



July 16, 2015

# Office of Legislative Research

## Research Report

2015-R-0144

### 2015 VETO PACKAGE

By: Alex Reger, Legislative Analyst II

#### GUBERNATORIAL VETOES

Sections 15 and 16 of Article Fourth of the Connecticut Constitution authorize the governor to veto bills.

The governor may veto an entire bill or use a line-item veto on any provisions of a bill making appropriations (i.e., the governor may veto an appropriations provision of a bill without vetoing the entire bill).

#### SUMMARY

This report lists each veto from the 2015 legislative session. It also provides for each vetoed act a brief public act summary, including its final vote tally and excerpts from the governor's veto message. The report also includes a numerical summary of previous vetoes.

#### 2015 VETOED ACTS

The governor vetoed the following nine public acts:

- |           |  |
|-----------|--|
| PA 15-2   | <i>An Act Concerning Reporting Requirements of the University of Connecticut and the Board of Regents for Higher Education Regarding Financial Aid and Requiring Legislative Approval for the Closure of Certain College Campuses and Manufacturing Programs</i> |
| PA 15-78  | <i>An Act Concerning Student Membership on the Board of Trustees for the University of Connecticut</i>   |
| PA 15-111 | <i>An Act Concerning Program Approval for Independent Institutions of Higher Education</i>   |
| PA 15-112 | <i>An Act Concerning Unsubstantiated Allegations of Abuse or Neglect by School Employees</i>   |
| PA 15-125 | <i>An Act Concerning Recommendations of the School Nurse Advisory Council</i>  |
| PA 15-126 | <i>An Act Concerning Coinsurance Clauses in Certain Commercial Insurance Policies and Contracts</i>  |
| PA 15-145 | <i>An Act Concerning the Collection and Reporting of Data Relating to Special Education Expenditures</i>   |

- PA 15-176     *An Act Establishing Qualifications for the Commissioner of Education*
- PA 15-188     *An Act Concerning Reemployment and the Municipal Employees' Retirement System*

A vetoed act will not become law unless it is reconsidered and passed again by a two-thirds vote of each house of the General Assembly. The legislature is scheduled to meet for a veto session on July 20, 2015.

## **2015 VETO SUMMARIES**

### **PA 15-2 – SB 399**

#### ***An Act Concerning Reporting Requirements Of The University Of Connecticut And The Board Of Regents For Higher Education Regarding Financial Aid And Requiring Legislative Approval For The Closure Of Certain College Campuses And Manufacturing Programs***

This act prohibits the Board of Regents for Higher Education (BOR) from doing the following without the General Assembly's approval:

1. closing, authorizing the closure of, or proceeding with any closure of any campus of Middlesex Community College (MCC) or any other campus of any other public higher education institution under BOR's jurisdiction or
2. suspending, authorizing the suspension of, or proceeding with any suspension of any manufacturing program offered by MCC or any other manufacturing program offered by any other public higher education institution under BOR's jurisdiction.

It also:

1. prohibits MCC and any other public higher education institution under BOR's jurisdiction from closing or proceeding to close any of its campuses or suspending or proceeding to suspend any of its manufacturing programs without legislative approval and
2. requires the University of Connecticut and BOR to annually report to the Higher Education and Employment Advancement Committee on the institutional financial aid awarded to undergraduate students during the previous academic year.

*Senate Vote: 36 to 0 (April 8)*

*House Vote: 86 to 56 (April 14)*

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

This bill, as amended, introduces inappropriate changes to the operation of the Board of Regents for Higher Education (the "Board").

While I understand and share the concerns surrounding the question of the status of the Meriden Center instructional site of the Middlesex Community College, this matter is now resolved. The Board...was created to operate the Regents system within the framework of the budget enacted by the legislature. It is therefore appropriate and necessary for the Board and the employees of the Regents system to consider cost-cutting measures, as needed, as part of their basic budgetary responsibilities.

SB 399, as amended, would require legislative approval of a decision by the Board to close any campus or suspend any manufacturing program. The Board is best positioned to determine appropriate measures to take in light of fiscal constraints, enrollment changes, or health and safety issues. In addition, current state law already requires that the closure of any campus be approved by 2/3 vote of the Board and that a notice be sent to the General Assembly. Unfortunately, this bill was passed by the legislature before that existing process could be completed and, if enacted, this legislation would create an additional process for campus closures above what already exists.

**PA 15-78 – HB 6118**

***An Act Concerning Student Membership On The Board Of Trustees For The University Of Connecticut***

This act increases the number of UConn Board of Trustee members from 21 to 23 by adding two more student trustees to be elected by the student body. Thus, under the act, the board will have a total of four student trustees.

It requires UConn students to elect the two additional student trustees by July 1, 2016. Undergraduate students must elect a full-time undergraduate to serve a two-year term beginning July 1, 2016. Students from the School of Law, School of Medicine, School of Dentistry, School of Social Work, and graduate students of a UConn school or college must elect a graduate student to serve a one-year term beginning July 1, 2016. For subsequent elections, the undergraduate and graduate student bodies must each elect two trustees to serve two-year terms.

The act also removes the requirement that student trustees be enrolled as full-time students when elected; however, the requirement under existing law that the student be enrolled full-time for the duration of the term of service remains unchanged.

*Senate Vote: 36 to 0 (May 29)*

*House Vote: 144 to 1 (May 14)*

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

This bill expands the number of student members elected to the University of Connecticut's Board of Trustees (the "Board of Trustees") increasing the total membership to twenty-three members.

While I encourage and support student involvement in the issues confronting students and public higher education, currently there is the opportunity for direct student input on the Board of Trustees. The Trustees bring varied experiences, professional expertise, and diverse viewpoints to their work – including those of students. The Board of Trustees was constituted to reflect the breadth of its charge in carrying out the University of Connecticut's educational mission with that balance of viewpoints in carrying out its mission. Currently, that balance is met with the inclusion of two trustees elected from the alumni of the University, in addition to two students elected by the student body – all of whom are voting members.

By balancing these perspectives, the Trustees have a record of guiding Connecticut's flagship university to successfully fulfill its educational mission. House Bill 6118 would alter the balance currently reflected in the makeup of the Board of Trustees. The membership of the Board of Trustees would grow to twenty-three members. With two elected and voting student members the Board of Trustees [of] the University of Connecticut already exceeds the average for student inclusion at public universities. Further, there are many avenues for student input in the decisions affecting the student community at the University.

## **PA 15-111 – SB 859**

### ***An Act Concerning Program Approval For Independent Institutions Of Higher Education***

This act exempts certain nonprofit independent higher education institutions from a requirement that they receive approval from the Office of Higher Education (OHE) before offering a new or revised academic program. It exempts institutions that (1) are eligible to participate in federal student aid programs and (2) have been located in Connecticut and accredited as degree-granting institutions for at least 10 years by a regional accrediting association recognized by the U.S. education secretary. (In practice, Connecticut College, Trinity College, Wesleyan University, and Yale University were already exempt from this requirement.) The act specifies that teacher education programs remain subject to the State Board of Education's regulation authority.

The act requires exempt institutions to annually file with OHE a list and brief description of any new programs introduced and existing programs discontinued in the preceding academic year. It does not establish a deadline for filing this list.

By law, non-exempt independent higher education institutions seeking to offer a new academic program must receive approval from OHE. A public higher education institution must have its new academic programs approved by the institution's governing board (i.e., the UConn Board of Trustees or the BOR).

*Senate Vote: 31 to 3 (May 30)*

*House Vote: 112 to 31 (May 30)*

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

This bill, as amended, removes the Office of Higher Education from any role in approving new and revised academic programs for certain non-profit higher education institutions and was approved without an opportunity for input from the public or the affected agency.

...[I]f oversight is to be removed or altered it should be done with the appropriate input and information as to the entirety of the higher education programs subject to regulation. Parents and students should be assured that the programs offered meet Connecticut's rigorous standards for academic quality.

## **PA 15-112 - SB 926**

### ***An Act Concerning Unsubstantiated Allegations Of Abuse Or Neglect By School Employees***

By law, the Department of Children and Families (DCF) must investigate reports that a school employee abused or neglected a child and notify the employing superintendent and education commissioner of its findings within five working days after the investigation's completion. This act requires DCF to also notify the school employee.

The act requires SDE or another appropriate party to remove any reference to any unsubstantiated report and investigation from the employees' personnel records and any other records related to him or her. An unsubstantiated report of abuse or neglect cannot be used against the employee for any employment-related purpose, including for discipline, salary, promotion, or transfer decisions.

*Senate Vote: 29 to 4 (May 14)*

*House Vote: 141 to 0 (May 30)*

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

This bill, as amended, is overly broad in its requirement that any records related to a complaint of abuse and neglect that is unsubstantiated be removed.

...[T]his legislation is overly broad in its requirement of not only the removal of the record of an unsubstantiated complaint from the State Department of Education, the local school district and the teachers file, but in its requirement that it remove "any other records relating to such school employee." Protecting teachers from unsubstantiated allegations is a valid and important issue, but any protections must be balanced against the protection of the children in our care.

## **PA 15-125 – HB 6796**

### ***An Act Concerning Recommendations Of The School Nurse Advisory Council***

This act generally requires each local or regional board of education to maintain a staffing ratio in its school district of at least one school nurse or nurse practitioner for every 750 students. It allows a school nurse or nurse practitioner to provide services to more than one board as long as the minimum staffing ratio is met. By law, boards of education must appoint at least one school nurse or nurse practitioner for their education districts.

The act allows a local or regional board of education to annually request from the State Department of Education (SDE) commissioner a waiver from the staffing ratio requirement.

Additionally, the act requires each school nurse or nurse practitioner to complete the school nurse orientation program offered by SDE and the Association of School Nurses of Connecticut within one year of being hired, unless he or she already completed the program.

*Senate Vote: 25 to 11 (June 1)*

*House Vote: 116 to 26 (May 20)*

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

This bill establishes a minimum staffing requirement for school nurses based upon the number of students in a school district.

This bill establishes a standard and then permits an annual waiver which undermines the intent of the very purpose of the requirement. Further, this legislation does not take into account those schools that have school based health clinics that are available to meet the needs of the students, nor is it clear whether a district can fulfill this requirement with part-time nursing staff. This legislation leaves open significant questions regarding application of the ratio threshold, liability if the ratio requirement is waived, in addition to the potential to significantly increase costs in public school districts both large and small to comply with the staffing ratio.

The appropriate level of nursing care for our children in our schools is an important issue and I will direct the State Department of Education and the Department of Public Health to work with the School Nurse Advisory Council to develop a solution that takes into account all of the factors affecting an appropriate nurse to student ratio.

**[PA 15-126 – HB 6865](#)**

***An Act Concerning Coinsurance Clauses In Certain Commercial Insurance Policies And Contracts***

This act prohibits coinsurance clauses in certain fire insurance policies and contracts issued by nonadmitted insurers. A coinsurance clause requires insureds to insure their property up to the actual cash value or a percentage specified in the policy, or be partially liable for losses.

By law, nonadmitted insurers may issue commercial property fire insurance policies and contracts that contain a definition of “depreciation” other than what is used in the Connecticut standard fire insurance policy form. The standard form defines “depreciation” as a decrease in value of real property over a period of time due to wear and tear. Under the act, a coinsurance clause included in such a policy or contract is void and unenforceable.

*Senate Vote: 22 to 14 (June 1)*

*House Vote: 83 to 63 (May 14)*

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

This bill prohibits non-admitted insurers from including a coinsurance clause in any commercial fire insurance policy issued or renewed after October 1, 2015, if such policy defines depreciation differently than the Connecticut standard fire insurance policy form.

Those who purchase insurance through the non-admitted market are typically high-risk insureds who are unable to obtain coverage through the admitted market. As a result, non-admitted carriers require maximum flexibility in tailoring policies to account for the unique needs of these high-risk insureds. By prohibiting coinsurance clauses in certain fire insurance policies issued by non-admitted insurers, this bill may cause such policies to become exceedingly expensive and/or eliminate options for coverage for businesses and others.

**[PA 15-145 – SB 1056](#)**

***An Act Concerning The Collection And Reporting Of Data Relating To Special Education Expenditures***

This act requires, beginning July 15, 2016, each local and regional board of education to annually report to the State Department of Education (SDE) on its special education expenditures for the previous fiscal year. The report must include at least:

1. the board of education's total expenditures for special education,
2. such spending as a percentage of total school district expenditures, and
3. individual expenditures for each child requiring special education who is under the board's jurisdiction.



The act exempts these annual reports from the Freedom of Information Act (FOIA), except for any report contents that a strategic school profile report might also contain. School profile reports are public records.

It also requires SDE, annually by October 1, to submit to the Education Committee a disaggregated data report detailing local and regional board of education special education expenditures for the previous fiscal year. The report must include, at least, a breakdown of the total number of special education students in each district whose per-pupil educational cost to the district exceeds the "net current expenditures per resident student" multiplied by (1) two, (2) two and a half, (3) three, (4) three and a half, (5) four, and (6) four and a half.

*Senate Vote: 35 to 0 (May 19)*

*House Vote: 145 to 0 (June 2)*

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

This bill requires local and regional school districts to report information to the State Department of Education on special education spending, including expenditures for each individual child receiving special education.

Reporting on individual student special education spending together with information regarding the types of disabilities and identifying the costs that exceed the average per pupil expenditure may result in a violation of the Family Education Rights Privacy Act (FERPA) and the Individuals with Disabilities Education Act (IDEA). While this bill makes the individual information exempt from the Freedom of Information Act, in smaller school districts where there are only a handful of children in special education programs, these children become easily identifiable. Many children in special education are our most vulnerable children; we need to protect these children from victimization and ensure that their privacy rights are protected.

Further, by requiring local and regional boards of education to report spending for special education on each individual student, Senate Bill 1056 would create an unfunded mandate on districts to collect and report such information, diverting necessary resources from existing educational programs.

**PA 15-176 – HB 6977**

***An Act Establishing Qualifications For The Commissioner Of Education***

This act requires the state education commissioner to be a qualified person with a master's or a higher degree in an education-related field and at least the following experience in a school or district in Connecticut or another state: (1) five years as a teacher and (2) three years as an administrator. Under prior law, the commissioner was not required to hold a degree or have any experience in education. By law, the selection process requires the State Board of Education (SBE) to recommend a commissioner candidate to the governor, who then nominates the person and forwards the nomination to the General Assembly for confirmation. The commissioner serves as the head of the Education Department, which is the administrative arm of SBE.

*Senate Vote: 36 to 0 (June 3)*

*House Vote: 138 to 5 (May 14)*

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

This bill establishes qualifications for an individual appointed to serve as the Commissioner of the Department of Education.

House Bill 6977 encroaches on the purview of the chief executive of the state to select a candidate whom s/he deems the best candidate to lead the department and implement the Governor's education policy initiatives. The Commissioner of Education's position is already unique in its appointment process. The Education Commissioner is the only commissioner that is subject to the recommendation of a state board. The state board of education historically has completed a thorough and deliberative process that includes a public job announcement tailored to the state department's need at the time.

Furthermore, it is important to note that in accordance with sections 4-5 through 4-7 of the general statutes, each commissioner appointed by a governor is subject to a rigorous legislative vetting process that includes hearings and a vote before the Executive and Legislative Nominations Committee and approval by the General Assembly. The Legislature has the right to reject any candidate nominated by the Governor that they do not feel possesses the appropriate qualifications and experience to lead a department for the State of Connecticut.

Open-mindedness and flexibility are paramount in a search for the right candidate who can best respond to the educational challenges that face our state. The establishment of qualifications for the Commissioner of Education in statute closes the door on a broad pool of talented and diverse leaders who would otherwise be eligible and could foster greatness in our schools. I am concerned that specific qualifications for Commissioner will unintentionally reduce the diversity of future commissioner applicant pools.

**PA 15-188 – SB 989**

***An Act Concerning Reemployment And The Municipal Employees' Retirement System***

By law, an employee collecting retirement benefits from the Connecticut Municipal Employees' Retirement System (CMERS) must stop collecting benefits if he or she returns to work for his or her former municipal employer, or any other municipality that participates in CMERS, for more than 20 hours per week or 90 days per year. This act allows such an employee to continue to collect CMERS benefits as long as he or she does not participate in CMERS during the reemployment.

CMERS is a state-administered pension system for municipal employees that municipalities can opt into by agreeing to meet specified financial requirements. Participating municipalities are not required to enroll all of their employees and may allow some of their employees or unions to participate while others do not. By law, certain municipal employees, including teachers, cannot participate in CMERS.

*Senate Vote: 36 to 0 (May 28)*

*House Vote: 141 to 0 (June 3)*

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

This bill is identical to Senate Bill 704 of the 2013 Regular session of the Connecticut General Assembly, which I also returned without my signature for the same reasons cited below.

Under current law, Municipal Employee Retirement System members who have retired cannot receive retirement benefits if they are reemployed by the municipality from which they retired or another participating municipality, unless they are working for less than twenty hours a week or less than ninety days a year.

Under this bill, retirees would be able to continue collecting full retirement benefits and receive compensation for full time employment. I believe this bill would impose an undue burden on

municipalities and is inconsistent with the purpose of the municipal retirement system, which is intended to provide assistance to our retirees and not current employees.

## HISTORICAL CONTEXT

Table 1 lists the number of vetoes for the current governor by legislative session.

**Table 1: Vetoes by Legislative Session since 2011**

<i><b>Governor</b></i>	<i><b>Legislative Session</b></i>	<i><b>Vetoes (Line Item Vetoes)</b></i>	<i><b>Vetoes Overruled</b></i>	<i><b>OLR Veto Package Report</b></i>
Malloy	2011	6 (0)	0	<a href="#">2011-R-0270</a>
Malloy	2011 June Special Session	0 (0)	0	-
Malloy	2011 October Special Session	0 (0)	0	-
Malloy	2012	8 (0)	0	<a href="#">2012-R-0278</a>
Malloy	2012 June Special Session	0 (0)	0	-
Malloy	2012 June Special Session	0 (0)	0	-
Malloy	2012 December Special Session	0 (0)	0	-
Malloy	2013	8 (0)	0	<a href="#">2013-R-0284</a>
Malloy	2014	8 (0)	0	<a href="#">2014-R-0179</a>
Malloy	2015	9 (0)	0	2015-R-0144
Malloy	2015 June Special Session	0 (0)	0	-

AR:cmg