§ 10 — AWARDING SCHOOL CONSTRUCTION CONTRACTS FOR CONSTRUCTION MANAGEMENT SERVICES

Suspends, until July 1, 2021, recent changes to the law addressing the awarding of contracts for construction management services and instead reverts to selection criteria that were required by law prior to July 1, 2020

§ 1 — SCHOOL CONSTRUCTION GRANT COMMITMENTS

Authorizes 12 school construction grants totaling $209.2 million to reimburse towns and local school districts for a percentage of eligible school construction costs

Under the state school construction grant program, the state reimburses towns and local school districts for a percentage of eligible school construction costs (with less wealthy towns receiving a higher reimbursement percentage and wealthier towns receiving a lower reimbursement). The towns pay the remaining costs.

This act authorizes 12 school construction grants totaling $209.2 million toward total project costs of $501.3 million. The table below shows the districts, schools, projects, estimated costs and grants, and reimbursement rates for each of the 12 authorized projects.

EFFECTIVE DATE: Upon passage

New School Construction Grant Commitments

District	*School*	*Project*	*Estimated Project Costs*	*Estimated Grant*	*Reimbursement Rate*
Brookfield	New Elementary School	New	$78,141,446	$16,745,712	21.43%
Darien	Ox Ridge Elementary School	New	63,000,000	6,747,300	10.71%
Mansfield	New Mansfield Elementary School	New	50,512,000	33,014,643	65.36%
New Britain	Chamberlain Elementary School	Renovation	50,000,000	39,820,000	79.64%
New Fairfield	New Fairfield High School	New	84,220,000	23,766,884	28.22%

District	School	Project	Estimated Project Costs	Estimated Grant	Reimbursement Rate
New Fairfield	Consolidated Early Learning Academy	Extension/ Alteration	29,190,000	11,156,418	38.22%
Fairfield	Mill Hill Elementary School	Extension/ Alteration	22,000,600	5,735,556	26.07%
Hamden	Hamden Middle School	Extension/ Alteration	11,223,900	7,496,443	66.79%
Manchester	Bowers Elementary School	Renovation	32,800,000	21,789,040	66.43%
Manchester	Buckley Elementary School	Renovation	29,400,000	19,530,420	66.43%
Norwalk	Jefferson Elementary School	Renovation	33,355,000	10,840,375	32.50%
Winchester	Mary P. Hinsdale School	Renovation	17,425,000	12,509,408	71.79%
Total			**501,267,946**	**209,152,199**	

§§ 2-7 — PROJECT EXEMPTIONS, WAIVERS, AND MODIFICATIONS

Exempts six school construction projects from statutory and regulatory requirements to allow them to, among other things, qualify for state reimbursement grants or higher reimbursement percentages for these grants

The act exempts a group of six school construction projects from various statutory and regulatory requirements to allow them to, among other things, qualify for (1) state reimbursement grants or (2) higher reimbursement percentages for these grants. These exemptions are referred to as "notwithstandings." The table below describes the notwithstandings that the act grants.

EFFECTIVE DATE: Upon passage

Notwithstandings for School Construction Projects

Act Section	Town	School and Project	Exemption, Waiver, or Other Change
2	New Britain	Chamberlain Elementary School, renovation	Increases the project reimbursement rate from 79.64% to 95% if New Britain is an educational reform district when the act passes
3	New Britain	Pulaski Middle School, roof replacement	Increases the project reimbursement rate to 95% if New Britain is an educational reform district when the act passes (FY 2020 reimbursement rate is 79.64%*)
4	New Britain	Slade Middle School, roof replacement	Increases the project reimbursement rate to 95% if New Britain is an educational reform district when the act passes (FY 2020 reimbursement rate is 79.64%*)
5	Norwalk	Norwalk High School, new construction	Waives the requirement to apply before June 30, 2019, in order to be on the 2020 priority list for the project with a maximum cost of $189 million,

Act Section	*Town*	*School and Project*	*Exemption, Waiver, or Other Change*
			provided that Norwalk files an application before December 31, 2020, and meets all other requirements for school construction projects Increases, with certain exceptions (see below), the project reimbursement rate to 80% (FY 2020 new construction reimbursement rate is 22.5%*) provided the Norwalk Board of Education: (1) establishes a pathways in technology early college high school program at the new high school that enrolls students from surrounding towns, which includes giving priority to Stamford and Bridgeport students, and (2) allows students who are not enrolled in an arts pathway program to join or participate in any arts or music program offered as part of the regular school curriculum or extracurricular arts or music-related program Exceptions to increasing the reimbursement rate to 80%: the act only increases the reimbursement rate to 50% for (1) the natatorium (i.e., indoor swimming pool) portion of the high school project (by law, natatorium construction receives 50% of that town's regular reimbursement rate) and (2) site acquisition costs of any parcels of land adjacent to the new construction project (FY 2020 reimbursement rate is 22.5%*)
6	Danbury	High school project	Waives the requirement to apply before June 30, 2019, in order to be on the 2020 priority list for the project with a maximum cost of $93 million, provided Danbury files an application before October 1, 2021, and meets all other requirements for school construction projects Increases the project reimbursement rate to 80% for purchasing a facility to be used as a high school (FY 2020 reimbursement rate is 53.93%*) Requires the Department of Administrative Services' (DAS) Office of School Construction Grants and Review (OSCGR) to establish a pilot program to approve the use of commercial space to be renovated as new for a Danbury high school Allows the design-build, renovate-as-new method to be used for converting commercial space into a school under the above pilot program, and waives statutory requirements for bidding on all the project's orders and contracts Requires (1) Danbury school district representatives to consult with OSCGR before executing a design-build construction contract for the project and (2) OSCGR to give the district all code checklists and review materials to use in obtaining plan approval from local officials Requires each design phase of the pilot program projects to be reviewed and approved by local authorities for applicable code compliance, and explicitly places responsibility on the district to ensure code compliance
7	Tolland	Birch Grove Primary School, code violation project	Increases the project reimbursement rate to 100% (FY 2020 reimbursement rate is 50.36%*)

Act Section	Town	School and Project	Exemption, Waiver, or Other Change
*FY 2020 reimbursement rates are shown for reference; actual rates depend upon the year the application is submitted and the final determination of the project type (new or renovation).			

§ 8 — NONPROFIT, INDEPENDENT MAGNET SCHOOL OPERATORS

Applies state laws and regulations related to public school operations, including those on state aid and grant eligibility, to certain interdistrict magnet school operators

The act specifies that all state laws and regulations applicable to public school operations, including those about state aid and grant eligibility, apply to certain interdistrict magnet school operators. (The act does not amend any specific state grant or aid programs to make these operators eligible for them.) Under the act, this applies to any interdistrict magnet school operator that is (1) the board of governors for a nonprofit, independent higher education institution; (2) the equivalent of such a board, on behalf of the independent higher education institution; or (3) any other third-party nonprofit corporation approved by the education commissioner. (Goodwin University in East Hartford appears to be the only magnet school operator that meets this definition (see BACKGROUND).)

Existing law, unchanged by the act, requires all interdistrict magnet schools to operate under the same laws and regulations applicable to public schools (CGS § 10-264*l*(a)).

The act also requires these interdistrict magnet school operators to receive, as allowed under federal law and regulations, any federal funds available for public school students' education.

Lastly, the act specifies that any applicable interdistrict magnet school operator must be recognized and considered a local educational agency (LEA), to the extent authorized under federal law and for purposes of state education law (CGS, Title 10). Federal law generally defines an LEA as a public board of education or other public institution or agency that has administrative control and direction of a public elementary or secondary school (20 USC § 7801(30)). State statutes do not define the term "LEA."

EFFECTIVE DATE: Upon passage

§ 9 — MINIMUM BUDGET REQUIREMENT AND COVID-19 EXPENDITURES

Allows school districts to exclude certain local or federal supplemental funds received for COVID-19-related expenditures from their MBR calculations in the fiscal years after FYs 20 and 21

For FYs 20 and 21, the act allows public school districts to exclude from their minimum budget requirement (MBR) calculation for the next fiscal year certain local supplemental appropriations or federal funds they received to cover costs associated with COVID-19. It explicitly allows alliance districts to exclude these expenditures from their calculation, as well. The MBR, which the legislature reestablishes on a biennial basis, requires towns to budget at least a minimum amount for education in each fiscal year.

Under the act, local supplemental appropriations include those from the town's (1) board of finance, (2) board of selectmen for a town having no board of finance, or (3) authority making appropriations for the school district. Districts must use these local supplemental appropriations for COVID-19 expenditures that the school district's budgeted education appropriation for that fiscal year could not cover. The act also applies to federal funds received under the CARES Act (Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136).

EFFECTIVE DATE: Upon passage

§ 10 — AWARDING SCHOOL CONSTRUCTION CONTRACTS FOR CONSTRUCTION MANAGEMENT SERVICES

Suspends, until July 1, 2021, recent changes to the law addressing the awarding of contracts for construction management services and instead reverts to selection criteria that were required by law prior to July 1, 2020

The act suspends, until July 1, 2021, recent changes made to the law addressing how school construction contracts are awarded for construction management services (see PA 19-1, July Special Session). It instead reverts to selection criteria that were required by law prior to July 1, 2020.

Under existing law and unchanged by the act, most contracts and orders for school construction receiving state

assistance must be awarded to the lowest responsible qualified bidder following a public bidding invitation. The law provides exceptions for contracts for construction management and a few other professional services, which instead must be awarded from a pool of up to the four most responsible qualified proposers after a public selection process.

Construction Managers

Under prior law, an awarding authority (e.g., board of education) had to evaluate certain elements of a construction manager proposal, including whether the construction manager intends to self-perform any element of the project. The act suspends the requirement to consider whether the manager intends to self-perform elements of the project, and related requirements, until July 1, 2021, when it resumes as effective law.

It similarly suspends provisions that:

1. allow awarding authorities, upon the written approval of the DAS commissioner, to permit a construction manager to self-perform part of the work if the authority and the commissioner determine that the manager's self-performance will be more cost-effective than using a subcontractor (and must consider whether there is any other benefit to the awarding authority);
2. require all work not performed by the construction manager to be performed by trade subcontractors selected by a process the awarding authority and the commissioner approve;
3. require the construction manager's contract to include a guaranteed maximum price for the cost of construction, which must be determined within 90 days after the selection of the trade subcontractors; and
4. prohibit construction from beginning before this determination, except for work relating to site preparation and demolition.

The act suspends all the above provisions, including the specifics related to subcontractors, until July 1, 2021, when they will again take effect.

Under existing law, unchanged by the act, the following additional items must also be considered when selecting a construction services manager:

1. the proposer's project price;
2. experience with work of similar size and scope;
3. organizational and team structure;
4. past performance data, including adherence to project schedules and budgets and the number of change orders;
5. the approach to the work required for the contract;
6. documented contract oversight capabilities; and
7. any project-specific criteria.

EFFECTIVE DATE: Upon passage

BACKGROUND

Magnet School Operators

Almost all magnet schools are operated by either a local board of education or regional educational service center (RESC). However, Goodwin University is a nonprofit higher education institution that operates two public magnet schools at the Goodwin campus in East Hartford in collaboration with LEARN, the RESC based in New London. The university, through Goodwin College Educational Services, Inc., is the only nonprofit higher education institution that operates magnet schools in the state.

PA 20-9, September 2020 Special Session—HB 7001
Emergency Certification

AN ACT REVISING PROVISIONS OF THE TRANSFER ACT AND AUTHORIZING THE DEVELOPMENT AND IMPLEMENTATION OF A RELEASE-BASED REMEDIATION PROGRAM

SUMMARY: This act transitions the state from its transfer-based approach to property remediation (i.e., the "Transfer Act") to a release-based approach. The release-based approach becomes effective when the Department of Energy and Environmental Protection (DEEP) commissioner adopts the regulations described below. The act generally applies the

release-based system to releases (e.g., spills) created or maintained once these regulations are adopted. Properties subject to the Transfer Act on or before this date generally remain subject to it until they fulfill its requirements.

The state's Transfer Act requires the disclosure of environmental conditions when certain properties or businesses, referred to as "establishments," are transferred. It generally applies to properties on which, or a business operation from which, (1) hazardous waste was generated or processed or (2) a dry cleaning, furniture stripping, or vehicle body repair business operated. The law sets out several specific exemptions from its requirements (CGS § 22a-134 *et seq.*).

Depending on the property involved, the Transfer Act may require investigation; monitoring; or remediation in compliance with the state's clean-up standards, known as the Remediation Standard Regulations (RSRs) (Conn. Agencies Regs., §§ 22a-133k-1 to -3). When an establishment is transferred, one of four forms must be filed with DEEP (i.e., Forms I, II, III, or IV), and the person signing the form's certification is responsible for the property's conditions. The type of form that must be filed depends on the environmental condition and investigation, if any, of the property.

Under the act, the DEEP commissioner must adopt regulations for reporting and remediating releases of oil, petroleum, chemical liquids or solids, liquid or gaseous products, or hazardous waste to the land or waters of the state. The regulations must include provisions about remediation supervision, verification, auditing, and any required fees. They must also provide tiers of releases, based on risk, that assign the required level of supervision and verification for each tier. The act establishes a working group to provide advice and feedback about the regulations.

Separately, the act makes many changes to the Transfer Act. Principally, it (1) eliminates or modifies several exemptions to the definition of "transfer of establishment" and (2) limits the circumstances under which certain parcels are deemed to be establishments. It also exempts conveyances of units in residential common interest communities from the definition of "transfer of establishment" and instead requires declarants (i.e., developers) to take certain actions before conveying units in communities that are establishments.

Additionally, the act replaces several references to "environmental land use restrictions" (ELURs) with references to "environmental use restrictions" (EURs), which appears to conform to proposed revisions to DEEP regulations. It also makes minor changes to Form IV's required contents to conform to DEEP regulations. Lastly, the act makes minor, technical, and conforming changes, such as adding internal references (§§ 1 & 6-8).

EFFECTIVE DATE: Upon passage

§§ 15-23 — NEW RELEASE-BASED REMEDIATION PROGRAM

General Requirements and Applicability (§§ 16 & 17)

The act prohibits any person from creating or maintaining a release to the land and waters of the state in violation of the act's release-based remediation requirements. A person that does so must, upon its discovery, report and remediate the release according to procedures and standards in new regulations the act requires DEEP to adopt (see "Required Regulations," below). Failing to comply with the reporting and remediation requirements, and any associated regulations, makes a person liable for costs the DEEP commissioner or another person incurs to contain, remove, or mitigate any of the release's effects.

The act generally exempts releases that must be investigated and remediated under the Transfer Act from having to meet the act's new release-based remediation requirements. However, releases on Transfer Act properties are subject to the new requirements if they occurred before a property transfer form was filed and they were not discovered until (1) after the commissioner approved the remediation, (2) the date of a Form III or IV verification, or (3) the date of a Form I or II filing.

Releases occurring after the filing of a property transfer form generally must follow the act's new release-based remediation requirements, but if a Phase II investigation (i.e., often involving soil or groundwater samples) occurs after filing a Form III or Form IV, then only releases happening after the investigation are subject to the new requirements.

The act specifies that, on its own, release data available or created before the regulations' adoption do not trigger the release-based requirements. Additionally, the act excludes from these requirements certain releases at properties that are part of an existing DEEP or Department of Economic and Community Development (DECD) brownfields program. The exclusion applies to releases (1) discovered before the applicable brownfields program's remediation requirements are fully met or (2) that occurred before, but are discovered after, satisfying the brownfields program's remediation requirements. Releases occurring after fully meeting a brownfields program's requirements are subject to the new provisions.

Definitions (§ 15)

Under the act, a "person" includes an individual; a firm, partnership, association, corporation, or limited liability company (LLC); the federal government; the state or an instrumentality or subdivision of the state, such as a municipality or its organizations with authority to levy and collect taxes; or other entity.

"Person" also includes a firm's, partnership's, association's, or corporation's associated officer or governing or managing body or an LLC's associated member or manager if the officer, body, member, or manager:

1. is in a position of responsibility that allows for influencing corporate policies or activities;
2. influenced the corporate actions or failures to act that caused a violation of the act's release-based provisions; and
3. facilitated the violation.

A "release" is any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of oil, petroleum, chemical liquids or solids, hazardous waste, or liquid or gaseous products into or onto any waters and land surface in the state that is not authorized under the state's environmental protection laws. The definition explicitly excludes automotive exhaust and fertilizer or pesticide application consistent with its labeling.

"Remediation" refers to (1) determining a release's nature and extent according to prevailing standards and guidelines and (2) containing, removing, and mitigating a release, including reducing pollution by monitoring natural attenuation (i.e., reducing contaminants without human intervention).

Regulations (§ 19)

The act requires the DEEP commissioner to adopt, amend, or repeal regulations, as needed and proper, to carry out the new, release-based remediation program. It establishes a working group in DEEP to provide advice and feedback on the regulations.

Further, in adopting the regulations, the act requires the commissioner to incorporate the requirements of other clean-up provisions set in state law to assure consistency, clarity, and efficiency when applying remediation requirements.

Working Group. The act's working group must be co-chaired by the DEEP and DECD commissioners, or their designees, and includes the following additional members:

1. chairpersons and ranking members of the Environment and Commerce committees;
2. environmental transaction attorneys;
3. commercial real estate brokers;
4. licensed environmental professionals (LEPs);
5. representatives of (a) the Connecticut Manufacturers' Collaborative, (b) environmental advocacy groups, (c) the Environmental Professionals Organization of Connecticut, (d) municipalities, (e) the Brownfields Working Group (see BACKGROUND), (f) the Connecticut Conference of Municipalities and the Connecticut Council of Small Towns, and (g) the Council on Environmental Quality; and
6. any other interested members of the public the DEEP commissioner designates.

The DEEP commissioner must convene the working group's meetings. The group must meet monthly until the commissioner adopts the regulations.

Regulation Content. The regulations must include at least the following components:

1. release reporting requirements, including threshold reportable quantities and concentrations;
2. remediation procedures and deadlines, including public participation;
3. remediation standards, including EURs;
4. verification and commissioner remediation audits;
5. remediation supervision, based on (a) pollutant type, concentration, or volume or (b) harm to public health; and
6. any required fees.

The regulations must also provide separate tiers of releases based on risk, which the commissioner determines, and on the following release aspects:

1. existence, source, nature, and extent;
2. nature and extent of the immediate and future danger to public health, safety, welfare, and the environment;
3. magnitude and complexity of the actions needed to assess, contain, or remove it;
4. whether the proposed remediation will leave behind pollutants that need to be managed through risk mitigation; and
5. how much oversight the commissioner needs to provide to ensure compliance with the act.

Depending on the tier involved, the act provides that an LEP may supervise the remediation of certain releases without verification or commissioner supervision. LEPs are DEEP-licensed individuals who are qualified to engage in activities and client services associated with investigating and remediating pollution and pollution sources (CGS § 22a-133v). "Verification" refers to an LEP's written opinion on a commissioner-prescribed form that a release's remediation meets the applicable standards.

Reporting Releases (§ 19)

Type and Timeframe. The act requires the commissioner to specify in the regulations the types of releases that must be reported and the timeframe for doing so.

The act allows for the regulations to have reporting timeframes based on release risk level. Specifically, they may apply the quickest reporting time requirement to releases that (1) pose an imminent or substantial human health or environmental threat, such as those in residential areas, parks, and schools; (2) are a higher risk to human health or the environment; or (3) are near drinking water supplies. The regulations must also provide a way to amend or retract an erroneous release report.

Exemptions. The act allows for the regulations to exempt a release from being reported if, once it is discovered, it can be remediated (1) by containment, removal, or mitigation and (2) in a time and manner the regulations set. The regulations must, however, require the person cleaning up the property to keep certain records according to a specified schedule.

The act also exempts from reporting under its provisions releases that already must be reported to DEEP by vessel masters, people responsible for loading and unloading terminals, vehicle operators, and others under an existing water pollution control law.

Remediation Standards (§ 19)

The act requires the DEEP commissioner to do the following when establishing the standards that must be met when remediating releases:

1. consider DEEP's existing standards for remediating pollution at hazardous waste disposal sites and other properties that were subject to a spill;
2. give preference to permanent cleanup methods, if feasible;
3. provide flexibility, when appropriate, for LEPs to establish and implement risk-based alternative cleanup standards that consider site use, exposure assumptions, geologic and hydrogeologic conditions, and the released substance's physical and chemical properties;
4. consider groundwater classifications and any other factor she deems appropriate; and
5. provide less stringent standards than what is needed for residential land use under certain conditions and specify the types of industrial or commercial land uses for which the property may be used after remediation.

The less stringent standards are for sites in areas with (1) a GB or GC groundwater classification that are historically used for industrial or commercial purposes; (2) no commissioner order, consent order, or stipulated judgment concerning the release; and (3) an EUR executed after remediation.

Release Database (§ 17)

The act requires DEEP to provide, within available resources, a publicly accessible, online database for all submitted release reports and verifications. The database must enable document searching and electronic document submission. If the database is not available when the regulations are adopted, the act requires that DEEP have a progress update published in the *Environmental Monitor*.

Verification Audits (§§ 19 & 20)

Purpose. The act requires the DEEP commissioner to audit enough verifications to ensure (1) protection of human health and the environment and (2) a high frequency of compliance with the regulations.

Audit Types. Under the act, the adopted regulations must use multiple auditing levels and prioritize auditing higher risk releases that may harm human health or the environment. The auditing levels may include the following:

1. screening documents or forms submitted to DEEP;
2. a thorough evaluation of the verification that includes a property inspection or request for additional information about a release's investigation or remediation; and
3. a targeted audit of specific issues identified in screening documents or forms, conditions of a particular release, or issues that present a higher risk to human health or the environment.

Number of Audits. The regulations must also authorize the commissioner to audit any verifications and set goals for how many audits she must conduct. The audit goals must be at least (1) 20% of verifications for releases from at least one tier and (2) for the other tiers, at a frequency based on how many verifications are submitted for releases in each tier.

Timeframes. The act requires that the regulations establish timeframes for beginning audits. The timeframes must be within one year after verification.

Reporting. Starting two years after the regulations' adoption, the commissioner must begin annually reporting to the

governor and the Environment and Commerce committees on the verification audits and post the report on DEEP's website. The report must include, for the previous year, the number of reported releases; the number of submitted verifications and conducted audits; audit results; and any recommendations to improve the audits, such as staffing levels or audit adequacy.

Reopening a Remediation (§ 19)

Under the act, the regulations must allow for a remediation to be reopened in any of the following six situations:

1. The DEEP commissioner has reason to believe that a verification was based on materially inaccurate or erroneous information, or other misleading information or misrepresentations.
2. The commissioner determines based on information that remediation may have failed to prevent a substantial public health or environmental threat.
3. The commissioner determines that there is a violation of the act's release-based remediation provisions.
4. The submitted verification was the result of a commissioner's order to remediate a release (see below).
5. A verification that relies upon an ELUR was not recorded in the applicable municipal land records.
6. Required post-verification monitoring or operations and maintenance are not complete.

Commissioner-Ordered Remediation (§ 18)

The act authorizes the DEEP commissioner to order a person to comply with the release program requirements if she finds that the person created or maintained a release to the land or waters of the state on or after the date regulations are adopted. The order must provide (1) why it was issued and (2) a reasonable time to comply. If more than one person is listed on the order or is responsible for the violation, each person is jointly and severally liable.

Under the act, the order must be served by (1) certified mail, return receipt requested, or (2) a state marshal or indifferent person, who must serve a true copy of the order and file the original, with the endorsed return of service, with the commissioner. An order is issued either upon service or when mailed.

An order recipient has a right to a hearing, but if the recipient does not request a hearing within 30 days after the order's issuance, the order is final. Under the act, a person may only appeal an order if it requested a hearing.

The act also requires the commissioner to have a certified copy of the final order filed on the land records in the municipality where the release is located. When the order is complied with or revoked, she must similarly have a certificate filed showing this fact.

Violations & Penalties (§ 18)

Cease and Desist Order. Under the act, the DEEP commissioner may, after an investigation but without a prior hearing, issue a written cease and desist order to a person that is improperly creating or maintaining a release. She may do so only if (1) the violation is substantial and continuous and (2) it would prejudice the interest of the state's people to delay action.

The act applies to these orders the same requirements for cease and desist orders under existing law, such as posting notice of the order and requiring immediate compliance by the recipient. As under existing law, the act also (1) requires the commissioner to hold a hearing within 10 days after the recipient receives the order and (2) allows the commissioner to ask the attorney general to bring an action to compel compliance.

Attorney General Action. The act allows the DEEP commissioner to ask the attorney general to bring an action in Hartford Superior Court against a violator of the release-based reporting and remediation requirements and the associated regulations. The court action may be to enjoin the violating action or to take remedial measures to prevent, control, or stop the violation. It must receive preference in trial order.

The act also requires, as under existing law, the attorney general to bring an action in Hartford Superior Court to collect civil or criminal fines for violations if asked to do so by the commissioner.

Civil Fines. Under the act, a violator is liable for a civil penalty of up to $25,000 per violation as set by the court. Each day a violation continues is considered a separate offense, but the act exempts days during which a hearing or appeal of an order is pending.

Penalties. The act subjects a violator of its release requirements to the penalties associated with two existing criminal offenses as shown in the table below (CGS § 22a-438(b) & (c)).

Table: Criminal Offenses and Penalties for Release Requirement Violation

Offense	*Penalty*
Violation committed with criminal	*First conviction*: up to $25,000 fine per day of violation,

Offense	*Penalty*
negligence	up to one-year imprisonment, or both *Subsequent conviction*: up to $50,000 fine per day of violation, up to two years' imprisonment, or both
Violation committed knowingly	*First conviction*: up to $50,000 fine per day of violation, up to three years' imprisonment, or both *Subsequent conviction*: class C felony, up to $100,000 fine per day of violation, from one to 10 years' imprisonment, or both

(It is unclear whether the penalties under this statute for criminally providing false information or discharging gasoline apply to the act (CGS § 22a-438(d) & (e)).)

Administrative Fines. The act also allows the DEEP commissioner to adopt a schedule of administrative fines for violations.

Liability Protections (§§ 21 & 22)

Prior Releases. Under certain conditions the act exempts a real property owner from liability for costs or damages to anyone other than the state, another state, or the federal government for a release on or coming from the property that occurred or existed before the owner took title to it.

The exemption applies if the owner (1) did not create the release or was not responsible for creating it under any other state law and (2) is not affiliated with anyone responsible for the release through a family, contractual, corporate, or financial relationship other than by the way the owner received or financed the property. The release on the property must also be remediated to the appropriate standards as shown by an LEP's verification that is either approved by the commissioner in writing or that the commissioner has decided not to audit. The act provides that remediation to the appropriate standards meets any requirements for public notice or notice to nearby property owners.

Under the act, an owner remains liable under either of the following situations:

1. The owner fails to appropriately file or comply with an EUR or comply with conditions of a commissioner-approved variance for the property.
2. The commissioner determines that the owner (a) provided information that the owner knew or had reason to know was false or misleading or (b) failed to abide by an existing covenant not to sue or liability protection provided under another state law (see "Existing Protections," below).

Existing Protections. The act specifies that it does not affect the following:

1. covenants not to sue entered into by DEEP and property owners concerning contaminated properties (see BACKGROUND),
2. liability protection under (a) two existing laws for owners of property with contamination that preceded their ownership or (b) any brownfields program, or
3. other liability limitations or protections provided for under state law.

In addition, the act caps the amount of costs and damages for individuals who are innocent landowners under existing law and meet the act's requirements for liability protection. It makes these individuals liable to the state only at the amount provided under the existing law.

Other Provisions (§§ 22 & 23)

The act provides that its provisions do not (1) affect the DEEP commissioner's authority under other statutes or regulations or (2) allow for using or applying the innocent landowner defense under an existing law that, under specified circumstances, limits the liability of someone with a property interest for a spill or discharge on the property.

§ 1 — TRANSFER OF ESTABLISHMENT

By law, "transfer of establishment" generally means any transaction or proceeding that changes an establishment's ownership. Prior law's definition excluded more than two dozen specified circumstances (e.g., a change in ownership approved by the Probate Court).

The act eliminates or modifies several of these exemptions and creates one new one, as described below. It specifies that the definition applies to transactions or proceedings occurring up to the date DEEP adopts regulations implementing the release-based remediation program (see above).

Foreclosures

By law, "transfer of establishment" excludes, among other things, foreclosure of a municipal tax lien. The act specifies that the exclusion (1) applies only to tax lien foreclosures in accordance with a specific statute (CGS § 12-181) and (2) also applies to transferring title to a municipality by deed in lieu of foreclosure.

Transfer of Ownership

Under prior law, "transfer of establishment" excluded transfers of stock, securities, or other ownership interests representing less than 40% of the ownership of the entity owning or operating the establishment. The act increases this threshold to 50% or less.

Universal Waste

The act eliminates an exemption for universal waste and replaces it by creating a similar exemption to the definition of "establishment" (see below).

Brownfields

Under prior law, "transfer of establishment" had three separate exemptions concerning brownfields. The act consolidates them into one exemption and makes conforming changes.

Under the act, the consolidated exemption includes acquiring, and all subsequent transfers of, an establishment (1) in the abandoned brownfield cleanup program or the brownfield remediation and revitalization program, if the establishment complies with applicable statutory requirements, or (2) by a Connecticut brownfield land bank. For land banks, the establishment must be participating in specified remediation or liability relief programs, and the transferor must be in compliance with the applicable program at the time of transfer or have completed the program's requirements.

Bankruptcy Court Transfers

Under prior law, "transfer of establishment" excluded the transfer of title from a bankruptcy court or municipality to a nonprofit organization. The act clarifies that the exclusion applies to transfers from (1) a municipality to a nonprofit organization or (2) any entity to a nonprofit organization, as ordered or approved by a bankruptcy court.

Smart Growth Projects

The act eliminates an obsolete exemption related to properties acquired for certain "smart growth" projects. By law, the DECD commissioner had to certify up to three of these projects to the governor by February 1, 2013.

LLC Name Change

The act excludes from "transfer of establishment" the change of an LLC's name by filing an amendment to the company's certificate of organization.

§§ 1 & 2 — DEFINITION OF ESTABLISHMENT

By law, "establishment" generally means real property on which, or a business operation from which, (1) more than 100 kilograms (kg) (about 220 pounds) of hazardous waste was generated or processed in any one month on or after November 19, 1980; or (2) a dry cleaning, furniture stripping, or vehicle body repair business operated.

Existing law has several exceptions to the above definition (e.g., waste generated from removing or abating building materials). The act adds an exception for universal waste, which replaces a similar exemption in prior law from the definition of "transfer of establishment."

The act also establishes specific requirements for determining what parts of certain multi-tenant properties, or properties occupied by the owner and a tenant, are considered establishments. Additionally, it specifies certain conditions under which parcels are no longer considered establishments.

Universal Waste

Prior law excluded universal waste from the definition of "transfer of establishment." The act eliminates this exclusion and replaces it with a similar exception to the definition of "establishment." The primary difference is that under prior law, a parcel qualifying for the universal waste exception was still an establishment, but the conveyance of it did not need to comply with the Transfer Act. Under the act, the parcel is not an establishment to begin with.

As under prior law, the universal waste exemption, with certain exceptions, applies to real property or a business operation that qualifies as an establishment solely from (1) generating more than 100 kg of universal waste in a calendar month; (2) storing, handling, or transporting universal waste generated at a different location; or (3) activities at a universal waste transfer facility. The exemption does not apply if (1) the property or business otherwise qualifies as an establishment; (2) there was universal waste contamination at or from the property or business; or (3) the waste was not properly recycled, treated, or disposed of at the property or business.

By law, "universal waste" includes batteries, pesticides, thermostats, lamps, and used electronics regulated as a universal waste under DEEP regulations.

Multi-Tenant and Certain Owner-Occupied Properties

Under the act, if a property or business operation is an establishment, then for purposes of filing Forms I-IV after October 1, 2020, the establishment includes the entire parcel or parcels on which the establishment is located, except as described below.

The act creates an exception for determining what parts of certain multi-tenant properties, or properties occupied by both the owner and a tenant, are considered establishments. It subjects these properties to the specific requirements shown in the table below.

Multi-Tenant and Certain Owner-Occupied Properties

Property Description	*Part Deemed an Establishment Under the Act*
Leased or previously leased to two or more tenants	Area on which the business operation is or was located, including (1) the entire part leased to the business operation and (2) any other area of the property used or occupied by the business operation
Occupied or was occupied simultaneously by the owner and a tenant	Same as above
Commercial or industrial unit in a common interest community	The unit, limited common elements under exclusive use of the unit owner on which the establishment is or was operated, and any part of the common area used or occupied by the unit owner

The act also specifies that for business operations that are establishments, the establishment includes the (1) real property on which the business operation is or was located and (2) entire part of the property the business used or occupied.

Parcels no Longer Considered Establishments

Under prior law, an establishment transfer did not need to comply with the Transfer Act if certain conditions were met. Generally, these were (1) completing any necessary remediation, (2) DEEP approving the remediation or an LEP verifying it, and (3) no subsequent activities occurring that meet the criteria for being deemed an "establishment."

The act instead deems these properties to no longer be establishments if, in addition to the above requirements, (1) the deadline for DEEP to audit an LEP verification passes without the commissioner requiring further action or (2) DEEP issues a no-audit letter or successful audit closure letter.

§§ 1-5 & 9 — COMMON INTEREST COMMUNITIES

Conveyance of Residential Unit (§§ 1 & 3)

Prior law excluded the conveyance of a unit in a residential common interest community from the definition of "transfer of establishment" if certain conditions were met (e.g., the declarant was a certifying party for remediation purposes).

The act makes the exclusion unconditional and instead requires the declarant, or the declarant's immediate predecessor in title, to take the following actions before conveying a unit in a residential common interest community that is an establishment:

1. become a certifying party for purposes of investigating and remediating the parcel on which the community is located,
2. provide the financial assurance described below, and
3. record notice in the municipal land records that the parcel is being investigated and remediated according to the Transfer Act's requirements.

The notice must identify the volume and page number of any recorded EUR. If the declarant does not record the notice, then the act allows the DEEP commissioner to record it or require an individual or entity authorized to act on behalf of the community to do so. Additionally, if the declarant or the declarant's immediate title predecessor does not (1) become a certifying party for investigating and remediating the parcel on which the common interest community is located or (2) provide the financial assurance described below, then an individual or entity authorized to act on behalf of the community must give written notice of the failure to the DEEP commissioner before conveying a unit in the community.

Under the act, the financial assurance must (1) identify the DEEP commissioner as the beneficiary, (2) be in an amount and form approved by the commissioner, and (3) equal the cost of investigating and remediating the subject property to the Transfer Act's standards. The assurance must be used solely at the affected community to investigate and remediate the property for the unit owners' benefit. Prior law had similar financial assurance requirements.

Enforcement (§§ 2 & 9)

Existing law allows the DEEP commissioner to issue an order to, or request that the attorney general bring an action against, any person that violates the Transfer Act's provisions. It also subjects violators to a fine or civil penalty of up to $25,000 per offense (CGS § 22a-438).

The act explicitly extends these enforcement powers to the above provisions on residential unit conveyances.

Public Offering Statements (§§ 3 & 5)

Under prior law, each time a seller conveyed to a purchaser a unit in a common interest community that is an establishment, the seller had to give notice to the purchaser summarizing (1) the status of the community's environmental condition, (2) any investigation or remediation activities, and (3) any resulting EURs.

The act instead requires that this notice be included in the public offering statement for residential common interest communities determined to be establishments as defined in the Transfer Act. (By law, a declarant must prepare a public offering statement before offering the public any interest in a unit.)

Under the act, the determination that the community is an establishment must be based solely on actual knowledge, a notice on the land records, or an inquiry to DEEP if there is no notice. The inquiry must ask whether a Form I, II, II, or IV for the community was submitted to DEEP.

Notice to Purchaser (§ 4)

Under existing law, before conveying or transferring the right to possess a unit in a common interest community, a unit owner generally must provide a purchaser or the purchaser's attorney with a certificate containing various statements. The act additionally requires that the statements include a (1) copy of any land records notice (as described above) and (2) statement with the volume and page number from the applicable municipal land records of any EUR encumbering the parcel or any portion of the parcel on which the community is located.

§§ 1-2 & 10-14 — OTHER TRANSFER ACT CHANGES

Environmental Use Restrictions (§§ 1-2 & 10-14)

Under DEEP regulations, an ELUR is an easement granted to DEEP by the property owner that is recorded on the municipal land records (Conn. Agencies Regs. § 22a-133q-1). ELURs are legal instruments used to prohibit activities that could increase people's risk of exposure to contamination.

For remediation under the Transfer Act, DEEP's RSRs may require an ELUR for portions of a property that cannot be fully remediated (Conn. Agencies Regs. §§ 22a-133k-1 to -3). Prior law had several references to ELURs (e.g., requiring an LEP to verify that an ELUR was recorded on the land records).

The act replaces several of these ELUR references with references to EURs. By law, EURs include (1) ELURs and (2) notices of activity and use limitations (NAULs) (CGS § 22a-133n). The changes appear to conform to proposed RSR and EUR regulation revisions, which allow for NAULs as an alternative to ELURs in certain circumstances. The primary difference between ELURs and NAULs is that NAULs do not require a transfer of an interest in land to the state.

Form IV (§ 1)

Under prior law, a person signing a Form IV had to agree to conduct post-remediation monitoring or natural attenuation monitoring in accordance with DEEP's RSRs. The act conforms the law to the RSRs by requiring the person to conduct groundwater monitoring instead of post-remediation monitoring or natural attenuation monitoring. It makes conforming changes to the Form IV verification, which LEPs submit to verify that the appropriate monitoring is complete. The act also requires, if applicable, LEPs to verify an EUR's recording, rather than that of an ELUR (see above).

BACKGROUND

Brownfields Working Group

By law, the working group examines the remediation and development of state brownfields, including permitting and liability issues, and annually reviews the Special Contaminated Property Remediation and Insurance Fund's progress (CGS § 32-770).

Covenant Not to Sue

A covenant not to sue is a form of liability protection that protects a holder from liability related to pollution that was attributed to the property before the covenant's effective date. It gives the property owner assurance that once a site is remediated to current standards, DEEP will not require additional cleanup.