DECD

CONNECTICUT DEPARTMENT OF ECONOMIC & COMMUNITY DEVELOPMENT

LEGISLATIVE SUMMARY
October Special Session
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.

For Further Information

For more in-depth explanations, information on other Public Acts, or questions on legislative intent, please contact:

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2012

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AN ACT PROMOTING ECONOMIC GROWTH AND JOB CREATION IN THE STATE

SUMMARY: This act establishes new and expands existing business assistance, economic and workforce development, and job training programs. Among other things, it authorizes (1) rapid response financial assistance programs for small businesses, (2) a temporary subsidy for employment and training costs for small businesses that hire eligible new employees, and (3) the establishment of new airport development zones. It expands the First Five and Manufacturing Reinvestment Account programs to more companies and broadens the options and creates additional incentives for establishing captive insurance companies in Connecticut.

It allows state and quasi-public agencies to contract with private entities for building, financing, operating, or maintaining facilities. It also establishes processes to accelerate state agency decisions on permits, occupational licenses, and economic development assistance applications and remediation of state-owned brownfield properties.

The act creates new programs for farmland restoration, town-center improvement projects in small towns, and upgrading and replacing inefficient oil furnaces and boilers in housing authority and nonprofit organization buildings. It authorizes additional state bonding for (1) the Manufacturing Assistance Act, (2) the Fix-it-First bridge repair program, (3) workforce development programs at community colleges, and (4) recapitalizing programs offered by Connecticut Innovations, Inc.

Finally, the act (1) replaces three existing job creation tax credit programs with a new job expansion credit, (2) makes the business entity tax payable every other year starting with payments due in 2014, (3) reduces the minimum required investment for an angel investor income tax credit, and (4) expands the types of productions eligible for film production tax credits.

A section-by-section summary appears below.

EFFECTIVE DATE: Upon passage, unless otherwise noted below.

§§ 1-5 — SMALL BUSINESS EXPRESS PROGRAM AND THE STEP UP PROGRAM

The act creates the Small Business Express Program and the Subsidized Training and Employment Program (STEP) and authorizes up to $60 million in general obligation (GO) bonds per year in FY 12 and FY 13 for them. It reserves $100 million for the Small Business Express and $20 million for STEP.

The Small Business Express Program, which the act creates in the Department of Economic and Community Development (DECD), provides deferrable or forgivable loans and matching grants to Connecticut-based small businesses and small manufacturers. Loan and grant amounts range from $10,000 to $250,000. The DECD commissioner must work with eligible applicants to create packages combining the loans or grants with assistance provided under STEP and other existing programs.

The act establishes STEP within the Department of Labor (DOL) to provide eligible small businesses and small manufacturers with grants for a portion of an eligible employee's costs of employment, including training, during the first six months of his or her employment. It also requires the labor commissioner to report on the program and allows him to adopt regulations to implement it.

§§ 1-3—Small Business Express Program

Financial Assistance. Under the Small Business Express Program, the DECD commissioner can provide three types of assistance: revolving loans, job creation incentives (i. e., deferrable or forgivable loans), and matching grants. Table 1 summarizes applicant priority requirements, eligible expenditures, and terms and conditions for each type of assistance.

Table 1: Summary of Financial Assistance under the Small Business Express Program

Characteristic	**Financial Assistance**		
	Revolving Loans	***Job Creation Incentives***	***Matching Grants***
Type of Assistance	Loan	Deferrable or forgivable loans for borrowers that increase and maintain jobs	Matching grants for capital
Purpose	Support small business growth	Support hiring goals	Provide capital
Priority	• Businesses creating new jobs lasting at least 12 consecutive months • Economic-base industries	Economic-base businesses	• Economic-base businesses • Businesses likely to use grants to maintain job growth
Eligible expenditures	• Acquiring machinery and equipment • Construction or leasehold improvements • Relocation costs • Working capital • Other commissioner-approved business expenses	• Training • Marketing • Working capital • Other commissioner-approved expenses that support job creation	• New or ongoing training • Working capital • Acquiring machinery and equipment • Construction or leasehold improve-ments • Relocation within the state • Other commissioner-approved business- related expenses
Terms or conditions	• $10,000 to $100,000 loans • Up to 4% interest • Maximum 5-year term • DECD reviews and approves loan terms, conditions, and collateral require-ments to prioritize job growth and retention	• $10,000 to $250,000 forgivable loans • Commissioner may defer loan payments based on her assessment of the business' attainment of job creation goals • Commissioner may also forgive all or part of a loan based on a business (1) attaining job creation goals or (2) maintaining an increased number of jobs for at least 12 consecutive months • DECD reviews and approves loan terms, conditions, and collateral requirements to prioritize job creation and retention	• $10,000 to $100,000 grants • Business must match state grant • DECD prioritizes based on likelihood of applicant maintaining job growth

Business Eligibility Requirements. Under the act, a business is eligible if it employed no more than 50 people during at least half of its working days during the prior 12 months. The business must also:

1. be based and operate in Connecticut,

2. have been registered to do business here at least for 12 months,

3. be current on all state and local taxes, and

4. be in good standing with all state agencies.

In addition, businesses receiving assistance under the program may, at the commissioner's discretion, be subject to the statutory penalties for relocating out of state after receiving state assistance. By law, the penalties apply if a business relocates within 10 years after receiving assistance. Under the act, they apply if the business relocates within five years after receiving assistance.

Application Process. The DECD commissioner must establish and use a streamlined application process to expeditiously delivery small business express assistance. Under the act, she may provide financial assistance to a business within 30 days after it submits a completed application. In deciding whether to approve an application, the commissioner must give priority to those businesses that create jobs and materially contribute to the state's economy (i. e., economic base businesses.) By law, a business does the latter if it:

1. creates or retains jobs,

2. exports products and services outside the state,

3. encourages innovation in supplying products or services or adding value to them, or

4. supports or enhances activities important to the state's economy.

Under the act, “economic base businesses” specifically include those in the precision manufacturing, business services, green and sustainable technology, bioscience, and information technology sectors.

Funding. The act authorizes up to $50 million in GO bonds per year in FY 12 and FY 13 for the Small Business Express Program. It also specifies the amounts the commissioner may spend from this authorization for each of the program's three types of assistance, as shown in Table 2 below.

Table 2: Small Business Express Program Bond Allocations

Assistance	*FY 12 (millions)*	*FY 13 (millions)*
Revolving Loans	$20	$20
Job Creation Incentive Loans	10	10
Matching Grants	20	20
Total	**50**	**50**

Under the act, the commissioner must report to the legislature whenever she spends more or less for any type of assistance than the act specifies for that type. The report must identify the amount spent and how the commissioner divided it among the three types of assistance. She must submit the report to the Commerce; Labor; and Finance, Revenue and Bonding committees.

Reporting Requirements. Beginning no later than June 30, 2012, the commissioner must submit biannual Small Business Express Program performance reports to the Appropriations; Commerce; Labor; and Finance, Revenue, and Bonding committees. The reports must provide data on (1) the number of businesses that applied for assistance, (2) number and types that received assistance, (3) amount and types of assistance received, (4) each business' total workforce when it applied for assistance and the total number of jobs it proposed to create or retain, and (5) each business' most recent employment figures. DECD must also include this data in its comprehensive annual report to the legislature.

§§ 4 & 5 — Subsidized Training & Employment Program

The act establishes STEP within DOL to provide subsidies to eligible small businesses and small manufacturers for a portion of an eligible employee's employment costs, including training, during the first six months of his or her employment. For FY 12 and FY 13, it authorizes up to $10 million in GO bonds annually for the program. It allocates separate annual subsidies for small businesses and small manufacturers of $5 million each in FY 12 and FY 13, for a total of $20 million over two years. No business or manufacturer receiving a STEP grant can receive a second STEP grant for the same new employee.

The act allows the DOL to use up to 4% of the funds allocated for STEP to retain outside consultants to administer the program. It also requires the labor commissioner to report to certain legislative committees on the program and allows him to adopt regulations to implement it.

Small Business STEP Grants. To qualify as a "small business" under the act, a business applying for a STEP grant must meet the same eligibility requirements as business eligible for the Small Business Express Program. But, the act prohibits retailers from participating in STEP. By law, a "retailer" sells goods used primarily for personal, family, or household purposes to a person who is not in the business of reselling those goods (CGS § 42-371).

Under the act, an eligible small business can receive grants if it hires a new employee who:

1. is unemployed immediately before being hired, regardless of whether the employee received unemployment benefits;

2. lives in a municipality with either (a) an unemployment rate at least as high as the state unemployment rate as of September 1, 2011 or (b) a population of 80,000 or more; and

3. has a family income under 250% of the federal poverty level, adjusted for family size. (For a family of four, this means a gross annual income under $55,875, for example.)

The new employee cannot, within the past 12 months, have been employed in the state by a business entity (individual, corporation, limited liability company (LLC), partnership, association, or trust) in or under the control of the eligible small business. Control must be determined based on ownership of (1) stock in a corporation; (2) capital or profit interest in a partnership, LLC or association; or (3) a beneficial interest in a trust according to federal tax law (Internal Revenue Code § 267(c)).

The act allows an eligible small business to receive a grant subsidizing each eligible new employee's training and compensation, up to a maximum of $20 an hour. The size of the subsidy phases out over the employee's first six months of employment. Grants end the date the new employee leaves employment which the eligible small business. The act does not limit the number of eligible employees for with an employer may receive grants. Table 3 shows the monthly subsidy level.

Table 3: Percent of Training and Compensation Subsidy by Month

Month of Employment	*State Subsidy* *% of eligible costs per eligible employee (maximum $20 an hour)*
1	100%
2, 3	75%
4, 5	50%
6	25%

Small Manufacturer STEP Grants. To qualify for grants as a small manufacturer, an employer must meet the act's small business criteria and classified in sectors 31 to 33 of the North American Industry Classification System (NAICS), a business classification system used by federal statistical agencies. Those sectors include businesses engaged in the mechanical, physical, or chemical transformation of materials and components into new products. An employee of an eligible small manufacturer must be newly hired to qualify the manufacturer for a grant, but there are no additional residency, unemployment, or previous employment requirements.

Under the act, each grant applies to the costs of one newly hired employee's training and compensation, up to a fixed monthly limit that phases out over the first full six calendar months that the new hire is employed. The act does not limit how many grants an eligible manufacturer can receive, but no individual grant can exceed the newly hired employee's salary or total more than $12,500. A grant can be cancelled on the date the new employee leaves the manufacturer's employment. The manufacturer must provide training, and it must occur on the manufacturer's premises. An existing formal training program is not required, although the act requires the DOL to review and approve a manufacturer's description of the proposed training as part of the application process. Table 4 shows the small manufacturing maximum grant schedule.

Table 4: Small Manufacturing Grant Schedule

Full Calendar Month of New Hire's Employment	*Maximum Monthly Per-Employee Grant*
One	$2,500
Two	$2,400
Three	$2,200
Four	$2,000
Five	$1,800
Six	$1,600

Reporting Requirement. The act requires the labor commissioner, by June 30, 2012 and every six months thereafter, to report to the Finance, Revenue and Bonding; Appropriations; Commerce; and Labor committees on the status of the program. The reports must include available data on the:

1. number of small businesses and small manufacturers that participated in the program and the general categories of the participating businesses,

2. number of individuals employed under the program, and

3. most recent estimate of the number of jobs created or maintained.

§ 6 — DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION PERMIT PROCESSING METHODOLOGY

The act requires the Department of Energy and Environmental Protection (DEEP) to study (1) its state permitting and enforcement processes and (2) the feasibility of developing a methodology for processing permit applications and enforcement actions based on tiered levels of environmental risk. The methodology may include procedures for expedited processing of the permit applications and enforcement actions that pose the lowest risk to the environment.

The department must report its findings to the Environment and Commerce committees by February 1, 2012. The report must include:

1. a detailed summary of the study;

2. recommendations for administrative or legislative action required to implement a tiered methodology for processing permit applications and enforcement actions; and

3. any additional recommendations on other methods to improve the speed, transparency, consistency, and predictability of the department's processing of state permits and enforcement actions without compromising environmental standards.

§§ 7 & 8 —STATE TRAFFIC COMMISSION AND DEPARTMENT OF TRANSPORTATION (DOT)

Commission Membership

The act expands the State Traffic Commission's membership to include the DECD commissioner when the commission discusses and votes on any matter related to an economic development project. Under existing law, commission members include the DOT, public safety, and motor vehicles commissioners.

By law, the State Traffic Commission adopts regulations establishing a uniform system of traffic control signals, devices, signs, and markings for public highways. It also regulates state highway and road use.

Permits for Economic Development Projects

The act requires DOT and the State Traffic Commission to make a final determination within 60 days after receiving a completed formal petition, application, or request for a permit in connection with an economic development project. The DOT commissioner or commission must notify the petitioner, applicant, or requestor of the determination. If a final determination is not made within 60 days, the completed petition, application, or request is deemed approved. The act specifies that these determinations must be made notwithstanding any transportation or motor vehicle laws.

§ 9 — SHOVEL-READY PILOT PROGRAM RECOMMENDATIONS

By July 1, 2012, the DECD permit ombudsman must develop recommendations for a certification program similar to New York state's "Build Now-NY/Shovel Ready Certification Program" (see BACKGROUND). By January 1, 2013, the permit ombudsman must submit the recommendations to the DECD and DEEP commissioners, the governor, and the Environment and Commerce committees.

§§ 10–11 — OTHER AGENCY EFFICIENCIES

LEAN Practices

The act requires the Office of Policy and Management (OPM), within available appropriations, to enter into an agreement for consultant services to apply LEAN practices and principles (see BACKGROUND) to the DEEP, DECD, the Department of Administrative Services, and DOT permitting and enforcement processes that businesses use most frequently.

Under the act, the agreement must require the consultant to also apply LEAN practices and principles to the licensure procedures for commercial bus drivers that the departments of Consumer Protection (DCP), Emergency Services and Public Protection, and Children and Families currently perform. The consultant must develop recommendations for implementing a pre-permitting system for commercial bus drivers that enables businesses to use commercial bus drivers who are waiting for the applicable licensing authority to perform a criminal background check.

Legislative Recommendations to Improve State Agency Efficiency

By February 1, 2012, the act requires DEEP, DOT, and DECD to make recommendations to the Environment, Transportation, and Commerce committees, respectively, to repeal or revise department programs or statutes each agency determines are obsolete or need revision to improve efficiency.

§ 18 — MANUFACTURING REINVESTMENT ACCOUNTS

The act doubles the limit, from 50 to 100, on the number of small manufacturing companies that DECD may select to participate in the Manufacturing Reinvestment Account (MRA) program. For income years starting on or after January 1, 2012, it also doubles, from $50,000 to $100,000, the maximum annual amount a company may deposit in an MRA.

The MRA program allows qualifying manufacturers with 50 or fewer employees to deposit 100% of their domestic gross receipts up to the maximum amount each year for five years in an interest-bearing MRA to save for (1) training, developing, or expanding their workforce or (2) purchasing machinery, equipment, or facilities. Under the program, corporate or personal income taxes on the MRA funds are deferred until the company withdraws them for an eligible purpose, and the tax rate on the money withdrawn is 3.5% regardless of the regular corporate or personal income tax that would otherwise apply.

§§ 19-22 – JOB EXPANSION TAX CREDIT

New Tax Credit

Prior law authorized three tax credit programs for businesses that create new jobs. These are the jobs creation, qualified small business job creation, and vocational rehabilitation job creation tax credits. The act phases out these programs and replaces them with a new job expansion tax credit program, which provides a three-year tax credit against the insurance premium, corporation business, utility company, or personal income tax for businesses that create new jobs and hire certain Connecticut residents to fill them.

The act subjects the job expansion credits to the same aggregate $20-million-per-year cap that previously applied to the three existing tax credit programs. Businesses claiming a job expansion tax credit for a new hire cannot count the employee toward other credits the law allows.

Credit Amount

The job expansion credit is $500 per month for each new employee that lives in Connecticut or $900 per month if, at the time of hiring, the new employee is:

1. receiving unemployment compensation benefits or has not had a full-time job since exhausting his or her unemployment benefits,

2. a current armed forces member or one who was honorably discharged or released from active service, or

3. receiving vocational rehabilitation services from the Bureau of Rehabilitative Services (BRS).

Eligible Companies and Jobs

A business qualifies for the credit only for jobs it creates between January 1, 2012 and January 1, 2014. To be eligible, the business must (1) have been in business for 12 consecutive months prior to its credit application and (2) be subject to any of the taxes to which the credit applies. In addition, the job to which the credit applies must (1) not have existed in Connecticut before the application and (2) be filled by an eligible employee.

Businesses with 50 or fewer employees qualify for the credit if they create at least one new job; those with 51 to 100 employees, if they create at least five; and those with more than 100 employees, at least 10. The number of full-time employees the business employs in Connecticut on the date it applies for the credit (1) must be used to determine the number it must hire to qualify for the credit and (2) applies for the credit certificate's duration.

The job must require a new employee to work at least (1) 35 hours per week for at least 48 weeks per calendar year or (2) 20 hours per week for at least 48 weeks per calendar year if the employee is receiving vocational rehabilitation services. Temporary or seasonal jobs do not count.

A business cannot count as a new employee someone who:

1. owns the business or is a member or partner in it,

2. worked in Connecticut for a related business during the previous 12 months, or

3. no longer works for the business at the end of its income year.

An employee worked for a related business if:

1. the business where he formerly worked controls the business that subsequently hired him,

2. the business that hired him controls the business where he previously worked,

3. the business where he worked is part of a larger business entity that also controls the business that hired him, or

4. both businesses belong to the same group of controlled businesses.

A company is considered to be “controlled” by someone if the person directly or indirectly owns more than 50% of the combined voting power of all classes of its stock. In the case of a trust, control means owning 50% or more of the beneficial interest of the trust's principal or income. Ownership is defined as in federal income tax law.

Application and Approval Procedure

To claim the credits, businesses must apply to DECD for a certification letter. The business must use a DECD form and provide enough information for DECD to determine its eligibility. The information must describe the business' activities; indicate its NAICS code; specify the number of people employed as of the application date; and, if applicable, identify the new hire's name and job title or classification. The DECD commissioner must consult with the labor or veterans' affairs commissioners or BRS director, as she deems necessary, to verify an employee's unemployment compensation, military service, or receipt of vocational rehabilitation services, respectively. The commissioner may charge an application fee as she deems appropriate.

Claiming Credits

The DECD commissioner must act on each completed application within 30 days of receiving it. If she approves the application, she must issue the certification letter indicating that the business may claim the credit if the business and new employee meets the act's requirements. The commissioner must annually give the revenue services commissioner a list of the businesses that she approved for credits and the credit amounts.

Businesses can apply the credits against the insurance premium, corporation business, utility company, or personal income tax, but not the withholding tax. The business must claim the credit in the income year in which it created the job and hired a new employee to fill it. It may claim the credit for each of the two subsequent years if the employee remains employed in those years. The credit cannot exceed the total tax due. Unused credits expire and cannot be refunded.

The act allows shareholders and partners of S corporations and partnerships to claim the credit. With respect to single-member LLCs that are disregarded as entities separate from their owners, only the company's owner may claim the credit.

Changes to Existing Job Creation Tax Credit Programs

The act sunsets the jobs creation and vocational rehabilitation tax credit programs on December 31, 2011 to coincide with the eligibility period for the job expansion credit. By law, unchanged by the act, the qualified small business tax credit sunsets on December 31, 2012. Under the act, any business issued a certification letter before (1) January 1, 2012 for the jobs creation and vocational rehabilitation tax credits and (2) January 1, 2013 for the qualified small business job creation tax credits is subject to that respective program's requirements for the certificate's duration.

Table 5 summarizes the program requirements and changes in each of the existing credit programs and the new job expansion credit program.

Table 5: Job Creation Tax Credit Programs

(Changes in ***bold italics***)

Credit Program	*Applicable Taxes*	*Eligibility Criteria*	*Credit Amount*	*Credit Availability*
Jobs Creation Tax Credit (CGS § 12-217ii)	• Insurance Premium • Corporation • Utility Company	Any business creating at least 10 new jobs	Five-year credit of up to 60% of the income tax deducted and withheld from new employee wages	***No eligibility certificates issued after December 31, 2011.*** ***Businesses cannot receive additional credits more than five years after the date they are first issued an eligibility certificate for the program.***
Small Business Jobs Creation Tax Credit (CGS § 12-217nn)	• Insurance Premium • Corporation • Personal Income	Businesses with fewer than 50 employees in Connecticut that create new jobs filled by Connecticut residents	Three-year credit of $200 per month per new employee	Employees hired between May 6, 2010 and January 1, 2013
Vocational Rehabilitation Job Creation Tax Credit (CGS § 12-217oo)	• Insurance Premium • Corporation • Personal Income	Businesses hiring Connecticut residents with disabilities	Three-year credit of $200 per month per new employee	***Employees hired between May 6, 2010 and January 1, 2012***
Job Expansion Tax Credit	• ***Insurance Premium*** • ***Corporation*** • ***Utility Company*** • ***Personal Income***	***Businesses with 50 or fewer employees creating at least one job; those between 51 and 100 employees, at least five; and those with more than 100, at least 10.*** ***Higher credit amount for businesses hiring Connecticut residents who are (1) receiving unemployment compensation, (2) unemployed after exhausting unemployment benefits, (3) current or past U. S. Armed Forces members***, or ***(4) receiving services from the DSS' Bureau of Rehabilitative Services.***	***Three-year credit of $500 per month per new employee or $900 if the employee meets the specified criteria.***	***Employees hired between January 1, 2012 and January 1, 2014***

EFFECTIVE DATE: January 1, 2012, and applicable to income or tax years beginning on or after that date. Changes to the existing job creation tax credit programs are effective upon passage.

§ 23 — BUSINESS ENTITY TAX

Effective with tax years beginning on or after January 1, 2013, the act makes the $250 business entity tax payable every other year rather than every year, effectively reducing the annual tax by 50%.

Under the act, the tax is payable annually through the 2012 tax year and every other year for subsequent tax years. Since payments are due the 15th day of the fourth month after the close of the applicable tax year or years, under the act, a business must pay:

1. $250 by April 15, 2012 for the 2011 tax year,

2. $250 by April 15, 2013 for the 2012 tax year,

3. $250 by April 15, 2015 for the 2013 and 2014 tax years, and

4. $250 by April 15 of every other year thereafter for the previous two tax years.

The business entity tax applies to foreign and domestic LLCs, limited liability partnerships (LLPs), limited partnerships (LPs), and S corporations that are required to register with the secretary of the state.

§§ 24-27 — BROWNFIELDS

Remediating and Marketing State-Owned Brownfields

The act requires DECD to identify, remediate, and market five geographically diverse state-owned contaminated properties (i. e., brownfields) for private development and authorizes $20 million in GO bonds for these purposes. DECD must perform these tasks in consultation with DEEP.

The act requires DECD's Office of Brownfield Remediation and Development (OBRD) to market and promote the five brownfields by creating and maintaining a website exclusively for this purpose. It also requires OBRD to develop and implement a marketing campaign for the brownfields and the website.

Priority List

By January 1, 2012, DECD must develop a priority list of state-owned brownfields that could be remediated and marketed for private development. The act requires each state agency to identify any brownfields it owns in its five-year facility plan, which it must by law prepare and submit to OPM every even-numbered year. The act does not specify how DECD must obtain this information to develop the brownfields priority list.

DECD must develop the list by selecting brownfields that, at a minimum:

1. are economically viable,

2. have a predetermined end use,

3. can be developed in a way that is consistent with the State Plan of Conservation and Development,

4. are located in municipalities where the unemployment rate exceeds the state's average rate,

5. have access to transportation or other infrastructure,

6. require immediate environmental remediation, and

7. can be transferred to a private party without conflicting with any state law or process.

The act allows DECD to adopt additional selection criteria.

Soliciting Proposals

After DECD develops the priority list, it must solicit proposals from companies interested in purchasing a listed brownfield. The commissioner must (1) review each proposal, (2) match up to five brownfields with companies that submitted proposals, (3) clean up the selected properties and obtain all necessary permits, and (4) sell them to the selected businesses. DECD may also clean up one of the properties without identifying a specific commercial purchaser.

Transferring and Selling Brownfields

The act requires DECD to sell the brownfields to the businesses it selects for this purpose. However, it does not establish a procedure for (1) state agencies to convey a brownfield in its possession to DECD or (2) DECD to sell the five brownfields on the priority list. In addition, for purposes of selling the brownfields, the act exempts DECD from the law's procedure for disposing surplus state property (see BACKGROUND).

§ 28 — DECD PORTAL

The act authorizes up to $1 million in GO bonds for the DECD to:

1. establish an electronic business portal,

2. brand the portal to reflect a statewide branding program developed at the governor's office's direction,

3. help enhance state and quasi-public agency websites linked to the portal, and

4. align the Connecticut Economic Resource Center's online business assistance technology platform to its portal.

§ 29 — ANGEL INVESTOR TAX CREDIT MINIMUM INVESTMENT

The act reduces, from $100,000 to $25,000, the minimum cash investment a taxpayer must make to qualify for the “angel investor” income tax credit.

The credit is available to taxpayers who invest in qualifying start-up, technology-based businesses in Connecticut (see BACKGROUND). The credit equals 25% of each cash investment, up to maximum of $250,000 in total credits for a single investor. Aggregate new credits are limited to $6 million per year in FY 11 through FY 13 and $3 million in FY 14. No new credits may be reserved after July 1, 2014.

§§ 30-37 — WORKFORCE DEVELOPMENT

Report by Labor Commissioner (§ 30)

The act requires the labor commissioner to review (1) DOL's current training programs and (2) use of manufacturing industry volunteers for training in manufacturing skills at the (a) vocational-technical (V-T) schools outside of regular school hours and (b) community-technical colleges. In doing so, the commissioner must consult with the DECD commissioner and representatives from (1) minority firms, (2) the community-technical colleges, (3) the V-T system, (4) organized labor, and (5) small manufacturing firms.

By January 1, 2012, the commissioner must report his findings to the governor and the Higher Education and Labor committees, along with recommendations on how state resources can be reallocated to meet the manufacturing industry's current training needs.

Bonding (§§ 31-32)

The act authorizes up to $20 million in GO bonds, $10 million in FY 12 and $10 million in FY 13, for the Board of Regents for Higher Education (BOR). It authorizes (1) $1. 1 million each year ($2.2 million total) for expanding Asnuntuck Community College's precision manufacturing program and (2) $8.9 million each year ($17.8 million total) to establish or expand manufacturing technology programs in three community-technical colleges. It does not specify the three colleges, but requires those chosen to demonstrate a commitment to precision manufacturing and an ability, through space and faculty, to establish or expand such programs.

Education Offerings (§ 33)

The act requires local and regional boards of education to inform middle and high school students and parents within their respective jurisdictions of the availability of (1) vocational, technical, and technological education and training at V-T schools and (2) agricultural science and technology (vo-ag) education at vo-ag centers.

DECD Recommendations for V-T Role in Meeting Workforce Needs (§ 34)

By law, the Education, Higher Education, and Labor committees must meet annually, by November 30, with the V-T superintendent, the labor commissioner, and other appropriate people to consider information each official must submit to the committees by November 15 annually. The act requires the committees also to meet with the DECD commissioner by this date and requires the DECD commissioner to submit information on:

1. the department's relationship with the V-T system and its coordinated efforts with the V-T system to collaborate with the business community,

2. (a) workforce training needs DECD identifies through its contact with businesses and (b) recommendations on how it and the V-T system can coordinate or improve efforts to address these needs,

3. the department's efforts to use the V-T system in business assistance and economic development programs, and

4. anything else that the commissioner deems relevant.

Connecticut Career Certificate Programs (§§ 35-36)

The act expands the list of activities that can be considered unpaid worksite experiences in the Connecticut Career Certificate Program. By law, the education commissioner awards Connecticut Career Certificates to high school and postsecondary students who successfully complete school-to-career programs approved by the education and labor commissioners. The program must consist of school- and work-based instruction and activities that coordinate the two.

By law, certain employment activities may be unpaid if (1) the worksite experience is one that is generally not paid employment, such as community service, and (2) a written request for unpaid employment is approved by the labor and education commissioners. The act expands the activities that can be considered unpaid employment by (1) adding field trips as an activity that is generally not paid and (2) designating internships as generally unpaid.

CASE Study (§ 37)

The act requires the Office of Legislative Management to contract with the Connecticut Academy of Science and Engineering (CASE) to study strategies for evaluating the effectiveness of programs and resources for assuring the state's skilled workforce meets business and industry's current and future needs. CASE must (1) consult with DECD, DOL, and BOR and (2) report its findings, by January 1, 2013, to the Higher Education, Commerce, Education, and Labor committees.

§ 38 — “FIRST FIVE PLUS” PROGRAM

The act expands the First Five Program to allow the DECD commissioner to provide state assistance to up to five additional business development projects (for a total of 10) in FY 12. It retains the previous program's limit of five projects for FY 13. Under First Five Plus, as under First Five, business development projects qualify for funding if they promise to:

1. create at least 200 new jobs within 24 months after the commissioner approves the assistance or

2. invest at least $25 million and create at least 200 new jobs within five years after the commissioner approves the assistance.

The First Five Plus Program has the same requirements, assistance options, and deadlines as the First Five Program. And, in addition to an existing authorized preference for “redevelopment” projects (those the commissioner believes can meet the program's jobs or investment criteria sooner), the act allows the commissioner to give a preference to out-of-state and international manufacturers and company headquarters relocating to Connecticut.

Finally, the act requires the commissioner to submit four, rather than three, reports on the program to the Commerce and the Finance, Revenue and Bonding committees. It adds a September 1, 2012 report to those due by January 1, 2012 and January 1 and September 1, 2013. The reports must identify the projects receiving assistance and the number of jobs they created, as well as describe how the projects affect the economy.

§§ 39-45 — AIRPORT DEVELOPMENT ZONES

PA 10-98 created a development zone around Bradley International Airport and extended enterprise zone property tax exemptions and corporation business tax credits to manufacturers and other specified businesses that develop or acquire property in the zone. This act allows the Connecticut Airport Authority (CAA) to establish additional airport development zones, on the DECD commissioner's recommendation. It requires the commissioner to recommend the creation of such a zone if its economic development benefits outweigh the costs to the state and affected towns. The act extends enterprise zone benefits to businesses in these airport zones under current procedures for processing these benefits.

Unlike for facilities in enterprise zones, the act makes CAA, rather than DECD, the entity that determines whether a facility in an airport development zone, including the Bradley zone, qualifies for the tax benefits.

The act requires CAA to annually report on the zones to DECD.

Zone Designation

Under the act, CAA may establish airport development zones surrounding (1) any of the state's general aviation airports (Danielson, Groton/New London, Hartford Brainard, Waterbury-Oxford, and Windham airports) or (2) other airports within CAA's duty, power, and authority, as set forth in PA 11-84, the act creating CAA (see BACKGROUND). The zone must accord with the airport's master plan. A zone cannot include the land on which the airport operates (this includes any land that the state owns or controls). Several of the municipalities that contain these airports are distressed municipalities and, thus, manufacturing facilities located in them are already eligible for the tax benefits provided to firms located in airport development zones.

Before establishing an additional zone, CAA must receive a proposal from the DECD commissioner recommending a zone's creation.

DECD Commissioner's Proposal

The act requires the DECD commissioner to submit a proposal recommending an airport development zone to CAA if she determines that the economic development benefits of establishing a zone outweigh the expected costs to the state and affected municipalities. The proposal must be consistent with the State Plan of Conservation and Development.

At a minimum, a proposal for a new zone must identify:

1. the proposed zone's geographical scope, including all census blocks that the commissioner proposes be included in the zone;

2. the anticipated economic development benefits of establishing the zone, including the type of business and industry that will be developed and anticipated number of new jobs; and

3. the anticipated costs of establishing the zone.

CAA Response to Proposal

After receiving the DECD commissioner's proposal, CAA may modify the proposed zone's geographic scope. CAA may do so only if, in its discretion, doing so would improve the balance between the anticipated economic benefits and costs to the state and affected municipalities.

Under the act, approval of a new zone designation requires the majority vote of a quorum of CAA's members. CAA cannot approve a zone that extends beyond a two-mile radius around the airport without the legislature's approval. The zone is deemed established upon CAA's approval. Within five days of taking such a vote, CAA must report to the DECD commissioner, identifying all census blocks in the zone.

Eligible Business Facilities

For businesses located in airport development zones, including the Bradley zone, the act makes CAA, rather than DECD, the entity that determines whether the business qualifies for benefits, by transferring the authority to grant eligibility certificates from DECD to CAA. The act requires DECD to immediately forward to CAA any applications it receives concerning the eligibility of a facility located in an airport development zone, including an economic impact statement.

The act adds to the requirements for businesses in an airport development zone to qualify for benefits. Under existing law, among other criteria, DECD cannot issue an eligibility certificate to an applicant in the Bradley zone unless DECD determines that the applicant demonstrates an economic need and there is an economic benefit to the state. The act requires CAA to make the same determination, as well as determining that there would be no economic detriment to, or conflict with, an existing zone. CAA must also determine that the applicant (1) serves an airport-related function or (2) relies substantially on airport services.

By law, DECD must determine a facility's eligibility for a certificate in a reasonable period but may postpone its decision to verify that the facility will actually be built, expanded, substantially renovated, or acquired as the law requires. Once it makes a favorable finding, DECD must issue the applicant the certificate. The act does not appear to extend these provisions to facilities in airport development zones, where CAA reviews the certificate application.

For applicants denied eligibility, the act applies the same procedures for a reconsideration hearing before CAA that already apply for other applicants before DECD. The act also specifies that, as is the case for DECD, CAA's decision to issue or deny an eligibility certificate is final, and that the administrative procedure act does not apply (i. e., the applicant cannot appeal the decision).

As under the enterprise zone program, a business qualifies for these tax incentives based on the facility's condition and use. The business must have (1) constructed, substantially renovated, or expanded the facility or (2) acquired it from an unrelated seller after it was idle for at least a year, although CAA may waive the idleness requirement in specified circumstances. (Under the enterprise zone program, DECD has the authority to waive the idleness requirement.)

The business qualifies for incentives if it uses the facility for manufacturing and certain business services. As under the enterprise zone program, "manufacturing" includes:

1. manufacturing, processing, or assembling raw materials, parts, and manufactured products;

2. performing manufacturing-related research and development; and

3. significantly servicing, overhauling, or rebuilding machinery and equipment for industrial uses.

By law, in the Bradley zone, warehousing and motor freight distribution facilities qualify for incentives, but only if they handle goods shipped by air. (Facilities located in an enterprise zone are not required to meet this condition to receive incentives.) Under the act, this provision continues to apply to the Bradley zone, but not to the new zones.

Under prior law, facilities housing business services, including information technology, also qualified for the incentives in the Bradley zone if the DECD commissioner determined they depend on or are directly related to the airport. Certain facilities are excluded, such as those housing car dealerships and retailers. Under the act, CAA in consultation with the DECD commissioner, rather than the DECD commissioner alone, determines whether business services qualify as being dependent on or directly related to the airport. Under the act, businesses qualify if, among the other requirements, they "may" depend on or directly relate to the airport.

By law, facilities in the enterprise zones that house a wide range of services qualify for the incentives. PA 11-140, §§ 13-18, expanded the enterprise zone benefits to more types of businesses and replaced references to an obsolete business classification code DECD uses to determine if a business qualifies for these tax and financial incentives under different programs.

Property Tax Exemptions

The act extends the enterprise zone tax exemptions for real and personal property to eligible businesses in airport development zones established by the act. The same exemptions already apply in the Bradley zone.

Businesses that construct, renovate, or expand a facility qualify for an exemption based on the facility's value. The exemption equals 80% of the improvement's assessed value, and it is generally good for five years. Businesses acquiring facilities also qualify for the same five-year exemption, which is based on the assessed value of the acquired facility.

As under the enterprise zone program, nonmanufacturing businesses developing or acquiring a facility in an airport development zone also qualify for a five-year, 80% exemption on the assessed value of machinery and equipment they install in the facility as part of its development or acquisition. (The law exempts all manufacturers from paying property taxes on new and existing machinery and equipment.)

The exemptions represent property tax revenues the municipalities forgo. As under the enterprise zone law, the state must reimburse the municipalities for half of the forgone revenue.

The enterprise zone program's administrative processes are used to administer the property tax exemptions and the state reimbursements, except, as explained above, the business must apply to CAA rather than DECD for a certificate certifying that the facility qualifies for the exemption. The business must annually file for the exemption by November 1 with the municipality's tax assessor. It waives its right to do so if it misses this deadline, unless it is granted an extension as the law allows.

To receive reimbursements, a municipality must submit its claims to the OPM secretary by August 1 annually as the law provides. The secretary must certify the claim to the comptroller by December 15. The comptroller has five business days to issue the order directing the treasurer to pay the claim. The treasurer has until December 31 to do so.

Corporation Business Tax Credits

The act also extends the enterprise zone's corporation business tax credits to newly created airport development zones. The same credits apply in the Bradley zone. Under the enterprise zone program, businesses that qualify for the property tax exemptions also qualify for a 10-year corporation business tax credit equal to the portion of the tax attributable to the facility. (The law specifies how businesses must calculate that amount.) The credit equals 25% of the tax.

Businesses qualify for the credit under similar terms and conditions as businesses in the enterprise zone, except eligibility determinations are made by CAA, not DECD, as explained above.

Reporting and Assessment

Under the act, CAA must report annually, beginning October 1, 2012, to the DECD commissioner on any airport development zones. The report must include at least the following:

1. information regarding (a) traffic in and around airports that are part of a zone, (b) the zone's impacts on airport usage, and (c) impacts on employment within the airport and businesses located at the airport and

2. recommendations for (a) any necessary changes to an existing zone and (b) additional zones.

The act requires DECD to include information on the airport development zones it authorizes in its annual report. The report must summarize the costs and benefits for each zone and recommend any statutory changes. DECD must develop the recommendations in consultation with CAA (§ 3).

§ 47— MANUFACTURING ASSISTANCE ACT BONDING

The act increases the GO bond authorization to DECD for the Manufacturing Assistance Act (MAA) by up to $340 million, from $40 million annually in FY 12 and FY 13 to $140 million in FY 12 and $280 million in FY 13.

The act reserves a total of $60 million of the authorized funds for small business development, $20 million in FY 12 and $40 million in FY 13. If any of the reserved amounts remain at the end of the respective fiscal years, it becomes available for general MAA purposes. For purposes of the reserved amounts, the act defines a “small business” as one with no more than 50 employees.

§ 48 — URBAN REINVESTMENT ACT TAX CREDITS

The act reduces the aggregate amount of business tax credits available under the Urban and Industrial Site Reinvestment Program by $100 million from $750 million to $650 million.

The program uses credits to stimulate new development in economically distressed towns and redevelop environmentally contaminated sites. The tax credits a business can claim depend on the projected amount of state tax revenue, and in some cases local tax revenue, the completed facility will generate. No business may receive more than $100 million in credits.

§§ 49 & 50 — BOILER REPLACEMENT PROGRAM

The act authorizes $5 million in GO bonds per year for FY 12 and FY 13 to DEEP for an energy efficiency boiler program for nonprofit organizations and housing authorities that own their own buildings. The housing authorities must use the funds for dwelling units they own. The Fuel Oil Conservation Board administers the program, which must provide funds for replacing boilers and furnaces or upgrading and repairing existing units to meet the same standards as replacements.

The act requires the DEEP commissioner and the board to conclude an agreement for the purchase and installation of the replacement units or repair or upgrades of existing equipment. The replacements must have electronically commutated blower motors, an efficiency rating of at least 86%, and either a thermal purge or temperature reset controls. Existing boilers that can achieve an efficiency rating of at least 75% with repairs or upgrades must be repaired or upgraded rather than replaced.

The act requires the Connecticut Housing Finance Authority to provide a list of housing authorities that use oil furnaces or boilers for heating by December 1, 2011, to the DEEP commissioner.

By January 1, 2012, the commissioner, in conjunction with the board, must (1) develop a process for identifying and notifying eligible nonprofit organizations and housing authorities about the program and (2) establish an application process. They must start making preliminary eligibility determinations by January 1, 2012.

Nonprofit organizations and housing authorities applying for the program must simultaneously sign up for and accept the services of the Connecticut Energy Efficiency Board's (CEEB) weatherization programs.

The act requires the Fuel Oil Conservation Board, in conjunction with CEEB, to establish criteria for determining:

1. the condition of the boilers and furnaces,

2. whether they are inoperable or unsafe or are less than 65% efficient,

3. if the unit is inoperable or unsafe and requires replacement, and

4. whether it is more cost-effective to switch to natural gas heating based on a five-year payback.

If it is not cost-effective to switch or no pipeline is available, the boards can choose to replace the applicant's oil tank. If the boards decide on natural gas, the replacement gas furnace must be at least 95%, and the gas boiler at least a 90%, efficient.

The Fuel Oil Conservation Board must act on applications in the order it receives them unless there is an emergency in which the nonprofit or housing authority has no heat or the equipment is unsafe or inoperable. The board must issue a request for proposal (RFP) for the units needed for the program.

§ 52 — CONNECTICUT INNOVATIONS, INC. RECAPITALIZATION

The act authorizes up to $125 million in GO bonds over five years to recapitalize the programs offered by Connecticut Innovations, Inc. (CII). Up to $25 million of the authorization is effective each year from FY 12 through FY 16.

The act reserves up to $15 million for CII's existing "preseed" financing program, which provides capital and support services to businesses developing new concepts. By law, a business qualifies for up to $150,000 in financing and technical support from the program if (1) it is principally located in Connecticut, (2) at least 75% of its employees work here, and (3) it has received private investments equal to at least half the state funds it seeks.

§§ 53-55 — FILM INDUSTRY TAX CREDITS

The act expands the types of qualified productions that are eligible for film production tax credits to include "relocated television productions." It defines a relocated television production as an eligible production company's ongoing television program that (1) has filmed all of its prior seasons outside Connecticut, (2) may include certain current events shows, and (3) is created at a qualified production facility that meets specified investment and job creation thresholds on or after January 1, 2012. Productions featuring current events were not previously eligible for film production tax credits.

The act expands the types of tax credits a taxpayer may use to reduce its insurance premium tax liability by up to 55% in 2011 and 2012 to include film production and infrastructure investment tax credits. Under prior law, the premium tax liability offset for such credits was 30% for 2011 and 2012.

The act also modifies how taxpayers holding film infrastructure tax credits may claim the credits.

Relocated Television Production (§ 53)

The act defines a relocated television production as an eligible production company's ongoing television program that:

1. has filmed all of its prior seasons outside Connecticut;

2. may include current event shows, other than a general news program, sporting event, or game broadcast; and

3. is created at a qualified production facility in Connecticut at which, on or after January 1, 2012, the eligible production company (a) makes a minimum investment of $25 million and (b) creates at least 200 jobs.

The jobs the production company creates must (1) not have existed in Connecticut before January 1, 2012, (2) require at least 35 hours of work per week and not be temporary or seasonal, and (3) be filled by a new employee. An employee who worked for the production company outside of Connecticut prior to January 1, 2012 qualifies, but not an employee who worked in Connecticut for the production company or a related business during the previous 12 months.

A related business is one that:

1. controlled the production company that subsequently hired the employee;

2. is under the control of the production company that hired the employee,

3. is part of a larger business entity that also controls the production company that hires the employee, or

4. belongs to the same group of controlled businesses as the production company hiring the employee.

A relocated television production can be eligible for film production tax credits for a maximum of 10 successive income years, after which it is ineligible to reapply for certification.

Insurance Premium Tax Credit Limit (§ 54)

PA 11-61 classified insurance premium tax credits into three types and established three levels of maximum tax liability that an insurer can offset in calendar years 2011 and 2012 by claiming one of more of these credit types. The three credit types and the maximum tax reduction from each type are:

1. Type 1: digital animation credits, 55%

2. Type 2: insurance reinvestment fund credits, 70%

3. Type 3: all other credits, 30%

This act expands Type 1 to include film production and infrastructure investment tax credits, thus allowing an insurer to use these credits to reduce its 2011 and 2012 premium tax liability by up to 55% instead of 30%.

Claiming Film Infrastructure Investment Tax Credits (§ 55)

Prior law allowed taxpayers claiming film infrastructure tax credits to carry forward excess credits for three income years. The act allows taxpayers to claim all or part of these credits either in the income year in which the infrastructure investments were made or in any of the three immediately succeeding income years

By law, unchanged by the act, taxpayers to which a film infrastructure tax credit has been sold or transferred may claim the credit only in the year in which the investments were made (CGS § 12-217kk(b)(3)).

§§ 56 - 73 – CAPTIVE INSURANCE COMPANIES

The act revises and expands PA 08-127, which permits a captive insurance company ("captive") to be licensed and domiciled (have its principal place of business) in Connecticut. A captive is, in its simplest form, an insurance company that is (1) a wholly-owned subsidiary of another company and (2) whose primary function is to insure all or a part of its controlling company's risks. PA 08-127 enumerates requirements for a captive's formation, capital and surplus, local office presence, payment of certain fees and premium taxes, and annual reporting, among other things. (There are currently no captives domiciled in Connecticut.)

This act:

1. creates three new subgroups of captives that can do business in Connecticut (sponsored captive, special purpose financial captive, and branch captive) and expands the types of insurance a captive may transact in Connecticut;

2. establishes a reinsurance premium tax requirement (existing law already includes a premium tax on direct-written premiums);

3. requires 11% of all captive premium taxes (direct-written and reinsurance) to be transferred to the captive insurance regulatory and supervision account, which the act creates;

4. allows 2% of the premium taxes to be transferred to DECD to promote the captive industry;

5. establishes a $7,500 nonrefundable tax credit for a captive's first taxable year;

6. requires captives to pay sales tax and ad valorem property taxes;

7. authorizes the insurance commissioner to adopt implementing regulations; and

8. makes related changes.

Captive Insurers

By law, a captive insurance company may apply to the insurance commissioner for a license to do business in Connecticut. Under existing law, a captive domiciled in Connecticut can be set up as a pure captive, an association captive, an industrial insured captive, or a risk retention group (RRG). The act also allows a captive to be set up as a sponsored captive, special purpose financial captive (SPFC), or branch captive.

Sponsored Captive. Under the act, a sponsored captive is a captive:

1. for which one or more sponsors provides the minimum required capital and surplus,

2. formed and licensed under the act,

3. that insures its participants' risks through separate participant contracts, and

4. that funds its liability to each participant through one or more protected cells and segregates the assets of each protected cell from those of other protected cells and the captive's general account. (A protected cell is a separate account for each participant.)

The act specifies that a RRG cannot be a sponsor or a participant of a sponsored captive. Associations, corporations, LLCs, partnerships, trusts, and other business entities may be participants in a sponsored captive.

Special Purpose Financial Captive. Under the act, an SPFC is a company that is licensed in accordance with the act's provisions. It appears that an SPFC can transact reinsurance and insurance securitizations. An insurance securitization is a transaction, including capital market offerings, that is effected through risk transfer instruments and facilitating administrative agreements. The transaction is used to fund a SPFC's obligations under a reinsurance contract.

Branch Captive. Under the act, a branch captive is any alien captive insurance company the commissioner licenses to transact insurance business in Connecticut through a business unit with its principal place of business here. An alien captive is a company formed under the jurisdiction of a foreign country.

Type of Insurance

The act expands the types of insurance a captive may transact in Connecticut. Under prior law, a captive could transact life insurance, annuity, health insurance, and commercial risk insurance business. The act instead allows a captive to transact any form of insurance not disapproved by the insurance commissioner or otherwise prohibited. The act also authorizes captives to provide excess workers' compensation insurance to its parent and affiliated companies and to reinsure the workers' compensation risks of a qualified self-insured plan of its parent and affiliated companies, unless prohibited by law. By law, captives cannot write auto or homeowners' insurance coverage.

Miscellaneous Requirements

By law, a captive domiciled in Connecticut must (1) hold at least one meeting in Connecticut each year, (2) maintain its principal place of business here, and (3) appoint a registered agent to accept service of process and otherwise act on its behalf here. Whenever the registered agent cannot with reasonable diligence be found at the captive's registered office, the insurance commissioner is the agent upon whom service may be made.

License Application

By law, a captive cannot engage in any insurance business in Connecticut until it obtains a license from the Insurance Department. To request a license, a captive must send the insurance commissioner (1) organizational documents; (2) a financial condition statement; and (3) a coverage description, including deductibles, limits, and rates. Each applicant captive must maintain capital and surplus in specified amounts and give the commissioner evidence of (1) asset liquidity relative to its assumed risk; (2) adequate management expertise, experience, and character; (3) a sound operation plan; and (4) the adequacy of its insureds' loss prevention program.

Special Purpose Financial Captive. The act requires an SPFC applicant to file additional information with its license application. For example, an SPFC must include, with its plan of operation, (1) a complete description of all significant transactions (e. g., reinsurance, reinsurance security arrangements, and securitizations) and all parties involved in issuing securities; (2) the source and form of its capital and surplus; (3) its proposed investment policy; (4) a description of its underwriting, reporting, and claims payment methods; (5) balance sheets and income statements illustrating adverse case scenarios; and (6) its proposed rate and method for discounting reserves, if applicable.

An SPFC applicant must also submit an affidavit from its president, vice president, treasurer, or chief financial officer stating that, to his or her best knowledge and belief, the (1) proposed organization complies with all applicable provisions of Connecticut's captive insurance law and (2) company's investment policy reflects the liquidity of assets and reasonable management of such assets.

An SPFC applicant must also include with its application a qualified legal counsel's opinion that the company's offer and sale of securities complies with federal and state securities laws.

Sponsored Captive. The act requires a sponsored captive applicant to file additional information with its license application. For example, a sponsored captive applicant must also file with the commissioner (1) a statement acknowledging that all its financial records will be available for the commissioner's examination, (2) all contracts or sample contracts between the company and its participants, and (3) evidence that expenses will be allocated fairly among its protected cells (i. e., each separate account that a sponsored captive maintains for each participant).

Under the act, a sponsored captive may apply to be an SPFC. Such a company must comply with the provisions applicable to both a sponsored captive and an SPFC. If there is a conflict between those provisions, then the provisions that apply to an SPFC control.

Confidentiality of License Application

By law, the information a license applicant provides is confidential and can be made public only with the applicant's consent, with two exceptions. The information is discoverable in a civil action in which the company is a party if it is relevant and necessary to the case; unavailable elsewhere; and, for non-RRG captives, is the subject of a subpoena that a judicial or administrative judge issues. The commissioner can also give the information to insurance regulation officials in another state if the other state's (1) officials agree in writing to keep the information confidential and (2) laws require confidentiality.

License Application Fee

By law, a captive applicant must pay the commissioner an $800 captive license application fee. The insurance commissioner may retain legal, financial, and examination services at the captive's expense. The act specifies that the services are for the licensing and financial oversight of captives.

License Issuance

In general, if the commissioner finds that the application complies with applicable law, he may issue a license to the captive, which must pay a $375 initial license fee. The license expires on the next April 1, and the captive can renew it annually by paying a $375 renewal fee.

Under the act, the commissioner may only issue a license to an SPFC to do reinsurance if he finds that the (1) proposed plan of operation provides for a reasonable and expected successful operation and is not hazardous to any ceding insurer, (2) terms of the reinsurance contract comply with the act's provisions, and (3) the insurance regulator of each ceding insurer's state of domicile has approved the transaction.

The act prohibits the commissioner from issuing a license to a branch captive unless the related alien captive grants him the authority to examine the alien captive in the jurisdiction in which it is formed.

Capital and Surplus

The law specifies the amount of unimpaired capital and surplus a captive must maintain as a condition of licensure. The act reduces, from $750,000 to $500,000, the minimum amount an association captive must maintain. It requires a sponsored captive to maintain at least $500,000. It requires an SPFC to maintain at least $250,000. But it requires a sponsored captive licensed as an SPFC to maintain at least $500,000.

The act requires a branch captive to maintain at least $250,000. And, reserves on a branch captive's insurance or reinsurance policies may be issued or assumed through its branch operations (i. e., its business operations in Connecticut).

Table 7 shows the capital and surplus requirements by type of captive.

Table 7: Capital and Surplus Requirements for Captives

Captive Type	***Minimum Capital and Surplus***
Pure captive	$250,000
Association captive	$500,000 ($750,000 under prior law)
Industrial insured captive	$500,000
Risk retention group	$1 million
Sponsored captive (new)	$500,000
Special purpose financial captive (new)	$250,000
Sponsored captive licensed as a special purpose financial captive (new)	$500,000
Branch captive (new)	$250,000

By law, the commissioner may adopt regulations to establish additional capital and surplus requirements based on the type, volume, and nature of insurance business transaction.

Dividends or Other Distributions

By law, a captive may not pay dividends from, or other distributions with respect to, capital or surplus without the commissioner's prior approval. His approval of an ongoing distribution plan must be conditioned on the captive keeping capital and surplus levels above those approved.

The act prohibits an SPFC from declaring or paying a dividend or distribution if it would jeopardize the company's ability to fulfill its obligations under its securitization agreements, reinsurance contracts, or related transactions.

Incorporation and Formation

By law, a pure captive can form as a stock insurer, nonprofit corporation, or a manager-managed LLC. An association captive, industrial insured captive, or RRG can be an LLC, a stock or reciprocal insurer, or a mutual corporation.

Under the act, a sponsored captive must form as a stock insurer, a mutual corporation, a nonprofit corporation, or a manager-managed LLC. One or more sponsors (e. g., an association, corporation, LLC, partnership, or trust) may apply to form a sponsored captive. An RRG cannot be a sponsor or a participant of a sponsored captive.

Under the act, an SPFC can form as a stock insurer or a manager-managed LLC. An SPFC can reinsure risks of a ceding insurer (i. e., an insurer that transfers its risks to the SPFC) and purchase reinsurance with the commissioner's prior approval. A captive that is, or will be, engaged in an insurance securitization on or after July 1, 2012, is deemed to be an SPFC. The commissioner may require that captive to come into compliance with all applicable SPFC requirements.

The act permits a branch captive in Connecticut to write only insurance or reinsurance of the employee benefit business of its parent and affiliated companies that are subject to the federal Employee Retirement Income Security Act (ERISA).

By law, a captive must have at least three incorporators or organizers, at least one of whom must be a Connecticut resident.

Certificate of General Good

By law, a captive formed as a corporation, reciprocal insurer, or LLC must ask the insurance commissioner for a certificate finding that the proposed company will promote the state's general good. To make this finding, the commissioner must consider (1) each incorporator's character, reputation, financial standing, and purposes; (2) each officer's and director's character, reputation, financial responsibility, insurance experience, and business qualifications; and (3) other things he deems advisable.

By law, a captive formed as a corporation must give this certificate, along with its articles of incorporation and organization fee, to the secretary of the state. The law does not specify what a reciprocal insurer or LLC needs to do with its certificate. But an LLC must request a certificate before filing articles of incorporation with the secretary of the state.

Under the act, in the case of a branch captive, the alien captive must petition the insurance commissioner to issue a certificate finding that licensing and maintaining branch operations will promote the general good of the state. The alien captive may register to do business in Connecticut after the commissioner's certificate is issued. In deciding to issue the certificate, the commissioner must consider the character, reputation, financial responsibility, insurance expertise, and business qualifications of the officers and directors of the alien company.

Annual Financial Report

Prior law required a captive to give the insurance commissioner an annual financial report by March 1. For pure captives and industrial insured captives, the act delays the due date to March 15. The pure or industrial insured captive may ask in writing for the commissioner's approval to file the report at the end of its fiscal year instead of by March 15. If he agrees, the report is due within 75 days after the fiscal year ends, up from 60 days under prior law.

Special Purpose Financial Captive. The act requires the commissioner to establish an SPFC's annual report form and content. An SPFC must report using statutory accounting principles, unless the commissioner requires or approves the use of generally accepted accounting principles or another comprehensive basis of accounting. An SPFC may ask in writing for the commissioner's approval to file its report at the end of its fiscal year.

Branch Captive. The act requires a branch captive to give the commissioner, by March 1 annually, a copy of all reports and statements that must be filed under the laws of the alien captive's jurisdiction. Two executive directors must verify the reports and statements by oath. If the commissioner determines that these provide adequate information concerning the alien captive, he may waive the requirement to complete a separate annual financial report. A branch captive may ask in writing for the commissioner's approval to file the reports and statements at the end of its fiscal year. If the commissioner agrees, the reports and statements are due within 60 days after the end of the fiscal year.

Examinations

Under prior law, the commissioner or his designee had to visit and examine each captive at least once every five years or more often as he deems prudent. The act accelerates the examination frequency to at least once every three years or more often as he deems prudent. But, it also allows the commissioner to reduce the frequency to once every five years if the captive undergoes a comprehensive annual audit by independent auditors approved by the commissioner.

Under the act, an examination of a branch captive is of the branch business and branch operations located in Connecticut, provided the branch captive annually gives the commissioner a certificate of compliance from the jurisdiction in which it is formed and demonstrates to the commissioner's satisfaction that it is operating in sound financial condition in accordance with that jurisdiction's applicable laws and regulations.

License Suspension or Revocation

By law, the commissioner may, for cause, (1) suspend, revoke, or refuse to renew a captive's license or (2) in addition to, or instead of, license suspension or revocation and after notice and hearing, fine the captive up to $10,000. Under the act “for cause” includes:

1. insolvency or impairment of capital or surplus;

2. not maintaining the required amount of capital or surplus;

3. not submitting an annual financial or other lawfully required report;

4. not complying with its charter, bylaws, or other organizational document;

5. not submitting to or paying for examination;

6. using methods that render its operation detrimental or its condition unsound to the public or its policyholders; or

7. not complying with Connecticut's laws.

Under the act, the commissioner must notify an SPFC at least 30 days before suspending, revoking, or refusing to renew its license. The notice must include the basis for the action and the hearing date. But no prior notice or hearing is required if the reason for the action relates primarily to the company's financial condition or soundness or a deficiency in its assets. Further, the commissioner may amend or modify an SPFC's license only (1) with the SPFC's consent or (2) if the commissioner has clear and convincing evidence that the change is necessary to avoid irreparable harm to the SPFC or the ceding insurer.

Taxes and Tax Credit

Premium Tax. Under prior law, a captive had to pay premium taxes on its direct-written premiums to the revenue services commissioner annually in February. The act specifies that the taxes are due by March 1 annually.

The act adds a reinsurance premium tax requirement. In addition to paying taxes on its direct-written premiums, a captive must pay the revenue services commissioner, in March annually, a tax on its assumed reinsurance premium. The reinsurance premium tax does not apply to premiums subject to taxation on a direct-written basis. The reinsurance premium tax owed is 0.214% of the first $20 million of assumed reinsurance premium, plus 0.143% of the next $20 million, 0.048% of the next $20 million, and 0.024% of each additional dollar.

Under the act, the annual minimum aggregate tax paid by a captive (other than a sponsored captive) is $7,500 and the annual maximum aggregate tax is $200,000. For a branch captive, the annual aggregate tax applies only to the branch business of the captive transacted in Connecticut. For a sponsored captive, the annual minimum aggregate tax is $7,500 and applies to the company as a whole, not to each protected cell. A sponsored captive's annual maximum aggregate tax is the aggregate tax liability on the direct-written premiums of each protected cell.

Tax Credit. Under the act, a captive licensed on or after January 1, 2012 will receive a nonrefundable tax credit of $7,500 for its first taxable year. The revenue services commissioner must prescribe the form and manner for claiming the credit.

Sales and Property Tax. Under prior law, the state could not levy any tax against a captive except premium and property taxes. The act instead allows the state to levy premium, sales and use, and ad valorem property taxes against captives.

Captive Insurance Regulatory and Supervision Account

The act establishes the captive insurance regulatory and supervision account as a separate, nonlapsing account within the Insurance Fund for the Insurance Department's use to regulate captives.

The department must deposit all fees and assessments relating to captives in this account. The comptroller must also annually transfer 11% of total captive premium taxes collected to the account. The comptroller may, with the OPM secretary's approval, transfer up to 2% of the total premium taxes collected to DECD to use in promoting Connecticut's captive industry.

Payments cannot be made from the account "for the maintenance of staff or associated expenses, including contractual services as necessary" until the insurance commissioner receives proper documentation regarding the services rendered and expenses incurred. The commissioner must establish the form and manner of such documentation.

Any balance remaining in the account at the fiscal year end is carried forward in the account for the next fiscal year.

Other Applicable Laws

By law, other specified insurance statutes apply to captives. The act adds the following to the list of applicable statutes:

1. CGS § 38a-8 (duties of the insurance commissioner),

2. CGS § 38a-73 (stock insurer's limitation on risks), and

3. CGS §§ 38a-129 to 38a-140 (acquisition of controlling interest).

Mergers

By law, state laws concerning mergers, consolidations, and conversions that apply to insurers generally also apply to captives. Under the act, the commissioner may permit a captive to form for the sole purpose of merging with an existing captive.

Additional Provisions Applicable to Sponsored Captives

Each sponsored captive may:

1. establish and maintain one or more protected cells, subject to specified conditions;

2. combine the assets of two or more protected cells for investment purposes;

3. establish and maintain one or more protected cells as a separate corporation or LLC; and

4. establish and maintain a protected cell as an incorporated protected cell.

Except as otherwise specified in the act, Chapter 704c of the general statutes, pertaining to administrative supervision and the conservation, rehabilitation, and liquidation of an insurer, also applies to sponsored captives. But, if a sponsored captive becomes insolvent and the commissioner determines that one or more protected cells remain solvent, he may separate those cells from the company and, on a sponsor's application, convert the cells into one or more new captives.

In general, a protected cell's assets cannot be used to pay any expenses or claims other than its own. A sponsored captive's capital and surplus must be available at all times to pay any expenses of or claims against it.

Additional Provisions Applicable to SPFCs

The act specifies numerous additional provisions applicable to SPFCs. For example, an SPFC must give the commissioner a copy of an insurance securitization's complete set of executed documentation within 30 days after the closing on the transaction.

Any change in the SPFC's plan of operation requires the commissioner's prior approval. An SPFC's transactions require the commissioner's prior approval in specified instances. An SPFC must give the commissioner prior notice of any change in the legal ownership of any security it issued.

The act specifies that an SPFC's security is not regulated as an insurance or reinsurance contract.

Unless previously approved by the commissioner, an SPFC cannot assume or retain exposure to insurance or reinsurance losses for its own account that are not funded by:

1. proceeds from an SPFC securitization, letters of credit, or other allowed assets;

2. premium and other amounts paid by the ceding insurer; and

3. any investment returns.

Under the act, an SPFC may enter into contracts and conduct other commercial activity related to reinsurance and securitization activities. An SPFC's assets must be preserved and administered to satisfy the SPFC's liabilities and obligations.

An SPFC's security offering memorandum or other document issued to prospective investors must disclose that all or part of the proceeds of the securitization will be used to fund the SPFC's obligations to the ceding insurer.

An SPFC is not subject to any investment restrictions, except:

1. an SPFC cannot make a loan to anyone other than those permitted under its plan of operation or as otherwise previously approved by the commissioner and

2. the commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the SPFC unless the investment is otherwise approved in the plan of operation.

Unless previously approved by the commissioner, an SPFC must maintain its books and records in Connecticut and keep them available for examination until the commissioner approves their destruction. If the commissioner allows the SPFC to keep the books and records outside of Connecticut, the SPFC must keep a complete and true copy of them here.

Additional Provisions Applicable to Sponsored Captives Licensed as SPFCs

The act specifies numerous additional provisions applicable to a sponsored captive that is licensed as an SPFC. Among other things, unless previously approved by the commissioner, a participant in the captive must be a ceding insurer. Any change in a participant requires the commissioner's prior approval.

In connection with the conservation, rehabilitation, or liquidation of such a captive, the company must keep the assets and liabilities of a protected cell separate at all times from those of other protected cells.

When issuing a security, contract, or obligation, the captive must designate the related protected cell and include a disclosure that the holder of the security, contract, or obligation has no right or recourse against the captive other than assets properly attributable to the designated cell.

The captive must attribute assets and liabilities to the protected cells and general account according to its approved plan of operation. It must attribute all insurance obligations, assets, and liabilities relating to a reinsurance contract to such protected cell.

Except as otherwise specified in the act, Chapter 704c of the general statutes, pertaining to administrative supervision and the conservation, rehabilitation, and liquidation of insurers, applies to sponsored captives licensed as SPFCs. The commissioner may petition the Superior Court to authorize him to conserve, rehabilitate, or liquidate such a captive or one of its protected cells on one or more of the following grounds:

1. embezzlement, wrongful sequestration, dissipation, or diversion of the captive's assets;

2. insolvency; or

3. that the holders of a majority in outstanding principal amount of each class of securities attributable to each particular protected cell request or consent to conservation, rehabilitation, or liquidation.

In the event of the captive's insolvency, if the commissioner determines that one or more protected cells remain solvent, he must separate those cells from the company and, on a sponsor's application, convert the cells into one or more new captives.

EFFECTIVE DATE: July 1, 2012. The tax provisions apply to calendar years beginning on or after January 1, 2012.

§§ 78 & 79 — MAIN STREET INVESTMENT FUND

Bond Authorization and Grant Program

The act authorizes $5 million per year in GO bonds for FY 12 and FY 13 for a nonlapsing General Fund account it establishes called the Main Street Investment Fund account. The OPM secretary must use the account to provide grants of up to $500,000 to towns that either (1) have populations of 30,000 or less or (2) are eligible for the Small Town Economic Assistance Program. Towns must use the grants for eligible projects that develop or improve their commercial centers to (1) attract small business, (2) promote commercial viability, and (3) improve aesthetics and pedestrian access. To be eligible, a project must be part of a plan previously approved by the municipality's governing body.

Although municipalities must generally use the grants for improvements to municipal property, the act allows them to give one-time reimbursements of up to $50,000 to any owner of private commercial property who makes eligible expenditures that directly support or enhance grant-funded projects. Maximum reimbursements are 50% for the first $50,000 of eligible private expenditure and 25% for additional expenditures over $50,000 but not over $150,000.

Municipalities must apply to the OPM secretary for grants in the manner the secretary determines.

Eligible Municipal Projects

To award a grant, the OPM secretary must determine that a project advances a plan previously adopted by the municipality's governing body. Under the act, improvements or renovations advance a plan if the secretary determines they will contribute to the municipality's economic success, including, as examples:

1. façade or awning improvements;

2. sidewalk construction or improvements;

3. street lighting;

4. building renovation, including mixed commercial and residential uses;

5. landscaping and development of recreation areas and green space; or

6. bicycle paths.

Reimbursable Private Expenditures

Under the act, municipalities can reimburse private commercial property owners for cosmetic and structural improvements to building exteriors, signs, lighting, and landscaping visible from the street, including:

1. exterior painting or surface treatment,

2. decorative awnings,

3. window and door replacement and modification,

4. storefront enhancements,

5. irrigation,

6. streetscape,

7. outdoor patios and decks,

8. exterior wall or decorative post lighting, or

9. architectural features.

Municipalities may not use grant funds to reimburse private owners for:

1. renovations due solely to ordinary repair and maintenance;

2. improvements required to address health, safety, or housing code violations; or

3. nonpermanent structures, furnishings, or other amenities, or moveable equipment.

§§ 80-88 — PUBLIC-PRIVATE PARTNERSHIPS

The act authorizes state executive branch and quasi-public agencies to enter into an agreement with private entities to finance, design, construct, develop, operate, or maintain certain "facilities" (i. e., public-private partnership agreement). The agreement may authorize any combination of these functions for one or more facilities. Beginning October 27, 2011 and before January 1, 2015, the governor must approve up to five public-private partnership (P3) projects.

The act establishes eligibility criteria for P3 projects, requirements for their submission and approval, and required terms and conditions of the agreement between the agency and the private entity. It exempts P3s from (1) existing state contracting laws that generally (a) allow only the construction services and transportation commissioners to enter into most construction contracts costing more than $500,000 and (b) require contractors to be prequalified to bid on such projects and (2) municipal property taxes on any property developed, operated, or held by a private entity pursuant to a partnership agreement. However, it requires any agency subject to the state law on privatization to comply with that law. It allows an agency or the state to apply for and accept federal or local funds to further the act's purposes and to fund P3s.

A "private entity" is an individual, corporation, general partnership, LP, LLP, joint venture, nonprofit organization, or other business entity. A "facility" is any public works or transportation project that generates revenue as public infrastructure.

Projects Eligible for Public-Private Partnerships (§ 80)

The design, construction, operation, or maintenance of the following new or existing projects may be considered P3s if they receive the governor's approval:

1. educational, health, early childcare, or housing facilities;

2. transportation systems, including ports, transit-oriented development, and related infrastructure; and

3. any other type of facility the legislature identifies or proposes as a project.

The agency must determine that the estimated revenue the facility will generate, together with other previously identified funding sources, will sufficiently fund the cost to develop, maintain, and operate it. State support of a partnership agreement cannot exceed 25% of the project's cost. Any P3 agreement to operate or maintain a facility must also provide for financing and developing it.

Agencies Seeking to Execute Public-Private Partnership Agreements (§ 81)

Any executive branch state agency or quasi-public agency may establish a P3 in that agency's jurisdiction. Each agency, in determining whether a proposed project is suitable for a P3 agreement, must analyze its feasibility, desirability, convenience to the public, and furtherance of public policy goals. An agency cannot include a project based solely on the revenue it generates and must specifically consider:

1. the facility's essential characteristics;

2. the projected demand for the facility and its economic and social impact on the community and the state;

3. the technical function and feasibility of the project, and its conformity with the State Plan of Conservation and Development;

4. the benefit to the agency's customers and the public;

5. a “value for money review and analysis; ”

6. the project's operational or technological risk;

7. the project's cost and its economic and financial feasibility;

8. an analysis of public versus private financing on a present value basis and the project's eligibility for local or federal government funds;

9. the project's impact on state finances; and

10. the advantages or disadvantages of having the state agency or quasi-public agency continue to perform the function.

Interested agencies, after consulting with the construction services, DECD, and DOT commissioners; state treasurer; and OPM secretary, must submit their proposed P3 projects to the governor for approval and with copies to the Finance, Revenue and Bonding and Appropriations committees. The committees must hold a public hearing on any submissions they receive.

The act requires the governor, before January 1, 2015, to approve up to five projects as P3s and notify agencies when he approves their projects. The governor cannot approve a project unless he finds it will create jobs and economic growth. By January 15, 2013, and annually thereafter, the governor must give the legislature a status report on the P3s.

Prequalification of Private Entities (§ 82)

The act exempts public-private contractors from the law's prequalification requirements for contractors seeking to perform work on state construction projects, including highway and bridge projects. It instead requires an agency, when it determines appropriate, to provide for a prequalification process for private entities and authorizes them to charge a reasonable application fee.

If the agency elects to provide for a prequalification process, it must (1) include public notice of the process and prequalification requirements and criteria and (2) allow only prequalified entities to submit project proposals.

To prequalify, a private entity must meet the requirements in the P3 project's RFP, request for qualifications, or bid solicitation. In addition, it must:

1. have available lawful sources of funding, capital, securities, or other financial resources that, in the judgment of the agency and DECD, are needed to carry out the P3 project;

2. possess, either through its staff, subcontractors, a consortium, or joint venture agreement, the managerial, organizational, technical capacity, and experience for the type of project;

3. be qualified to do business in the state; and

4. certify that no director, officer, partner, owner, or other individual with direct and significant control over its policy has been convicted of corruption or fraud in any U. S. jurisdiction.

Competitive Procurement Process (§ 83)

Under the act, a state or quasi-public agency seeking to enter into a P3 must choose a contractor through a competitive procurement process. The agency must use, where appropriate, the competitive bidding or negotiation process. An agency may issue a request for information regarding potential P3s before beginning a competitive procurement process.

The agency must ensure that the bid specifications include a detailed description of the P3 project's scope and the material terms and conditions applicable to the procurement and any resulting contract. It must notify the public of the invitation to bid, RFP, or request for information at least 30 days before the due date unless the agency determines, in writing, that a shorter time period is appropriate and will preserve the procurement's competitive nature. The agency must publish the evaluation and selection criteria and include a determination of which proposals best serve the act's public purposes.

The act permits executive branch and quasi-public agencies to pay a stipend to an unsuccessful proposer if the (1) agency cancels the procurement process less than 30 days before the bid or proposal is due or (2) proposer submits a proposal that is responsive and meets all the requirements established by the agency for the P3 project. The agency sets the amount, terms, and conditions of the stipend.

The act permits agencies and quasi-public agencies to require that the proposer grant the agency the right to use any work product, such as designs, processes, or technologies, (1) contained in any unsuccessful proposal or (2) developed before any procurement that is cancelled. All conditions for a stipend must be clearly set forth in the request for information, bid solicitation, RFP, or request for qualifications.

The act allows agencies and quasi-public agencies to contract with a private entity or another state agency to retain financial, legal, and other consultants and experts to assist in the procurement, evaluation, and negotiation of P3s and for the development of eligible facilities.

Partnership Agreement Terms and Conditions (§§ 84 & 86)

The partnership agreement must terminate within 50 years after it is executed. It must include the following terms and conditions:

1. a complete description of the facility to be developed and the functions it will perform;

2. the terms of the facility's financing, development, design, improvement, maintenance, operation, and administration, including the rights of the state, the contractor, or both, in any resulting revenue;

3. minimum quality standards applicable to the project for facility development, design, improvement, maintenance, operation, and administration, including performance criteria, incentives, and disincentives;

4. the contractor's compensation, including the extent to and the terms upon which a contractor may charge fees to individuals and entities for the facility's use, except that these fees cannot include highway tolls unless the legislature specifically approves them;

5. the furnishing of an annual independent audit report to the agency covering all aspects of the partnership agreement;

6. performance and payment bonds or other security that the agency deems suitable;

7. at least one public liability insurance policy in an amount that the agency determines will (a) cover tort liability for the public and the contractor's employees and (b) provide for the continued operation of the partnership project;

8. a reversion to the state upon conclusion or termination of the partnership agreement;

9. an agency's rights and remedies if the contractor or private entity materially breaches or materially defaults on the agreement;

10. the sources that will be used to fully fund the capital, operation, maintenance, or other expenses under the agreement; and

11. any other provision the agency deems appropriate.

The act bars an agreement from (1) waiving the state's sovereign immunity or granting it to a contractor or private entity and (2) including any noncompete provisions that limit the state's ability to perform its functions. It subjects agreements to the state's prevailing wage and set-aside laws and environmental policy requirements but does not explicitly subject these agreements to the Connecticut Environmental Policy Act (see BACKGROUND). In lieu of the prevailing wage, the act permits wages to be set through a project labor agreement. The agency must provide notification of which requirement applies before soliciting bids.

The act exempts the contractor from liability for the state's debts or obligations unless the contractor is liable under the terms of the agreement. It also subjects agreements to state and local permitting and inspection requirements and prohibits the contractor from charging user fees except as set forth in a partnership agreement.

The act requires any agency subject to the state law on privatization to comply with that law. Additionally, any agency that enters into a partnership agreement for the operation or maintenance of a state facility that meets the definition of a privatization contract must comply with the privatization law regardless of whether the services are currently privatized. By law, a privatization contract is generally an agreement or series of agreements between a state contracting agency and a person or entity for services that are substantially similar to, and in lieu of, services provided by state employees (see BACKGROUND).

Contractor's Material Default (§ 87)

In addition to other available remedies, the act authorizes the state to assume a contractor's responsibilities and duties in the event of a material default by the contractor. In such a case, the state succeeds to all of the rights, title, and interest in the partnership, subject to any liens on revenues previously granted by the contractor to anyone providing financing.

If the state elects to take over a P3 project, the agency may develop or operate the project, impose user fees, impose and collect lease payments for its use, and comply with any service contracts as if it were the contractor. Any revenues subject to a lien must be collected for the benefit of and paid to secured parties to the extent needed to satisfy the contractor's obligations to them, including reserve maintenance. The liens must be correspondingly reduced and released when paid off.

Before making payments to or for the benefit of secured parties, the agency may use revenues to pay current operating and maintenance costs, including compensating itself for its services in doing so. The right to receive this payment, if any, is considered just compensation for the partnership project. The full faith and credit of the agency cannot be pledged to secure the contractor's financing by taking over the project. Assuming operation of the project does not obligate the agency to pay any of the contractor's obligations from sources other than revenues.

The act authorizes an agency with condemnation powers to exercise these to acquire the project in the event of a material default. Anyone who has provided financing for the project, and the contractor, to the extent of its capital investment, may take part in the condemnation proceedings with the standing of a property owner.

The agency may terminate, with cause, the partnership agreement and exercise any other rights and remedies available to it, and the state may make or cause to be made any appropriate claims under the maintenance, performance, or payment bonds, or lines of credit as provided in the agreement.

BACKGROUND

New York "Build Now-NY/Shovel Ready Certification Program" (§§ 6 & 9)

The New York Empire State Development agency certifies sites as "shovel ready" for the "Shovel Ready/Build Now-NY program," which was established in 1998. A "shovel ready" site is one in which a local developer works proactively with the state to address all major permitting issues before a business expresses interest in the location. This expedites the site's availability for development and reduces the time it takes to construct a project.

LEAN (§§ 10 & 11)

LEAN is a process improvement approach used by the public sector to improve efficiency in services and administrative processes. It is a customer-driven waste reduction technique that examines a current process, improves efficiency by decreasing processing time, produces a product or service internal and external customers demand, and initiates organizational change.

Wine Festival Permits (§ 16)

By law, a wine festival permit allows a farm winery manufacturer permittee to participate in a wine festival sponsored by (1) an association promoting the manufacture and sale of farm wine in Connecticut or (2) its not-for-profit subsidiary. A permit costs $75 and is effective for no more than three consecutive days in a calendar year.

Coastal Site Plan Review (§ 17)

The Connecticut Coastal Management Act (CMA) requires towns, regardless of whether they have a coastal zone management program, to review coastal site plans for activities at least partially within coastal areas. Plans are submitted to the town's zoning board, planning commission, or zoning board of appeals, which must review and approve site plans in coastal areas for consistency with the act's policies.

Coastal site plans must comply with CMA policies and take into consideration DEEP comments. By law, DEEP may appeal municipal coastal site plan decisions to Superior Court.

Under CGS § 22a-109(b)(4), a municipal zoning commission may waive the coastal site plan review requirement for single-family homes, but not single-family homes (1) on an island not connected to the mainland by an existing road bridge or causeway or (2) within 100 feet of tidal wetlands, coastal bluffs, escarpments, or beaches and dunes.

Five-Year Facilities Plans (§§ 24-27)

By law, state agencies must prepare plans that identify their long-and short-term facility needs, opportunities for substituting state-owned space with leased space, facilities proposed for demolition or abandonment that have other potential uses, and space modifications or relocations that could reduce energy costs. OPM must include plans in an integrated state facility plan.

Surplus State Property (§§ 24-27)

CGS § 4b-21 governs the disposition of surplus state property. When a state agency determines that it has unneeded real property, it notifies OPM. Generally, after OPM declares a property to be surplus, the secretary must notify all state agencies about its availability and give them 90 days to submit a plan for using it. But the DECD commissioner has the right of first refusal to use the property for housing. The municipalities where the property is located are also notified (as are the local legislators) and may purchase the property at its fair market value. When DECD, the other state agencies, and the affected municipalities are not interested in acquiring the property, OPM conveys it to the Department of Public Works, which may sell, lease, or otherwise convey it on the open market.

CGS § 4b-47 requires state agencies to notify the Council on Environmental Quality, OPM, and DEEP before selling or transferring state land. It provides for public notice and comment, requires the DEEP commissioner to advise OPM about whether all or part of the land should be preserved, and specifies options for doing so. If DEEP recommends preservation, it must prepare a report explaining the reasons for its recommendation, publish it in the *Environmental Monitor*, and allow for a 30-day public comment period. After the OPM secretary receives DEEP recommendation, he must make a final decision about the land. He must publish that decision in the *Environmental Monitor* for at least 15 days before selling or transferring the land or interest in it.

Businesses That Qualify For Angel Investments (§ 29)

By law, a business qualifies for angel investments if it focuses on bioscience, advanced materials, photonics, information technology, clean technology, or an emerging technology, as determined by the DECD commissioner. The business must also have:

1. its principal place of business in Connecticut;

2. gross revenues under $1 million in its most recent income year;

3. fewer than 25 employees, at least 75% of whom are Connecticut residents;

4. operated in Connecticut for less than seven consecutive years; and

5. received less than $2 million in eligible investments from angel investors.

In addition, its managers and their families must be its primary owners and CII. must identify the business as eligible for angel investment.

Connecticut Airport Authority (§§ 39-45)

PA 11-84 established CAA to develop, improve, and operate Bradley International Airport, the state's five other general aviation airports, and any other general aviation airports CAA subsequently owns, operates, and manages. The act authorized the DOT, which previously exercised most airport-related powers, duties, and functions, to transfer them to CAA, but DOT continues to exercise them until the transfer. The act automatically transferred to CAA the powers, duties, and functions previously assigned to other specified agencies. The act established an 11-member board to govern CAA.

Privatization (§ 86)

By law, if a state agency seeks to enter into a contract that privatizes services currently performed by state employees, it generally must conduct a cost-benefit analysis and submit to the State Contracting Standards Board a business case for the privatization contract. State contracting agencies may not solicit bids for privatization contracts unless the board approves the business case. If the contract is estimated to have an annual cost of more than $150 million or a total cost of more than $600 million, it must also be approved by the General Assembly before the agency solicits bids. Privatization contracts must be approved by a two-thirds vote of the board if (1) they involve core government functions or (2) the cost-benefit analysis identifies a cost savings of less than 10% to the state.

Not later than 30 days after a business case is approved, the collective bargaining agent of any employee adversely affected by the proposed privatization contract may file a motion for an order to show cause in Hartford Superior Court on the grounds that the contract fails to comply with the act's substantive or procedural requirements regarding privatization (CGS § 4e-16).

Connecticut Environmental Policy Act (CEPA) (§ 86)

CEPA (CGS § 22a-1b *et seq.*) identifies and evaluates the impact of proposed state actions that could significantly affect the environment. State departments, institutions, or agencies considering (or funding in whole or part) actions that may significantly affect the environment (including actions that could have a short-term disadvantage to long-term environmental goals) must prepare an Environmental Impact Evaluation (EIE) before deciding whether to undertake or approve such an action. The EIE must be submitted to various agencies and is open to public inspection and comment.

Public Act# 11-2 OCTOBER SPECIAL SESSION SB# 1401

AN ACT ESTABLISHING THE CONNECTICUT BIOSCIENCE COLLABORATION PROGRAM

SUMMARY: This act creates the Connecticut Bioscience Collaboration program within Connecticut Innovations, Inc. (CII) to support establishment of a bioscience cluster anchored by a research lab at the UConn Health Center. It requires the State Bond Commission to authorize up to $290,685,000 in general obligation (GO) bonds, with the money going to a Connecticut Bioscience Collaboration Fund, administered by CII. The money must be used to fund the program and repay the bonds in amounts the State Bond Commission may require.

The act requires the State Bond Commission to approve a memorandum of understanding (MOU) between CII's board of directors and the state regarding the bonds. Under the act, once approved, the MOU satisfies the standard statutory bond commission requirements. Other bonding provisions consistent with the act's provisions apply.

The act requires CII to collaborate with a federally tax-exempt organization to develop, construct, and equip a research lab and office. The act authorizes the CII board to provide loans for this purpose and CII, at the board's direction, to (1) provide an annual operations, research, and development grant to the organization and (2) enter into venture agreements with the organization. The act requires the board to set the application process and guidelines and terms for these grants and loans. It must review and approve each application.

The act requires the CII board to (1) report quarterly to certain legislative committees on the program's operations and funding and (2) submit the program's operating and capital budget each fiscal year to the governor, Office of Policy and Management (OPM) secretary, and certain legislative committees.

EFFECTIVE DATE: Upon passage

BONDS

Under the act, the State Bond Commission must approve a MOU between the CII board and the state regarding the bond issuance, including the extent that federal, private, or other available funds should be added to the bond proceeds. The state must act through the OPM secretary and treasurer. The MOU satisfies the standard statutory bond commission requirements.

The act sets bond amounts for each year from FY 12 to FY 21, as displayed in Table 1.

Table 1: Annual Bond Authorizations under the Act

FY	*Bonding Amount*
2012	$34,162,000
2013	85,113,000
2014	59,728,000
2015	19,669,000
2016	21,425,000
2017	21,108,000
2018	15,820,000
2019	12,525,000
2020	10,565,000
2021	10,570,000
Total	290,685,000

If the CII board does not provide for use of all or a portion of the authorized amount in a fiscal year, the act adds the unused amount to the following year's authorized amount. The act also allows the costs of issuance and any capitalized interest to be added to the authorized amount in each fiscal year.

LOANS, GRANTS, AND VENTURE AGREEMENTS

The act authorizes the CII board to provide loans to develop, construct, and equip a research lab and office. The board (1) must review and approve loan terms and conditions, (2) can require matching funds from private or non-state entities, (3) can allow deferred payments on loans, and (4) can forgive all or part of the loans based on its assessment of the organization's fulfillment of the loan's terms and conditions.

The act also allows CII, at the board's direction, to:

1. provide an annual operations, research, and development grant to the organization for annual operating expenses and bioscience medical research, including research on stem cells, DNA, systems genomics, and genome-based medicine and

2. enter into venture agreements with the organization on terms and conditions that benefit the state, organization, and private entities in the bioscience cluster.

FUND

The act requires CII to separately hold and administer the fund. The amounts authorized by the State Bond Commission are paid to CII for deposit in the fund. As with other bond authorizations, the act allows the treasurer to issue temporary notes in anticipation of the bond sale.

CII funds or revenues from investments or loan repayments under the program must be held, administered, and invested by CII or deposited with and invested by any institution designated by CII and paid as CII directs. All money in these accounts must be used for the program and CII can make payments from the accounts to the fund.

REPORTS

Beginning by April 15, 2012, the act requires the CII board to report quarterly to the Appropriations; Commerce; Finance, Revenue and Bonding; and Higher Education and Employment Advancement committees on the status and progress of the program's operations and funding.

The act requires the CII executive director to (1) prepare an operating and capital budget for the program each fiscal year and (2) submit it to the CII board 90 days before the fiscal year starts. It requires the board to submit a copy of the budget to the governor; OPM secretary; and the Appropriations; Commerce; Finance, Revenue and Bonding; and Higher Education and Employment Advancement committees.