



OLR RESEARCH REPORT

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2008 VETO PACKAGE

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The governor vetoed the following six public acts:

1. PA 08-90, *An Act Concerning a Pre-Retirement Spousal Benefit Under the State Employees Retirement System*;
2. PA 08-92, *An Act Concerning the Minimum Wage*;
3. PA 08-113, *An Act Concerning the Tip Credit*;
4. PA 08-165, *An Act Establishing a Community-Based Health and Human Services Cabinet*;
5. PA 08-179, *An Act Concerning the Greenway Commons Improvement District in Southington, the Waypointe Project in Norwalk, Naugatuck Economic Development Corporation, Donation of Open Space Land by Water Companies, and the Authority of Municipal Districts Over the Water Quality in Lakes*; and
6. PA 08-183, *An Act Concerning the Connecticut Healthcare Partnership*.

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

PA 08-90 – SB 599

An Act Concerning a Pre-Retirement Spousal Benefit Under the State Employees Retirement System

Appropriations

The act allows the surviving spouse of a state employee who was a Tier II member of the State Employees' Retirement System (SERS) to qualify for a pre-retirement death benefit. The act establishes criteria that must be met in order for the surviving spouse to be entitled to the benefit.

The criteria established in the act are that the SERS member (1) died on or after 1/1/02 due to cessation of life support, (2) died not more than six months prior to retirement eligibility, (3) died without completing 25 years of vesting service, and (4) was lawfully married to the surviving spouse for at least 12 months.

Senate vote: 35 to 0 (April 24)

House vote: 147 to 0 (May 2)

Excerpt from the Governor's veto message:

“Traditionally, the granting of such benefits has been the subject of negotiation between the State of Connecticut and the State Employees’ Bargaining Agent Coalition (SEBAC). Although this bill appears to be narrowly tailored, by statutorily granting vesting rights outside of the framework of collective bargaining to persons who would not qualify for benefits under the current agreement, it will ultimately expand the circumstances in which vesting rights must be granted to state employees who die prior to completing the vesting requirements.

“In addition, I would note that by granting benefits to the spouse of a state employee in such a narrowly defined set of circumstances, it creates inequity with respect to spouses of other similarly situated state employees whose circumstances are not quite identical to those specified in the bill.

“Because this bill potentially undermines the agreements negotiated through collective bargaining and arbitrarily creates a benefit for persons in one pension tier who meet certain very specific criteria, I do not believe that it is consistent with sound public policy.”

PA 08-92 – sHB 5105

An Act Concerning the Minimum Wage

Labor and Public Employees Committee

Appropriations Committee

This act raises the state hourly minimum wage from \$7.65 to \$8.00 beginning January 1, 2009 and to \$8.25 beginning January 1, 2010.

Senate Vote: 25 to 11 (May 5)

House Vote: 106 to 45 (April 22)

Excerpt from the Governor’s veto message:

“I have grave concerns about the potential negative impact on Connecticut employers of a minimum wage increase during these challenging economic times...

“There is no doubt that families, particularly low income families, have been hurt by our strained economy. We all feel the pinch when buying groceries, filling up the gas tank and heating our homes. Yet we must also realize that Connecticut employers face these same financial pressures and are having an extremely difficult time making ends meet.

“Seeking an increase in the minimum wage is laudable, but it is a decision that cannot be made absent consideration of its impact on the State’s economy.

“Connecticut already ranks among the highest states in the nation for business costs. At a time when employers are fighting for survival, an increase in the minimum wage will only serve to increase the cost of doing business in Connecticut and may well be the last straw for many employers. We must appreciate the ripple effect of a minimum wage increase – from higher Social Security and unemployment taxes and workers compensation payments to wage increases necessary to maintain payment differentials between different levels of employees (i.e., compression), and higher wages for union employees whose compensation is tied to the minimum wage. Employers that are now operating on the margin may be forced to close or leave Connecticut to

more business-affordable states, resulting in job losses that will undermine the already fragile foundation of financial security for thousands of families. Alternatively, employers already operating on razor-thin margins will likely pass these additional costs onto Connecticut consumers, often the very same persons that the bill seeks to help and at a time when few families can afford additional price increases.”

PA 08-113 – sSB 55
An Act Concerning the Tip Credit

Labor and Public Employees Committee

Government Administration and Elections Committee

Effective January 1, 2009, this act increases the minimum wage tip credit for hotel and restaurant employers from 8.2% to 11% for bartenders and from 29.3% to 31% for service employees (e. g., waiters and waitresses). The tip credit allows hotels and restaurants to pay service employees and bartenders, who customarily and regularly receive tips, less than minimum wage as long as tips make up the difference. Under the act, a hotel or restaurant can pay (1) a bartender 11% less than minimum wage and (2) a waiter or waitress 31% less than minimum wage.

Senate Vote: 36 to 0 (May 6)
House Vote: 142 to 5 (May 2)

Excerpt from the Governor’s veto message:

“Absent the passage of H.B. 5105, this bill would only serve to reduce the current wages paid by these employers to waitstaff and bartenders and is therefore unnecessary, even harmful.”

PA 08-165 – sSB 678
An Act Establishing a Community-Based Health and Human Services Cabinet

Government Administration and Elections Committee

Human Services Committee

This act establishes a four-year, 25-member Health and Human Services Cabinet. It places the cabinet in the Office of Policy and Management (OPM) for administrative purposes.

The cabinet is generally responsible for assessing health and human service provision in Connecticut, including funding for nonprofit community providers under purchase of service (POS) agreements. By law, OPM pays private health and human service providers that contract with state agencies.

By December 31, 2012, the cabinet must recommend to the governor and the Appropriations and Human Services committees a governance plan identifying an appropriate coordinating entity to implement a statewide Health and Human Services Plan. The cabinet terminates when it submits its recommendations.

Senate Vote: 34 to 0 (May 3)
House Vote: 149 to 0 (May 6)

Excerpt from the Governor's veto message:

“Not-for-profit community providers offer a tremendous service to Connecticut residents and these providers admittedly have been struggling due to financial constraints, as are many other entities in both the public and private sector. Another bureaucracy will not solve these financial problems but will undoubtedly lead to additional cost burdens for state government and taxpayers.

“Moreover, another level of oversight is simply unnecessary and infringes upon executive branch and legislative authority. The bill authorizes the Cabinet to formally comment and contract on matters that are executive branch functions by state statute and constitution. While input into state government is encouraged and indeed improves its functioning, recommendations currently may be made through existing legislative and executive branch agencies - a new Cabinet only becomes duplicative. As troubling as this is, the bill also provides for increasing the Cabinet's far-reaching authority over the next four years, which would only continue to undermine executive branch authority.

“The creation of a new Cabinet disregards the established statutory scheme in which the executive branch is granted the supervisory authority of State contracts with not-for-profit community providers. A final disconcerting aspect of the legislation is that it authorizes another entity to enter into State contracts without any oversight. The Cabinet is provided broad discretion to ‘contract with consultants having expertise in the areas of economics, labor, higher education or accounting to assist the board in carrying out its duties.’ Several members of the Cabinet have little or no experience in state contracting policies and procedures.

In addition, such explicit authorization may result in significant financial expenditures by the State for undefined purposes.

“Ultimately it is the Office of the Governor, in conjunction with the Office of Policy and Management and in cooperation with the Legislature, that is responsible for the successful administration and budgeting of health services to Connecticut residents. Endowing such management responsibilities in a Health and Human Services Cabinet would only reduce the efficacy and transparency of state government and increase the cost of such services, while providing no clear mechanism to ensure that the Cabinet’s administration is held accountable.”

PA 08-179 – sHB 5936

An Act Concerning the Greenway Commons Improvement District in Southington, the Waypointe Project in Norwalk, Naugatuck Economic Development Corporation, Donation of Open Space Land by Water Companies, and the Authority of Municipal Districts Over the Water Quality in Lakes

Finance, Revenue and Bonding Committee

Environment Committee

This act:

1. allows a special taxing district to be formed in Southington and, after the district concludes an interlocal agreement with Southington, allows it to issue up to \$ 10 million in district bonds to provide services and finance infrastructure improvements in the district;
2. authorizes up to \$30 million in economic development assistance over four years for downtown Naugatuck and up to \$25 million in such assistance to the Waypointe Project in Norwalk;
3. extends the carry-forward period for unused corporation tax credits for donating open space land from 15 to 25 years;
4. expands the purposes of statutory special taxing districts to include maintaining water quality in lakes; and
5. allows statutory districts to pay for maintaining lake water quality in the same way they may already use to pay for flood and erosion control systems.

Senate Vote: 36 to 0 (May 6)
House Vote: 150 to 0 (May 7)

Excerpt from the Governor's veto message:

"We can all agree that the revitalization of our neighborhoods and the development of quality of life projects are paramount to our cities and towns.

"I am troubled, however, by the funding "mechanism" established by this legislation for the Naugatuck and Norwalk projects...The practical effect of the legislation is to 'rob Peter to pay Paul,' and to deny funding to other worthy projects in our cities and towns.

"The money at issue was previously allocated by the Legislature to programs that were deemed necessary to the public interest. This legislation could redistribute \$20 million dollars from existing projects to these two communities with no analysis on what the effect and impact would be on the existing programs. Ultimately, another \$35 million could be taken from existing programs. These projects are no less important to the communities involved.

"Furthermore, I cannot support legislation that intentionally circumvents the process currently in place to fund community and economic development projects...The legislative bond bill and the State Bond Commission are the proper vehicles to allocate funding for projects requested by these municipalities. If I were to sign this bill, I would be complicit in taking much-needed funding from cities and towns and circumventing this vital process."

PA 08-183 – sHB 5536

An Act Establishing the Connecticut Healthcare Partnership

Labor and Public Employees Committee

Appropriations Committee

Insurance and Real Estate Committee

Planning and Development Committee

This act allows municipalities, certain municipal service contractors, nonprofit organizations, and small businesses to join the state employee health insurance plan for their employees and retirees. Under it, all new

employees will be pooled together with state employees in the state insurance plan.

It requires the comptroller to provide insurance coverage for these employers when they apply to cover all their employees or all of their retirees. When an employer applies to cover some employees or some retirees, she must deny coverage if the Health Care Cost Containment Committee (HCCCC) certifies to her that the application would shift a significantly disproportionate part of the employer's medical risks to the state plan.

The act requires that premiums the municipal and other employers pay be the same as those the state pays for the same insurance plans. It allows employers to require an employee contribution toward the premium. It also permits the comptroller to charge participating employers an administrative fee based on a per member, per month basis.

Under the act, employers joining must commit to participate in the state plan for three years, at the end of which they may renew for another three years. The comptroller must develop procedures for employers to withdraw from coverage and for employers with public employee collective bargaining, the procedures must comply with state collective bargaining law.

The act specifies that it allows the comptroller to procure coverage for nonstate employees from insurance vendors other than those providing coverage for state employees. It is unclear whether this provision conflicts with the requirement to pool all the new employees and retirees in the state employee plan. The act also specifies the comptroller is not required to offer coverage from each vendor now participating in the state plan.

If an employer fails to make premium payments, the state can charge interest at the prevailing rate. In the case of a municipality, it can also withhold grants or other assistance to the town until the premiums are paid.

The act requires the State Employees' Bargaining Agent Coalition (SEBAC) to consent to adding new employees to the state plan before the plan can be opened up. SEBAC is the bargaining coalition that negotiates state employee health and retirement benefits for all state unions.

The act also establishes a Nonstate Public Health Care Advisory Committee and a Private Sector Health Care Advisory Committee to each make recommendations concerning municipal and private sector coverage, respectively, to the Health Care Cost Containment Committee, created through the SEBAC agreement.

It also requires the comptroller to submit a report to the General Assembly with recommendations on how the state employee health plan can be further expanded to include individuals not authorized under the act.

The act permits two or more municipalities to join together as a single entity to obtain health insurance for their employees. It requires the group to be fully insured and meet existing health insurance requirements.

Senate Vote: 22 to 12 (May 7)

House Vote: 102 to 43 (April 23)

Excerpt from the Governor's veto message:

Legal Concerns. “The language of the legislation raises significant questions as to how the state Comptroller is authorized to proceed in implementing the Partnership. The state is bound by existing health insurance contracts that did not contemplate an expanded employee pool of insured persons.

“It was the Attorney General’s opinion that – until the state employee plans are renegotiated at the expiration of the current contracts – the bill could only be effectuated through the Comptroller’s administration of a second health plan with a separate pool of insured and separate contracts with some or all of the current state plan contractors.

“This statement is wholly unsupported by the language and legislative history of the bill. H.B. 5536 specifically states the Comptroller ‘shall offer coverage...The legislation clearly states ‘shall,’ not ‘may,’ and does not offer other options; it simply identifies a single plan – ‘the state employee plan.’

“Proponents of the bill have repeatedly lauded the singular nature of a vastly enlarged pool and argued that it would give the Comptroller increased leverage in negotiating lower insurance prices. The Attorney General’s opinion belies this argument and his opinion took a great many legislators and advocates by surprise. In fact, several legislators have

publicly remarked that the Attorney General's opinion was the first time they had ever heard of the concept of creating separate pools, even if only temporarily.

"The only mention of other plans in the bill is later...In no way do these provisions suggest the Comptroller should negotiate separate contracts. Nor is it likely that a separate plan would be able to match (let alone exceed) the economies of scale achieved by the state employee plan due to the exclusion of the roughly 200,000 members of the state pool.

"Finally, it must be noted that the Comptroller already offers a separate plan for municipalities, nonprofits and small employers pursuant to Section 5-259(i) of the Connecticut General Statutes (the Municipal Employees Health Insurance Plan, or MEHIP). Creating a separate pool of MEHIP-eligible employers to negotiate yet a third insurance plan appears duplicative."

Savings to Employers. "The purported cost savings for municipalities, small businesses and nonprofits cited by proponents are largely unsubstantiated and, indeed, have been challenged by some of the very employers H.B. 5536 seeks to benefit.

"No detailed, independent and comprehensive study of the potential benefits is currently available."

Costs to the State. "Whether one accepts the Attorney General's interpretation of H.B. 5536 insofar as the creation of separate pools is concerned, administration of the Partnership plan would require significant resources on behalf of the Comptroller.

"These additional resources would cost more than \$500,000 a year, according to the Legislature's own Office of Fiscal Analysis. No monies were appropriated to the Comptroller's Office to cover these additional administration expenses in Fiscal 2009.

"Separately, there is the deeply disturbing possibility that \$54 million in savings, achieved in negotiations with the current contractors to the state employee plan, could be jeopardized if the Attorney General's interpretation of H.B. 5536 is incorrect and current health insurance vendors increase their premiums to accept new enrollees.

"It is quite possible that only groups with higher underlying utilization and cost structures than the current state employee population would be attracted to the Partnership plan, inasmuch as municipalities, nonprofits and small businesses with lower cost structures would likely have no reason to join.

“The addition of these higher-risk groups would have a direct effect on the state’s fiscal health, particularly because H.B. 5536 specifies that individual premium payments for the new group be the same as those paid by the state.”

Unclear Benefit to Overall Market Coverage. “Most of the employers it seeks to benefit already offer health insurance to their employees. It seems unlikely that a large number of those that do not would be able to afford to do so under the Partnership – even if economies of scale were achieved – given the current average annual cost to the state of \$12,300 per employee.

“Numerous state programs presently in effect and the Charter Oak Health Plan, expected to begin accepting enrollments July 1, will do more to meet that goal than the Partnership proposed in H.B. 5536.”

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