



**CONNECTICUT DEPARTMENT OF ECONOMIC &
COMMUNITY DEVELOPMENT**



**LEGISLATIVE SUMMARY
2011**

**Dannel P. Malloy
Governor**

**Catherine H. Smith
Commissioner**

LEGEND

AAC	“An Act Concerning...”
CCT	“CT Commission on Culture and Tourism”
CDA	the “Connecticut Development Authority”
CHFA	the “Connecticut Housing Finance Authority”
CII	“Connecticut Innovations, Inc.”
Commissioner	Unless otherwise defined, is the Commissioner of DECD
CTSB	“Connecticut Transportation Strategy Board”
DECD	the “Department of Economic and Community Development”
Department	“DECD”
DEP	the “Department of Environmental Protection”
DHE	the “Department of Higher Education”
DOT	the “Department of Transportation”
DPH	the “Department of Public Health”
DPW	the “Department of Public Works”
DSS	the “Department of Social Services”
DSR	the “Division of Special Revenue”
DRS	the “Department of Revenue Services”
HB	“House Act”
JSS	“June Special Session”
LLC	“limited liability company”
MAA	the “Manufacturing Assistance Act”
MME	“Manufacturing Machinery and Equipment”
OPM	the “Office of Policy and Management”
OSS	“October Special Session”
OWC	the “Office of Workforce Competitiveness”
PA	“Public Act”
SA	“Special Act”
SB	“Senate Act”
SSS	“September Special Session”

Sources of Information

The following summaries have been compiled from the Office of Legislative Research and Office of Fiscal Analysis and tailored specifically for the Department of Economic and Community Development. Only Public Acts affecting, or of interest to, the Department are included in this summary.

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AN ACT CONCERNING THE CONNECTICUT AIRPORT AUTHORITY

Summary: This act establishes the Connecticut Airport Authority (CAA) to develop, improve, and operate Bradley International Airport, the state's five other general aviation airports (Danielson, Groton/New London, Hartford Brainard, Waterbury-Oxford, and Windham airports), and any other general aviation airports CAA subsequently owns, operates, and manages. The act authorizes DOT, which exercises most airport-related powers, duties, and functions, to transfer them to CAA, but DOT continues to exercise them until the transfer. The act automatically transfers to CAA the powers, duties, and functions previously assigned to specified agencies.

The act establishes an 11-member board to govern CAA. The new board, which consists of gubernatorial and legislative appointees and state officials, replaces the Bradley International Airport Board of Directors. It has many of the Bradley board's powers plus the power to hire staff, retain consultants, procure goods and services, apply for federal and state funds, enter into contracts, borrow money, and issue CAA's bonds.

The act makes CAA a successor employer to the state and requires it to recognize existing state bargaining units and collective bargaining agreements. It requires existing DOT aviation employees to be transferred, with their positions, to CAA. The act prohibits any DOT employee in a bargaining unit from being laid off because of CAA's creation.

The act makes many conforming changes.

EFFECTIVE DATE: July 1, 2011

Sections 1, 2, 3, 16, 18, & 19 — QUASI-PUBLIC AGENCY

The act establishes CAA as a quasi-public agency to develop, maintain, and operate Bradley International Airport, the state's general aviation airports, and other airports — functions DOT and the Bradley International Airport Board of Directors currently perform. In establishing CAA, the act (1) distinguishes Bradley International Airport from the other CAA-owned and -operated airports by designating the latter “general aviation airports” and (2) requires CAA to comply with all federal obligations the state incurred with respect to both types of airports.

As a quasi-public agency, CAA has perpetual succession as a body politic and corporate and must continue operating until it repays its bonds and meets its other obligations. It may adopt and alter an official seal and adopt bylaws to conduct business and regulate its affairs.

CAA must meet the same statutory conditions and requirements as other quasi-public agencies. Consequently, it must obtain the state treasurer's approval before it can issue bonds or incur other debt guaranteed by the state or backed by a state-capitalized or -guaranteed capital reserve fund. Its accounts must be audited by the state auditors. CAA's employees must comply with the state code of ethics. They enjoy the same indemnity as state employees.

Sections 12 & 15 — TRANSFERRING AIRPORT-RELATED POWERS, DUTIES, AND FUNCTIONS

Agency-Specific Requirements

Prior law assigned airport-related powers, duties, and functions to several agencies. The act's provisions for transferring them to CAA vary depending on the agency. The act automatically transfers to CAA all powers and duties previously assigned to the Office of Policy and Management (OPM), Department of Administrative Services, Department of Information Technology, State Property Review Board (SPRB), and Contracting Standards Board.

The act does not transfer to CAA those airport-related powers, duties, and functions the law assigns to DOT. Rather, it allows the DOT commissioner to decide which ones to cede to CAA. In the meantime, DOT must continue operating Bradley and the other general aviation airports. DOT's authority regarding Bradley includes setting rates, rents, and fees and preparing its annual operating budget.

Transfer Mechanisms

The act specifies how the DOT commissioner must transfer the powers and duties he cedes to CAA. He must do so by entering into one or more memoranda of understanding (MOU) with CAA specifying the transferred powers and duties. If the transfer affects outstanding bonds, the treasurer must be a party to the MOU. The commissioner cannot reclaim any powers, duties, assets, funds, accounts, contracts, or liabilities he cedes under a MOU.

The commissioner must also establish a Bureau of Aviation (BOA) to bring about CAA's ownership, jurisdiction, or authority over Bradley, the general aviation airports, and any other airports. (DOT's organizational elements already include a Bureau of Aviation and Ports.) BOA must do so under those arrangements specified in the MOU and that CAA deems to be in its best interest. The arrangements include deeds, leases, management contracts, agency agreements, or assumptions. DOT can receive no compensation for these arrangements. When implementing an MOU, BOA must comply with existing contracts and applicable federal and state laws, regulations, or rules.

MOU

The MOU must conform to the act. It cannot grant CAA powers and duties that exceed those the act provides. Nor can it assign CAA administrative support functions that can be implemented only by expanding those powers and duties.

The MOU must provide for an orderly transfer and transition of ownership, jurisdiction, and authority from DOT to CAA. It must specify:

1. each party's powers regarding Bradley, the general aviation airports, and other airports;
2. assets, funds, accounts, contracts, liabilities, and powers and duties DOT will transfer to CAA and the mechanism for doing so (e. g. , deeds, leases, management contracts, agency agreements, assignments, or assumptions);
3. the party responsible for meeting federal obligations;

4. the employees DOT will transfer to CAA;
5. schedules for completing the transfers;
6. the administrative services DOT will provide to CAA; and
7. how CAA will reimburse the state for these services.

If the treasurer and the Bond Commission approve, a MOU may allow CAA to assume the state's obligation for any outstanding bonds, notes, and other debt and indemnify and release the state from any accompanying liabilities and expenses. In assuming the obligation, CAA must comply with the indenture securing the debt.

The act imposes certain restrictions on MOUs. MOUs cannot require CAA to provide administrative services to the general aviation airports without allowing it to use the money appropriated for them. Nor can they authorize actions that would contravene any contract between the state and another party unless the parties agree to allow the action. This restriction specifically applies to MOU provisions transferring or granting powers, resources, and liabilities to CAA and bond contracts, trust indentures, or other bond-related agreements.

After the parties approve a MOU, CAA may accept a transfer, assignment, or lease the MOU authorizes by notifying DOT that it is ready to do so. DOT cannot unreasonably delay or withhold these actions. When these actions take effect and jurisdiction and control of the airports pass to CAA, DOT's regulations become CAA's regulations and procedures, and CAA must make any necessary additions and modifications as the law provides. This requirement applies to those regulations governing airport fees; aeronautics and aviation; and airport licenses, uses, and operations.

The comptroller may establish funds and accounts to implement CAA's MOU or the act. CAA must deposit all licensing and user fee revenue it receives from airport operations in a fund established for such operations. CAA may tap the fund to cover budgeted expenses for authorized purposes.

Bradley Enterprise Fund

The act allows CAA to tap the Bradley Enterprise Fund to pay for the functions it must perform at Bradley under a MOU. CAA may do so by entering into a MOU with the treasurer regarding the fund's use. The MOU may transfer the fund to CAA to operate and maintain Bradley.

Sections 2-4 — ORGANIZATION STRUCTURE

Board of Directors

Composition. The act creates an 11-member board to govern CAA. The top four legislative leaders each appoint one member and the governor appoints four. The three remaining members are the treasurer and DOT and Economic and Community Development commissioners, or their designees, who serve on the board *ex officio*. Members may not designate others to act in their absence, and they are deemed to have resigned if they miss (1) three consecutive meetings or (2) at least half of all board meetings in a calendar year. Appointing authorities must fill any vacancies occurring before a term expires, and the people they appoint must serve only for the term's balance.

Qualifications. Appointed board members must have business and management experience, and expertise in financial planning, budgeting and assessment, marketing, master planning, aviation, and transportation management.

Bonds. The board members and the executive director must post bonds. The board chairman can execute a blanket bond covering all members, the director, and CAA's employees, or each member can post a \$50,000 surety bond and the executive director a \$100,000 bond. In both cases, the bonds must be conditioned on the parties faithfully performing their official duties. CAA must pay for the bonds.

Terms. The initial appointees serve four-year terms, except for two of the governor's appointees, who serve two-year terms. They may begin serving upon appointment, but not past the sixth Wednesday of the legislature's next regular session unless they are nominated and confirmed under the statutory procedure for nominating and confirming department heads (CGS Section 4-7).

After the initial appointees' terms expire, all the subsequent appointees serve four-year terms, which begin on July 1 of the year appointed. These appointees must be nominated and confirmed under the statutory procedure for filling vacancies when the legislature is not in session (CGS Section 4-19).

Officers. The governor appoints the chairperson, who serves a four-year term. The board elects from its members the vice chairperson and other necessary officers. It must fill vacancies among the officers within 30 days after the vacancy occurs the same way it filled the position.

Conflict of Interest. The act specifies how board members can serve without incurring a conflict of interest. Members with a financial interest in a person, firm, or corporation or who serve as trustees, directors, partners, or officers of these entities can avoid such conflicts by not deliberating, acting, or voting on any matter affecting their respective entities.

The act does not preclude people from serving on the board based on their profession or business, but requires them to comply with (1) the board's code of conduct and (2) all applicable federal or state ethics or conflict of interest laws, regulations, and rules. Members are not compensated for serving on the board, but must be reimbursed for expenses they incur while performing official duties.

Conducting Business. The board can meet and conduct business if at least six members are present and may decide matters by a majority of those present. It can also delegate powers and duties to six or more members. It must adopt bylaws to conduct business and appoint necessary committees and advisory boards.

It must adopt written procedures for:

1. adopting annual budgets and operating plans;
2. hiring, dismissing, and compensating employees;
3. acquiring real and personal property and procuring personal services;
4. contracting for professional services;
5. issuing and retiring bonds and other debt;
6. awarding financial assistance; and
7. using surplus funds to the extent the act allows.

The procurement procedures must require the board to approve nonbudgeted expenditures over \$5,000; the personnel procedures must include an affirmative action policy and require the board to approve each new position and hiring.

Removing Members. Any member's appointing authority can remove a member for misconduct, inefficiency, or failure to perform. But the appointing authority must first give the member a written copy of the charges and an opportunity to be heard. The hearing must occur within 10 days after receiving the appointing authority's notice. If the appointing authority removes the member, it must file with the secretary of the state a (1) report stating the charge and the findings and (2) complete record of the proceedings.

Executive Director

The board appoints the CAA executive director, who cannot be a CAA members. The director must generally direct and supervise CAA's administrative affairs and technical activities and perform the administrative and managerial tasks the act specifies. The board determines the director's compensation.

POWERS

Section 3 — Administrative

The act gives CAA powers needed to develop, maintain, and operate Bradley, the general aviation airports, and the other airports it acquires. Many of these powers are similar to those exercised by other quasi-public agencies and include:

1. maintaining offices,
2. acting in its own name,
3. entering into contracts and agreements needed to perform its duties,
4. acquiring real and personal property,
5. borrowing money,
6. issuing bonds and incurring other debt,
7. entering into currency and interest rate swaps and credit enhancements and liquidity agreements,
8. preparing plans and budgets,
9. hiring employees and retaining consultants,
10. accepting aid and contributions from any source,
11. adopting policies and procedures,
12. auditing and accounting for its funds and those of its recipients, and
13. reporting annually to the governor and the Transportation and Commerce committees.

The act allows CAA to acquire, lease, and dispose of real property and acquire personal property. It exempts CAA's real estate transactions from review and approval of any state agency, but prohibits it from conveying any airport land under its jurisdiction and control without the SPRB's and the attorney general's approval.

The other powers are more related to operating airports and include:

1. developing organizational and management structures;
2. establishing operational rules and procedures;
3. setting rates, rents, fees, and charges;
4. approving airport master plans and marketing policies;
5. approving airport-related safety, security, and federal certification plans, procedures, and specifications;
6. managing and administering federal aviation funds and special obligation bonds issued to finance airport improvements;
7. establishing customer service standards and similar measures; and
8. approving community relations policies.

The act also allows CAA to:

1. ensure that Bradley, the general aviation, and other airports serve as regional and state economic development resources;
2. license airports and heliports consistent with state and federal rules and regulations; and
3. manage and administer the state's aircraft registration program.

Sections 14 & 22 — AIRPORT PROPERTY

The act gives CAA broad powers to manage airport property. CAA has undivided control over any airport or land area it owns, leases, controls, operates, or manages. It can sell or lease its property or grant an interest in it — an authorization that applies to airports, airport sites, hangars, shops, and buildings. But CAA cannot grant any exclusive rights to use any airway, airport, restricted landing area, or other navigation facility under its jurisdiction.

CAA can also acquire title, interest, or rights in any such facilities in private or municipal airports. And it can purchase or acquire any interest in any land, building, equipment, or facility it leased or granted in an airport or airport site. CAA can accept any interest or right in any DOT-owned airport, restricted landing area, or other navigation facility.

By law, the DOT commissioner can acquire or take by eminent domain aviation-related property. The act allows him to transfer interests and rights in such property to CAA with its approval and that of the SPRB and the attorney general. It also allows him to take or acquire an interest in real and personal property CAA sells, leases, or grants in any airport or airport site.

CAA can also manage and operate its property. It can provide parking, limit motor vehicle speeds, control traffic flow, designate crosswalks, and erect signs. It can also execute mutual fire protection agreements with municipalities.

FISCAL POWERS

Sections 6-8 — Bonding

The act authorizes CAA to issue bonds backed only by its own revenue to finance improvements at Bradley, the general aviation airports, and the other airports it acquires. CAA must repay the bonds no later than 40 years after issuing them. It can (1) issue bonds to finance general improvements and

back them with some or all of its revenue or (2) it can issue bonds to finance a specific improvement, such as parking garage, and back them only with the revenue the improvement generates.

CAA may use the proceeds from the bond sales to:

1. cover construction costs, including administrative, labor, and material expenses;
2. acquire land and interests needed to construct or operate facilities and any subsequent damage costs;
3. purchase machinery and equipment needed for these purposes; and
4. capitalize reserve funds for repaying the bonds.

The bonds do not count toward the state's bond cap, and only CAA is liable for them. The act explicitly exempts the state, municipalities, and other political subdivisions from any obligation to repay the bonds. It exempts the principal and interest payments to the bondholders from all taxes except the estate and gift tax, but requires them to include these payments when computing excise and franchise taxes.

The act allows CAA to determine how it will issue and repay the bonds and specifies the kinds of terms and conditions it may include in its agreements with the bondholders. It also declares the bonds negotiable instruments under the Uniform Commercial Code subject only to their registration requirements. The act makes the bonds securities in which governments and private entities may invest. CAA may sell the bonds (1) at a public sale on sealed proposals at a price and time it chooses or (2) by negotiating with investors.

The act authorizes or requires several actions to assure bondholders that CAA will repay them. It specifies that the state will not limit or alter CAA's rights until CAA repays its outstanding bonds and authorizes CAA to create and maintain special capital reserves to back them. It also appropriates from the General Fund any amount needed to maintain these special capital reserves at the required minimum level. The funds must be appropriated as needed on or before December 1. CAA's chairperson or vice chairperson must certify the amount to the treasurer and the OPM secretary.

The act also allows CAA to secure that pledge by entering into agreements with a trustee representing the bondholders' interests (i. e. , trust of indenture). The act requires CAA to secure principal and interest payments by pledging its revenue, which is also immediately subject to lien without any action on the bondholders' part.

The act allows CAA to issue bonds to refund its outstanding bonds and specifies conditions for doing so. It also allows CAA to use its funds to purchase its bonds and those of the state and dispose of the bonds as the bond agreements allow.

By law, the State Bond Commission can issue bonds to finance capital improvements at Bradley and back them with airport-related revenue (CGS Section 15-101*l*). But it can do so only if the Bradley board of directors adopts a resolution requesting bonds and the DOT commissioner presents it to the treasurer. By eliminating the board, the act prevents the commissioner from requesting bonds.

Section 8 — Investments

The act allows CAA to manage its funds, including bond proceeds. CAA can invest and reinvest its funds in obligations, securities, and other investments. It can also deposit and redeposit them in banks. But, in either case, it must comply with the bond agreements.

Section 9 — Airport Revenue

Under prior law, DOT covered the capital and operating costs of running Bradley and the general aviation airports by imposing rates, fees, rents, and charges on the people and entities that use airport facilities. The act authorizes CAA to do the same, setting the rates, fees, rents, and charges so that they generate enough revenue to maintain, improve, repair, and operate airport facilities; repay bonds and other obligations; and create and maintain reserves.

The act specifically requires CAA to set aside enough revenue for the purposes specified in its bond and trust agreements. These agreements may require CAA to (1) maintain reserves at specified levels or (2) periodically improve or maintain property. The act allows CAA to tap this revenue only as the agreements allow.

Section 9 — Budgeting

The act requires CAA to manage Bradley's finances, but only after the DOT commissioner cedes his comparable statutory powers and duties to CAA under a MOU. Those powers include preparing Bradley's annual operating budget, which DOT must submit to the OPM secretary for approval; estimating rate, rental, and fee revenue and operating costs; specifying scheduled bond payments and required reserves and sinking fund amounts.

The act requires CAA to designate its fiscal year and adopt, at least 30 days before the start of that year, an annual operating budget for Bradley, the general aviation airports, and any other airports it acquires. Besides providing funds to cover operating expenses, debt obligations, and reserves, the budget must estimate the revenue CAA expects to receive from rates, rents, fees, and charges. The act specifies how and when CAA must transfer revenue into operating accounts.

In preparing the budget, CAA must comply with the laws that currently apply to state employees and state property. Regarding the former, the act specifies that all pension, retirement, and other similar benefits continue as though they were funded out of the state's General Fund.

Sections 13 & 15 — PERSONNEL

Successor Agency

The act makes the authority a successor employer to the state and requires it to recognize existing state bargaining units and collective bargaining agreements. The Aviation Bureau must consolidate all existing airport-related positions pending DOT's transfer to CAA. These include fiscal, administrative, management, operational, maintenance, aircraft rescue, and firefighting personnel, including those that are not part of a collective bargaining unit.

The act deems CAA's employees to be state employees for collective bargaining purposes (Section 13(a)) and health and retirement benefits (Section 13(g)). CAA must reimburse the appropriate state agencies for the costs they incur providing these benefits to CAA's employees.

Hiring

The act allows CAA to create and fill unclassified positions without having to comply with Executive Branch policies and procedures. Under the act, CAA's employees covered by a collective bargaining agreement are in the classified service; managerial employees and other employees not covered by a collective bargaining agreement are exempt from the classified service. The act allows CAA to establish compensation and incentive plans for employees exempt from classified service.

Transfers

The act requires existing DOT aviation employees to be transferred, with their positions, to CAA if and when the DOT commissioner transfers the functions they perform to CAA. If CAA does not create enough positions for all of them, offers to transfer employees must be based on statutes or the collective bargaining provisions governing seniority. Anyone covered by a collective bargaining agreement who transfers to CAA retains his or her position and remains in the same bargaining unit to which he or she belonged.

No DOT employee in a bargaining unit can be laid off because of CAA's creation, unless he or she chooses to be. This rule applies to employees who decline transfer to CAA and those for whom CAA has no slots. Employees no longer employed by DOT must be retained by DOT or assigned, with their position, to another state agency, based on seniority according to the State Employees Bargaining Agreement. The OPM secretary must approve all transfers.

Employees who choose to be laid off are entitled to be rehired according to their respective union contracts and the collective bargaining agreement. Laws concerning quasi-public agencies, the Division of Special Revenue, and the Connecticut Lottery Corporation will not affect DOT employees' collective bargaining rights.

New Classifications

CAA's board of directors may create new employee classifications, which under the act are neither part of the classified service nor comparable to those in it. Starting July 1, 2011, the authority may hire employees into unclassified positions and set the initial terms and conditions of employment without regard to a collective bargaining agreement.

Collective Bargaining

Under the act, the Executive Branch negotiates for the CAA and represents it in collective bargaining, but CAA may have a representative the bargaining meetings.

Arbitrators dealing with CAA employees must consider the laws governing arbitration for state employees and the laws concerning quasi-public agencies, the Division of Special Revenue and

Gaming Policy Board, and Connecticut Lottery Corporation; the authority's entrepreneurial mission; and the need for flexibility and innovation.

Sections 11 & 5 — REPORTS

CAA must annually submit a performance report to the governor and the Transportation and Commerce committees by December 15. The report must summarize CAA's activities, include complete operating and financial statements, and recommend legislation to promote CAA's purposes.

CAA's board of directors must also submit a copy of CAA's independent audit to the governor and the legislature within seven days after receiving it. It must send copies to the Appropriations, Commerce, and Transportation committees.

Public Act# 11-103

HB# 6221

AN ACT CONCERNING THE ELIMINATION OF CERTAIN SUNSET DATES

Summary: This act makes permanent two Connecticut Development Authority (CDA) programs that provide bond financing for large-scale development projects. Prior law prohibited CDA from approving new projects under both programs on or after July 1, 2012.

Both programs use tax revenue, including incremental tax revenue, to repay the bonds. One uses property tax and other specified revenues to repay bonds CDA issues on a municipality's behalf for cleaning up and redeveloping contaminated property or developing land for information technology uses. The revenue may include some or all of the increase in the property tax revenue these improvements generate (i. e., tax incremental financing).

The other program uses incremental sales, hotel, dues, cabaret, and admission tax revenue to repay bonds CDA issues for projects that create jobs or stimulate significant business activity.

EFFECTIVE DATE: July 1, 2011

BACKGROUND

Related Act

PA 11-141 also eliminates the sunset date for the CDA program that uses incremental sales, hotel, dues, cabaret, and admission tax revenue to repay bonds for projects creating jobs or stimulating significant business activity.

Public Act# 11-123

HB# 6412

AN ACT CONCERNING THE SMALL TOWN ECONOMIC ASSISTANCE PROGRAM

Summary: This act makes groups of municipalities eligible for Small Town Economic Assistance Program (STEAP) grants, as long as each municipality that is a member of the group is otherwise

eligible for the grants. STEAP provides economic assistance to municipalities that do not qualify for the Urban Action grant program, which is meant mainly for cities and economically distressed towns. By law, distressed municipalities or public investment communities eligible for both programs can opt to participate in STEAP by following certain procedures. The act also makes such municipalities eligible to participate in STEAP as members of a group by following the same procedures.

The law caps the total STEAP grant amount a municipality can receive each fiscal year at \$500,000. The act extends this cap to each municipality in the group and specifies that any municipality that receives a grant as part of a group is still eligible to receive STEAP grants equal to the difference between its proportionate share of the group grant and the \$500,000 cap.

EFFECTIVE DATE: Upon passage

Public Act# 11-131

HB# 6455

AN ACT REPEALING CERTAIN STATUTES RELATED TO THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

Summary: This act eliminates the State Economic Development Advisory Board, Connecticut Economic Conference Board, the Small Business Advisory Council, and Connecticut Economic Information Steering Committee, which are defunct, and makes a conforming technical change.

With respect to the Small Business Advisory Council, the act repeals the statute establishing the council and designating its members, but not the statutes specifying its powers and duties (CGS Section 32-97 to -100).

The act also repeals obsolete, redundant, and duplicative statutes.

EFFECTIVE DATE: July 1, 2011

Public Act# 11-150

HB# 6600

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE LEGISLATIVE PAPERLESS TASK FORCE AND THE TASK FORCE TO STUDY THE REDUCTION OF STATE AGENCY PAPER AND DUPLICATIVE PROCEDURES

Summary: This act makes several changes in the laws to reduce state agencies' paper usage. It allows (1) fewer printed copies of several legislative documents and publications to be produced and (2) bills and amendments to be posted to the legislature's website rather than placed on legislators' desks before they are voted on. It generally provides for more limited distribution of several printed documents and publications and, in some cases, requires an individual to make a specific request to receive a printed copy.

The act also requires agencies to electronically submit their proposed regulations to the Regulations Review Committee. It allows agencies to respond to Freedom of Information Act (FOIA) requests

electronically or by facsimile in certain circumstances and reduces the number of copies of required reports they must file with the State Library.

Lastly, the act requires numerous one-time reports by agencies. The reports generally must include recommendations for reducing costs and paper usage.

EFFECTIVE DATE: July 1, 2011, except the sections requiring (1) reports by agencies, conversion of applications and forms to electronic format, and standards and guidelines for electronic records, which are effective upon passage, and (2) electronic submissions of proposed regulations, which are effective October 1, 2011.

LEGISLATIVE PUBLICATIONS AND DOCUMENTS

The act reduces the number of printed copies of several legislative publications, as shown in Table 1.

Table 1: Printing Requirements for Legislative Publications

<i>Publication</i>	<i>Section in Act</i>	<i>Prior Law</i>	<i>The Act</i>
Statutes	10	The State Library receives 500 printed copies and the Judicial Department receives 400.	The Legislative Management Committee determines the number of printed copies.
Public and Special Acts	10	The State Library receives 350 printed copies of both the public and special acts while the Judicial Department receives 400 copies of the public acts and 150 copies of the special acts.	The Legislative Management Committee determines the number of printed copies.

PA 11-61, Section 131 eliminates the provision requiring the Legislative Management Committee to determine how many printed copies of the revised statutes, public acts, and special acts the secretary of the state must distribute to the State Library and the Judicial Department (Section 10). It thus leaves this determination to the secretary.

Other Distribution Requirements

The act requires a specific request before printed copies of the House and Senate journals are provided to legislators, state officers, and county bar libraries (Section 6). Similarly, it requires a specific request before printed copies of statutes and public and special acts are provided to legislators, probate courts, police departments, assistant attorneys general, and county law libraries (Section 10). It also specifies that veterans' organizations in state-furnished office space in Hartford must make a specific request to receive annotated copies of the revised statutes and supplements (Section 14).

AGENCY REQUIREMENTS

The act requires agencies to send their proposed regulations to the Regulation Review Committee electronically, rather than sending 18 paper copies as prior law required. It also requires electronic, rather than paper, submission of the proposed regulations and accompanying fiscal notes to the (1)

Office of Fiscal Analysis and (2) committees of cognizance of the proposed regulation's subject matter (Sections 18 & 19).

The act requires each executive branch agency to (1) use email to notify and correspond with clients whenever possible and permitted by law and to request statutory changes where it is not permitted, (2) explore the feasibility of converting all applications and forms used by the public to electronic format, and (3) create an inventory of all forms the agency uses (Section 23 & 25).

The act permits an agency to provide records electronically or by fax in response to an FOIA request, unless the requestor (1) does not have access to a computer or fax machine or (2) requests a certified copy (Sections 21 & 22).

By law, if (1) a task force, commission, or committee is appointed by the governor, the General Assembly, or both and required to report its findings or (2) a state agency is required to submit a report to the General Assembly or a legislative committee, that report must be submitted to the Senate and House clerks, state librarian, and Office of Legislative Research (OLR). The act requires electronic submission of reports to the House and Senate clerks and OLR. It eliminates the requirement that the submitting entity file as many copies with the state librarian as it and the librarian jointly agree are appropriate and instead requires that only one copy be filed with the library (section 12).

The act also requires the state librarian, by January 1, 2012, to develop standards and guidelines for preserving and authenticating electronic records. In doing so, he or she must consult with the Department of Administrative Services (DAS) commissioner, the chief information officer (CIO) of the Department of Information and Technology (DOIT), the Legislative Management Committee's executive director, and the chief court administrator (Section 28).

REPORTING REQUIREMENTS

The act requires several one-time agencies reports that generally must include recommendations for reducing costs and paper usage. Table 2 identifies these reports.

Table 2: Reports Required by the Act

<i>Reporting Entity</i>	<i>Section in Act</i>	<i>Requirement</i>	<i>Recipient(s) and Due Date</i>
DAS, in consultation with the CIO of DOIT and the comptroller	16	Project the cost of implementing additional CORE-CT modules and the cost savings they would produce over a four-year period.	Governor, secretary of the state, Office of Policy and Management (OPM) secretary, House speaker, Senate president pro tempore, and the Appropriations and Government Administration and Elections (GAE) committees. January 1, 2012
All executive branch agencies, departments, boards, councils, commissions, institutions, and quasi-public agencies	17	(1) List all federal and state statutory reporting requirements (with citations); (2) issue recommendations for (a) consolidating required reports,	Each agency submits the report to its committee of cognizance; all agencies submit reports to the governor and GAE Committee.

		(b) eliminating obsolete reports, and (c) using federally mandated reports to satisfy duplicative state reporting requirements, along with the reasons for doing so and associated cost savings.	January 1, 2012
PRI Committee NOTE: This requirement was repealed by PA 11-61, Section 182.	20	(1) Study the current process for adopting agency regulations and (2) report on potential cost-saving modifications.	GAE and Regulations Review committees. February 1, 2012
OPM Secretary	26	Review and make recommendations for converting all bond commission documents to electronic format, including the projected costs and savings.	Governor, comptroller, treasurer, and the chairpersons and ranking members of the Finance, Revenue, and Bonding Committee. January 1, 2012
Department of Environmental Protection	27	Develop a model policy for promoting green practices within state agencies, including paper usage reduction and improved recycling and solid waste management.	Governor and OPM secretary. January 1, 2012

AN ACT MANDATING EMPLOYERS PROVIDE PAID SICK LEAVE TO EMPLOYEES

Summary: This act requires most employers of 50 or more people in the state to provide certain employees with paid sick leave accruing at a rate of one hour per 40 hours worked. It provides paid sick leave to service workers who work one of 68 federal Standard Occupational Classification System titles named in the act and are paid by the hour.

The earliest service workers can begin accruing sick leave is January 1, 2012. Before they can begin using accrued sick leave they must: (1) have worked for the employer for at least 680 hours and (2) have worked an average of at least 10 hours a week for the employer in the most recently completed calendar quarter.

Under the act, the leave can be used for the service worker's illness, injury, and related treatment or for the service worker's child or spouse. The leave time can also be used for reasons related to family violence or sexual assault. Employers that offer other types of paid leave that can be used for the same purposes and accrues at least as quickly are deemed to comply.

The act does not require manufacturers and certain tax-exempt organizations to provide paid sick leave. Also, it does not require covered employers to provide paid sick leave to day or temporary workers or non-hourly employees such as salaried professionals.

Anyone aggrieved by an alleged violation of the act may file a complaint with the labor commissioner. The commissioner can impose a civil penalty of up to \$100 on employers found in violation. The act bans employers from retaliating or discriminating against employees who request or use the leave the act provides or that the employer voluntarily provides. The labor commissioner can impose a fine of up to \$500 on employers found in violation of the retaliation ban. The

commissioner can also order other appropriate relief such as rehiring or payment of back wages. Parties can appeal the commissioner's decision to Superior Court.

The act requires employers to provide service workers with notice of the rights and protections it provides and allows the labor commissioner to develop regulations for additional notice requirements.

The act also specifies that it does not preempt the terms of any union contract in effect before January 1, 2012, or diminish any right provided to any employee under a union contract.

EFFECTIVE DATE: January 1, 2012

Section 1 — DEFINITIONS

Employer

The act defines “employer” as any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company, or other entity, including the state and its municipalities, that employs 50 or more individuals in Connecticut in any quarter in the previous year, which must be determined annually on January 1. The 50-person threshold is satisfied if the employer employs that many Connecticut workers regardless of how many of them are service workers entitled to sick leave under the new law.

The employee count must be made based upon the quarterly wage reports that employers must, by law, submit to the commissioner (CGS Section 31-225a (j)).

“Employer” does not include (1) any manufacturing business as classified in sectors 31, 32, and 33 of the North American Industrial Classification System (NAICS) or (2) any nationally chartered, nonprofit, tax-exempt organization that provides recreation, child care, and education services. The NAICS codes cover all forms of manufacturing including the following products: food, textiles, wood, petroleum, chemical, plastics, metal, machinery, motor vehicles, aerospace, computer, electronic, and miscellaneous products.

Service Worker and Employee

In the act “service worker” means an employee primarily engaged in an occupation with one of the following occupation code numbers and titles, as defined by the federal Bureau of Labor Statistics Standard Occupational Classification system or any successor system:

<i>Title</i>	<i>Code</i>	<i>Title</i>	<i>Code</i>
Food Service Managers	11-9050	Medical and Health Services Managers	11-9110
Social Workers	21-1020	Social and Human Service Assistants	21-1093
Community Health Workers	21-1094	Community and Social Service Specialists, All Other	21-1099
Librarians	25-4020	Pharmacists	29-1050
Physician Assistants	29-1070	Therapists	29-1120
Registered Nurses	29-1140	Nurse Anesthetists	29-1150

Nurse Midwives	29-1160	Nurse Practitioners	29-1170
Dental Hygienists	29-2020	Emergency Medical Technicians and Paramedics	29-2040
Health Practitioner Support Technologists and Technicians	29-2050	Licensed Practical and Licensed Vocational Nurses	29-2060
Home Health Aides	31-1011	Nursing Aides, Orderlies and Attendants	31-1012
Psychiatric Aides	31-1013	Dental Assistants	31-9091
Medical Assistants	31-9092	Security Guards	33-9032
Crossing Guards	33-9091	Supervisors of Food Preparation and Serving Workers	35-1010
Cooks	35-2010	Food Preparation Workers	35-2020
Bartenders	35-3010	Fast Food and Counter Workers	35-3020
Waiters and Waitresses	35-3030	Food Servers, Nonrestaurant	35-3040
Dining Room and Cafeteria Attendants and Bartender Helpers	35-9010	Dishwashers	35-9020
Hosts and Hostesses, Restaurant, Lounge and Coffee Shop	35-9030	Miscellaneous Food Preparation and Serving Related Workers	35-9090
Janitors and Cleaners, Except Maids and Housekeeping Cleaners	37-2011	Building Cleaning Workers, All Other	37-2019
Ushers, Lobby Attendants, and Ticket Takers	39-3030	Barbers, Hairdressers, Hairstylists, and Cosmetologists	39-5010
Baggage Porters, Bellhops, and Concierges	39-6010	Child Care Workers	39-9010
Personal Care Aides	39-9021	First-Line Supervisors of Sales Workers	41-1010
Cashiers	41-2011	Counter and Rental Clerks	41-2021
Retail Salespersons	41-2030	Tellers	43-3070
Hotel, Motel, and Resort Desk Clerks	43-4080	Receptionists and Information Clerks	43-4170
Couriers and Messengers	43-5020	Secretaries and Administrative Assistants	43-6010
Computer Operators	43-9010	Data Entry and Information Processing Workers	43-9020
Desktop Publishers	43-9030	Insurance Claims and Policy Processing Clerks	43-9040
Mail Clerks and Mail Machine Operators, Except Postal Service	43-9050	Office Clerks, General	43-9060
Office Machine Operators, Except Computer	43-9070	Proofreaders and Copy Markers	43-9080
Statistical Assistants	43-9110	Miscellaneous Office and Administrative Support Workers	43-9190
Bakers	51-3010	Butchers and Other Meat, Poultry, and Fish Processing Workers	51-3020
Miscellaneous Food Processing Workers	51-3090	Ambulance Drivers and Attendants, Except Emergency Medical Technicians	53-3010
Bus Drivers	53-3020	Taxi Drivers and Chauffeurs	53-3040

Under the act, service workers must be (1) paid on an hourly basis or (2) subject to the 1938 federal Fair Labor Standards Act's minimum wage and overtime compensation requirements to be eligible for paid sick leave. These requirements generally exclude managers who have authority to hire and fire staff, professional occupations (such as lawyers and physicians), salespeople, and certain skilled computer professionals.

Furthermore, service worker excludes day or temporary workers, which the act defines as those who perform work for another on (1) a per diem basis or (2) an occasional or irregular basis, for only the time required to complete the work, whether they are paid by the person for whom such work is performed or by an employment agency or temporary help service, as defined by law.

Sections 2-4 — PAID SICK LEAVE

Benefit Accrual

Under the act, service workers start accruing leave time on January 1, 2012. Those hired before then will start accruing on that date and service workers hired after that date will start accruing on their date of employment. Service workers cannot use the benefit until they have worked at least 680 hours after the benefit starts accruing and they must have worked an average of at least 10 hours a week for the employer during the most recently completed calendar quarter. The act does not prevent an employer from allowing service workers to begin accruing time before January 1, 2012.

Service workers accrue one hour of sick leave for every 40 hours of work and they cannot accrue more than 40 hours of sick leave in a calendar year. They can carry up to 40 hours of sick leave into the next calendar year, but cannot use more than 40 hours of leave in any year.

Sick Leave Pay

The act requires the service worker's compensation while on sick leave to be the greater of (1) the worker's normal hourly wage or (2) the statutory minimum wage while the worker is on leave. If the service worker's hourly wage varies, the "normal hourly wage" is the average hourly wage paid to him or her in the pay period prior to the leave.

An employer does not have to pay a service worker for unused sick leave upon termination, unless otherwise provided by an employer policy or collective bargaining agreement.

Other Complying Leave

Employers are deemed to be in compliance if they provide other paid leave that (1) accrues at least as quickly as the act's sick leave and (2) can be used for the same purposes. Under the act, "other paid leave" includes paid vacation, personal days, or other time off.

The act does not prevent employers from providing a more generous paid leave policy than it requires, and employers may limit the use of benefits they provide that exceed the act's requirements.

Hour, Shift, and Benefit Flexibility

The act permits employers to allow, but not require, service workers to switch shifts or work extra hours in lieu of using sick leave. The different shifts or extra hours must be (1) upon the mutual consent of the employer and service worker and (2) during the same or following pay period as the sick leave. Employers can also allow service workers to donate any unused sick leave to their co-workers.

Job Termination and Accrued Sick Leave

Under the act, any termination of a service worker's employment, whether voluntary or not, is construed as a break in service with that employer. If a service worker is rehired after such a break in

service, he or she is not entitled to use any sick leave that was accrued before the break unless agreed to by the employer. The service worker begins accruing sick leave time anew when rehired.

Sick Leave Abuse

The act specifies that it does not prohibit an employer from disciplining an employee for using paid sick leave for unauthorized purposes.

Section 3 — PERMITTED USES

The act requires an employer to allow a service worker to use paid sick leave for his or her, or a spouse's or child's:

1. illness, injury, or health condition;
2. medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or
3. preventive medical care.

The act defines a “child” as an employee's biological, adopted, or foster child, stepchild, legal ward, or a child of an employee acting instead of a parent, when the child is either under 18 years old or over 18 but incapable of self-care due to mental or physical disability.

The act also requires employers to provide paid sick leave when the service worker is a victim of family violence or sexual assault for:

1. medical care or psychological or other counseling for physical or psychological injury or disability,
2. services from a victim services organization,
3. relocating, or
4. participation in a related civil or criminal legal proceeding.

Family violence is any physical harm or threatened act of violence that constitutes fear of such harm between family or household members. Sexual assault includes all penal code crimes of unlawful contact with the intimate parts of another person's body, except aggravated sexual assault of a minor (CGS Section 53a-70c).

Under the act, an employer does not have to provide paid sick leave for any reasons not specified in the act.

Section 3 (B) — PERMITTED REQUIREMENTS OF THE SERVICE WORKERS

The act allows employers to require that service workers provide notice (1) up to seven days before taking the leave if it is foreseeable or (2) as soon as practicable if it is not foreseeable.

If the leave is for three or more consecutive days, the employer can require reasonable documentation verifying the leave's purpose. Table 1 details reasonable documentation.

Table 1: Documentation Needed for Sick Leave

<i>Type of Leave</i>	<i>Documentation</i>
For mental or physical illness, treatment of an illness or injury, mental or physical diagnosis, or preventive medical care for the service worker or the employee's child or spouse	Documentation signed by the health care provider treating the service worker or the service worker's child or spouse and indicating the need for the number of days of the leave
For a victim of family violence or sexual assault	A court record or documentation signed by an employee or volunteer working for a victim services organization, an attorney, police officer, or other counselor involved with the service worker

Section 5 — ENFORCEMENT

Retaliation Prohibited

The act bans most employers from terminating, suspending, constructively discharging, demoting, unfavorably reassigning, refusing to promote, disciplining, or taking any other adverse employment action against an employee because the employee (1) requested or used paid sick leave as provided by the act or in accordance with the employer's own paid sick leave policy or (2) filed a complaint with the labor commissioner alleging an employer violated the act's provisions.

Since this part of the act uses the term “employee” rather than “service worker,” it applies to a larger number of workers than the rest of the law, which focuses on job classification codes. Thus the retaliation ban covers all employers with 50 or more employees, excluding manufacturers and the tax-exempt organizations described in the act, that provide their own paid sick leave. This means employers fall into one of three groups: (1) covered by all the act's provisions, (2) covered by only the retaliation ban, and (3) exempt from the act.

Complaints, Hearings & Penalties

Employees aggrieved by an alleged violation may file a complaint with the labor commissioner. The commissioner may hold a hearing on the complaint and, after the hearing, any employer who is found by a preponderance of the evidence, to have violated the act's:

1. general provisions will be liable to the Labor Department for a civil penalty of up to \$100 for each violation or
2. retaliation provision will be liable to the department for a civil penalty of \$500 for each violation.

The commissioner can award the employee all appropriate relief, including the payment for used paid sick leave, rehiring or reinstatement to the employee's previous job, payment of back wages, and reestablishment of benefits for which the employee was otherwise eligible if not for the retaliatory personnel action or being discriminated against. Aggrieved parties can appeal the commissioner's decision to Superior Court.

The act requires the labor commissioner to enforce its provisions within available appropriations.

Sections 4 & 5 — EMPLOYEES UNDER UNION CONTRACTS

The act does not preempt the terms of any union contract in effect before January 1, 2012 or diminish any right provided to any employee under a union contract.

It requires the labor commissioner to advise any employee who is covered by a collective bargaining agreement that provides paid sick days and files a complaint under the new law of his or her right to file a grievance with his or her union.

Section 6 — SERVICE WORKER NOTICE

The act requires each covered employer to provide notice to each service worker at the time of hiring that the:

1. service workers is entitled to paid sick leave, the amount provided, and the terms under which it can be used;
2. employer cannot retaliate against the worker for requesting or using sick leave; and
3. worker can file a complaint with the labor commissioner for any violation.

An employer can comply with this requirement by displaying a poster with the required information in English and Spanish in a conspicuous place, accessible to service workers, at the employer's place of business. The act authorizes the labor commissioner to adopt regulations establishing additional notice requirements. It requires him to administer the notice provision within available appropriations.

Public Act# 11-75

SB# 1152

AN ACT CONCERNING THE UNIVERSITY OF CONNECTICUT HEALTH CENTER

Summary: This act increases previously authorized funding to construct a new bed tower and renovate academic, clinical, and research space at UConn's John Dempsey Hospital (see BACKGROUND). It increases existing bond authorizations by \$254.9 million by (1) authorizing \$ 262.9 million in new bonding under the UConn 2000 infrastructure program and (2) reducing, by \$8 million, existing general obligation (GO) bond authorizations for UConn health network initiatives. It also requires the UConn Health Center (UCHC) to (1) contribute at least \$69 million from operations, special eligible gifts, or other sources toward the new construction and renovation project and (2) provide for the construction of a new ambulatory care center through private financing.

Additionally, the act eliminates a requirement that UConn obtain at least \$100 million in federal, private, or other nonstate money before the bonds are issued and construction commences. However, it retains a requirement that the State Bond Commission allocate the GO bonds for UConn health network initiatives before UConn may expend funds for new construction and renovation. It also extends, by six months, a notification date concerning the possible transfer of neonatal intensive care units (NICU) beds from John Dempsey Hospital (JDH) to the Connecticut Children's Medical Center (CCMC). Lastly, the act makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

PROJECT AUTHORIZATIONS AND FUNDING SOURCES

The act increases existing bond authorizations by \$254.9 million by (1) authorizing \$262.9 million in new bonding under the UConn 2000 infrastructure program and (2) reducing, by \$8 million, existing GO bond authorizations for UConn health network initiatives (see Table 1).

Table 1: Changes to Existing Bond Authorizations

<i>Project</i>	<i>Description of funds</i>	<i>Prior Authorization (in millions)</i>	<i>Authorization Under the Act (in millions)</i>	<i>Change (in millions)</i>
UCHC Main Building Renovation	UConn 2000 bonds	\$50	\$125	\$75
UCHC New Construction and Renovation	UConn 2000 bonds	207	394.9	187.9
UConn health network initiatives	State GO bonds, outside of UConn 2000	30	22	(8)
TOTAL CHANGE				254.9

Bonding Conditions

Under prior law, the funding plan for the new construction and renovation at UCHC included the \$207 million in UConn 2000 bonds described above and an additional (1) \$25 million in UConn 2000 bonds for planning and design costs and (2) at least \$100 million in federal, private, or other nonstate money. The law also authorized \$30 million in state GO bonds to fund the UConn health network initiatives. The issuance of the \$207 million in UConn 2000 bonds for new construction and renovation and \$30 million in state GO bonds was contingent on UConn securing the nonstate money.

The act eliminates requirements that (1) the \$100 million in nonstate money be secured before issuing both the UConn 2000 and the GO bonds and (2) UCHC follow the specific funding plan described above. It retains a requirement that the State Bond Commission allocate the GO bonds for UConn health network initiatives before UConn may expend funds for new construction and renovation. The act also removes a provision that made a \$3 million bond authorization to the Department of Public Health for enhancements to the accessibility and efficiency of health care services in Hartford contingent on securing the \$100 million in nonstate money.

Additionally, the act requires UCHC to contribute at least \$69 million from operations, special eligible gifts, or other sources toward the new construction and renovation project, but this contribution is not a prerequisite for issuing the bonds.

UConn 2000 Bonds

To conform to the increased bond authorizations, the act adjusts the annual bond limit caps for the UConn 2000 infrastructure program for FY 14 through FY 17 as shown in Table 2. Under existing law and the act, any difference between the amount actually issued in any year and the cap can be carried forward to any succeeding fiscal year. Financing transaction costs can be added to the caps.

Table 2: Annual Bond Limits for UConn 2000

<i>FY</i>	<i>Prior Limit (in millions)</i>	<i>New Limit (in millions)</i>	<i>Change (in millions)</i>
2014	\$140.0	198.0	58.0
2015	128.5	208.5	80.0
2016	119.5	199.5	80.0
2017	116.0	160.9	44.9
TOTAL CHANGE			262.9

New Ambulatory Care Center

The act directs UCHC to provide for the construction of a new ambulatory care center through debt or equity financing obtained from one or more private developers who contract with UConn to build the center.

UConn Health Center Network Initiatives

Under prior law, the UConn health network initiatives included eight projects, listed in Table 3. The act eliminates two of these projects, the Connecticut Institute for Nursing Excellence and the institute for clinical and translational science, along with \$8 million in related bond funding. It specifies that \$5 million is allocated for the comprehensive cancer center and the UConn-sponsored health disparities institute.

Table 3: Changes to UConn Health Network Initiative Projects

<i>Project</i>	<i>Prior Bond Authorization (in millions)</i>	<i>Authorization Under the Act (in millions)</i>
Simulation and conference center on the Hartford Hospital Campus	\$5	\$5
Primary care institute at St. Francis Hospital and Medical Center	5	5
Institute for clinical and translational science at UCHC	10	0
Comprehensive cancer center		5
UConn-sponsored Health disparities institute		
Hospital of Central Connecticut improvements	5	5
Institute for nursing excellence at the UConn School of Nursing	3	0
Bristol Hospital patient room renovations	2	2
TOTAL	30	22

NEONATAL INTENSIVE CARE UNIT BED TRANSFER

Existing law establishes provisions for transferring, from JDH to CCMC, licensure and control of 40 NICU beds. The act extends, from December 30, 2010 to June 30, 2011, the time by which CCMC and JDH must notify the Office of Policy and Management secretary (1) jointly, of their intent to proceed with the NICU transfer or (2) jointly or individually, that they will not pursue the transfer.

BACKGROUND

PA 10-104 provided funding, under certain conditions, for the (1) construction of a new bed tower and renovation of academic, clinical, and research space at JDH and (2) development of regional health network initiatives.

The total cost was \$362 million. The act authorized the issuance of \$237 million in new state bonds of which \$207 million would be issued under the UConn 2000 infrastructure improvement program. It also reallocated \$25 million in existing UConn 2000 funds to pay for planning and design costs of the new JDH bed tower and required a contribution of \$100 million in federal, private, or other nonstate money. The act prohibited the \$237 million in new bonds from being issued and construction of the bed tower from commencing until the \$100 million was received. It established June 30, 2015 as the deadline for receiving the \$100 million.

“UCHC new construction and renovation” means the planning, design, development, financing, construction, renovation, furnishing, equipping, and completion of clinical, academic, and research space at JDH. It specifically includes the construction of a new bed tower, increasing the number of licensed beds from 224 to a maximum of 234, including newborn bassinets.

The act also established provisions for transferring, from JDH to CCMC, licensure and control of 40 NICU beds. It conferred the benefits of an enterprise zone on certain businesses in Hartford and parts of Bristol, Farmington, and New Britain, and it required UConn to report biennially on the progress of the health network initiatives and JDH construction and renovation.

Public Act# 11-78

SB# 1216

AN ACT CONCERNING THE URBAN REINVESTMENT ACT AND THE FEDERAL NEW MARKETS TAX CREDIT PROGRAM AND CORRECTING AN EFFECTIVE DATE

Summary: Business taxpayers investing in certain business development projects may qualify for both state Urban and Industrial Sites Reinvestment (UISR) tax credits and federal New Markets tax credits. This act aligns some of the rules for the state tax credits with the federal ones for projects receiving investments eligible for both credits. It requires these projects to meet the state and federal eligibility criteria and subjects them to the federal rules for recapturing (i.e., repaying) tax credits.

The act also corrects an effective date in PA 10-98, which created the Bradley Airport Development Zone.

EFFECTIVE DATE: July 1, 2011

URBAN AND INDUSTRIAL SITE REINVESTMENT TAX CREDITS

Eligible Investments

By law, businesses that invest in an eligible urban and industrial sites project qualify for up to \$100 million in state UISR tax credits, depending on the amount of total tax revenue the project is

projected to generate. The law allows businesses to invest directly or indirectly in a project through a state-registered investment fund or a qualified community development entity (CDE). A CDE is a business entity created to receive New Markets tax credits. Under prior law and the act, a CDE does not need to have received an allocation of New Markets tax credits to qualify for UISR credits.

The act creates a separate category of CDEs through which investors may claim UISR and New Markets credits for the same investment. These “contractually-bound” CDEs qualify for UISR credits if (1) they have entered into an allocation agreement with the Community Development Financial Institutions (CDFI) Fund for a share of New Markets tax credits and (2) their respective service areas in the allocation agreement include Connecticut.

Eligible Activities

By law, developers receiving investment capital eligible for UISR tax credits may use it to fund a wide range of costs and activities, including those associated with acquiring or leasing property, demolishing buildings, and cleaning up contaminated soil. The act limits the types of projects for which contractually-bound CDEs may receive UISR credits to only the activities, costs, and services (1) the law allows and (2) specified in the allocation agreement for the federal credits.

A contractually-bound CDE must still apply to the Department of Economic and Community Development (DECD) commissioner and meet the existing geographic criteria and economic impact requirements to qualify for the UISR credits.

Recapture Requirements

By law, investments qualify for UISR credits based on a project's capacity to generate enough state tax revenue to cover the value of the credits. To determine whether the project accomplishes this, the DECD commissioner must conduct an annual economic impact study and, if the project has not generated sufficient tax revenue, may (1) revoke its eligibility certificate and (2) require each taxpayer to recapture its pro rata share of the credits claimed according to a statutory schedule.

By law, the commissioner may charge the entity that made the investment for the cost of conducting this study. The act extends this requirement to contractually-bound CDEs that receive UISR credits, but exempts them from the law's credit recapture provisions. The act instead makes these CDEs subject to the recapture provisions specified in (1) the allocation agreement with the CDFI Fund or, (2) if the agreement does not include any recapture provisions, federal regulations for New Markets tax credits.

The federal rules for recapturing credits are different than the state's rules. State law requires taxpayers to recapture UISR tax credits over a 10-year period, according to a statutory schedule, when a project fails to generate enough tax revenue to cover the foregone corporate business tax revenue.

The federal rules for recapturing New Markets tax credits are based on whether the CDE maintains its investment in qualified low-income communities. The U.S. Treasury Department monitors CDEs, tracks their investments, and requires investors to repay the credits based on a seven-year schedule if

the CDE (1) ceases to exist, (2) fails to invest a substantial portion of its equity investment in a qualified low-income community business, or (3) redeems or otherwise cashes out its investment.

BRADLEY AIRPORT DEVELOPMENT ZONE CORPORATION TAX CREDIT

PA 10-98 created the Bradley Airport Development Zone and made businesses improving property in the zone eligible for the same corporation business tax credits available to businesses in the state's 17 enterprise zones. Under PA 10-98, the provisions authorizing the credits take effect October 1, 2011 and apply to income years beginning January 1, 2013, but also specify that businesses may begin claiming the credits on or after January 1, 2012. The act corrects this inconsistency by making the provision applicable to income years beginning on or after January 1, 2012.

BACKGROUND

New Markets Tax Credits

The New Markets tax credit program uses federal income tax credits to attract private capital for business projects in low-income areas. Investors seeking credits must access them through federally certified for-profit CDEs, which must annually apply for them to the CDFI Fund, administered by the U.S. Treasury Department. The credits equal 39% of the invested amount, and investors must claim them over seven years according to a statutory schedule.

CDEs must lend to or invest the funds in business projects or use them for other specified activities. Business projects include mixed residential and commercial real estate developments where the housing units generate no more than 80% of the project's income.

CDEs

In order to qualify for the urban and industrial sites reinvestment program, a CDE must be federally certified to receive New Markets tax credits. It must also be qualified to do business in the state and registered with the DECD commissioner. Its purpose must be to provide investment capital or financing for eligible projects, and it must be accountable to the residents of two or more designated towns through its governing board. Designated towns are those where taxpayers investing in urban reinvestment projects qualify for credits. They are the 17 towns with enterprise zones, 25 state-designated distressed municipalities (11 of which have enterprise zones), and the five towns with populations over 100,000 (all of which have enterprise zones).

Public Act# 11-86

SB# 1001

AN ACT CREATING THE FIRST FIVE PROGRAM

Summary: This act authorizes “substantial financial assistance” under existing economic development programs for business development projects that can create jobs and invest funds within specified timeframes. The Department of Economic and Community Development (DECD) commissioner may provide this assistance to up to five businesses per year in FY 12 and 13, respectively (i.e., “First Five” Program).

The act allows her to provide the assistance only if the governor consents. It exempts First Five projects from having to obtain legislative approval, which the law requires for financial assistance and certain tax credits above specified amounts.

The act also increases the total amount of business tax credits available under the (1) job creation tax credit program, from \$11 million to \$20 million, and (2) Urban and Industrial Sites Reinvestment program, from \$500 million to \$750 million.

EFFECTIVE DATE: July 1, 2011

SUBSTANTIAL FINANCIAL ASSISTANCE

Two-Year Time Period

The act authorizes the DECD commissioner to provide substantial financial assistance to up to five businesses per year in FY 12 and 13, respectively, and to work with the Connecticut Development Authority (CDA) and Connecticut Innovations, Inc. (CII) to secure financing for the project. CDA makes and guarantees loans for different business development projects; CII provides venture capital for developing new products and techniques.

Manufacturing Assistance Act (MAA)

The act does not explicitly specify the programs the commissioner may use to fund First Five projects, but suggests she may use MAA funds, which businesses can use to develop land and purchase machinery and equipment. The law limits the amount of MAA funds a project may receive based on its location. Projects in the 17 targeted investment communities qualify for up to 90% funding while those in the other municipalities generally qualify for up to 50% funding. The act exempts First Five projects from these limits, thus qualifying them for up to 100% funding regardless of their location.

Insurance Premium Tax Credit Waivers

The act also suggests that parties investing in First Five projects qualify for business tax credits. It does so by allowing the commissioner to waive the annual statutory limit on the total amount of credits insurers may claim against the insurance premium tax. The limit is 70% of a taxpayer's pre credit liability for that year. The commissioner may waive this limit for taxpayers claiming credits for investments made under these programs:

1. Urban and Industrial Sites Reinvestment Act (CGS Section 32-9t),
2. Job Creation (CGS Section 12-217ii),
3. Small Business Job Creation (CGS Section 12-217nn),
4. Vocational Rehabilitation Job Creation (CGS Section 12-217oo),
5. Film Production Tax Credit (CGS Section 12-217j),
6. Film Production Infrastructure (CGS Section 12-217kk),
7. Digital Animation Production (CGS Section 12-217ll), and
8. Insurance Reinvestment Fund (CGS Section 38a-88a).

Increase Credit Authorizations

PA 11-6 increased the total combined cap for credits under the Job Creation, Small Business Job Creation, and Vocational Rehabilitation Job Creation programs from \$11 million to \$20 million. This act sets the cap for the Job Creation program at \$20 million on its own, but does not eliminate conflicting references to a combined \$20 million cap for the three programs in other statutes.

EXEMPTION FROM LEGISLATIVE APPROVAL

The act exempts First Five projects from laws requiring legislative approval for large-scale economic development projects. It exempts them from the law requiring such approval for projects receiving over \$10 million over a two-year period (\$20 million for biotechnology projects). And it exempts them from the law requiring legislative approval for projects requesting over \$20 million in tax credits under the Urban and Industrial Sites Reinvestment Program, which provides credits for (1) building, expanding, or rehabilitating facilities in state-designated municipalities or (2) cleaning up and redeveloping contaminated property in any municipality.

ELIGIBILITY CRITERIA

Business development projects qualify for First Five funding if they commit to creating jobs or investing funds within the act's timeframes. Thus, a project qualifies if it:

1. creates at least 200 new jobs within 24 months after the commissioner approved assistance or
2. invests at least \$25 million and creates at least new 200 jobs within five years after the commissioner approved the assistance.

The act requires the commissioner to give business development projects preference for assistance if they are also “redevelopment projects,” which the act does not define. The commissioner can do this if she believes a project can create at least 200 jobs sooner than 24 months or, for projects investing at least \$25 million, sooner than five years.

TERMS AND CONDITIONS FOR FINANCIAL ASSISTANCE

The act authorizes the commissioner to take any steps she deems necessary to ensure that a business development project meets its job creation and investment goals. The steps include imposing terms and conditions on repaying state assistance.

APPROVAL

The commissioner must certify to the governor that a project meets the act's criteria. She may award the assistance only if the governor consents in writing.

REPORTS

The commissioner must report to the Commerce and Finance, Revenue and Bonding committees on the projects receiving assistance under the act. The reports must indicate the number of jobs created

and how they affect the economy. They are due on January 1, 2012, January 1, 2013, and September 1, 2013.

AN ACT CONCERNING THE CONTINUANCE OF THE MAJORITY LEADERS' JOB GROWTH ROUNDTABLE

Summary: This act establishes and modifies several economic development programs, makes structural and procedural changes to two quasi-public state development agencies, and requires two studies. It provides tax incentives for (1) small manufacturers to save money for training workers and acquiring facilities and equipment (Section 4-7) and (2) graduates from Connecticut colleges and universities and regional vocational-technical school to save money toward buying their first home in Connecticut (Section 30-32).

The act modifies several existing economic development programs.

1. It revamps the eligibility criteria for student loan reimbursements for Connecticut residents graduating from public colleges and universities with degrees in specified fields and eliminates the reimbursements for nondegree training certificates in these fields. Among other things, the act expands the range of eligible degrees, but limits eligibility to residents working for a business related to their degree. Under prior law, residents had to hold a job related to their degree, but the job could have been in business, government, or the nonprofit sector (Section 1).
2. The act makes changes to the Neighborhood Assistance Act (NAA), including extending NAA tax credit eligibility to companies subject to the state's business entity tax and doubling the total amount of credits that a company may claim annually under the NAA (Section 27-28). It also allows business taxpayers to transfer insurance reinvestment tax credits to their affiliates (Section 2).
3. The act allows the Office of Brownfield Remediation and Development (OBRD) to enter into cooperative funding agreements with other entities (Section 10), changes the Department of Economic and Community Development's (DECD) role in establishing the Innovation Network for Economic Development (Section 11), and expands eligibility for tax benefits under several DECD programs and makes many technical and programmatic changes (Section 13-26).
4. Lastly, the act extends enterprise zones benefits to parts of Plainville (Section 29).

The act makes the DECD commissioner the chairperson of the boards of the Connecticut Housing Finance Authority (CHFA) (section 8) and the Connecticut Development Authority (CDA) and changes a CDA reporting requirement (section 12). It eliminates the 21-member Connecticut Competitiveness Council, which PA 10-75 established to promote the state's industry clusters.

Lastly, the act establishes a task force to identify and study the barriers facing Connecticut businesses (section 9) and requires the transportation (DOT) and administrative services (DAS) commissioners to analyze the costs and benefits of converting a portion of the state's auto fleet to alternative energy sources (Section 3).

EFFECTIVE DATE: various, as shown below

Section 1 — STUDENT LOAN REIMBURSEMENTS

Eligible Academic Backgrounds

PA 10-75 authorized student loan reimbursements and training grants for Connecticut residents graduating from public colleges and universities, based on their educational fields, subsequent occupations, and incomes. The act revamps the eligibility criteria.

It expands the range of educational fields. Under prior law, residents qualified for reimbursements if they graduated from a Connecticut college or university on or after May 1, 2010 with a degree related to life science, green technology, or health information technology. Life science encompassed the study of genes, cells, tissues, and the chemical and physical structures of living organisms. The act expands this field to include biomedical engineering and medical device manufacturing.

Eligible Occupations

The act also expands the range of eligible occupations. Under prior law, graduates had to be employed in jobs related to the eligible academic fields for at least two years after graduation. Graduates meeting these criteria qualified for reimbursements regardless of whether they worked for businesses, government agencies, or nonprofit organizations. Under the act, they qualify for reimbursement only if they are employed in a business related to these eligible fields regardless of their jobs. Those employed by government agencies or nonprofit organizations do not qualify.

Income Criterion

The act changes the income criterion for receiving loan reimbursements. Under prior law, a resident who met the educational and occupational criteria qualified for reimbursement if his or her expected family contribution, as determined by the federal Free Application for Federal Student Aid, was no more than \$35,000 for the most recent full academic year. (Income is one of the factors that affect family contribution.) Under the act, a resident who meets these criteria qualifies if his or her federal adjusted gross income is no more than \$150,000 for the year before the initial reimbursement year.

Reimbursements

The act eliminates prior law's maximum \$250 grants for residents with nondegree training certificates and jobs in eligible fields. It makes no changes to the student loan reimbursements, which vary depending on the resident's degree. Residents with a bachelor's degree qualify for up to \$2,500 per year or 5% of the loan amounts, whichever is less, for up to four years. Those with an associate's degree qualify for the same amount, but only for up to two years. The law caps the total value of reimbursements a resident can receive under this and any other state program at \$10,000 for those holding a bachelor's degree and \$5,000 for those holding an associate's degree.

EFFECTIVE DATE: Upon passage

Section 2 — INSURANCE REINVESTMENT FUND PROGRAM

This program authorizes insurance premium, corporation business, and personal income tax credits for taxpayers investing in insurance businesses through a state-certified insurance reinvestment fund. Under prior law, taxpayers could only apply credits against their tax liability or sell them (i. e., assign them) to another taxpayer. The act also allows them to transfer the credit to an affiliated business or entity.

EFFECTIVE DATE: Upon passage

Section 3 — AUTO FLEET CONVERSION STUDY

The act requires the DOT and DAS commissioners to jointly study the costs of converting up to 25% of the state's auto fleet to alternative energy sources. They must do this by July 1, 2011 within available appropriations and submit their findings and recommendations to the governor and the Commerce, Energy and Technology, Environment, and Transportation committees by February 1, 2012.

The study must include DOT's vehicles; identify the costs and environmental benefits of converting the fleet to electric power, alternative fuels, or natural gas; and establish deadlines for completing the conversion.

The law already sets goals for converting the state fleet to alternative energy sources. It requires all cars and light duty trucks purchased or leased on or after January 1, 2012 to be alternative fuel, hybrid electric, or plug-in vehicles. As of January 1, 2008, all alternative-fueled vehicles and all gas-powered light duty and hybrid vehicles had to be certified to the California Air Resources Board's Low Emission Vehicle II Ultra Low Emission Vehicle Standard.

EFFECTIVE DATE: Upon passage

Sections 4-7 — MANUFACTURING REINVESTMENT ACCOUNT

Eligible Businesses

The act requires the DECD commissioner to establish a program encouraging small manufacturers with 50 or fewer employees to save money for (1) training, developing, and expanding their workforce or (2) purchasing machinery, equipment, or facilities. In doing so, she must establish criteria and guidelines for selecting up to 50 manufacturers, which include any business that changes the form, composition, quality, or character of tangible personal property for retail sale or making a product for such sale. The manufacturers must be liable for corporation business or personal income taxes (although the act's tax benefits apply only to manufacturers subject to the corporation business tax.)

Savings Incentive

The act provides two incentives to manufacturers for saving money for worker training and capital improvements, including machinery and equipment purchases. It allows them to defer the corporation business taxes on the amounts they save for these purposes until they spend some or all of the savings. It also taxes the amounts they spend at a lower rate. Manufacturers can access these

incentives only by establishing a manufacturing reinvestment account and complying with the act's rules for depositing and spending funds.

Manufacturing Reinvestment Account

A manufacturer may establish a manufacturing reinvestment account only in a Connecticut bank, which can act as the account's trustee or custodian. Neither the bank nor the manufacturer can invest the money in the account in life insurance contracts or comingle it with other property. The bank must close the account five years after the manufacturer established it and return the balance to the manufacturer.

The manufacturer or an affiliated business may deposit up to \$50,000 annually, or 100% of their domestic gross receipts, whichever is less, on a corporation tax-deferred basis for up to five years, if they use the funds for these purposes.

The manufacturer (or the affiliate) may defer taxes on the deposits by deducting them from its corporation business taxes until it withdraws the money. It must pay taxes on each withdrawal, but at a reduced rate of 3.5%, regardless of its corporate or business structure. Any balance remaining after five years is taxed at the full rate (currently 7.5%, plus 10% surcharge). Under the act, the bank must return the balance to the manufacturer, which then has up to 60 days to pay the taxes on this amount.

Eligible Expenditures

A manufacturer may withdraw funds from the account to train its workers or purchase machinery, equipment, or manufacturing facilities. Machinery includes the basic machine and its component parts plus equipment and devices used or needed to control, regulate, or operate it. Equipment includes separate devices needed to manufacture, process, or fabricate things.

Annual Report

The act requires the banking commissioner to annually report on banks acting as trustees or custodians for manufacturers establishing reinvestment accounts. He must include this information in the annual report he submits to the Banks Committee under existing law. Under prior law, that report, among other things, summarized the actions he took to let Connecticut-chartered banks engage in certain activities closely related to banking and those permitted for federally chartered banks and approve uninsured banks that did not take retail deposits.

The act eliminates the requirement that the report include information on the commissioner's action with respect to Connecticut-chartered banks engaging in closely related activities.

EFFECTIVE DATE: July 1, 2011 and applicable to income years on or after January 1, 2011.

Section 8 — DECD COMMISSIONER AS CHAIRPERSON OF CHFA'S BOARD

By law, the DECD commissioner is an *ex officio* member of CHFA's board of directors. The act makes the commissioner the board's chairperson. Under prior law, the chairperson was appointed by the governor, with the General Assembly's advice and consent.

EFFECTIVE DATE: Upon passage

Section 9 — TASK FORCE ON BUSINESS AND INDUSTRY BARRIERS

The act establishes a 19-member task force to study Connecticut's businesses and industries and identify the barriers they face. The act implicitly defines those barriers as those confronting innovative business leaders. It requires the task force to examine issues related to:

1. establishing links between Connecticut and international businesses and colleges and universities;
2. cultivating the state's next generation of business innovation leaders;
3. establishing international competitions that provide incentives for attracting such leaders to Connecticut and encouraging those who are here to remain and contribute to innovation and technological growth;
4. developing a global business plan for staging international competitions offering prizes, stipends, and first-year investment capital to businesses and industry workers relocating to Connecticut and establishing their businesses here;
5. energy-related job growth, economic and workforce development, research and development, and information sharing between manufacturers and colleges and universities;
6. the number of manufacturers that used remedial measures for addressing Department of Environmental Protection (DEP)-imposed noncriminal penalties and whether such penalties could be waived based on the remediation;
7. other states' programs for waiving environmental penalties imposed on businesses;
8. offering fellowships to top entrepreneurs who spend one year in Connecticut developing their businesses; and
9. using social media and other technology to encourage socially useful community-based projects to compete for stipends and corporate support and funding.

Task Force Appointments

The governor and legislative leaders appoint 11 members. The governor appoints three members, the House speaker and Senate president pro tempore each appoint two, and House and Senate majority and minority leaders each appoint one. The appointing authorities may appoint legislators. They must make their appointments within 30 days of the act's effective date and fill any subsequent vacancies.

The act names the chairpersons and ranking members of the Commerce and Higher Education committees to the task force, bringing the total membership to 19.

Operations

The task force has two chairpersons, one each selected by the House speaker and the Senate president pro tempore. The chairpersons must call the first meeting by September 6, 2011. The administrative staff of the Commerce and Higher Education and Employment Advancement committees must provide the administrative support.

Report

The task force must report its findings and recommendations to the governor and the Commerce and Higher Education and Employment Advancement committees by February 1, 2012. It terminates on this date or when it submits the report, whichever is later.

EFFECTIVE DATE: Upon passage

Section 10 — OFFICE OF BROWNFIELD REMEDIATION AND DEVELOPMENT (OBRD)

The act expands OBRD's powers by allowing it to enter into cooperative agreements with “qualified implementing agencies,” which the act does not define. It also allows OBRD to award grants, where appropriate, to these agencies for designing, implementing, and supervising brownfield assessment and remediation and sub-grants to the agencies as long as they comply with the original grant's terms and conditions.

EFFECTIVE DATE: Upon passage

Section 11 — INNOVATION NETWORK

Revamp Mission

The act revamps the Innovation Network for Economic Development's structure and mission. (PA 11-48, Section 303, repeals the network.) Under prior law, the economic development agencies and the University of Connecticut had to develop the network's plan and budget in consultation with the Governor's Competitiveness Council, the education and higher education commissioners, the community-technical colleges' chancellor, the Office of Workforce Competitiveness' director, and leading technology-focused organizations. The act allows, rather than requires, the economic and community development commissioner to establish the network; makes her solely responsible for it; and changes its focus.

Among other things, prior law required the agencies responsible for developing the network to (1) create endowed chairs and hire leading academic professionals in targeted fields and (2) aggressively solicit federal research funds. The act eliminates the requirement that the network include endowed chairs. It allows it to:

1. convene leaders of technology-focused economic development organizations,
2. create a networking system for entrepreneurs and others,
3. develop benchmarks based on the best programs that promote innovation in economic development,
4. develop a statewide innovation database,
5. assess current programs and recommend changes benefiting the state's innovation competitiveness,
6. investigate issued patents, and
7. pursue other initiatives the commissioner deems appropriate to maintain the state's innovative competitiveness.

The act eliminates the requirement for the agencies establishing the network to complete the following tasks and instead allows them to review and comment on the issues the tasks address:

1. increasing corporate-sponsored research,
2. establishing at least one innovation center linked to the universities,
3. strengthening existing university-based technology transfer and entrepreneurship programs,
4. encouraging collaboration between universities and industry- or federally sponsored technology centers, and
5. creating links to Connecticut-based incubators and groups that generally invest in support start-up companies in their early stages.

Tapping Existing Resources

Under the act, the commissioner may tap other organizations' resources, including the Labor Department, the Connecticut State University System, other higher education institutions, and federally funded research centers.

The act specifies that the commissioner must use up to \$500,000 appropriated by PA 11-16 for the Innovation Challenge Grant Program.

EFFECTIVE DATE: July 1, 2011

Section 12 — RECIPIENTS OF CDA FINANCIAL ASSISTANCE

By law, the CDA must file an annual report on its financial assistance programs that, among other things, identifies each company receiving financial assistance and its gross revenue for its most recent fiscal year. The act requires CDA to report gross revenue only for companies that make the information public in the normal course of business. It requires CDA to report the gross revenue of other companies separately while concealing their names and identities. In doing so, CDA must be consistent with the law that already exempts from the Freedom of Information Act certain information that applicants submit to CDA.

The act allows the governor and chairpersons and ranking members of the Appropriations; Commerce; and Finance, Revenue and Bonding committees, after a request to CDA, to examine the detailed report data in confidence, including the specific revenue data for each company not listed by name in the report. It allows the committee chairpersons and ranking members to disclose the data to other committee members and requires that they also keep the data confidential.

EFFECTIVE DATE: July 1, 2011

Section 12 — CONNECTICUT DEVELOPMENT AUTHORITY BOARD CHAIRPERSON

By law, the DECD commissioner serves as an *ex officio* member of CDA's board of directors. The act names the commissioner the board's chairperson. Under prior law, the governor appointed the chairperson with the legislature's advice and consent.

EFFECTIVE DATE: July 1, 2011

Sections 13-26 — DECD STATUTORY REVISIONS

Sections 13-17 & 19, & 26 — North American Industrial Classification (NAIC)

The act replaces references to an obsolete business classification code DECD used under prior law to determine if a business qualified for tax and financial incentives under different programs. That code, the Standard Industrial Classification System (SIC), was based on the goods a business makes, the service it provides, or the methods and techniques it employs.

The federal government replaced SIC with a different classification scheme, the NAIC, needed to implement trade agreements creating a common North American market. The NAIC groups businesses that use the same or similar processes to make goods or deliver services. Consequently, NAIC reflects the greater role services play in the economy.

The act mostly substitutes the comparable NAIC code for the SIC with respect to:

1. enterprise zone and targeted investment property tax exemptions and job creation grants (Section 13, 15, 16, & 17),
2. financial services property tax exemptions (Section 16),
3. local option tax abatement for communication companies (Section 14), and
4. urban and industrial sites remediation tax credits (Section 19).

Sections 15-18 — Extension of Economic Development Incentives

The act extends several economic development incentives to more types of businesses. The law targets certain property tax exemptions, corporation business tax credits, and job creation grants to enterprise zones and targeted investment communities and further limits these geographically targeted incentives to manufacturers and specified service and retail businesses operating in these designated areas.

The act extends the incentives to the same range of businesses that qualify for financing under DECD's Manufacturing Assistance Act (MAA) program. These include two overlapping groups of businesses:

1. those that create or retain jobs, export most of their products and services out of the state, encourage innovation in products and services, add value to them, or otherwise support and enhances activity important to the state's economy (i. e. , economic-base businesses) and
2. those within one of the nine DECD-designated industry clusters (i. e. , aerospace components, manufacturing, agriculture, bioscience, insurance and financial services, maritime, metal manufacturing, plastics and plastics manufacturing, software and information technology, and tourism).

The act also extends the incentives to the establishments, auxiliaries, or operating units of both groups, as the NAIC system defines these terms.

It also extends the incentives to businesses in the following NAIC categories:

1. Line-haul railroads (482111) and short line railroads (482112);

2. Software publishers (511210);
3. Motion picture and video production (512110) and motion picture and video distribution (512120);
4. Teleproduction and other post production services (512191);
5. Colleges, universities, and professional schools (611310);
6. Business and secretarial schools (614010);
7. Computer training (611420);
8. Professional and management development training (611430);
9. Apprenticeship training (611513);
10. Other technical and trade schools (611710); and
11. Educational support services (611710).

The act similarly extends the incentives to establishments, auxiliaries, or operating units of the businesses that qualify for them based on the NAIC codes.

The act makes direct satellite telecommunications businesses eligible for the local option tax abatement for communications companies. It eliminates waste collection businesses (NAIC code 5621) from eligibility for the property tax incentives. It also eliminates the eligibility of the following types of businesses for these incentives and the job creation grants:

1. Transportation by air (NAIC 4811 and 4812),
2. Accounting (NAIC 5412), and
3. Engineering (NAIC 5413).

Section 18 — Service Businesses' Eligibility for Enterprise Zone and Targeted Investment Community Incentives

The law requires the DECD commissioner to adopt regulations for certifying whether a business qualifies for enterprise zone or targeted investment community incentives. Under prior law, service businesses qualified if they were classified as such in the SIC manual.

Under the act, the regulations must extend the incentives to any service business that supports the economic competitiveness of manufacturers or other economic-base businesses or furthers the state's interests. Under the act, these businesses include those providing day care, job training, education, transportation, employee housing, energy conservation, pollution control, and recycling.

Section 17 — Bradley Airport Development Zone Benefits

The act removes the “distressed municipalities” designation from those sections of Granby, Suffield, Windsor, and Windsor Locks that are in the Bradley Airport Development Zone. PA 10-98 designated these sections the Bradley Airport Development Zone (BADZ) while simultaneously designating them as distressed.

The BADZ designation qualifies businesses for property tax exemptions and corporation business tax credits while the distressed municipality designation affects the towns' eligibility for funds under various programs.

The distressed municipality designation qualifies municipalities for open space, planning, and development grants. But it disqualifies them for grants under the Small Town Economic Assistance Program (STEAP). Removing the distressed municipality designation restores the towns' eligibility for STEAP funds.

DECD annually designates distressed municipalities based on demographic and economic criteria. It scores and ranks each municipality and designates the top 25 as distressed, a group that currently does not include the BADZ towns.

Sections 20 & 21 — Energy Conservation Loan Repayments

The act requires all principal payments for all loans made from the Energy Conservation Loan Fund to go directly back into the fund and makes a conforming technical change. Under prior law, the payments were deposited in the Housing Repayment and Revolving Loan Fund.

Section 24 — Entrepreneurial Training for Specified Groups

The act qualifies dislocated workers and displaced homemakers for DECD-funded entrepreneurial training. The law already allows the commissioner to fund such training programs for former recipients of temporary family assistance, general assistance, and aid to families with dependent children. The training programs can also assist ex-offenders and high school dropouts.

Section 25 — Small Business and Nonprofit Loans

The act allows more businesses and nonprofit organizations to qualify for DECD's Connecticut Credit Consortium program loans. PA 10-75 established this revolving loan program for those businesses and nonprofit organizations with up to 49 employees. The act raises the maximum threshold to 100 employees.

EFFECTIVE DATE: July 1, 2011, except for the changes to the (1) property tax exemptions, which take effect October 1, 2011 and apply to assessment years beginning on or after that date; (2) criteria for accessing the exemptions, which take effect October 1, 2011; and (3) Connecticut Credit Consortium, which takes effect upon passage.

Sections 27-28 — NEIGHBORHOOD ASSISTANCE ACT

The act makes changes to the NAA, which provides business tax credits to companies that invest in certain municipally approved community activities and programs.

The act extends NAA tax credit eligibility to companies subject to the state's \$250 business entity tax. These companies include S corporations, limited liability companies, limited liability partnerships, and limited partnerships.

The act increases, from \$75,000 to \$150,000, the total amount of credits that a company may claim per year under the NAA. By law, a company generally receives a credit of 60% of its investment up to the annual maximum.

The act eliminates an eligibility requirement. Under prior law, a company's total contributions eligible for the NAA credit had to equal or exceed its total charitable contributions for the prior year. The act eliminates this requirement. EFFECTIVE DATE: October 1, 2011

Section 29 — ENTERPRISE ZONE

The act extends the benefits of an enterprise zone to certain businesses and commercial properties in sections of Plainville within specified census tracts and blocks. Specifically, it extends the benefits to (1) 53 acres of property zoned Technology Park and (2) 75 acres of raw land zoned Restricted Industrial (40 acres within one specified census tract and block, and 35 acres in another specified tract and block).

By law, enterprise zone benefits include property tax exemptions, business tax credits, and sales tax exemptions.

By law, an “eligible business” is one that has had fewer than 300 employees at all times during the previous 12 months and is engaged in bioscience, biotechnology, pharmaceutical, or photonics research, development, or production in the state. An “eligible commercial property” is one that an eligible business has owned or leased and used at all times during the preceding 12 months, or real property that the DECD commissioner or Connecticut Innovations, Incorporated has certified as newly constructed or substantially renovated and expanded primarily for occupancy by one or more eligible businesses.

EFFECTIVE DATE: July 1, 2011

Sections 30-32 — LEARN HERE, LIVE HERE PROGRAM

The act allows the DECD commissioner, in consultation with the commissioners of the departments of Revenue Services (DRS) and Higher Education (DHE), to create an incentive program for certain graduates to stay in Connecticut after graduation and buy a first home here. The program is called the Learn Here, Live Here program.

Program Eligibility and Mechanics

The program is open to students who graduate on or after January 1, 2014 from (1) public colleges or universities in Connecticut who qualified as in-state students and paid the in-state tuition rate and (2) regional vocational-technical schools.

Beginning with the January 1, 2014 taxable year, the DRS commissioner can segregate eligible graduates' income tax payments, upon their request, into a Connecticut first-time homebuyer's account that the act establishes (see below), for up to 10 years after graduation. The annual maximum of segregated tax payments for a graduate is \$2,500, and the annual total for all program participants is \$1 million.

Participants can withdraw the segregated amounts to buy a first home in the state within 10 years after they graduated, with the DECD commissioner issuing payments to participants accordingly.

Within 10 years after graduating, a participant may also apply to the DECD commissioner for a payment on the participant's behalf for a down payment on a house, which must be the first one the participant buys, either alone or with someone else. The payment may equal the participant's segregated funds in the account. If the payment is less than that amount, the excess is deposited in the General Fund.

Repayment Schedule

The act requires participants who move out of Connecticut within five years of graduating to repay part of the amount they receive under the program for purchasing or putting a down payment on a home. If a participant moves out of state within the first year after graduating, he or she must repay 100% of the received amount. The repayment percentage decreases by 20% each year after that, until reaching zero after five years (someone who moves out in year two must repay 80%, in year three 60%, etc). Repayments must be deposited in the General Fund.

Education Program

The act allows the DECD commissioner, by December 1, 2012, to develop a comprehensive public education program, within available appropriations, to inform recent graduates who would be eligible about the Learn Here, Live Here program. If developed, the program must include information on lifetime savings plans and home buying and DECD must begin to implement it by January 1, 2014.

First-time Homebuyers Account

The act creates a Connecticut first-time homebuyers account as a separate, nonlapsing General Fund account. The account is for funds the DRS commissioner segregates as specified above. The DECD commissioner can use an amount equal to the deposited amount for paying program participants as specified.

The act requires the state treasurer to invest the account proceeds. Investment earnings (minus costs for account administration) must be credited to the General Fund. On or before September 1, 2014 and annually after that, the treasurer must notify the DECD commissioner of the account balance. The act provides that any segregated funds not used to buy a first home must be transferred to the General Fund.

EFFECTIVE DATE: July 1, 2011

BACKGROUND

Related Act

PA 11-48 also designates the DECD commissioner as chairperson of CDA's board of directors and eliminates the Connecticut Competitiveness Council.

AN ACT CONCERNING QUALIFIED PRIVATE INVESTMENTS FOR CONNECTICUT INNOVATIONS, INCORPORATED'S PRESEED PROGRAM

Summary: By law, Connecticut Innovations, Inc. (CII) must create a program to provide eligible Connecticut businesses with up to \$150,000 in financial assistance for developing new concepts and support services. To be eligible, businesses must be principally located in the state, have at least 75% of their employees work here, and show that they received private investments equaling at least half the CII funds they seek. This act specifies that "private investments" for this purpose include funds from a public institution of higher education that are (1) not state-appropriated funds or funds from student tuition and fees and (2) used to help commercialize public university-owned technology.

EFFECTIVE DATE: Upon passage

AN ACT CONCERNING FILING DEADLINES FOR CERTAIN PROPERTY TAX EXEMPTIONS AND DELAYS IN REVALUATION FOR CERTAIN TOWNS, AND MAKING A TECHNICAL CORRECTION

Summary: This act allows six towns, with the approval of their respective legislative bodies, to delay a revaluation that is scheduled to occur prior to the 2012 assessment year.

It allows taxpayers in specified towns to receive property tax exemptions even though they missed the statutory filing deadlines for the exemptions. The exemptions are for manufacturing machinery and equipment (MME), commercial trucks, and nonprofit organization property. It also allows taxpayers in specified towns to request that the Office of Policy and Management (OPM) secretary reconsider assessors' modifications or denials of MME tax exemptions, even though they missed the deadline for filing such requests.

The act requires Middletown to waive interest and penalties due on property tax owed by a nonprofit organization for property that it operates as affordable senior housing.

It also makes a technical correction to PA 11-61.

EFFECTIVE DATE: Upon passage, except for the technical correction, which is effective July 1, 2011

REVALUATION DELAY

The act allows Cromwell, East Windsor, Orange, Farmington, Stamford, and Windham to delay a revaluation to the October 1, 2012 assessment year. Thus, these municipalities may continue taxing property based on its value as of the date of the decision to delay, after which each must revalue the property. The subsequent revaluation must re-commence at the point in the schedule that the municipality was following prior to the delay. In the event of a delayed revaluation, the act allows the

person or entity authorized by law to prepare rate bills in these six municipalities to prepare new rate bills based on the delay, notwithstanding any law or municipal charter, special act, or home rule ordinance to the contrary.

FILING DEADLINE WAIVERS

Machinery (MME) and Commercial Vehicle Exemptions

The act allows taxpayers in six towns to receive certain property tax exemptions for particular grand list years even though they missed the statutory filing deadlines for the exemptions. The exemptions are five-year exemptions for eligible:

1. machinery and equipment used for manufacturing, biotechnology, or recycling (CGS Section 12-81 (72)) and
2. commercial trucks and other vehicles used to transport freight for hire (CGS Section 12-81 (74)).

By law, property owners must apply to local assessors for these exemptions by November 1, annually. The act waives the deadline for property owners in certain towns and for one or more of the above property categories and grand lists shown in Table 1, if the property owners apply for the exemption by August 11, 2011 and pay the statutory late fee. In each case, the local assessor must (1) verify eligibility for and approve the exemption and (2) refund any taxes paid on the property.

TABLE 1: EXEMPTION APPLICATION DEADLINE WAIVERS

<i>Town</i>	<i>Grand List</i>	<i>Type of Property</i>
Bloomfield	2009	Manufacturing machinery and equipment
Franklin	2009, 2010	Commercial trucks
Hartford	2006,2007,2008	Manufacturing machinery and equipment
New Haven	2007	Manufacturing machinery and equipment
Windsor	2008, 2010	Manufacturing machinery and equipment
Danbury	2006	Manufacturing machinery and equipment

Requests to Reconsider Denial or Modification of MME Exemption

The act allows taxpayers in Sprague and Seymour to file written requests to the OPM secretary to reconsider his modification or denial of the towns' respective assessors' decisions to exempt certain MME, despite the taxpayers having missed the deadline for filing such requests. The requests pertain to property on each town's grand list for the 2008 assessment year.

The act gives the taxpayers until August 11, 2011 to file a request together with all documentation and information the secretary requested in the original modification or denial letter. The secretary has 30 days from the date he receives the request and supporting documentation to reconsider and send the taxpayers his decision in writing. If the taxpayers are aggrieved by the decision, they can ask for a hearing according to the regular statutory procedure. If the secretary finds that the taxpayers are

eligible for the exemption, he must notify them and the towns' assessors. Sprague and Seymour must reimburse the taxpayers for any taxes paid, in an amount equal to the exemption.

Exemption for Nonprofit Organization Property

The act allows a nonprofit organization (i. e. , an organization organized exclusively for scientific, educational, literary, historical, or charitable purposes or to preserve land for open space) to receive an exemption for real property on Middletown's 2009 grand list even though it missed the deadline for filing the required property tax exemption statement (November 1, quadrennially). The organization must apply for the exemption by August 11, 2011 and pay the statutory late fee to be considered to have filed the statement in a timely manner.

It requires the Middletown assessor to approve the exemption after confirming the fee payment and the property's eligibility for the exemption. Middletown must refund any excess taxes, interest, and penalties the organization paid on the exempt property.

INTEREST AND PENALTY WAIVER FOR NONPROFIT ORGANIZATION IN MIDDLETOWN

The act requires the city of Middletown to waive any interest and penalties due on property tax owed for the 2009 assessment year by any nonprofit organization that, relying on a statement by the Middletown assessor that the property would be tax-exempt:

1. owns and operates affordable senior housing in Middletown and
2. was not assessed property tax for the 2002 through 2009 assessment years.

By law and with certain exceptions, government subsidized low- and moderate-income housing is ineligible for the property tax exemption for real property owned by or held in trust for a nonprofit organization.

Public Act# 11-254

HB# 6399

AN ACT CONCERNING APPLICATIONS FOR ANGEL INVESTOR TAX CREDITS

Summary: This act eliminates a requirement businesses must meet before they can accept “angel investments” under PA 10-75, which provides personal income tax credits for people investing at least \$100,000 in start up, technology-based Connecticut businesses approved for such credit-eligible investments.

To be approved, a business must apply to Connecticut Innovations, Inc.—the state's quasi-public venture capital agency—to be included in the list it maintains of eligible businesses. (Investors use the list to identify the businesses in which they wish to invest.) Under prior law, the application had to include a description of the business' proprietary technology, product, or service. The act eliminates this requirement.

EFFECTIVE DATE: July 1, 2011, and applicable to taxable years beginning on or after January 1, 2011.

AN ACT CONCERNING THE ESTABLISHMENT OF THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION AND PLANNING FOR CONNECTICUT'S ENERGY FUTURE

Summary: This act creates the Department of Energy and Environmental Protection (DEEP) by merging the departments of Environmental Protection (DEP) and Public Utility Control (DPUC). In addition to the duties and powers inherited from those departments, the act transfers various energy-related responsibilities and powers from the Office of Policy and Management (OPM) to DEEP and also creates new energy-related planning and oversight responsibilities.

Among other provisions, the act:

1. renames the Public Utility Control Authority (the commissioners who run DPUC) the Public Utilities Regulatory Authority (PURA);
2. reduces the number of commissioners from five to three and renames them directors;
3. requires DEEP to develop a comprehensive plan integrating current efficiency and renewable energy plans;
4. requires DEEP, rather than the electric companies, to prepare the integrated resources plan (IRP), which seeks to meet electric needs through a mix of efficiency programs and power generation, and modifies the planning process;
5. requires DEEP to employ an electric power procurement manager and requires the manager, rather than the electric companies, to develop the plan for procuring power for the standard service the companies must provide to small customers who do not choose a competitive supplier;
6. modifies how this power is procured, eliminating a requirement for laddering, allowing for short term contracts, and making other changes;
7. requires electric companies and generators to notify DEEP of any prospective reliability concerns and DEEP to conduct a request for proposals (RFP) for efficiency and generation measures to avoid such problems;
8. expands the resources that can go into the Clean Energy Fund to include private capital and revenues reallocated to the fund by the legislature;
9. expands the types of projects the fund can support to include electric and natural gas vehicle infrastructure, electricity storage, and the financing of energy efficiency;
10. creates a quasi-public authority (the Clean Energy Finance and Investment Authority) to administer the fund, rather than Connecticut Innovations, Inc.;
11. allows municipalities to establish a loan program to finance energy efficiency and renewable energy projects, and to recover costs by an assessment on the benefitted property;
12. requires the energy efficiency and renewable energy plans developed under existing law to provide equitable funding for low-income neighborhoods;
13. establishes energy efficiency standards for televisions, DVD players, and similar products and broadens circumstances when efficiency standards would be implemented for other consumer products;
14. establishes three-year pilot programs to develop combined heat and power and anaerobic digester projects and provides \$2 million annually for each of the programs;

15. requires the Clean Energy Finance and Investment Authority to establish a program to promote residential photovoltaic systems under which participants can choose to receive an up-front payment or a payment tied to the power the systems produce;
16. establishes a program that requires electric companies to enter into long-term contracts to buy renewable energy credits (RECs) from zero-emission generators (e. g. , solar, wind, hydro);
17. establishes a similar program for low-emission technologies;
18. requires PURA to study the feasibility of establishing discounted electric and gas rates for low-income customers by reallocating existing supports for these customers;
19. establishes a code of conduct for competitive electric suppliers, that regulates door-to-door sales, limits early termination fees, bars unfair trade practices, makes related changes, and establishes civil and administrative penalties for violations;
20. requires DEEP to establish programs to finance replacement residential heating equipment that is more energy efficient than the customer's current equipment and to provide financial incentives for such equipment and combined heat and power systems;
21. requires DEEP to develop a plan to reduce energy use in state buildings by at least 10% by 2013 and another 10% by 2018;
22. bars electric and gas utilities from terminating service at any time to hardship customers with children under 24 months old who are hospitalized if the attending physician determines that utility service is needed for the child's well-being;
23. allows municipal customers of electric companies to share net metering credits among buildings the municipality owns (virtual net metering);
24. explicitly authorizes state agencies and municipalities to enter into energy saving performance contracts;
25. requires the Energy Conservation Management Board to develop standardized performance contracting procedures, and authorizes municipalities to use these procedures or ones they develop themselves;
26. modifies the Green Connecticut Loan Guaranty Fund program, requires program measures to meet cost-effectiveness standards, and transfers its administration to the new authority;
27. expands evaluation requirements for efficiency programs;
28. allows electric companies to own up to 10 megawatts of renewable energy generating capacity; and
29. requires DEEP to conduct a number of studies.

EFFECTIVE DATE: July 1, 2011, except as indicated

Sections 1, 55, 56, 88 — DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

The act creates DEEP by merging DEP and DPUC and transferring their powers and duties, and those of the DEP commissioner, to DEEP and its commissioner. It reconstitutes DPUC as PURA, and places PURA and several existing energy-related entities, such as the Connecticut Siting Council, within the new department. It also transfers the energy-related powers and duties of OPM and its secretary regarding energy to DEEP and its commissioner.

The act requires DEEP, by January 2, 2012, to report on the merger to the legislature's Appropriations, Energy and Technology, and Environment committees.

Goals

The act establishes DEEP's energy goals, which are: (1) reducing utility rates and decreasing ratepayer costs, (2) ensuring the reliability and safety of the state's energy supply, (3) increasing the use of clean energy, and (4) creating jobs and developing the state's energy-related economy. DEEP's environmental goals are: (1) conserving, improving and protecting the natural resources and environment of the state, and (2) preserving the natural environment while fostering sustainable development.

In addition to the DEEP commissioner's inherited responsibilities, the act also changes him with (1) developing a comprehensive energy plan, (2) transitioning the state to cleaner, more diverse and sustainable energy sources; and (3) creating opportunities for innovation and technological advances in conserving energy and reducing costs.

DEEP Organization

The act establishes an energy bureau within DEEP and allows for additional bureaus within the department. It creates PURA as the successor to the DPUC and also makes changes to the Connecticut Energy Advisory Board (CEAB), both of which are placed within the department. Under the act, CEAB, the Office of Consumer Counsel (OCC), and the Connecticut Siting Council are all within DEEP for administrative purposes only.

The act also moves DPUC's Adjudication Division into DEEP and requires it to advise both the DEEP commissioner and PURA. It also changes the title of the division's hearing "examiners" to hearing "officers," and gives the DEEP commissioner power to appoint them and assign division staff to advise PURA (Section 17).

The act reduces the five commissioners who headed the DPUC to three PURA "directors." It prohibits all three from belonging to the same political party. The act ends the term of any serving commissioner on June 30, 2011, and requires the governor to appoint the new directors by July 1, 2011. It staggers their initial terms: the two directors from the governor's political party serve initial five and four-year terms, respectively, while the director from another political party serves an initial three-year term. Following these initial terms, all directors serve four-year terms and are appointed in the same manner as the previous DPUC commissioners.

The act requires that PURA decisions to be guided by (1) DEEP goals, (2) the goals of the comprehensive energy plan, and (3) the integrated resources plan, and based on evidence in the record of each proceeding (Section 51). It also specifies that any final decision, order, or authorization of PURA in a contested case constitutes a final decision for the purposes of the Uniform Administrative Procedure Act and thus can be appealed to the courts.

The act eliminates the DPUC executive director position and authorizes the PURA chairperson, with approval from the DEEP commissioner, to assume the executive director's powers and responsibilities. It subjects the PURA directors to the conflict of interest prohibitions that applied to DPUC commissioners and also extends them to any DEEP employees working with PURA.

Section 33 — COST EFFECTIVENESS OF ENERGY EFFICIENCY PROGRAMS

The act makes the DEEP commissioner chair of the Energy Conservation Management Board (ECMB) and makes the utility company representatives non-voting members (under prior law, they could only vote on matters related to their respective fields). The law requires electric companies and ECMB to develop a comprehensive plan to implement energy conservation programs and initiatives. The act requires that this plan include steps to achieve a goal of weatherizing 80% of the state's housing units by 2030. It also requires ECMB to periodically review contractors to determine whether they are qualified to conduct work related to the efficiency programs.

Program Evaluation Requirement

The act requires DEEP to oversee the programs in the ECMB plan and specifies how it must do so. DEEP must implement an independent, comprehensive evaluation, measuring, and verification process that ensures:

1. the programs are administered appropriately and efficiently and comply with statutory requirements,
2. the programs and measures are cost effective,
3. evaluation reports are accurate and issued in a timely manner,
4. evaluation results are appropriately and accurately considered in program development and implementation, and
5. information needed to meet any third-party evaluation requirements is provided.

Under the act, the evaluations of efficiency programs and individual measures, measurement, and verification must be conducted on a continual basis. The emphasis must be on those impact and process evaluations, programs, or measures that (1) have not been studied and (2) account for a relatively high percentage of program spending. Evaluations must use statistically valid monitoring and data collection techniques appropriate for the programs or measures being evaluated.

Administration

The act requires ECMB to contract with one or more consultants not affiliated with ECMB board members to act as an evaluation administrator. The administrator must advise ECMB on the development of a schedule and plans for evaluations and oversee the program evaluation, measurement, and verification process on behalf of the ECMB.

Consistent with ECMB processes and approvals and DEEP decisions regarding evaluation, the administrator must implement the evaluation process by (1) preparing requests for proposals and selecting evaluation contractors to perform program and measure evaluations and (2) facilitating communications between evaluation contractors and program administrators to ensure accurate and independent evaluations. In the evaluation administrator's discretion, the electric and gas companies must communicate with him or her for data collection, vendor contract administration, and providing necessary factual information during the evaluations.

Filing Reports

The administrator must file evaluation reports with ECMB and DEEP in its most recent plan approval proceeding and ECMB must post a copy of each report on its website. ECMB and its members,

including the electric and gas company representatives, may file written comments regarding an evaluation with DEEP or for posting on the board's website.

Within 14 days of the filing of any evaluation report, DEEP, the ECMB members, or other interested parties may request in writing that a transcribed technical meeting be held. (The meetings are an informal process for addressing questions in departmental proceedings.) DEEP must hold the meeting to review the methodology, results, and recommendations of any evaluation. Meeting participants must include the evaluation administrator, the evaluation contractor, and OCC at its discretion.

Section 35 — WHOLESALE MARKET STUDY

The act requires DEEP, by August 1, 2011, to begin studying the impact of ISO New England's Market Rule 1 on the state's ratepayers and the New England wholesale electric power market. The study must include:

1. a review of the ISO's accountability to Connecticut ratepayers and policy makers;
2. strategies and ways to reduce the rule's adverse affects on the state and New England, including long-term contracts;
3. an analysis of the pros and cons of participating in either the ISO New England, another ISO, or operating outside the ISO system;
4. a study of the Federal Energy Regulatory Commission's framework and its contribution to the state's high rates; and
5. methods to promote greater transparency in the system.

DEEP must report the study's results to the Energy Committee by January 1, 2012.

EFFECTIVE DATE: Upon passage

Section 37 — CONNECTICUT ENERGY ADVISORY BOARD

The act makes several changes to CEAB's composition and responsibilities. It reduces the board's membership from 15 to 9 by removing 9 members (representatives from DEP, DPUC, the transportation department, the agriculture department, OPM, the chamber of commerce, state-wide manufacturing association, an electricity expert from the public, and a state resident energy expert) and adding 3 members (a municipal representative, an academic energy expert, and a second energy expert from the public). It also changes who appoints the various board members. Table 1 shows the board's previous composition and appointing powers and those under the act.

Table 1: Composition of CEAB Currently and Under the Act

<i>Previous CEAB</i>	<i>CEAB Under the Act</i>
1. Consumer Counsel	1. Consumer Counsel
2. Environmental representative appointed by governor	2. Environmental representative appointed by Senate president pro tempore
3. Consumer advocacy representative appointed by governor	3. Consumer advocacy representative appointed by Senate president pro tempore

4. State-wide business association representative appointed by governor	4. State-wide business association representative appointed by Senate president pro tempore
5. Low-income rate payer representative appointed by House speaker	5. Low-income rate payer representative appointed by House speaker
6. Public representative with expertise in electricity appointed by House speaker	6. Public representative with expertise in electricity, renewable energy, procurement, or conservation appointed by House speaker
7. Public expert in electricity appointed by Senate president pro tempore	7. Public representative with expertise in electricity, renewable energy, procurement, or conservation appointed by House minority leader
8. State resident with energy expertise appointed by House speaker	8. Academic energy expert appointed by House speaker
9. Transportation Commissioner	9. Municipal representative appointed by Senate minority leader
10. Chamber of Commerce representative appointed by Senate president pro tempore	
11. State-wide manufacturing association representative appointed by Senate president pro tempore	
12. Agriculture Commissioner	
13. DPUC Chair	
14. OPM Secretary	
15. DEP Commissioner	

The act eliminates several of the board's current responsibilities, including (1) representing the state at ISO New England planning processes, (2) participating in electric company forecast and life-cycle proceedings, and (3) reviewing the Integrated Resource Plan (IRP). The board's new responsibilities under the act include reporting on the status of DEEP programs, consulting on the IRP with the DEEP commissioner, and within available resources, reviewing requests from the General Assembly.

The act also caps CEAB's expenditures at \$1.5 million per fiscal year.

Sections 44, 46, 47, 52, 53 — POWERS & RESPONSIBILITIES TRANSFERRED FROM OPM TO DEEP

The act transfers numerous energy and utility related powers and responsibilities from OPM to DEEP, including:

1. regulating the fuel oil industry,
2. updating green building standards in consultation with the commissioners of public works and public safety,
3. consulting with the Department of Public Works on lighting standards for public buildings, and
4. consulting with the Department of Consumer Protection on plumbing fixture efficiency standards and tests.

Section 51 — COMPREHENSIVE ENERGY PLAN

By July 1, 2012, and every three years thereafter, the act requires DEEP, in consultation with CEAB, to prepare a comprehensive energy plan. The plan must reflect the statutory energy policy (CGS Section 16a-35k). The plan must include:

1. an assessment and plan for all energy needs, including electricity, heating, cooling, and transportation;
2. the IRP's findings;
3. the energy efficiency plan's findings;
4. the renewable energy plan's findings;
5. an assessment of energy supplies, demands, and costs, and factors likely to affect them;
6. the progress made meeting the goals and milestones of the last comprehensive plan;
7. long-range energy policies to achieve a sound economy and the least-cost mix of energy supply sources and measures that reduce energy demand, while also considering such factors as consumer price impacts, public health, and environmental goals, among other things;
8. recommendations for administrative and legislative action;
9. an assessment of the potential costs savings and benefits to ratepayers, including carbon dioxide emissions, and repowering coal and oil-fired generation facilities built before 1990; and
10. the benefits, costs, obstacles, and solutions related to expanding the use of natural gas for transportation purposes.

If the department finds that expanding the use of natural gas is in the public interest it must also develop a plan to increase natural gas's availability and use for transportation.

Procedurally, the act requires the plan to be developed in an uncontested proceeding, as long as there is a public hearing of which people are notified at least 15 days in advance. PURA must provide input on the proposed plan's impact on ratepayers, and the public may comment on it during a 45-day comment period. Once the plan is finalized, the commissioner must publish it electronically and summarize all public comments and any changes that resulted from them.

The commissioner (1) must submit the plan to the General Assembly's committees on energy and the environment and (2) can modify the plan in consultation with CEAB under the same procedures the act requires for the initial plan.

The act allows the utility companies to recover from ratepayers any expenses they incur assessing their resources for the plan's development.

Sections 89 and 90 — INTEGRATED RESOURCES PLAN

Changes in Plan Responsibilities

The act requires DEEP, rather than electric companies, to (1) assess future electric demands and how best to meet them and (2) develop a plan to meet the demands through procuring a mix of generating facilities and efficiency programs. (The act refers to this as the integrated resources plan (IRP), as it has been called in practice.) DEEP must consult with CEAB and the companies in conducting the assessment and the procurement manager must consult with them and the entity that administers the regional transmission grid in developing the procurement plan.

By law, the resource needs identified in the plan must first be met through all available and cost-effective efficiency and demand reduction measures. DEEP must determine how efficiency and related measures can cost-effectively meet consumer needs. The act requires that this be done in a way that ensures equity in benefits and cost reductions to all classes and subclasses of consumers. The act requires DEEP, in developing the plan, to consider the effects on participants and nonparticipants.

Plan Review and Approval

The act eliminates CEAB's review of the plan. It requires PURA to give at least 15 days notice of the proceeding in which DEEP approves the proposed plan by electronic publication on DEEP's web site. DEEP must hold a hearing on the plan, which is not a contested case. The notice of the hearing on the plan may also be published in one or more newspapers if the commissioner considers this necessary. The notice must include the date, time, and place of the meeting, its subject matter, the statutory authority for the proposed plan, and the location where a copy of the proposed plan may be obtained or examined. DEEP must also post the plan on its web site.

PURA must comment on the plan's impact on ratepayers and anyone may comment on the proposed plan. The commissioner must provide at least 45 days from the date the notice is published on the DEEP's web site for public review and comment.

The commissioner must consider fully, after all public meetings, all written and oral comments concerning the proposed plan. He apparently must post the proposed plan on the department's web site and notify by e-mail each person who requests such notice.

The commissioner must make available the electronic text of the final plan or a web site where the final plan is posted, and a report summarizing (1) all public comments, and (2) the changes made to the final plan in response to such comments and the reasons for doing so. The commissioner must approve or reject the plan with comments.

Submission and Report

The commissioner must submit the final plan electronically to the Energy and Technology and Environment committees. By law, the department must report to the Energy and Technology and Environment Committees every two years on the implementation of the plan and its recommendations regarding the process. The act delays the next report from September, 30, 2011 to March 1, 2012.

2012 and Subsequent IRPs

The act requires the 2012 and subsequent plans to, among other things (1) examine other states' best practices to determine why electric rates are lower elsewhere in the region; (2) indicate specific options to reduce the price of electricity; and (3) assess and compare the cost of transmission line projects, new power sources, renewable electricity sources, conservation, and distributed generation projects to ensure the state pursues only the least-cost alternative projects. The plan must also identify the least costly option to address any reliability concerns before an electric company submits a

proposal to build a transmission line to the entity that administers the regional grid. However, this does not bar an electric company from making filings required by law or regulation.

If the 2012 or subsequent plan contains an option to procure new sources of generation, DEEP must pursue the most cost-effective approach. If it seeks new sources of generation, DEEP must issue a notice of interest for generation without any financial assistance, such as long-term contract financing or ratepayer guarantees. If the DEEP does not receive any responsive proposal, it must issue a request for proposals that may include such assistance.

By February 1, 2012, DEEP must report to the Energy and Technology Committee regarding state policy and legislative changes DEEP feels would most likely lower the state's electricity rates.

Project 150

By law, the electric companies must enter into long-term contracts with renewable energy generators that meet certain criteria under a program commonly called Project 150. The act specifies that projects located in Connecticut should receive a preference under the program. The act prohibits PURA from issuing an order that extends any contract made under the program beyond the termination date established based on the in-service date agreed to under the contract. Notice must be provided in accordance with the terms of the contract and to the extent permitted under the contract.

Referral Program

By law, suppliers can participate in a program where electric companies must provide (1) information regarding the suppliers when customers begin service with an electric company and at other times, and (2) other services for suppliers. The act requires PURA to conduct a proceeding to determine the cost of billing, collections, and other services provided by the electric companies or DEEP that solely benefit suppliers and aggregators. DEEP must equitably allocate these costs to such suppliers and aggregators. As part of the same proceeding, DEEP must also determine costs that electric companies incur solely for the benefit of customers to whom they sell power and provide for the equitable recovery of these costs from these customers.

Section 93 — BUY DOWN OF STANDARD SERVICE CONTRACTS

The act requires DEEP's Bureau of Public Utility Control, at the request of an electric company, to conduct a proceeding to (1) consider the buy down of the company's current standard service contract to reduce ratepayer bills and (2) conduct a cost benefit analysis of such a buy down. If DEEP determines that a buy down is in ratepayers' best interest, the company must proceed with it.

Section 94 — BILATERAL SUPPLY CONTRACTS

By January 1, 2012, and thereafter as DEEP determines to be in consumers' interest, DEEP must initiate a generation evaluation and procurement process. The evaluation process entails a nonbinding prequalification process to identify potentially eligible new generators. Interested generators must give DEEP information demonstrating how they will reduce electric rates for Connecticut ratepayers while maintaining or improving reliability, improving environmental characteristics of the Connecticut generation fleet, and providing economic benefit to the state. A determination of

eligibility must be based on a showing of project attributes, including, ratepayer, environmental, and economic benefits. It must also include a demonstration of reasonable certainty of completion of development, construction, and permitting activities.

If DEEP determines that one or more generators are eligible, it must issue a request for proposals (RFP) to consider bilateral purchasing contracts from new generators by pricing such electricity on a cost-of-service basis, power purchase agreement, or other mechanism it determines to be in the best interest of Connecticut customers. The contracts must directly or indirectly, or in combination with other initiatives, provide electricity at lower rates for Connecticut consumers. The contracts must be for a term of between five and 20 years. They must provide that the generator bears the development, construction, and operation risks. Generators must be awarded contracts based on certain criteria, including reduction of rates, generator's heat rate, decrease in regulated pollution, and cost-effectiveness.

Section 95 — UTILITY ROAD CUTS

This act requires utilities that cut and permanently patch a public highway in the course of repairs or installations to, one year after the permanent patch is made (1) inspect the patch, (2) make any additional repairs as may be necessary, and (3) certify to the municipality where it is located that it meets generally accepted standards of repair.

The requirements apply to utility companies; municipal waterworks systems; districts authorized by law to supply water (including metropolitan, municipal, and special districts); and any other waterworks system owned, leased, maintained, operated, managed, or controlled by any unit of local government under the statutes or public or special act. A municipality may, by vote of its legislative body, elect not to enforce these requirements.

Section 96 — REVIEWING TRANSMISSION LINE PROPOSALS

The act requires DEEP to review any proposed merchant transmission line project (1) in which a Connecticut electric company may have a financial interest, or (2) that may be constructed in whole or in part in this state, to determine whether to obtain electricity from such transmission lines at a rate that will lower electricity rates for Connecticut consumers.

Sections 97, 98 — NOTICE OF RELIABILITY CONCERNS

By law, electric generators and the electric companies must annually file long-term supply and demand projections with the Connecticut Siting Council. The act requires, starting in March 2012, that they include any potential reliability concerns during the forecast period. It requires that this report go to DEEP as well as the Siting Council. Under the act, if DEEP receives such a report, it may issue an RFP for energy efficiency measures or generating capacity. The DEEP commissioner can determine that issuing an RFP is not needed, but in such cases the determination must include his rationale.

Section 99 — NEW CLEAN ENERGY FINANCE AUTHORITY

The act (1) renames the Renewable Energy Investment Fund the Clean Energy Fund (which is what it is already called in practice), (2) creates a quasi-public authority to replace the board that is responsible for developing the plan on how money in the fund is spent, (3) grants the authority a broad range of powers and duties, (4) places the fund under the authority rather than Connecticut Innovations, Inc. (CII) (5) allows the authority to receive additional specified revenues, and (6) expands how the fund can be used. The act specifies that the authority is the successor agency to CII for the purposes of administering the clean energy fund and is in CII for administrative purposes only.

Board of Directors

Under prior law, the Renewable Energy Investments Board was responsible for developing the plan for spending money in the fund and related functions. The act creates the Clean Energy Finance and Investment Authority as the successor to the board. The authority is subject to the ethics and auditing laws, among others, that apply to other quasi-public authorities.

The act establishes a board of directors consisting of 11 voting and two non-voting members to oversee the authority. Table 1 compares the membership of the former board and the authority's board.

Table 1: Membership of Renewable Energy Investment Board and New Authority Board

<i>Appointing Authority</i>	<i>Current Board</i>	<i>Authority Board (initial term in parentheses)</i>
Governor	Three members: one with expertise regarding renewable energy resources, one representative of organized labor, and one representative of residential customers or low-income customers	Four members: two with experience in financing clean energy projects (2 years), One representing labor organizations (4 years) One with experience in research and development or manufacturing of clean energy (unspecified term)
Senate president pro tempore	One member representing a state or regional organization primarily concerned with environmental protection	One member representing an environmental organization (4 years)
House Speaker	One member with expertise regarding renewable energy resources	One member representing residential or low-income groups (4 years)
Senate majority leader	One member representing a state or regional organization primarily concerned with environmental protection	No appointment
House majority leader	One member with experience in business or commercial investment	No appointment
Senate minority leader	One member representing a state-wide business association, manufacturing association or chamber of commerce	One member with expertise in the finance and deployment of renewable energy projects (4 years)
House minority leader	One member with experience in business or commercial investments	One member with experience in investment fund management (3 years)
CII board chairperson	Two members with experience in business or commercial investments	One member of the CII board (non-voting)

Ex-officio	Four members: Environmental Protection and Emergency Management and Homeland Security commissioners, Office of Policy and Management secretary, and Consumer Counsel	Four members: DEEP and Economic and Community Development commissioners, State Treasurer, (voting) authority president (non-voting)
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Each ex-officio member, other than the authority president, may designate his deputy or staff member to represent him or her at authority meetings with full power to act and vote on his or her behalf.

The president of the authority and a member of the CII board appointed by the chairperson of the corporation must serve on the board in an ex-officio, nonvoting capacity. The governor must appoint the chairperson of the board. The board must elect a vice chairperson and other officers deemed necessary. The board may establish committees and subcommittees and adopt bylaws and procedures.

Once the initial terms of the governor's and legislative leaders' appointees expire, the terms of their successors run for four years from the July 1st following their appointment.

Authority Responsibilities

The act requires the authority to (1) develop separate programs to finance and otherwise support clean energy investment in residential, municipal, small business, and larger commercial projects, and other projects as it determines; (2) stimulate demand for clean energy and the deployment of clean energy sources in the state that serve end-use customers here; and (3) support financing or other expenditures that promote investment in clean energy sources in accordance with a comprehensive plan it develops to foster the growth, development and commercialization of clean energy sources and related enterprises.

Under prior law, the Renewable Energy Investments Board was responsible for developing a comprehensive plan and the expenditure of the money in the fund. The plan was subject DPUC review and approval. The act transfers these duties to the authority and DEEP, respectively.

Financing Projects

The act allows the authority to provide financing support to clean energy projects if it determines that the amount to be financed by the authority and other non-equity financing sources does not exceed 80% of the cost to develop and deploy a project, or for an energy efficiency project, up to 100% of the cost. The act allows the authority to assess reasonable fees on its financing activities to cover its reasonable costs and expenses, as determined by the board.

Before making any loan or other form of financing or risk management for a project, the authority must develop standards to govern its administration through rules, policies, and procedures that specify borrower eligibility, terms and conditions of support, and other relevant criteria, standards, or procedures.

The act allows the authority to enter into contracts with private funding sources to raise debt or equity from private sources. Its board must set the average rate of return on such capital.

Authority Powers

The act grants the authority the privileges, immunities, tax exemptions, and other exemptions that CII has under current law. The authority is subject to suit and liability solely from its assets, revenues, and resources without recourse to CII's general funds, revenues, resources or other assets.

The authority may assume or take title to any real property, convey or dispose of its assets, and pledge its revenues to secure any borrowing and to develop, acquire, construct, refinance, rehabilitate, or improve its assets.

Each such borrowing or mortgage, unless otherwise provided by the board or the authority, is a special obligation of the authority. The obligation may be in the form of bonds, bond anticipation notes, or other obligations. The obligations can be used to fund, refinance, and refund the same and provide for the rights of their holders, and to secure the same by pledge of revenues, notes, and mortgages of others. The obligations are payable solely from the authority's assets, revenues, and other resources and may not be secured by a special capital reserve fund which is in any way contributed to by the state.

The authority may seek to qualify as a Community Development Financial Institution under federal law. If approved, the authority must be treated as such for federal tax purposes.

No authority director, officer, employee, or agent is personally liable for exercising or carrying out any of the authority's purposes or powers, so long as he or she is acting within the scope of his or her authority.

Funding Sources

By law, the fund is primarily supported by a 0.1 cent per kilowatt-hour charge on electric bills. The act allows the authority to receive funds repurposed from existing programs providing financing support for clean energy projects, provided (1) any transfer of funds from such existing programs must be approved by the legislature and (2) the funds must be used for financing, grants, and loans.

The act allows the authority to raise private capital. It also allows the authority to receive:

1. charitable gifts, grants, and loans;
2. any federal funds that can be used for its purposes;
3. contributions and loans from individuals, corporations, university endowments and philanthropic foundations;
4. earnings and interest from financing support activities for clean energy projects backed by the authority; and
5. to the extent that it qualifies as a federal Community Development Financing Institution, funding from the Community Development Financing Institution Fund administered by the Treasury Department, as well as loans from and investments by depository institutions.

Uses of the Fund

By law, the fund can support a wide range of renewable energy projects. The act additionally allows it to:

1. finance energy efficiency projects;
2. support projects that seek to deploy electric, electric hybrid, natural gas, or alternative fuel vehicles and associated infrastructure and any related storage, transmission, distribution, manufacturing technologies or facilities; and
3. provide low-cost financing for the above projects and clean energy technologies.

The act allows the fund to be used to provide low-cost financing and credit enhancement mechanisms for clean energy projects and technologies reimbursement.

Under prior law, the fund could be used to reimburse CII for its expenses as administrator of the fund, including a management fee. The act instead allows the fund to pay for operating expenses, including administrative expenses incurred by the authority and CII, and capital costs the authority incurs in connection with the operation of the fund, the implementation of the renewable energy plan, or other permitted activities of the authority.

Audits and Related Provisions

The act requires the fund to be audited annually. The audits must be conducted using generally accepted auditing standards by independent certified public accountants (who can be a CII accountant) certified by the Connecticut Board of Accountancy.

In addition, any entity that receives financing for a project from the fund must provide the board with an annual financial statement of the project. The statement must describe all sources and uses of funds in the detail the authority requires. The recipient's chief financial officer must certify that the statement is correct. The authority must maintain such audits for at least five years. Residential projects for one to four dwelling unit buildings are exempt from all annual auditing requirements, but the projects may be required to grant their utility companies' permission to release their usage data to the authority.

The act requires the authority to make information regarding the rates, terms, and conditions for all of its financing support transactions available to the public for inspection. These must include formal annual reviews by both a private auditor and the comptroller, and providing details to the public on the Internet. But the authority cannot disclose, pursuant to the Freedom of Information Act, patentable ideas, trade secrets, or proprietary or confidential commercial or financial information, when disclosure may cause commercial harm to a nongovernmental recipient of such financing support. In doing this (1) the authority must include formal annual reviews by a private auditor and the comptroller and (2) provide details to the public on the Internet.

The act eliminates requirements that the current Clean Energy Fund board report to the Energy and Technology and Commerce committees every five years. Prior law required the Clean Energy Fund board to report annually to the Energy and Technology and Commerce committees, DPUC, and OCC

on the activities of the fund. The act instead requires that this report go to the committees and DEEP and requires that it review the authority's activities.

Section 100 — MUNICIPAL ENERGY LOAN PROGRAM (PACE)

The act allows any municipality to establish a loan program for financing sustainable energy improvements to qualifying real property located within the municipality, if it determines that this is in the public interest. (These are commonly called Property Assessed Clean Energy (PACE) programs.) The municipality must issue a public notice and provide an opportunity for public comment before making this determination. The program can cover all or part of the municipality. Before establishing a program, the municipality must notify the electric company that serves the municipality.

Under the act, the energy improvements are (1) any renovation or retrofitting of qualifying real property to reduce energy consumption or (2) installation of a renewable energy system to serve the property. Qualifying real property are single- or multi-family residential dwellings or other buildings that a municipality determines can benefit from energy improvements. The property owner must agree to participate in the program, which includes signing a contractual assessment.

Any municipality that establishes this program may:

1. partner with another municipality or state agency to (a) maximize the opportunities for accessing public funds and private capital markets for long-term sustainable financing, and (b) secure state or federal funds available for this purpose; and
2. use the services of private, public, or quasi-public third-party administrators to provide support for the program.

Financing

Notwithstanding other limits or conditions on municipal bond issues, any municipality that establishes a loan program may issue bonds, as needed, to (1) offer loans to the owners of eligible property in the municipality to finance energy improvements, (2) conduct related energy audits, and (3) conduct renewable energy system feasibility studies and verify the installation of any improvements. The bonds and financing must be backed by special contractual assessments on the benefitted property. The municipality can supplement the bonds with other legally available funds at its discretion.

If a qualified property owner requests a loan, the municipality must:

1. require an energy audit or renewable energy system feasibility analysis on the property before approving a loan;
2. enter into a loan agreement with the owner in a principal amount sufficient to pay the costs of energy improvements and any associated costs the municipality determines will benefit the qualifying property;
3. impose requirements to ensure that the loan is consistent with the program's purpose; and
4. impose requirements and conditions on the loan to ensure timely repayment, including placing a lien of the benefitted property.

Any loan made under the program must be repaid over a term that does not exceed the calculated payback period for the installed improvements (the time in which the energy costs savings equals the cost of the improvements), as determined by the municipality. The municipality must set a fixed interest rate when each loan is made. The interest rate, as supplemented with state or federal funding that may become available, must be sufficient to pay the program's financing costs, including loan delinquencies. The loan cannot have a prepayment penalty.

Loans under the program, interest, and any penalties are a lien against the property. The lien must be levied and collected in the same way as property taxes, including, in a default or delinquency, with respect to any penalties and remedies and lien priorities. However, the lien does not have priority over existing mortgages.

Section 102 — PRODUCT ENERGY EFFICIENCY STANDARDS

General Provisions

Under prior law, OPM had to adopt regulations implementing statutory energy efficiency standards. The regulations had to establish energy efficiency standards for products not covered by the statutes if OPM determined that (1) such standards would promote energy conservation in the state, (2) they would be cost-effective for consumers who purchased and used the new products, and (3) multiple products were available that met such standards. These standards could not become effective until one year after OPM adopted them. The act transfers these responsibilities to DEEP.

Standards for Consumer Electronics

The act establishes energy efficiency standards for compact audio players, televisions and DVD players and recorders. The standards go into effect January 1, 2014, unless the DEEP commissioner determines that the standards are unwarranted, as described below, in which case he can accept, reject, or modify these standards.

Under the act, starting January 1, 2014, new compact audio players, DVD players, and DVD recorders sold or installed in the state must meet the requirements shown in the November 2009 California Code of Regulations, Table V-1 of Title 20, Division 2, Chapter 4, Article 4. As of the same date, televisions manufactured on or after July 1, 2011 must meet the requirements shown in Table V-2 of the same section of the regulations. In addition, televisions manufactured on or after January 1, 2014, must meet the additional efficiency requirements as specified in these regulations.

Under prior law and the act, energy efficiency standards do not apply to (1) new products manufactured in the state and sold elsewhere, (2) new products manufactured outside the state and sold at wholesale here for final retail sale and installation outside the state, (3) products installed in mobile manufactured homes at the time of construction, or (4) products designed expressly for installation and use in recreational vehicles.

Standards for Additional Products

Under prior law, OPM had to adopt regulations to establish efficiency standards for other products if it found that (1) the standards would (a) promote energy conservation in the state and (b) be cost-

effective for consumers who purchased and used these products, and (2) multiple products were available that met such standards. The act eliminates the last criterion and instead requires the DEEP commissioner to find that the standard would not impose an unreasonable burden on Connecticut businesses.

The act also requires DEEP, in consultation with the Multi-State Appliance Standards Collaborative, to identify additional appliance and equipment efficiency standards. The commissioner must review all California standards and may review standards from other states in such collaborative. He (1) must issue notice of the review in the *Law Journal*. (2) allow for public comment and (3) may hold a public hearing within six months of adoption of an efficiency standard by a cooperative member state regarding a product for which no equivalent Connecticut or federal standard exists. DEEP must adopt regulations adopting the standard unless it makes a specific finding that the standard does not meet the criteria described above and thus is unwarranted.

Section 103 — COMBINED HEAT AND POWER AND ANAEROBIC DIGESTER PROGRAM

The act requires the new Clean Energy Finance and Investment Authority it creates to establish a three-year pilot program to provide financial incentives for installing combined heat and power (CHP) systems with a generating capacity of less than 2 megawatts. The authority must set one or more standardized grant amounts, loan amounts, and power purchase agreements for the projects to limit the authority's and project proponent's administrative burden. The standardized provisions must seek to minimize costs for the ratepayers, ensuring that the project developer has a significant share of the financial burden and risk, while ensuring the development of projects that benefit Connecticut's economy, ratepayers, and environment. The authority may decline to support a proposed project if its benefits, including emissions reductions, are insufficient to justify ratepayer or taxpayer investment.

The CHP program may not exceed 50 megawatts. Funding for individual projects is capped at \$350 per kilowatt.

The act also requires the authority to establish a pilot program to support sustainable practices and economic prosperity of Connecticut farms by using organic waste with on-site anaerobic digestion facilities to generate electricity and heat. The assistance can take the form of loans, grants, or power purchase agreements. The authority may approve no more than five projects under the program, each with a maximum size of 1,500 kilowatts (1.5 megawatts) and a maximum cost of \$450 per kilowatt.

The authority must allocate \$4 million annually from the Clean Energy Fund for the programs, \$2 million for the CHP projects and \$2 million for the digesters. By January 1, 2016, it must report to the Energy and Technology Committee on the programs and whether they should continue.

Sections 104, 105 — TIME OF USE RATES AND RATES

The act requires suppliers, as a condition of maintaining their licenses, to offer a time-of-use price option to customers. The option must include a two-part price designed to minimize customer bills by encouraging the reduction of energy consumption during the most energy intense hours of the day. The licensee must file its time-of-use rates with the PURA.

Under the act, DEEP must order each electric company to notify its customers on an ongoing basis on the availability of time-of-use meters, if applicable.

Sections 106, 109 — RESIDENTIAL SOLAR PROGRAM

Under the act, the Clean Energy Finance and Investment Authority must implement a residential photovoltaic (PV) solar energy program, which must result in at least 30 megawatts of new PV generating capacity being installed in the state by December 31, 2022. The program must be funded with up to one-third of the annual revenue from the renewable energy charge on electric bills.

Incentives

Under the act, the authority must offer direct financial incentives for the purchase or lease of qualifying residential PV systems. The incentive can be paid out on either a per kilowatt-hour basis or as a one-time upfront incentive based on expected system performance. When determining the type and amount of incentive to provide, the authority must consider (1) verified PV solar system characteristics, such as operational efficiency, size, location, shading, and orientation and (2) willingness-to-pay studies. Under the act, participants in this program who receive the upfront incentive are ineligible to benefit from the net metering law. Under this law, customers with class I generating systems receive a billing credit when their systems produce more power than the customer uses (in effect, the customer's meter runs backwards during these periods).

The act requires PURA to increase the incentive provided under the program by up to 5% if the solar system uses major components that are manufactured or assembled in Connecticut, and another 5% if they are manufactured or assembled in a distressed municipality in the state or a municipality with an enterprise zone.

Program Plan

By law, the board that administers the Clean Energy Fund must develop a biennial comprehensive plan. Under the act, starting with the FY 12/13 plan, each plan must contain a proposed schedule for offering the incentives over the duration of the program. The schedule must:

1. provide for “blocks” that result in at least 30 MW of residential PV capacity and projected incentive levels for each block;
2. provide incentives that are sufficient to meet residential consumers' reasonable payback expectations, considering the estimated cost of solar installations, the value of the energy offset by the system, and the availability and estimated value of other incentives, such as federal and state tax incentives and revenues from the sale of solar renewable energy credits (RECs);
3. provide incentives that decline over time to help foster the development of a state-based solar industry;
4. automatically move to the next block once the fund has committed the resources for a block; and
5. provide comparable incentives to buy or lease qualifying systems.

The authority may retain a consultant with expertise in solar energy program design to help develop the incentive schedules, which DEEP must review and approve. The authority can modify the approved schedule before it issues its next plan to account for changes in state or federal law or

regulation or developments in the solar market when these changes could affect the expected return on investment of a typical residential PV system by 20% or more.

The authority must post on its website the incentives schedule, available funding, and incentive estimators, and solar capacity remaining in the current block. It must establish and periodically update program guidelines, including (1) eligibility criteria, (2) standards for installing energy efficient equipment or building practices as a condition of receiving program funding, (3) procedures to ensure that reservations are made and incentives paid to PV systems that are very likely to be installed and operated as indicated in the funding application, and (4) reasonable protocols for measuring and verifying energy production.

Funding

Funding for these incentives must come from the renewable energy surcharge on electric bills but may not use more than one-third of this annual revenue, plus any federal funding that becomes available.

Training and Development

The authority must identify barriers to developing a permanent Connecticut-based solar workforce and provide for comprehensive training, accreditation, and certification programs through institutions and individuals accredited and certified to national standards.

Report

By January 1, 2014, and every two years thereafter through the program's duration, the authority must report to the Energy and Technology Committee on progress toward the 30 MW goal.

Sections 107, 108 — ZERO EMISSION GENERATION PROGRAM

Electric Company Solicitation Plan

Starting January 1, 2012, each electric company must solicit and file with PURA for its approval, one or more long-term (15 year) power purchase contracts with owners or developers of zero-emission generation projects of less than 1,000 kilowatts (1 megawatt or MW) capacity. These systems must be located on the customer side of the meter and serve the electric company's distribution system. PURA can give preferences to contracts for technologies that are manufactured, researched, or developed in the state.

The companies must submit a proposed six-year solicitation plan by January 1, 2012. The plan must include a timetable for soliciting proposals, with declining incentives during each year of the program.

Solicitations conducted by a company must be for the purchase of renewable energy credits (RECs) produced by eligible projects. (Owners of renewable generation facilities can sell the power they produce on the wholesale electric market as “green power” or can sell the RECs associated with this power separately from the power.)

The production of a megawatt hour of electricity from a solar energy source placed in service on or after July 1, 2011 creates one REC. The obligation to purchase credits must be apportioned to the companies based on their respective loads at the start of the procurement period, as determined by PURA. These credits count against the companies' obligations under the Renewable Portfolio Standard (RPS). A credit is in effect the year it is created and the following calendar year. Electric companies are not required to enter into a contract in 2012 that provides a payment of more than \$350 per REC. For contracts entered into between 2013 and 2017, at least 90 days before each annual electric company solicitation, PURA may lower the REC price cap by 3% to 7% annually. In doing so, PURA must (1) provide notice and an opportunity for public comment and (2) consider such factors as the actual bid results from the most recent solicitation and reasonably foreseeable reductions in the cost of eligible technologies.

The companies must spend the following amounts to buy RECs under the program: \$8 million in the program's first year (2012), increasing by \$8 million per year in each of the next three years.

After year four, PURA must review contracts entered into under the program. If the cost of the technologies included in the contracts has been reduced, PURA must seek to enter new contracts to extend the program for another two years, for the total of six years.

If PURA determines the cost has been reduced, the aggregate procurement of RECs by electric companies must (1) increase by an additional \$8 million per year in years five and six, (2) be \$48 million in years seven to fifteen, inclusive, and (3) decline by \$8 million per year in years 16 to 21, inclusive. If PURA determines the costs have not been reduced, the aggregate procurement of RECs by electric companies must (1) be \$32 million in years five to thirteen, inclusive, and (2) decline by \$8 million per year in years 14 to 19, inclusive. Under both scenarios, any money not allocated in any given year may roll into the next year's available funds.

The act requires each electric company, by January 1, 2012, to propose a six-year solicitation plan that includes a timetable and methodology for soliciting proposals for long-term RECs with declining incentives that will end in 2022 from in-state generators. PURA must review and approve the solicitation plan. The approved plan must be designed to foster a diversity of project sizes and participation among all eligible customer classes, subject to cost-effectiveness considerations.

Approval of Procurement Plans

The companies must conduct separate procurement processes for (1) systems up to 100 kilowatts (a typical residential PV system is 5 to 10 kilowatts), (2) systems between 100 and 250 kilowatts, and (3) systems between 250 and 1,000 kilowatts. PURA must give preference to competitive bidding for resources above 100 kilowatts, with bids ranked in order of the present value of their required REC price unless it determines that an alternative methodology is in the best interest of electric customers and the development of a competitive and self-sustaining market. Systems up to 100 kilowatts are eligible to receive a REC price equal to the weighted average accepted bid price in the most recent solicitation for systems of between 100 and 250 kilowatts, plus an additional 10%. Each electric company must execute its approved six-year solicitation plan. The RECs it purchases count towards its obligations under the renewable portfolio standard, under which electric companies and competitive suppliers must get part of their power from renewable resources.

Each company must submit its preferred procurement plan to PURA for its review and approval. PURA must hold a hearing as an uncontested case to approve, reject, or modify an application for approval.

PURA may approve the plan only if it finds that (1) the company conducted the solicitation and evaluation by a fair, open, competitive, and transparent process; (2) approval of the solicitation plan would provide the greatest expected ratepayer value from energy or RECs at the lowest reasonable cost; and (3) the procurement plan satisfies other criteria established in the approved solicitation plan. PURA may not approve any proposal made under the procurement plan unless it determines that (1) the plan and proposals encompass all foreseeable sources of revenue or benefits and (2) the proposals, together with such revenue or benefits, would result in the greatest expected ratepayer value from energy or RECs.

If an electric company's solicitation does not result in proposed contracts totaling the mandated annual expenditure and PURA has reduced the cap price by more than 3%, PURA must issue a request for proposals for additional contracts within 90 days. PURA must approve contract proposals on a least-cost basis, but an electric company need not enter into a contract that provides for a payment in any year of the contract that exceeds the prior year's renewable energy price cap minus 3%.

If the electric company fails to execute its approved solicitation plan, it may petition PURA for an extension of up to 90 days. If it does not submit this petition or it fails to cure the deficiency, PURA must assess a noncompliance fee of 125% of the difference between the annual expenditures the company is required to make under the act and its actual contractually committed expenditure for RECs from eligible projects in that year. PURA can waive the fee if it determines that meeting the program requirements would be commercially infeasible.

The electric company must collect noncompliance fees, keep them in a separate interest-bearing account, and disburse them to DEEP quarterly. This money must be used to support the deployment of zero emission generating systems installed in the state, with priority given to otherwise underserved market segments, such as low-income housing, schools and other public buildings, and nonprofit organizations.

Resale of RECs

The electric companies can resell or otherwise dispose of the energy or RECs they purchase, but they must net the cost of payments made to projects under the contracts against the proceeds of the sale of energy or solar RECs. The difference must be credited or charged to their customers through a reconciling component of electric rates, as determined by PURA, using a charge or credit that does not change when a customer switches electric suppliers.

Report

Within 60 days after PURA approves the procurement plans submitted by January 1, 2013, it must report to the Energy and Technology Committee. The report must document, for each procurement plan: (1) the total number of RECs bid relative to the number of credits requested by the electric company, (2) the total number of bidders in each market segment, (3) the number and value of

contracts awarded, (4) the total weighted average price of the RECs or energy purchased, and (5) the extent to which the technologies' costs have been reduced. PURA may not report individual bid information or other proprietary information.

Section 110 — LOW EMISSION GENERATION PROGRAM

The act establishes a similar program for low-emission generation technologies. These are generation projects that (1) are less than 2 MW in size, (2) are located on the customer side of the meter, (3) serve the distribution system of the electric company, and (4) use class I technologies that have emissions of no more than 0.07 pounds per megawatt-hour of nitrogen oxides, 0.10 pounds per megawatt-hour of carbon monoxide, 0.02 pounds per megawatt-hour of volatile organic compounds, and one grain (presumably of particulate matter) per one hundred standard cubic feet. PURA can give preference to contracts for technologies manufactured, researched, or developed in the state.

The obligation to purchase RECs must be apportioned to the electric companies based on their respective distribution system loads at the start of the procurement period, as determined by PURA. The maximum an electric company must pay for a REC is \$200 per megawatt-hour. The REC resale provision of the zero-emission program applies to the low-emission program, as does the ability of the electric company to count its purchase of the RECs towards its renewable portfolio standard obligations.

Solicitation Plan

Starting January 1, 2012, and within 180 days, each electric company must solicit and file with PURA for its approval one or more 15-year power purchase contracts. RECs are created in the same way as under the zero emission program.

Funding

The companies can spend up to \$4 million in year one (2012), increasing by \$4 million per year in each of the next two years. After year three, PURA must review the contracts entered into under this program. If the cost of the technologies eligible for the contracts has been reduced, PURA must seek to enter new contracts for a total of five years.

The aggregate procurement of RECs must (1) increase by an additional \$4 million per year in years four and five, (2) be \$20 million per year in years six through fifteen, and (3) decline by \$4 million per year in years 16 through 20.

If PURA determines that the costs have not been reduced, the aggregate procurement of RECs must (1) be \$12 million per year in years four through fifteen, and (2) decline by \$4 million in the last two years, provided any money not allocated in any given year may roll into the next year's available funds.

Section 111 — CONDOMINIUM PROGRAM

The act requires the Clean Energy Finance and Investment Authority, in consultation with DEEP, to establish a program within available funds to provide grants to residential condominium associations

and owners to buy renewable energy sources, including solar energy, geothermal, fuel cell, and other hydrogen-fueled systems.

EFFECTIVE DATE: October 1, 2011

Section 112 — LOW-INCOME RATE DISCOUNTS

The act requires DEEP to conduct a proceeding, by June 30, 2012, to develop discounted rates for electric and gas company customers whose household income is not more than 60% of the state median. The proceeding must at least review the current and future availability of rate discounts for individuals who receive state or federal means-tested assistance, through (1) discounts through the electricity purchasing pool authorized to operate under the law, (2) Connecticut Energy Assistance Program benefits, (3) assistance funded or administered by the Department of Social Services (DSS) or DEEP, (4) other state-funded or state-administered programs, (5) conservation programs assistance, or (6) matching payment program benefits to help electric company customers pay off their arrearages.

DEEP must (1) coordinate resources and programs, to the extent practicable; (2) develop rates that take into account indigency and allow these households to meet the costs of essential energy needs; (3) require single family households to have a home energy audit as a prerequisite to qualifying, with the cost subsidized from the Energy Efficiency Fund for low-income homeowners; (4) analyze the benefits and anticipated costs of the discounted rates; and (5) review utility rate discount policies or programs in other states.

DEEP must determine which, if any, of its programs should be terminated, modified, or have their funding reduced because program recipients would benefit more from a low-income rate. It must establish a rate reduction that is equal to the anticipated funds transferred from the programs it terminates, modifies, or reduces and the reduced cost of serving low-income households participating in the program, and other sources. DEEP may issue recommendations regarding programs administered by DSS.

DEEP must order (1) each electric company to file proposed rates consistent with its decision within 60 days after issuing the decision and (2) appropriate modifications to existing low-income programs.

The cost of discounted rates and related outreach activities must be paid (1) from normal rate-making procedures and (2) on a semi-annual basis through the systems benefits charge. The discounts must be funded solely from (1) the savings from the programs that DEEP terminates, modifies, or reduces, plus the reduced cost of providing service to those eligible for the discounted or low-income rates; (2) any available energy assistance; and (3) other sources of coverage for these rates, such as generation available through the electricity purchasing pool operated by DEEP.

By February 1, 2012, DEEP must report to the Energy and Technology Committee on the benefits and costs of the discounted rates and any recommended modifications. If the low-income rate is not at least 10% below the standard service rate, DEEP must include steps to reach this goal in the report.

Sections 114, 115 — BILLING

Direct Billing by Suppliers

Under prior law, competitive suppliers could provide billing and collection services for their customers with at least 100 kilowatts of demand. The act requires suppliers, starting July 1, 2012, to provide these services or obtain them from the electric company, paying their pro rata share of these costs. A customer who is directly billed by a supplier and who paid the electric company the cost of billing and other services must receive a credit on his or her monthly electric bill.

By law, DPUC was required to adopt regulations specifying the billing format for electric companies and suppliers that directly bill their customers. The regulations had to provide guidelines for determining the billing relationship between the companies and suppliers, addressing such things as allocation of partial bill payments. Under the act, (1) these guidelines are effective until July 1, 2012 and (2) DEEP must adopt regulations governing direct billing. .

Electric Company Bills

Under prior law, electric bills had to include a statement about the availability of the program under which electric companies provide information about competitive suppliers at certain times. The act limits this provision, as it applies to electric companies, to the bills of customers with demand of 500 kilowatts or less over the preceding 12 months.

The act eliminates the requirement that electric company bills indicate the generation service charge (the retail cost of power) for those customers who buy their power from suppliers (whether or not their supplier bills them directly).

Competitive Suppliers' Bills

The act modifies the billing information a supplier that chooses to provide billing and collection services to its customers must provide. It eliminates requirements that such bills include the:

1. distribution charge, including all applicable taxes;
2. systems benefits charge;
3. transmission rate as adjusted by law;
4. competitive transition assessment; and
5. conservation and renewable energy charges.

By law, these charges and rates are the same for all customers, whether they buy power from the electric company or supplier, and appear on electric company bills.

Under prior law, the bill had to show the customer's rate and usage for the current month and each of the previous 12 months in the form of a bar graph or other visual format, unless the customer is subject to a demand charge. The act eliminates this exception.

Report

The act requires PURA to review the costs and benefits of suppliers billing for all components of electric service, and report by February 1, 2012 to the Energy and Technology Committee on the results of the review.

Section 115 — WEATHERIZATION PROGRAM

The act requires the DEEP commissioner to administer the federally-funded weatherization assistance program; under current practice DSS administers this program.

Under the act, the program must provide, within available appropriations, weatherization assistance in accordance with the provisions of the state plan implementing the federal weatherization and fuel assistance programs. DEEP must adopt regulations (1) establishing priorities for determining which households will receive weatherization assistance, (2) requiring that when assistance is for energy conservation measures other than the retrofitting of heating systems it be provided only for dwellings for which an energy audit has been conducted, (3) requiring that the simple payback period (the time during which the energy savings equal the cost of the conservation measures) calculated for each energy conservation measure recommended in the audit be the only criterion for determining which measures will be implemented under this program, (4) establishing the maximum allowable payback period, and (5) establishing conditions for waiving these requirements in an emergency

The program must also include weatherization assistance for emergency shelters for homeless individuals and victims of domestic violence. The commissioner may adopt regulations to implement and administer this aspect of the program.

Section 116 — REPLACEMENT HEATING SYSTEM AND CHP PROGRAMS

The act establishes programs to (1) finance the replacement of inefficient residential heating equipment and (2) provide financial incentives for such replacement equipment and combined heat and power (CHP) systems. By October 1, 2011, DEEP must establish a plan that includes procedures and parameters for these programs.

Financing Program

The act requires DEEP, by October 1, 2011, to establish a program to allow residential customers to finance the installation of energy efficient natural gas or heating oil burners, boilers, and furnaces to replace (1) existing inefficient equipment or (2) electric heating systems. The new equipment must replace boilers and furnaces that are at least seven years old with an efficiency rating of not more than 75%. Replacement fuel oil furnaces and burners must have an efficiency rating of at least 86% and burners must have thermal purge or temperature reset controls. Replacement natural gas boilers must have an annual fuel utilization efficiency rating of at least 90% and a gas furnace must have an annual fuel utilization efficiency rating of at least 95%. To participate in the program, a customer must first have a home energy audit. The cost of the audit can be financed under the program.

A customer who participates in the program must repay the financing as part of his or her monthly gas or electric bill or by other means. The program may be funded by the residential financing program supported by the Connecticut Energy Efficiency Fund or the Clean Energy Fund.

Financial Incentive Program

The act also requires DEEP to establish an energy savings infrastructure pilot program providing financial incentives to eligible entities that install CHP systems, energy efficient heating oil burners, boilers, and furnaces, and natural gas boilers and furnaces. The entities include (1) any residential, commercial, institutional, or industrial customer of an electric or natural gas company, who employs or installs an eligible savings technology, (2) an energy service company that DEEP certifies as a Connecticut electric efficiency partner, or (3) an installer certified by the Clean Energy Finance and Investment Authority.

CHP Systems. By October 1, 2011, DEEP must begin accepting applications for financial incentives for CHP systems up to 1 MW. To qualify for the incentives, the system must reduce energy costs at an amount equal to or greater than the amount of the system's installation cost within 10 years of the installation. DEEP must review the current market conditions for such systems, including any existing federal or state financial incentives, and determine the appropriate financial incentives needed to encourage installation of the systems. The incentives may include providing private financial institutions with loan loss protection or grants to lower borrowing costs. Financial incentives may not exceed \$200 per kilowatt. A project accepted for the incentives also qualifies for a waiver of the (1) backup power rate charged by electric companies and (2) requirement to provide baseload electricity. Any purchase of natural gas for a CHP system installed under this program is exempt from the natural gas company's distribution charge.

Heating Equipment. By December 31, 2011, DEEP must begin accepting applications for financial incentives for the installation of more efficient fuel oil and natural gas boilers and furnaces meeting the efficiency standards described in the financing program. DEEP must review the current market conditions for such systems and equipment upgrades, including, but not limited to, any existing federal or state financial incentives, and establish the appropriate financial incentives needed to encourage such upgrades. Financial incentives must provide private financial institutions with loan loss protection or grants to lower borrowing costs and, if DEEP deems it necessary, grants to the lending institution to lower borrowing costs and allow for a 10-year loan. The financial incentive package must ensure that the applicant's annual loan payment is no more than the projected annual energy savings less \$100. Any loan provided as a financial incentive must include the cost of any related incentives, as determined by DEEP. DEEP must arrange with an electric or gas company to provide for payment of any loan made as financial assistance through the loan recipient's monthly electric or gas bill, as applicable.

DEEP must develop a prescriptive one-page loan application. It must at least include: (1) detailed information, specifications and documentation of the eligible energy technology's installed costs and projected energy savings and (2) for loan requests of more than \$100,000, certification by a licensed professional engineer, licensed contractor, installer, or tradesman with a state license held in good standing.

Loan applicants must (1) contract with Connecticut-based licensed contractors, installers, or tradesmen; (2) provide evidence of the cost of purchase and installation of the eligible technology; and (3) periodically provide evidence of the operation and functionality of the technology to ensure that it is operating as intended during the term of the loan.

By October 1, 2014, DEEP must report to the Energy and Technology Committee with regard to the projects assisted by the program, the amount of public funding, the energy savings from the technologies installed, and any recommendations for changes to the program. These may include incentives that encourage consumers to install more efficient fuel oil and natural gas boilers and furnaces prior to failure or gross inefficiency of their current heating system.

Section 118 — STATE AGENCY ENERGY CONSERVATION

The act makes DEEP, rather than OPM, responsible for planning and managing energy use in state-owned and -leased buildings and implementing related programs.

The act requires the DEEP commissioner, by July 1, 2012, to develop a plan in consultation with the Department of Administrative Services (DAS), to reduce energy use in state-owned or -leased buildings at least 10% from its current consumption by January 1, 2013 and by an additional 10% by July 1, 2018. The plan must at least (1) assess current energy consumption for all fuels used in state-owned buildings, (2) identify at least 100 buildings with the highest aggregate energy costs in FY 11, (3) establish targets for conducting energy audits of these buildings, and (4) determine which energy efficiency measures are most cost-effective for them. The plan must provide for the financing of these measures through the use of energy performance contracting pursuant to the act, bonding, or other means.

The act allows any state agency or municipality to enter into an energy-savings performance contract with a qualified energy service provider to produce utility cost savings, or operation and maintenance cost savings, as these terms are defined below. Any energy-savings measure implemented under these contracts must comply with applicable building codes. A state agency or municipality may implement other capital improvements in conjunction with an energy-savings performance contract so long as the measures that are being implemented to achieve the cost savings and other capital improvements are in the aggregate cost-effective over the term of the contract.

By January 1, 2013, and annually thereafter, the DEEP commissioner must report on the status of plan implementation and provide recommendations on state buildings energy use to the Energy and Technology Committee.

The act also requires the DEEP commissioner, in consultation with the Department of Public Works, to establish energy efficiency standards for building space leased on or after January 1, 2013 by the state.

Section 119 — DEEP OFFICE OF ENERGY EFFICIENT BUSINESSES

The act creates, within available appropriations, an office of energy efficient businesses within DEEP and requires it to provide in-state businesses (1) a single point of contact for any state business interested in energy efficiency, renewable energy, or conservation projects; (2) information on loans and grants for energy efficiency, renewable energy projects, and conservation; (3) audit and assessment services, including outreach to businesses by qualified entities; and (4) any other service the office considers relevant.

Section 121 — VIRTUAL NET METERING

This act requires electric companies to provide their municipal customers with virtual net metering and make any needed interconnections, including installing metering equipment, for customers who need it. The act specifies how (1) the metering equipment must operate and (2) the electric companies must bill those who participate.

The law requires electric utilities to provide equipment and billing for net metering (CGS Section 16-243h). In general, the net metering law allows a customer with an on-site electricity generator powered by a renewable energy resource to earn billing credits from an electric company when the customer generates more power than he or she uses, essentially “running the meter backwards.” The “virtual net metering” authorized by the act allows the customer to share these credits to lower the electricity bills of other “beneficial accounts” the customer designates.

By February 1, 2012, DEEP must conduct a proceeding to develop the administrative processes and program specifications, including a program cap of \$1 million per year for the credits provided to the beneficial accounts, apportioned to each electric company based on its consumer load, to implement these provisions.

Virtual Net Metering Equipment

Under the act, electric companies must interconnect with and provide virtual net metering equipment to any “virtual net metering facility” that requests it. The act defines these facilities as a customer-owned class I renewable energy source (solar, wind, fuel cells, etc.) that can generate up to two megawatts of electricity. The customer must be one of the electric company's in-state retail end-users and within the same service territory as the other accounts to which it will distribute credits.

As under the current net metering law, the act requires the virtual net metering equipment to be able to (1) measure the electricity consumed from the electric company's facilities; (2) deduct the amount of electricity the customer produced, but did not consume; and (3) calculate the customer's net production or consumption for each monthly billing period.

Billing

Under the act, a customer participating in virtual net metering can designate “beneficial accounts” that will receive the billing credits when the customer produces more electricity than he or she uses. These accounts must all be in-state retail end users and in the same electric company service territory as the customer. The customer must notify the electric company about the other accounts in writing at least 60 days before the generating facility begins operating. The customer can amend the list of accounts only once a year by providing another 60 days' written notice. The municipal customer host may not designate more than five beneficial accounts. .

When the customer produces more electricity than he or she uses in a monthly billing period, the act requires the electric company to bill the customer for zero kilowatt hours (kwh). For each extra kwh produced, the electric company must assign a credit that equals the retail cost per kwh the customer would otherwise have been charged. The credits are then used to reduce the charges on the beneficial accounts in the next billing period, although no account can be reduced below zero kwh. However, the shared billing credit is only for the generation service charge (the cost of power as distinct from

such costs as transmission and distribution.) Under prior law, the credit that a customer received for his own account applied to all of the charges on the bill.

If any unused credits remain after the electric company has reduced all of the beneficial accounts to zero kwh, the act requires the electric company to carry them forward from one monthly billing period to the next until the end of the calendar year. At the end of each year the company must pay the customer for any unused credits at the wholesale rate the company pays for the power it buys to serve its standard service customers.

Report

By January 1, 2013, and annually thereafter, each electric company must report to DEEP on the cost of its virtual net metering program. DEEP must combine this information and report it annually to the Energy and Technology Committee.

EFFECTIVE DATE: Upon passage

Sections 122, 123 — ENERGY-SAVINGS PERFORMANCE CONTRACTING

The act allows any state agency or municipality to enter into an energy-savings performance contract with a qualified energy services provider to produce utility or operation and maintenance cost savings. The energy-savings measures must comply with applicable building codes. A state agency or municipality may implement other capital improvements in conjunction with the contracts so long as (1) they are being implemented to achieve the required cost savings and (2) the other capital improvements are in the aggregate cost-effective over the contract's term.

Definitions

Under the act, an energy-savings performance contract is one between a state agency or municipality and a qualified energy service provider to evaluate, recommend, and implement one or more energy savings measures. A performance contract must guarantee energy cost savings and include (1) the design and installation of equipment and, if applicable, operation and maintenance of any of the measures implemented and (2) guaranteed annual savings that meet or exceed the total annual contract payments the agency or municipality makes including financing charges incurred over the contract's life.

To be qualified, the provider must be a corporation approved by DAS with a record of successful energy performance contract projects that (1) is experienced in designing, implementing, and installing energy efficiency and facility improvement measures; (2) has the technical capabilities to ensure the measures generate energy and operational cost savings; and (3) can secure the financing needed to support energy savings guarantees.

The contract must reduce utility or operation and maintenance costs. Utility cost savings are utility expenses eliminated or avoided on a long-term basis as a result of equipment installed or modified or services performed by a qualified energy service provider. They do not include merely shifting personnel costs or similar short-term cost savings. Operation and maintenance cost savings means a measurable decrease in these costs and future replacement expenditures that result directly from

implementing one or more utility cost savings measures. These savings must be calculated against an established baseline of operation and maintenance costs.

Under the act a measure, piece of equipment, activity, or facility is considered cost-effective if an agency or municipality reasonably expects that the present value of the energy it will save or produce over its useful life, including any compensation received from a utility, is more than the net present value of the costs of implementing, maintaining, and operating it over the same period, discounted at the cost of public borrowing.

The act defines “energy-savings measure” to include a wide variety of efficiency and renewable energy measures. These include, among others:

1. replacing or modifying lighting and electrical components, fixtures, or systems, improvements in street lighting efficiency, or computer power management software;
2. class I renewable energy such as photovoltaic and wind systems and solar thermal systems;
3. cogeneration systems that produce steam or forms of energy, such as heat or electricity, for use primarily within a building or complex of buildings;
4. automated or computerized energy control systems;
5. heating, ventilation, or air conditioning system modifications or replacements;
6. replacement or modification of windows or doors;
7. insulation;
8. indoor air quality improvements; and
9. water conserving measures.

The act defines an “investment-grade audit” as a study by the provider selected for a particular project. It must include detailed descriptions of the recommended improvements for the project, their estimated costs, and the utility and operations and maintenance cost savings projected to result from them.

Agency Roles in Performance Contracting

DEEP, in consultation with OPM and ECMB, must help state agencies and municipalities identify, evaluate, and implement cost-effective conservation projects at their facilities and create promotional materials to explain the energy performance contract program. OPM, in consultation with ECMB and DEEP, must inform agencies and municipalities of opportunities to develop and finance energy performance contracting projects. It must provide technical and analytical support, including (1) procuring energy performance contracting services, (2) reviewing verification procedures for energy savings, and (3) assisting in structuring and arranging financing for energy performance contracting projects.

DEEP may charge fees to cover costs incurred for its administrative support and resources or services provided to the state agencies and municipalities that use its technical support services. The fees must be disclosed before services are rendered. Any participating municipality may opt out of the state performance contract process rather than incur the fees. Agencies and municipalities may add the costs of these fees to the total cost of the energy performance contract.

Initial administrative funding to establish the performance contracting process for agencies and participating municipalities must be recovered from the ECMB.

Standardized Procedures

The act requires DEEP, by July 1, 2012 and within available appropriations, to establish a standardized energy performance contract process for state agencies and municipalities. DEEP must work with ECMB and must consult with OPM and DAS in developing the process. A municipality may use the standardized process or establish its own.

The standardized process must include standard procedures for entering into a performance contract and standard energy performance contract documents. The documents must include requests for qualifications (RFQs); RFPs; investment-grade audit contracts; energy savings performance contracts, including the form of the project savings guarantee; and project financing agreements.

Prequalification of Energy Performance Contractors

DAS, in consultation with DEEP, must issue an RFQ from companies that can offer energy performance contract services to create a list of qualified companies. State agencies must use the list; municipalities can use the list or establish their own qualification process.

When reviewing RFQs (apparently responses to the RFQ), DAS must consider a company's experience with:

1. design, engineering, installation, maintenance, and repairs associated with performance contracts;
2. conversions to a different energy or fuel source associated with a comprehensive energy efficiency retrofit;
3. post-installation project monitoring, data collection, and reporting of savings;
4. overall project management and qualifications;
5. accessing long-term financing;
6. financial stability;
7. projects of similar size and scope;
8. in-state projects and Connecticut-based subcontractors;
9. U. S. Department of Energy programs;
10. professional certifications; and
11. other factors DAS determines to be relevant and appropriate.

Selection of Contractors

Before entering an energy performance contract, a state agency or municipality that uses the standardized procedures must issue an RFP to three or more qualified providers. The agency or municipality may award the performance contract to the provider that best meets its needs, which need not be the lowest cost provider.

A cost-effective feasibility analysis must be included in the responses to the RFP and serves as the selection document. The agency or municipality must use the analysis to select a qualified provider to

engage in final contract negotiations. In making its final selection, the agency or municipality must consider:

1. contract terms,
2. the proposal's comprehensiveness,
3. the provider's financial stability,
4. comprehensiveness of cost savings measures,
5. experience and quality of technical approach, and
6. overall benefits to the agency or municipality.

Energy Audit

The provider selected as a result of the RFP process must prepare an investment-grade energy audit. Upon acceptance, the audit becomes part of the final energy performance contract of the state agency or municipality. The audit must include estimates of how much utility and operation and maintenance cost savings would increase and estimates of all costs of the utility cost savings measures or energy-savings measures. These include:

1. itemized design costs,
2. engineering,
3. equipment and materials,
4. installation,
5. maintenance and repairs, and
6. debt service.

If the state or municipality decides not to execute an energy services agreement after the audit is prepared and the costs and benefits described in it are not materially different from those described in the feasibility study submitted in response to the RFP, the agency or municipality must pay the costs of preparing the audit. Otherwise, the audit costs are included in the costs of the energy performance contract.

Independent Review of Projected Costs Savings

The above guidelines may require that a licensed professional engineer review the cost savings projected by the qualified provider. The engineer must have at least three years experience in energy calculation and review. He or she may not be (1) an officer or employee of a provider for the contract under review or (2) otherwise associated with the contract.

In conducting the review, the engineer must focus primarily on the proposed improvements from an engineering perspective, the methodology and calculations related to cost savings, increases in revenue, and, if applicable, efficiency or accuracy of metering equipment. The engineer must maintain the confidentiality of any proprietary information he or she acquires while reviewing the contract.

Project Financing

A municipality may use funds designated for operating and capital expenditures or utilities for any energy-savings performance contract, including those authorized by the act. A contract may provide for financing by a third party, including tax-exempt financing. The financing provision may be separate from the contract. An agency or municipality may use designated funds, bonds, lease purchase agreements, or a master lease for any energy-savings performance contracts, so long as their use is consistent with the purpose of the appropriation.

Energy-savings performance contracts must provide that (1) all payments between parties, except obligations on termination of the contract before its expiration, will be made over time and (2) the objective of the contract is implementation of cost savings measures and energy and operational cost savings.

An energy-savings performance contract, and payments under it, may extend beyond the fiscal year in which the contract became effective, subject to appropriations, if required by law, for costs incurred in future fiscal years. The contract may run for up to 20 years and the length of the contract may reflect the useful life of the cost savings measures. A contract may provide for payments over a period not to exceed deadlines specified in it from the date of the final installation of the cost savings measures.

Reconciliation and Annual Reports

The contract may provide that reconciliation of the amounts owed under it will occur in a period beyond one year, with final reconciliation occurring within the term of the contract. A contract must include contingency provisions if the actual savings do not meet predicted savings.

The contract must require the provider to give the agency or municipality an annual reconciliation of the guaranteed energy cost savings. If the reconciliation reveals a shortfall in annual savings, the provider is liable for the shortfall. If the reconciliation reveals an excess in annual energy cost savings, that excess remains with the agency or municipality but may not be used to cover potential energy cost savings shortages in subsequent contract years or savings shortages in prior years.

During the term of each contract, the provider must monitor the reductions in energy consumption and cost savings attributable to the cost savings measures installed under the contract. The provider must, at least annually, report to the agency or municipality documenting the performance of the cost savings measures. The report must comply with International Performance Measurement and Verification Protocols.

Modifications of Energy Savings Calculations

The provider and agency or municipality may agree to modify savings calculations based on any of the following:

1. subsequent material change to the baseline energy consumption identified at the beginning of the performance contract;
2. changes in the number of days in the utility billing cycle, the total square footage of the building, the facility's operational schedule, or its temperature;
3. material change in the weather or in the amount of equipment or lighting used at the facility; or

4. any other change that reasonably would be expected to modify energy use or energy costs.

Reporting Requirement and Use of Savings

Any agency or municipality participating in the standardized energy performance contract process that enters into an energy performance contract must report to OPM and DEEP the project's name and host, the investment on the project, and the expected energy savings when the contract is executed. It may direct the savings realized under the performance contract to contract payment and other required expenses and, when practicable, it may reinvest savings beyond that required for contract payment and other required expenses into additional energy saving measures.

Sections 124, 137, 138 — GREEN CONNECTICUT LOAN GUARANTY PROGRAM

Program Requirements

Prior law required the Connecticut Health and Educational Facilities Authority (CHEFA) to establish the Green Connecticut Loan Guaranty Fund to help finance energy efficiency and renewable energy projects for individuals, non-profit organizations, and small businesses. The act transfers the responsibility for administering the program from CHEFA to the Clean Energy Finance and Investment Authority. The act also transfers the bond funding for this program from CHEFA to the new authority.

The act eliminates a requirement that CHEFA consult with OPM in identifying the types of projects that are eligible for the program and establishing priorities.

The act requires the Clean Energy Finance and Investment Authority, in consultation with CHEFA and ECMB to:

1. ensure that this program integrates with existing state energy efficiency and renewable energy programs;
2. establish program performance targets to ensure sufficient participation in the secondary financial markets and to coordinate with existing financing programs to enable efficiency improvements for at least 15% of state single-family homes by 2020;
3. enter into contracts with one or more entities to perform loan origination services; and
4. exercise other powers needed to properly administer the program.

Terms of Financial Assistance

The act requires the financial assistance to meet the following terms:

1. eligible energy conservation projects must meet cost-effectiveness standards adopted by the Clean Energy Finance and Investment Authority in consultation with ECMB and CHEFA;
2. loans must be at interest rates determined by the Clean Energy Finance and Investment Authority to be no higher than needed to have financial institutions participate in the program; and
3. the fee paid for an energy audit provided under the program may be added to the amount of the resulting loan and then reimbursed from the fund to the borrower.

Sections 125, 126 — DISCLOSURE OF CONSUMPTION DATA

The act requires electric and gas companies, starting January 1, 2012, to maintain the energy consumption data of all typical nonresidential buildings they serve. They must make the data available to the public free of charge. They must maintain the data in a format that (1) is compatible for uploading to the U. S. Environmental Protection Agency's Energy Star portfolio manager (which allows consumers to compare their building's energy use to that of similar buildings) or similar system, for at least the most recent 36 months, and (2) preserves the customer's confidentiality.

Also starting January 1, 2012, the companies must provide aggregate town customer usage information that preserves the confidentiality of individual customers to any municipal legislative body that requests this information.

EFFECTIVE DATE: Upon passage

Section 127 — ELECTRIC COMPANY OWNERSHIP OF RENEWABLE GENERATION

Prior law generally barred electric companies from owning power generation facilities. The act allows an electric company, as well as the owner or developer of generation projects that do not pollute, to submit a proposal to DEEP to build, own, or operate up to an aggregate of 30 MW of generation capacity using class I renewable energy sources. The proposals must be submitted between July 1, 2011 and July 1, 2013. Each facility must be between one and five MW. The aggregate ownership by an electric company is capped at 10 MW, and they can enter into joint ownership agreements with private developers. DEEP must evaluate the proposals under its general rate-setting principles and may approve one or more proposals if it finds that the proposal serves ratepayers' long-term interests. DEEP (1) may not approve any proposal supported in any form of cross subsidization by entities affiliated with the electric company and (2) must give preference to proposals that make efficient use of existing sites and supply infrastructure. An electric company may not, under any circumstances, recover more than the full costs identified in a proposal, as approved by DEEP.

The company must use the power, capacity, and related products produced by the facility to meet the needs of its standard service and last resort customers (the latter serves large customers who do not choose a supplier). The amount of renewable energy produced from the facilities counts towards the electric company's class I renewable energy source portfolio standard obligations.

DEEP must evaluate the approved proposals and report to the Energy and Technology Committee on whether proposals should be accepted beyond July 1, 2013.

The act permits the resale or other disposition of energy or associated RECs purchased by the electric company so long as it nets the cost of payments made to projects under the long-term contracts against the proceeds of the sale of energy or RECs, and the difference is credited or charged to distribution customers through a reconciling component of electric rates as determined by PURA that is nonbypassable when switching electric suppliers.

Section 128 – BUILDING PERMIT FEE WAIVER

The act allows municipalities to adopt ordinances exempting class I renewable energy projects from municipal building permit fees.

Section 132 — FEES FOR ENERGY AUDITS

The act requires that each electric, gas, or heating fuel customer, regardless of heating source, be assessed the same fees, charges, co-pays, or other similar terms to access any audits administered by the Home Energy Solutions program. The costs of subsidizing audits for ratepayers whose primary source of heat is not electricity or natural gas may not exceed \$500,000 per year.

Section 133 — STUDY ON RATE-BASING EFFICIENCY COSTS

The act requires PURA to conduct a proceeding to analyze the costs and benefits of allowing an electric company to earn a rate of return, subject to rate-making principles, on its long-term investments in energy efficiency. It requires PURA to report the results of the proceeding to the Energy and Technology Committee by February 1, 2012.

Section 135 — HEATING SYSTEM CONVERSION PROGRAM

The act requires DEEP to establish, by October 1, 2011, a natural gas and heating oil conversion program to allow a gas or heating oil company to finance the conversion to gas or oil heat by potential residential customers who heat their homes with electricity. DEEP must adopt regulations to establish procedures and terms for the program. By January 1, 2012, and annually thereafter, it must report to the Energy and Technology and Environment committees on the program's progress.

Section 136 — CII RESPONSIBILITIES

The act eliminates the administration of the Clean Energy Fund from Connecticut Innovation, Inc.'s responsibilities.

Section 139 — ON-BILL FINANCING STUDY

The act requires DEEP, by January 1, 2012 and in consultation with utility companies, to analyze the potential of on-bill financing of renewable power and energy efficiency investments. DEEP must report its findings to the Energy and Technology Committee.

Section 140 — REPEALERS

The act repeals several obsolete energy statutes.

AN ACT CONCERNING BROWNFIELD REMEDIATION AND DEVELOPMENT AS AN ECONOMIC DRIVER

Summary: This act makes many changes in the laws and programs governing how contaminated property (i.e. brownfields) must be investigated and remediated. It specifically:

1. updates the Office of Brownfield Remediation and Development's (OBRD) powers and duties (Section 1);
2. makes permanent the municipal brownfield pilot program (Section 1-3);
3. exempts "certifying parties" under the Transfer Act from investigating and remediating a release of hazardous substances that occurs after the property was remediated (Section 4);
4. allows the Department of Energy and Environmental Protection (DEEP, formerly, Department of Environmental Protection) commissioner to reclassify surface and ground water beginning March 1, 2011 (Section 5);
5. requires the DEEP commissioner to evaluate the state's brownfield programs and laws (Section 6);
6. makes more brownfields eligible for state funds and subject to regulatory requirements (Section 7);
7. exempts government agencies and private organizations from paying DEEP fees when cleaning up brownfields (Section 8);
8. expands the range of benefits and eligible entities under the Abandoned Brownfield Cleanup (ABC) Program (Section 9-11);
9. exempts municipalities and the bankruptcy court from the Transfer Act when transferring titles to nonprofit organizations (Section 10);
10. allows the DEEP commissioner to waive some of the requirements for recording environmental use restrictions and releasing parties from their requirements (Section 12-14);
11. extends the term of the brownfield working group (Section 15);
12. eliminates the sunset date for funding new projects under the Connecticut Development Authority's (CDA) tax increment financing program (Section 16);
13. establishes a program protecting parties investigating and remediating brownfields from liability to the state and third parties (Section 17);
14. allows Bridgeport's special taxing district to issue bonds to finance property improvements backed by the revenue the improvements generate (Section 18);
15. limits the liability of municipalities, special taxing districts, and metropolitan districts when they allow the public to use their land without charge for recreation purposes (Section 19); and
16. exempts large municipalities from clean-up costs, fines, and penalties when they acquire an easement over a property and allow the public to use it without charge for recreation (Section 20).

EFFECTIVE DATE: Various, see below

Section 1 — OBRD

OBRD is an organizational unit of the Department of Economic and Community Development (DECD). The act explicitly requires OBRD to promote and encourage people and organizations to develop and redevelop brownfields. It also updates OBRD's statutory duties, requiring it to:

1. maintain an informational website;
2. cooperate with state and local agencies and individuals developing and administering brownfield programs, reaching out to the community, coordinating regional brownfield clean-up efforts, seeking federal funds, and implementing other brownfield redevelopment initiatives; and
3. expand its communication and outreach efforts to include state programs for redeveloping and remediating brownfields.

The act requires the Office of Policy and Management (OPM) secretary to help OBRD fulfill its mission. Under prior law, the CDA executive director and the commissioners of the departments of Environmental Protection, Economic and Community Development, and Public Health had to execute a memorandum of understanding (1) specifying their respective duties with respect to the office and (2) assigning one or more staff members to act as liaisons with OBRD. The act requires the OPM secretary to become part of the agreement and assign staff liaisons to OBRD.

Besides requiring state agencies to help OBRD fulfill its mission, the law allows OBRD to recruit private sector volunteers for that purpose. Prior law allowed OBRD to recruit volunteers to help it achieve its statutory goals. The act limits the recruits' role to marketing brownfield programs and redevelopment activities.

EFFECTIVE DATE: July 1, 2011

Sections 1-3 — MUNICIPAL BROWNFIELD PROGRAM

Assistance

The act makes permanent the pilot program providing grants and protection from liability to municipalities for investigating and remediating brownfields and renames the program the Municipal Brownfield Grant Program. Prior law authorized the program to fund brownfield projects in five municipalities, four based on population criteria and one without regard to population.

In making the program permanent, the act explicitly makes the DECD commissioner responsible for approving projects, allows her to approve more projects, and expands the range of eligible projects.

Prior law required the program to identify brownfield remediation projects in five municipalities. The act allows the commissioner to annually identify brownfield remediation projects in at least six municipalities per funding round, a process the act does not describe. She must choose projects in four municipalities based on population criteria and two, rather than one, without regard to population. As under prior law, she must fund the projects within available appropriations.

Besides increasing the number of projects the commissioner may approve, the act expands the range of eligible projects. The program had been open to abandoned and underused sites where the need to remediate contaminated soil and ground water complicated their restoration, redevelopment, and reuse.

The act expands the program in several ways. It makes potentially contaminated sites eligible for assistance and specifies that the real or potential contamination must complicate a site's development.

It also specifies that the real or potential contamination must be investigated as well as remediated before the site can be expanded, as well as restored, redeveloped, or reused.

Lastly, the act transfers control over the program's fund account from OBRD to the DECD commissioner (Section 3).

Verification of Remediation

The act narrows the grounds for determining if a brownfield was properly remediated under the program. By law, municipalities investigating and remediating brownfields under the program must have DEEP or a licensed environmental professional (LEP) supervise the work. When the work was completed, prior law required DEEP to indicate if the remediation meets DEEP standards and no further work is needed, except on-site monitoring or recording an environmental land use restriction.

The act explicitly requires a LEP to make these findings when he or she supervises the work. It also requires environmental land use restrictions to be recorded before the LEP or DEEP can decide if further work is needed.

The act allows the DEEP commissioner to audit remediation done under a voluntary agreement. By law, he must notify the municipality whether the work meets the remediation standards or additional remediation is needed within 90 days after receiving the LEP's report verifying the remediation was implemented. The act also requires the commissioner to notify the municipality if he will not audit the work.

EFFECTIVE DATE: July 1, 2011

Section 4 — CERTIFYING PARTY'S RESPONSIBILITY UNDER THE TRANSFER ACT

The act exempts certifying parties under the Transfer Act from investigating and remediating contamination that occurs after they remediated the property. By law, parties to the sale or transfer of a potentially contaminated property must notify DEEP about the transaction and submit forms describing its condition. They must submit a "Form III" if the property is contaminated or they do not know if it is. The form must also identify the party that will investigate the property's condition (i. e. , "the certifying party") and, if necessary, clean up the contamination. The parties submit a "Form IV" if the property was contaminated and the contamination was investigated and remediated according to DEEP standards.

The act specifies that the certifying party does not have to investigate or clean up any real or potential contamination that occurs (1) after data was collected at the site (i. e. , completed Phase II investigation) or (2) from the date when the Phase II investigation was completed or after the Form III or Form IV was filed, whichever is later.

EFFECTIVE DATE: Upon passage

Section 5 — SURFACE AND GROUND WATER RECLASSIFICATION

The act allows the DEEP commissioner to reclassify surface and ground water beginning March 1, 2011, consistent with the state's water quality standards and in compliance with applicable federal requirements. It specifies the reclassification procedures, which vary depending on whether he initiates the reclassification or responds to a person requesting it. In either case, the commissioner must hold a public hearing, which, under the act, is not a contested case. (A contested case is a proceeding in which an agency must determine a party's rights, duties, or privileges after a hearing.)

Commissioner-initiated Reclassifications. If the commissioner initiates the reclassification, he must hold a hearing on the proposal after (1) publishing a newspaper notice about its time, date, and place and (2) notifying each affected municipality's chief executive officer and public health director by certified mail at least 30 days before the hearing. The notice must identify the surface or groundwater the proposed reclassification affects and describe how the public can obtain additional information about the reclassification.

After the hearing, the commissioner must provide notice of his decision in the *Connecticut Law Journal* and to the affected municipalities' chief elected officials and health directors.

People-initiated Reclassifications. People requesting a reclassification must apply to the commissioner and provide any information he requests. The commissioner must publish a newspaper notice about the hearing at the requestor's expense at least 30 days before the hearing. The notice must identify the requestor and the affected waters; specify how the public can obtain additional information about the proposed reclassification and indicate the commissioner's tentative decision about it; and specify the hearing's time, date, and place. The notice must be mailed to the chief executive officers and the public health directors of the affected municipalities at least 30 days before the hearing. In conducting the hearing, the commissioner must allow all interested parties to comment orally or in writing. He must also keep a record of the hearing.

After the hearing, the commissioner must provide notice of his decision the same way he provides notice of decisions regarding the reclassifications he initiates.

EFFECTIVE DATE: Upon passage

Section 6 — EVALUATING REMEDIATION PROGRAMS

By July 15, 2011, the DEEP commissioner, within available appropriations, must begin evaluating the state's brownfield remediation programs and the laws affecting brownfield remediation. He must report his findings to the governor and the Commerce and Environment committees by December 15, 2011. The report must address these points:

1. the factors that influence the time it takes to investigate and remediate a brownfield under existing programs;
2. the number of properties in each remediation program, the rate at which they enter it, and the number that complete each program's requirements;
3. the use of LEPs in expediting the remediation process;
4. audits of verification LEPs complete;
5. statutory programs providing liability relief to existing and potential landowners;
6. comparison of existing remediation programs to states with a single program;

7. the commissioner's use of studies and other resources available from various academic and research organizations; and
8. recommendations to address issues the report raises or to streamline or expedite the remediation process.

EFFECTIVE DATE: Upon passage

Section 7 — DEFINITION OF BROWNFIELDS

The act expands the statutory definition of brownfields, thus making more types of property (1) eligible for state and local assistance and (2) subject to regulatory requirements. Prior law defined a brownfield as an abandoned or underused property that is not being redeveloped or reused because of real or potential contamination requiring remediation. The contamination can be in the ground water, soil, or buildings and must be cleaned up before the property can be restored, redeveloped, or reused or while these activities are occurring. The act broadens the definition of brownfields to include abandoned or underused property where real or potential contamination must be investigated or remediated before it can be redeveloped, reused, or expanded.

EFFECTIVE DATE: July 1, 2011

Section 8 — DEEP FEE EXEMPTIONS

The act sets conditions under which parties are exempt from paying DEEP fees for Transfer Act and environmental condition assessment forms and covenants not to sue. It exempts any public, private, or nonprofit entities from paying these fees if they have received state funds for investigating and remediating brownfields. The act also exempts state agencies, authorities, or higher education institutions from paying the fees when remediating a brownfield for siting a state facility.

The act also exempts parties from paying any DEEP fees when they intend to investigate and remediate brownfields without state assistance. In these cases, they pay no fees for contamination other parties caused before they acquired the property.

EFFECTIVE DATE: Upon passage

Sections 9-11 — ABANDONED BROWNFIELD CLEANUP (ABC) PROGRAM

Expanded Benefits

The act expands the range of benefits and eligible entities and properties under the ABC program, which exempts its participants from investigating and remediating contamination that emanated from a property before they acquired it. The act adds another benefit; it limits the entities' liability to the state or any third party for this contamination to anything they do to cause or contribute to it or negligently or recklessly exacerbate it.

The act exempts entities remediating property under the program from filing the required Transfer Act forms. The exemption applies only if the property was used to generate or handle hazardous waste. The act also designates the entities innocent third parties, and specifies conditions exempting

them from liability to the DEEP commissioner and other parties implementing abatement orders under the statutes and common law. But this exemption does not extend to anything they do that negligently and recklessly exacerbates the contamination.

The act also exempts them from paying the covenant not to sue fee and allows them to transfer the covenant to subsequent owners as long as the property is being or was remediated according to DEEP standards.

Eligible Property

The act expands the range of property eligible to participate in the program. Under prior law, a brownfield qualified if it had been unused or significantly underused since October 1, 1999. Under the act, it qualifies if it has been in either condition for at least five years before the participant applied to have the property admitted into the program.

The act allows the DECD commissioner to waive this five-year criterion if the applicant can show that the property otherwise qualifies for the program and demonstrates the value of redeveloping it.

Lastly, the act adds a criterion a property must meet to be admitted into the program. Under prior law, the property qualified if the party that contaminated it could not be determined, no longer exists, or could not remediate it (i. e. , responsible party criteria). Under the act, it also qualifies if the responsible party must remediate the contamination, including any that emanates from the property.

Eligible Applicants

The act opens the ABC program to municipalities, their economic development agencies, and private entities (nonprofit and for-profit) acting on a municipality's behalf. It also allows them to nominate property for the program regardless of whether they own it. The act also exempts municipalities from having to meet the responsible party criteria described above for property they own.

The act eliminates two conditions an applicant must meet before the commissioner can admit the property into the program. Prior law required an applicant to hold the property's title. The act allows the commissioner to admit the applicant regardless of whether it holds the title. Prior law also required the applicant to enter into DEEP's voluntary remediation program, agree to investigate and remediate the contamination according to the applicable standards and regulations, and eliminate contamination emanating or migrating from the property. Further, it prohibited the commissioner from admitting the applicant if it was the certifying party under the Transfer Act (i. e. , the party that must certify the property's condition before and after remediation). The act eliminates the latter condition.

Program Administration

The act requires parties acquiring property in the program to do so by submitting an application to the DECD commissioner, which she must prescribe and use to determine if they meet the program's eligibility requirements. The act specifies that the program's liability relief and other benefits apply only if the DECD commissioner accepts the property into the program.

EFFECTIVE DATE: July 1, 2011, except for the Transfer Act and covenant not to sue provisions (Section 10 and 11, respectively), which take effect upon passage.

Section 10 — TRANSFER ACT EXEMPTIONS

The act exempts from the Transfer Act titles a municipality or bankruptcy court transfers to a nonprofit organization and makes two changes conforming to Transfer Act exemptions authorized under other sections of the act. It exempts brownfields that were remediated or undergoing remediation under the ABC program (Section 9) and those admitted into the act's new liability protection program (Section 17). The latter qualify for the exemption under the following circumstances:

1. the property is being investigated and remediated according to its investigation plan and remediation schedule,
2. the DEEP commissioner received a verification or interim verification and responded by issuing a no audit letter or successful audit closure letter, or
3. 180 days have passed since the verification or interim verification was submitted without the commissioner requiring the remediation to be audited.

EFFECTIVE DATE: Upon passage

Sections 12-14 — ENVIRONMENTAL USE RESTRICTIONS (EUR)

The act allows the DEEP commissioner to waive some of the requirements for recording EURs and releasing parties from them. An EUR is an easement a property owner records in the municipal land records prohibiting specific uses or activities at a property that could harm human health or the environment.

Recording EURs

The law prohibits an owner from recording an EUR unless other parties with an interest in the property accept the restriction. The owner must record a document to that effect when he or she records the EUR (i. e. , subordination agreement). Existing law, unchanged by the act, allows the commissioner to waive this requirement if the party's interest in the land is so minor as to be unaffected by the EUR. The act requires the commissioner to waive the requirement that the owner obtain subordination agreements from those parties whose interest in the land, if acted upon, would not create the conditions the EUR prohibits.

Releasing Parties from an EUR

The act changes the conditions under which the commissioner can release parties from the EUR's restrictions. Prior law allowed him to release a party for conducting an activity on all or part of the property if the owner remediated the entire property or the section where the activity was to have occurred. The commissioner's approval had to be in writing and consistent with the regulations governing EURs. The owner also had to record the release in the land records, unless the commissioner waived this requirement, which he could do if the activity did not affect the EUR's purpose or change the size of the area subject to the EUR (Section 12).

The act distinguishes between permanent and temporary releases. In doing so, it allows the commissioner to approve temporary releases for unremediated property. It also sets conditions allowing him to waive the recording requirement for these releases for activities that affect an EUR's purpose. Under the act, the commissioner may do so if the activity is limited in scope and duration and does not change the size of the area subject to the EUR. The act specifically authorizes the attorney general and the DEEP commissioner to enforce the statutes authorizing EURs. Prior law allowed them to enforce EURs without reference to the authorizing statutes.

The act also specifies that the commissioner's regulations governing EURs may cover fees, financial surety, monitoring, and reporting requirements.

EFFECTIVE DATE: Upon passage

Section 15 — BROWNFIELDS WORKING GROUP

The act extends the term of this working group to January 15, 2012, from January 15, 2011. The group was formed under PA 10-135, which required it to study how the state's brownfields were being cleaned up and remediated and report its findings to the Commerce Committee by its expiration date. The act requires the group to submit another report on this issue by January 15, 2012, to the governor and the Commerce and Environment committees.

The act allows current members to continue serving, but increases the group's membership from 11 to 13, requiring the governor to appoint the two new members by August 7. It also allows the members to appoint the group's chairperson from among all the members, including the OPM secretary and the DECD and DEEP commissioners.

EFFECTIVE DATE: Upon passage

Section 16 — CDA TAX INCREMENT BOND FINANCING PROGRAM SUNSET

The act makes CDA's tax increment financing program permanent by eliminating the July 1, 2012, sunset date for funding new projects. Under this program, CDA issues bonds on behalf of a municipality and backs them with new or incremental property tax revenue a completed project generates. The law allows CDA to issue these bonds for (1) cleaning up and redeveloping brownfield projects anywhere in the state and (2) financing information technology projects in economically distressed municipalities.

EFFECTIVE DATE: July 1, 2011

Section 17 — LIABILITY PROTECTION PROGRAM

Overview

The act authorizes the DECD commissioner to establish a program protecting developers from liability to the state and third parties for cleaning up brownfields according to the act's requirements. But the protection is not absolute; participants are liable for any contamination they cause, including exacerbating the contamination that was there before they acquired the brownfield. The act extends

the protections during or after remediation to a brownfield's immediate prior owner and the party that subsequently acquires the brownfield from a participant.

The act requires the DECD commissioner to establish the program within available appropriations but divides the administrative duties between her and the DEEP commissioner: the DECD commissioner must select brownfields for participating in the program; the DEEP commissioner must monitor and audit their remediation.

EFFECTIVE DATE: July 1, 2011

Type and Scope of Benefits

The program protects participants from liability to the state and third parties only for contamination that existed before they acquired the property. It does not protect them from liability for any contamination they caused, contributed to, or exacerbated. Further, participants must clean up the property according to DEEP standards. They or their successors must also comply with any remediation orders DEEP may issue under the act after the property is remediated.

The participants are exempt from complying with the Transfer Act when they convey their property. But this exemption does not relieve them from complying with any other laws requiring parties to certify a property's environmental condition.

Lastly, the DECD commissioner's decision to accept the property into the program has no bearing on other municipal, state, and federal programs. Her decision does not automatically approve the property for funds under those programs, nor does it prevent the participant sponsoring the property from applying to them for funds.

Eligibility

Property. DECD may admit a property into the program if the property and its owners meet the act's application requirements. The property must be a "brownfield" whose redevelopment will benefit the economy (see Section 7), and the applicant must show that the contamination levels exceed DEEP's standards for protecting the environment, health, and public welfare.

DECD may also admit into the program a property that is voluntarily being investigated and remediated under DEEP's voluntary site remediation and covenant not to sue programs. But it cannot admit into the program a property that is subject to a state or federal enforcement action, included on a state or federal list of contaminated property, or subject to a corrective action under federal law. Property contaminated by polychlorinated biphenyls (PCB), a chemical formerly used in manufacturing, can be accepted into the program, but acceptance does not relieve the owners from complying with PCB regulations. The same applies to property where petroleum and chemicals leak from underground tanks.

Applicants. The program is open to people, businesses, nonprofit organizations, municipalities, public and private municipal economic development agencies, and state agencies. These entities may apply to have a property admitted into the program if they are "innocent landowners," "bona fide prospective purchasers," or contiguous property owners.

An innocent landowner is a person or entity that owns property another party contaminated. A bona fide prospective purchaser is a person or entity that acquires a brownfield after July 1, 2011 and shows, by a preponderance of the evidence, that it:

1. acquired the property after it was contaminated;
2. is complying with any environmental use restrictions imposed on the property and federal law requiring purchasers to inquire about a property's previous owner and how such owner used the property;
3. has provided the notices required after discovering or releasing hazardous substances and taken appropriate steps to stop the release, prevent future releases, and prevent or limit harm to people and the environment;
4. is cooperating with people authorized to contain or clean-up the contamination; and
5. is providing the information DEEP requests.

A contiguous property owner is a person or entity that owns property next to a brownfield owned by another party. Contiguous owners can participate in the program if they:

1. addresses the contamination on their property as the act specifies,
2. helps people responding to contamination at their property or the adjacent one,
3. comply with environmental use restrictions, and
4. provides any information DEEP requests and all required notices regarding the contamination on their property.

In addition to these affirmative steps, the owner cannot do anything that prevents any institutional control (e. g. , EURs) imposed on the owner's property or the adjacent property from working.

Innocent landowners, bona prospective purchasers, and contiguous owners can participate in the program only if they did not contaminate the property and are unaffiliated with the parties that did.

Acceptance in the Program

Method. DECD can accept a brownfield into the program by application or nomination. Eligible applicants may submit applications to the DECD commissioner on forms she provides. Municipalities and economic development agencies may nominate brownfields they do not own for acceptance into the program, but the act does not specify whether they can do so without the owner's permission or the process they must follow.

The commissioner may accept up to 32 brownfields per year into the program.

Application Content. The application must include:

1. a title search,
2. a DEEP-prescribed Phase I Environmental Site Assessment prepared by or for a bona fide prospective purchaser,
3. a current property inspection,
4. proof that the applicant and the property qualify for the program,

5. information the commissioner needs to select brownfields based on the act's statewide portfolio factors (see below), and
6. other information she requests.

(A Phase I Environmental Site Assessment evaluates a property's historical and current uses and the activities conducted there. The information helps identify potentially contaminated areas.)

Certifications. When applying for the program, applicants must certify that they meet the program's eligibility criteria. Specifically an applicant must certify, on a form the commissioner provides, that it is:

1. an innocent landowner, a bona fide prospective purchaser, or a contiguous property owner;
2. did not contaminate the property and is not affiliated with the party that did; and
3. did nothing to pollute the state's waters.

The applicant must also certify the property's condition. It must show that the property is a brownfield and that the contamination exceeds DEEP's remediation standards. The applicant must also show that the brownfield is not subject to federal or state enforcement action or on the state or national lists of contaminated sites.

The commissioner, in consultation with the DEEP commissioner, must determine if the certifications are accurate and consider only those that are.

Statewide Portfolio Factors. The DECD commissioner must select applications to create a diverse portfolio of brownfield projects from around the state. She must do this in consultation with the DEEP commissioner based on the following "statewide portfolio factors":

1. a brownfield's capacity to create or retain jobs and generate the revenue needed to sustain itself,
2. the applicant's readiness to investigate and remediate the property,
3. the portfolio's geographic distribution,
4. the populations of the municipalities represented in the portfolio,
5. the brownfield's size and the project's complexity,
6. the time and extent to which the brownfield has been underused,
7. the extent to which its remediation will increase the municipality's grand list,
8. the extent to which the remediated brownfield is consistent with municipal and regional planning objectives and addresses smart growth and transit-oriented development principles, and
9. other factors the DECD commissioner chooses to consider.

Fees

The act imposes fees on parties accepted into the program (i. e. , acceptance fees) and on those that subsequently acquire property from them (i. e. , transfer fees).

Acceptance Fees. Applicants accepted into the program (i. e. , participants) must pay the DEEP commissioner a fee equal to 5% of the brownfield's assessed value as of the municipality's most recently completed grand list. (Municipalities annually update their grand lists on October 1.) A

participant must pay the fee in two equal installments, but the act allows the commissioner to reduce or eliminate the installment amounts if an applicant meets specified conditions.

The participant must pay the first installment within 180 days after the DECD commissioner approves the application and the second within four years after that date. DEEP must deposit the fee in the Special Contaminated Property Remediation and Insurance Fund, which provides low-interest loans for investigating and remediating contaminated property. (DECD administers the fund in cooperation with DEEP).

The DEEP commissioner must reduce the installment amounts if the participant finishes investigating and remediating the brownfield ahead of the act's deadlines for completing these tasks. He must reduce the first installment by 10% if the participant finishes investigating the property within 180 days after the DECD commissioner approves its application. (As discussed below, the act gives participants up to two years to investigate the property.) The participant must document this fact on a form the DEEP commissioner provides and whose content an LEP approved in writing.

The DEEP commissioner must eliminate the second installment if the participant cleans up the property within four years after the application's approval date and submits the remedial action report and the verification or interim verification. The act gives participants up to eight years to remediate a property.

The commissioner must extend the four-year deadline if the participant requests his approval for a remediation standard and he takes over 60 days to reply. The extension must equal the number of days it took the commissioner to respond after the 60-day deadline, but not including the days it took the participant to respond to the commissioner's request for more information. Under the act, the commissioner can request information anytime while the property is in the program.

Participants that do not remediate property within four years may still qualify for relief from paying the second installment. If a participant investigates contamination that migrated from the property, the commissioner must reduce the installment or give the participant a refund equal to twice the reasonable environmental service costs it incurred for investigating the off-site contamination, up to the installment amount. The participant must provide information showing that it investigated the contamination according to DEEP standards. The information must be approved by an LEP and submitted on a DEEP form.

The act exempts municipalities and economic development agencies from paying the application fee, but requires them to collect and remit to DEEP the fee for transferring property for development.

The act allows municipalities and economic development agencies acting on their behalf to request fee waivers for property others own and allows the DEEP commissioner to grant them based on:

1. the property's location within a distressed municipality,
2. the extent to which the municipality or the economic development agency demonstrates the project's economic impact and community benefits, and
3. proof that the property owner is eligible and paying the fee will undermine the project's success.

Transfer Fee. Parties acquiring property in the program must pay the DEEP commissioner a \$10,000 transfer fee. As with the acceptance fee, DEEP must deposit the fee revenue in the Special Contaminated Property Remediation and Insurance Fund. The act exempts municipalities and municipal economic development agencies from paying this fee when they acquire property in the program, but it requires them to collect and remit the fees to DEEP if they transfer the property to another party for development.

Participant Duties and Obligations

Although the act protects participants from liability to the state and third parties for contamination caused by others, it requires them to investigate and remediate the contamination according to DEEP standards. They must characterize, abate, or remediate the contamination on the property according to prevailing standards and guidelines and clean up the property according to the plan and schedule they must submit to DEEP for this purpose.

But participants may become liable for this contamination if the DEEP commissioner subsequently learns that the decisions accepting the property into the program and approving its remediation plan were based on incomplete or inaccurate information. The commissioner can take any appropriate action, including requiring additional remediation if:

1. he can show that the participant or its successor knew or had reason to know that the information in the documents attesting to the property's remediation was false or misleading;
2. new information confirms the existence of previously unknown contamination that resulted from a release that occurred before the property was accepted into the program;
3. the participant failed to comply with its remediation plan and schedule; and
4. conditions have changed and now endanger the environment or human health, such as a change in the property's use from business or other nonresidential use to residential use.

Participants are not obligated to characterize, abate, or remediate hazardous plumes or substances beyond the property's boundaries (except if they caused them), but they must comply with the notification requirements the law imposes on property where the contamination spreads beyond its boundaries.

Participants are liable for any contamination they cause or contribute to and must investigate and remediate it.

Investigation and Remediation Process

Preparing Brownfield Investigation Plan and Remediation Schedule. The act specifies the process and timeframes for investigating and remediating contaminated property. Participants must submit an investigation plan and remediation schedule for these purposes to the DEEP commissioner within 180 days after their applications were approved. These documents must be signed and stamped by an LEP.

The plan and schedule must show that:

1. the investigation will be completed within two years of the application's approval date,

2. remediation will be started within three years of that date, and
3. remediation will be completed within eight years of the approval date.

The plan and schedule must show that the property will be sufficiently remediated to support “verification” or “interim verification.” Verification is the standard signifying that the property has been investigated and remediated according to state standards. Interim verification is the standard signifying that the soil has been remediated but that the ground water still requires remediation under a “long-term remedy.”

The plan and schedule must address only the contamination that exists within the property's boundaries, unless the participant caused it to spread to other property. In any case, the participant must still comply with the notice requirements the law imposes on parties owning contaminated property.

The plan and schedule must include a deadline for notifying specified parties and the public before the remediation begins.

Implementing the Plan and Schedule. Before implementing the plan and schedule, the participant must notify adjacent property owners about its intent to remediate the property by posting a notice on the brownfield advising them about the planned remediation or mailing a notice about it to them. It must also notify the affected municipality's public health director and the general public. Lastly, the participant must publish a notice about the remediation in a newspaper serving the affected municipality.

The public has 30 days from the last notice to comment on the proposed remediation. The act implicitly requires the participant to respond to the public comments by allowing the participant to start cleaning up the property only after it submits those comments and its responses to the DEEP commissioner.

As the participant begins implementing the plan, it must submit all permit applications to the DECD permit ombudsman.

The participant must document when it completes a task and notify the DEEP commissioner to that effect. It must document that an investigation has been completed according to prevailing standards and guidelines on a form the commissioner must provide. An LEP must approve the documentation in writing.

The participant must also document and notify the commissioner on a DEEP form when the remedial work begins. The documentation must be accompanied by an LEP-approved remedial action plan.

The participant must also document that the property was remediated, which under the act must occur under an LEP's supervision. The participant must document the remediation by submitting a remedial action report in which the LEP describes the remedial work, states that it meets the remediation standards, and issues a verification or interim verification. The LEP must sign and stamp the report. The participant must submit the report to the DEEP and DECD commissioners.

A participant submitting an interim verification and its successors must continue remediating the ground water until the remediation standards are met. It must:

1. operate and maintain the long-term remedy as the remedial action report, the interim verification, and the commissioner's orders require;
2. prevent the land from being exposed to contaminated ground water plumes exceeding the remediation standards;
3. take all reasonable steps to contain any ground water plumes on the property; and
4. submit annual status reports to the DEEP and DECD commissioners.

Lastly, participants must keep the records that were created while the property was being investigated and remediated for at least 10 years and make them available upon request to the DEEP and DECD commissioners.

Before approving the verification or interim verification, the DEEP commissioner may enter into a memorandum of understanding with the participant requiring further remedial action and monitoring needed to protect the environment and human health.

Extending the Deadlines. The DEEP commissioner may extend the eight-year remediation deadline only if the participant can show that reasonable progress was made toward remediating the property but that forces beyond the participant's control delayed the work.

Audits

Timing. The act authorizes audits to verify if a property was properly investigated and remediated under two scenarios. The DEEP commissioner can audit an investigation and remediation anytime he requests information from the participant and does not receive a response within 60 days.

He can also audit the investigation and remediation after the participant submits the remedial action report and the verification or interim verification. In either case, he must first notify the participant about whether he will do so within 60 days after receiving the documents. If he decides to audit the actions, he must conduct the audit within 180 days after receiving the documents. In most cases, he may conduct an audit only within 180 days of receiving the remedial action report and the verification or interim verification.

The commissioner can request additional information anytime during the audit period. If he does not receive it within 14 days after requesting it, the audit is suspended and the 180-day clock stops until the participant provides the information. But the commissioner may restart the audit if the participant fails to respond to the commissioner within 60 days after his request.

The commissioner may audit the remediation more than 180 days after receiving the verification or interim verification if he believes:

1. it was based on inaccurate, erroneous, or misleading information;
2. material misrepresentations were made when the verification was submitted;
3. the law was violated in a way that is material to the verification; or

4. information exists showing that the remediation may have failed to prevent a substantial threat to public health or the environment.

The commissioner may also audit verification or interim verification after 180 days if:

1. the post verification monitoring and other actions have not been taken or
2. verification relying on an environmental land use restriction was not recorded in the land records.

Audit Findings and Reply. Within 14 days after completing the audit, the DEEP commissioner must send the audit findings to the participant, the LEP, and the DECD commissioner. The audit findings may approve or disapprove the remedial action report and, if they do the latter, explain why.

If the DEEP commissioner disapproves the remedial action report and the verifications, the participant must submit to him and the DECD commissioner a “report of cure of noted deficiencies” within 60 days after receiving the commissioner's disapproval notice. The DEEP commissioner has up to 60 days to disapprove this report or issue a successful audit closure letter.

Onset of Liability Protections

The act's liability protections begin after the DEEP commissioner notifies the participant that he will not audit the process or that his audit findings have been addressed. They also begin if the commissioner fails to act on a remedial action report and the accompanying verifications within 180 days after receiving them.

In either case, the participant is not liable to the state or third parties for the costs incurred to remediate the contamination identified in the plan. Nor is it liable for the costs for equitable relief or damages resulting from the contamination. The protection also applies to any historical off-site impact, including air deposition, waste disposal, impact on sediments, and damage to natural resources.

But the protection does not extend to contamination that must be addressed under the regulations governing PCBs and underground storage tanks. Nor does it stop the commissioner from requiring further remediation after the liability protections begin. As noted above, the act specifies conditions under which he may do so.

Liability Protection After Transfers

Participants. The act protects participants from liability to the state and third parties after they transfer a property as long as they comply with its provisions. The protections apply when they transfer a property before the DEEP commissioner issues a no audit letter or a successful audit closure letter or 180 days expires after the remedial action report and verification or interim verification was submitted.

In these situations, a participant is not liable for the costs incurred to clean the property, equitable relief related to the contamination addressed in the investigation plan and schedule, or damages resulting from that contamination. Nor is the participant liable for any historical offsite impacts, including air deposition, waste disposal, impact on sediments, and natural resource damages.

The act's protection does not extend to contamination that must be addressed under the regulations governing PCBs and underground storage tanks.

Prior and Subsequent Owners. The liability protection extends to the party that owned the property immediately before the participant acquired it (i. e. , immediate prior owner). But they do not extend to contamination emanating from the property or to penalties, fines, costs, expenses, and obligations that the immediate prior owner incurred while it owned the property. Nor do they extend to an owner that failed to fulfill any legal obligation to investigate and remediate the contamination at or from the property.

The liability protection extends to the party that acquires the property from the participant if (1) that party is eligible to participate in the program and pays the \$10,000 transfer fee and (2) the participant submitted the remedial action report and the verification or interim verification as the act requires.

Section 18 — BRIDGEPORT SPECIAL TAXING DISTRICT

The act expands the bonding powers of Bridgeport's special taxing district. PA 05-289 authorized the district's formation to finance roads, sewers, and other infrastructure and pay for the services needed to maintain it. It authorized the district to issue up to \$190 million in bonds secured by the district's full faith and credit; fees, revenues, and benefit assessments; or a combination of its full faith and credit and fees, revenues, and benefit assessments.

The act allows the district to issue bonds, without limit, to (1) finance property acquisition and improvements and back them only with fees, revenue, benefit assessments, or charges the district imposes on the property and (2) refund outstanding bonds, notes, and other obligations.

EFFECTIVE DATE: July 1, 2011

Section 19 — LANDOWNER RECREATIONAL LAND IMMUNITY

The act extends to municipalities the liability protections the law provides to landowners who allow the public to use their land without charge for recreational purposes. By law, these owners owe no duty of care to (1) keep the land safe for recreational purposes or (2) give any warning of a dangerous condition, use, structure, or activity on the land to those entering for recreational purposes.

Additionally, the law provides that such a landowner does not thereby (1) make any representation that the land is safe for any purpose, (2) confer on the person using the land a legal status entitling the person to duty of care by the owner, or (3) assume responsibility for any injury to a person or property that is caused by the landowner's act or omission.

The statutory immunity from liability does not apply to (1) willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity or (2) injuries suffered in any case where the landowner charges people who use the land for recreational purposes.

For purposes of these liability protections, prior law defined “owner” as the possessor of a fee interest, tenant, lessee, occupant, or person in control of the premises. The Connecticut Supreme Court ruled that municipalities are not “owners” under these provisions (*Conway v. Wilton*, 238

Conn. 653 (1996)). The act expands the statutory definition to include any (1) town, city, borough; (2) special taxing district; and (3) metropolitan district created by special act or under the statutes. It also includes railroad companies in the definition. (PA 11-61, Section 139 repeals these provisions extending liability protection to municipal entities and railroad companies.)

By law, “charge” means the admission price or fee asked in return for an invitation or permission to use the land. The act specifies that any state or local taxes collected under state law are not considered a charge for using the property. (PA 11-61 repeals this provision.)

EFFECTIVE DATE: October 1, 2011

Section 20 — MUNICIPAL LIABILITY PROTECTIONS FOR CONTAMINATED PROPERTY

The act sets conditions protecting large municipalities from liability to the state for pollution or hazardous waste on or spreading from property for which they have an easement. The protection applies to anything discharged or deposited in any public or private sewer, or that otherwise comes into contact with any water, that contaminates state waters, makes them impure or unclean, or causes significant and harmful temperature changes. It also applies to waste posing a present or potential threat to human health or the environment when improperly handled.

The protection covers municipalities with a population over 90,000 that acquired and recorded an easement allowing the public to use the land for recreation without charge. (Under PA 11-61, Section 140, charges do not include tax revenue municipalities or other owners collect with respect to the property.)

But the act does not relieve municipalities from ensuring that the contamination poses no risks to the public based on how they may use the land.

Under the act, these municipalities are not liable to the state for any fines, penalties, or costs associated with investigating or remediating the property. Municipalities are exempt from the clean-up costs, fines, and penalties if:

1. the contamination occurred before a municipality acquired the easement;
2. the municipality or its agent did not cause, create, or contribute to the contamination; and
3. the municipality or members of the public using the land covered by the easement do not contribute or exacerbate the contamination or prevent others from investigating and remediating it.

The act's protection extends only to the municipalities and the land subject to the easement. But the municipalities must allow people investigating and remediating the contamination to enter the property and not interfere with their work.

The act does not limit or affect the liability of landowners or operators under any law, including those requiring them to address pollution and pay fines and penalties.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Related Acts

PA 11-103 eliminates the sunset date for the CDA program that uses property tax and other specified revenues to repay bonds CDA issues on a municipality's behalf for cleaning up and redeveloping contaminated property or developing land for information technology uses. (It also eliminates the sunset date for the CDA program that uses incremental sales, hotel, dues, cabaret, and admission tax revenue to repay bonds CDA issues for projects that create jobs or stimulate significant business activity.)

Among other things, PA 11-61 repeals the act's extension of liability protections to municipalities, special taxing districts, and metropolitan districts that allow the public to use their land for recreation without charging admission fees. It also repeals the provision excluding state and local taxes from the definition of charges.

PA 11-61 also makes a conforming technical change to the act's provisions setting conditions under which municipalities are protected from liability to the state with respect to contaminated property for which they have an easement.

Public Act# 11-162

SB# 227

AN ACT CONCERNING REMEDIATION STANDARDS UNDER A CONSENT ORDER

Summary: This act prohibits the Department of Environmental Protection (DEP) from modifying the remediation standards and requirements of a consent order entered by DEP and a party that is wholly or partly about land remediation unless both parties agree to the modification. The prohibition applies notwithstanding any other statute.

By law, the DEP commissioner has the power to enter into contracts and orders and institute legal proceedings to enforce statutes, regulations, and DEP orders or permits, among other things.

EFFECTIVE DATE: October 1, 2011

Public Act# 11-42

SB# 6462

AN ACT ESTABLISHING A PRIORITY CATEGORY FOR THE RENTAL HOUSING REVOLVING LOAN FUND

Summary: This act requires the Department of Economic and Community Development (DECD) commissioner to establish a priority category under the Rental Housing Revolving Loan Fund for low-interest loans made to owner-occupants of buildings with between two and four residential units, including the unit the owner occupies. By law, this fund provides low-interest loans to owners of eligible buildings in distressed municipalities for eligible costs.

Loans made under the act's priority category may, at the commissioner's discretion, include (1) interest-free loans; (2) deferred payment loans, due when the building is sold or transferred; and (3) forgivable loans under which the principal balance is reduced based on how long the owner occupies

the building. Existing law, unchanged by the act, authorizes the commissioner to establish certain priorities under the fund for low cost loans, including the (1) type of repair, (2) building location, (3) owner's ability to repay, and (4) extent to which repairs will extend a building's life.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Rental Housing Revolving Loan Fund: Eligibility and Funding Sources

The Rental Housing Revolving Loan Fund provides building owners with low-interest loans to renovate and repair apartment buildings in distressed municipalities to (1) comply with the State Building Code or other state or municipal health codes or (2) otherwise make buildings suitable for tenants. To be eligible, a building must have no more than 20 residential units, and may include an owner-occupied unit.

The fund consists of (1) money the DECD commissioner may allocate from an affordable housing assistance program established in 2001, (2) money available to the commissioner or the revolving loan fund from other sources, (3) the fund's investment earnings, (4) fund balances carried forward from prior years, and (5) loan payments.

Distressed Municipalities

Table 1 shows the distressed municipalities designated by DECD for 2010, the most recent year available.

Table 1: Distressed Municipalities — 2010

Ansonia	Meriden	Putnam
Bridgeport	Naugatuck	Sprague
Bristol	New Britain	Torrington
Brooklyn	New Haven	Waterbury
Derby	New London	West Haven
East Hartford	North Canaan	Winchester
Enfield	Norwich	Windham
Hartford	Plainfield	
Killingly	Plymouth	

AN ACT CONCERNING PERMANENT SUPPORTIVE HOUSING INITIATIVES

Summary: This act amends the Department of Mental Health and Addiction Services (DMHAS) supportive housing initiative by eliminating references to its “Pilot” and “Next Steps” phases, and

instead uses the term “permanent.” It also (1) adds two state entities to those already collaborating with DMHAS on the supportive housing initiative and (2) establishes a process for development of scattered site housing. Finally, the act makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

SUPPORTIVE HOUSING INITIATIVE

Designation as “Permanent”

By law, DMHAS is responsible for a supportive housing initiative that provides housing units mainly to individuals with mental illness. To date, the initiative has operated under two phases—a “Pilot” phase and the “Next Steps” phase. Under the pilot, DMHAS was required to provide up to 650 housing units and support services to eligible persons. Subsequently, the law was amended to authorize an additional 1,000 units under the Next Steps initiative. The act eliminates references to the Pilot and Next Step initiatives and instead refers to the initiative as “permanent supportive housing.”

By law, those eligible for the initiative are:

1. people or families affected by psychiatric disabilities, chemical dependencies, or both and who are homeless or at risk of becoming homeless;
2. families who qualify for the temporary assistance for needy families program;
3. 18- to 23-year olds who are homeless or at risk for becoming homeless because they are transitioning out of foster care or other residential programs; and
4. community-supervised offenders with serious mental health needs who are under Judicial Branch or Correction Department jurisdiction.

The act clarifies that individuals and families with special needs and those at risk for homelessness are eligible for supportive housing.

Agency Collaboration

DMHAS establishes and operates the supportive housing initiative in collaboration with the departments of Social Services (DSS), Children and Families (DCF), and Economic and Community Development; and the Connecticut Housing Finance Authority (CHFA). The act adds the Department of Correction and the Court Support Services Division of the Judicial Branch to this collaboration.

Development and Scattered Site-Model

Under prior law, CHFA issued requests for proposals (RFPs) for those interested in participating in the supportive housing initiative to applicants including organizations deemed by DMHAS, DSS, and DCF as qualified to provide services. CHFA then reviewed and underwrote projects developed under the supportive housing initiative.

The act limits CHFA's review and underwriting to “development projects” and creates a new RFP process for scattered-site models of supportive housing. It eliminates specific forms of financial assistance CHFA can provide.

The act requires DMHAS and DSS to issue, within available appropriations, RFPs in a scattered-site model for homeless individuals with psychiatric disabilities and substance abuse disorders.

BACKGROUND

Related Act

PA 11-61, Section 133-35 contains the same language as this act.

Public Act# 11-72

SB# 1076

AN ACT CONCERNING RESIDENT PARTICIPATION IN THE REVITALIZATION OF PUBLIC HOUSING

Summary: This act requires housing authorities planning to transform or dispose of property to involve their residents in these activities. Specifically, it requires a housing authority intending to undertake a major physical transformation or disposition of property it owns or operates to (1) notify residents of its intention as soon as practicable, (2) implement a resident participation plan, and (3) make reasonable efforts to enter into a signed agreement with any duly elected tenant organization.

“Signed agreement” means a resident participation plan that is signed by (1) the housing authority; (2) a duly elected and constituted tenant organization; (3) the developer undertaking the major physical transformation, if any; and (4) the entity that will own, lease, or control the property.

A housing authority that does not adopt and implement a resident participation plan is not eligible to apply to the Department of Economic and Community Development (DECD) or the Connecticut Housing Finance Authority (CHFA) for financial assistance for a property's major physical transformation.

The act requires DECD and CHFA to fully consider giving preference, in a manner consistent with their procedures, to applications for financial assistance from authorities that have entered into a signed agreement.

EFFECTIVE DATE: October 1, 2011

DEFINITIONS

Under the act, “resident participation plan” means a written description of a specific and ongoing process to enable meaningful resident participation during the planning, implementation, and monitoring of major physical transformation or disposition activities, beginning with the earliest stages of concept and design.

“Major physical transformation” means any (1) renovation, rehabilitation, revitalization, or redevelopment of real property or a part of the property for which the estimated cost exceeds 50% of its estimated replacement value or (2) complete or partial demolition of real property resulting in the loss of one or more housing units. “Disposition” means a sale, lease, transfer, or other change in ownership or control.

RESIDENT PARTICIPATION PLAN

A housing authority must implement a resident participation plan after it notifies residents that it intends to undertake a major physical transformation or disposition of property it owns or manages. It must do so in conjunction with the residents and any duly elected and constituted tenant organization representing them. It must negotiate the plan's provisions in good faith. If a duly elected and constituted tenant organization exists, the authority must make all reasonable efforts to enter into a signed agreement.

A resident participation plan must include certain provisions geared toward providing residents with information, and others geared toward engaging them. Concerning information for residents, the plan must include:

1. notice to all residents explaining their rights to organize and participate in tenant organizations without interference from, or adverse action by, the authority;
2. a requirement that the authority give residents and tenant organizations information about other groups and organizations that may serve as a resource on matters such as housing policy and resident outreach, training, organizing, and legal rights; and
3. a provision requiring the authority to make all significant documents related to the major transformation or disposition activities, including copies of design plans and financial assistance applications, available for inspection by residents at a readily accessible location.

To engage tenants, the plan must include:

1. identification, if applicable, of opportunities for residents to participate in selection panels to choose development partners and consultants, provided residents do not comprise a majority of any selection panel;
2. provisions for regular and substantial involvement in its implementation by any representatives of any duly elected and constituted tenant organization;
3. provisions allowing the residents to include tenant advocates or other tenant assistance providers as participants; and
4. provisions assuring opportunities for resident involvement, advice, and recommendations concerning the major physical transformation or disposition activities.

A plan's provisions assuring opportunities for resident involvement, advice, and recommendations may cover, where applicable, the following areas:

1. transformation or disposition activity details and the projected timeline;
2. the design of housing units, buildings, amenities, or common areas, including the number, size, and configuration of housing units;
3. architectural design and landscaping;

4. resident employment or the use of resident-owned businesses in transformation or disposition activities and in future property management operations;
5. future resident services, property management, security, or enrichment features affecting residents' quality of life;
6. the occupancy level that will be maintained before the major physical transformation or disposition activities;
7. new rent levels, affordability for current residents, and the duration of any affordability restrictions;
8. homeownership opportunities;
9. displacement of current residents, temporary and permanent relocation plans, and relocation benefits;
10. the number of housing units that will be lost due to transformation or disposition activities and any replacement plans;
11. plans, procedures, and qualifications for unit occupancy by current and new residents, including preferences, if any, for current residents; and
12. information on how the entity that will own, lease, or control the property is governed and how its governance may affect residents, including changes to grievance procedures and residents' rights and opportunities to participate in management decisions.

Public Act# 11-124

HB# 6413

AN ACT CONCERNING THE STATE'S CONSOLIDATED PLAN FOR HOUSING AND COMMUNITY DEVELOPMENT

Summary: This act repeals the requirements that the (1) Department of Economic and Community Development (DECD) and the Connecticut Housing Finance Authority (CHFA) prepare a long-range state housing plan every five years and submit it to the General Assembly and (2) DECD commissioner annually supplement each five-year plan with an action plan that assesses whether DECD and CHFA are meeting their goals. The act replaces the long-range plan with the Consolidated Plan for Housing and Community Development DECD currently prepares every five years in consultation with CHFA for the U.S. Department of Housing and Urban Development (HUD) in order to qualify for federal housing program funding.

Information required in the two plans is similar and, in some cases, duplicative. Under the act, the consolidated plan that replaces the long-range state housing plan is used in connection with:

1. municipal zoning regulations and plans of conservation and development;
2. CHFA's operating plan to coordinate housing policy and activities;
3. the allocation of federal housing assistance grants;
4. state department, institution, and agency evaluations of environmental impacts;
5. river commission management plans; and
6. DECD's economic strategic plan.

EFFECTIVE DATE: October 1, 2011

LONG-RANGE STATE HOUSING PLAN

The act eliminates the long-range (five-year) housing plan which, under prior law, had to conform to the State Plan of Conservation and Development. The long-range plan:

1. assessed the housing needs of households with incomes below the area median income;
2. described affirmative fair housing marketing plans;
3. examined the racial composition of occupants of, and the waiting list for, each assisted housing project;
4. stated quantifiable goals to meet housing needs and outline strategies for achieving these goals;
5. considered the demographics of households served by state housing programs, including the number of households, total assistance, and racial diversity; and
6. identified public and private sector resources for affordable housing programs.

The act also eliminates the annual action plan that DECD and CHFA prepare in conjunction with the long-range plan. Prior law required DECD to (1) consult with people who participate in state housing programs while preparing any of these plans and (2) hold public hearings for all long-range and action plans before submitting them to the General Assembly.

BACKGROUND

Consolidated Plan for Housing and Community Development

Every five years, DECD prepares the HUD-required consolidated housing plan that includes a housing and homeless needs assessment, housing market analysis, a strategic plan and an action plan, and certification and monitoring assurances. The HUD-required plan covers the following formula grant programs: (1) the Community Development Block Grant program, (2) the Emergency Shelter Grants, (3) the HOME Investment Partnership program, and (4) the Housing Opportunities for Persons with AIDS program. HUD requires states to develop their plans in consultation with the public and with citizen participation (24 CFR Section 91.300-91.330).

Public Act# 11-168

SB# 1047

AN ACT CONCERNING CHANGES TO CERTAIN HOUSING STATUTES

Summary: This act modifies several Department of Economic and Community Development (DECD) housing programs. It:

1. makes “housing partnerships” eligible for DECD grants or loans to build and operate congregate housing and hire resident service coordinators (RSCs);
2. expands uses of DECD-administered Housing Trust Fund Program funding, authorizing (a) the trust fund to provide financial assistance as a revolving loan and (b) a DECD-selected third-party contract administrator to receive funds to establish or maintain a revolving loan fund or undertake some of DECD's program duties;
3. authorizes (a) the Housing Trust Fund to accept local, state, or federal funds if not otherwise prohibited by federal or state law and (b) DECD to deposit these funds in the trust fund if the money is received for purposes that do not conflict with those of the trust fund;

4. requires DECD's database of handicapped accessible and adaptable housing to contain certain information specified in existing law and the act only when it is practicable; and
5. changes various requirements for the State-Assisted Housing Sustainability Fund.

It also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

CONGREGATE PUBLIC HOUSING FOR THE ELDERLY

By law, a “housing partnership” is any partnership, limited partnership, joint venture, trust, or association consisting of a:

1. housing authority, nonprofit corporation, or both and
2. (a) for-profit business corporation, partnership, limited partnership, joint venture, trust, limited liability company, or association that has as one of its purposes the construction, rehabilitation, ownership, or operation of housing whose basic organizational documents DECD approves in accordance with its regulations for public housing developers or (b) combination of these entities.

The act makes these partnerships, and thus for-profit entities, eligible to receive DECD financial assistance for congregate housing and to hire RSCs. By law, among other things, RSCs (1) assist residents in state-assisted elderly housing projects to live independently and (2) facilitate conflict resolution between residents, including between seniors and younger residents. Under existing law, housing authorities, municipal developers, and nonprofit corporations can receive funds to hire RSCs.

The act subjects the partnerships to existing law governing housing authorities and DECD congregate housing state assistance contracts and specifies that the provisions also apply to municipal developers and nonprofit corporations.

HOUSING TRUST FUND PROGRAM

The act (1) allows the DECD commissioner to select a third-party contract administrator to establish or maintain a revolving loan fund or carry out some of DECD's duties under this program and (2) requires that the administrator be selected through a competitive process when the contract costs more than \$50,000. It (1) allows the administrator to be paid from the trust's funds and (2) prohibits him or her from spending more than 15% of the contract cost for administrative expenses.

Under the act, all outstanding loans are assigned to DECD when the third-party contract administrator is (1) no longer establishing or maintaining the revolving loan fund, (2) in default of its obligations to the department, or (3) no longer functioning as an entity.

By law, DECD administers the Housing Trust Fund program, which, among other things, encourages housing development that low- and moderate-income families can afford while paying no more than 30% of gross household income on it.

DATABASE OF ACCESSIBLE OR ADAPTABLE HOUSING UNITS

The law requires DECD to establish a database of housing units that are accessible or adaptable for people with disabilities. Prior law required the database to include unit information such as (1) location, rent, and number of bedrooms; (2) housing type and neighborhood; (3) vacancy and availability, if applicable; and (4) features making it accessible or adaptable for people with disabilities. The act requires the database to state when a waiting list for such units may open. It also requires DECD to include the specified information only “to the extent practicable.” It eliminates a requirement that DECD’s commissioner use computer-assisted mass appraisal systems, when feasible.

STATE-ASSISTED HOUSING SUSTAINABILITY FUND

The law requires DECD, in consultation with the State-Assisted Housing Sustainability Fund Advisory Committee, to establish and maintain the State-Assisted Housing Sustainability Fund. The purpose of the fund is to preserve “eligible housing,” which means housing in the housing loan portfolio that DECD transferred to the Connecticut Housing Finance Authority (CHFA) (CGS Section 8-37uu). (In 2003, DECD transferred the housing portfolio to CHFA, and CHFA gave \$85 million to the state in return, as authorized by law.) The act requires DECD to award financial assistance in consultation with the Housing Committee instead of the advisory committee (as under prior law, DECD and the Housing Committee must consider the long-term viability of eligible housing in reviewing applications and providing financial assistance). It eliminates a requirement for the advisory committee to approve DECD’s administrative budget for the fund.

The act allows, rather than requires, DECD to adopt regulations for the fund and makes related technical changes. By law, the regulations must include guidelines for grants and loans. The act eliminates a requirement that the guidelines provide for an advisory committee-approved deferral of principal and interest payments.

It also eliminates the requirement that the advisory committee advise DECD and the CHFA on establishing criteria, priorities, and procedures for financial assistance under the fund. The advisory committee must still advise DECD on the administration, management, procedure, and objectives of the financial assistance, including the adoption of regulations for such assistance.

The act also (1) eliminates the requirement that DECD’s annual report on fund operation be completed in consultation with the advisory committee and (2) makes the report part of DECD’s department-wide annual report, rather than a separate report.

Public Act# 11-203

HB# 6461

AN ACT CONCERNING THE SELECTION OF TENANT COMMISSIONERS

Summary: This act:

1. increases, from five to seven, the maximum number of commissioners who may sit on municipal housing authority boards of commissioners under certain circumstances;

2. expands the types of tenants eligible to (a) participate in a tenant commissioner election or (b) serve on the housing authority's board of commissioners;
3. provides a mechanism for housing authority tenants to petition for a tenant commissioner election;
4. establishes requirements for a housing authority's recognized jurisdiction-wide tenant organization with the authority to select a tenant commissioner in the absence of an election petition;
5. establishes procedures under which this organization selects a tenant commissioner; and
6. allows tenant commissioners to vote to establish or revise rents.

Under the act, “tenant of the authority” means someone who receives housing assistance in a housing program that the authority directly administers (e. g. , Section 8 recipients renting from private landlords), as well as someone who lives in housing that the authority owns or manages. The act also removes a requirement under which tenants qualify for commissioner only if they currently live or previously lived in authority housing for at least one year.

The act also makes technical changes.

EFFECTIVE DATE: October 1, 2011

BOARD OF COMMISSIONERS MEMBERSHIP

By law, a housing authority in a municipality other than a town (e. g. , a city) operating more than 3,000 units must have a five-member board of commissioners comprised of municipal residents and may have up to two additional members. At least two must be tenant members. Under prior law, a housing authority in a town or other municipality with 3,000 or fewer units had to have a five-member board comprised of municipal residents, including at least one tenant member.

The act authorizes boards of commissioners in towns or in cities operating 3,000 or fewer units to have two more members if, after a tenant commissioner is elected or selected under the act's provisions, additional commissioners are necessary to achieve compliance with (1) federal rules specifying that a board must have at least one resident board member who directly receives federal assistance from the housing authority (i. e. , no state assistance) or (2) state minority representation requirements (see BACKGROUND).

Table 1 shows the maximum number of commissioners in towns and other municipalities under prior law and the act; the appointing authority, if any; and the selection method.

TABLE 1: BOARD MEMBERSHIP UNDER CURRENT LAW AND THE ACT

<i>Type of Municipality</i>	<i>Prior Law</i>	<i>The Act</i>
Towns	Governing body appoints five commissioners, including at least one tenant commissioner.	Governing body appoints up to five members and may appoint two more as necessary to achieve compliance with federal rules and state law. If the board has five members, at least one must be a tenant commissioner who may be elected. If the board has seven members, at least two must be tenant commissioners who may be elected.
Other municipalities where housing authority	Chief executive officer appoints five	Chief executive officer appoints up to five members and may appoint two more as necessary to achieve compliance with federal rules and

operates 3,000 or fewer units	commissioners, including at least one tenant commissioner.	state law. If the board has five members, at least one must be a tenant commissioner who may be elected. If the board has seven members, at least two must be tenant commissioners who may be elected.
Other municipalities where housing authority operates more than 3,000 units	Chief executive office must appoint five members and may appoint at least two additional members. At least two must be tenant commissioners.	Chief executive officer appoints up to five members and may appoint two more. At least two must be tenant commissioners who may be elected.

RECOGNIZED JURISDICTION-WIDE TENANT ORGANIZATION

The act codifies the process for recognizing a jurisdiction-wide tenant organization with the power to elect or select tenants for the board of commissioners. By law, any tenant organization can (1) indicate its interest in receiving notice of a pending housing authority appointment and (2) suggest candidates for the position of tenant commissioner.

The act explicitly allows tenants to establish a recognized jurisdiction-wide tenant organization. The housing authority must recognize a jurisdiction-wide tenant organization if it determines that the (1) the governing board members were elected through a jurisdiction-wide election and (2) with one exception, it satisfies the U. S. Department of Housing and Urban Development (HUD) regulations for elected jurisdiction-wide resident councils (see BACKGROUND). The exception allows tenants who receive state or federal assistance, not just those who receive federal assistance, to vote for, and be, jurisdiction-wide tenant organization members.

TENANT COMMISSIONER SELECTION

Under prior law, the municipality's chief executive officer or governing body (i. e. , appointing authority) appointed housing authority commissioners, including the tenant commissioners. In doing so, they had to consider for appointment tenant commissioners suggested by any existing tenant organization.

The act (1) provides a mechanism for tenants to petition for a tenant commissioner election and (2) requires an existing jurisdiction-wide tenant organization to select the tenant commissioner in the absence of such a petition. If these provisions are not used, then the appointing authority selects the appointee or appointees.

Notice of Upcoming Vacancy

The act requires a housing authority to notify its tenants and any existing tenant organizations no later than 60 days before a tenant commissioner (1) appointment or (2) term expiration, whichever is sooner. The notice must include information on how tenants may petition for an election.

Election by Housing Authority Tenants

The act allows tenants to petition for an election up to 30 days after the housing authority notice. Ten percent of the tenants or 75, whichever is less, must sign the petition.

At least 30 days before an election, the housing authority must provide written notice to all housing authority tenants. It must use its best efforts (in agreement with the recognized jurisdiction-wide tenant organization, to the extent practicable) to arrange for an impartial entity to administer the election. In the event of a dispute over election procedures or results, the act specifies that anyone may petition the entity administering the election for a resolution.

Selection by Recognized Jurisdiction-Wide Tenant Organization

If tenants do not petition for an election, the recognized jurisdiction-wide tenant organization, if any, must select the tenant commissioner according to its adopted by-laws. Among other things, the method may include (1) a fair election by authority tenants or (2) selection by the organization's governing board.

Selection by Appointing Authority

If a tenant commissioner is not elected or chosen under the act's provisions within 90 days after the housing authority notice, then the appointing authority must make the appointment by considering tenants that any tenant organization suggests, as under current law.

TENANT COMMISSIONER QUALIFICATIONS AND AUTHORITY

Prior law allowed only current or former housing authority tenants to qualify for tenant commissioner. It also set a length-of-residency requirement. Specifically, a tenant was eligible only if, for at least one year, he or she currently or previously resided in authority-owned or -managed housing. A tenant who previously resided in such housing had to be currently receiving housing assistance in a program that the authority administered (for example, individuals residing in privately owned units but whose rents the authority subsidizes).

The act (1) extends eligibility to individuals who receive housing assistance from the authority but who never lived in authority-owned or –managed housing and (2) eliminates the length-of-residency requirement.

When a tenant commissioner is elected to a five-member board, in either a town or other municipality, the act authorizes the housing authority to set the qualifications for a second tenant commissioner to achieve compliance with (1) federal rules specifying that a board must have at least one resident board member who directly receives federal assistance from the housing authority (i. e. , no state assistance) and (2) state minority representation requirements.

BACKGROUND

Minority Representation

The minority representation law restricts the number of members of one political party who can serve on certain state and municipal boards and commissions. Once candidates from the same political

party fill the maximum allowable slots, the highest vote getters from any other party or parties, or unaffiliated candidates, fill the remaining positions. Table 2 provides the minority representation requirement.

TABLE 2: MINORITY REPRESENTATION REQUIREMENT

<i>Total Board Membership</i>	<i>Maximum from One Party</i>
3	2
4	3
5	4
6	4
7	5
8	5
9	6
More than 9	Two-thirds of total membership

Federal Regulations

Direct Federal Assistance. Under federal regulations, the governing board of each public housing agency receiving federal assistance must have at least one eligible resident. An “eligible resident” is a person (1) who is directly assisted by a public housing agency, (2) whose name appears on the lease, and (3) who is age 18 or older.

Someone is “directly assisted” when he or she is a public housing resident or a recipient of housing assistance in the tenant-based Section 8 program. Direct assistance does not include any state-financed housing assistance or Section 8 project-based assistance (24 CFR 964. 410 and 964. 415).

Elected Jurisdiction-Wide Resident Councils. Under HUD regulations, resident councils must adhere to certain minimum standards regarding election procedures. Among other things, they must:

1. assure fair and frequent elections of resident council members (at least once every three years);
2. adopt and issue election and recall procedures in their by-laws;
3. include in their election procedures qualifications to run for office, frequency of elections, procedures for recall, and term limits if any; and
4. give residents at least 30 days notice for nomination and election.

A resident council must use an independent third-party to oversee an election or recall (24 CFR 964. 105 and 964. 130).

AN ACT CONCERNING THE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2013

Summary: This bill appropriates funds for state agencies and programs for FY 12 and FY 13. It also increases taxes and makes other revenue changes.

EFFECTIVE DATE: Various, see below.

AGENCY BUDGET

DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT	FY: 2011-2012	FY: 2012-2013
Personal Services	9,506,280	9,138,901
Other Expenses	1,618,799	1,618,799
Equipment	1	1
Elderly Rental Registry and Counselors	1,098,171	1,098,171
Statewide Marketing	15,000,001	15,000,001
Small Business Incubator Program	425,000	0
CT Asso Performing Arts/Schubert Theater	378,712	378,712
Hartford Urban Arts Grant	378,712	378,712
New Britain Arts Council	75,743	75,743
Fair Housing	308,750	308,750
Main Street Initiatives	171,000	171,000
Office of Military Affairs	153,508	153,508
Hydrogen/Fuel Cell Economy	191,781	0
Southeast CT Incubator	148,750	0
Ivoryton Playhouse	150,000	150,000
CCAT-CT Manufacturing Supply Chain	255,000	0
Economic Development Grants	0	1,817,937
Innovation Challenge Grant Program	500,000	500,000
Garde Arts Theatre	300,000	300,000
Subsidized Assisted Living Demonstration	1,730,000	2,272,000
Congregate Facilities Operation Costs	6,884,547	6,884,547
Housing Assistance and Counseling Program	438,500	438,500
Elderly Congregate Rent Subsidy	2,389,796	2,389,796
Discovery Museum	378,712	378,712
National Theatre for the Deaf	151,484	151,484
CONNSTEP	646,000	0
Development Research and Economic Assistance	151,406	0
Culture, Tourism and Art Grant	1,979,165	1,979,165
CT Trust for Historic Preservation	210,396	210,396
Connecticut Science Center	630,603	630,603
Tax Abatement	1,704,890	1,704,890
Payment in Lieu of Taxes	2,204,000	2,204,000
Greater Hartford Arts Council	94,677	94,677
Stamford Center for the Arts	378,712	378,712

Stepping Stones Museum for Children	44,294	44,294
Maritime Center Authority	531,525	531,525
Basic Cultural Resources Grant	1,601,204	1,601,204
Tourism Districts	1,495,596	1,495,596
Connecticut Humanities Council	2,157,633	2,157,633
Amistad Committee for the Freedom Trail	44,294	44,294
Amistad Vessel	378,712	378,712
New Haven Festival of Arts and Ideas	797,287	797,287
New Haven Arts Council	94,677	94,677
Palace Theater	378,712	378,712
Beardsley Zoo	354,350	354,350
Mystic Aquarium	620,112	620,112
Quinebaug Tourism	41,101	41,101
Northwestern Tourism	41,101	41,101
Eastern Tourism	41,101	41,101
Central Tourism	41,101	41,101
Twain/Stowe Homes	95,674	95,674
AGENCY TOTAL	59,391,570	59,566,191

Sections 1-74 — BUDGET PROVISIONS (*only those that impact or of interest DECD*)

Explanation

Sections 11 - 74 are identified below:

Section	Agency	Description/Impact
11(a)	OPM/All	OPM shall recommend reductions of \$12 million in expenditures for Personal Services (PS) for FY 12 & FY 13.
11(b)	OPM/All	OPM shall recommend reductions of \$9.4 million in expenditures for Other Expenses for FY 12 & FY 13.
12	OPM/All	Includes various provisions regarding the \$1 billion achievement of the Labor-Management Savings in FY 12 and FY 13.
13(a)	OPM/All	Allows OPM to transfer from agencies' PS to the Reserve for Salary Adjustment (RSA) account to reflect accurate impact of collective bargaining costs.
13(b)	OPM/All	Allows OPM to transfer from RSA to any agency for the purpose of salary related costs including accrual payments.
14(a)	OPM/All	Carries forward the FY 11 unexpended funds related to collective bargaining agreements and related costs into FY 12 and FY 13.
14(b)	OPM/All	Carries forward the FY 12 unexpended funds related to collective bargaining agreements and related costs into FY 13.
16	All	Agencies' filled positions can't exceed the number included in the OFA Budget Book (except upon FAC approval).

20(a)	OPM	Carries forward up to \$178,828 of the unexpended balance in Other Expenses to prevent base closures and transfers this amount to the litigation/settlement account. <i>Impact: Estimated amount carried forward is \$178,828.</i>
20(b)	OPM	Carries forward up to \$400,000 of the unexpended balance for Tax Relief for Elderly Renters and transfers this amount to the litigation/settlement account. <i>Impact: Estimated amount carried forward is \$400,000.</i>
21	Various	Any General Fund appropriation may be transferred between agencies with FAC approval. Funds generated through transfer may be used to reimburse GF expenditures or expand programs as determined by Governor and with FAC approval.
22	Various	Any General Fund appropriation may be adjusted by the Governor with FAC approval in order to maximize federal stimulus funding. Governor shall present a plan for any such transfer.
42	OSC/UHC	Requires the Comptroller to fund the fringe differential (state employee fringe v. average hospital rate) not to exceed \$13.5 million for FY 12 and FY 13. <i>Impact: Funding of \$13.5 million in both FY 12 and FY 13 is provided in the Active Employee Health Account.</i>
48(a)(b)	DEEP	Directs the use of \$1.1 million provided in FY 12 and FY 13 for Operation Fuel for emergency assistance, including cooling to households with income less than 200% of the federal poverty level, and allows up to \$100,000 of these funds to be used for administrative costs for Operation Fuel. <i>Impact: Funding of \$1.1 million is included in the Department of Energy and Environmental Protection for Operation Fuel for FY 12 and FY 13.</i>
55	Various	Authorizes DSS, DMHAS, OPM and CSSD to develop a plan for supportive housing services and enter into MOUs to reallocate resources as necessary. This supports the Frequent User Service Enhancement (FUSE) program, which identifies individuals who frequently use services in both jails and homeless shelters. Supportive housing service providers in Bridgeport, Hartford, New Haven, Norwich, and Waterbury help to connect identified individuals with appropriate assistance.
56	UConn	Requires UConn to report to the Higher Education and Appropriations Committees on efficiencies and cost savings measures at UConn and the UHC by January 1, 2012.
65	DHE	Eliminates the CT Independent College Student Grant distribution for the for-profit colleges. <i>Impact: Implements the budget (also see section 40).</i>

Sections 75 - 156 are identified below:

Section	Description of the changes	Fund or Municipal Impact	FY 12	FY 13	FY 12	FY 13
			State Impact (\$ - millions)		Aggregate Municipal Impact (\$ - millions)	
75	Lower the tax credit cap for Insurance Companies from 70% to 30%; exempts Insurance Reinvestment Fund program	General Fund	27.5	27.5		

76 & 79	Increase the Corporate Tax surcharge from 10% to 20% and extend until 2013	General Fund	46.0	116.0		
77	Limit the transfer of film tax credits	General Fund	7.8	3.9		
78	Lift the cap on tax credits for job creation by Corporations	General Fund	-6.9	-8.1		
93-94, 97, 126-127	Increase the Sales Tax rate from 6.00% to 6.35%, with 0.1% of the increase to be distributed to municipalities	General Fund / Municipal	138.4	144.7	56.6	59.0
95	Establish a separate, non-lapsing "Regional Performance Incentive Account" within the Office of Policy and Management for the purpose of providing grants to municipalities		None	None		
105	Eliminate exemptions from the Admissions Tax	General Fund	4.0	8.0		
106	Establish a Cabaret Tax, which the state would collect and must remit to the municipalities in which the transactions occur	Municipal	None	None	0.9	0.9
123	Transfer the unexpended balance of the Transportation Strategy Board	General Fund	0.6	0.0		
128	Require remote sellers to collect Sales Tax	General Fund	9.4	9.4		
130-132	Increase the total authorization for job creation tax credits	General Fund	-0.5	-1.8		
135	Reduce by \$300,000 the annual transfer from the Special Transportation Fund to the Transportation Strategy Board Account	Special Transportation Fund / Transportation Strategy Board Account	0.0	0.0		

Section 75 — INSURANCE PREMIUM TAX

The bill (1) for 2011 and 2012, lowers, from 70% to 30%, the amount by which an insurer can reduce its insurance premium tax liability in any year through tax credits; (2) exempts insurance reinvestment fund tax credits from this cap; and (3) allows an insurer to offset additional tax liability for 2011 and 2012 if it adds employees. The bill makes the credit limit apply to calendar years, rather than income years.

Under the bill, for the calendar years 2011 and 2012, an insurer may offset additional tax liability by an amount equal to \$6,000 times its average net monthly increase in employees, up to 100% of its total tax liability. The average net employee gain must be calculated by adding the insurer's total increase in employees for the applicable year and dividing by 12. In order for an employee to count, he or she must (1) be required to work at least a 35-hour week and (2) not have been employed in Connecticut by the insurer's "related person" within 12 months before the applicable calendar year (see BACKGROUND). A company may not exceed the 30% credit limit if its average net employee gain is zero or less than zero.

EFFECTIVE DATE: Upon passage, and applicable to calendar years beginning January 1, 2011.

CORPORATION TAX

Sections 76 & 79 — Corporation Tax Surcharge

The bill imposes a 20% corporation tax surcharge for the 2012 and 2013 income years. Under current law and the bill, a 10% corporation tax surcharge expires at the end of the 2011 income year. As under current law, the surcharge for 2012 and 2013 applies to companies that have (1) at least \$100 million in annual gross income in those years and (2) a tax liability that exceeds \$250. The exemption for companies with less than \$100 million in annual gross income does not apply to companies filing combined or unitary returns.

Section 78 — Credit Limit

By law, companies are barred from using tax credits to reduce their annual corporation tax liability by more than 70%. Under the bill, for the 2011 and 2012 income years, a company may offset additional tax liability beyond 70% by adding employees.

The additional offset equals \$6,000 times the company's average net monthly increase in employees, up to 100% of its total tax liability. The average net monthly employee gain must be calculated by dividing the company's total new employees for the applicable year by 12. In order for an employee to count, he or she must (1) be required to work at least a 35-hour week and (2) not have been employed in Connecticut by an entity who is a “related person” to the corporation within 12 months before the start of the applicable income year (see BACKGROUND). A company may not exceed the 70% credit limit if its average net employee gain is zero or less than zero.

EFFECTIVE DATE: Corporation tax changes are effective upon passage, and applicable to income years starting on or after January 1, 2011.

Section 77 — FILM PRODUCTION TAX CREDIT

The law allows film production companies to sell, assign, or transfer film production tax credits to other taxpayers with tax liabilities. The bill limits these tax credits allowed (1) in 2011 to 50% of the credit in any one income year and (2) in 2012 and beyond to 25% of the credit in any one income year. Entities subject to the corporation or insurance premium tax are not bound by the transfer restrictions.

It exempts from these limitations credits issued for any production that the Department of Economic and Community Development (DECD) commissioner determines is created in whole or significant part in a “qualified production facility.” Under the bill, a “qualified production facility” is a facility in the state that (1) is intended for film, television, or digital media production and (2) has a minimum investment of \$3 million, or less if the DECD commissioner determines it otherwise qualifies.

The bill also increases, from 25% to 50%, the minimum share of principal photography days a production company must spend in the state in order to qualify for a film production tax credit.

EFFECTIVE DATE: Upon passage, and applicable to income years beginning on or after January 1, 2011.

SALES AND USE TAX

Section 93-94, 97,126-127 — TAX RATE INCREASES

The bill increases the general sales and use tax rate from 6% to 6.35% and the hotel tax rate from 12% to 15%. It does not change existing lower rates for sales of (1) motor vehicles to active duty U.S. military members stationed in Connecticut (4.5%) or (2) computer and data processing services (1%).

Section 93 — Rental Car Surcharge

The bill imposes an additional 3% sales and use tax (9.35% total) on short-term car rentals (30 days or less) and requires the state to allocate the revenue from one percentage point of the increase to the Regional Performance Incentive Account (see below).

Section 93, 95-96, & 103 — TAX REVENUE ALLOCATED TO MUNICIPALITIES

Municipal Revenue Sharing Account

The bill allocates the following revenue from increased taxes to the Municipal Revenue Sharing Account:

1. 0.1 percentage point of the 6.35% sales tax on all taxable goods and services,
2. 0.1 percentage point of the 7.0% luxury tax, and
3. 0.25 percentage point of the state conveyance tax.

The DRS commissioner must deposit the revenue quarterly in the account, which the bill creates as a separate, nonlapsing General Fund account. The account must contain any funds required by law to be deposited in it.

The Office of Policy and Management (OPM) secretary must use the account funds for manufacturing transition grants to municipalities. The grants equal the amount each municipality received in FY 11 as a payment in lieu of taxes (PILOT) for eligible commercial vehicles, manufacturing machinery and equipment, and certain real property in enterprise zones. For any town that did not receive such PILOT payments in FY 11 due to a filing error, the bill requires that its grant amount be equal to its estimated payments for FY 12.

The OPM secretary must distribute any remaining funds to municipalities as follows:

1. 50% on a per capita basis, according to the most recent federal 10-year census; and
2. 50% according to an existing property tax relief formula that apportions funds based on a municipality's population, adjusted equalized net grand list per capita, and per capita income of town residents.

Regional Performance Incentive Account

The bill requires the DRS commissioner to allocate the revenue quarterly from one percentage point of the (1) 15% hotel tax and (2) 9.35% rental car surcharge to the Regional Performance Incentive Account. The bill establishes this account as a separate, nonlapsing General Fund account and requires that it contain any funds required by law to be deposited in it.

The OPM secretary must use the account funds for the existing regional performance incentive grant program. Under this program, the OPM secretary awards grants to regional entities to provide a local service on a regional basis.

EFFECTIVE DATE: July 1, 2011

Section 105 — ADMISSIONS TAX EXEMPTIONS ELIMINATED

The bill eliminates exemptions from the 10% admissions tax for the facilities and events shown in Table 4.

TABLE 4: ADMISSION TAX EXEMPTIONS ELIMINATED

Hartford Civic Center	Lyme Rock Park	Dodd Stadium
New Haven Coliseum	Thompson Speedway	Arena at Harbor Yard
New Britain Beehive Stadium	Waterford Speedbowl	New Britain Rock Cats games
New Britain Stadium	Tennis Foundation of Connecticut facilities	New Haven Ravens games
New Britain Veterans Memorial Stadium	William A. O'Neill Convocation Center	Waterbury Spirit games
Bridgeport Harbor Yard Stadium	Nature's Art	
Stafford Motor Speedway	Connecticut Convention Center	

EFFECTIVE DATE: January 1, 2012, and applicable to charges imposed on or after that date.

Section 106 — CABARET TAX

The bill imposes a 3% tax on admissions, food, drink, service, and merchandise at any place offering live music, dancing, or other entertainment in addition to serving alcoholic drinks (“cabarets”) and requires the state to disburse the tax revenue to the municipality where the sale occurred.

Applicability

The 3% tax applies on charges for admissions, food, drink, service, and merchandise at any place offering live music (with more than one performer), dancing, or other entertainment for profit in addition to serving alcoholic drinks. The tax applies to these charges only when the establishment is in “cabaret status.” Under the bill, cabaret status begins when the (1) music, dancing, or entertainment starts or (2) establishment starts charging an admission or cover charge. If any portion of the establishment is subject to the cabaret tax, the tax also applies to areas from which the (1) entertainment can be viewed or (2) entertainment or dancing can be accessed at no charge.

Collecting the Tax

The bill imposes the tax on the establishments described above and requires that they collect it from purchasers. It specifies that the tax (1) is a recoverable debt from the purchaser to the establishment and (2) when collected by the establishment, is deemed a special fund in trust for the state.

Tax Administration

Taxpayers subject to the tax must remit the payments and file signed tax returns on a monthly basis. The returns must provide (1) the amount of tax due for the preceding month and (2) any other information the DRS commissioner requires. Unpaid taxes are subject to a penalty of 10% of the unpaid amount or \$50, whichever is greater, plus 1% interest for each full or partial month that the tax remains unpaid.

The same administrative, enforcement, liability, and appeal process requirements established in statute for the admissions tax apply to the cabaret tax and must be adapted accordingly.

EFFECTIVE DATE: July 1, 2011, and applicable to sales on or after

Section 122 — ABANDONED PROPERTY

The bill requires the revenue estimates included in the budget act to be reduced by the estimated claims for abandoned property.

EFFECTIVE DATE: July 1, 2011

Section 123 — TRANSPORTATION STRATEGY BOARD ACCOUNT

On July 1, 2011, the bill transfers the unspent balance in the Department of Transportation's nonlapsing Transportation Strategy Board account to the General Fund.

EFFECTIVE DATE: July 1, 2011

Section 128 — SALES AND USE TAX COLLECTION BY REMOTE SELLERS

State law requires “retailers” to collect Connecticut sales tax if they are “engaged in the business” of making retail sales in the state. If a retailer is engaged in business in Connecticut, it is said to have “nexus” here.

The bill requires certain remote sellers who have no physical presence in Connecticut to collect sales tax on their taxable sales in the state. It presumes a seller is a retailer with sales tax nexus in the state if it annually sells more than \$2,000 worth of taxable items or services in Connecticut through certain agreements with Connecticut residents. The agreements must provide that, in return for the resident referring potential customers to the retailer, he or she will receive a commission or other compensation from that retailer.

Under the bill, the referrals can be direct or indirect and can be made by any means, including a link on an Internet website. By extending Connecticut sales tax nexus to retailers that have such agreements, the bill requires them to collect Connecticut sales tax on all their taxable sales in Connecticut, not just on items sold through the referrals.

The bill applies to any retailer that annually earned more than \$2,000 in gross receipts from sales in the state under such referral agreements in the preceding four quarters ending on the last days of March, June, September, and December. It establishes a presumption that such a retailer is soliciting business in Connecticut through the independent contractors or representatives. The retailer can rebut the presumption by proving that the resident with whom it has an agreement did not solicit business in Connecticut in a manner that would satisfy the federal constitutional nexus requirement (see BACKGROUND).

By law, if a retailer does not collect and remit to (DRS) the sales tax due on a taxable item or service, a person who buys it for use in Connecticut must pay the equivalent use tax on that purchase directly to DRS.

EFFECTIVE DATE: July 1, 2011 and applicable to sales on or after that date.

Sections 130-132 — JOB CREATION TAX CREDIT LIMIT

The bill also increases the total amount of business tax credits available for creating new jobs, from \$11 million to \$20 million. The increase applies to three programs authorizing such credits, as shown in Table 11.

TABLE 11: JOB CREATION TAX CREDIT PROGRAMS

<i>Credit Program</i>	<i>Applicable Taxes</i>	<i>Eligibility Criteria</i>	<i>Credit Limits</i>
Creating New Jobs (CGS Section 12-217ii)	<ul style="list-style-type: none"> ● Insurance Companies, Hospitals, and Medical Services ● Corporation ● Utility Company 	Any business creating at least 10 new jobs	<ul style="list-style-type: none"> ● Five-year credit up to 60% of the income tax deducted and withheld from new employee wages ● Total credits for these and the small business and vocational rehabilitation job credits capped at \$11 million per year (\$20 million under the bill)
Small Business Creating Jobs (CGS Section 12-217nn)	<ul style="list-style-type: none"> ● Insurance Companies, Hospitals, and Medical Services Corporations ● Corporation ● Personal Income 	<ul style="list-style-type: none"> ● Businesses with fewer than 50 employees in Connecticut that create new jobs filled by Connecticut residents ● New employees must work at least 35 hours per week for at least 48 weeks per calendar year ● Credits available only for jobs created 	<ul style="list-style-type: none"> ● Three-year, \$200 per month per new employee ● Total credits for these and the job creation and vocational rehabilitation job credits capped at \$ 11 million per year (\$20 million under the bill)

		between May 6, 2010 and December 31, 2012	
Vocational Rehabilitation Job Creation Tax Credit (CGS Section 12-217oo)	<ul style="list-style-type: none"> • Insurance Companies, Hospitals, and Medical Services Corporations • Corporation • Personal Income 	<ul style="list-style-type: none"> • Businesses hiring Connecticut residents with disabilities • New employees must work at least 20 hours per week for at least 48 weeks per calendar year • Credits available only for employees hired after May 6, 2010 for income years beginning on or after January 1, 2010 	<ul style="list-style-type: none"> • Three-year, \$200 per month per new employee • Total credits for these and the job creation and small business job creation tax credits capped at \$11 million per year (\$20 million under the bill)

EFFECTIVE DATE: July 1, 2011

Section 135 — TRANSFERS TO TRANSPORTATION STRATEGY BOARD (TSB) PROJECTS ACCOUNT

The bill reduces the required annual transfers from the STF to the TSB projects account to fund statutorily designated transportation projects. Under current law, the state treasurer must transfer \$15.3 million annually through FY 15 and \$300,000 in FY 16 and each fiscal year thereafter. The bill eliminates references to the TSB, reduces the annual transfers to \$15 million per year from FY 12 through FY 15, and eliminates scheduled transfers for FY 16 and subsequent years.

EFFECTIVE DATE: July 1, 2011

Section 144 — GOVERNOR'S TRANSPORTATION PROJECT RECOMMENDATIONS

Under current, on the same day the governor proposes the biennial budget, he or she must also recommend to the General Assembly any projects necessary to implement the transportation strategy adopted by the TSB and a financing plan for the projects. The bill removes the reference to the TSB and instead requires the governor to submit a recommendations and a financing plan for project's implementing the state's transportation strategy.

EFFECTIVE DATE: July 1, 2011

Related New York State Court Decisions

Amazon.com filed suit against a 2008 New York law that is similar to this bill, alleging that New York's law violates (1) the U.S. Constitution's Commerce Clause by taxing out-of-state entities that have no substantial nexus with New York, (2) the U.S. and New York constitutions' due process clauses by effectively creating an irrebuttable presumption of "solicitation" and being overly broad, and (3) both constitutions' equal protection clauses by intentionally targeting Amazon.

The case remains undecided. The New York Supreme Court dismissed the complaint and the New York Court of Appeals remanded it after finding the law constitutional on its face. The issue on remand is whether the law is constitutional as applied, that is, whether Amazon's New York affiliates solicit business for Amazon actively enough to establish a substantial nexus with the state (*Amazon.com, LLC, et. al. v. New York State Department of Taxation and Finance*, 913 N.Y.S. 2d 129; 2010 N.Y. App. Div. Lexis 7943).

Public Act# 11-48

HB# 6651

AN ACT IMPLEMENTING PROVISIONS OF THE BUDGET CONCERNING GENERAL GOVERNMENT

Summary: This bill makes changes to various unrelated topics including (1) budget implementation and education provisions, (2) use of ignition interlocks by drunk driving offenders, (3) creating the Office of Government Accountability, (4) merging certain economic development agencies, (5) higher education reorganization, (6) modifying state election laws, and (7) changes to the state budget process and specifically requiring the budget and financial statements to conform to generally accepted accounting principles.

The changes are described in a section-by-section analysis below.

EFFECTIVE DATE: Various, see below.

Sections 12 & 13 — CCEDA EXECUTIVE DIRECTOR AND STAFF SUPPORT

The bill eliminates the requirement that the executive director of the Capital City Economic Development Authority (CCEDA) be an OPM staff member and that he or she act as the comptroller of the authority's projects. It requires the CCEDA board to appoint an executive director and exempts the person from the state's classified service.

By law, CCEDA and OPM can enter into a memorandum of understanding under which OPM provides staff support for the authority. The bill eliminates a requirement that the agreement provide for continuity of credited service of CCEDA employees hired by OPM.

EFFECTIVE DATE: July 1, 2011

Section 29 — ELECTRONIC BUSINESS PORTAL

The bill requires the secretary of the state's Commercial Recording Division to establish an electronic portal serving as a single entry point for businesses registering with the secretary. By law, all corporations, limited liability companies, limited liability partnerships, limited partnerships, and other types of businesses must register with the secretary.

The portal must provide these entities with explanatory information and electronic links to other state agencies and organizations to help them (1) obtain necessary licenses and permits, (2) identify state

taxes and other revenue responsibilities and benefits, and (3) find relevant state financial incentives and programs.

The bill allows the secretary to provide other state agencies and quasi-public agencies the information businesses submit when registering, but only for economic development, state revenue collection, and statistical purposes, as the law provides.

Links to Other Agencies

Besides providing registration and licensing information, the electronic business portal must provide electronic links to state agencies and quasi-public agencies. These include the Workers' Compensation Commission; the departments of Economic and Community Development, Administrative Services, Consumer Protection, Environmental Protection, Labor, and Revenue Services; the Connecticut Development Authority; Connecticut Innovations, Inc; Connecticut Licensing Information Center; and the Connecticut Small Business Development Center.

The bill also requires the portal to include links to the U. S. Small Business Administration and the nonprofit Connecticut Economic Resource Center.

EFFECTIVE DATE: January 1, 2012

Sections 77 — 173 DECD

The bill makes the Department of Economic and Community Development (DECD) commissioner the chairperson of the boards of the state's two quasi-public economic development agencies — the Connecticut Development Authority and Connecticut Innovations, Inc. (Section 123 and 124). Under current law, the commissioner serves as an ex officio member of both agencies' boards while the governor appoints their chairpersons, with the legislature's advice and consent.

The bill moves the Office of Workforce Competitiveness (OWC) and its statutory duties and functions to the Department of Labor (DOL) from the Office of Policy and Management (OPM), where it exists for administrative purposes only. It requires DOL to perform many of these duties and functions with OWC's assistance. It also transfers OWC's programs to DOL and DECD and eliminates many obsolete programs.

The bill eliminates the Connecticut Commission on Culture and Tourism (CCCT); transfers its powers, duties, and functions to DECD; and makes many conforming changes. The 28-member commission currently oversees a staff that implements the state's tourism, culture, arts, and historic preservation policies and programs. The bill reconstitutes this body as an advisory committee, retaining its current makeup, and eliminates the CCCT's executive director, but transfers some of director's duties to the committee's chairperson.

The bill expands the range of eligible property under the existing tax credit programs for rehabilitating historic nonresidential property and makes several programmatic and procedural changes. It also transfers their administration to DECD, assigning specific functions to the state historic preservation officer, whose position the bill also transfers to DECD.

The bill makes permanent the temporary \$ 10 increase to the document recording fee imposed in 2009 and scheduled to expire on July 1, 2011. It makes permanent grants to dairy farmers by allocating \$ 10 from each fee for this purpose. It also makes permanent funding for three agricultural related entities that expires on June 30, 2011.

The bill eliminates the 21-member Connecticut Competitiveness Council, which PA 10-75 established to promote the state's industry clusters.

The bill makes many technical changes.

EFFECTIVE DATE: July 1, 2011, except for the changes regarding the historic preservation tax credits, which take effect on that date and apply to income years beginning on or after January 1, 2011 and the DECD programs, which take effect July 1, 2012.

Sections 77 & 80-97 — OWC

Status

Current law places OWC within OPM for administrative purposes only. The bill transfers OWC to DOL , making it an administrative unit of the department. The bill specifies that any OWC orders or regulations continue in force and effect until amended, repealed, or superseded. If these orders or regulations conflict with DOL's, the commissioner may implement policies and procedures consistent with statutes while adopting policies and procedures in regulation.

Functions and Duties

The bill assigns most of OWC's functions and duties to DOL, explicitly requiring the department to administer these functions and duties with OWC's help. The assigned functions and duties are:

1. serving as the governor's principal workforce development policy advisor and liaison with local, state, and federal workforce development agencies;
2. appointing officials and employees needed to fulfill its statutory purpose;
3. serving as the lead state agency for developing employment and training strategies and initiatives needed to support Connecticut's position in the knowledge economy;
4. annually forecasting workforce needs and recommending ways to meet them;
5. reviewing, evaluating, and recommending improvements to the certification and degree programs the vocational-technical schools and the community-technical colleges offer and developing strategies linking education skill standards to business and industry training and employment needs; and
6. creating an integrated system of statewide advisory committees for each career cluster offered as part of the regional vocational-technical school and community-technical college systems.

The bill continues to require OWC to participate in a working group responsible for defining pre service and minimum training requirements and competencies for people involved in early childhood education.

The bill relieves OWC from:

1. preparing reports on economic and workforce trends, but not DOL from performing these duties and functions,
2. receiving performance reports from the vocational-technical schools,
3. serving on the Blue Ribbon Commission preparing the master plan for higher education,
4. assisting DECD when it prepares the five-year economic strategy, and
5. establishing the Adult Literacy Leadership Board.

The bill relieves OWC from receiving workforce development performance reports and assigns this function to DOL.

Programs and Committees Transferred to DOL

The bill continues to require OWC to administer the Film Industry Workforce Training Program, but with the labor commissioner's approval. OWC must continue developing guidelines for participating in the program, which under the bill it must do so by September 30, 2012 with the commissioner's approval. OWC must continue submitting annual status reports on the program to the Connecticut Employment Commission and the Commerce and Higher Education and Employment Advancement Committees, but the bill also requires OWC to submit them to the labor commissioner.

The bill continues to require OWC to run the pilot program giving parents access to training to develop the skills needed to get and keep jobs. Under current law and the bill, OWC must run the program within available appropriations.

The bill transfers the Connecticut Career Choices program to DOL, which must administer it with OWC's help.

Program Transferred to DECD

The bill transfers to DECD several OWC grant programs preparing college students for careers in research and development and spurring colleges and universities to collaborate with businesses on research projects. Under current law and the bill, the grants must be made within available appropriations.

The bill also appears to transfer the Innovation Challenge Grant from OWC to DECD. It directs the DECD commissioner to chair the council that advises OWC, under current law, about awarding grants.

OWC Boards, Committees, and Commissioners

The bill transfers to DOL several OWC committees and commissions, including the:

1. Connecticut Career Ladder Advisory Committee, whose members the labor commissioner must select based on OWC's recommendations;
2. Connecticut Employment and Training Commission;
3. Adult Literacy Leadership Board, which the DOL commissioner must maintain with OWC's help;
4. Connecticut Allied Health Workforce Policy Board;
5. Council of Advisors on Strategies for the Knowledge Economy; and
6. Industry Advisory Committees for Career Clusters with Regional Vocational-Technical Schools and Regional Community-Technical College Systems.

Status Report

The bill requires the labor commissioner to report on the status of the merger between OWC and DOL and recommend any necessary legislation regarding the merger. The commissioner must submit the report by January 2, 2012 to the Appropriations and Labor Committees.

Sections 78 & 79, 98-122, 125-132, & 136-173 — CCCT

Powers and Duties

The bill eliminates CCCT and transfers its powers, duties, and programs to DECD. CCCT's general powers and duties include:

1. marketing and promoting the state's tourist attractions,
2. promoting the arts,
3. preserving historic resources, and
4. submitting an annual culture and tourism budget to OPM.

Current law also assigns many powers and duties to CCCT related specifically to tourism, the arts, and cultural heritage. These include:

1. preparing a strategic plan to promote tourism and develop new tourism-related products and services;

2. reviewing and approving regional tourism district budgets and developing guidelines concerning the regional tourism districts' administrative costs;
3. maintaining and operating the visitor welcome centers;
4. administering grants promoting and supporting tourism, the arts, and historic preservation;
5. identifying and marking historic properties;
6. issuing permits for archaeological digs, developing procedures for inventorying Native American burial sites, and advising other agencies about specified archaeological matters;
7. administering tax credits for rehabilitating historic properties and community investment funds for historic preservation activities; and
8. selecting art for public works projects.

In transferring CCCT tourism functions to DECD, the bill requires the commissioner to prepare the two-year strategic plan to implement the culture and tourism-related statutory function. The commissioner must submit the plan to the governor and legislature by January 1, 2012. The bill also requires the commissioner to distribute funding within available appropriations to the three regional tourism districts.

The bill specifies that any orders or regulations under which CCCT exercises its powers and duties continue in force and effect until amended, repealed, or superseded. If these orders or regulations conflict with DECD's, the commissioner may implement policies and procedures consistent with statutes while adopting policies and procedures in regulation.

Historic Preservation

Although the bill transfers the administration of the historic preservation tax credits from CCCT to DECD, it requires the state historic preservation officer to perform certain tasks, including developing standards for approving rehabilitating certified historic structures, certifying whether rehabilitation plans meet those standards, and reviewing documentation that rehabilitation was done according to those plans.

The bill also changes a procedural requirement governing grants for restoring historic structures and landmarks. Under current law, a grant applicant must file a covenant with the town clerk of the municipality where the historic property is located guaranteeing that it will be preserved forever or a period CCCT approves. The applicant must do this before the commission can execute the grant agreement. The bill requires the applicant to submit this covenant to the commission and with the town clerk before DECD awards the grant.

Culture and Tourism Advisory Committee

The bill reconstitutes the 28-member CCCT as an advisory committee, but retains its current makeup.

Committees

CCCT's executive director currently serves on several committees. The bill transfers this responsibility to the chairperson of the Culture and Tourism Advisory Committee, which the bill creates to replace the current commission. Under the bill, the chairperson or a committee member serves on the:

1. State Commission on Capitol Preservation and Restoration,
2. Connecticut Capitol Center Commission,
3. Sports Advisory Board,
4. State Museum of Art Advisory Committee,
5. Baldwin Museum Advisory Committee,
6. Advisory Panel on Accepting Art Work,
7. Face of Connecticut Steering Committee,
8. River Protection Advisory Committee,
9. Quinebaug and Shetucket Rivers Heritage Corridor Advisory Council, and
10. Committee for the Restoration of Historic Assets.

The bill transfers to the chairperson CCCT's role in preparing the state's five-year strategic economic development plan. Under current law, CCCT is one of several agencies with whom the DECD commissioner must consult when preparing the plan.

The bill transfers to DECD CCCT's authorization to appoint a state poet laureate. The bill specifies that DECD must make this appointment with the committee's recommendations.

Status Report

The bill requires the DECD commissioner to report on the status of the merger between CCCT and DECD and recommend any necessary legislation regarding the merger. The DECD commissioner must submit the report by January 2, 2012 to the Appropriations and Commerce committees.

HISTORIC PRESERVATION TAX CREDITS EXPANSION

The law authorizes business tax credits for restoring certified historic property. Developers qualify for these credits under separate programs based on the property's current use (e. g. , commercial or industrial) and the intended reuse (e. g. , residential or mixed residential and non-residential). The bill expands the range of eligible property and eligible reuses under the programs for restoring non-residential historic property.

It also transfers the administration of these credits from CCCT to DECD. The transfer relocates the state historic preservation officer (SHPO), who is designated under federal law, from CCCT to DECD. The bill explicitly requires the SHPO to perform specific administrative tasks, which include certifying that rehabilitation plans conform to historic preservation standards.

Section 121 — Credits for Converting Non Residential Property to Residential Uses

Current law authorizes tax credits for converting certified historic commercial and industrial property to residential uses. The bill extends the range of credit-eligible property to certified historic cultural buildings; institutional property, former municipal, state, and federal property; and residential buildings with five or more units.

The bill explicitly assigns certain administrative tasks to the SHPO. He must develop standards for rehabilitating historic property, certify whether rehabilitation plans meet these standards, and verify that rehabilitation conforms with these plans. Current law assigns these tasks to CCCT.

Section 122 — Credits for Converting Non Residential Historic Property to Mixed Residential and Non Residential Uses

Current law authorizes tax credits for converting certified historic commercial and industrial property to mixed residential and nonresidential use. To qualify for these credits, at least 33% of the rehabilitated property's square footage must be for residential use. The bill extends the range of credit-eligible property to cultural buildings; institutional and mixed residential and nonresidential property; and former municipal, state, and federal property.

The bill extends the range of eligible reuses. It still requires mixed uses but drops the requirement that at least 33% be for residential use.

The bill explicitly assigns the SHPO the same administrative tasks it assigns to him with respect to the credits for converting nonresidential property to residential uses.

Public Act# 11-57

SB# 1242

AN ACT AUTHORIZING BONDS OF THE STATE FOR CAPITAL IMPROVEMENTS AUTHORIZING SPECIAL TAX OBLIGATION BONDS OF THE STATE FOR TRANSPORTATION PURPOSES AND AUTHORIZING STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS

Summary: This act authorizes up to \$9 million in state general obligation (GO) bonds for FY 11, up to \$1.202 billion for FY 12, and up to \$1 365 billion for FY 13 for state capital projects and grant programs, including school construction, water quality, and economic development projects; farmland and open space acquisition and preservation; and improvements to state buildings, property, and parks.

Authorizes \$172. 5 million for the development of a University of Connecticut technology park; and merges three existing programs for energy efficiency and renewable energy projects in state buildings.

EFFECTIVE DATE: Various, see below. (Sections of interest to DECD only)

Sections 1-38 — BOND AUTHORIZATIONS FOR STATE AGENCY PROJECTS AND GRANTS

This act authorizes state general obligation (GO) bonding for FY 12 and FY 13 for state facilities, infrastructure, and programs; development and rehabilitation for housing projects and supportive housing; and grants to nonprofit organizations, municipalities, and other eligible entities. The bonds are subject to standard issuance procedures and have a maximum term of 20 years. The act includes a standard provision requiring private entities receiving bond-funded grants for facilities to repay a portion of the grant if a facility ceases to be used for the grant's purpose within 10 years of the entity receiving it.

Table 1 lists the purpose and amounts of these GO bond authorizations for FY 12 and FY 13.

Table 3: Statutory Bond Authorizations for FY 12 and FY 13

<i>Section</i>	<i>Agency</i>	<i>Purpose/Fund</i>	<i>FY 12</i>	<i>FY 13</i>
61	Office of Policy & Management	Economic and community development project grants (Urban Act)	\$50,000,000	\$50,000,000
62	Office of Policy & Management	Small Town Economic Assistance Program (STEAP)	20,000,000	20,000,000
63	Office of Policy & Management	Capital Equipment Purchase Fund	0	22,900,000
<i>Housing Projects</i>				
<i>Section</i>	<i>Agency</i>	<i>Purpose/Fund</i>	<i>FY 12</i>	<i>FY 13</i>
9, 28	Economic & Community Development	Housing development and rehabilitation	25,000,000	25,000,000
		Supportive housing initiatives	30,000,000	0
13 (b)	Economic and Community Development	Regional Brownfield Redevelopment Loan Fund	25,000,000	25,000,000
32 (b)				

Section 61-66, 71-75 & 91-92 — New Authorizations for Statutory Programs

The act authorizes new bonding for FY 12 and FY 13 as shown in Table 3.

<i>Section</i>	<i>Agency</i>	<i>Purpose/Fund</i>	<i>FY 12</i>	<i>FY 13</i>
91	Economic and Community Development	Housing Trust Fund	25,000,000	25,000,000

Section 92 — UCONN Technology Park

The act gives UConn authority to supervise all aspects of the project to develop a technology park, including off-campus improvements. It requires UConn to work in consultation with the town of Mansfield concerning on and off-site utilities financed under the act's bond authorization.

<i>Section</i>	<i>Agency</i>	<i>Purpose/Fund</i>	<i>FY 12</i>	<i>FY 13</i>
92	University of Connecticut	Development of a technology park and related buildings at UConn, including planning, design, construction and improvements, land acquisition, equipment purchases, on- and	18,000,000	154,500

		off-site utilities, and infrastructure improvements (see below)		
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Sections 85 & 88 — Corrections in Prior Authorizations for Housing Development and Rehabilitation Projects

The act makes two corrections in prior authorizations to the Department of Economic and Community Development for housing development and rehabilitation projects. It changes the amount authorized for specific projects in PA 07-7, June Special Session (Section 28), from \$9 million to \$10 million to match the total authorization for all housing development and rehabilitation projects specified in the preceding section of that act. It also corrects the names of two New Britain housing development projects authorized under PA 10-44 to receive \$15 million from a previous \$21 million authorization.

EFFECTIVE DATE: July 1, 2011

Public Act# 11-61

HB# 6652

AN ACT IMPLEMENTING THE REVENUE ITEMS IN THE BUDGET AND MAKING BUDGET ADJUSTMENTS, DEFICIENCY APPROPRIATIONS, CERTAIN REVISIONS TO BILLS OF THE CURRENT SESSION AND MISCELLANEOUS CHANGES TO THE GENERAL STATUTES

Summary: This bill makes various unrelated changes. See below for a section-by-section analysis.

EFFECTIVE DATE: Various, see below.

Sections 1-3, 52 & 175 –TRUCK & MME PROPERTY TAX EXEMPTIONS AND PILOTS

Current law exempts from property taxes (1) eligible manufacturing, biotechnology, and recycling machinery and equipment (MME) and (2) certain commercial trucks and other vehicles used to transport freight for hire, and requires the state to reimburse municipalities for the revenue loss (i. e. , payments in lieu of taxes or PILOTS).

MME Property Tax Exemption

PA 06-183 phased out a five-year exemption that applied to only new and newly acquired MME and phased in a new permanent exemption that applied to MME that was six years old or older. The phase-in, under current law, ends October 1, 2011, after which all MME will be permanently exempted from property taxes.

Under current law, the MME property tax exemption applies to (1) MME purchased or acquired on or before October 1, 2006, (2) MME purchased or acquired between October 2, 2006 and October 1, 2010, and (3) new or newly acquired MME. Beginning with the October 1, 2011 assessment year, the bill exempts all MME from local property taxes regardless of when it was purchased or acquired.

MME and Commercial Vehicle PILOTS

The bill eliminates the PILOTS for MME and commercial trucks for assessment years that begin on or after October 1, 2011. It also repeals related provisions that:

1. provide a five-year MME depreciation schedule to determine the tax revenue loss to the town and the PILOT amount;
2. require a state grant payment to replace the MME PILOT beginning in FY 14;
3. require MME owners applying for a five-year exemption to do so on a form prescribed by OPM; and
4. allow the OPM secretary to deny an exemption claim if the owner of new MME is delinquent on his or her corporation tax, after providing notice to the affected taxpayer.

The bill shifts, from OPM to municipal assessors, (1) responsibility for prescribing the documentation to support an application for a five-year MME exemption and (2) authority to request such applicants to submit a copy of applicable federal income tax returns and accompanying schedules or alternative supporting documentation.

The bill also eliminates the requirements that, for the 2006 through 2011 assessment years, (1) MME owners file a supplement to their personal property declaration that includes data on the date of acquisition, acquisition costs, and depreciated value of MME and (2) town assessors determine the depreciated value of such MME using the method they used for the 2005 assessment year.

Enterprise Zone MME Property Tax Exemption and PILOT

The bill retains an existing state-reimbursed property tax exemption for eligible MME located in designated areas. By law, eligible MME located in targeted investment communities, enterprise zones, and the Bradley Airport Development Zone (BADZ) is eligible for a five-year, 80% property tax exemption. The exemption applies to MME (1) in manufacturing or service facilities and (2) acquired as part of a technological upgrade of a manufacturing process in these designated areas. (By law, these exemptions apply in the BADZ for assessment years beginning on or after October 1, 2012.)

By law, the state makes an annual grant payment to towns to reimburse them for half of the revenue loss due to real and personal property tax exemptions in these designated areas.

EFFECTIVE DATE: July 1, 2011, except that the repeal of the following provisions is applicable to assessment years starting on or after October 1, 2011: (1) commercial truck and MME PILOT, (2) property tax exemption and PILOT for older MME, (3) five-year MME depreciation schedule, and (4) state grant payment to replace the MME PILOT beginning in FY 14.

Section 5 — REGIONAL PERFORMANCE INCENTIVE GRANT PROGRAM

Eligible Grant Recipients

The law establishes a grant program that provides funds to municipalities for jointly performing a service they currently perform separately. Under current law, municipalities access the grants through their respective regional planning organizations, which can be a regional planning agency, regional council of elected officials, or regional councils of governments. The bill expands the range of eligible entities to include (1) any two or more municipalities and (2) regional economic development districts. (PA 10-168, codified at Section 32-741 et. seq. , allows regional planning organizations and other entities to form these districts and prepare and implement strategies to develop their economies.)

Eligible Proposals and Application Deadlines

Under current law, eligible applicants submit proposals, by December 31 of each year, to (1) jointly perform a service they currently perform separately or (2) prepare a planning study for delivering an existing or new service on a regional basis.

The bill allows applicants to submit the same types of proposals but establishes two application deadlines for doing so. Applicants may submit proposals by (1) December 1, 2011 to jointly provide a service they currently perform separately or (2) December 31, 2011 to jointly provide a service they currently perform separately or prepare a planning study to do so.

Application Selection Priorities

By law, the OPM secretary must review all applications and award grants to those he determines best meet the law's criteria. Under current law, the secretary must give priority to proposals that (1) involve all of an entity's member municipalities and (2) increase their purchasing power or provide cost savings. The bill requires the secretary to also give priority to proposals that economic development districts submit.

Reporting

The law requires the OPM secretary to report annually by March 1 to the Finance, Revenue and Bonding Committee about (1) each grant award, (2) its potential for leveraging public and private investments, and (3) the extent to which the grants helped reduce property taxes. The bill requires the secretary to submit the FY 12 report by February 1, 2012 and subsequent reports by March 1 of each year.

Funding Source

PA 11-6 establishes the Regional Performance Incentive Account, a separate, nonlapsing General Fund account, to fund the grant program and directs a portion of the hotel tax and rental car surcharge to the account.

EFFECTIVE DATE: July 1, 2011

AN ACT CONCERNING MISCELLANEOUS PROVISIONS INCLUDING NURSING HOME CLOSURES, STAFFING AT THE POLICE OFFICERS STANDARDS AND TRAINING COUNCIL, THE REPEAL OF PROVISIONS CONCERNING THE DIVISION OF SPECIAL REVENUE, HIGHWAY REST AREAS AND AN EXEMPTION TO THE ELECTRIC GENERATION TAX

Summary: This act makes various unrelated changes in statutes and 2011 public acts concerning:

- tourism services at the West Willington visitor welcome center, and
- an exemption from the temporary electric generation tax in effect for FY 12 and FY 13.

The act also makes conforming and technical changes.

EFFECTIVE DATE: Various, see below.

Section 4 — DEADLINE FOR APPLYING FOR PROPERTY TAX EXEMPTIONS FOR FARM MACHINERY, HORSES, AND BUILDINGS

The act changes the date by which farmers must annually apply to town assessors for property tax exemptions for farm machinery, horses, and buildings, from 30 days after the assessment date to November 1. In doing so, it aligns this deadline with the existing deadline for submitting personal property tax declarations to town assessors.

EFFECTIVE DATE: Upon passage

Section 16 — WEST WILLINGTON VISITOR WELCOME CENTER

This act restores the requirement, eliminated by PA 11-61, that the Department of Economic and Community Development (DECD) station a full-time, year-round supervisor and a part-time assistant supervisor at the West Willington visitor welcome center to, among other things, provide tourism information and services.

EFFECTIVE DATE: July 1, 2011

Section 17 — ELECTRIC GENERATION TAX EXEMPTION

The act exempts electricity generated by customer-side distributed resources from the temporary electricity tax imposed by PA 11-6. The exemption applies to any generating unit with a rating of 65 megawatts or less located on a customer's premises within the electric transmission and distribution system. It includes fuel cells, photovoltaic systems, and small wind turbines.

The tax is $\frac{1}{4}$ of a cent per net kilowatt hour of electricity generated and uploaded into the regional bulk power grid at Connecticut facilities. It expires on June 30, 2013. PA 11-6 and PA 11-61 already

exempt electricity generated through a fuel cell or an alternative energy system, such as a solar or wind system, or by a resources recovery facility.

EFFECTIVE DATE: July 1, 2011

BACKGROUND

Related Act

The wage withholding provisions of this act are identical to PA 11-219, Section 9-10.

Special Act# 11-5

HB# 6286

AN ACT CONCERNING SMALL CONTRACTOR AND MINORITY BUSINESS ENTERPRISE SET ASIDE PROGRAMS IN THE METROPOLITAN DISTRICT COMMISSION.

Summary: Section 1. Subsection (g) of section 39 of number 511 of the special acts of 1929, as amended by special act 80-14, special act 90-14 and section 1 of special act 08-09, is amended to read as follows (*Effective from passage*):

(g) The district may waive the provisions of subsection (b) of this section to apply, by regulation or ordinance, the procedures described in the Federal Acquisition Regulation System, as amended, to implement construction delivery systems, acquisition policies and procedures, or to increase contract participation, including contracts for the procurement of goods or services, regardless of the source of funding for such goods or services, by small contractors, minority business enterprises and businesses located in member municipalities of the district.

Special Act# 11-6

SB# 1068

AN ACT CONCERNING A SWOT ANALYSIS OF THE STATE'S INSURANCE AND FINANCIAL SERVICES CLUSTERS.

Summary: Section 1. (*Effective from passage*) The Department of Economic and Community Development shall, within available appropriations, conduct a strengths, weaknesses, opportunities and threats (SWOT) analysis of the state's insurance and financial services clusters and report the results of such analysis to the joint standing committee of the General Assembly having cognizance of matters relating to commerce on or before February 1, 2012.

Public Act# 11-1

JUNE SPECIAL SESSION

HB# 6701

AN ACT CONCERNING THE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2013

SUMMARY:

This act changes mandatory reductions in total General and Special Transportation fund appropriations for FYs 12 and 13. It increases net General Fund appropriations by \$62.2 million and

\$63.7 million for FYs 12 and 13, respectively, and makes corresponding reductions in net Special Transportation Fund appropriations for the same years. It also:

1. reduces the refundable state earned income tax credit (EITC) for eligible Connecticut residents established by PA 11-6 from 30% to 25% of the federal EITC;
2. temporarily expands the governor's authority to rescind, reduce, transfer, or revise agency appropriations for FY 12 and FY 13 without legislative approval;
3. requires chief administrative authorities in the three branches of government to implement the act's budget savings and employee reductions;
4. allows the Office of Policy and Management (OPM) secretary to reduce higher education operating funds to achieve the required budget and employee reductions;
5. requires the governor and the chief court administrator to submit budget reduction plans to the General Assembly and allows the legislature to hold a public hearing on, and call itself into special session to modify, plan provisions;
6. reduces the required revenue transfer from the General Fund to the Special Transportation Fund by \$41.55 million for FY 12; and
7. carries forward \$23.3 million in unspent FY 11 debt service appropriations and makes the funds available for debt service expenses in FY 12 and FY 13.

The act repeals all of the provisions described above if an agreement between the state and the State Employees Bargaining Agent Coalition (SEBAC) is approved. Such an agreement was deemed approved on August 22, 2011.

The act establishes an expedited method for the General Assembly to approve any such agreement by August 31, 2011. If an agreement is approved, the act also requires (1) the Department of Administrative Services (DAS) and OPM to implement comparable terms for nonunion Executive Branch employees, (2) the legislative and judicial branches to implement wage provisions comparable to the agreement's wage provisions for their respective nonunion employees, and (3) all three branches of government and the Board of Regents of Higher Education to implement changes to their respective nonunion employees' longevity pay that are comparable to the executive longevity pay plan.

The act also makes PA 11-61's changes to the judicial retirement system contingent upon approval of an agreement with SEBAC.

EFFECTIVE DATE: Various, see below. However, as required by § 14, many of the act's provisions were repealed or ceased to be effective as of August 22, 2011, the date the General Assembly approved the agreement with SEBAC.

§§ 1 & 2 — CHANGES IN GENERAL FUND AND SPECIAL TRANSPORTATION FUND APPROPRIATIONS

The act adjusts required reductions in total General Fund and Special Transportation Fund appropriations for FYs 12 and 13 adopted in PA 11-61, §§ 67 and 68, respectively. It attributes the reductions to budget savings and employee reductions rather than labor-management savings. The adjustments are shown in Table 1 below.

Table 1: Mandatory Reductions in Total General Fund and Special Transportation Fund Appropriations for FY 12 and FY 13

PA 11-61, §§ 67 & 68			THE ACT		
General Fund					
	2011-12	2012-13		2011-12	2012-13
Labor Management Savings - Legislative	-\$4,586,734	-\$6,671,872	Budget savings and employee reduction - Legislative	-\$9,000,000	-\$13,000,000
Labor Management Savings - Executive	-625,947,354	-806,963,225	Budget savings and employee reduction - Executive	-543,777,737	-724,632,425
Labor Management Savings - Judicial	-27,670,929	-30,622,622	Budget savings and employee reduction - Judicial	-43,205,632	-42,961,413
Special Transportation Fund					
	2011-12	2012-13		2011-12	2012-13
Labor Management Savings	-\$42,536,383	-\$56,949,138	Budget savings and employee reduction	-\$104,758,031	-\$120,613,019

For FY 12 and FY 13, the act also increases annual net General Fund appropriations from those in PA 11-61 and reduces net Special Transportation Fund appropriations by the same amounts as shown in Table 2.

Table 2: Adjustments in Net General and Special Transportation Fund Appropriations

	Prior Net Appropriation		Adjustment	
	(PA 11-61, §§ 67 & 68)		(The Act)	
	FY 12	FY 13	FY 12	FY 13
General Fund	\$18,707,734,750	\$18,952,488,239	\$62,221,648	\$63,663,881
Special Transportation Fund	1,261,932,205	1,277,832,928	(62,221,648)	(63,663,881)

EFFECTIVE DATE: Upon passage, but because the General Assembly approved the agreement with SEBAC, under § 14 these budget changes were repealed and the provisions of PA 11-61, §§ 67 and 68, reinstated on August 22, 2011.

§§ 3 & 4 — EARNED INCOME TAX CREDIT

PA 11-6 gave Connecticut residents who qualify for, and claim, the federal EITC a refundable credit against their state income tax liability for the same year. This act reduces the state EITC from 30% to 25% of the federal credit. It makes a conforming reduction in the credit percentage for couples eligible for the state EITC who file joint federal returns but have to file separate state returns for the same tax year.

EFFECTIVE DATE: Upon passage and applicable to tax years starting on or after January 1, 2011. Because the General Assembly approved the agreement with SEBAC, under § 14 of the act the EITC reduction ceased to be effective and the 30% credit established in PA 11-6 was restored on August 22, 2011.

§ 5 — GOVERNOR'S AUTHORITY TO TRANSFER FUNDS BETWEEN AGENCIES

The law requires the governor, with Finance Advisory Committee (FAC) approval, to determine the appropriations amount to be transferred when, as a result of legislation, powers, functions, or duties are transferred from one department, institution, or agency to another. Between July 1 and September 30, 2011, the act also requires the governor, with FAC approval, to determine the FY 12 and FY 13 appropriation amounts to be transferred from one agency to another when personnel, functions, powers, or duties are transferred because of any reorganization due to reductions in the number of employees or rescissions in appropriations.

EFFECTIVE DATE: Upon passage, but because the General Assembly approved the agreement with SEBAC, under § 14 of the act the governor's additional authority to transfer funds between agencies was repealed on August 22, 2011.

§ 6 — GOVERNOR'S RESCISSION AUTHORITY

Between July 1 and September 30, 2011, the act allows the governor to impose larger-than-normal rescissions in FY 12 and FY 13 budget appropriations.

An existing law allows the governor, without legislative or FAC approval, to unilaterally rescind up to 3% of the total appropriations from any fund or 5% of any specific appropriation if he determines that (1) circumstances have changed since the budget was adopted or (2) there are not enough estimated resources to fund all appropriations. The act allows the governor, between July 1 and September 30, 2011, to impose rescissions of up to 10% of the total FY 12 and FY 13 appropriations from any fund or 10% of any specific appropriation for FYs 12 and 13.

Under the act, as under existing law, the governor may cut appropriations for municipal aid only with legislative approval. In addition, the act does not change the process for, or the governor's authority over, legislative and judicial branch budget rescissions.

To make rescissions under the act, the governor must determine that (1) there is either a fiscal exigency related to the budget or there will not be enough estimated resources to fund all appropriations in full and (2) his statutory rescission authority will not be enough to deal with the exigency or shortfall.

The act's provisions do not apply in time of war, invasion, or a natural disaster emergency. Thus, under such circumstances, the existing law applies. That law specifically provides that the governor's rescission authority is not limited in time of war, invasion, or a natural disaster emergency.

As under the statute, before making the authorized reductions, the governor must file a report with the Appropriations and Finance, Revenue and Bonding committees that describes the fiscal exigency or the basis for his determination that resources will be insufficient to fund full appropriations.

EFFECTIVE DATE: Upon passage, but because the General Assembly approved the agreement with SEBAC, under § 14 of the act the governor's additional rescission authority was automatically repealed on August 22, 2011.

§ 7 — GOVERNOR'S AUTHORITY TO TRANSFER OR REVISE AGENCY APPROPRIATIONS

Transfers

The act gives the governor additional authority, from July 1 to September 30, 2011, to transfer funds between specific appropriations within a budgeted agency without FAC approval. It increases the maximum amount he may transfer on his own authority from \$50,000 or 10% of any specific appropriation in any one year, whichever is less, to \$250,000 or 10% of any specific appropriation in a single year, whichever is greater. The governor may make such transfers only at the agency's request and when the appropriation to which the funds are transferred is insufficient to meet required expenses for FY 12 and FY 13.

Under the act, as under existing law, the governor (1) must notify the Appropriations Committee, through the Office of Fiscal Analysis, of any transfers and (2) may transfer funds from appropriations for fringe benefits to higher education constituent unit operating funds without FAC approval only at the close of the fiscal year.

Revisions

The act also temporarily expands the governor's authority, with FAC approval, to revise appropriations. By law, the governor can revise appropriations when legislation or management studies modify a budgeted agency's work, procedures, or organization. Between July 1 and September 30, 2011, the act allows him to revise appropriations when employee reductions necessitate such revisions. It allows the governor, with FAC approval, to adopt recommendations from the OPM secretary for increases and decreases in work locations, functions, authorized position counts, and appropriations amounts for FY 12 and FY 13.

As under the statute, the governor's appropriation revisions under the act cannot exceed the agency's total original appropriation.

EFFECTIVE DATE: Upon passage, but because the General Assembly approved the agreement with SEBAC, under § 14 of the act the governor's additional authority was repealed on August 22, 2011.

§ 8 — IMPLEMENTATION OF EXPENDITURE REDUCTIONS

For FY 12 and 13, the act requires authorities in the three branches of government to implement the budget savings and employee reductions the act requires for FY 12 and FY 13. The authorities are the:

1. OPM secretary, on the governor's approval, for the executive branch;
2. Legislative Management Committee for the legislative branch; and
3. chief court administrator, on the chief justice's approval, and the chief public defender for the judicial branch and the Public Defenders Services Division, respectively. The act limits reductions for the Court Support Services and the Public Defenders Services divisions to their pro rata shares of the judicial branch's required reductions.

The act also allows OPM to reduce appropriations for higher education constituent unit operating funds to achieve the budget savings and employee reductions the act requires.

EFFECTIVE DATE: Upon passage, but because the General Assembly approved the agreement with SEBAC, under § 14 of the act these provisions were repealed on August 22, 2011.

§ 9 — TRANSFER FROM GENERAL FUND TO SPECIAL TRANSPORTATION FUND

For FY 12, the act reduces the required revenue transfer from the General Fund to the Special Transportation Fund by \$40. 55 million, from \$81. 55 million to \$41 million.

EFFECTIVE DATE: July 1, 2011, but because the General Assembly approved the agreement with SEBAC, under § 14 of the act the reduction ceases to be effective and the \$81. 55 million transfer for FY 12 required by PA 11-61 was restored on August 22, 2011.

§ 10 — DEBT SERVICE CARRY FORWARD

The act carries forward to FY 12 and FY 13 up to \$23,266,835 of the unspent balance of funds appropriated for debt service for FY 11. Of that amount, it makes \$21,371,068 and \$1,895,767 available for debt service expenditures in FY 12 and FY 13, respectively.

EFFECTIVE DATE: July 1, 2011, but because the General Assembly approved the agreement with SEBAC, under § 14 of the act these provisions were repealed on August 22, 2011.

§ 11 — GENERAL ASSEMBLY APPROVAL OF SEBAC DELAYED

PA 11-61 established an expedited method for the General Assembly to approve the tentative agreement signed by the state and SEBAC on May 27, 2011. (SEBAC is a coalition of the 15 state employee unions representing roughly 85% of all state employees.) In light of that particular agreement's failure to win approval by state employees, this act provides a similar method for the General Assembly to approve another SEBAC agreement with the state. As under PA 11-61, it

requires that changes similar to those in the SEBAC agreement apply to all nonunion employees in the three branches of government.

This act extends PA 11-61's deadline, from June 30 to August 31, 2011, for the General Assembly to approve a SEBAC agreement while keeping the same procedural steps for its approval. Under the act, the General Assembly may call itself into special session to approve or reject a SEBAC agreement within five calendar days after the agreement is filed with the Senate and House clerks, or by August 31, 2011, whichever is first. Under the act and PA 11-61, if the General Assembly does not call itself into session within the five day period, the agreement is deemed approved by the General Assembly as of the date it was filed. The law otherwise requires 30 days of inaction by the General Assembly before a union agreement is deemed approved.

Applying Terms Comparable to SEBAC to Nonunionized State Employees

As under PA 11-61, once a SEBAC agreement is approved, the act requires the DAS commissioner and OPM secretary to apply terms comparable to the SEBAC agreement's to all nonunion classified and unclassified officers and state employees in the executive branch. It gives OPM, the chief court administrator, and the legislative management executive director until September 30, 2011, instead of June 30, 2011, to submit plans to the Appropriations Committee detailing how the terms of the SEBAC contract will apply to nonunion classified and unclassified officers and employees in the executive, judicial, and legislative branches, respectively.

Longevity Pay for Executive Branch and Higher Education Employees

If a SEBAC agreement is approved, the act requires the DAS commissioner and OPM secretary, by October 1, 2011, instead of August 1, 2011, to implement changes to the longevity payments of nonunion classified and unclassified officers and employees of the Executive Branch, constituent units of higher education, and the Board of Regents for Higher Education that are comparable to the eligibility provisions of the executive longevity pay plan. The executive longevity pay plan is set by DAS and features fixed payment amounts based upon years of service. Under the existing plan, to be eligible for longevity payments, an employee must have been eligible to receive the October 2010 payment. The years of service used to determine an employee's payment is frozen at the years he or she had as of January 6, 2011. Employees who were not eligible to receive the payment in October 2010 will not receive them in the future.

Wages and Longevity Pay for Judicial and Legislative Branch Employees

If a SEBAC agreement is approved, the act requires the Chief Court Administrator and Legislative Management Committee, by October 1, 2011, instead of August 1, 2011, to implement changes to their respective nonunionized officers' and employees' wages that are comparable to the agreement's wage provisions.

The act also requires the two branches to implement changes to the longevity payments of their respective nonunion classified and unclassified officers and employees that are comparable to the eligibility provisions of the executive longevity pay plan.

As under PA 11-61, the act specifies that nothing regarding the Judicial Branch wage provisions apply to officers or employees whose wages are set in statute. Judges, family support magistrates, workers' compensation commissioners, and others' wages are set in statute. It also specifies that the provisions regarding legislative employees' wages and longevity payments do not apply to elected officials.

EFFECTIVE DATE: Upon passage

§§ 12 & 16 — EFFECTIVE DATE OF CHANGES TO JUDGES' RETIREMENT

The act provides that the changes to the judicial retirement system made by PA 11-61 take effect upon the General Assembly's approval of an agreement with SEBAC under the deadlines and procedures stated in the act. It also repeals those changes to the judicial retirement system if an agreement between SEBAC and the state is not approved by the General Assembly under the act's deadlines and procedures by September 1, 2011.

EFFECTIVE DATE: Upon passage, with the repeal provision effective September 1, 2011 if the General Assembly does not approve a SEBAC agreement. Since the General Assembly approved such an agreement on August 22, 2011, this repeal did not take effect.

§ 13 — LEGISLATIVE ACTION ON PROPOSED EXECUTIVE BRANCH SPENDING REDUCTIONS

By July 15, 2011, the act requires the governor and the chief court administrator to submit to the House speaker and Senate president pro tempore detailed plans of any spending reductions they consider necessary in the executive and judicial branch, respectively. The governor's plan must include rescissions made both under his existing statutory authority and with the additional authority granted by the act (see above).

The leaders can refer any provisions of either plan to the Appropriations Committee, which may hold a public hearing on them and, by August 15, 2011, submit its findings to the leaders. By August 31, 2011, the act allows the General Assembly to call itself into special session and enact legislation to adjust state spending for the 2012-2013 biennium in place of any plan provisions. The substitute spending modification and reductions in the legislation must equal those proposed in the plan provisions.

EFFECTIVE DATE: Upon passage but because the General Assembly approved the agreement with SEBAC, under § 14 of the act these provisions were repealed on August 22, 2011.

§ 14 — REPEALING ACT PROVISIONS IF SEBAC AGREEMENT IS APPROVED

The act repeals several of its own provisions and, in certain cases, specifies the prior provisions to be reinstated, if the General Assembly approves a SEBAC agreement. Since the SEBAC agreement was approved on August 22, 2011, the following contingent provisions become effective as of that date:

1. changes in General and Special Transportation fund appropriations for FY 12 and FY 13 are repealed and the appropriations for those funds in PA 11-61 are restored;

2. the reduction in the earned income tax credit to 25% is eliminated and the 30% credit in PA 11-6 is restored; and

3. the reduced transfer from General Fund to the Special Transportation Fund for FY 12 is eliminated and the transfer amount required by PA 11-61 is restored; and

4. provisions related to the following are repealed: (a) the governor's enhanced authority to make budget rescissions, transfer funds between agencies; and transfer or revise agency appropriations; (b) plans for implementing expenditure reductions; (c) the debt service carry forward; and (d) the requirement that the governor report to the legislative leaders regarding rescissions and the reductions and steps the legislature can take, including rejecting rescissions or reductions and proposing new legislation.

EFFECTIVE DATE: Upon passage

§ 15 — REPEALING BUDGET ACT PROVISION REGARDING SEBAC

The act repeals a provision of PA 11-6 (the budget act) that addresses steps the governor, General Assembly, and OPM were to take if: (1) a SEBAC agreement is reached and approved by May 31, 2011 and (2) a SEBAC agreement is not reached.

EFFECTIVE DATE: Upon passage