OLR RESEARCH REPORT

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(Revised)

2001 VETO PACKAGE

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The governor vetoed three public acts passed in the 2001 session:

1. An Act Concerning Video Games (PA 01-54),

2. An Act Concerning Clean Air Standards for Certain Power Plants (PA 01-107), and

3. An Act Concerning Procedures for State Employee Collective Bargaining (PA 01-189).

An act will not become law unless it is reconsidered and passed again by a two-thirds vote of each house of the General Assembly (with 24 votes for it in the Senate and 101 in the House) when it reconvenes. This report contains a brief summary of each act, the final vote tallys, and excerpts from the governor's veto messages.

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PA 01-54—sSB 119
Judiciary Committee
General Law Committee

AN ACT CONCERNING VIDEO GAMES

SUMMARY: This act requires the consumer protection commissioner to fine business owners who allow minors to play video games with "violent point and shoot video simulators." These devices allow players to shoot simulated firearms at human targets depicted on video screens.

The act applies to owners of for-profit businesses providing these games for entertainment. Fines may be up to $1,000 for each violation, and the attorney general may file suit to collect them.
EFFECTIVE DATE: October 1, 2001

House Vote: 82-63 (May 16)
Senate Vote: 29-6 (May 10)

EXCERPTS FROM THE GOVERNOR'S VETO MESSAGE

"…I believe that violence in our society is a real problem that deserves meaningful answers; not new feel-good laws that are impossible to enforce. It is being returned to you without my signature for the following reasons.

First, the rights of parents to determine the types of games their children can play should not be limited by governmental action absent direct evidence that the specific activity is a danger to the child or to others. …

Second, without direct evidence that 'point and shoot' video games cause violent behavior in children, I cannot support this act. …[T]here is no credible clear-cut evidence that 'point and shoot' video games cause violence among children.

Third, this act is unenforceable. …In my opinion, this act cannot be enforced without mandating that law enforcement agencies continuously monitor businesses that own video games. Since this act does not require the owners of these games to register them with the state, there is no way to know which establishments actually operate these games. …

Fourth, this act is under inclusive. …[I]t does not prohibit youths from playing other violent video games that do not use simulated guns. …

Fifth, there is no clear evidence that young people who play 'point and shoot' video games at public businesses are more likely to commit acts of violence than those who play such games at home. …

Furthermore, there is no direct evidence that 'point and shoot' video games cause children to commit violent acts at all. …I believe we should withhold judgment on this issue until medical and sociological professionals can reach a more decisive conclusion. …

Finally, this act is constitutionally suspect. In March of this year, the Seventh Circuit Court of Appeals cautioned the city of Indianapolis not to rush to condemn video games that it considers to be too violent. …In his decision, Judge Posner stated that it was 'unlikely' that the city could establish the legality of the ordinance if the case went to trial. …The judge did not address the specific issue of whether an act similar to the one before me is constitutional. That question is still

to be determined. However, this decision is persuasive authority on bills of this nature. …"

PA 01-107—sHB 6365
Environment Committee
Planning and Development Committee
Energy and Technology Committee
Commerce Committee
Finance, Revenue and Bonding Committee
Legislative Management Committee
Appropriations Committee

AN ACT CONCERNING CLEAN AIR STANDARDS FOR CERTAIN POWER PLANTS

SUMMARY: Recently adopted Department of Environmental Protection (DEP) regulations impose tighter air emission standards on the state's older fossil fuel power plants. This act eliminates emissions credit trading as a way for these plants to meet the regulations' stage two sulfur dioxide (SO_2) standards as of December 31, 2004, approximately two years after the standard goes into effect under the regulations. But it adds another option (a tonnage cap) as of this date. It requires plant owners to submit a plan to DEP by July 1, 2002, showing how they will comply with the standards and indicating whether they will use the tonnage cap option.

The act allows, and in certain cases requires, DEP to suspend the stage two standards if there is a shortfall in electricity supply. The act appears to supersede a provision in the regulations that allows the DEP commissioner to waive the standards for a plant that normally meets them by burning low sulfur fuel if he finds that there is an emergency shortage in the supply of such fuel.

The act includes several provisions, including a gross receipts tax exemption on low sulfur oil and economic development incentives, to reduce the costs of complying with its requirements. It bars owners of units that have violated the SO_2 and nitrogen oxide standards in the regulations more than once from bidding for default electric service. By law, the electric utilities must bid out the supply of electricity for this service, which provides power after January 1, 2004 to people who do not choose a competitive supplier.

The act requires, rather than allows, Connecticut Innovations, Inc. to use the money in the Renewable Energy Investment Fund for expenditures that promote investment in renewable energy.

The act requires the Department of Public Utility Control to report to the legislature by January 1 annually on the status of electric power supply, demand, and reserves. The report must include projections of these variables for the next five years. It also must analyze how the act's changes affect the provision of electricity to customers who do not choose a competitive supplier.

EFFECTIVE DATE: Upon passage

House Vote: 86-56 (May 25)
Senate Vote: 31-5 (May 30)

EXCERPTS FROM THE GOVERNOR'S VETO MESSAGE

"…I have reached the conclusion that this bill jeopardizes the long-term reliability of the electric power system in Connecticut and will not, contrary to its proponents

assertions, substantially improve air quality in Connecticut.

As governor, I cannot sign Public Act 01-107 for the following reasons:

I) This legislation fails to improve air quality and undermines current regulations that substantially reduce emissions.

A. Current regulations sufficiently guarantee reduced emissions without compromising regional reliability. …

A large majority of sulfur dioxide in Connecticut derives from pollution that migrates into the state from sources in the Midwest and from vehicles on our roads. That does not mean that we should not act on this small portion, as the DEP regulations demonstrate, my administration has acted vigorously. …

B. The mandatory suspension provision of this Act could adversely impact air quality in our region.

…[T]he cumulative effect of the 'escape hatch' provision is to allow for the possibility of the dirtiest fuel to be combusted on the hottest days. This would result in poor air quality and would dramatically increase the public health risks on such days. …

C. A sufficient, though limited, use of market based incentives for flexibility in meeting emission standards can be beneficial to the environment.

Furthermore, I am concerned that emission trading is not a compliance option in Public Act No. 01-107. …Emission trading makes reducing the actual air pollution a collective responsibility of all sources of air pollution and recognizes that the actual reduction of air pollution is more important that the means of achieving the reduction. …

II) This legislation threatens the long-term reliability of electric power systems in Connecticut and throughout the Northeast region.

A. The suspension provision of Section 3(d) of this Act is not workable and will not assist us in preventing or addressing a supply emergency.

…[T]his provision takes place too late in the process…Since power plants typically take anywhere from 6 to 48 hours to come to full power from a cold start, it is unlikely that such plants would be ready to operate in the case of an emergency. The six power plants that are affected by this Act are essential during our peak periods. …

B. The Act fails to address capacity and transmission issues in Fairfield County.

…If the existing stations in Fairfield County are not replaced or upgraded, they will not meet the standards of Public Act 01-107. …All of the parties involved in this debate have acknowledged that there are problems relating to transmissions and reliability in Fairfield County, however, nothing in this legislation provides a solution.

The DEP regulations recognize that existing units must continue to operate for some period until the construction of additional generating units or the construction of additional transmission capacity. …

C. The fiscal impact of this Act could result in reduction of plant operations and could potentially impact our power supply.

Under Public Act 01-107 substantial rate increases are virtually inevitable. …Moreover, the fiscal impact of this legislation, coupled with the impact from energy deregulation, will result in higher costs to consumers and the industry. The costs associated with compliance under this Act could result in plant closures or restrictions in operations that would jeopardize power supply, especially in Fairfield County. …

III) Technical Inconsistencies.

Another concern I have with this legislation is that many key definitions and terms are vague and undefined. …

The manner in which Public Act 01-107 requires the DEP to calculate the sulfur dioxide tonnage cap is also vague. … It is nearly impossible to determine compliance…since the time elements established by the terms…as defined in this legislation contradict each other. …"

PA 01-189—sSB 1394
Labor and Public Employees Committee
Appropriations Committee
Judiciary Committee

AN ACT CONCERNING PROCEDURES FOR STATE EMPLOYEE COLLECTIVE BARGAINING

SUMMARY: This act changes numerous state employee collective bargaining procedures. Specifically it:

1. increases the time during which parties may begin negotiating a new contract from 180 to 330 days before the existing contract expires (negotiations must still start at least 150 days before the existing contract expires),
2. allows parties to begin arbitration 60, rather than 90, days after negotiations begin,
3. eliminates an arbitrator's authority to waive deadlines imposed on him,
4. limits an arbitrator's authority to continue a hearing more than 30 days after it has begun to cases where good cause is shown,
5. allows motions to vacate or modify any issue in an arbitrator's award filed in Superior Court,
6. changes the reasons a judge may vacate or modify an award, and
7. allows arbitration on issues subject to collective bargaining even when the State Board of Labor Relations is deciding whether other issues are subject to collective bargaining.

EFFECTIVE DATE: October 1, 2001

House Vote: 102-44 (June 4)
Senate Vote: 23-12 (June 6)

EXCERPTS FROM THE GOVERNOR'S VETO MESSAGE

"…Although the purported purpose of this bill was to expedite the timeframe so that awards could be voted upon by the General Assembly in a more timely fashion than under current law, this bill does not achieve that goal and

jeopardizes the process which is vital to such negotiations. Therefore, for the following reasons, I cannot sign this bill.

This bill expands the time in which parties can negotiate a new contract from 180 days to 330 days before the expiration of the existing contract…This extension of time has the potential to be a very expensive proposition, both in terms of staff time and lost work time, since under many circumstances, state employees who are committee members are paid for time spent in both negotiation and arbitration and replacement workers must be employed and overtime costs incurred. Second, time constraints, though inconvenient at times, force parties to prioritize the issues that are most important to them. …Lastly, I believe that the current timeframe allows parties sufficient time to negotiate a contract. …

While, on one hand, this bill increases the negotiation time in order to get the award to the General Assembly in a more timely manner, it also reduces the time in which a party may initiate arbitration. …A change that gives up on the negotiating process in favor of accelerated arbitration is not in the public interest.

Another provision of this bill changes the procedure when there is a dispute about whether an issue is a mandatory subject of collective bargaining and, therefore subject to interest arbitration. …This section of the act would allow the undisputed issues to go to arbitration while the issue(s), claimed to be nonmandatory, would be sent to the State Board of Labor Relations for determination. If the issues are later determined to be subject to collective bargaining, they would be subject to another arbitration. This will not expedite the process…Additionally, this is contrary to statutory provisions, which require that an arbitration award must be considered in its entirety.

In addition, this bill eliminates an arbitrator's authority to continue a hearing beyond a thirty-day period without good cause and eliminates his authority to waive statutory deadlines. This is problematic because "good cause" is not clearly defined…Eliminating the arbitrator's authority to continue a hearing…could seriously impair an arbitrator's ability to make a sound award. …

Also, this act allows an arbitration award to be partially implemented during the pendency of motions to vacate or modify the award filed in Superior Court. This, like the earlier provision, is contrary to statutory provisions that require that an arbitration award be considered in its entirety. …

Furthermore, it modifies the reasons a judge may vacate or modify an award. …I do not believe the current provisions warrant deletion. …

…[T]he practical effect of the act will result in fewer contracts that are the result of good faith negotiations between the parties in favor of decisions of arbitrators who are not as familiar with the issues. Additionally, it is highly likely that the legislation will result in more arbitrations and a disruption in labor peace. …"

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